[As passed by the Senate]

A

Bill

further to amend the Pakistan Army Act, 1952

Whereas it is expedient further to amend the Pakistan Army Act, 1952 (Act No. XXXIX of 1952), 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 Army (Amendment) Act, 2023.

(2) It shall come into force at once.

2. Insertion of new section 1A, Act XXXIX of 1952.- In the Pakistan Army Act, 1952 (Act No. XXXIX of 1952), hereinafter called as the said Act, after section 1, the following new sections shall be inserted, namely:-

"1A. Raising and maintaining the Army.- (1) Subject to the provisions of the Constitution of the Islamic Republic of Pakistan, the President shall raise and maintain the Pakistan Army and its reserves in accordance with the provisions of this Act, the rules, regulations and instructions made and issued thereunder.

(2) Subject to the provisions of the Constitution of the Islamic Republic of Pakistan the control and command of the Army shall rest with the Federal Government and its administration shall vest in the Chief of the Army Staff.

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(3) Subject to the provisions of the Constitution of the Islamic Republic of Pakistan, the President shall grant commission in the Pakistan Army in accordance with the provisions of this Act and the rules, regulations and instructions made and issued thereunder.

(4) Personnel of the Pakistan Army shall consist of such officers, soldiers and other staff members as may be prescribed.

(5) The selection, recruitment, qualifications, salary, allowances, discipline, training, administration and other terms and conditions of service in respect of personnel of the Pakistan Army under sub-section (4) shall be such as may be prescribed.".

3. Amendment of section 2, Act XXXIX of 1952.- In the said Act, in section 2, in sub-section (1), for clause (a), the following shall be substituted, namely:–

"(a) officers, soldiers and others of the Pakistan Army;".

4. Amendment of section 8, Act XXXIX of 1952.- (1) In the said Act, in section 8,–

(a) after clause (1), the following new clause shall be inserted, namely:-

"(1A) "affiliated entities" mean entities affiliated with or controlled by the Pakistan Army, including but not limited to statutory bodies, trusts, foundations, organizations and other entities as approved by Federal Government;";

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(b) after clause (4), the following new clause shall be inserted, namely:-

"(4A) "convening authority" mean an officer who is empowered to convene court martial under this Act;"; and

(c) in clause (13), after the words "rules", the expression ", regulations and instructions" shall be inserted.

5. Substitution of section 10, Act XXXIX of 1952.- In the said Act, for section 10, the following shall be substituted, namely:-

"10. Ineligibility for commissioning or attestation.- A person who is not a citizen of Pakistan or a dual national or under the age of eighteen years shall not be granted commission or attestation in the Pakistan Army.".

6. Amendment of section 17, Act XXXIX of 1952.— In the said Act, in section 17, in sub-section (1), for the words "warrant officer", the words "non-commissioned" shall be substituted.

7. Substitution of section 18, Act XXXIX of 1952.— In the said Act, for section 18, the following shall be substituted, namely:-

"18. Retirement, resignation, release or discharge.- The competent authority may, as may be prescribed in this behalf, retire, release, accept or reject resignation of, or discharge from the service, any person subject to this Act.

Provided that owing to exigencies, extraordinary circumstances, or if war is imminent or existing, the Federal Government may retain compulsorily in service upto sixty years of age any person with the recommendations of the Chief of the Army Staff and as prescribed in

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this Act or the rules, regulations or instructions made and issued thereunder

8. Insertion of new sections 26A and 26B, Act XXXIX of 1952.— In the said Act, after section 26, the following new sections, shall be inserted, namely:-

"**26A. Unauthorisd disclosure.—** (1) If any person, who is or has been subject to this Act, discloses or causes to be disclosed any information, acquired in official capacity, which is or may be prejudicial to the security and interest of Pakistan or the Armed Forces of Pakistan, shall be guilty of an offence, and on conviction by the court constituted under this Act, be punished with rigorous imprisonment for a term which may extend to five years.

(2) Any disclosure made after seeking prior approval from the Chief of the Army Staff, or any officer duly empowered by him, in the manner prescribed, shall not be deemed as unauthorized disclosure under sub-section (1).

(3) The information disclosed in contravention of sub-section (1), if prejudicial to the security and interest of Pakistan or the Armed Forces of Pakistan, shall be dealt with under section 59 of this Act, read with the Official Secrets Act, 1923 (XIX of 1923).

26B. Political activity.— (1) Any person, who is or has been subject to this Act, shall not engage in political activity of any kind within a period of two years from the date of his retirement, release, resignation, discharge, removal or dismissal from the service.

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(2) A person, who is or has been subject to this Act and has remained posted, employed, seconded, tasked or otherwise attached on sensitive duties, as prescribed under this Act, shall not take part in political activity of any kind, during a period of five years from the date of his retirement, release, resignation, discharge, removal or dismissal from the service.

(3) Whoever violates sub-sections (1) or (2) of this section shall, on conviction by the court constituted under this Act, be punished with rigorous imprisonment for a term, which may extend to two years.".

9. Insertion of new sections 55A, 55B and 55C, Act XXXIX of 1952.– In the said Act, after section 55, the following new sections shall be inserted, namely:-

"55A. Conflict of interest.– (1) A personnel who is or has been subject to this Act during the preceding five years, shall not directly or indirectly enter into employment, consultation or other engagement with an entity having conflict of interest with any of the activities of the Armed Forces of Pakistan or its affiliated entities, in a manner or position that utilizes the skills or experience acquired by such person during association with the Armed Forces:

Provided that sub-section (1) shall not apply to any such employment, consultation or engagement, made after seeking prior approval from the Chief of the Army Staff, or any officer duly empowered by him, in the manner prescribed.

(2) Any person who contravenes the provision of sub-section (1) shall be guilty of an offence under this Act and may be punished with imprisonment for a term which may

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extend to two years or with fine not exceeding five hundred thousand rupees or with both.

55B. Electronic crimes.– A personnel who is or has been subject to this Act commits an offence under the Prevention of Electronic Crimes Act, 2016 (Act XL of 2016) or relevant electronic, digital, social media laws, with the malafide intention to undermine, ridicule or scandalize the Armed Forces of Pakistan, may be proceeded under this Act and shall, on conviction by a court constituted under this Act, shall be punished in prescribed manner with the same punishments as provided for in the said Act XL of 2016 or such other laws, as the case may be.

55C. Defamation.– A personnel who is or has been subject to this Act intentionally ridicules, scandalizes, brings into hatred or otherwise attempts to lower the Armed Forces of Pakistan or any part thereof in the estimation of others shall, on conviction by a court constituted under this Act, in the prescribed manner, be punished with imprisonment which may extend to two years or fine or with both.".

10. Amendment of section 91, Act XXXIX of 1952.– In the said Act, in section 91, in sub-section (1),–

(a) after the word "person", occurring for the first time, the expression "who is or has been" shall be inserted; and

(b) for the expression "31 or section 40 or section 59", the expression "26A, 26B, 31, 40, 55A, 55B, 55C or 59" shall be substituted.

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11. Amendment of section 92, Act XXXIX of 1952.— In the said Act, in section 92, after sub-section (2),-

(a) the expression "sub-section", the expression "section" shall be substituted

(b) for the expression "31 or section 40", the expression "26A, 26B, 31, 40, 55A, 55B or 55C" shall be substituted.

12. Amendment of section 126, Act XXXIX of 1952.— In the said Act, in section 126, in sub-section (1), after the words "confirming officer", the words "or convening authority" shall be inserted.

13. Insertion of sections 175A, 175B, 175C, 175D, and 175E, Act XXXIX of 1952.—In the said Act, after section 175, the following new sections shall be inserted, namely:-

"175A. Military, civil awards and decorations.— The Federal Government may confer combat, non-combat, meritorious service awards, or any other awards or decorations, on serving personnel, war wounded personnel or families of *Shuhada*, for outstanding contributions and performance, participation or specific achievements.

175B. Service awards.— The Pakistan Army may, in the prescribed manner, confer service awards on serving personnel, war wounded personnel, families of *Shuhada* on the basis of performance, participation, rank specific achievements or otherwise:

Provided that all such activities already undertaken shall always be deemed to have been validly done under this Act.

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175C. Welfare and rehabilitation.— The Pakistan Army may, in the manner as may be prescribed, carry out activities for the purpose of welfare and rehabilitation of serving, retired or wounded personnel as well as families of *Shuhada*:

Provided that all such activities already undertaken shall always be deemed to have been validly done under this Act.

175D. Welfare through affiliated entities.— The Pakistan Army may, in the manner as may be prescribed through its affiliated entities, carry out activities that relate to or generate proceeds for, *inter alia*, welfare and rehabilitation of serving and retired personnel of Pakistan Army, wounded personnel, as well as families of *Shuhada*:

Provided that all such activities already undertaken shall always be deemed to have been validly done under this Act.

175E. National development.— The Pakistan Army may, upon direction or with the concurrence of relevant authorities of the appropriate government in the prescribed manner, directly or indirectly, carry out activities related to, *inter alia*, national development and advancement of national or strategic interest:

Provided that all such activities already undertaken shall be deemed to be and always to have been validly done under this Act.

Explanation.- "appropriate government" means the Federal Government or Provincial Government as the case may be.

14. Amendment of section 176, Act XXXIX of 1952.— In the said Act, in section 176, in sub-section (2),-

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(a) in clause (a), after the expression "reappointment," the expression "retention," shall be inserted and after the expression "release,", the expression "resignation," shall be inserted;

(b) in clause (l), the word "and", at the end shall be omitted;

(c) after clause (l), amended as aforesaid, the following new clauses shall be inserted; namely:-

"(la) the activities related to welfare and rehabilitation of retired and serving Army personnel, wounded personnel and families of *Shuhada*; and

(lb) the activities connected with or resulting in public utility, national development, disaster relief, advancement of national or strategic interests; and".

15. Amendment of section 176A, Act XXXIX of 1952.—In the said Act, in section 176A, the expression ", other than those in respect of which rules have been made under section 176" shall be omitted.

16. Insertion of new section 176AA, Act XXXIX of 1952.— In the said Act, after section 176A, amended as aforesaid, the following new section shall be inserted, namely:-

"176AA. Power to issue instructions.– The Chief of the Army Staff may, from time to time, make and issue instructions for carrying into effect the provisions of this Act and the rules and regulations made thereunder:

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Provided that all such instructions already made and issued shall always be deemed to have been validly made and issued under this Act.".

17. Amendment of section 176C, Act XXXIX of 1952.— In the said Act, in section 176C, after sub-section (2), the following new sub-section shall be inserted, namely:-

"(3) The Chief of the Army Staff may delegate any of his powers and functions conferred by, or delegated under, this Act to any officer or authority subordinate to him.".

18. Substitution of section 176D, Act XXXIX of 1952.— In the said Act, for section 176D, the following shall be substituted, namely:-

"176D. Validation.— On commencement of the Pakistan Army (Amendment) Act, 2023 (of 2023) and notwithstanding anything contained in any other law for the time being in force, all rules, regulations, instructions and orders issued and actions taken in purported exercise thereof, from time to time, shall always be deemed to have been validly issued, made, taken or done under this Act and shall not be called in question on any ground whatsoever.".

19. Insertion of new section 176 E, Act XXXIX of 1952.— In the said Act, after section 176D, substituted as aforesaid, the following new section shall be inserted, namely:-

"176E. Overriding effect.— The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law, rules or regulations for the time being in force and such law, rules or regulations shall, to the extent of any inconsistency, cease to have effect.".

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend provisions of the Pakistan Army Act, 1952 so as to provide the structural underpinnings of raising and maintaining the Army, including, inter alia, the power to grant commission therein, determine terms of conditions of service, carryout welfare activities, national development tasks and for other operational and institutional matters, in light of the honorable Supreme Court's judgment dated 28-11-2019 passed in Constitution Petition No 39 of 2019.

The Bill is designed to achieve the aforesaid objects.

Minister-in-Charge

Rawalpindi, July, 2023

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