

[AS INTRODUCED IN THE SENATE]

**A
BILL**

*to provide for the maintenance, administration and regulation of
Toshakhana*

WHEREAS it is expedient to consolidate the law to regulate the acceptance, utilization and regulation of gifts, foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilization of gifts, foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement. - (1) This Act may be called the Toshakhana (Maintenance, Administration and Regulation) Act, 2023.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) "**Chairman**" means the Chairman of the Senate of Pakistan;

(b) "**Chief Justice**" in relation to the Supreme Court or a High Court, includes the Judge for the time being acting as Chief Justice of the Court;

(c) "**Deputy Chairman**" means the Deputy Chairman of the Senate of Pakistan;

(d) "**Deputy Speaker**" means the Deputy Speaker of the National Assembly or a Provincial Assembly, and includes any person acting as the Deputy Speaker of the Assembly for the time being;

(e) "**Gift**" means any gift received by any person mentioned in section 5, in his official capacity from a foreign dignitary or association or Company;

(f) "**Government**" means the Federal or Provincial Government as the case may be;

- (g) "**Governor**" means the Governor of a Province and includes any person for the time being acting as the Governor of a Province;
- (h) "**Judge**" in relation to the Supreme Court or a High Court, is a person who is acting as judge or additional Judge of the Court;
- (i) "**President**" means the President of Pakistan and includes a person for the time being acting as the President of Pakistan;
- (j) "**Prime Minister**" means the Prime Minister of Pakistan and includes a person for the time being acting as the Prime Minister of Pakistan;
- (k) "**Service of Pakistan**" means any service defined in clause (1) of Article 260 of the Constitution of Islamic Republic of Pakistan; and
- (l) "**Speaker**" means the Speaker of the National Assembly or a Provincial Assembly, and includes any person acting as the Speaker of the Assembly.

3. Establishment of the Toshakhana.- (1) There shall be established a Toshakhana by the Federal Government.

(2) The Toshakhana shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and shall, by the said name, sue and be sued.

(3) The Toshakhana shall be competent to acquire and hold property, both movable and immovable, and to lease, sell or otherwise transfer any movable and immovable property which may have become vested in or been acquired by it.

(4) The principal seat of the Toshakhana shall be at Islamabad, and it may set up any number of offices and sub offices at such places in Pakistan as the body may determine.

(5) The Toshakhana shall be managed by a Director General who shall be appointed by the Federal Government through public notice in such manner and on such terms and conditions as may be prescribed by the Ministry of Foreign Affairs. Other officers and employees shall be appointed by the Director General in consultation with the Ministry of Foreign Affairs in such manner and on such terms and conditions as may be prescribed by rules.

(6) Standard operating procedures (SOPs) shall be devised to ensure acceptance, utilization and regulation of gifts and to prohibit any activities detrimental to the national interest.

4. Gifts to be deposited in the Toshakhana. - (1) Gifts received by the persons mentioned in Section 5 of this Act, shall be reported to Toshakhana indicating the nature and estimated value of such gifts. There shall not be any undue delay in reporting the receipt of such gifts.

(2) The person receiving gifts shall deposit them in the Toshakhana established under this Act.

(3) The gifts of which market value is determined by the Toshakhana, not more than the value mentioned below may be retained by the persons receiving them from foreign dignitary or association or company without payment of its market value or price,-

- (a) Not more than the market value of thirty thousand rupees only by the President and Prime Minister as the case may be.
- (b) Not more than the market value of twenty thousand rupees only by the Governor or the Chief Minister or the Chairman or the Deputy Chairman or the Speaker or the Deputy Speaker as the case may be.
- (c) Not more than the market value of ten thousand rupees only by the Members of Parliament or the Members of the Provincial Assemblies or the Ministers or the Ministers of State in the Federal Cabinet or the Advisors or the Special Assistants to the Prime Minister or the Ministers of the Provincial Cabinet or the Advisors or the Special Assistants to the Chief Ministers or the Attorney Generals or the Deputy attorney Generals of Pakistan or the Advocate Generals or the Prosecutor Generals of the Provinces or the Chief Justice or Judges of the Supreme Court or the Chief Justice and Judges of the High Courts or all government Servants:

Provided that any gift of historical importance, curio or antique shall not be retained by any person and shall be deposited in the Toshakhana whatever might be its market value.

5. Restriction on retention or purchase of gifts.- Except as hereinafter provided, no person shall, who is the President or the Governor or the Prime Minister or the Chief Minister or the Chairman or Deputy Chairman Senate or the Speaker or Deputy Speaker of the National Assembly or the Speaker or Deputy Speaker of the Provincial Assembly or the Member of Parliament or the Member of the Provincial Assembly or the Minister or Minister of State in the Federal Cabinet or the Advisor or the Special Assistant to the Prime Minister or the Minister of the Provincial Cabinet or the Advisor or the Special Assistants to the Chief Minister or the Attorney General or the Deputy Attorney General for Pakistan or the Advocate General or the Prosecutor Generals of the Provinces or the Chief Justice or Judge of the Supreme Court or the Chief Justice and Judge of the High Court or a Government Servant who is in the service of Pakistan including but not limited to the service, post or office in connection with the affairs of the Federation or the Province and includes all-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under an Act of Majlis-e-Shoora (Parliament) or of a Provincial Assembly, buy or purchase or retain or convert to his own use any gift received in his official capacity from a foreign dignitary or association or company except in the circumstances mentioned in paragraph (a) or (b) or (c) of sub-section (3) of section 4, of the Act.

6. Persons to whom section 5, shall not apply.- If any person to whom section 5, shall not apply, wishes to buy or purchase or convert to his own use, any of the gifts, received by the Toshakhana can do so on payment of the actual market value determined by the Toshakhana after the publically notified auction of the said gift in question.

Provided that any person after due payment receives a gift from Toshakhana cannot transfer to any of the persons mentioned in Section 5 of this Act.

7. Revenues and moneys received by Toshakhana. - All revenues and moneys received by the Toshakhana after sale or auction of any gift shall be deposited in the Federal Consolidated Fund.

8. **Power to make rules.** - The ministry of Foreign affairs after meaningful consultation with the Toshakhana may, by notification in the official Gazette, make rules within six months of the commencement of this Act to carry out the purposes thereof.

9. **Regulations.**- The Toshakhana may, by notification in the official Gazette, make Regulations for the administration and management of the affairs of the Toshakhana.

10. **Removal of Difficulties.**- If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may, in consultation with the Toshakhana, give such directions, not inconsistent with the said provisions, as it may consider necessary for the removal of such difficulty.

STATEMENT OF OBJECTS AND REASONS

The new fold controversies of Toshakhana and the foreign gifts received by the state official politico-bureaucratic representation has raised the eyebrows and opened up the fault lines within the legal structure. There is no primary law regulating the foreign gifts received by the country officials; provided that a set of delegated legislation is in field to administer the gifts, their sale, purchase and retention in a blurry way. To fill the gap, a body corporate with the name of Toshakhana is proposed to establish its principle seat in Islamabad, provides for certain limits and restrictions to retain the foreign hospitality by the political, judicial and bureaucratic officials detrimental to national interest of Pakistan.

2. The Bill seeks to achieve the aforementioned objects.

**SENATOR MUSHTAQ AHMED
MEMBER-IN-CHARGE**