

AS
[TO BE INTRODUCED IN THE SENATE]

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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 purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the National Accountability ~~Ordinance~~ (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 5, Ordinance XVIII of 1999.- In the National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the said Ordinance, in section 5, in sub-section (n), after the words "this Ordinance" the words "of the value not less than five hundred million rupees" shall be inserted.

3. Amendment of section 9, Ordinance XVIII of 1999.- In the said Ordinance, in section 9,-

(a) in sub-section (a), in clause (v), for the words "disproportionate to his known sources of income which he cannot reasonably account for or maintains a standard of living beyond that which is commensurate with his sources of income" the words and comma, "which are an outcome of corrupt, dishonest or illegal means" shall be substituted; and

(b) sub-section (b), shall be omitted.

4. Omission of section 14, Ordinance XVIII of 1999.- In the said Ordinance, section 14, shall be omitted.

5. Amendment of section 15, Ordinance XVIII of 1999.- In the said Ordinance, in section 15, in sub-section (a), in the proviso,-

(a) for the words "any accused person" the words "holder of public office or any other person" shall be substituted; and

(b) after the words "sub-section (b) of section 25" the commas and words ", except when a person avails such a benefit prior to authorization of investigation," shall be inserted.

6. Amendment of section 18, Ordinance XVIII of 1999.- In the said Ordinance, in section 18,-

- (a) in sub-section (e), the words and comma "shall have and exercise, for the purposes of an inquiry or investigation the power to arrest any person and all the powers of an officer in-charge of a Police Station under the Code and for that purpose" shall be omitted;
- (b) in sub-section (e),-
 - (i) after the words "render such assistance" the words "and may require any person to execute a bond for the purposes of securing his attendance" shall be inserted; and
 - (ii) the words and letters "provided that no person shall be arrested without the permission of the Chairman NAB or any officer of NAB duly authorized by the Chairman NAB" shall be omitted; and
- (c) in sub-section (f),-
 - (i) after the word "completed" the words "within six months" shall be inserted; and
 - (ii) the words "expeditiously as may be practical and feasible" shall be omitted.

7. Amendment of section 19, Ordinance XVIII of 1999.- In the said Ordinance, in section 19,-

- (a) in sub-section (a), after the words "any person" the words "with regard to particulars of subject enquiry or investigation only" shall be inserted;
- (b) in sub-section (b), for the words "to the inquiry or investigation" the words "with regard to the subject inquiry or investigation only" shall be substituted;
- (c) in sub-section (c), after the word "case" the words "with regard to the subject inquiry or investigation only" shall be inserted; and
- (d) in sub-section (d), after the words "with law" the words "with regard to the subject inquiry or investigation only" shall be inserted.

8. Amendment of section 24, Ordinance XVIII of 1999.- In the said Ordinance, in section 24,-

- (a) sub-section (a), shall be omitted;
- (b) in sub-section (b), after the words "a copy of such reference" the words and comma "along with report of Investigation Officer," shall be inserted.
- (c) for sub-section (c), the following shall be substituted, namely:-

"(c) The Court to which a reference has been sent for trial may issue summons or a warrant for arrest, as it deems fit, for causing the accused to be brought or to appear at a certain time before such Court:

Provided that such Court may require the accused person to execute a bond, with or without sureties for his appearance in such Court and in case the accused who has executed a bond does not so appear before such Court, the officer presiding in such court may issue warrant directing that such person be arrested and produced before him."

- (d) sub-sections (d), (e) and (f) shall be omitted.

9. Amendment of section 25, Ordinance XVIII of 1999.- In the said Ordinance, in section 25,-

- (a) sub-section (a), shall be omitted; and
- (b) in sub-section (b), after the word "time" the words "during enquiry or" shall be inserted and for the word "accused" wherever occurring the words "holder of public office or any other person" shall be substituted; and
- (c) in sub-section (b), for full stop occurring at the end, a colon shall be substituted and thereafter, the following proviso shall be inserted, namely:-

"Provided that where a holder of public office or any other person, during enquiry voluntarily comes forward and offers to return the assets or gains acquired or made by him in the course, or as a consequence of any offence under this ordinance, such a person shall cease to hold public office forthwith and shall stand disqualified for a period of five years, to be reckoned from the date he has discharged his liabilities relating to the matter or transaction in issue, for seeking or from being elected, chosen appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any province."

10. Amendment of section 26, Ordinance XVIII of 1999.- In the said Ordinance, in section 26,-

- (a) in sub-section (a), for full stop occurring at the end, a colon shall be substituted and thereafter, the following proviso shall be inserted, namely:-

“Provided that such person, unless he is already on bail, shall be detained in custody until the termination of the trial.”

- (b) in sub-section (b), for the word “and” the words “in the presence of the accused who shall be given an opportunity of cross-examining the person and the person” shall be substituted.

11. Insertion of new sections 33F and 33G, Ordinance XVIII of 1999.- In the said Ordinance, after section 33E, the following new sections 33F and 33G, shall be inserted, namely:-

“33F. Restriction on issuance of public statements.- No official of NAB, in any capacity, shall make any statement in public or to the media regarding persons involved in any inquiry or investigation conducted by NAB until a reference has been filed against such persons.; and

“33G. Punishment for making public statements.- Whoever contravenes the provisions of section 33F shall be punished with imprisonment for a term which may extend to one year but shall not be less than one month in any case and with a fine of Rupees One Hundred Thousand.”.

STATEMENT OF OBJECTS AND REASONS

Amendment in section 5 ensures that only offences of Rs. 500 million or more are to be prosecuted by NAB whereas amendments in sections 9 and 14 seek to ensure that only persons in possession of wealth acquired through corrupt, dishonest or illegal means are prosecuted. Checks and balances have been created by ensuring that no fishing or roving inquiry is possible and material can only be collected which pertains to the investigation or inquiry in question. NAB Courts have been empowered inter alia by giving them power to grant bail by deletion of section 9 (b) and further giving them the power to issue summons and warrants as well as take bonds for appearance. The presumption of innocence of an accused is also being restored by deletion of section 14. Checks and balances have been introduced upon the Chairman NAB's power in consonance with due process requirements through appropriate amendments in section 18 and section 24. The concept of voluntary return and plea bargain is being brought in line with modern jurisprudence of the Superior Courts through amendments in section 25. An amendment in section 26 ensures that approvers in NAB cases are given the same treatment as under the Criminal Procedure Code, 1898, and that the accused is given an opportunity to cross examine the approver at the time his statement is being recorded. Through the insertion of a new section viz. Section 33F the dignity of person is being further protected through a restriction on NAB officials from issuing statements publicly prior to filing of a reference and a contravention of the section 33F entails penal consequences encapsulated in section 33G.

**SENATOR FAROOQ HAMID NAEK
MEMBER-IN-CHARGE**