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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), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.** –(1) This Actshall be called the National Accountability (Amendment) Act, 2023.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the commencement of the National Accountability Ordinance, 1999 (XVIII of 1999).

2. **Amendment of section 4, Ordinance XVIII of 1999.** —In the National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the said Ordinance, in section 4, —

(i) in sub-section (3), —

(a) the expression "clause (a) of" shall be omitted; and

(b) for the word "Courts", the word "courts" shall be substituted; and

(ii) after sub-section (3), amended as aforesaid, the following new sub-sectionsshall be added, namely: –

"(4) Upon commencement ofthe National Accountability (Amendment) Act, 2022 (XI of 2022) and the National Accountability (Second Amendment) Act, 2022 (XVI of 2022), –

(a) all pending inquiries, required to be transferred under sub-section (3), shall be examined by the Chairman.If the Chairman is satisfied that no case is made out against an accused, the inquiry shall be closed after recording reasonsand where the Chairman is of the opinion that *prima facie* case is made out against an accused under any other law for the time being in force, he shall refer the matter to the relevant agency, authority or department, as the case may be;

(b) all investigations, required to be transferred under sub-section (3), shall be examined by the Chairman. If the Chairman is satisfied that no case is made out against an accused and the investigation may be closed, he shall refer the matter to the Court for approval and for the release of the accused, if in custody. Where the Chairman is of the opinion that *primafacie* case is made out against an accused under any other law for the time being in force, he shall refer the matter to the relevant agency, authority or department, as the case may be;

(c) the agency, authority or department, to which inquiry or investigation is transferred under clauses

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(a) and (b), may proceed with such inquiry or, as the case may be, investigation in accordance with the applicable laws,from the stage at which it was pending immediately before such transfer;

(d) where the Court seized with a case is of the opinion that itis not triable by that Court under this Ordinance, the Court shall, after examination with assistance of the National Accountability Bureau,refer it to the appropriate court, tribunal, forum, agency, authority or department, as the case may be, for exercise of jurisdiction in accordance with the applicable laws;

(e) upon transfer under clause (d), the court, tribunal or forum of competent jurisdiction may proceed with the case from the stage at which it was pending in the Court and shall try and decide the same under the law regulating its jurisdiction and procedure; and

(f) all final orders, decisions or judgments passed by the Court before the commencement of the National Accountability (Amendment) Act, 2022 (XI of 2022), the National Accountability (Second Amendment) Act, 2022 (XVI of 2022) and the National Accountability (Amendment) Act, 2023 (of 2023), shall remain in force and operative unless reversed, notwithstanding anything contained in sub-section (2) of section 1 each of the National Accountability (Amendment) Act, 2022 (XI of 2022), the National Accountability (Second Amendment) Act, 2022 (XVI of 2022) and the National Accountability (Amendment) Act, 2023 (of 2023).

(5) The court, tribunal, forum, agency, authority or department may, after receipt of the case, re-examine any witness or examine a new witnessin accordance with their jurisdiction under the laws for the time being in force.

(6) Upon commencement of the National Accountability (Amendment) Act, 2022 (XI of 2022), the National Accountability (Second Amendment) Act, 2022 (XVI of 2022) and the National Accountability (Amendment) Act, 2023 (of 2023), –

(a) all pending inquiries, investigations, trials and proceedings relating to matters not falling within the definition of offence under clause (o) of section 5 shall be transferred to the concerned agencies, authorities, departments, courts, tribunals or forums having jurisdiction under the respective laws; and

(b) the provisions of clauses (a) to (f) of sub-section (4) shall *mutatis mutandis* apply to the transfer of all matters under clause (a).".

3. Amendment of section 5, Ordinance XVIII of 1999. —In the said Ordinance,insection 5, —

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(i) in clause (d), in sub-clause (ii), for the word "individual", the word "individuals" shall be substituted;

(ii) in clause (n), in sub-clause (ii), —

(a) after the word "Senate", the expression ", Deputy Chairman Senate" shall be inserted; and

(b) the words "of the"shall be omitted;

(iii) in clause (p),for the word "direction", occurring for the first time, the word"direct" shall be substituted and for the words "concern or direction or control thereof", the words "concerned or having direct control thereof" shall be substituted; and

(iv) in clause (u),for the word "cooperatives",the word "cooperative" shall be substituted.

4. Amendment of section 6, Ordinance XVIII of 1999. —In the said Ordinance, in section 6, in sub-section (b), in clause (v), for the proviso, the following shall be substituted,namely: —

"Provided that as and when the office of the Chairman NAB falls vacant or when the Chairman NAB is absent or unable to perform the functions of his office, due to any reason whatsoever, the Deputy Chairman NAB shall act as Chairman NAB and in absenceof Deputy Chairman NAB, the Federal Government shall appoint an acting Chairman NAB from amongst the senior officers of the NAB; and".

5. Amendment of section 7, Ordinance XVIII of 1999. —In the said Ordinance,in section 7, —

(i) in sub-section (aa), —

(a) in clause (i), after the word "General", the words "or above" shall be inserted; and

(b) in clause (ii), after the word "equivalent", the words "or above" shall be inserted; and

(ii) in sub-section (b), for the expression "sub-rule (4) of rule 2 of the Government Servants (Efficiency & Discipline) Rules, 1973", the expression "the rules relating to efficiency and discipline of civil servants of the Federal Government made under the Civil Servants Act, 1973 (LXXI of 1973)" shall be substituted.

6. Amendment of section 8, Ordinance XVIII of 1999. —In the said Ordinance, in section 8, —

(i) in sub-section (a), in clause (ii), for the words "the Ordinance", the words "this Ordinance" shall be substituted;

(ii) in sub-section (b), for the expression "Courts and Tribunals", the expression "courts and tribunals" shall be substituted; and

(iii) in sub-section (c), for the words "court or tribunal", the words "Court or courts or tribunals" shall be substituted.

7. Amendment of section 15, Ordinance XVIII of 1999. —In the said Ordinance, in section 15, in sub-section (a), in the proviso, the word "of", occurring for the first time, shall be omitted.

8. Amendment of section 16, Ordinance XVIII of 1999. —In the said Ordinance, in section 16, in sub-section (c), —

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(i) the words "of the Province" shall be omitted; and

(ii) for the words "courtestablished", the words "Court established" shall be substituted.

9. Amendment of section 16A, Ordinance XVIII of 1999. —In the said Ordinance, in section 16A, —

(i) in sub-section (a), —

(a) for the words "Court or Tribunal", the words "court or tribunal" shall be substituted; and

(b) for the words "the Ordinance", the words "this Ordinance" shall be substituted; and

(ii) in sub-section (b), –

(a) after the word "is", occurring for the first time,the words "required to be" shall be inserted; and

(b) in clause (ii), for the semi colon, a coma shall be substituted.

10. Amendment of section 19, Ordinance XVIII of 1999. —In the said Ordinance, —

(i) the existing provision of section 19 shall be numbered as sub-section (1) thereof and in sub-section (1), numberedas aforesaid, —

(a) in clause (c),after the semi-colon, occurring at the end, the word "and" shall be inserted;

(b) in clause (d), for the expression "; and", occurring at the end, a full stop shall be substituted; and

(c) clause (e) shall be re-numbered as sub-section (2); and

(ii) in sub-section (2), re-numbered as aforesaid, —

(a) for the word "any",occurring at the beginning,the word "Any" shall be substituted; and

(b) after the word "information", the expression "undersub-section (1)" shall be inserted.

11. Amendment of section 21, Ordinance XVIII of 1999. —In the said Ordinance, —

(i) the existing provision of section 21 shall be numbered as sub-section (1) thereof and in sub-section (1), numberedas aforesaid, —

(a) in clause (e), after the semi colon, occurring at the end, the word "and" shall be added;

(b) in clause (f), for the expression "; and", a full stop shall be substituted; and

(c) clause (h) shall be re-numbered as sub-section (2); and

(ii) in sub-section (2), re-numbered as aforesaid, —

(a) for the word "notwithstanding", the word "Notwithstanding" shall be substituted; and

(b) for the word "hereinabove", the expression "in sub-section (1)" shall be substituted.

12. Amendment of section 28, Ordinance XVIII of 1999. —In the said Ordinance,in section 28, in sub-section (a), for the word "term", the word "terms" shall be substituted.

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13. **Amendment of section 30, Ordinance XVIII of 1999.** —In the said Ordinance,in section 30, in sub-section (a), for the word "court", the word "Court" shall be substituted.

14. **Amendment of section 31D, Ordinance XVIII of 1999.** —In the said Ordinance,insection 31D, in the proviso, for the word "conduct", the word "conducted" shall be substituted.

15. **Amendment of section 31DD, Ordinance XVIII of 1999.** —In the said Ordinance,in section 31DD, after the word "Board", the words "or credit committee" shall be inserted.

16. **Amendment of section 32, Ordinance XVIII of 1999.** —In the said Ordinance,in section 32, in sub-section (a), for the words "of the Province where", the words "under whose jurisdiction" shall be substituted.

17. **Amendment of section 33, Ordinance XVIII of 1999.** —In the said Ordinance, in section 33, after the word "Province", the words"or area of jurisdiction" shall be inserted.

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STATEMENT OF OBJECTS AND REASONS

Owing to recent amendments made in the National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter called as the NAB Ordinance, through the National Accountability (Amendment) Act, 2022 (XI of 2022) and the National Accountability (Second Amendment) Act, 2022 (XVI of 2022), some legal complications have arisen for transfer of those cases, from the Accountability Courts to other courts, tribunals and forums, which do not fall within the domain or jurisdiction of the NAB Ordinance.

On initiative of the Prosecutor General Accountability and after having input of relevant stakeholders, certain further amendments in the NAB Ordinance are required to be made urgently to provide legal cover to the Accountability Courts for transfer of aforesaid cases.

The Bill seeks to achieve the above objects.

Minister-in-Charge

Kismat Khan Zmri

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