

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

further to amend the Foreigners Act, 1946.

WHEREAS it is expedient further to amend the Foreigners Act, (XXXI of 1946), for the purposes hereinafter appearing.

It is hereby enacted as follows:-

1. **Short title extent and commencement.**- (1) This Act may be called the Foreigners (Amendment) Act, 2010.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XXXI of 1946.**- In the Foreigners Act, 1946 (No. XXXI of 1946), hereinafter referred to as the said Act, in section 2, after paragraph (c), the following new paragraphs shall be inserted, namely:-

“(d) “Asylum Seeker” means a person who seeks recognition and protection as a refugee.”

(e) ‘Refugee’ (i) Any person who is outside his country of origin, and who is unable or unwilling to return to, and is unable or unwilling to avail himself of the protection of that country because of a well-founded fear of persecution on account of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion.

(ii) Any person who is owing to external aggression, occupation, foreign domination, serious violation of human rights or other events seriously disrupting public order in either part or whole of his country of origin, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin.

(f) “Endorsing Authority” means, United Nations High Commissioner for Refugees, National Aliens Registration Authority, Commissionerate for Afghan Refugees or any other authority established or recognized by the Federal Government.”

3. **Insertion of new section 10A, Act XXXI of 1946.**- In the said Act, after section 10, the following new section shall be inserted, namely:-

“10A.- The letter of concern, permit, card or any other document, determining the status, issued to person defined in paragraphs (d) and (e) of section 2, by the Endorsing Authority empowered to do so shall be considered as legal permission to stay in Pakistan and the penal provisions of this Act shall not apply to him.”

4. **Amendment of section 11, Act, XXXI of 1946.**- In the said Act, in section 11 for sub-section (3), the following be substituted namely:-

“(3) Any police officer or authority empowered under this section, shall obtain search warrant from the court to enter into a dwelling house or property.”

5. **Amendment of section 14B, Act, XXXI of 1946.**- In the said Act, in section 14B, in clause (ii), for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that asylum seeker whose case is pending for the determination or status with the Endorsing Authority defined in section 2 (f), shall not be deported unless his case is finally disposed.”

6. **Omission of section 15, Act, XXXI of 1946.**- In the said Act, section 15 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Pakistan has a successful track record of hosting refugees since its independence. It performed the task of managing influx of refugees fairly well in 1947 and 80s respectively. In case refugees migrated from India in 1947 Pakistan adopted certain legal instruments to deal with the issue, but in case of Afghan refugees, Pakistan failed to introduce an proper enactment. Since there is no refugee specific law, asylum seekers and refugees are dealt with under adhoc administrative arrangement, which are generally discriminatory. Pakistan is neither signatory to the 1951 Convention relating to the statutes of refugees and the 1967 protocol; nor there is any substantial law or policy on refugees. Therefore, all kind of refugees are considered as illegal aliens and are dealt under the Foreigners Act, 1946, which is in fact of a limited nature undermining refugees and has no feature for the protection of refugees. The purpose of this amendment bill is to cover the lacunas of the prevailing Foreigners Act, 1946, with an aim to ensure better protection of foreigners in general and refugees in particular. It would also serve the purpose of recognition of the term asylum seeker and refugees in the existing protection of refugees and foreigners in Pakistan. Introduction of these amendments would also earn applause of international comity that always asked for taking legislative measures to ensure refugees protection in Pakistan.

2. The Bill seeks to achieve the aforesaid objectives.

Sd/-

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