

[AS PASSED BY THE SENATE]

A

Bill

further to amend the Companies (Appointment of Legal Advisers) Act, 1974

WHEREAS it is expedient further to amend the Companies (Appointment of Legal Advisers) Act, 1974 (X of 1974), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Companies (Appointment of Legal Advisers) (Amendment) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 2, Act X of 1974.- In the Companies (Appointment of Legal Advisers) Act, 1974 (X of 1974), hereinafter referred to as the said Act, in section 2,-

(i) after clause (a), the following new clause shall be inserted, namely:-

"(aa) "Commission" means the Securities and Exchange Commission of Pakistan established under section 3 of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997);"

(ii) for clause (b), the following shall be substituted, namely:-

"(b) "Company" means a company formed and registered under the Companies Ordinance, 1984 (XLVII of 1984), having paid up capital of more than 7.5 million rupees or a company limited by guarantee or an association registered under section 42 of the said Ordinance;"

- (iii) in clause (c), the word "and" at the end, shall be omitted; and
- (iv) in clause (d), for the full stop at the end, a semicolon shall be substituted and thereafter the following new clause shall be added, namely:-

"(e) "Ordinance" means the Companies Ordinance, 1984 (XLVII of 1984); and

(f) "Registrar" shall have the same meaning as are assigned to that expression in the Ordinance."

3. Amendment of section 3, Act X of 1974. – In the said Act, in section 3,-

- (i) in sub-section (1), after the words "in accordance with law" the words and comma "and in accordance with the terms and conditions of agreement entered into by and between the company and Legal Advisor or required by law or prescribed by any rules, regulations governing the company" shall be added; and
- (ii) in sub-section (2), for the words "an advocate" the words "advocate of High Court" shall be substituted.

4. Substitution of section 4, Act X of 1974.-In the said Act, for section 4, the following shall be substituted, namely:-

"4. Retainer.- Every legal Advisor appointed by a company shall be paid a retainer which shall not be less than five thousand rupees per mensem or such higher amount as may be notified by the Federal Government in the official Gazette."

5. Substitution of section 7, Act X of 1974.- In the said Act, for section 7, the following shall be substituted, namely:-

"7. Penalty adjudication of offence and appeal.- (1) Any person who contravenes any provision of this Act or rules or regulations made thereunder shall be guilty of an offence and shall be liable to a penalty to be imposed by the Commission as under:-

- (a) in the case of an individual including directors of the company, such sum which may be extended to one hundred thousand rupees; and
- (b) in the case of company, such sum which may extend to two hundred thousand rupees.

(2) The amount of penalty imposed under sub-section (1) shall be payable to the Commission and may be recovered as provided under section 162 of the Securities Act, 2015 (III of 2015).

(3) Any person aggrieved by an order passed by the Commission or officer authorized in this behalf may prefer an appeal to Appellate Bench of the Commission under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997.

(4) The Commission, before adjudication of contravention of, or failure in complying with, any provision of this Act, rules or regulations, shall give show cause notice and reasonable opportunity of being heard to the company or person.

(5) From the date of coming into effect of this section all prosecutions filed under the substituted section 7, the respective courts shall continue with the pending proceedings and may impose penalty as provided under section 7 as substituted."

6. Insertion of section 7A, Act X of 1974.- In the said Act, after section 7, substituted as aforesaid, the following new section shall be inserted, namely:-

"7A. Penalty for false statement.- Whoever, in any return or document, required by or for the purposes of any of the provisions of this Act, willfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to one year or fine which may extend to two hundred thousand rupees or both."

STATEMENT OF OBJECTS AND REASONS

The purpose of this Bill is to amend the Companies (Appointment of Legal Advisors) Act, 1974 to ensure compliance and better regulation of the law. The Commission shall be able to take timely cognizance of the violation of the provisions of the Act, rules or regulations made thereunder and impose penalty. Appeal process has also been provided. Besides, it will also give reprieve to small size companies from the mandatory requirement of appointing legal advisor.

SENATOR MOHAMMAD ISHAQ DAR

Minister for Finance, Revenue,
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