

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

*to repeal the National Accountability Ordinance, 1999, abolish all anti-corruption Establishments and to enact new law of accountability.*

Whereas it is expedient to repeal the National Accountability Ordinance, 1999 (XVIII of 1999) and to enact new law of Accountability, providing for accountability of holders of public office in just, transparent and non-oppressive manner;

It is hereby enacted as follows: -

1. **Short Title, Extent and Commencement.**- (1) This act may be called The Holders of Public Exchequer (Accountability) Act 2015.
- (2) It shall extend to the whole of Islamic Republic of Pakistan.
- (3) It shall come into force from the first day of January 1985.

CHAPTER- 1

PRELIMINARY

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

- (a) "Appropriate Government" means the Federal Government, the Provincial Government or the local Government, or as the case may be;
- (b) "Assets" means any property owned, controlled by or belonging to any accused; children whether dependants or not; spouse; parents; brothers and sisters whether directly or indirectly, or held benami whether within or outside Pakistan which he cannot reasonably account for or for which he cannot prove payment of full and lawful consideration;
- (c) "Benamidar" means any person who ostensibly holds or is in possession or custody of any property of any accused on his behalf for the benefit and enjoyment of the accused;
- (d) "Chairman" means the Chairman of the Accountability Commission appointed under the provisions of this Act;
- (e) "Code" means the Code of Criminal Procedure, 1898(Act V of 1898);
- (f) "Commission" means the Accountability Commission established under this Act;
- (g) "Court" means Bench of three or more Judges of High Court nominated by the Chief Justice of the High Court for the trial of offences under this Act;
- (h) "enquiry" means an enquiry upon a matter received under the provisions of this Act;
- (i) "Holder of Public Office" means any person who has drawn any or some benefit from public exchequer in any scale or grade or in any office or position and shall include all whether elected, nominated, selected or under any contractual obligations where public exchequer is wholly or partially involved. It shall include any person who has held office in any service of Pakistan or has rendered any service in connection with the affairs of the Federal, Provincial or the local governments, or the co-operative societies or in the management of corporations, banks or any financial institutions, firms, or any other institution or organization

established, controlled or administered by the Federal or Provincial Governments or the case may be. It shall extend and apply to member in the Armed Forces of Pakistan including Air Force and Navy and to all the Members of Judiciary whether in service or retired or performing any services whether judicial or advisory;

- (j) "investigation" means an enquiry approved for a reference by the Commission and includes the collection of evidence for successful prosecution;
- (k) "Member" means member of the Commission;
- (l) "Officer" means a person who is selected for a post in the Commission through a process of selection by the Federal Public Service Commission; or as the case may be;
- (m) "Parliamentary Electoral Committee" means the committee specially constituted for one time for the Selection of Chairman; Deputy Chairmen and Advisors;
- (n) "Property" includes movable and immovable property situated whether in or outside Pakistan; and
- (o) "Public Exchequer" includes loans, shares, term certificates and debentures obtained from national and international financial institutions; aids, grants and donations received by the Government of Pakistan as the case may be.

## CHAPTER 2

### THE ACCOUNTABILITY COMMISSION

**3. The Accountability Commission**.- (1) As soon as possible after commencement of this Act, there shall be an Accountability Commission for the purposes of enquiry, investigation, probe and prosecution of offences under this Act.

(2) The Headquarter of the Commission shall be at Islamabad with ten Regional offices which shall be established at such places as are considered necessary by the Commission;

Provided that three Regional offices shall be in Punjab, two in Sindh; two in Khyber Pakhtun Khwa; one in Baluchistan and one in Federal Capital Territory with such areas as may be included in its region.

(3) The Commission shall consist of the one Chairman, ten Deputy Chairmen, two financial experts or Chartered Accountants and Six(6) Advisors to be its members who are known for their professional competence and integrity.

**4. Chairman & Deputy Chairmen**.- (1) There shall be a Chairman and Ten Deputy Chairmen of the Commission duly elected by a majority vote by the Election Commission of Pakistan through a secret ballot.

(2) The Election Commission of Pakistan shall publicize and invite nominations from all over the country and will forward such nominations to the Scrutiny Committee of the Parliamentary Electoral Committee which will shortlist candidates.

(3) Parliamentary Electoral Committee shall consist of :

- (a) The Prime Minister;
- (b) Leader of Opposition;
- (c) Chairman Senate;
- (d) Speaker National Assembly;
- (e) Minister for Law Justice and Human Rights;

- (f) All Serving Judges of the Supreme Court of Pakistan;
- (g) All Serving Judges of the High Courts of Pakistan;
- (h) Chairman or the President of all the Political Parties duly registered with the Election Commission provided that such head of the party has ever been elected in any Assembly either in a province or Pakistan;
- (i) Chief Ministers of Four Provinces;
- (j) Leaders of Opposition in Four Provincial Assemblies;
- (k) Chief of Army Staff, Air Staff & Naval Staff;
- (l) Ten Members of National Assembly to be nominated by the Speaker;
- (m) Four Members of Senate to be nominated by the Chairman; and
- (n) Secretary Establishment.

(4) The Chief Election Commissioner of Pakistan shall immediately publish a list of names of the parliamentary electoral committee in the official gazette.

(5) The Chief Election Commissioner shall formulate a scrutiny committee from amongst the members of the Parliamentary Electoral Committee which shall not exceed more than ten members.

(6) The Scrutiny Committee shall shortlist candidates within 15 days and will send its recommendations to the CEC who shall publish such list in the gazette. Thereafter, within 7 days through a secret ballot, an Accountability Commission shall be established.

(7) Chief Election Commissioner shall dissolve both the committees once the Commission has been established save for the election of 6 Advisors. The election of the Commission shall be a onetime affair and thereafter no other institution in Pakistan shall have any role to play in the Commission save for the election of Advisors.

(8) The Commission shall make rules for the smooth functioning and day to day affairs. It shall immediately formulate the seniority list of its deputy chairmen and other officers. The Commission shall make rules for the creation of new independent services group in the services of Pakistan and the Federal Public Service Commission shall conduct those examinations.

(9) No officer from any other Division or service group shall be allowed to serve in any capacity in the Commission on deputation basis; neither will an officer of the Commission be allowed to serve in any other department in the services of Pakistan.

(10) The Deputy Chairmen of the Commission will serve on the basis of seniority, performance and services to the Commission. Thereafter, the senior most Deputy Chairman would become the Chairman and would take charge of the office on the afternoon of the last day of the office of the Chairman.

(11) The term of the Chairman and Advisors shall be for a period of four years and shall not be eligible for any extension of service or reappointment. The Deputy Chairmen shall retire at the age of 65 years.

(12) The salary and the privileges of the Chair man shall be equivalent to that of the Chief Justice of the Supreme Court of Pakistan and of Deputy Chairmen and Advisors shall be equivalent to that of the Chief Justices of the Provincial High Court.

(13) The Chairman may resign from office by writing under his hand to the Commission and upon presentation of resignation, it shall be deemed to have been accepted. The Deputy Chairman may resign from office by writing under his hand addressed to the Chairman and it shall deem to have been accepted upon presentation.

(14) The Chairman or the Deputy Chairman may be removed from office on the ground of misconduct or being incapable of performing the duties of his office in the manner specified in Article 209 of the Constitution.

(15) At any time when the Chairman is absent or unable to perform the functions of his office due to any other cause, the most senior Deputy Chairman shall act as Acting Chairman.

(16) The Commission may engage experts, professionals and consultants on such terms and conditions deemed appropriate on case to case basis or as the case may be; provided that there is a specific issue and the services of such experts are essential for the successful prosecution or assistance to the Commission for the prosecution.

(17) The Commission shall make its own budget and the Federal Government shall present the budgetary demands of the Commission to the Parliament. The budget of the Commission shall be subject to the rules and regulations of the office of the Auditor General of Pakistan.

(18) The Commission or the staff or the informer shall be entitled to receive an amount of ten percent (10%) of the amount recovered by virtue of its efforts as a reward.

(19) In case of a tie or conflict in the seniority of the Deputy Chairmen, the Parliamentary Electoral Committee shall elect the new chairman from amongst the panel of Deputy Chairmen.

**5. Chief Prosecutor** - (1) The Commission may appoint a Chief Prosecutor who is qualified and the services of prosecutors on full-time basis or part-time basis or case to case on such terms and conditions as deemed appropriate by the Commission.

(2) The Chief Prosecutor shall hold independent office on a full-time basis and shall not hold any other office concurrently.

(3) Any office holder may by writing under his hand resign from his office and the resignation shall be addressed to the Chairman.

(4) The Chief Prosecutor may be removed from the office by the Commission itself by a majority vote provided there are substantive grounds warranting his removal.

(5) The Chief Prosecutor shall advise the Commission on the matters and perform such other functions as may be referred or assigned to him by the Chairman or Commission or as the case may be. He shall be the head of the prosecution of the Commission and shall conduct day to day affairs of the prosecution.

(6) On the recommendations of the Chief Prosecutor, the Commission may appoint Additional Prosecutors for the Regional offices on such terms and conditions as are deemed appropriate.

**6. Appointment of members of the staff and officers** - (1) The members of the staff and officers of the Commission shall be appointed by the Commission and the Federal Public Service Commission respectively.

(2) The Members of the staff and officers of the Commission shall be entitled to such salary, allowances, perks and privileges as the Commission shall determine.

## CHAPTER 3

## OFFENCES AND PUNISHMENTS

7. **Corruption and corrupt practices.**- (1) A holder of public office is said to commit the offence of corruption and corrupt practices;

- (a) if he accepts or obtains from any other person any gratification, other than the legal remuneration, as a motive or reward such as is specified in section 161 of the Pakistan Penal Code (Act XLV of 1860), for doing or forbearing to do any functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person;
- (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 to have been, or likely to be, concerned in any proceedings 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 person so concerned;
- (c) if he by corrupt, illegal and dishonest means, obtains or seeks to obtain for himself any property, valuable thing or pecuniary advantage;
- (d) if dishonestly or fraudulently misappropriates or otherwise converts for his own use or for the use of any other person, any property, amount or valuable things entrusted or under his control or will fully allows any other person so to do ;
- (e) if he or any of his dependents or benamidars own, possess or has acquired a right or title in any asset or holds irrevocable power of attorney in the respect of any asset or pecuniary resources disproportionate to his own sources of income which he cannot reasonably account for;
- (f) if he or any of his dependants enjoy a luxurious lifestyle which he cannot possibly account for all or cannot reasonably justify for the declaration he had declared in his assets or those of his dependants or benamidars;
- (g) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860),and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person or to himself;
- (h) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or a valuable security entrusted to him by the members of the public at large;
- (i) if he commits an offence of Willful Default. A holder of public office is said to commit an offence of the Willful default under this Act if he does not pay, or continues not to pay, or return or repay the amount exceeding One million rupees due from him to any bank, financial institution, cooperative society, government department, statutory body or an authority established or controlled by a government on that date that it became due as per agreement containing the obligation to pay, return or repay or according to the laws, rules, regulations, instructions, issued or notified by the State bank of Pakistan, or the bank, Financial institution, co-operative society, government department, statutory body or an authority established or controlled by a government, as the case maybe and a thirty days notice has been given to such person or holder of public office;

Provided that the minimum limit of the amount as aforesaid shall not apply to pending cases or cases under inquiry or investigation before the commencement of this Act;

Provided further that it is not willful default under this act if a holder of public office was unable to pay, return or repay the amount as aforesaid on account of any willful breach of agreement or obligation or failure to perform statutory duty on the part of any bank, financial institution, corporate society, or a department or authority established or controlled by the government;

Provided further that in the case of default concerning a bank or financial institution a seven days notice has also been given to such person or holder of public office by the governor state bank of Pakistan;

Provided further that the aforesaid 30 days or seven days notice shall not apply to cases pending trial at the time of the commencement of this Act.

Explanation: In this case dependent in relation to a holder of a public office means his wife, children, step children, parents, brothers and sisters.

- (j) if he maintains an account in any bank or financial institution in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which have been not declared and accounted for;
- (k) if holds an office of profit or interest in any company or organization established in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for;
- (l) if he owns any property whether free hold, lease hold or even in the form of license, assets, shares or any interest in any company based in a foreign country, whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for;
- (m) if he carries out business including any commercial activity in any organization or establishment based in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for; and
- (n) if he by virtue of his office uses his influence to dispossess or repossess any asset or purchases any asset for less than its lawful consideration.

(2) Any person who aids, assists, abets, attempts or acts in conspiracy with a holder of public office accused of an offence as provided in clauses supra of subsection (1) shall be said to have committed the offence of corruption and corrupt practices and punished accordingly.

**8. Punishment for corruption and corrupt practices.**- A person who commits the offence of corruption or corrupt practices shall be punishable with imprisonment for life and fine. He shall be deemed to be guilty of high treason and shall be punished with the offence of capital punishment as envisaged in the Article 6 of the Constitution. And such of the assets of such person, whether in his name or in the name of his benamidar

