

**[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]**

**A  
Bill**

*further to amend the National Accountability Ordinance, 1999 (No. XVIII of 1999)*

WHEREAS it is expedient further to amend the National Accountability Ordinance, 1999 (No. XVIII of 1999), for the purposes, hereinafter appearing.

It is hereby enacted as follows:-

1. **Short title and Commencement.**-(1) This Act may be called The National Accountability Ordinance (Amendment) Act, 2016.  
(2) It shall come into force at once.

2. **Amendment of section 4, Ordinance XVIII of 1999.**- In the National Accountability Ordinance, 1999 (No. XVIII of 1999), hereinafter referred to as the said Ordinance, for section (4), the following new section shall be substituted, namely:-

“(4) It extends to the whole of Pakistan and shall apply to all persons in Pakistan and all citizens of Pakistan in Pakistan or for the time being abroad and persons who are or have been in the service of Pakistan wherever they may be and whatsoever they have status, including areas which are part of Federally and Provincially Administered Tribal Areas.

3. **Amendment of section 5, Ordinance XVIII of 1999.**- In the said Ordinance, in section 5,-

- (a) for paragraph (g), the following shall be substituted, namely:-

“(g) “Court” means an Accountability Court which shall consist of a Judge who shall be appointed by the Chief Justice of the High Court of the Province concerned in consultation with the administrative committee of the High Court, on such terms and conditions as may be determined for the judge of High Court”.

- (b) for paragraph (h), the following shall be substituted, namely:-

“(h) “Judge” means a Judge of a Court who shall be a serving District and Sessions Judge qualified to be appointed as Judge of the High Court, who is most competent, honest, having good repute among the judicial officers”.

- (c) for paragraph (n), the following shall be substituted, namely:-

“(n) “Offence” means the offences of corruption and corrupt practices and includes election corruption and election bad practices and other offences as defined in this Ordinance and includes the offences relating to corruption and corrupt practices specified in the Schedule to this Ordinance;”

- (d) in paragraph (r) the first, second and third proviso shall be deleted;

- (e) after paragraph (r) the following new paragraphs shall be inserted, namely:-

“(s) Good Governance “means visible positive change and reforms in institutional behavior and in short it is an anti-corruption strategy where authority and its institutions are independent, accountable, effective and efficient, fair, free from corruption and zero corruption tolerance policy is adopted in all departments, autonomous and statutory body or organizations, authorities, policies, steps and orders at individual and state level.

(t) Corruption means; financial, political, electoral and meaning of corruption would be always taken into vast meaning not in narrow meaning.”

**4. Amendment of section 6, Ordinance XVIII of 1999.** - In the said Ordinance, in section 6,-

(a) in paragraph (b), for sub-paragraph (i) the following shall be substituted, namely:-

“(i) Chairman National Accountability means a person who is appointed by the President of Pakistan in consultation with the Chief Justice of Supreme Court of Pakistan along with two senior judges of Supreme Court and chief justices of all high courts and decision should be by majority, for a non-extendable period of four years and shall not be removed except on grounds of removal of judge of Supreme Court of Pakistan.”

(b) for paragraph (ba), the following shall be substituted, namely:-

“(ba) A person shall not be appointed as Chairman NAB unless he,-

(i) is Pakistani citizen and not has dual citizenship.

(ii) is a retired Chief Justice or a Judge of the Supreme Court or a Chief Justice of a High Court .

(iii) has discharged his duties and performed his functions during the service, honestly to the best of his ability and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law.

(iv) has always preserved, protected and defended the Constitution of the Islamic Republic of Pakistan.

(v) has in all circumstances, done right to all manner of people, according to law, without fear or favour, affection or ill will.

(vi) has not, after establishment of Pakistan, worked against the integrity of country or opposed the ideology of Pakistan.”

**5. Amendment of section 7, Ordinance XVIII of 1999.** - In the said Ordinance, in section 7,-

(a) for paragraphs (a), (aa) and (b) the following new paragraphs shall be substituted, namely:-

“(a) there shall be a Deputy Chairman NAB appointed by the President in consultation with the Chief Justice of Pakistan and Chairman NAB. The Deputy Chairman NAB shall assist the Chairman in the performance of his duties and shall carry out such functions as may be directed by the Chairman NAB.

(aa) a person shall be appointed as Deputy Chairman of NAB unless he,-

(i) is a retired judge of the Supreme Court or a High Court.

(ii) qualifies as mentioned in sub-section (ba) of section 6 of this Ordinance.

(b) The Deputy Chairman NAB shall hold office for a non-extendable period of three years and shall not be removed except on the ground of misconduct as judge of high court is removed.”

**6. Amendment of section 8, Ordinance XVIII of 1999.** - In the said Ordinance, in section 8,-

(a) In paragraph (a) in sub-paragraph (i), after the word “consultation”, the words “with the Chief Justice of Supreme Court of Pakistan and”, shall be inserted.

(b) in paragraph (d), the following proviso shall be added, namely:-

“Provided that such period of absence shall not exceed six months.”

**7. Amendment of section 9, Ordinance XVIII of 1999.** - In the said Ordinance, in section 9,-

(a) for paragraph (a), the following shall be substituted, namely:-

“(a) A holder of a public office, or any other person including all citizens of Pakistan wherever they may be and whatsoever they have status and persons of other nationalities available, operating or transacting in Pakistan or for the time being not in Pakistan and operating or transacting through abroad, is said to commit or to have committed the offence of corruption and corrupt practices.”

(b) for Paragraph (c), the following shall be substituted, namely:-

“(c) If after completing the investigation of an offence against a holder of public office or any other person, the Chairman NAB is satisfied that no prima facie case is made out against him and the case may be closed, the chairman NAB shall refer the matter to a court for decision and if court is satisfied with the investigation of the NAB, the court shall order for the release of the accused, if any in custody.”

**8. Amendment of section 10, Ordinance XVIII of 1999.**- In the said Ordinance, in section 10,-

(a) for paragraph (a), the following shall be substituted, namely:-

“(a) A holder of public office, or any other person who commits the offence, of corruption and corrupt practices includes corruption of any type and in all meanings, mentioned in section 9 of this Ordinance and in all other offences shall be punishable with rigorous imprisonment to the extent of twenty five years and with fine and not less than ten years and such of the assets and pecuniary resources of such holder of public office or person, as are found to be disproportionate to the known sources of his income or which are acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars, shall be forfeited to the appropriate Government of Pakistan, or the concerned bank or financial institution as the case may be and his passport shall be forfeited, his property shall be attached and he shall be dismissed and removed from service and disqualified for any service of Pakistan in future and stands disqualified for a member of anybody including local body, provincial, National Assembly and Senate.”

(b) Paragraph (c), shall be omitted.

**9. Amendment of section 19, Ordinance XVIII of 1999.**- In the said Ordinance, for section 19, the following shall be substituted, namely:-

“**19.** The Chairman NAB, Deputy Chairman NAB or an officer of the NAB duly authorized by him may, before the start of inquiry or during the course of an inquiry or investigation of an offence under this Ordinance:-

(a) Call for information from any person, including all citizens of Pakistan wherever they may be and whatsoever they have status and persons of other nationalities, having any type of interest or link with the offence and are available, operating or transacting in Pakistan or for the time being not in Pakistan and operating or transacting through abroad, for the purpose of satisfying himself whether there has been any contravention of the provisions of this ordinance or any rule or order made thereunder;

(b) Require any person, wherever he is and whatsoever he has status, to produce or deliver any document or thing useful or relevant to the inquiry or investigation or any matter relating to the offences mentioned in section 9 of this ordinance occurred in the country or abroad by the Pakistani citizen or for the time being he is not Pakistani and has acquired citizenship of other state.

(c) Examine any person or document acquainted with the facts and circumstances of the case of any financial loss occurred to the public exchequer directly or indirectly in Pakistan or abroad or has been any contravention of the provisions of this Ordinance or any rule or order made thereunder."

**10. Amendment of section 20, Ordinance XVIII of 1999.**- In the said Ordinance, in section 20,-

(a) for paragraphs (a) and (b), the following shall be substituted, namely:-

"(a) Notwithstanding anything contained in any law for the time being in force, it shall be the duty of all banks and financial institutions to give preference to the national interest and not provide, any financial facility which may cause default in future, to the citizens of Pakistan where ever they may be and whatsoever they have status and persons of other nationalities, having any type of interest and available, operating or transacting in Pakistan or for the time being not in Pakistan and operating or transacting through abroad until and unless strict measures have been taken and it is duty of the banks and financial institutions to take prompt and immediate notice of all unusual or large transactions in an account, which have no apparently genuine economic and lawful purpose and upon bonafide professional judgment of the Bank or financial institution that such transactions could constitute or be related to an offence under this Ordinance, the manager or director of such Bank or financial institution shall be bound to report all such transactions to the Chairman NAB forthwith by the quickest possible mode of communication to be confirmed in writing;

(b) Whosoever fails to supply the information or to keep fair and transparent financial system and provides any financial facility without proper verification or assist to any person or institution or body in writing off loans and does not act in accordance with subsection (a) shall be punishable with rigorous imprisonment, which may extend to twenty five years, and with fine."

**11. Insertion of new section 22-A, Ordinance XVIII of 1999.**- In the said Ordinance, after section 22, the following new section 22-A shall be added namely:-

"22-A, Foreign Assets Declaration and Repatriation:-

(1) Whenever it is necessary for the great national interest and integrity of Pakistan, An "Inquiry Commission" shall be constituted by the Chairman NAB to probe the matters related to person and includes a firm, association of persons, body of individuals, whether incorporated or not, a company and any other juridical person who conceals his assets details having abroad or fails to submit a statement relating to his property or to repatriate the same or the value or income thereof as required by or under any law for the time being enforce or Regulation or makes a statement which he knows to be incorrect, or establishes offshore company for evading tax or any other offence relating to corruption and corrupt practices abroad and Chairman on its own motion or on the application of any citizen shall start investigation or where matter is already under investigation and in furtherance:-

a) to take support from the UN Convention against Corruption, herein after called as (UNCAC), which has come into force on December 14, 2005 from the countries who have ratified the same.

b) to carry out investigation in foreign countries in respect of allegations of corrupt practices by concealing assets and evading tax establishing offshore companies.

- c) to get evidence situated abroad and their agencies including through a Mutual Legal Assistance Request,(MLAR) and also to constitute international joint investigation teams if necessary.
  - d) to get necessary assistance from government for MLAR and international joint investigation teams under UNCAC.
  - e) to employ or get services of financial investigators, accountants, legal or other experts and well-known forensic institutions.
  - f) to appoint international joint investigation team or teams to seek international cooperation from other countries or their agencies or authorities to provide information, documents, evidence and record and all sort of cooperation and assistance in the investigation.
  - g) to get cooperation and assistance from all federal and provincial agencies cum organizations and authorities to make effective investigation.
- (2) The Government shall be bound by law to fully assist the investigation by extending all necessary financial, legal and diplomatic support to the investigation team dully constituted by NAB or by the support and advice of NAB.
- (3) The Government shall be responsible for providing appropriate infrastructure and other facilities and creating the appropriate infrastructure and other facilities and provide required funds to complete the investigation.
- (4) Commission or agency as case shall be not only collect information regarding offence but also fix the culprits.”

**12. Amendment of section 25, Ordinance XVIII of 1999.**- In the said Ordinance, section 25 shall be omitted.

**13. Amendment of section 25-A, Ordinance XVIII of 1999.**- In the said Ordinance, in section 25-A,-

(a) for paragraph (a) the following shall be substituted namely:-

“(a) Where an accused person has been arrested or is in the custody of NAB or apprehends such arrest or custody for the investigation of the charge against him of committing an offence of willful default on account of non-payment of dues to a bank or financial institution or Co-operative Society, he may at any stage before or after such arrest or before, during or after such custody or investigation subject to the approval of the chairman NAB, apply to the Governor State Bank of Pakistan for reconciliation of his liability through the Conciliation Committee and the Governor may, if chairman NAB has so approved, refer the matter to the Conciliation Committee.

(b) for paragraph (aa), the following shall be substituted, namely:-

“(aa) The Governor, State Bank of Pakistan shall constitute, in consultation with the chairman NAB, one or more Conciliation Committees for the purposes of this Ordinance.”

(c) for paragraph (b), the following shall be substituted, namely:-

“(b) The Conciliation Committee shall consist of a nominee of the Governor State Bank of Pakistan being a senior officer of the State Bank well qualified in the profession of banking who shall be appointed the Chairman of the Committee in consultation with chairman NAB, two nominees of the NAB to be nominated by the

Chairman NAB, two Chartered Accountants to be nominated by the Governor, State Bank of Pakistan in consultation with chairman NAB, one Chartered Accountant to be nominated by the Council of the Institute of Chartered Accountants of Pakistan, Karachi, such nomination on to be obtained by the Governor, State Bank of Pakistan, a Chartered Accountant to be nominated by the accused and a Chartered Accountant to be nominated by the lender bank or financial institution.”

(d) for paragraph (d), the following shall be substituted, namely:-

“(d) The Conciliation Committee shall conclude the reference within thirty days and its recommendations shall be recorded by its Chairman and shall contain the views of all members of the Conciliation Committee. The recommendation of the Conciliation Committee shall be submitted to the chairman NAB.

(e) for paragraph (e), the following shall be substituted, namely:-

“(e) The chairman NAB shall consider the recommendations submitted to him under sub-section (d) and may accept the recommendations or may, for reasons to be recorded, pass such other appropriate order thereon as he deems fit. The acceptances of the recommendations of the Conciliation Committee or passing any other order as aforesaid shall constitute the decision of the chairman NAB.”

(f) a new paragraph (ee), shall be inserted after paragraph (e):-

“(ee) if chairman NAB have enough reasons to take other view than the conciliation committee, he will refer the case to the accountability court or where adjudication is pending along with reasons to be recorded in details.”

(g) for paragraph (g), the following shall be substituted, namely:-

“(g) The decision of the chairman NAB shall be communicated to the governor State Bank of Pakistan within a period of seven days, which shall be binding on him.

(h) for paragraph (h), the following shall be substituted, namely:-

“(h) In the event of failure either of the Conciliation Committee to conclude the reference within thirty days of the commencement of the conciliation proceedings or the failure of the accused to accept the recommendation of the conciliation committee regarding the payment and matters relating thereto, such failure to accept or implement the decision shall be referred to the accountability Court or the court where case is pending for adjudication:

Provided that the period of thirty days shall never be extended by any authority in any circumstances.”

**14. Amendment of section 26, Ordinance XVIII of 1999.**- In the said Ordinance, section 26 shall be omitted

**15. Amendment of section 27, Ordinance XVIII of 1999.**- In the said Ordinance, for section 27, the following shall be substituted, namely:-

“27. The Chairman NAB, or an officer of the NAB duly authorized by him, for any purpose including the purpose of elimination of corruption and corrupt practices, shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or inquiry or investigation pending before the NAB, or there are reasons to believe that some information regarding disclosing of assets are concealed or disposal of any property surrendered to or seized by the NAB, from any department of the Federal Government, Provincial Government, local authority, bank, financial Institution, person or any authority

and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require.”

**16. Amendment of section 31-C and 31-D, Ordinance XVIII of 1999,-** In the said Ordinance, section 31-C and 31-D shall be omitted.

**17. Amendment of section 33-B, Ordinance XVIII of 1999,-** In the said Ordinance, in section 33-B,-  
“(a) after the word “contract”, the words and commas “agreement, accord, treaty, settlement, deal, transaction” shall be added; and  
(b) for the word “fifty”, the word “two”, shall be substituted.

**18. Amendment of section 33-C, Ordinance XVIII of 1999,-** In the said Ordinance, in section 33-C,-  
(a) for paragraph (e), the following shall be substituted, namely:-  
“(e) monitor the implementation of instructions and advice as aforesaid and to assess and evaluate the success or otherwise of such instruction and advice on the reduction and elimination of corruption and corrupt practices and further monitor the implementation of the judgments of Supreme Court of Pakistan and high courts regarding the administrative issues of NAB and regarding eradication of corruption and corrupt practices and implementation of resolutions passed by the parliament and provincial assemblies against corruption.”

**19. Amendment of the Schedule, Ordinance XVIII of 1999,-** In the said Ordinance, in the Schedule.-

- (a) At serial (1), in column (3), for the words “fourteen years and fine”, the words “twenty five years but not less than ten years”, shall be substituted;
- (b) At serial (2), in column (3), for the words “five years”, the words “fourteen years but not less than seven years”, shall be substituted.
- (c) At serial (3), in column (3),-
  - (i) against item (a), for the words “five years”, the words “fourteen years but not less than seven years”, shall be substituted; and
  - (ii) against item (b), for the words “ten years”, the words “fourteen years but not less than seven years” shall be substituted.
- (d) At serial (4), in column (3), for the words “fourteen years”, the words “twenty five years but not less than ten years” shall be substituted.
- (e) At serial (5), in column (3), for the words “fourteen years”, the words “twenty five years but not less than ten years” shall be substituted.

#### **STATEMENT OF OBJECTS AND REASONS**

Corruption has ruined the National assets of Pakistan. Our precious and valuable institutions have been privatized due to the bad governance and bad practices by the public office holders and person responsible for the smooth running and governance of the said institutions.

It is unfortunate that there are laws for the combating of the corruption and corrupt practices but at the same time those laws have very nominal punishments and there are lacunas kept in laws knowingly or unknowingly so that no one can achieve the goals set by the legislature while passing laws.

Due to the corruption Pakistani citizens are suffering a lot and prices of daily food items are increased fortnightly and there is not any accountability in sphere of the life and every department central or provincial has lost its integrity.

Following steps are taken in shape of proposed amendments in NAB Ordinance 1999.

In section 4 of the ordinance it is proposed that this act shall be applicable to all citizens of Pakistan in Pakistan or for the time being not in Pakistan and are in abroad and applies to the persons wherever they are and whatsoever they have status.

It is also proposed that Accountability Court judge shall be appointed by the Chief Justice of the High Court of the Province concerned in consultation with the administrative committee of the high court.

It is further proposed by introducing new section regarding Good Governance and it is said that it mean visible positive change and reforms in institutional behavior and in short it is an anti-corruption strategy where authority and its institutions are independent, accountable, effective, efficient, fair and free from corruption and zero corruption tolerance policy is adopted in all departments, autonomous and statutory body or organizations, authorities, policies, steps and orders at individual and state level.

The meaning of Corruption includes financial, political, electoral and proposed that the meaning of corruption would be always taken into vast meaning not in narrow meaning.

It is proposed that Chairman National Accountability Ordinance shall be appointed by the President of Pakistan in consultation with the Chief Justice of Supreme Court of Pakistan along with two senior judges of Supreme Court and chief justices of all high courts and decision should be by majority and among others chairman and deputy chairman must fulfill conditions for appointment and dual national cannot be appointed Chairman or Deputy Chairman of NAB.

It is proposed that President shall appoint Prosecutor General NAB with the consultation of Chief Justice of Supreme Court of Pakistan and Chairman NAB and for speedy working period of leave of Prosecutor General from his office should never be exceed the six month."

For the smooth working of government and country system strict measures and steps have been proposed and it is said that if holder of public office, or any other person who commits the offence, of corruption and corrupt practices includes corruption of any type and in all meanings, mentioned in section 9 of this Ordinance and in all other offences shall be punishable with rigorous imprisonment to the extent of twenty five years and with fine and not less than ten years and such of the assets and pecuniary resources of such holder of public office or person, as are found to be disproportionate to the known sources of his income or which are acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars, shall be forfeited to the appropriate Government of Pakistan, or the concerned bank or financial institution as the case may be and his passport shall be forfeited, his property shall be attached and he shall be dismissed and removed from service and disqualified for any service of Pakistan in future and stands disqualified for a member of anybody including local body, provincial, National Assembly and Senate."

After deletion of section 10(c) federal government, power to amend the schedule of NAB Ordinance so as to add any entry thereto or modify or omit any entry therein by notification in official gazette will not be more available.

Chairman NAB is more empowered and his duties and functions are more elaborated in different sections and it is proposed that elimination of corruption from the country would be prime duty of NAB and its chairman.

It is further proposed that it shall be the duty of all banks and financial institutions to give preference to the national interest and not provide, any financial facility which may cause default in future, to the citizens of Pakistan where ever they may be and whatsoever they have status and persons of other nationalities, having any type of interest and available, operating or transacting in Pakistan or for the time being not in Pakistan and operating or transacting through abroad until and unless strict measures have been taken and said that Whosoever fails to supply the

information or to keep fair and transparent financial system and provides any financial facility without proper verification or assist to any person or institution or body in writing off loans and does not act in accordance with sub-section (a) shall be punishable with rigorous imprisonment, which may extend to twenty five years, and with fine.

A new section 22-A, regarding Foreign Assets Declaration and Repatriation is proposed where ten steps have been proposed.

Already existing Section 25 and its paragraphs (a), (b) and (c) which is regarding voluntary return and plea bargain is proposed to be deleted because this law is purely for those who has looted the country and on the other side if poor widow have twenty thousand rupees payable to the bank or financial institution she must have to pay otherwise her property can be put for auction.

Through proposing amendments in 25-A which is about payment of loans, Chairman NAB has been empowered and before Governor State Bank was empowered which has always favored the default persons.

Section 26 and its paragraphs are about tender of pardon by the Chairman NAB, this power is badly misused and lacks fair and transparent system so that it is proposed to delete.

Section 31-C and 31-D of the Ordinance bars court to not take cognizance of offence without prior approval of the State Bank of Pakistan. This existing Provision is against the working of NAB.

It is further proposed through amendment in 33-C that NAB should monitor the implementation of instructions and advice as aforesaid and to assess and evaluate the success or otherwise of such instruction and advice on the reduction and elimination of corruption and corrupt practices and further monitor the implementation of the judgments of supreme court of Pakistan and high courts regarding the administrative issues of NAB and regarding eradication of corruption and corrupt practices and implementation of resolutions passed by the parliament and provincial assemblies against corruption."

A bill is proposed to achieve above purposes

Sd/-

**SAHIBZADA MUHAMMAD YAQUB**

**SAHIBZADA TARIQULLAH**

**MR. SHER AKBAR KHAN**

**MS. AISHA SYED**

Members National Assembly