

[AS INTRODUCED IN THE SENATE]

**A
BILL**

further to amend the Pakistan Bait-ul-Mal Act, 1991

WHEREAS it is expedient further to amend the Pakistan Bait-ul-Mal Act, 1991 (Act I of 1992), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act shall be called the Pakistan Bait-ul-Mal (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 2, Act I of 1992.- In the Pakistan Bait-ul-Mal Act, 1991 (Act I of 1992), hereinafter referred to as the said Act, in section 2, for clause (b), the following shall be substituted, namely:-

“(b) “Board” means the Pakistan Bait-ul-Mal Board constituted under section 5;”

3. Amendment of section 4, Act I of 1992.-In the said Act, in section 4, in paragraph (d), after the word “accommodation” the expression “by whatever name called for, such as Panahgah, etc.” shall be inserted.

4. Substitution of section 5, Act I of 1992.- In the said Act, for section 5, the following shall be substituted, namely:-

“5. Constitution of the Bait-ul-Mal Board.- (1) The Prime Minister shall, by notification in the official Gazette, constitute a Bait-ul-Mal Board for policy making and for carrying out purposes of this Act.

(2) The Bait-ul-Mal Board shall consist of-

- (a) Secretary, of the Division to which business of this Act stands allocated (Chairperson)
- (b) Managing Director Bait-ul-Mal (Member)
- (c) Secretary, Benazir Income Support Program (Member)
- (d) Secretary, Finance Division or his nominee not below an Additional Secretary (Member)
- (e) Secretary of the Division to which business of Human Rights stands allocated or his nominee not below an Additional Secretary (Member)

- (f) Deputy Managing Director Bait-ul-Mal (Member)
- (g) Chief Executive Officer, Pakistan Poverty Alleviation Fund (Member)
- (h) Seven non-official members to be appointed by the Federal Government, one from each province, Islamabad Capital Territory, Azad Jammu and Kashmir and Gilgit Baltistan:
Provided that at least one of the non-official members shall be a woman.

(3) Notwithstanding anything contained in sub-section (1) and (2), the incumbent members of the Board, upon commencement of the Pakistan Bait-ul-Mal (Amendment) Act, 2022, shall continue to hold their offices till such time the members of newly constituted Board assume charge of their offices or till their offices become vacant upon their removal, resignation or death, as the case may be."

5. **Substitution of section 5A, Act I of 1992.-** In the said Act, for section 5A, the following shall be substituted, namely:-

"5A. Powers and functions of the Board.- The Board shall, exercise and perform the following powers and functions, namely:-

- (a) all administrative and financial powers, subject to the provisions of section 22;
- (b) formulation of policy and strategy;
- (c) approval of annual budget;
- (d) approval of re-appropriation of funds from one head of account to other head of account within the existing budgetary allocation;
- (e) formation of committees for the purpose of appointments;
- (f) review of annual audit report;
- (g) approval of work plan;
- (h) appointment of officers to posts in BPS-17 and above;
- (i) receive and review progress reports; and
- (j) Conduct quarterly assessment of management's performance."

6. Amendment of section 6, Act I of 1992.- In the said Act, in section 6,-

- (a) the existing provision shall be numbered as sub-section (1), thereafter, in sub-section (1), as numbered aforesaid, before the full stop at the end, the expression “, institutionalized in practice and their scholarship manifested in accordance with sub-section (2)”, shall be inserted; and
- (b) after sub-section (1), numbered and amended as aforesaid, the following new sub-section shall be inserted, namely:-

“(2) A person shall be appointed as non-official member of Board if he:

- (a) is not less than forty years of age;
- (b) possesses a master’s degree recognized by the Higher Education Commission in social, development or management sciences; and
- (c) has proven experience of at least ten years in his relevant field of his master degree.”

7. Substitution of section 7, Act I of 1991.- In the said Act, for section 7, the following shall be substituted, namely:-

“(7) **Terms and conditions of service of Members.-** (1) The non-official members shall hold office for a term of three years and may be re-appointed under the provisions of this Act for a similar term:

Provided that the performance of non-official members shall be gauged under the Public Sector Companies (Corporate Governance) Rules, 2013 as amended and continuity of their term shall be subject to satisfactory performance.

(2) The members shall be entitled to such honorarium as may be notified by the administrative Division for attending every meeting of the Board:

Provided that the non-official members of the Board shall be entitled to claim actual expenses incurred on their boarding and lodging for attending the meetings but not exceeding the entitlement prescribed for BPS-21 officers.

(3) Subject to sub-section (4), a non-official member may, in writing under his hand addressed to the Prime Minister and routed through Chairperson, resign his office.

(4) The resignation tendered by a non-official member shall not take effect until accepted by the Prime Minister.”

8. Amendment of section 9, Act I of 1992.- In the said Act, in section 9,-

(a) for sub-section (2), the following shall be substituted, namely:-

“(2) The Managing Director shall exercise such administrative and financial powers of the Bait ul Mal under this Act as the Board may, by notification in the official Gazette specify or delegate to him.”

(b) after sub-section (2), as substituted above, the following new sub-section shall be inserted, namely:-

“(3) There shall be one Deputy Managing Director to be appointed by the Prime Minister in such manner and on such terms and conditions as may be approved by him and who shall assist the Managing Director in performance of his functions in accordance with this Act. The Board shall, by notification in the official Gazette, delegate such financial and administrative powers to Deputy Managing Director as may be expedient for carrying out the purposes of this Act.”

9. Amendment of section 10, Act I of 1992.- In the said Act, the provisions of section 10 shall be numbered as sub-section (1) and thereafter the following sub-section (2) shall be inserted, namely:-

“(2) The Industrial Relation Act, 2012 (X of 2012) shall not apply to or in relation to the Bait-ul-Mal or any person in its service.”

10. Substitution of section 15, Act I of 1992.- In the said Act, for section 15, the following shall be substituted, namely:-

“**15. Employment of Officers and Servants.-** The Board may appoint such officers, servants, experts, consultants and advisers, from time to time, as it may considers necessary for the efficient performance of its functions, in such manner and on such terms and conditions as may be prescribed by regulations.”

11. Omission of section 16, Act I of 1992.- In the said Act, section 16, shall be omitted.

12. Substitution of section 24, Act I of 1992.- In the said Act, for section 24, the following shall be substituted, namely:-

"24. Regulations.- The Board may make regulations for its internal matters, including but not limited to service and financial regulations."

STATEMENT OF OBJECTS AND REASONS

The Bait-ul-Mal Act, 1991 confers wide discretionary powers on the Managing Director Bait-ul-Mal without prescribing checks and balances in its governance framework to make him responsible to the Board, controlling Ministry or Division and even the Federal Government, which is required to run a social protection organization transparently. Conventionally, political personalities are appointed as the Managing Director Bait-ul-Mal for an indefinite term without a competitive process. In the absence of any separation of powers or system of checks and balances all administrative and financial powers converge in the office of the Managing Director Bait-ul-Mal. Such a governance model has made the organization prone to elite capture, factionalism and polarization making the merit and transparency subservient to discretion. Determination of eligibility of the deserving poor thus gets linked to political patronage. This amendment in the Act, aims at institutionalizing checks and balances on powers and prerogatives of the Board vis-a-vis the management. In addition, the amendments are proposed to ensure that the organization is run in a rule based manner.

**SENATOR SANIA NISHTAR
MEMBER-IN-CHARGE**