

[AS PASSED BY THE SENATE]

A

BILL

further to amend the Pakistan Air Force Act, 1953

WHEREAS it is expedient further to amend the Pakistan Air Force Act, 1953 (VI of 1953) for the Purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act shall be called the Pakistan Air Force (Amendment) Act, 2020.

(2) It shall come into force at once and shall be deemed to have taken effect on the 27th day of November, 2019.

2. Amendment of section 4, Act VI of 1953.- In the Pakistan Air Force Act, 1953 (VI of 1953), hereinafter referred to as the said Act, in section 4, after clause (x), the following new clauses shall be inserted, namely:-

“(xa) “Chairman, Joint Chiefs of Staff Committee” means an officer who has been appointed as the Chairman, Joint Chiefs of Staff Committee, by the president, in accordance with Article 243 of the Constitution of the Islamic Republic of Pakistan, read with section 10D;

(xb) “Chief of the Air Staff” shall mean the officer serving in the rank of the Air Chief Marshal, appointed by the President, in accordance with Article 243 of the constitution of the Islamic Republic of Pakistan read with section 10A;”.

3. Insertion of new Chapter, Act VI of 1953.- In the said Act, after Chapter-II, the following new Chapter shall be inserted, namely:-

“CHAPTER IIA.-

**APPOINTMENT OF THE CHIEF OF THE AIR STAFF AND THE CHAIRMAN,
JOINT CHIEFS OF STAFF COMMITTEE**

10A. Appointment of the Chief of the Air Staff.- (1)The President shall, on the advice of the Prime Minister, appoint as an Air Chief Marshall as the Chief of the Air Staff, for a tenure of three (03) years.

(2) The terms and conditions of the Chief of the Air Staff shall be determined by the President on the advice of the Prime Minister.

10. Reappointment or extension of the Chief of the Air Staff.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President on the advice of the Prime Minister, may reappoint the Chief of the Air Staff for additional tenure of three (03) years, or extend the tenure(s) of the Chief of the Air Staff up to three (03) years, on such terms and conditions, as may be determined by the President on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.

(2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of any Court, the appointment, reappointment or extension of the Chief of the Air Staff, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

10C. Retirement age and service limits of the Chief of the Air Staff.- The retirement age and service limits prescribed for an Air Chief Marshal, under the Rules and Regulations made under this Act, shall not be applicable to the Chief of the Air Staff, during his tenure of appointment, reappointment, or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure, the Chief of the Air Staff shall continue to serve as an Air Chief Marshal in the Pakistan Air Force.

10D. Appointment of the Chairman, Joint Chiefs of Staff Committee.- (1) The President may, on the advice of the Prime Minister, appoint a Chairman, Joint Chiefs of Staff Committee, from amongst Generals in the Pakistan Army, Admirals in the Pakistan Navy, or Air Chief Marshals in the Pakistan Air Force, for a tenure of three (03) years.

(2) The terms and conditions of the Chairman, Joint Chiefs of Staff Committee shall be determined by the President on the advice of the Prime Minister.

(3) If the Chairman, Joint Chiefs of Staff Committee is appointed from amongst Air Chief Marshals in the Pakistan Air Force, the provisions of this Act shall be applicable to such Chairman, Joint Chiefs of Staff Committee.

10E. Reappointment or extension of the Chairman, Joint Chiefs of Staff Committee.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President, on the advice of the Prime Minister, may reappoint the Chairman, Joint Chiefs of Staff Committee for additional tenure of three (03) years, or extend the tenure(s) of the Chairman, Joint Chiefs of Staff Committee up to three (03) years, on such terms and conditions, as may be determined by the President on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.

(2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of any Court, the appointment, reappointment or extension of the Chairman, Joint Chiefs of Staff Committee, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

10F. Retirement age and service limits of the Chairman, Joint Chiefs of Staff Committee.- In case an Air Chief Marshal of the Pakistan Air Force is appointed as the Chairman, Joint Chiefs of Staff Committee, the retirement age and service limits, prescribed under the Rules and Regulations made under this Act, shall not be applicable to the said Air Chief Marshal during his tenure of appointment, reappointment or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure, the Chairman, Joint Chiefs of Staff Committee, appointed under this Act, shall continue to serve as Air Chief Marshal in the Pakistan Air Force."

4. Amendment of section 18, Act VI of 1953.- In section 18, for the word "Every" the expression, "Subject to Chapter II-A, every" shall be substituted and for the full stop at the end, a colon shall be substituted and thereafter the following provisos shall be inserted, namely:-

"Provided that the appointments reappointment, extension and tenure of the Chief of the Air Staff shall be determined in accordance with sections 10A, 10B and 10C:

Provided further that the appointment, reappointment or extension, and tenure of the Chairman, Joint Chiefs of Staff Committee shall be determined in accordance with sections 10D, 10E and 10F."

5. Amendment of section 202, Act VI of 1953.- In the said Act, in section 202, in sub-section (2), in sub-clause (a), after the word "the", occurring for the first time, the commas and words "appointment, reappointment, extension " and after the word "Act", the words and commas "including the Chief of the Air staff and the Chairman, Joint Chiefs of Staff Committee" shall be added.

6. Overriding effect.- (1) The provisions of this Act shall have effect notwithstanding anything contained in the said Act, any other law, rules, regulations or bye-laws, notifications and other legal instruments for the time being in force.

(2) In case there is any conflict between the provisions of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of inconsistency.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the provisions of the Pakistan Air Force Act, 1953 so as to empower the President, on the advice of the Prime Minister, to specify the tenure and the terms and conditions of service of the Chief of the Air Staff or Chairman, Joint Chiefs of staff Committee, including the grant of extension to, and re- appointment of the chief of the Air Staff or the Chairman, joint Chiefs of Staff Committee, and to provide for other related matters, in light of the Honourable Supreme Court's judgment dated 28th November, 2019, passed in Constitution Petition No. 39 of 2019.

The Bill is designed to achieve the aforesaid objects.

MINISTER-IN-CHARGE