

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to repeal the National Accountability Ordinance, 1999 and to enact a new law of accountability

WHEREAS it is expedient to repeal the National Accountability Ordinance, 1999 (XVIII of 1999) and to enact a new law of accountability, providing for the establishment of National Accountability Commission for inquiry, investigation, prosecution and expeditious disposal of cases relating to corruption and corrupt practices in a just manner, and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent, application and commencement.— (1) This Act may be called the National Accountability Commission Act, 2012.

(2) It extends to the whole of Pakistan.

(3) It shall apply to holders of public office wherever they may be.

(4) It shall come into force at once and shall be deemed to have taken effect from the First day of October, 2002.

**CHAPTER-I
PRELIMINARY**

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

- (a) "accused" means a person in respect of whom a reference has been filed in the Court;
- (b) "Agency" means the National Accountability Commission Investigation Agency constituted under section 11;
- (c) "appropriate Government" means the Federal Government, a Provincial Government or a local Government, as the case may be;
- (d) "assets" means any property moveable or immovable owned or belonging to an accused;

- (g) "Chairman" means the Chairman of the Commission appointed under section 5;
- (h) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (i) "Commission" means the National Accountability Commission established under section 4;
- (j) "Court" means the an Accountability Court established under section 21;
- (k) "Deputy Chairman" means the Deputy Chairman of the Commission appointed under section 6;
- (l) "Director General" means Director-General of the Agency;
- (m) "illegal gain" means such assets of an accused as are determined by a Court to have been made or acquired, directly or indirectly in the course of, or as a consequence of the offence of corruption and corrupt practices;
- (n) "Offence" means the offence of corruption and corrupt practices as defined in section 16; and
- (o) "Prosecutor General" means Prosecutor General Accountability appointed under section 6.

3. **Holder of Public Office.-** Holder of a public office means a person who----

- (i) has been the President of Pakistan or the Governor of a Province;
- (ii) is, or has been, the Prime Minister, Chairman Senate, Speaker of the National Assembly, or a Provincial Assembly, Deputy Chairman Senate, Deputy Speaker of the National Assembly or a Provincial Assembly, Chief Minister, Federal or Provincial Minister, Minister of State, Federal or Provincial Parliamentary Secretary, Member of Parliament or a Provincial Assembly, Special Assistant, Advisor or Consultant to the President, Prime Minister, Governor or Chief Minister or attached with any Ministry, Division of Federal Government or a department or Provincial Government, Political Secretary, Auditor-General, Attorney-General and other Law Officers appointed under the Central Law Officers. Ordinance, 1970 (VII of 1970), Advocate-General, Additional Advocate-General and Assistant Advocate-General, and the holder of

a post or office with the rank or status of a Federal or Provincial Minister or Minister of State; or

- (iii) is holding, or has held, an office or post in the service of Pakistan, or any service in connection with the affairs of the Federation, or of a Province, or of a local council constituted under any Federal or Provincial law relating to the constitution of local councils, or in the management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization established, controlled or administered by or under the Federal Government or a Provincial Government, other than a person who is a member of any of the armed forces of Pakistan, or for the time being is subject to any law relating to any of the said forces, except a person who is, or has been a member of the said forces and is holding, or has held, a post or office in any public corporation, bank, financial institution, undertaking or other organization established, controlled or administered by or under the Federal Government or a Provincial Government;
- (iv) is, or has been, the Chairman or Vice Chairman, Nazim or Naib Nazim of a zila council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or Provincial law relating to local councils.

Explanation: For the purpose of this sub-clause the expressions "Chairman" and "Vice Chairman" shall include "Mayor" and "Deputy Mayor" as the case may be, and the respective councilors therein;

- (v) has served in and retired or resigned from or has been discharged or dismissed from the Armed Forces of Pakistan.

CHAPTER-II THE NATIONAL ACCOUNTABILITY COMMISSION

4. National Accountability Commission.— (1) There shall be a National Accountability Commission for purpose of inquiry, investigation and prosecution of cases relating to the offence of corruption and corrupt practices under this Act.

(2) The head office of the Commission shall be at Islamabad and the Commission may establish regional offices at provincial capitals or such other places as it may consider necessary.

5. Composition of the Commission.- (1) The Commission shall comprise of a Chairman, Deputy Chairman, and Prosecutor General Accountability.

(2) The decisions of the Commission shall be arrived at unanimously or by majority.

(3) A person shall not be appointed as Chairman unless he has been a Judge of the Supreme Court or has been a Federal Government officer in BPS-22.

(4) A person shall not be appointed as Deputy Chairman unless he has been a Judge of a High Court or has been a Federal Government officer in BPS-21.

(5) The Prosecutor General shall be a person who is qualified to be appointed as a Judge of the Supreme Court.

(6) A person who has held office as the Chairman, Deputy Chairman or Prosecutor General shall not hold any office of profit in the service of Pakistan, before expiration of two years after he has ceased to hold that office.

6. Mode of appointment etc.— (1) The Chairman shall be appointed by the President for non-extendable term of three years and the first Chairman shall be appointed within ninety days of the commencement of this Act.

(2) The Chairman shall be appointed by the President in consultation with the Prime Minister and the Leader of the Opposition in the National Assembly.

(3) In case the Prime Minister and the Leader of the Opposition in the National Assembly do not agree on any person to be appointed as a Chairman within fourteen days, then they shall, within ten days, forward two names each to the Standing Committee of National Assembly on Law and Justice for confirmation of any one name:

Provided that when National Assembly is dissolved the reference to Standing Committee of National Assembly on Law and Justice shall be read as reference to the Standing Committee of the Senate on Law and Justice.

(4) The Committee shall finalize the name of a Chairman within fourteen days of the referral of the matter to it:

Provided that if the nomination is not confirmed by the Committee within the period as aforesaid it shall forward its decision with reasons to be recorded to the Prime Minister and the Leader of the Opposition:

Provided further that if a nomination is not confirmed by the Committee, the Prime Minister shall, within fourteen days, send another list of two persons to the

Committee and the Committee shall confirm any one name within fourteen days, failing which the name occurring first in the list shall be deemed to have been confirmed.

(5) The Committee shall forward the name of the nominee confirmed by it or deemed to have been confirmed to the Prime Minister who shall forward the same to the President for appointment as a Chairman on a Summary moved by the Law and Justice Division.

(6) Save as otherwise provided under this section, the Rules of Procedure and Conduct of Business in the National Assembly, 2007 shall apply *mutatis mutandis* to the proceedings of the Committee for appointment of a Chairman.

(7) The Deputy Chairman shall be appointed by the President in consultation with the Chairman for non-extendable term of three years.

(8) The Prosecutor-General shall be appointed by the President in consultation with the Chairman for non-extendable term of three years.

(9) Any person who has held the office of Chairman, Deputy Chairman or Prosecutor General under the National Accountability Ordinance, 1999 (XVIII of 1999), may be appointed as Chairman, Deputy Chairman or Prosecutor General under this Act:

Provided that he is duly qualified to be appointed under this Act.

(10) The Chairman and the Prosecutor General shall be entitled to the same salary and privileges as a Judge of the Supreme Court and the Deputy Chairman shall be entitled to same salary and privileges as a Judge of the High Court.

(11) The Chairman, Deputy Chairman or Prosecutor General may resign his office by writing under his hand addressed to the President.

(12) The Chairman or Deputy Chairman or Prosecutor General may be removed from office on the grounds of being incapable of properly performing the duties of his office by reason of physical or mental incapacity or has been guilty of misconduct.

7. Deputy Chairman and Prosecutor General to assist the Chairman.- (1) The Deputy Chairman and the Prosecutor General shall assist the Chairman in discharge of his duties and in the performance of his functions.

(2) The Deputy Chairman shall supervise work of the Director General.

(3) The Prosecutor General shall advise the Chairman in any matter pertaining to inquiry or investigation and prosecution under this Act and shall be responsible for the control and supervision of the Prosecutors and other Law Officers appointed under this Act.

8. **Acting Chairman.**— At any time when the Chairman is absent or his office is vacant or he is unable to perform the functions of his office due to any other cause, the Deputy Chairman shall act as Chairman and in case the Deputy Chairman is also absent or his office is vacant or he is unable to perform the functions of his office due to any other cause, the President may appoint any other person as Acting Chairman for a period not exceeding sixty days.

9. **Appointment of members of the staff and officers of the Commission.**- (1) The members of the staff and officers of the Commission shall be appointed on the recommendation of a Selection Board or a Selection Committee, as the case may be, and shall be entitled to such salaries, allowances and other terms and conditions of service as the Commission may, with the approval of the President, determine.

(2) The Selection Board for appointment of officers in BS-17 and above or equivalent shall comprise of the Chairman, Deputy Chairman, Prosecutor General and the Director-General who shall also act as Secretary of the Board:

Provided that in case of appointment of the Director-General a government officer in BS-21 or equivalent nominated by Chairman shall act as member of the Selection Board.

(3) There shall be a Selection Committee for appointment of employees in BS-1 to BS-16 (both inclusive) as may be determined by the Commission.

(4) The selection of the employees in BS-16 and above shall be made on the basis of written test from an outside independent agency and the viva voce conducted by the Selection Board, or the Selection Committee, as the case may be.

10. **Expenditure charged upon Federal Consolidated Fund.**- The remuneration payable to the Chairman, Deputy Chairman, Prosecutor General and other staff and officers of the Commission and all administrative expenses and other expenditure relating to the Commission shall be expenditure charged upon the Federal Consolidated Fund, within the meaning of Article 81 of the Constitution of the Islamic Republic of Pakistan.

CHAPTER-III NATIONAL ACCOUNTABILITY COMMISSION INVESTIGATION AGENCY

11. **Investigation Agency.**- (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall constitute an independent investigation agency called the National Accountability Commission Investigation Agency for conducting inquiry and investigation of offences under this Act.

(2) The Agency shall consist of a Director-General and such number of other officers as the Commission may, from time to time, appoint to be members of the Agency.

12. Superintendence and administration of the Agency.- (1) The overall superintendence of the Agency shall vest in the Chairman.

(2) The administration of the Agency shall vest in the Director-General who is or has been a PSP Officer in BS-20 or above and exercise in respect of the Agency such of the powers as may be prescribed by rules.

13. Powers of a member of the Agency.- Subject to the provisions of this Act and rules made thereunder, if any:-

- (a) a member not below the rank of a Director of the Agency shall, for the purpose of an inquiry or investigation under this Act, have throughout Pakistan such powers including powers relating to causing attendance, search and arrest of persons and seizure of property, and such duties, privileges and liabilities as the officers of a Provincial Police have in relation to the investigation of offences under the Code or any other law for the time being in force;
- (b) a member of the Agency not below the rank of a Director may, for the purposes of any inquiry or investigation under this Act, exercise any of the powers of an officer-in-charge of a Police Station in any area in which he is for the time being and when so exercising such powers shall be deemed to be an officer-in-charge of a Police Station within the meaning of the Code discharging his functions as such within the local limits of said area;
- (c) for the purpose of the exercise by the members of the Agency of the powers of an officer-in-charge of a Police Station, "Police Station" includes any place declared, generally or specially, by the Federal Government to be a Police Station within the meaning of the Code;
- (d) the Director-General may, by order in writing, direct that all or any of his powers under this Act or the rules made thereunder shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by any member not below the rank of a Director of the Agency so specified;
- (e) if, in the opinion of a member not below the rank of a Director of the Agency conducting an inquiry or investigation, any property

which is the subject-matter of the inquiry or investigation is likely to be removed, transferred or otherwise disposed of before an order of the appropriate authority for this seizure is obtained, such member may, by order in writing, direct the owner or any person, who is for the time being in possession thereof, not to remove, transfer or otherwise dispose of such property in any manner except with the previous permission of that member, and such order shall be operative for a period of seven days and subject to any order made by the Court having jurisdiction in the matter: and

- (f) any contravention of an order made under clause (e) shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

CHAPTER-IV PROSECUTION

14. Prosecutor General.- The Prosecutor General shall advise the Commission on such legal matters including preparation and filing of references and perform such other duties of a legal character as may be referred or assigned to him by the Commission and in the performance of his duties, shall have the right of audience in all courts and tribunals in Pakistan, including the Supreme Court and the High Courts.

15. Appointment of Prosecutors.- (1) The Commission may appoint Additional Prosecutor Generals, Deputy Prosecutor Generals, Assistant Prosecutor Generals and other Prosecutors in accordance with the rules:

Provided that until rules are made, the Commission shall determine the qualifications and experience for appointment of the aforesaid Prosecutors.

(2) The Commission may engage, as and when required, special counsel and advocates to institute, conduct or defend cases, appeals, petitions, applications and all other matters before any court, in matters arising out of or relating to proceedings under this Act and shall determine the terms and conditions of their appointments.

(3) In case the Prosecutor General is absent or his office is vacant or he is unable to perform the functions of his office due to any reason whatsoever, the senior-most Prosecutor for the time being duly authorized by the Chairman shall act as the Prosecutor General.

(4) The Prosecutor General, the Additional Prosecutor General, the Deputy Prosecutor General, the Assistant Prosecutor General or any other person conducting a prosecution under this Act shall be deemed to be a public prosecutor within the meaning of the Code.

CHAPTER-V
OFFENCES AND PUNISHMENTS

16. Corruption and corrupt practices.- A holder of a public office is said to commit the offence of corruption and corrupt practices—

- (a) if he accepts or obtains from any person any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do, any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering any service to any person; or
- (b) if he accepts or obtains any valuable thing without consideration or for a consideration, which he knows to be inadequate, from any person whom he knows to have been, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by him or having any connection with his official functions or from any person whom he knows to be interested in or related to the persons so concerned; or
- (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person on his behalf, any property, amount or valuable thing entrusted to him, or under his control or willfully allows any other person so to do; or
- (d) if he by corrupt, dishonest or illegal means obtains or seeks to obtain for himself or any other person on his behalf, any property, valuable thing or pecuniary advantage; or
- (e) if he or any other person on his behalf possesses or has acquired right or title in any assets in respect of any assets disproportionate to his known sources of income, which he can not reasonably account for; or
- (f) if he misuses his authority by accepting bribe; or
- (g) if he issues any directive, policy, statutory order or other order which grants or attempts to grant any undue concession or benefit in any taxation matter or law so as to benefit himself or any other person.

17. Punishment for corruption and corrupt practices.- (1) Whoever is convicted of offence of corruption and corrupt practices shall, if the illegal gain derived by him is not fully recovered shall be sentenced to imprisonment for a term which may extend to seven years, or with fine, or with both:

Provided that in case the illegal gain derived by him is fully recovered he shall be sentenced to imprisonment for a term which may extend to three years, or with fine, or with both.

(2) The illegal gain derived by the person convicted of the offence of corruption and corrupt practices shall be forfeited to the appropriate Government or concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned, as the case may be, within thirty days.

(3) Where a holder of public office is convicted for the offence of corruption and corrupt practices and sentenced to a term of imprisonment for not less than two years, or fine, or with both,-

- (i) he shall stand disqualified from being elected or chosen as, and from being, a member of Parliament, a Provincial Assembly or any other elected body or from being appointed or nominated as a member or representative of any public body or any statutory or local authority or in the service of Pakistan for a period of five years reckoned from the date of his release after serving his sentence: and
- (ii) if such person is in the service of Pakistan or any autonomous body, organization, institution, concern or establishment controlled or administered by or under the Federal Government or a Provincial Government, shall stand dismissed from service without any pecuniary benefits and shall not be eligible to hold public office for five years from the date of his dismissal.

18. Voluntary return, etc.- (1) Notwithstanding anything contained in section 17 or in any other law for the time being in force, where a holder of public office or any other person on his behalf, prior to the reference has been filed or trial has commenced, 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 Act, the Commission may accept such offer after determination of the amount and deposit of such amount as directed by the Commission and shall discharge such person from all his liability in respect of the matter or transaction in issue.

(2) Where at any time after the trial has commenced or during the pendency of an appeal, the accused offers to return to the Commission the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Act, the Chairman may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the Commission the amount determined by the Commission, the Commission shall refer the case for the approval of the Court, or as the case may be, the Appellate Court. If the Court or Appellate Court, as the case may be, grants approval, the case shall stand closed and the accused if in custody shall be released.

(3) Notwithstanding the closure of his case under sub-section (2), such person shall be deemed to have been convicted of the offence of corruption and corrupt practices and-

- (i) shall stand disqualified from being elected or chosen as, and from being, a member of Parliament, a Provincial Assembly or any elected body or from being appointed or nominated as a member or representative of any public body or any statutory or local authority or in the service of Pakistan for a period of two years reckoned from the date the case is closed; and
- (ii) if such person is in the service of Pakistan or any autonomous body, organization, institution, undertaking, concern or establishment controlled or administered by or under the Federal Government or a Provincial Government, he shall stand dismissed from service without any pecuniary benefit and shall not be eligible to hold public office for a period of two years from the date of his dismissal.

CHAPTER-VI **COGNIZANCE AND TRIAL OF OFFENCE AND APPEAL**

19. Cognizance of offences, etc.— (1) The Court shall not take cognizance of an offence under this Act except on a reference made by the Chairman or an officer of Commission duly authorized by the Chairman in this behalf.

- (2) A reference under this Act may be initiated by the Commission on—
- (a) a complaint received from the appropriate Government; or
 - (b) a complaint received from a private person accompanied by attested copy of his Computerized National Identity Card, an affidavit supporting the allegations made in the complaint duly attested by the Oath Commissioner and his postal address; or
 - (c) its own accord.

(3) Where the Commission is of the opinion that it may be necessary to initiate proceedings on a complaint or on its own accord, as the case may be, it shall refer the matter for inquiry or investigation which shall be completed within ninety days or such extended period determined by the Commission not exceeding a further period of ninety days;

Provided that the inquiry or investigation if not completed in the aforesaid period shall stand closed for the purposes of sub-section (2).

(4) For purpose of inquiry and investigation, the Agency may, if it so deems fit, require the assistance of the Federal Government, a Provincial Government, local body, authority, agency, police officer or other officials, and such appropriate Government, local body, authority, agency, police officer or other officials shall render the requisite assistance.

(5) On the completion of the investigation, the Commission shall appraise the material and evidence submitted to it by the Agency in the form of a report as required under section 173 of the Code, and if it is satisfied that it is just and proper to proceed further and there is sufficient material and evidence to justify filing a reference, it shall file reference in the Court.

(6) The reference which shall be signed by the Chairman or other officer duly authorized by him, shall contain the substance of the offence or offences alleged to have been committed by the accused and a copy thereof alongwith the report referred to in sub-section (5) shall be forwarded to the registrar of the Court for further necessary action and the accused shall have the right to obtain copy of the reference from the Commission or the Court.

(7) If after appraisal of the report of the Agency, the Commission is satisfied that it is not just and proper to proceed further and there is insufficient material to justify filing of a reference against the holder of public office, the Commission shall reject the complaint after recording reasons and close the inquiry or investigation:

Provided that if the Commission for reasons to be recorded is of the opinion that it is a fit case for further inquiry or investigation it may refer the matter back to the Agency for further inquiry or investigation which shall be completed within thirty days of such reference.

(8) If the Commission is of the opinion that the complaint received by it was *prima facie* mala fide or frivolous or was filed with intent to malign or defame the holder of public office, it may, for reasons to be recorded in writing, refer the matter to the Court, and if the complainant is found guilty he shall be punishable for a term which may extend to two years, or with fine, or with both.

20. Arrest and bail- (1) Subject to sub-section (2) and sub-section (3), a holder of public office shall not be arrested before or during the inquiry or investigation.

(2) The holder of public office may be arrested with the approval of the Chairman if he fails to join the inquiry or investigation after due notice and subject to advice of the Prosecutor General.

(3) The Agency may, at any stage of the inquiry or investigation if satisfied after appraisal of the record that prima-facie case is made out against holder of public office, it may require him to furnish personal bond for appearance before it as and when required during inquiry or investigation:

Provided that if holder of public office after due notice fails to furnish the bond the Agency shall seek approval of the Chairman for his arrest on the advice of the Prosecutor General.

(4) Subject to sub-section (1), (2) and (3), the relevant provisions of the Code relating to arrest, remand and bail shall be applicable:

Provided that a woman accused of an offence under this Act shall be released on bail as if the offence is bailable, notwithstanding anything contained in the Code.

21. Establishment of Accountability Courts.- (1) For the trial of offences under this Act, the Federal Government may, by notification in the official gazette, establish one or more Accountability Courts.

(2) The Accountability Courts shall be presided over by a serving District and Sessions Judge to be appointed by the President of Pakistan in consultation with the Chief Justice of the High Court concerned for a period not exceeding three years.

(3) Where more than one Court have been established at any place, references shall be filed in the Court of a Judge designated by the High Court concerned as an Administrative Judge who may either try the case himself or assign it for trial by any other Court established at that place.

(4) The Court shall sit at such place or places as the Federal Government may, by order, specify in this behalf.

22. Trial of offences.- (1) Subject to sub-section (2) and notwithstanding anything contained in any other law for the time being in force, a holder of public office shall not be prosecuted for the offence of corruption and corrupt practices under this Act except before a Court and the case shall be heard and disposed of expeditiously within a period not exceeding one year.

(2) A holder of public office shall be tried by a Court in a Province from which he was elected and a person in the service of Pakistan or any statutory body or organization shall be tried in a Province where his place of duty is or was located at the time of commission of the offence.

Explanation.- In case of Islamabad Capital Territory reference to "Province" in sub-section (2) shall be read as reference to Islamabad Capital Territory.

(3) Where the holder of a public office and a person in the Service of Pakistan or any statutory body or organization are accused in the same reference the trial shall be held in the Province from which the holder of public office was elected.

(4) Where more than one holders of public office elected from different provinces are accused in the same reference, the trial shall be held at a place as the Commission may determine wherefrom any one of such holders of public office was elected.

(5) Any case not covered by sub-section (2), (3) or (4), the Commission shall determine the place of trial.

23. Protection of witness etc.- The appropriate Government, Commission or the Court, may, in the facts and circumstances of a case and within available resources take such measures as may be considered necessary for the safety, security and protection of witnesses, judges, public prosecutors, counsels and their families.

24. Provisions of the Code to apply, etc.- Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act, the provisions of the Code shall mutatis mutandis apply to the inquiry or investigation and other proceedings under this Act.

25. Qanun-e-Shahadat to apply.- The provisions of the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984) shall apply to the proceedings under this Act.

26. Accused to be competent witness.- An accused shall be a competent witness for the defence and may give evidence on oath in disproof of the charges against him:

Provided that the accused shall not be compelled to be a witness against himself.

27. Copy of judgment to be given to accused and Prosecutor.- In every case at the time of announcement of judgment, a copy of the judgment shall be given free of cost to the accused and the Prosecutor.

28. Appeal.- (1) Any person convicted, or the Prosecutor General if so directed by the Commission, aggrieved by the final judgment or order of the Court under this Act may, within thirty days of the judgment or the order, prefer an appeal to the High Court concerned:

Provided that no appeal shall lie against any interlocutory order of the Court, except against an order of freezing of property as provided for in section 31.

(2) An appeal under sub-section (1) shall be heard by a Bench of two Judges constituted by the Chief Justice of the High Court concerned and shall be finally disposed of within ninety days of the filing of the appeal.

29. Transfer of cases.- (1) In respect of any case pending before a Court, the Prosecutor General or any other Prosecutor authorized by him in this behalf or the accused may, in the interest of justice and having regard to the facts and circumstances of the case including the protection and safety of witnesses including the grounds mentioned in section 526 of the Code, apply-

(a) to the Chief Justice of the Supreme Court of Pakistan, for transfer from a Court in a Province to a Court in another Province: or

- (b) to the Chief Justice of the High Court of the Province, for transfer from one Court in a Province to another Court in the same Province,

and the Supreme Court or the High Court, as the case may be, may, in the interest of justice, transfer the case from one Court to another Court, and the case so transferred shall be tried under this Act without recalling any witness whose evidence may have been recorded.

(2) The provisions of sub-section (1) shall mutatis mutandis apply to the Islamabad Capital Territory.

(3) Where new Accountability Court(s) has been established at any place, the cases and proceedings pending before other Accountability Court(s) shall stand transferred to such newly established Court(s) relating to its territorial jurisdiction and it shall not be necessary for such Court(s) to recall any witness or again to record any evidence that may have been recorded.

30. Withdrawal from prosecution.- The Prosecutor General may, with consent of the Court, before judgment is pronounced, withdraw from the prosecution of any accused either generally or in respect of one or more of the offences for which he is tried and upon such withdrawal if it is made-

- (a) before a charge has been framed, the accused shall be discharged in respect of such offence or offences; and
- (b) after a charge has been framed, he shall be acquitted in respect of such offence or offences.

CHAPTER-VII POWERS OF THE COMMISSION

31. Power to freeze property.- (1) The Commission or the Court trying an accused for any offence under this Act, may, at any time if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property or part thereof, in his possession.

- (2) If the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made-
 - (i) by attachment; or
 - (ii) by prohibiting the sale of such property to any person; or
 - (iii) by prohibiting the payment of rent of such property to any person; or

(iv) by appointing a receiver for on going business.

(3) If the property ordered to be frozen is immovable, the freezing may be made by-

- (i) attachment; or
- (ii) prohibiting sale of such property to any person; or
- (iii) prohibiting of payment of rent of such property to any person; or
- (iv) any other method as the Court may deem fit in the interest of justice:

Provided that any such order by the Commission shall remain in force for a period not exceeding fifteen days unless confirmed by the Court where the reference under this Act is to be sent by the Commission:

Provided further that notwithstanding anything to the contrary contained herein, the order of the Commission or the Court shall be effective from the time of passing thereof or proclamation thereof in a newspaper widely circulated and dispatched at the last known address of the accused either by registered post acknowledgment due or courier service or electronic media as the Court may deem proper having regard to the facts and circumstances of the case.

(4) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Commission or the Court may, if it deems proper and expedient, order immediate sale thereof and proceeds of the sale may be deposited with the Commission or the Court, as it may direct and deem appropriate.

(5) The powers, duties and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(6) The order of freezing provided for in sub-sections (1) to (5) shall remain operative until final disposal of the case by the Court and in the event of the acquittal of the accused shall continue to remain operative for a period of thirty days after pronouncement of judgment or order, whereafter it shall be subject to an order by the Court in which an appeal, if any, is filed.

(7) Any fine or other sum due under this Act as determined to be due by the Court shall be recoverable through sale by auction after public notice subject to confirmation by the Commission or the Court, as the case may be, and balance, if any, shall be returned to the owner of the property.

32. Claim or objection against freezing.- (1) Notwithstanding the provisions of any other law for the time being in force, the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under section 32.

(2) Claims or objections against the freezing of any property shall be made before the Court within thirty days from the date of the order of freezing such property:

Provided that the Court may, for sufficient cause, extend the time for filing such claims or objections for a period not exceeding fifteen days.

(3) The accused or any other aggrieved party, whose claim or objection against freezing of property has been dismissed by the Court, may within thirty days file an appeal against such order before the High Court concerned.

33. Transfer of property void.- (1) Notwithstanding anything contained in any other law, for the time being in force, after the Commission has initiated an inquiry or investigation into any offence under this Act alleged to have been committed by holder of public office, he shall not transfer by any means whatsoever, or create a charge on, any property owned by him or in his possession while the inquiry, investigation or proceedings are pending before the Commission or the Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void unless the transfer is made with the prior approval of the Commission or the Court subject to such terms and conditions as the Commission or Court, as the case may be, deems fit.

(2) Any person who transfers or creates a charge on property in contravention of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year and shall be liable to fine not exceeding the value of the property involved.

34. Power to order production of documents, call for information and seek assistance.- (1) The Commission or any officer duly authorized by it in writing may, during the course of an inquiry or investigation of an offence under this Act-

- (a) require any person to produce or deliver any document or thing or information considered by the Commission to be useful or relevant to the inquiry or investigation:

Provided that no order shall be issued requiring the production of any document or thing or information which is in the custody of a bank or banker as defined in the Bankers Books Evidence Act, 1891 (XVIII of 1891) and relates or might disclose any information which relates to the bank account of any person, except with the prior permission in writing of the Court;

- (b) examine any person acquainted with the facts and circumstances of the case; and

- (c) seek assistance from any department of the Federal Government, Provincial Government, local authority, bank, financial institution, person or any authority and institution or department in the public sector or the private sector for disposal of any property surrendered to or seized by the Commission.

(2) The copies of documents obtained or information received or evidence collected under clauses (a), (b) or (c) shall be kept confidential and shall not be used for any purpose other than for legal proceedings under this Act.

35. Measures for the prevention of corruption and corrupt practices.- The Commission shall, from time to time as it deems fit, constitute committees comprising officers of the Commission or other persons or organizations from the private or public sector to-

- (a) educate and advise public authorities, holders of public office and the community at large on measures to combat corruption and corrupt practices;
- (b) develop, arrange, participate in or conduct educational programmes or media campaigns and generally to disseminate information on the detrimental effect of corruption and corrupt practices and the importance of maintaining the integrity of public administration; and
- (c) advise and assist any statutory or other public corporation or bodies or, upon request, any organization in the private and public sector on measures for the reduction and elimination of corruption and corrupt practices.

36. Commission to submit an annual report.- The Commission, through the Chairman, shall in the month of January every year submit to the Parliament a report of its affairs for that year, which report shall be public document and on its publication copies thereof shall be provided to the public at a reasonable cost.

37. Applicability of other laws.- (1) In cases where a holder of public office who commits an offence punishable under this Act is also liable under any other law for the time being in force and the amount involved in the offence is less than fifty million rupees, the Commission shall direct that such person shall be proceeded against under such other law and not under this Act.

(2) Where the Commission issues a direction under sub-section (1), it may require the concerned authority designated in the other law to submit a report regarding action taken in the matter against the accused by a specified date.

38. International cooperation and request for mutual legal assistance.— (1) The Federal Government, the Commission or if so authorized by the Commission any Member or officer of the Commission, may request a Foreign State to do the following acts in accordance with the law of such State-

- (a) have evidence taken, documents, articles, assets or proceeds produced; and
- (b) transfer to Pakistan any such evidence, documents, articles, assets or proceeds realized from the disposal of such articles or assets.

CHAPTER-VIII MISCELLANEOUS

39. Acts in good faith.— No suit, prosecution or any other proceedings shall lie against the Federal Government, Provincial Government, Chairman, or any other member of the Commission or any person exercising any power or performing any function under this Act or the rules made thereunder for any act or thing which has been done or intended to be done in good faith under this Act or the rules thereof.

40. Overriding effect to other laws.— The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

41. Protection against retrospective punishment.- Nothing contained herein shall authorize the punishment of a person for an offence by a penalty greater than, or of a kind different from, the penalty prescribed by law for that offence at the time the offence was committed and the Court while imposing a penalty may, if necessary, modify it to such extent as may be necessary.

42. Power to make rules.- The Federal Government may, in consultation with the Commission and by notification in the official Gazette, make rules for carrying out the purposes of this Act.

43. Limitation period for initiating inquiry or investigation.- The Commission shall not inquire or investigate into any complaint, if the same is made after the expiry of a period of ten years from the date on which the offence mentioned in such complaint is alleged to have been committed:

Provided that this provision shall apply to acts of corruption and corrupt practices committed on and after the date of commencement of this Act.

44. Repeal and savings.- (1) The National Accountability Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the Ordinance, the National Accountability Bureau (Recovery and Reward) Rules, 2002, the National Accountability Bureau (NAB)

Employees Terms and Conditions of Services (TCS), 2002 and other rules, orders and notifications issued under the Ordinance are hereby repealed.

(2) On the commencement of this Act,-

- (a) the Accountability Courts established under the Ordinance, shall be deemed to be Accountability Courts established under this Act and Judges of such courts who do not qualify to be a Judge under this Act shall stand repatriated to concerned High Courts;
- (b) except as provided in clause (e), all cases pending before an Accountability Court under the Ordinance immediately before the commencement of this Act, shall stand transferred to the Court having jurisdiction under this Act and such Court shall, without the necessity of recalling any witnesses, proceed with the cases from the stage at which they were pending;
- (c) except as provided in clause (d), all inquiries and investigations initiated and being conducted by the National Accountability Bureau under the Ordinance alongwith all record shall stand transferred to the Commission for necessary action in accordance with the provisions of this Act;
- (d) any inquiry or investigation relating to willful default pending with the National Accountability Bureau under the Ordinance shall be referred to FIA or any other relevant agency for inquiry or investigation and proceeding under the law, rules or regulations relating to recovery of loan of any bank, financial institution, co-operative society, Government department or a statutory body or an organization or authority established or controlled by a Government, as the case may be;
- (e) the cases of willful default pending before an Accountability Court or in appeal under the Ordinance shall be tried and disposed of under the provisions of the Ordinance as if the Ordinance has not been repealed for the aforesaid purpose;
- (f) all employees serving on deputation or on attachment with the National Accountability Bureau and in the Accountability Courts under the Ordinance, shall stand repatriated to their parent departments;
- (g) the services of contract employees under the Ordinance shall stand terminated on one month notice or one month pay in lieu thereof;

(h) the employees appointed under the Ordinance, other than those on deputation, attachment or on contract, shall be transferred to the Establishment Division to be retained in a surplus pool to be set up by that Division for the purpose and adjusted in other Ministries / Divisions / Departments and Organizations under the Government:

Provided that any such employee whose services are required by the Commission may be retained on the same terms and conditions which shall not be varied to his disadvantage:

(i) all assets, rights, privileges and all properties, movable and immovable, cash and bank balance, reserve funds and all interests and rights in or arising out of such properties and all debts, liabilities and obligations of whatever kind of the National Accountability Bureau under the Ordinance subsisting immediately before the commencement of this Act shall stand transferred to the Commission.

45. Removal of difficulty.- (1) If any difficulty arises in giving effect to any provision of this Act, the Federal Government may, by order, published in the official gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after expiry of the period of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, before each House of the Parliament.

STATEMENT OF OBJECTS AND REASONS

The Bill is designed to repeal the National Accountability Ordinance, 1999 (XVIII of 1999) and to enact a new law of accountability, providing for the establishment of National Accountability Commission for inquiry, investigation, prosecution and expeditious disposal of cases relating to corruption and corrupt practices in a just and fair manner, and for matters connected therewith and incidental thereto.

The Bill is designed to achieve the said objects

MR. FAROOQ H. NAEK
Minister for Law, Justice and Parliamentary Affairs
Member-in-Charge