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President promulgates ordinance to prevent electronic crimes

ISLAMABAD, Nov 6 (APP): The President has promulgated the Prevention of Electronic Crimes Ordinance, 2008 (Ordinance No. 1) person who commits an offence under this Ordinance irrespective of his nationality or citizenship whatsoever or in any place or being connected, sent to, used by or with any electronic system in Pakistan.

It shall come into force at once and shall be deemed to have taken effect on the 29th September, 2008.

Following is the text of the Ordinance:

WHEREAS it is expedient to prevent any action directed against the confidentiality, integrity and availability of electronic system connected herewith or ancillary thereto;

AND WHEREAS THE National Assembly is not in session and the President is satisfied that the circumstances exist which render NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of

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

(a) "access" means gaining access to any electronic system or data held in an electronic system or by causing the electronic system

(b) "Authority" means the Pakistan Telecommunication Authority established under section 3 of the Pakistan Telecommunication

(c) "Code" means the Code of Criminal Procedure, 1898(Act V of 1898);

(d) "Constitution" means Constitution of the Islamic Republic of Pakistan;

(e) "data" means representations of information or of concepts that are being prepared or have been prepared in a form suitable including but not limited to computer program, text, images, sound, video and information within a database or electronic system

(f) "decision of the Authority" means decision given, determination made or order passed by the Authority under any of the regulation or directive for the time being in force which includes any interim order passed by the Authority pending final decision

(g) "Electronic Certification Accreditation Council" means the council established under section 18 of the Electronic Transaction

(h) "electronic" includes but not limited to electrical, digital, analogue, magnetic, optical, biochemical, electrochemical, electro

(i) "electronic device" means any hardware which performs one or more specific functions and operates on any form or combination

(j) "electronic mail message" means any data generated by an electronic system for a unique electronic mail address;

(k) "electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name sent or delivered or originated from and includes an electronic mail address which may be permanent, dynamic or disposable;

(l) "electronic system" means any electronic device or a group of interconnected or related devices, one or more of which, perform (m) "encrypted data" means data which has been transformed or scrambled from its plain version or text to an unreadable or illegible form which can be found for the purposes of protecting such data;

(n) "function" includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to, from

(o) "Interpol" means International Criminal Police Organization;

(p) "offence" includes,-

(i) an offence punishable under this Ordinance;

(ii) an offence punishable under the laws mentioned in the Schedule ; or

(iii) any other offence punishable under any other law for the time being in force if committed through or by using any computer

(q) "plain version" means original data before it has been transformed or scrambled to an unreadable or incomprehensible form

(r) "rules" means rules made under this Ordinance; (s) "Schedule" means the

Schedule to this Ordinance;

(t) "sensitive electronic system" means an electronic system used directly in connection with or necessary for,-

(i) the security, defence or international relations of Pakistan;

(ii) the existence or identity of a confidential source of information relating to the enforcement of criminal law;

(iii) the provision of services directly related to communications infrastructure, banking and financial services, public utilities, communication

(iv) the protection of public safety including systems related to essential emergency services such as police, civil defence and communication

(v) the purpose declared as such by the Federal Government in accordance with the prescribed procedure ; or

(vi) containing any data or database protected as such, by any other laws.

(u) "service provider" includes but not limited to , -

(i) a person acting as a service provider in relation to sending, receiving, storing or processing of electronic communication or

(ii) a person who owns, possesses, operates, manages or controls a public switched network or provides telecommunication service

(iii) any other person who processes or stores data on behalf of such electronic communication service or users of such service

(v) "subscriber information" means any information contained in any form that is held by a service provider, relating to subscriber

Main Menu

[Home](#)

[News](#)

[Blog](#)

[Links](#)

[Search](#)

[Contacts](#)

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[National](#)

[World](#)

[Sport](#)

[Business](#)

[Forex](#)

[Weather](#)

[Articles & Features](#)

World News



ISTANBUL, Apr 23 (APP): President Mamnoon Hussain Thursday said that Pakistan desired promotion of its relations with Albania in the economic, trade and cultural fields, offering to provide higher education and training facilities to the country.

Sport News

ODI ranking after loss to Bangladesh

ISLAMABAD, Apr 23 (APP): Pakistan has slipped one place to eighth in the Reliance ICC ODI Team Rankings after Bangladesh won the three-match series 3-0 in Mirpur, Bangladesh on Wednesday.

Archive

[✓ March, 2015](#)

[✓ February, 2015](#)

[✓ January, 2015](#)

[✓ December, 2014](#)

[✓ November, 2014](#)

[✓ October, 2014](#)

[✓ September, 2014](#)

[✓ August, 2014](#)

- ✓ July, 2014
- ✓ June, 2014

- (i) the type of communication service used, the technical provisions taken thereto and the period of service;
- (ii) the subscriber's identity, postal geographic, "electronic mail address, telephone and other access number, billing and payment on the basis of the service agreement or arrangement; or (iii) any other information available on the basis of the service agreement or arrangement.
- (w) "traffic data" means any data relating to a communication by means of an electronic system, generated by an electronic system through the transmission of such communication;
- (x) "Tribunal" means the Information and Communication Technologies Tribunal constituted under section 31; and
- (y) "unauthorized access" means access of any kind by any person to any electronic system or data held in an electronic system without access from any person, so entitled.

CHAPTER-II

OFFENCES AND PUNISHMENTS

3. Criminal access .- Whoever intentionally gains unauthorized access to the whole or any part of an electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
4. Criminal data access,- Whoever intentionally causes any electronic system or electronic device to perform any function which it is not intended to perform, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
5. Data damage.- Whoever with intent to illegal gain or to cause harm to the public or any person, causes damage to an electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Explanation .- For the purpose of this section the expression "data damage" includes but not limited to modifying, altering, deleting, or corrupting data.
6. System damage.- Whoever with intent to cause damage to the public or any person interferes with or interrupts or obstructs or chokes the networks shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Explanation .- For the purpose of this section the expression "services" include any kind of service provided through electronic system or electronic device.
7. Electronic fraud.- Whoever for wrongful gain interferes with or uses any data, electronic system or electronic device or information, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.
8. Electronic forgery.- Whoever for wrongful gain interferes with data, electronic system or electronic device, with intent to cause alteration, deletion, or suppression of data, resulting in unauthentic data with the intent that it be considered or acted upon for a term which may extend to seven years, or with fine, or with both.
9. Misuse of electronic system or electronic device.- (1) Whoever produces, possesses, sells, procures, transports, imports, distributes, or exports password, access code, or similar data by which the whole or any part of an electronic system or electronic device is capable of being accessed, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Provided that the provisions of this section shall not apply to the authorized testing or protection of an electronic system for a term which may extend to three years, or with fine, or with both.
- (2) Whoever commits the offence described in sub-section (1) shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
10. Unauthorized access to code.- Whoever discloses or obtains any password, access code, system design or any other information for a term which may extend to three years, or with fine, or with both.
11. Misuse of encryption.- Whoever for the purpose of commission of an offence or concealment of incriminating evidence, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.
12. Malicious code.- (1) Whoever willfully writes, offers, makes available, distributes or transmits malicious code through an electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Provided that the provision of this section shall not apply to the authorized testing, research and development or protection of an electronic system or electronic device.
- Explanation.- For the purpose of this section the expression "malicious code" includes but not limited to a computer program or data which is designed to spread over electronic system with or without human intervention including virus, worm or Trojan horse.
- (2) Whoever commits the offence specified in sub-section (1) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
13. Cyber stalking.- (1) Whoever with intent to coerce, intimidate, or harass any person uses computer, computer network, or any other information, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (a) communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, picture or image;
- (b) make any suggestion or proposal of an obscene nature;
- (c) threaten any illegal or immoral act;
- (d) take or distribute pictures or photographs 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 other person, or to the public.
- (2) Whoever commits the offence specified in sub-section (1) shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Provided that if the victim of the cyber stalking under sub-section (1) is a minor the punishment may extend to ten years or with fine, or with both.
14. Spamming.- (1) Whoever transmits harmful, fraudulent, misleading, illegal or unsolicited electronic messages in bulk to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (2) Whoever commits the offence of spamming as described in sub-section (1) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
15. Spoofing.- (1) Whoever establishes a website, or sends an electronic message with a counterfeit source intended to be believed as genuine, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (2) Whoever commits the offence of spoofing specified in sub-section (1) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
16. Unauthorized interception.- (1) Whoever without lawful authority intercepts by technical means, transmissions of data through an electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (2) Whoever commits the offence of unauthorized interception as described in sub-section (1) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
17. Cyber terrorism.- (1) Any person, group or organization who, with terroristic intent utilizes, accesses or causes to be accessed, any electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.
- Explanation 1.- For the purposes of this section the expression "terroristic intent" means to act with the purpose to alarm, frighten, or cause harm to the public or any person.
- Explanation 2.- For the purposes of this section the expression "terroristic act" includes, but is not limited to,-
- (a) altering by addition, deletion, or change or attempting to alter information that may result in the imminent injury, sickness, or death of any person;
- (b) transmission or attempted transmission of a harmful program with the purpose of substantially disrupting or disabling any computer system or network;
- (c) aiding the commission of or attempting to aid the commission of an act of violence against the sovereignty of Pakistan, which may result in the death of any person;
- (d) stealing or copying, or attempting to steal or copy, or secure classified information or data necessary to manufacture any explosive or incendiary substance;
- (2) Whoever commits the offence of cyber terrorism and causes death of any person shall be punishable with death or imprisonment of either description for a term which may extend to ten years, or with fine, or with both.
18. Enhanced punishment for offences involving sensitive electronic systems.- (1) Whoever causes criminal access to any sensitive electronic system or electronic device, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

term which may extend to ten years, or with fine not exceeding one million rupees, or with both. (2) For the purposes of any

19. Of abets, aids or attempts to commits offence .- (1) Any person who knowingly and willfully abets the commission of or wh

(2) Any person who attempts to commit an offence under this Ordinance shall be punished for a term which may extend to on

Explanation.- For aiding or abetting an offence to be committed under this section, it is immaterial whether the offence has bee

20. Other offences.- Whoever commits any offence other than those expressly provided under this Ordinance, with the help of

years, or with fine not exceeding two hundred thousand rupees, or with both.

21. Offences by corporate body.- A corporate body shall be held liable for an offence under this Ordinance if the offence is com

Provided that such punishment shall not absolve the criminal liability of the natural person who has committed the offence.

Explanation.- For the purposes of this section corporate body, includes a body of persons incorporated under any law such as t

CHAPTER-III

PROSECUTION AND TRIAL OF OFFENCES

22. Offences to be compoundable and non-cognizable.- All offences under this Ordinance shall be compoundable, non-cognizable

23. Prosecution and trial of offences.- (1) The Tribunal shall take cognizance of and try any offence under this Ordinance .

(2) In all matters with respect to which no procedure has been provided in this Ordinance or the rules made thereunder, the p

(3) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meanings of sections 193 and 228

24. Order for payment of compensation.- The Tribunal may, on awarding punishment of imprisonment or fine or both for commi

arrears of land revenue:

Provided that the compensation awarded by the Tribunal shall not prejudice any right to a civil remedy for the recovery of dama

CHAPTER-IV

ESTABLISHMENT OF INVESTIGATION AND PROSECUTION AGENCIES

25. Establishment of investigation agencies and prosecution.- The Federal Government shall establish a specialized investigation

Provided that till such time any agency is so established, the investigation and prosecution of an offence shall be conducted in .

Provided further that any police officer investigating an offence under this Ordinance may seek assistance of any special investi

26. Powers of officer.- (1) Subject to obtaining search warrant an investigation officer shall be entitled to,-

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

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

(c) have access to or demand any information, code or technology which has the capability of retransforming or unscrambling e

(d) require any person by whom or on whose behalf, the investigating officer has reasonable cause to believe, any electronic s

(e) require any person having charge of, or otherwise concerned with the operation of such electronic system to provide him re

data to grant him access to such decryption information necessary to decrypt data required for the purpose of investigating an

Explanation.- Decryption information means information or technology that enables a person to readily retransform or unscramble

(2) The police officer may, subject to the proviso, require a service provider to submit subscriber information relating to such s

Provided that the investigating officer shall get prior permission to investigate any service provider from the licensing authority v

(3) Any person who obstructs the lawful exercise of the powers under sub-sections (1) or (2) shall be liable to punishment wit

27. Real-time collection of traffic data.- (1) The Federal Government may require a licensed service provider, within its existing

time, associated with specified communications transmitted by means of an electronic system. (2) The Federal Government r

28. Retention of traffic data,- (1) A service provider shall, within its existing or required technical capability, retain its traffic da

investigating officer when required. The Federal Government may extend the period to retain such date as and when deems app

(2) The service providers shall retain the traffic data under sub-section (1) by fulfilling all the requirements of data retention a

(3) Any person who contravenes the provisions of this section shall be punished with imprisonment for a term of six months, or

29. Trans-border access.- For the purpose of investigation the Federal Government or the investigation agency may

Government or international agency access publicly available electronic system or data notwithstanding the geographically loca

disclose it:

Provided that such access is not prohibited under the law of the foreign Government or the international agency:

Provided further that the investigating agency shall inform in writing the Ministry of Foreign Affairs of Government of Pakistan ar

CHAPTER - V

INTERNATIONAL COOPERATION

30. International cooperation.- (1) The Federal Government may cooperate with any foreign Government, Interpol o

it has, or establishes, reciprocal arrangements for the purposes of investigations or proceedings concerning offences related to

traffic data associated with specified communications or interception of data.

(2) The Federal Government may, without prior request, forward to such foreign Government, Interpol or other international ag

information might assist the other Government or agency in initiating or carrying out investigations or proceedings concerning ar

(3) The Federal Government may require the foreign Government, Interpol or other international agency to keep the informatio

(4) The investigating agency shall, subject to approval of the Federal Government, be responsible for sending and answering re

(5) The Federal Government may refuse to accede to any request made by such foreign Government, Interpol or international a

(6) The Federal Government may postpone action on a request if such action would prejudice investigations of proceedings cor

Chapter - VI

INFORMATION AND COMMUNICATION TECHNOLOGIES TRIBUNAL

31. Information and Communication Technologies Tribunal .- (1) As soon as possible after the commencement of this Ordinance , the Fe
 (2) The Tribunal may hold its sittings at such place or places as the Federal Government may decide.
 (3) The Tribunal shall consist of a chairman and as many members as the Federal Government may determine but not more than seven
 (4) The Chairman may constitute Benches of the Tribunal and unless otherwise directed by him a Bench shall consist of not less than two
 (5) The Federal Government shall appoint the Chairman and members of the Tribunal.
32. Qualifications for appointment.- (1) A person shall not be qualified for appointment as Chairman unless he is, or has been, or is qualified
 (2) A person shall not be qualified for appointment as a member unless he -
 (a) has for two years served as a District and Sessions Judge;
 (b) has for a period of not less than ten years been an advocate of a High Court; or
 (c) has special knowledge of legislation and professional experience of not less than ten years in the field of telecommunication and
 33. Salary, allowances and other terms and conditions of services.- The salary, allowances, privileges and the other terms and conditions
 34. Resignation and removal.- (1) The Chairman or a member of the Tribunal may, by writing under his hand addressed to the Federal Government
 Provided that the Chairman or a member shall, unless he is permitted by the Federal Government to relinquish his office sooner, continue
 (2) The Chairman or a member of the Tribunal shall not be removed from his office before expiry of the term determined under section
 (3) The Federal Government may, by rules, regulate the procedure for the investigation of misconduct or physical or mental incapacity of
 35. Saving Tribunal's proceedings.- No act or proceedings of the Tribunal shall be called in question in any manner on the ground merely
 36. Employees of the Tribunal.- (1) The Federal Government shall provide the Tribunal with such employees as the Government may determine
 (2) The employees of the Tribunal shall perform their duties under general superintendence of the Chairman of the Tribunal.
 (3) The salaries, allowances and other conditions of service of the employees of the Tribunal shall be such as may be prescribed by the
 37. Right to legal representation.- The parties in appeal may either appear in person or authorize one or more legal practitioners,
 38. Amicus curiae. - (1) The Tribunal may, if it so requires, be assisted in technical aspects in any case by an amicus curiae having knowledge
 (2) The Federal Government shall maintain a list of amicus curiae having relevant qualifications and experience.
 (3) The Tribunal in consultation with the Federal Government shall determine the remuneration of the amicus curiae and the Tribunal may
 39. Procedure and powers of Tribunal.- (1) Subject to the provisions of this Ordinance and the rules made thereunder, the Tribunal,--
 (i) may, where it deems necessary, apply the procedures as provided in the Code of Civil Procedure, 1908, or, as the case may be, in the Code of Criminal Procedure, 1973;
 (ii) in the exercise of its civil jurisdiction, shall have powers vested in the civil court under the Code of Civil Procedure, 1908; and
 (iii) in the exercise of its criminal jurisdiction, shall have the same powers as are vested in the Court of Session under the Code.
 40. Appeal to Tribunals.- (1) Any person aggrieved by any of the following orders may, within fifteen days from the date of such order, appeal
 (a) any decision of the Authority; or
 (b) any decision of the Electronic Certification Accreditation Council:
 Provided that no appeal shall lie to the Tribunal from an order passed by the Authority or the Electronic Certification Accreditation Council
 (2) Any appeal against a decision of the Authority shall be accompanied by a court fee,-
 (a) ten thousand rupees where the valuation of the subject matter in issue is not more than five million rupees;
 (b) fifty thousand rupees where the valuation of the subject matter in issue is more than five million rupees but not more than ten million rupees;
 (c) one hundred thousand rupees where the valuation of the subject matter in issue is more than ten million rupees. if,
 (3) The appeal filed before the Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and the Tribunal shall
 41. Powers of Tribunal.- The Tribunal while hearing an appeal under section 40 shall have all the powers as are vested in the court of first
 42. Limitation".- The provisions of the Limitation Act, 1908 (IX of 1908), shall, mutatis mutandis , apply to the proceedings of Tribunal. 4
 (1) any decision or order of the Tribunal made under section 40 may prefer second appeal to the respective High Court within thirty days
 Provided that appeal under this clause shall lie only if the High Court grants leave to appeal;
 (ii) an order of conviction passed by the Tribunal in respect of any offence under this Ordinance may prefer an appeal to the respective
 (2) An appeal against an order of the Tribunal under section 40 or an order of sentence exceeding ten years shall be heard by the Divisional
 44. Civil court not to have jurisdiction.- No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter in which
 power conferred by or under this Ordinance.
 45. Transitory proceedings.- (1) Until the establishment of the Tribunal all cases, proceedings and appeals, subject matter of which
 (2) On the constitution of the Tribunal all cases, proceedings and appeals shall stand transferred to and be heard and disposed of by the
 (3) On transfer of cases, proceedings and appeals under sub-section (2), the Tribunal shall proceed from the stage the proceedings had

CHAPTER - VII MISCELLANEOUS

46. Ordinance to override other laws.- The provisions of this Ordinance shall have effect notwithstanding anything to the contrary
47. Power to amend Schedule.- The Federal Government may, by notification in the official Gazette, amend the Schedule so as to c
48. Powers to make rules. - (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out pu
49. Removal of difficulties. - If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government may

THE FIRST SCHEDULE

(See section 2(p)(ii))

1. The Electronic Transactions Ordinance, 2002 (LI of 2002).
2. The Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996).
3. The Telegraph Act, 1885 (XIII of 1885).
4. The Wireless Telegraphy Act, 1933 (XVII of 1933).

[\[Back \]](#)



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[APP Video News Service](#)

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