

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.-(1) This Act shall be called the Pakistan Army (Amendment) Act, 2020.

(2) It shall come into force at once and shall be deemed to have taken effect on the 27th day of November, 2019..

2. Amendment of section 8, Act XXXIX of 1952.-In the Pakistan Army Act, 1952 (XXXIX of 1952), hereinafter referred to as the said Act, in section 8,-

(a) in sub-section (2), after the words "Pakistan Army", comma and the words ", duly appointed by the President, in accordance with Article 243 of the Constitution of Islamic Republic of Pakistan, read with section 8A" shall be inserted;

(b) after sub-section (2), the following new sub-section, shall be inserted, namely:-

"(2A) "Chairman, Joint Chiefs of Staff Committee" means an officer who has been appointed as the Chairman,, Joint Chiefs of Staff Committee, by the President, in accordance with Article 243 of the Constitution of Islamic Republic of Pakistan, read with section 8D;"

3. Insertion of new Chapter, Act XXXIX of 1952.- In the said Act, after Chapter I, the following new Chapter shall be inserted, namely:-

"CHAPTER IA. — APPOINTMENT OF THE CHIEF OF THE ARMY STAFF AND THE CHAIRMAN, JOINT CHIEFS OF STAFF COMMITTEE

8A. Appointment of the Chief of the Army Staff:- (1) The President shall, on the advice of the Prime Minister, appoint a General as the Chief of the Army Staff, for a tenure of three (03) years.

(2) The terms and conditions of the Chief of the Army Staff shall be determined by the President, on the advice of the Prime Minister.

8B. Reappointment or extension of Chief of the Army Staff.-

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President, on the advice of the Prime Minister, may reappoint the Chief of the Army Staff for additional tenure of three (03) years, or extend the tenure(s) of the Chief of the Army Staff up to three (03) years, on such terms and conditions, as may be determined by the President on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.

(2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of any Court, the appointment, reappointment or extension of the Chief of the Army Staff, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

8C. Retirement age and service limits of the Chief of the Army Staff.-The retirement age and service limits prescribed for a General, under the Rules and Regulations made under this Act, shall not be applicable to the Chief of the Army Staff, during his tenure of appointment, reappointment, or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure, the Chief of the Army Staff shall continue to serve as a General in the Pakistan Army.

8D. Appointment of the Chairman, Joint Chiefs of Staff Committee.-

(1) The President may, on the advice of the Prime Minister, appoint a Chairman, Joint Chiefs of Staff Committee, from amongst Generals in the

Pakistan Army, Admirals in the Pakistan Navy, or Air Chief Marshals in the Pakistan Air Force, for a tenure of three (03) years.

(2) The terms and conditions of the Chairman, Joint Chiefs of Staff Committee shall be determined by the President on the advice of the Prime Minister.

(3) If the Chairman, Joint Chiefs of Staff Committee is appointed from amongst Generals in the Pakistan Army, the provisions of this Act shall be applicable to the such Chairman, Joint Chiefs of Staff Committee.

8E. Reappointment or extension of the Chairman, Joint Chiefs of Staff Committee.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President, on the advice of the Prime Minister, may reappoint the Chairman, Joint Chiefs of Staff Committee for additional tenure of three (03) years, or extend the tenure(s) of the Chairman, Joint Chiefs of Staff Committee up to three (03) years, on such terms and conditions, as may be determined by the President on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.

(2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of any Court, the appointment, reappointment or extension of the Chairman, Joint Chiefs of Staff Committee, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

8F. Retirement age and service limits of the Chairman, Joint Chiefs of Staff Committee:- In case a General of the Pakistan Army is appointed as the Chairman, Joint Chiefs of Staff Committee, the retirement age and service limits, prescribed under the Rules and Regulations made under this Act, shall not be applicable to the said General during his tenure of appointment, reappointment or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure, the Chairman, Joint Chiefs of Staff Committee, appointed under this Act, shall continue to serve as a General in the Pakistan Army."

4. Amendment of section 176, Act XXXIX of 1952.- In the said Act, in section 176, in sub-section (2), in sub-clause (a), after the word "the", occurring for the first time, commas and the words "appointment, reappointment or extension," shall be added, and after the word "Act", commas and the words ", including the Chief of the Army Staff and/or the Chairman, Joint Chiefs of Staff Committee" shall be added.

5. Amendment of section 176A, Act XXXIX of 1952.- In the said Act, in section 176A, after the word "Army", the words and commas "including, appointment, reappointment, extension or retirement of the Chief of the Army Staff and/or the Chairman, Joint Chiefs of Staff Committee", shall be added.

6. Overriding effect.-

(1) The provisions of this Act shall have effect notwithstanding anything contained in the said Act, any other law, rules, regulations or bye-laws, notifications and other legal instruments for the time being in force.

(2) In case there is any conflict between the provisions of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of inconsistency.

Statement of Objects and Reasons

This Bill seeks to amend the provisions of the Pakistan Army Act, 1952, so as to empower the President, on the advice of the Prime Minister, to specify the tenure and the terms and conditions of service of the Chief of the Army Staff or the Chairman, Joint Chiefs of Staff Committee, including the grant of extension to, and re-appointment of the Chief of the Army Staff or the Chairman, Joint Chiefs of Staff Committee, and to provide for other related matters, in light of the Honourable Supreme Court's judgment dated 28th November, 2019, passed in Constitution Petition No. 39 of 2019.

The Bill is designed to achieve the aforesaid objects.

Pareez Nadeem
Minister-in-charge