

[AS PASSED BY THE SENATE]

A

BILL

further to amend the Pakistan Electronic Media Regulatory Authority Ordinance, 2002

WHEREAS, it is expedient further to amend the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002), 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 Electronic Media Regulatory Authority (Amendment) Bill, 2023.

(2) It shall come into force at once.

2. Amendments of preamble, Ordinance XIII of 2002. — In the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002), hereinafter referred to as the said Ordinance, in the preamble,—

(i) for clause (ii), the following shall be substituted; namely: —

“(ii) enlarge the choice available to the people of Pakistan in the media for authentic news, current affairs, religious knowledge, tolerance, art, culture, science, technology, economic and energy development, social sector concerns, music, sports, drama, children content and other subjects of public and national interest;”;

(ii) in clause (iii), the word “and”, occurring at the end, shall be omitted;

(iii) in clause (iv), after semi-colon, at the end, the word “and” shall be added and thereafter the following new clause shall be added, namely:-

“(v) ensure timely payment of salary to the electronic media employees working with the licensee of the Authority;”.

(iv) after proposed clause (v), the following new clause shall be added, namely:-

"(vi) ensure fair, transparent, and independent rating to broadcasters for their TV channels."

3. Amendments of section 2, Ordinance XIII of 2002. — In the said Ordinance, in section 2,—

(i) in clause (g), for the expression "Ordinance, 1984 (XLVII of 1984)", the expression "Act, 2017 (XIX of 2017)" shall be substituted;

(ii) the existing clause (ha), shall be renumbered as clause (haa), and after clause (h), the following new clause shall be inserted, namely:-

"(ha) "disinformation" means verifiably false, misleading, manipulated, created or fabricated information which is disseminated or shared with the intention to cause harm to the reputation of or to harass any person for political, personal, or financial interest or gains without making an effort to get oilier person's point of view or not giving it proper coverage arid space but does not include misinformation;"

(ii) the existing clause (la), shall be renumbered as clause (laa), and after clause (1), the following new clause shall be inserted, namely:-

"(la) "misinformation" means verifiable false content or information that is unintentionally disseminated or shared;"

(iii) after clause (he), the following new clause shall be inserted, namely: -

"(hd) "electronic media employee" shall mean and include a person working as an employee with the licensee of the Authority;"

(iv) (in clause (r), for the word "corporation", the expression ".corporation or public body" shall be substituted;

(v) after clause (u), the following new clause shall be inserted, namely: -

"(ua) "severe violation" means a violation of this Ordinance or violation of Article 19 of the Constitution of the Islamic Republic of Pakistan;"

(vi) in clause (v), the word "and", occurring at the end, shall be omitted;
and

(vii) after clause (v), amended as aforesaid, the following new clause shall be inserted, namely: -

"(va) "timely payment of dues means the payment of dues when made to the electronic media employee within two months; and".

3A. Amendment of section 4, Ordinance XIII of 2002.- In the said Ordinance, in section 4, after sub-section (3), the following new subsection shall be added, namely:-

"(4) The Authority by registering rating companies shall ensure that a fair, transparent, and independent forums shall issue rating to the licensees."

4. Amendments of section 6, Ordinance XIII of 2002.— In the said Ordinance, in section 6,—

(a) after sub-section (2), the following new sub-section (2A) shall be inserted, namely:-

"(2A) The division to which business of this Ordinance stands allocated shall recommend a panel of five candidates fulfilling the conditions of sub-section (2) and send it to a parliamentary committee consisting of four members two from the National Assembly and two from the Senate to be nominated by the Speaker of the National Assembly and the Chairman of the Senate respectively out of which one shall be from the treasury benches and one from the opposition in each House and the parliamentary committee shall consider the panel and recommend one candidate for appointment by the President under sub-section (1) and where the parliamentary committee fails to recommend within thirty days of receipt of the panel any person, the division concerned shall forward the panel to the Prime Minister who shall recommend to the President the candidate eminently suited to be appointed as Chairman by the President:

Provided that at any time when the National Assembly stands dissolve, all members of the parliamentary committee shall be from the Senate nominated by the Chairman Senate."; and

(b) for sub-section (4A), the following shall be substituted, namely:-

"(4A). The remaining two members shall, by the division to which business of this Ordinance stands allocated, be appointed on need basis on recommendation of the Chairman

and they shall be non-voting honorary members, one from broadcasters and one from Pakistan Federal Union of Journalists (PFUJ).”.

5. **Amendments of section 8, Ordinance XIII of 2002.**— In the said Ordinance, in section 8,—

- (i) after sub-section (3), the following new sub-section shall be inserted, namely: -

“(3A) Meetings of the Authority may also take place through modern devices including but not limited to video link.”; and

- (ii) in sub-section (5), the words “and shall identify the determination of the Chairman and each member separately” shall be omitted.

6. **Amendment of section 11, Ordinance XIII of 2002.**— In the said Ordinance, in section 11, for the words “it may deem fit”, the words “may be prescribed by regulations” shall be substituted.

7. **Substitution of section 13, Ordinance XIII of 2002.**— In the said Ordinance, for section 13, the following shall be substituted, namely: -

“13. **Delegation.**— The Authority may delegate to the Chairman or a member or officer of the Authority, any of its powers, responsibilities or functions under this Ordinance as it may by regulations prescribe:

Provided that the delegation of such power shall not include the power to grant, revoke or cancel a broadcast media or distribution service licence except cable TV:

Provided further that to the extent of suspension of broadcast media licence, the Authority may delegate its power to Chairman and two members of the Authority.”.

8. **Amendment of section 20, Ordinance XIII of 2002.**— In the said Ordinance, in section 20,—

- “(a) in clause (e), the expression “and such content will be in addition to preamble, and the licensee will also submit an annual compliance report to this effect or as and when required by the Authority ;” shall be added at the end; and

- (b) after clause (i), for the full stop, at the end, a semi-colon shall be substituted and thereafter the following new clauses shall be added, namely:-

(j) not air disinformation;

(k) ensure that during a regular programme a continuous break for advertising shall not exceed five minutes and duration between two such successive breaks shall not be less than ten minutes; and

(l) ensure that the content of the channel available on electronic media, including logo and name, etc. shall not vary, alter, substitute, tempered on digital media or any other similar forum.”.

9. Insertion of new sections 20A and 20B, Ordinance XIII of

2002.— In the said Ordinance, after section 20, amended as aforesaid, the following new sections shall be inserted, namely: -

“20A. Obligation of licensee to pay electronic media employees’ dues timely.— The licensee of the Authority shall ensure timely payment of **dues** not later than two months to the electronic media employees working with it.

20B. Government advertisements.— A licensee of the Authority shall comply with all decisions and orders of the Authority and the Council of Complaints for payment of outstanding **dues** to its employees. In case of non-compliance by the licensee, the Authority or, as the case may be, the Council of Complaints shall write to the division or department of the Federal Government or, as the case may be, the Provincial Government to which stands allocated the business in this behalf to stop release of TV or radio commercials to the licensee till the payment of pending **dues** to its employees.”.

10. Amendments of section 24, Ordinance XIII of 2002.— In the said Ordinance, in section 24,—

(i) for sub-section (4), the following shall be substituted, namely: -

“(4) A licence of broadcast media shall be valid for a period of twenty years and distribution service licence shall be valid for a period not exceeding ten years from the issuance date subject to payment of annual fee, including late payment fee if any as may be prescribed from time to time but shall not include annual gross advertisement revenue in any form whatsoever.”; and

(ii) after sub-section (4), substituted as aforesaid, the following new sub-section shall be inserted, namely: -

"(4A) Licence renewal fee shall be fifty percent of applicable fee of last bid price of the same category but shall not include annual gross advertisement revenue in any form whatsoever."

11. Substitution of section 26, Ordinance XIII of 2002.— In the said Ordinance, for section 26, the following shall be substituted, namely:-

"26. Councils of Complaints.— (1) The Federal Government shall, by notification in the official Gazette, establish Councils of Complaints for general public, bodies, etc. and for grievance of the electronic media employees regarding their wages, salaries, dues, etc. at Islamabad, the Provincial capitals and also at such other places as the Federal Government may determine.

(2) Each Council shall receive and review complaints made by persons or organizations from general public against any aspects of programmes broadcast or distributed by a station established through a licence issued by the Authority and render opinions on such complaints.

(3) Each Council shall receive and review complaints made by the electronic media employees to the extent of the following matters only, namely:-

(a) payment of minimum wages policy; and (b) timely payment of their salaries,

and the Council shall render opinions and recommendations on such complaints to the Authority for appropriate decision or order.

(4) Each Council shall consist of a Chairperson and five members being citizens of eminence, having relevant experience and qualification as may be prescribed, from general public at least two of whom shall be women.

(5) The Chairperson or members, unless earlier removed for misconduct or physical or mental incapacity, shall hold office for a term of two years and shall be eligible for re-appointment for a similar term as the Federal Government may determine:

Provided that the Chairperson or a member may, by writing under his hand addressed to the Chairman, resign from his office:

Provided further that the Chairperson and members shall hold honorary positions.

Explanation.— For the purposes of this section, the expression "misconduct" means conviction for any offence involving moral turpitude and includes conduct prejudicial to good order, political influence or involvement, or unbecoming of a gentleman, or absence from three or more successive meetings of the Council.

(6) For the purpose of exercising jurisdiction under subsection (3) for grievances of the electronic media employees, in each Council, two non-voting honorary members shall be appointed by the division to which business of this Ordinance stands allocated, one from broadcasters and one from electronic media employees, who shall serve to that extent only.

(7) The Councils shall have the powers to summon the complainant, aggrieved person and the licensee against whom a complaint has been made and call for his or its explanation regarding any matter relating to its operation.

(8) The functions and operation of the Councils shall be such as may be prescribed.

(9) The Councils may recommend to the Authority for imposition of a fine of not less than two hundred thousand rupees and not more than one million rupees against any individual person. The Councils may also recommend to the Authority appropriate action of censure, fine up to two million rupees in respect of a licensee. In case a licensee repeats violation, the Council may recommend the suspension of the licence or prohibition on broadcasting or rebroadcasting or distributing any programme or advertisement against a broadcast media, broadcast station or distribution service operator or person for violation of the provisions of this Ordinance, rules and regulations made thereunder or any terms and conditions of licence and code of conduct for programme content and advertisements as may be prescribed.

(10) The Authority or the Chairman may refer any matter to the Council for appropriate recommendations.

(11) The Council shall verify the content of disinformation on the basis of documentary evidence and make appropriate recommendations to the Authority within a period of thirty days:

Provided that not more than two adjournments shall be entertained by the Council upon an advance application by the licensee or the complainant or any aggrieved person. In case of non-appearance by either party or non-filing of application for adjournment, the Council shall proceed with the matter on the basis of available material and record.”.

(12) Each Council shall compile and submit the annual report of licensee regarding the compliance of Code of Conduct to the Authority.

12. Amendments of section 27, Ordinance XIII of 2002.— In the said Ordinance, in section 27,—

- (i) in the rider clause, after the word “operator”, the words “or person” shall be inserted;
- (ii) in clause (a), after the word “advertisement”, occurring twice, the expression “or expression by any person,” shall be inserted;
- (iii) in clause (b), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the Authority after prohibiting the programme or advertisement or expression by any person under clause (a) may refer the matter to the Council of Complaints for appropriate recommendations. The Council, after hearing the concerned licensee or person, as the case may be,

may recommend within thirty days to the Authority to take appropriate action as empowered under this Ordinance.”.

13. **Amendment of section 29, Ordinance XIII of 2002.**— In the said Ordinance, in section 29, sub-section (6) shall be omitted.

14. **Substitution of section 29A, Ordinance XIII of 2002.**— In the said Ordinance, for section 29, the following shall be substituted, namely:-

“29A. Imposition of fine.— The Authority or, as the case may be, the Chairman, after the licensee has been given reasonable opportunity to show cause, impose fine up to one million rupees on a licensee who contravenes any of the provisions of this Ordinance or the rules or regulations or the code of conduct or the terms and conditions of the licence:

Provided that in case of severe violations, the Authority may impose a fine up to ten million rupees on the licensee.

29B. Dues to be recovered as arrears of land revenue.— All dues including outstanding licence fee, annual renewal fee or any other charges including fine as imposed by the Authority shall be recoverable as arrears of land revenue.”.

15. **Substitution of section 30A, Ordinance XIII of 2002.**— In the said Ordinance, for section 30A, the following shall be substituted, namely: -

“30A. Appeals.— Any person aggrieved by any decision or order of the Chairman or the Authority may, within thirty days of receipt thereof, prefer an appeal to the High Court within whose territorial jurisdiction the proceedings were initiated and the decision or order has been passed.”.

16. **Insertion of new section 30B, Ordinance XIII of 2002.**— In the said Ordinance, after section 30A, substituted as aforesaid, the following new section shall be inserted, namely:-

“30B. Jurisdiction of courts barred.— Jurisdictions of civil courts are barred. Save as otherwise provided by this Act, no court or other Authority shall have jurisdiction to question the legality of anything done or any action taken under this Ordinance, by or at the instance of the Authority.”.

17. **Amendment of section 37, Ordinance XIII of 2002.** — In the said Ordinance, in section 37, in sub-section (1), for clause (a), the following shall be substituted, namely:-

“(a) the national broadcasters and state-owned enterprises shall continue to be regulated by the relevant laws; and”.

18. **Insertion of section 39A, Ordinance XIII of 2002.** — In the said Ordinance, after section 39, the following new section shall be inserted, namely:-

“39A. **Power to make regulations.**— The Authority may, by notification in the official Gazette, make regulations not inconsistent with the provision of this Ordinance and the rules for carrying out the purposes of this Ordinance in respect of its internal matters or as such required by any provision of this Ordinance.”.

STATEMENT OF OBJECTS AND REASONS

Pakistan Electronic Media Regulatory Authority (PEMRA) is governed by PEMRA ordinance, 2002 as amended by the PEMRA (Amendment) Act, 2007. Keeping in view the functional and regulatory requirements, it was observed that certain amendments were required in the said Ordinance which would help in streamlining the working and enhancing the scope of the Organization. Accordingly, amendments in the form of PEMRA (Amendment Bill, 2023) have been proposed whose objects and reasons are as follows.

2. “Disinformation” and “Misinformation” are being added to the definitions in order to provide legal measures to counter challenges of false, misleading, manipulated, created or fabricated information.
3. The electronic media employees have suffered a lot due to non-payment of salaries/wages by the electronic media channels. In current scenario, electronic media employees have not been provided any legal remedy with regard to pay protection and compliance with minimum wage policy. In order to provide legal platform for appeal to resolve any grievance related to nonpayment of wages/salary by electronic media channels, the amendments/ insertions are being made in the preamble as well as in Section 6, 20A, 20B and 26 of the Ordinance. These proposed amendments/ insertions deal with the following issues:-

- Payment of minimum wages
- Timely payment of wages/salaries, not later than two months, to electronic media employees by the broadcasters
- Stoppage of release of commercials to broadcasters till the payment of pending salaries to its employees on the recommendations of Authority or Council of Complaints.
- Inclusion of one representative from broadcasters and one representative from Pakistan Federal Union of Journalists (PFUJ) as non-voting honorary members of the Authority (PEMRA)
- For the purpose of receiving and reviewing complaints made by the electronic media employee to the extent of payment of minimum wages policy and timely payment of their salaries, in each Council of Complaints, two non-voting honorary members shall be appointed, one from broadcasters and one from electronic media employees.

4. Validity of twenty years for broadcast media licence and ten years' validity for distribution service licence are being introduced in Section 24. The validity of licences is subject to payment of annual fee, including late payment fee if any as may be prescribed from time to time. However, it will not include annual gross advertisement revenue in any form whatsoever.

5. Furthermore, in order to streamline the decisions taken by Authority and to provide clarity in the existing law as to conduct meetings of the Authority with use of modern technologies, an amendment is required in the Ordinance to provide cover to any decision taken by Authority by use of modern technologies which will be helpful in saving time and money.

6. The mechanism for banning the programme and advertisement in case of violation of PEMRA laws has been structured in the proposed amendment in Section 27. The draft bill further streamlines the timeline and provides mechanism for final disposal of issues at Council of Complaints level. In case of severe violations, the fine has also been increased under proposed Section 29A.

7. In pursuance of the aforesaid objects and reasons, this Bill is being introduced to streamline the working of PEMRA

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