

[AS PASSED BY THE SENATE]

A

Bill

further to amend the Foreign Exchange Regulation Act, 1947

WHEREAS it is expedient further to amend the Foreign Exchange Regulation Act, 1947 (VII of 1947), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Foreign Exchange Regulation (Amendment) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 3B, Act VII of 1947.- In the Foreign Exchange Regulation Act, 1947 (VII of 1947), hereinafter referred to as the said Act, in section 3B,-

(a) the words "Without prejudice to the provisions of section 23B," shall be omitted; and

(b) for the word "if" occurring for the first time the word "If" shall be substituted.

3. Amendment of section 23, Act VII of 1947.- In the said Act, in section 23,-

(a) in sub-section (1),-

(i) for the words, brackets, figures and comma "sub-sections (2), (3) and (5) of section 3", the words, figures and commas "section 3, section 3A, section 3AA, section 3B" shall be substituted;

- (ii) for the words, brackets and figures "sub-section (3) of section 4" the words, brackets and figures "sub-sections (2) and (3) of section 4" shall be substituted;
 - (iii) for the words, brackets and figures "sub-section (3) of section 20" the words, letter, brackets and figures "clause (c) of sub-section (1) and sub-section (3) of section 20" shall be substituted; and
- (b) in sub-section (3), the words "the Federal Government or" shall be omitted.

4. Amendment of section 23B, Act VII of 1947.- In the said Act, in section 23B,-

- (a) in sub-section (4),-
 - (i) for the words, brackets, figures and commas "Save as provided in sub-sections (5) and (6), if," the word "If" shall be substituted; and
 - (ii) the words, brackets, figures and commas "sub-sections (2), (3) and (5) of section 3," shall be omitted.
- (b) sub-sections (5) and (6) shall be omitted;
- (c) in sub-section (8), the brackets, figures, word and comma, "(5) and (6)," shall be omitted; and
- (d) in sub-section (9), the brackets, figures and word "(5) or (6)," shall be omitted.

5. **Insertion of new section, Act VII of 1947.-** In the said Act, after section 23J, the following new section shall be inserted, namely:-

"23K. Powers to impose penalty, etc.- (1) Whoever contravenes, attempts to contravene or abets the contravention of any of the provisions of section 3, section 3A, section 3AA, section 3B, sub-section (2) of section 4 and clause (c) of sub-section (1) of section 20, or any order, rule, regulation or direction issued thereunder, shall be liable to a penalty to be imposed by an officer of the State Bank not below the rank of Senior Joint Director authorized by the State Bank in this behalf, upto five hundred thousand rupees for each contravention, and where the contravention is a continuing one with a further penalty which may extend to ten thousand rupees for each day during which such contravention continues:

Provided that before taking action under this sub-section a notice to show cause shall be issued by an officer of the State Bank not below the rank of Assistant Director and an opportunity of being heard shall be afforded.

(2) Where the person guilty of such contravention is a company or a body corporate, every director, manager, secretary or other officer or agent thereof shall be deemed guilty of such contravention, if the contravention was committed with his knowledge or consent or if he did not exercise due diligence to prevent the commission of the offence.

(3) If any person fails to pay the penalty imposed, under sub-section (1) within the time stipulated in the order imposing the penalty, the State Bank may, without any notice to such person, recover the amount of such penalty from the money owed to such person, and which may be under the custody of State Bank or any other person.

(4) If any other person to whom notice has been sent under sub-section (3) fails to deduct the amount of penalty under the said sub-section, such person shall be liable to pay the amount of penalty to the State Bank, as if such person had committed the contravention.

(5) Any person aggrieved by an order passed and penalty imposed under this section may, within thirty days of the order, prefer appeal to the Deputy Governor, State Bank to be designated by the Governor, State Bank who shall decide the appeal within ninety days. Any order passed by the Deputy Governor shall be final.

STATEMENT OF OBJECTS AND REASONS

State Bank of Pakistan (SBP) is the regulator of the foreign exchange regime in Pakistan and is responsible for the administration of the Foreign Exchange Regulation Act, 1947 (the Act). Since the promulgation of the Act, the volume of foreign currency transactions to and from Pakistan has considerably increased. It needs to have effective enforcement powers to regulate the foreign exchange business of banks and exchange companies. However, under the existing provisions of the Act, SBP has no direct power to impose monetary penalties on violation of provisions of the Act and has to follow a lengthy procedure of adjudication. It can only suspend or cancel the license of a bank or an exchange company on violation of any provision of the Act which often becomes more severe than the violations warrant.

In order to provide a deterrent and to enable SBP to take appropriate, effective and prompt remedial measures, this bill seeks to amend the Act to empower SBP, as a regulator, to impose penalties for violation of the provisions of the Act.

SENATOR MOHAMMAD ISHAQ DAR,
Minister for Finance, Revenue, Economic Affairs
Statistics and Privatization
Member-in-charge