

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

further to amend the National Accountability Ordinance, 1999

WHEREAS it is expedient further to amend the National Accountability Ordinance, 1999 (XVIII of 1999), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act shall be called the National Accountability (Second Amendment) Act, 2022.

(2) This Act shall come into force at once and shall be deemed to have taken effect on and from commencement of the National Accountability Ordinance, 1999 (XVIII of 1999).

2. Amendment of section 4, Ordinance XVIII of 1999.— In the National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the said Ordinance, in section 4, in sub-section (2),—

- (i) in clause (a), after the word “taxation”, occurring at the end, the expression “, transactions or amounts duly covered by amnesty schemes of Government of Pakistan” shall be inserted;
- (ii) in clause (b), after the expression “(DDWP),”, the expression “Board of Directors of State Owned Enterprises (SOEs),” shall be inserted;
- (iii) in clause (e), the word “and” at the end shall be omitted; and

- (iv) in clause (f), for full stop at the end, a semi colon and the word "and" shall be substituted and thereafter the following new clause (g) shall be added, namely:-

"(g) all matters where the funds, property or interest not involving or belonging to the appropriate government, except for the offences under clauses (ix), (x) or (xi) of sub-section (a) of section 9."

3. Amendment of section 5, Ordinance XVIII of 1999.- In the said Ordinance, in section 5, in clause (o), after the word "Ordinance", occurring for the first time, the words "of the value not less than five hundred million rupees" shall be inserted.

4. Substitution of section 5A, Ordinance XVIII of 1999.- In the said Ordinance, for section 5A, the following shall be substituted, namely:-

"5A. Establishment of Courts and appointment of Judges.- (1) The Federal Government shall establish as many Courts as it may deem necessary to try offences under this Ordinance.

(2) A Judge shall be appointed by the Federal Government after consultation with the Chief Justice of the High Court concerned and shall hold office for a term of three years from the date of his initial appointment as such Judge.

(3) No person shall be appointed as Judge unless he is a serving District and Sessions Judge or Additional District and Sessions Judge.

(4) A Judge shall not ordinarily be removed or transferred by the Federal Government from his office before completion of his term, except after consultation with the Chief Justice of the High Court concerned."

5. Amendment of section 6, Ordinance XVIII of 1999.— In the said Ordinance, in section 6, sub-section (c) shall be omitted.

6. Amendment of section 8, Ordinance XVIII of 1999.— In the said Ordinance, in section 8, in sub-section (a),—

(a) in clause (i), for the expression "President of Pakistan, in consultation with", the expression "Federal Government, on recommendation of" shall be substituted; and

(b) in clause (iii), the expression "a non-" shall be omitted.

7. Omission of section 11, Ordinance XVIII of 1999.— In the said Ordinance, section 11 shall be omitted.

8. Amendment of section 16, Ordinance XVIII of 1999.— In the said Ordinance, in section 16, for sub-section (e), the following shall be substituted, namely:—

"(e) Notwithstanding anything contained in this section, an accused shall be tried for an offence under this Ordinance in the Court in whose territorial jurisdiction the offence is alleged to have been committed:

Provided that NAB shall file the reference, after the investigation is fully completed, which shall be treated as the final reference, and no supplementary reference shall be filed thereafter, unless investigation reveals new facts and with the permission of the Court."

9. Amendment of section 16A, Ordinance XVIII of 1999.— In the said Ordinance, in section 16A, after sub-section (c), the following new sub-section shall be added, namely:—

"(d) The provisions of this section shall *mutatis mutandis* apply to the Islamabad Capital Territory."

10. Amendment of section 17, Ordinance XVIII of 1999.— In the said Ordinance, in section 17, sub-section (c) shall be omitted.

11. Amendment of section 19, Ordinance XVIII of 1999.— In the said Ordinance, in section 19,—

- (i) in clause (a), after the words "any person" the words "with regard to particulars of the subject inquiry or investigation " shall be inserted;
- (ii) in clause (b), for the words "to the inquiry or investigation" the words "with regard to the subject inquiry or investigation " shall be substituted;
- (iii) in clause (c), after the word "case" the words "with regard to the subject inquiry or investigation" shall be inserted;
- (iv) in clause (d), after the words "with law" the words "with regard to the subject inquiry or investigation shall be inserted; and
- (v) for clause (e), the following shall be substituted, namely:—

"(e) any person called to provide information in relation to an offence alleged to have been committed under this Ordinance, shall be informed if he is an accused person or otherwise, and if the person is alleged to have committed an offence he shall be informed of the allegations against him in such manner as would enable him to file his defence."

12. Amendment of section 20, Ordinance XVIII of 1999.— In the said Ordinance, in section 20, after sub-section (b), the following explanation shall be added, namely:—

“Explanation.— For the purposes of this section, a transaction in cash over two million Rupees shall be considered as an unusual or large transaction.”.

13. Amendment of section 24, Ordinance XVIII of 1999.— In the said Ordinance, in section 24, in sub-section (d), for the words “as soon as may be”, the words “at the time of arrest” shall be substituted.

14. Amendment of section 25, Ordinance XVIII of 1999.— In the said Ordinance, in section 25,—

- (i) in sub-section (b), for the existing proviso, the following two provisos shall be substituted, namely:—

“Provided that statement of an accused entering into plea bargain or voluntarily return shall not prejudice case of any other accused:

Provided further that in case of failure of accused to make payment in accordance with the plea bargain agreement approved by the Court, the agreement of plea bargain shall become inoperative to the rights of the parties immediately.”;

- (ii) after sub-section (b), amended as aforesaid, the following new sub-section (ba) shall be inserted, namely:—

“(ba) Where an accused challenges validity of order approving plea bargain or it comes to the knowledge of the Court otherwise that the plea bargain was a result of duress, coercion or any other illegal pressure exerted on the accused

during the course of inquiry or investigation, the Court after hearing both the parties may recall the approval of plea bargain to the extent of that accused.”; and

- (iii) in sub-section (c), the words “within one month from the date of such deposit”, shall be omitted.

15. Amendment of section 27, Ordinance XVIII of 1999.— In the said Ordinance, in section 27, for the expression “provided that in any case in which a question of secrecy is involved or is raised at any time, the Chairman NAB’s decision shall be final”, the expression “except to seek information, document or assistance the secrecy of which is protected under the law” shall be substituted.

16. Omission of section 31A, Ordinance XVIII of 1999.— In the said Ordinance, section 31A shall be omitted.

17. Substitution of section 31B, Ordinance XVIII of 1999.— In the said Ordinance, for section 31B, the following shall be substituted, namely:—

“31B. Withdrawal and termination of pending proceedings.— (1) Prior to filing of a reference, the Chairman, NAB in consultation with the Prosecutor General, having regard to the totality of facts, circumstances and evidence, may partly, wholly, conditionally or unconditionally withdraw or terminate any proceedings under this Ordinance, if such proceedings are unjustified.

(2) After the filing of a reference, if the Chairman, NAB in consultation with the Prosecutor General, having regard to the totality of facts, circumstances and evidence is of the view that the reference is partly or wholly unjustified, he may recommend to the Court for approval where the matter is pending that the reference may partly or

wholly be withdrawn or terminated and upon such withdrawal or termination—

- (i) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences; and
- (ii) if it is made after a charge has been framed, he shall be acquitted in respect of such offence or offences.

STATEMENT OF OBJECTS AND REASONS

The purpose of the amendment is to exclude private transactions from the scope of the National Accountability. Through the insertion of proposed amendments, the pecuniary jurisdiction of the NAB has been fixed to take only action against mega scandals. Further, it is proposed that supplementary references can only be filed with the permission of the court to expedite the proceedings of the court within one year. Also after the proposed amendments, the Investigation Officers shall not harass any person at the time of investigation or inquiry and confine his question relevant to the investigation or inquiry or for the extracting evidence and that the accused must be informed whether he has been summoned in the capacity of accused or witness and information be given to him to enable him to give his evidence. Section 25 is related to protect the interest of the Government that in case persons entering into plea bargain fail to make payment pursuant to the payment approved by the court, the plea bargain agreement will become infructuous.

The Bill has been designed to achieve the aforesaid objective.

Sd/-
AZAM NAZEER TARAR
Minister for Law and Justice