

REGISTERED No. M - 302
L.-7646

The Gazette  **of Pakistan**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, TUESDAY, JULY 7, 2020

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

LAW AND JUSTICE DIVISION

Islamabad, the 7th July, 2020

No. F. 2(1)/2020-Pub.—The following Ordinance Promulgated on 7th July, 2020 by the President is hereby published for general information:—

ORDINANCE NO. X OF 2020

AN

ORDINANCE

further to amend the Companies Act, 2017

WHEREAS, it is expedient further to amend the Companies Act, 2017 (XIX of 2017), for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

(463)

[5691(2020)/Ex Gaz.]

Price : Rs. 10.00

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(i) This Ordinance shall be called the Companies (Second Amendment) Ordinance, 2020.

(2) It shall come into force at once and shall be deemed to have come in to force on the 30th April, 2020.

2. **Amendment of section 172, Act XIX of 2017.**—In the Companies Act, 2017 (XIX of 2017), hereinafter called as the said Act, in section 172, in sub-section (1),—

(a) after clause (1), the following new clause shall be inserted, namely:—

“(m) the person has entered into a plea bargain arrangement with the National Accountability Bureau or any other regulatory body;”;

(b) in clause (n), for full stop at the end a semi-colon and the word “or” shall be substituted; and thereafter the following new clause shall be added, namely:—

“(o) that it is expedient in the public interest so to do.”.

3. **Insertion of section 181, Act XIX of 2017.**—In the said Act, after section 180, the following new section shall be added, namely:—

“181. **Protection to independent and non-executive directors.**—

(1) Notwithstanding anything contained in this Act—

(a) an independent director; and

(b) a non-executive director;

shall be held liable, only in respect of such acts of omission or commission by a listed company or a public sector company which had occurred with his knowledge, attributable through board processes, and with his consent or connivance or where he had not acted diligently.

(2) For the purpose of this section a non-executive director means, a person on the board of the company who—

- (a) is not from among the executive management team and may or may not be independent;
- (b) is expected to lend an outside viewpoint to the board of a company;
- (c) does not undertake to devote his whole working time to the company and not involve in managing the affairs of the company;
- (d) is not a beneficial owner of the company or any of its associated companies or undertakings;
- (e) does not draw any remuneration from the company except the meeting fee.”.

4. **Amendment of section 186, Act XIX of 2017.**—In the said Act, in section 186, after sub-section (3), the following new sub-section (4) shall be inserted, namely:—

- “(4) Notwithstanding anything contained in this section, the Government shall have the power to nominate chief executive of a public sector company in such manner as may be specified.”.

5. **Amendment of section 187, Act XIX of 2017.**—In the said Act, in section 187, after sub-section (3), the following new sub-section (4) shall be inserted, namely:—

- “(4) Notwithstanding anything contained in this section, the Government shall have the power to nominate chief executive of a company where majority of directors is nominated by the Government, in such manner as may be specified.”.

6. **Amendment of section 279, Act XIX of 2017.**—In the said Act, in section 279,—

- (a) in sub-sections (1), (2) and (3), for the word “Court”, wherever occurring, the word “Commission” shall be substituted; and
- (b) in sub-section (5), for the word “it” the words “the Commission” shall be substituted.

7. **Amendment of section 280, Act XIX of 2017.**—In the said Act, in section 280,—

- (a) in the marginal heading and sub-section (1), for the word “Court”, wherever occurring, the word “Commission” shall be substituted;

(b) for sub-section (2), the following shall be substituted, namely:—

“(2) If the Commission is satisfied that a compromise or arrangement sanctioned under section 279 cannot be worked satisfactorily with or without modification, it may initiate proceedings for the winding up of the company.”; and

(c) sub-section (3), shall be omitted.

8. **Amendment of section 282, Act XIX of 2017.**—In the said Act, in section 282,—

(a) for the marginal heading, “Provisions for facilitating reconstruction and amalgamation of companies”, the marginal heading “Powers of Commission to facilitate reconstruction or amalgamation of companies” shall be substituted;

(b) for the word “Court”, wherever occurring, the word “Commission” shall be substituted;

(c) in sub-section (1), in clause (c), for the word “Court”, the word “registrar” shall be substituted;

(d) in sub-section (2), in clause (b), for the word “Court”, the word “registrar” shall be substituted;

9. **Amendment of section 283, Act XIX of 2017.**—In the said Act, in section 283, for the word “Court” the word “Commission” shall be substituted.

10. **Amendment of section 284, Act XIX of 2017.**—In the said Act, in section 284, for sub-section (5), the following shall be substituted, namely:—

“(5) The transferee company, in the manner as may be specified, shall file with the registrar where the registered office of the company is situated a copy of the scheme so approved.”.

11. **Amendments of section 285, Act XIX of 2017.**—In the said Act, in section 285, after sub-section (7), the following new sub-section shall be added, namely:—

“(8) Notwithstanding anything contained in sections 279 to 283 and 285, the powers of the Commission shall be exercised by the Court for such companies or class of companies or having such capital, as may be notified by the concerned Minister-in-charge of the Federal Government.”.

12. **Amendment of section 452, Act XIX of 2017.**—In the said Act, in section 452,—

- (a) in sub-section (1),—
 - (i) the words “of ten percent or more” shall be omitted; and
 - (ii) the words “or any change thereof” shall be omitted;
- (b) in sub-section (3), the words “or any change thereof” shall be omitted; and
- (c) in sub-section (5), for the expressions “level-2” the expression “level-1” shall be substituted.

13. **Insertion of section 461, Act XIX of 2017.**—In the said Act, after section 458, the following new section shall be added, namely:—

“461. **Security clearance of shareholder and director.**—The Commission may require the security clearance of any shareholder or director or other office bearer of a company or class of companies as may be notified by the concerned Minister-in-charge of the Federal Government.”.

14. **Validation of actions etc.** All actions taken, approval granted or notification issued on or after the 30th April, 2020 under the Companies Act, 2017 (XIX of 2017) shall be deemed to have been validly taken, granted or issued.

DR. ARIF ALVI,
President.

MUHAMMAD KHASHIH-UR-REHMAN,
Secretary.

STATEMENT OF OBJECTS AND REASONS

COMPANIES (SECOND AMENDMENT) ORDINANCE (X OF 2020)

The Companies (Second Amendment) Ordinance 2020 (X of 2020) aims to further amend the Companies Act 2017 (XIX of 2017). The purpose of these amendments inter alia includes to restore powers of the Government to nominate Chief Executive Officer of a public sector company or where majority of directors are nominated by the government, restore powers of the Securities and Exchange Commission of Pakistan (Commission) to facilitate reconstruction or amalgamation of companies, powers of Commission to require the security clearance of any shareholder or director, power of the Commission to pass disqualification against persons entered into a plea bargain arrangement with the National Accountability Bureau or any other regulatory body, etc.



(Dr. Abdul Hafeez Shaikh)

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