

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



“THE NATIONAL ACCOUNTABILITY (AMENDMENT) BILL, 2017”

Report No. 37

PRESENTED BY

SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE NATIONAL ACCOUNTABILITY (AMENDMENT) BILL, 2017"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The National Accountability (Amendment) Bill, 2017" introduced by Mr. Zahid Hamid, Minister for Law and Justice in the Senate on 8th March, 2017. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:-

1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. Initially, the Bill was sent to the Committee for consideration and report on 10th January, 2017. The Committee considered the Bill in its meetings held on 31st January, 2017 and 16th February, 2017, under the Chairmanship of Senator Muhammad Javed Abbasi and after extensive discussions the Committee recommended that the subject matter of the Bill may be referred to the Parliamentary Committee on National Accountability Law and the Government may withdraw the "The National Accountability (Amendment) Bill, 2017". The report was presented in the House on 8th March, 2017, wherein the Chairman Senate referred back the Bill to the Committee for consideration and report within thirty days as the Committee had either to recommend the passage with amendment or without amendment of the Bill or it could recommend "that the Bill may not be passed".

4. The Bill was considered in the meeting dated 27th March, 2017 which was held under the Chairmanship of Senator Muhammad Javed Abbasi and attended by the following hon'ble Members:-

- i. Senator Syed Muzafar Hussain Shah
- ii. Senator Ms. Ayesha Raza Farooq
- iii. Senator Nawabzada Saifullah Magsi
- iv. Senator Saeed Ghani
- v. Minister for Law and Justice (Ex-officio Member)

5. Ministry of Law and Justice briefed the Committee in the following terms:

- I. The provision for voluntary return contained in the National Accountability Ordinance, 1999 does not entail disqualification of a holder of public office or dismissal of a government servant who enters into voluntary return arrangements. Nor does it require approval of the Accountability Court. The result is that a corrupt person who voluntarily returns the proceeds of corruption can continue to be a holder of public office or a government servant as the case may be.
- II. The provision for plea bargain requires approval of the Court but disqualification to hold public office is for a period of ten years only.
- III. In view of the Government's clear policy to wipe out the scourge of corruption, as well as widespread and persistent public demand for amendment of the provisions relating to voluntary return and plea bargain, which are generally perceived to condone/ promote corruption, it is proposed to appropriately amend the law. Accordingly, the Bill merges the provisions relating to voluntary return/ plea bargain and provides inter-alia that a voluntary return arrangement will be subject to approval of the Court, and a corrupt person shall stand permanently disqualified from holding public office or from being a government servant.

6. The Committee was initially of the view that life time ban on the convict regarding holding of public office is against the spirit of Article 63 (1) (g), Constitution, 1973, however, the Minister for Law and Justice briefed the Committee that courts have previously held disqualifications over a period of five years as valid and made reference to the Asfandiyar Wali case in this regard. Thereafter, the Committee showed satisfaction on the contents of the Bill and termed this legislation as a required step to fill the vacuum keeping in view that the Parliamentary Committee on NAB Law is yet to complete its task.

7. All Members present voted in favour of the Bill.

8. In view of the above mentioned, the Committee recommends that “The National Accountability (Amendment) Bill, 2017”, as introduced in the Senate may be passed (the Bill is annexed).



(Rabeeza Anwar)
J.S / Secretary Committee



(Senator Muhammad Javed Abbasi)
Chairman

[AS INTRODUCED IN THE SENATE]

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), for the purpose hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title and commencement.-** (1) This Ordinance may be called the National Accountability (Amendment) Ordinance, 2017.

(2) It shall come into force at once.

2. **Amendment of section 15, Ordinance XVIII of 1999.-** In the National Accountability Ordinance (XVIII of 1999), in section 15, for sub-section (a), the following shall be substituted, namely:-

"(a) Where an accused person is convicted of an offence under section 9, of this Ordinance he shall forthwith cease to hold public office, if any, held by him and further he shall stand disqualified from being a holder of public office."

3. **Substitution of section 25, Ordinance XVIII of 1999.-** In the said Ordinance, for section 25, the following shall be substituted, namely:-

"25. Voluntary return.- (1) Notwithstanding anything contained in any other law for the time being in force or section 18, a holder of public office or other person, before or after authorization of investigation against him or filing of the Reference or commencement of the trial or during pendency of an appeal, voluntarily offers to return to the NAB the illegal gain received, acquired or made by him, plus capital gain thereon and profit at the bank rate from the date of its illegal receipt, acquisition, or making ill deposit, the NAB may, after taking into consideration the facts and circumstances of the case, accept such offer, subject to approval of the concerned Court or Appellate Court as the case may be.

(2) The holder of public office or other person shall deposit with the NAB the amount of the illegal gain plus capital gain thereon the profit as determined by the Court or Appellate Court and comply with such other terms and conditions as the Court may consider appropriate, whereupon the case shall stand closed and such holder of public office or other person if in custody shall be released.

(3) Notwithstanding the closure of his case under sub-section (2), such holder of public office or other person shall be deemed to have been convicted of the offence of corruption and corrupt practices and -

- (i) shall stand disqualified from being a holder of public office; and
- (ii) if such person is in the service of Pakistan or any autonomous body, organization, institution, undertaking, concern or establishment controlled or administered by or under the Federal Government or a Provincial Government, shall stand dismissed from service forthwith without any pecuniary benefits and shall not thereafter be eligible to hold public office.

(4) The illegal gain plus capital gain and profit deposited with the NAB under sub-section (2) shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the bank or financial institution, company, body corporate, co-operative society, statutory body, authority or person concerned within thirty days from the date of such deposit.

Explanation.- In this section "illegal gain" means such assets of an accused as are found during investigation or determined by the Court as the case may be to have been received or acquired or made directly or indirectly, in the course of, as a consequence of or through corruption and corrupt practices, and held by him at any time whether in his own name or in the name of his benamidars or dependents or associates."

STATEMENT OF OBJECTS AND REASONS

The provision for voluntary return contained in the National Accountability Ordinance, 1999 does not entail disqualification of a holder of public office or dismissal of a government servant who enters into voluntary return arrangements. Nor does it require approval of the Accountability Court. The result is that a corrupt person who voluntarily returns the proceeds of corruption can continue to be a holder of public office or a government servant as the case may be.

The provision for plea bargain requires approval of the Court but disqualification to hold public office is for a period of ten years only.

In view of the Government's clear policy to wipe out the scourge of corruption, as well as widespread and persistent public demand for amendment of the provisions relating to voluntary return and plea bargain, which are generally perceived to condone/ promote corruption, it is proposed to appropriately amend the law. Accordingly, the Bill merges the provisions relating to voluntary return/ plea bargain and provides inter-alia that a voluntary return arrangement will be subject to approval of the Court, and a corrupt person shall stand permanently disqualified from holding public office or from being a government servant.

This Bill seeks to achieve the aforesaid objects.

Minister-in-Charge