

The Prevention of Terrorism (Repeal) Act, 2004

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Act 26 of 2004

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The Prevention Of Terrorism (Repeal) Act, 2004(26 of 2004)

160.

Statement of Objects and Reasons.-The Prevention of Terrorism Act, 2002 was enacted as a special law to deal with terrorist acts.² There have been allegations of gross misuse of the provisions of the Act by some State Governments. Views have been expressed that provisions of the Act were misused in cases where they should not have been invoked. It has also been observed in various quarters that the Act has failed to serve its intended purpose and as a result, there have been persistent demands that this Act should be repealed.³ The Government has been concerned with the manner in which provisions of the Act were grossly misused in the past two years. It was, therefore, felt necessary to repeal the Act. As Parliament was not in session, the Prevention of Terrorism (Repeal) Ordinance, 2004 was promulgated on 21-9-2004. The Act empowers the Central Review Committee to review all cases pending in the Courts or at various stages of investigation and complete the review within the period of one year from the date of repeal of the Act and to give its directions. Whenever, in the opinion of the Central Review Committee, no prima facie case is made out either in respect of cases pending in the Courts, or under investigation, such cases shall be deemed to have been withdrawn and investigation closed, as the case may be.⁴ The Prevention of Terrorism (Repeal) Bill, 2004 seeks to replace the Prevention of Terrorism (Repeal) Ordinance, 2004 and to achieve the above objects. An Act to repeal the Prevention of Terrorism Act, 2002. Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:-

Received the assent of the President on 21.12.2004 and published in the Gazette of India, Ext., Pt.II, Section 1, dated 22.12.2004.

1. Short title and commencement

(1) This Act may be called The Prevention of Terrorism (Repeal) Act, 2004. (2) It shall be deemed to have come into force on the 21st day of September, 2004.

2. Repeal of Act 15 of 2002 and saving

(1) The Prevention of Terrorism Act, 2002 (15 of 2002) (hereinafter referred to as the principal Act) is hereby repealed. (2) The repeal of the principal Act shall not affect (a) the previous operation of, or anything duly done or suffered under the principal Act, or (b) any right, privilege or obligation or liability acquired, accrued or incurred under the principal Act, or (c) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act, or (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and, any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the principal Act had not been repealed: Provided that notwithstanding anything contained in this sub-section or in any other law for the time being in force, no Court shall take cognizance of an offence under the principal Act after the expiry of the period of one year from the commencement of this Act. (3) Notwithstanding the repeal of section 60 of the principal Act, the Review Committee constituted by the Central Government under sub-section (1) of that section, whether or not an application under sub-section (4) of that section has been made, shall review all cases registered under the principal Act as to whether there is a prima facie case for proceeding against the accused thereunder and such review shall be completed within a period of one year from the commencement of this Act and where the Review Committee is of the opinion that there is no prima facie case for proceeding against the accused, then, (a) in cases in which cognizance has been taken by the Court, the cases shall be deemed to have been withdrawn; and (b) in cases in which investigations are pending, the investigations shall be closed forthwith, with effect from the date of issuance of the direction by such Review Committee in this regard. (4) The Review Committee constituted by the Central Government under sub-section (1) of section 60 of the principal Act shall, while reviewing cases, have powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely: (a) discovery and production of any document; (b) requisitioning any public record or copy thereof from any Court or office. (5) The Central Government may constitute more Review Committees, as it may consider necessary, for completing the review within the period specified in sub-section (3).

3. Repeal and saving

(1) The Prevention of Terrorism (Repeal) Ordinance, 2004 (Ord. 1 of 2004) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.