

[AS INTRODUCED IN THE SENATE]

A

BILL

to repeal the Federal Investigation Agency Act, 1974 and to enact a new law for the establishment of Federal Investigation Commission

WHEREAS it is expedient to repeal the Federal Investigation Agency Act, 1974 (VIII of 1975) and to enact a new law for the establishment of an independent Federal Investigation Commission for inquiry, investigation, prosecution and speedy disposal of cases relating to matters given in the schedule in a just, transparent and effective manner and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

**CHAPTER I
INTRODUCTORY**

1. Short title, application, extent and commencement.-(1) This Act may be called the Federal Investigation Commission Act, 2017.

(2) It extends to the whole of Pakistan and shall apply to all citizens of Pakistan, wherever they may be.

(3) It shall come into force at once.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,-

(a) "Agency" means the Federal Investigation Agency constituted under section 11;

(b) "Chairman" means the Chairman of the Commission as given in section 4;

(c) "Committee" means the Parliamentary Committee constituted under section 6;

(d) "Court" means the Court of a serving District and Session Judge or Additional District and Session Judge, to be nominated by the Chief Justice for the trial of offences under this Act;

(e) "Commission" means the Federal Investigation Commission constituted under section 3;

- (f) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (g) "Deputy Chairman" means Deputy Chairman of the Commission as given in section 4;
- (h) "Director General" means the Director General of the Agency;
- (i) "Government" means the Federal Government;
- (j) "Member" means Member of the Commission as given in section 4;
- (k) "Provincial Police" means the Police constituted by Provincial Government under the Police Act, 1861 (V of 1861) or under any other law for the time being in force;
- (l) "Regulations" means regulations made under this Act;
- (m) "Rules" means rules made under this Act; and
- (n) "Schedule" means the Schedule appended to this Act.

**CHAPTER II
THE FEDERAL INVESTIGATION COMMISSION**

3. The Federal Investigation Commission. - (1) There shall be constituted a Federal Investigation Commission for the purposes of inquiry, investigation and prosecution of cases relating to the offences mentioned in the schedule and other offences under this Act.

(2) The Commission shall be administratively, financially and functionally independent, and the Federal Government shall promote, enhance and maintain the independence of the Commission.

(3) The head office of the Commission shall be at Islamabad and the Commission may establish regional offices at such other places as it may consider necessary.

4. Composition of the Commission. - (1) The Commission shall comprise of the Chairman, Deputy Chairman, and not more than three Members.

(2) The Chairman shall be a person who is qualified to be appointed as a judge of the Supreme Court, or a retired officer of the Armed Forces of Pakistan equivalent to the rank of Lieutenant General, or is retired Federal Government Officer in BPS 22 or equivalent.

(3) The Deputy Chairman shall be a person who is qualified to be appointed as a judge of a High Court, or a retired officer of the Armed Forces of Pakistan equivalent to the rank of Major General, or is retired Federal Government Officer in BPS 21 or equivalent.

(4) One Member shall be appointed from amongst persons who have been at least fifteen years experience in criminal investigation.

(5) One Member shall be appointed from amongst persons who have been at least fifteen years experience in immigration, cyber laws, or other related field.

(6) One Member shall be appointed from amongst persons who have been at least fifteen years experience as Advocate in criminal law.

(7) The decision of the Commission shall be expressed in terms of majority and, in case of equality of votes; the Chairman shall have a casting vote.

5. Mode of appointment. – (1) The Chairman, Deputy Chairman and the Members shall be nominated by the Prime Minister in consultation with the Leader of the Opposition in the National Assembly and their names shall be sent to the Parliamentary Committee for confirmation.

(2) The Parliamentary Committee shall confirm the nomination in a meeting to be held within fifteen days of the receipt of the nominations by the Committee in accordance with such procedure as may be prescribed:

Provided that the Parliamentary Committee may, for reasons to be recorded in writing, not confirm the nominations and shall sent back the names with the reasons for not confirming and, recommendations if any, within fifteen days of the receipt of the nominations by the Committee:

Provided further the nominations shall be deemed to have confirmed by the Committee if the Committee does not confirm the nominations within a period of fifteen days, or when the nominations sent back to the Committee with or without incorporating its recommendations and the Committee did not confirm the nominations within fifteen days of the receipt of the nominations for the second time.

(3) After confirmation by the Parliamentary Committee or deemed to have confirmed by the Committee, as the case may be, as provided in sub-sections (1) and (2), the Chairman, deputy Chairman and Members shall be appointed by the Prime Minister for a term of three years each and shall not be eligible for any extension of tenure or for re-appointment.

(4) The Chairman and Deputy Chairman shall continue to be entitled to the same salary and privileges as Federal Government Officer in BPS 22 and BPS 21, as the case may be, and the terms and conditions of service of the Members shall be determined by the Prime Minister in consultation with the Chairman and shall be commensurate with their qualifications and experience.

(5) Subject to this Act, the Chairman, Deputy Chairman and Members shall, notwithstanding the expiration of their term, continue to hold office until their successors enter upon their respective offices:

Provided that such continuation in office shall not exceed thirty days.

(6) The Chairman, Deputy Chairman or a Member may resign from office by submitting under his hand resignation addressed to the Prime Minister.

(7) The Chairman, Deputy Chairman and Members may be removed from office on the grounds and in the manner provided for in Article 209 of the Constitution of the Islamic Republic of Pakistan.

(8) The Chairman, Deputy Chairman and Members shall not hold any office in the service of Pakistan or any public sector entity before the expiration of two years after ceasing to hold their respective offices.

6. Parliamentary Committee. – (1) The Parliamentary Committee shall be constituted by the Speaker of the National Assembly in consultation with the Chairman Senate, and shall consist of six members from the treasury benches and six members from opposition parties in equal number from the Senate and the National Assembly.

(2) The Parliamentary Committee shall make its own rules of procedure including the manner of election of its Chairman.

(3) The decisions of the Parliamentary Committee shall be expressed in terms of the majority and in case of the equality of votes; the Chairman of the Parliamentary Committee shall have a casting vote.

7. Deputy Chairman and Members. - The Deputy Chairman and Members shall assist the Chairman in discharge of his duties and performance of his functions and perform such functions as the Chairman may by order in writing direct.

8. Acting Chairman. – At any time when the Chairman is absent or unable to perform the functions of his office due to any reason, the Deputy Chairman shall act as the Chairman for a period not exceeding thirty days, and in case the Deputy Chairman is also absent or unable to perform the functions of the office, a Member of the Commission duly authorized by the Chairman shall act as Chairman for a period not exceeding thirty days.

9. Appointment of members of staff and officers of the Commission.- The members of the staff and officers of the Commission shall be appointed by the Commission and shall be entitled to such salaries, allowances and other terms and conditions of services as may be prescribed by regulations.

10. Expenditure charged upon Federal Consolidated Fund.- The remuneration payable to the Chairman, Deputy Chairman, Members and other staff and officers of the Commission and all administrative expenses and other expenditure relating to the Commission shall be expenditure charged upon the Federal Consolidated Fund, within the meaning of Article 81 of the Constitution of the Islamic Republic of Pakistan.

CHAPTER III FEDERAL INVESTIGATION AGENCY

11. Federal Investigation Agency. - (1) On the commencement of this Act, the Commission shall constitute an independent Investigation Agency to be called the Federal Investigation Agency for conducting inquiry and investigation of offences specified in the schedule including an attempt or conspiracy to commit, and abetment of, any such offence under this Act.

(2) The Agency shall consist of a Director General to be appointed by the Commission and such number of other officers as the Commission may from time to time, appoint to be members of the Agency.

(3) The Director General shall be a person of integrity, having no known political affiliation with at least fifteen years experience in criminal investigation.

12. Superintendence and administration of the Agency. – (1) The superintendence of the Agency shall vest in the Commission.

(2) The administration of the Agency shall vest in the Director General who shall exercise in respect of the Agency such of the powers of an Inspector General of Police under any law for the time being in force as may be prescribed by rules.

13. Powers of the members of the Agency.- (1) subject to the provisions of this Act, and rules made there under, if any,-

- (a) a member of the Agency shall, for the purpose of an inquiry or investigation under this Act, shall have throughout Pakistan such powers including powers relating to causing attendance, search and arrest of persons and seizure of property, and such duties, privileges and liabilities as the officers of a Provincial Police have in relation to the investigation of offences under the Code or any other law for the time being in force.
- (b) A member of the Agency not below the rank of a Sub-Inspector may, for the purposes of any inquiry or investigation under this Act, exercise any of the powers of an Officer-In-Charge of a police station in any areas in which he is for the time being performing his duties under this Act, and when so exercising such powers, shall be deemed to be an Officer In-Charge of a police station discharging his functions as such within the local limits of his police station.

Explanation.- For the purpose of the exercise by the members of the agency of the powers of an officer-in-charge of a police station, "police station" includes any place declared, generally or specially, by the Federal Government to be a police station within the meaning of the code.

- (c) If, in the opinion of a member of the Agency conducting an investigation, any property which is the subject matter of the investigation is likely to be removed, transferred, or otherwise disposed of before an order of appropriate authority for its seizure is obtained, such member may with the approval of the Director General, by order in writing direct the owner or any person who is for the time being in possession thereof, not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of that member:

Provided that every such orders shall be subject to any order made by the Court, having jurisdiction in the matter; and

(d) any contravention of an order made under clause (c) shall be punishable with rigorous imprisonment for a term which may be extended to one year, or with fine, or with both.

(2) Without prejudice to the generality of the provisions of sub-section (1), any member of the Agency not below the rank of Sub-Inspector authorized by the Director General in this behalf may arrest without warrant any person who has committed, or against whom a reasonable suspicion exists that he has committed, any of the offences referred to sub-section (1) of Section 11.

CHAPTER IV PROSECUTION

14. Chief Prosecutor.- (1) The Commission shall appoint a person who is qualified to be appointed a Judge of the Supreme Court, as Chief Prosecutor.

(2) The Chief Prosecutor shall be appointed for a term of three years and shall not be eligible for any extension of tenure or for reappointment.

(3) Other terms and conditions of service of the Chief Prosecutor shall be determined by the Commission and shall be commensurate with his qualifications and experience.

(4) Subject to this Act, the Chief Prosecutor shall notwithstanding expiration of his term, continue to hold office until his successor enter upon his office:

Provided that such continuation in office shall not exceed thirty days.

(5) The Chief Prosecutor may resign from his office by writing under his hand addressed to the Commission.

(6) The Chief Prosecutor may be removed from office on the grounds of being incapable of properly performing the duties of his office by reason of physical or mental incapacity or having been found guilty of misconduct.

(7) The Chief Prosecutor shall supervise the work of the Prosecutors, advise the Commission on such legal matters and perform such other duties of legal character as may be referred or assigned to him by the Commission and in the performance of his duties, shall have the right of audience in all courts in Pakistan.

(8) Where prosecution results in the discharge or acquittal of the accused, the conduct of the Reference shall be reviewed by the Chief Prosecutor and if it is found that there has been negligence or dereliction of duty, necessary disciplinary action shall be taken against the person responsible in accordance with law.

15. Prosecutors. – (1) The Commission shall appoints as many prosecutors to render such legal advice as may be required during inquiry and investigation of offences under this Act, to prepare References and to conduct prosecution of the References in the Court and ensure their speedy disposal.

(2) A prosecutor shall be a person having not less than ten years of practice as an advocate of High Court.

16. Other Prosecutors. – (1) The Commission, in consultation with the Chief Prosecutor, may appoint Additional Chief Prosecutor, Deputy Chief Prosecutor, Assistant Chief Prosecutor and other Prosecutors in accordance with the regulations.

(2) The Commission, in consultation with the Chief Prosecutor, may engage, as and when required, consultants and advocates to institute, conduct or defend cases, appeals, petitions, applications and all other matters before the courts, in matters arising out of or relating to proceedings under this Act and shall determine the terms and conditions of their appointments.

(3) In case the Chief Prosecutor is absent or unable to perform the functions of his office due to any reason whatsoever, the senior most Additional Chief Prosecutor for the time being duly authorized by the Chairman shall act as the Chief Prosecutor.

(4) The Chief Prosecutor, Additional Chief Prosecutor, the Deputy Chief Prosecutor, the Assistant Chief Prosecutor or any other person conducting a prosecution under this Act shall be deemed to be a Public Prosecutor within the meaning of the Code.

17. Bar to private practice. – Notwithstanding anything contained in any other law for the time being in force, the Chief Prosecutor and other Prosecutors appointed under sections 14, 15, and 16 shall not engage in private practice so long as they hold office under this Act.

**CHAPTER V
COGNIZANCE AND TRIAL OF OFFENCES AND APPEAL**

18. Cognizance of offences, etc.- (1) The Court shall take cognizance of an offence under this Act on the Reference made by the Chairman or any officer of the Commission duly authorized by the Chairman in this behalf.

Explanation: “Reference” under this Act shall have the same meaning as assigned to police report under section 173 of the Code.

(2) A Reference under this Act may be initiated by the Commission on information regarding an offence under this Act through any source including direction of any Court including High Court and Supreme Court of Pakistan.

(3) Where the Commission is of the opinion that it is necessary to initiate proceeding against any person on the basis of information received, it shall direct the Agency to conduct the inquiry or investigation which shall be completed within fourteen days or such extended period as the Court may, on the request of Agency allow:

Provided that nothing in this sub-section shall affect the powers of the members of the agency given in section 13.

(4) For the purpose of inquiry and investigation, the Agency may, if it so deems fit, require the assistance of any Federal or Provincial or local body, authority, agency, police officer or other official, and such body, authority, agency, police officer or other officials shall render the requisite assistance.

(5) The Chairman, Deputy Chairman and Members, and such officers or servants of the Commission as are duly authorized in writing in this behalf by the Commission shall have and exercise, for the purpose of inquiry or investigation, the powers of members of the Agency mentioned in section 13.

(6) On completion of the investigation, the Commission, or any officer of the Commission duly authorized by the Commission in this behalf, shall appraise the material and evidence submitted to it by the Agency, or any member of the Agency duly authorized by the Director General in this behalf, in the form of a report as required under section 173 of the Code, along with the opinion of the Prosecutor, and if the Commission or any officer of the Commission duly authorized by the Commission in this behalf is satisfied that it would be just and proper to proceed further and there is sufficient material and evidence to justify filing a Reference, it shall file a Reference in the Court.

(7) The Reference shall be signed by the Chairman or any other officer duly authorized by the Commission and shall contain the substance of the offence or offences alleged to have been committed by the accused and shall be forwarded to the Court which shall cause a copy thereof to be delivered to the accused.

(8) If, after appraisal of the report of the Agency and opinion of the Prosecutor mentioned in sub-section (6), the Commission is satisfied that no prima facie case is made out against the accused, the Commission shall reject the complaint after recording reasons for its decision, and close the inquiry or investigation:

Provided that if the Commission is of the opinion that the complaint received by it was prima facie mala fide, or was filed with intent to malign or defame the accused or any other person, it may, for reasons to be recorded in writing, refer the matter to the Court, and if the complainant is found guilty, he shall be punishable with imprisonment for a term which may extended to three years, or with fine which may extend to five hundred thousand rupees or with both.

19. Arrest and bail.- The Chairman may, at any stage of the inquiry or investigation, if satisfied after appraisal of the record that a prima facie case is made out against the accused and the offence is of cognizable nature, direct that he may be arrested:

Provided that the relevant provisions of the Code relating to arrest, remand and bail will be applicable:

Provided further that if the accused has been detained in custody for a continuous period of one year and the trial has not concluded and the delay in the trial is not attributable to any act or omission of the accused, the Court shall direct that he be released on bail.

20. Trial of offences.- (1) Subject to the provisions of sub-section (2), and notwithstanding anything contained in any other law for the time being in force, no person shall be prosecuted for the offences under this Act except before the Court defined in section 2 and the case shall be heard from day-to-day and disposed of within thirty days.

(2) Where more than one Court has been designated at any place, the Chief Justice of the High Court shall designate a judge of any such Court to be the Administrative judge and a case trial able under this Act shall be filed before the Court of Administrative Judge who may either try the case himself or assign it for trial by any other Court established at that place at any time prior to the framing of the charge.

(3) In respect of a case assigned to a Court under sub-section (2), all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the Court to which the case is assigned.

21. Provision of the Code to Apply, etc.- Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act, the provisions of the Code shall mutatis mutandis apply to the inquiry, investigations and other proceedings under this Act.

(2) Subject to sub-section (1), the provisions of Chapter XXIIA of the Code shall apply to trials under this Act.

22. Cognizance of false evidence etc.- (1) Notwithstanding anything contained in this act or any other law for the time being in force, on pronouncement of judgment, the Court shall have the jurisdiction and power to take cognizance in the manner stated herein of an offence committed in the course of the investigation or trial of a case by any officer, witness, including an expert who has tendered false evidence in a case relating to a matter covered by his specialty, whether he deposed in court or not, or any other person under sections 176 to 182 of Chapter X, or sections 193 to 204, or 211 to 223, or 225-A of Chapter XI of the Pakistan Penal Code (ACT XLV of 1860), or under any other law relating to false evidence and offences against public justice, and to summarily try him and award him punishment provided for the offence under the law.

(2) For the purpose of trial under sub-section (1), the court may, as nearly as may be, follow the procedure specified in Chapter XXII of the code.

(3) The proceeding under sub-section (1) may be initiated by the Court on its own accord at any time after the decision of the case or, in the event that there is an appeal, after the decision thereof, or on an application made by the Prosecutor or the person accused of an offence tried by the Court, within ninety days.

23. Copy of judgment to be given to accused and Prosecutor.- In every case at the time of announcement of judgment, a copy of judgment shall be given free of cost to the accused and the Prosecutor.

24. Appeal.- (1) Any person convicted by the court or deemed to be convicted under this Act, or the Chief Prosecutor, if so directed by Commission, if aggrieved by the final judgment or order of the Court under this Act may, within thirty days of the judgment or the order, prefer an appeal to the High Court of the Province in which the Court is located:

Provided that no appeal shall lie against any interlocutory order of the Court.

(2) All appeals under sub-section (1) shall be heard by Bench of not less than two judges constituted by the Chief Justice of the High Court and shall be finally disposed of within thirty days of the filing of the appeal.

(3) No revision shall lie against any order of the Court.

25. Transfer of cases.- (1) In respect of any case pending before a Court, the Chief Prosecutor or any other Prosecutor authorized by him in this behalf or the accused may, in the interest of justice and having regard to the facts and circumstances of the case including the protection and safety of witnesses, apply,-

- (a) to the Chief Justice of the Supreme Court of Pakistan, for transfer from a Court in a Province to a Court in another Province; or
- (b) to the Chief Justice of the High Court of the Province, for transfer from one Court in a Province to another Court in the same Province, and the Supreme Court or the High Court, as the case may be, may in the interest of justice, transfer the case from one Court to another Court, and the case so transferred shall be tried under this Act without recalling any witness whose evidence may have been recorded.

(2) The provisions of sub-section (1) shall mutatis mutandis apply to the Islamabad Capital Territory.

26. Withdrawal from prosecution.- The Chief Prosecutor may, with the consent of the Court, withdraw from the prosecution of an accused generally or in respect of one or more of the offences for which he is tried and upon such withdrawal if it is made-

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

CHAPTER-VI OTHER POWERS OF THE COMMISSION

27. Power to freeze property.- (1) The Commission or the Court trying an accused for any offence as specified under this Act, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, or part thereof, whether in his possession or in the possession of any relative, associate or any other person on his behalf.

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(2) if the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made-

- (a) by seizure; or
- (b) by appointment of receiver; or
- (c) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
- (d) by all or any of such or other methods as the Court or the Commission, as the case may be, deem fit.

(3) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases,-

- (a) by taking possession; or
- (b) by appointment of receiver; or
- (c) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or
- (d) by all or any of such methods as the Commission or the Court may deem fit:

Provided that any order of seizure, freezing, attachment or any prohibitory order mentioned above by the Commission shall remain in force for a period not exceeding thirty days unless confirmed by the Court, where the Reference under this Act shall be sent by the Commission:

Provided further that the order of the Commission or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatch at the last known address of the accused.

(4) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Commission, or the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Commission or the Court, or as either may direct as appropriate.

(5) The powers, duties, and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order-XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(6) The order of freezing mentioned above in sub-sections (1) to (5) shall, as the case may be; remain operative until final disposal by the Court or the Appellate Forum, notwithstanding filing of or pendency of an appeal under this Act.

28. Claim or objection against freezing.- (1) Notwithstanding the provisions of any law for the time being in force, the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under section 27 above. Such claims or objections shall be made before the Court within thirty days from the date of the order freezing such property.

(2) The Court may for sufficient cause extend the time for filing such claims or objections for a period not exceeding additional fifteen days.

(3) No appeal shall lie against an order made under Section 27 of this Act or against any interlocutory order except that an appeal shall lie against a final order which may be passed by the Court as hereafter provided.

29. Transfer of property void.- (1) Notwithstanding anything contained in any other law for the time being in force, after the Commission has initiated investigation into the offences under this Act, alleged to have been committed by an accused person, such person or any relative or associate of such person or any other person on his behalf, shall not transfer by any means whatsoever, create a charge on any movable or immovable property owned by him or in his possession, which is the subject matter of inquiry or investigation, while the inquiry, investigation or proceedings are pending before the Commission or the Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void.

(2) Any person who transfers, or creates a charge on property in contravention of sub-section (1) shall be punishable with rigorous imprisonment for a term, which may extend to three years or with fine which may extend to five hundred thousand rupees or with both.

30. Power to seek assistance.- The Commission shall have the power to seek full and complete assistance and call for any document and information relevant to or in connection with any matter or proceeding pending before the Commission, 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 fit and proper to demand or require:

Provided that in any case in which a question of secrecy is involved or is raised at any time, the Commission decision shall be final.

CHAPTER VII MISCELLANEOUS

31. Power to amend the Schedule. - The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

32. Delegation of Powers .- (1) The Chairman may by order in writing, direct that all or any of his powers under this Act or the rules shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by the Deputy Chairman, Member or any officer of the Commission so specified.

(2) The Director General may by order in writing, direct that all or any of his powers under this Act or the rules shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by any member of the Agency so specified.

(3) The Chief Prosecutor may by order in writing, direct that all or any of his powers under this Act or the rules shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by any other Prosecutor so specified.

33. Indemnity. - No suit, prosecution or other legal proceeding shall lie against the Federal Government, or the Commission or any person of the Commission or any other person exercising any power or performing any function under this Act or the rules for anything which is in good faith done or intended to be done under this Act or the rules.

34. Public servant. - The Chairman, Deputy Chairman, Members and all other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

35. Annual budget. - (1) The Commission shall prepare and approve annual budget for a financial year in the prescribed manner.

(2) No expenditure shall be made for which provision has not been made in any approved budget except if made from any previously approved contingency funds, unless further approval is sought and obtained from the Commission.

36. Annual report and accounts. - (1) The Chairman shall within ninety days from the end of each financial year, prepare a report on the activities and performance of the Commission, and submit a copy of the report to Government, after approval from the Commission.

(2) The Commission shall keep proper accounts and shall, as soon as practicable, after the end of each financial year, prepare a statement of accounts of the Commission through Chairman for the financial year which shall include a balance sheet and an account of income and expenditure.

(3) The accounts of the Commission shall be audited by the Auditor General of Pakistan.

(4) The Commission shall, within ninety days of the end of each financial year, together with the annual report of the Commission under sub-section (2), send a copy of the statement of accounts of the Commission certified by the auditors and a copy of the auditors' report to Government.

(5) The Commission may invest money not required for immediate expenditure in Government Saving Scheme or in fixed deposit with banks approved by Government.

37. Removal of difficulties. -If any difficulty arises in giving effect to any provision of this Act, Government may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty.

38. Power to make regulations.- The Commission may make regulations, not inconsistent with the provisions of this Act and the rules, for exercise of its functions and powers under this Act, and for carrying out the purposes of this Act.

39. Power to make rules. - The Government, in consultation with the Commission, may, by notification in the official Gazette, make rules for carrying out the purposes of this Act which shall be laid before the Majlis-e-Shoora (Parliament).

40. Overriding effect. - Notwithstanding anything to the contrary contained in any other law, the provisions of this Act shall have an overriding effect and the provisions of any such other law, to the extent of inconsistency to this Act, shall cease to have effect.

41. Repeal. - (1) The Federal Investigation Agency Act, 1974 (VIII of 1975), hereinafter referred to as the said Act, is hereby repealed and the Federal Investigation Agency established under the said Act, hereinafter referred to as the abolished Agency, shall stand abolished.

- (2) Upon the repeal of the said Act,-
 - (a) all persons who were members of the Abolished Agency under the said Act before such repeal, shall stand transferred to the Commission and shall be entitled to the same terms and conditions to which they were entitled immediately before such repeal;
 - (b) any inquiry or investigation pending with the Abolished Agency immediately before such repeal shall continue to be conducted by the Commission;
 - (c) all assets, rights, powers, authorities and privileges, all property, movable and immovable, cash and bank balances, reserve funds, investments and all other interests and rights in, or arising out of, such property of the Abolished Agency shall be regulated under this Act;
 - (d) all debts and liabilities incurred, all obligations undertaken, all contracts entered into, and all agreements made by or with the Abolished Agency, shall be regulated under this Act, and be deemed to have been incurred, undertaken, entered into or made, by or with the Commission; and
 - (e) all rules, regulations and orders made or issued under the said Act, shall continue to hold ground, unless altered, amended, repealed or inconsistent to the provisions of this Act.

THE SCHEDULE
{Preamble and sections 3 (1), 11 (1)}

1. Offences punishable under sections 120B, 121, 122, 123, 123A, 124, 124A, 161, 162, 163, 164, 165, 165A, 168, 169, 201, 217, 218, 245, 255, 256, 257, 258, 259, 260, 261, 263, 300, 301, 302, 324, 332, 333, 334, 335, 337B, 337C, 337D, 337E, 337F, 353 365A, 366B, 402A, 402B, 402C, 403, 404, 406, 407, 408, 409, 411, 418, 419, 420, 435, 436, 440, 462A, 462B, 462C, 462D, 462E, 462F, 467, 468, 471, 472, 477A, 489A, 489B, 489C, 489D, 489E, 489F, of the Pakistan Penal Code, 1860 (Act XLV of 1860).

(2) Offences punishable under the Explosive Substances Act, 1908 (VI of 1908).

(3) Offences punishable under the Official Secret Act, 1923 (XIX of 1923).

(4) Offences punishable under the Foreigners Act, 1946 (XXXI of 1946).

(5) Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947).

(6) Offences punishable under the Foreign Exchange Regulation Act, 1947 (VII of 1947).

(7) Offences punishable under the Imports and Exports (Control) Act, 1950 (XXXIX of 1950).

(8) Offences punishable under the Banking Companies Ordinance, 1962 (LVII of 1962).

(9) Offences punishable under the Pakistan Arms Ordinance, 1965 (W.P. Ord. XX of 1965).

(10) Offences punishable under section 156 of the Customs Act, 1969 (IV of 1969).

(11) Offences punishable under the Foreign Exchange Repatriation Regulation, 1972.

(12) Offences punishable under the Foreign Assets (Declaration) Regulation, 1972.

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(13) Offences punishable under the High Treason (Punishment) Act 1973 (LXVIII of 1973).

(14) Offences punishable under the Prevention of Anti-National Activities Act, 1974 (VII of 1974).

(15) Offences punishable under the Banks (Nationalization) Act, 1974 (XIX of 1974).

(16) Offences punishable under the Passport Act, 1974 (XX of 1974).

(17) Offences punishable under the Drugs Act, 1976 (XXXI of 1976).

(18) Offences punishable under the Emigration Ordinance, 1979 (XVII of 1979)

(19) Offences punishable under the Exit from Pakistan (Control) Ordinance 1981 (XLVI of 1981)

(20) Offences punishable under Anti-terrorism Act, 1997 (XXVII of 1997), to the extent of dealing with cases which,-

(a) have interprovincial scope; or

(b) are entrusted to the Commission by the Federal Government.

(21) Offences punishable under the Prevention and Control of Human Trafficking Ordinance, 2002 (LIX of 2002)

(22) Offences Punishable under the Pakistan Telecommunication (Reorganization) Act, 1996 (XVII of 1996)

(23) Offences Punishable under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000)

(24) Offences punishable under section 36 and 37 of the Electronic Transactions Ordinance, 2002 (LI of 2002)

(25) Offences punishable under the Copyright Ordinance, 1962 (XXXIV of 1962).

(26) Offences punishable under the Prevention of Electronic Crimes Act, 2016 (XL of 2016).

(27) Offences punishable under the Anti-Money Laundering Act, 2010 (VII of 2010).

(28) Offences punishable under the Electricity Act 1910 (IX of 1910).

(29) Offences punishable under the Protection of Pakistan Act, 2014 (X of 2014).

STATEMENT OF OBJECTS AND REASONS

It is one of the prime responsibilities of States to ensure speedy, inexpensive and transparent justice through free and unbiased investigation, inquiry and prosecution of the accused. Free and unbiased investigation, inquiry and prosecution can only be conducted through such bodies which are free from every sort of external influence including political interventions. The existing Federal Investigation Agency (FIA) is responsible for prevention, investigation and prosecution of the offences given in the schedule of the Federal Investigation Agency Act, 1974. However FIA is under the Control of Federal Government and conducts its work as per the direction of the Federal Government. The FIA therefore is under the direct control and influence of the Federal Government which is definitely exposed to bureaucratic and political influence of those who are at the helm of affairs. The proposed new law provides for a totally independent Commission which will be free from all sort of political and bureaucratic influence. The Commission will be free in all its affairs including its financial matters, investigation of offences, and prosecution of the accused. The Commission will have sound, strong and free Investigation Agency, Prosecution Branch and will be an independent decision making body. Through this law, it will be ensured to; bring culprits to book, provide justice to the victims and eliminate criminality from the society.

2. The Bill has been designed to achieve the aforesaid objectives.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-in-Charge