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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 31st May, 1997

No. F. 9(32)/97-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 31st May, 1997, is hereby published for general information:—

ACT NO. IX OF 1997

An Act to eradicate corruption and corrupt practices from public offices

Whereas it is expedient to provide for eradication of corruption and corrupt practices from the public offices and to provide for effective measures for prosecution and speedy disposal of cases involving corruption and corrupt practices and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

1. Short title, application and commencement.- (1) This Act may be called the Ehtesab Act, 1997.

(1071)

Price : Ps. 20.50

(2) It shall apply to the holders of public offices since the sixth day of November, 1990.

(3) It shall come into force at once.

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

(a) "accused" shall include a person in respect of whom information under sub-section (1) of section 16 shall be deemed to have been recorded;

(b) "appropriate Government" means in relation to any person serving in connection with the affairs of the Federation including any person employed by a corporation, body, bank, financial institution, undertaking or other organization set up, controlled or administered by, or under the authority of the Federal Government the said Government, and in other cases the Provincial Government concerned;

(c) "Chairman of the Ehtesab Cell" means a person either holding a full time salaried post as such, or a part time post with no entitlement to salary or allowances, whose name is notified hereunder with the authority to appoint members of the Ehtesab Cell;

(d) "Chief Ehtesab Commissioner" means the Chief Ehtesab Commissioner appointed under section 13 and includes the person for the time being acting as Chief Ehtesab Commissioner;

(e) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(f) "Court" means a Bench of one or more Judges of the High Court nominated by the Chief Justice of the High Court;

(g) "Ehtesab Cell" means a Cell set up by the Federal Government for the

purpose of investigation and enquiry of offences under this Act;

(h) "freezing" includes attachment, sealing, prohibition, holding, controlling or managing any property, either through a receiver or otherwise, and in the case of property being livestock or perishable goods, the disposal thereof;

(i) "holder of a public office" means a person who-

(i) has been the President or the Governor of a Province;

(ii) is, or has been, the Prime Minister, Chairman Senate, Speaker National Assembly, Deputy Chairman Senate, Deputy Speaker National Assembly, Federal Minister, Minister of State, Attorney-General and other Law Officer appointed under the Central Law Officers Ordinance, 1970 (VII of 1970), Advisor to the Prime Minister, Special Assistant to the Prime Minister, Federal Parliamentary Secretary, Member of Parliament, Auditor-General, Political Secretary, Advisor or Consultant to the Prime Minister, and the holder of a post or office with the rank or status of a Federal Minister or Minister of State;

(iii) is, or has been, the Chief Minister, Speaker Provincial Assembly, Deputy Speaker Provincial Assembly, Provincial Minister, Advisor to the Chief Minister, Special Assistant to the Chief Minister, Provincial Parliamentary Secretary, Member of the Provincial Assembly, Advocate-General, including Additional Advocate-General and Assistant Advocate-General, Political Secretary, Advisor or Consultant to the Chief Minister, and the holder of a post or office with the rank or status of a Provincial Minister ;

- (iv) is holding, or has held, an office or post in Basic Pay Scale 18 or above in the service of Pakistan, or any service in connection with the affairs of the Federation, or of a Province, or of a local council constituted under any Federal or Provincial law relating to the constitution of local councils, or in the equivalent pay scale of management in corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization established, controlled or administered by or under the Federal Government or a Provincial Government, other than a person who is a member of the armed forces, or for the time being is subject to any law relating to any of the said forces except a person who is, or has been a member of the said forces and is holding, or has held an equivalent post or office in any public corporation, bank, financial institution, undertaking or other organization established, controlled or administered by or under the Federal Government or a Provincial Government;
- (v) is holding or has held an office or post in Basic Pay Scale 17 or below of the nature specified in sub-clause (iv) and is involved in an offence committed by a person or persons falling within sub-clauses (i) to (iv); and
- (vi) is, or has been, the Chairman or Vice-Chairman of a zila council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or

Provincial law relating to local councils.

Explanation.- For the purpose of this sub-clause the expressions "Chairman" and "Vice-Chairman" shall include a Mayor and a Deputy Mayor, as the case may be;

- (j) "offence" means the offence of corruption and corrupt practices;
- (k) "property" includes any or all moveable and immovable properties, situated within or outside Pakistan; and
- (l) "rigging of an election" means the carrying out, on a large and systematic scale, of mala fide and fraudulent actions, in violation of law, with the intention of defeating the intention of the electorate.

3. **Corruption and corrupt practices.**- (1) A holder of a public office, or any other person covered hereby, is said to commit the offence of corruption and corrupt practices -

- (a) if he accepts or obtains from any person any gratification, other than 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 official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person; or
- (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 he knows to have been, or to be likely to be, concerned in any proceeding 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; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, as a holder of a public office or wilfully allows any other person so to do; or

(d) if he, by corrupt, dishonest, or illegal means, in abuse of his position as a holder of public office, obtains or seeks for himself, or for his spouse or dependents any property, valuable thing or pecuniary advantage; or

(e) if he or any of his dependents or benamidars own, possess, or have any right or title in any movable or immovable property or pecuniary resources, disproportionate to his known sources of income, which he cannot reasonably account for; or

(f) if he commits, or causes, or is involved in the rigging of an election.

(2) All offences under this Act shall be non-bailable and, notwithstanding anything contained in sections 497, 498 and 561A or any other provision of the Code, or any other law for the time being in force, no court other than the Court defined in clause (f) of section 2 shall have jurisdiction to grant bail.

(3) A holder of a public office or any other person accused of an offence under this Act shall not be released on bail by the Court if there appear reasonable grounds for believing that he has been guilty of such an offence.

(4) Where a holder of a public office or any other person accused of an offence under this Act is released on bail, the amount of bail shall be fixed having regard

to the gravity of the charge against such person and, where the charge specifies any amount in respect of which the offence is alleged to have been committed, shall not be less than the said amount.

Provided that the Court may direct that the amount be deposited in Court.

(5) No court shall release an accused person on bail unless the Chief Ehtesab Commissioner and the prescribed law officer have been given notice of the bail application and been given an opportunity of being heard.

Explanation.- In this sub-section, "prescribed law officer" means -

- (a) in relation to an application before the court, the Advocate General;
and
- (b) in relation to an application before the Supreme Court of Pakistan, the Attorney-General.

4. **Punishment for corruption and corrupt practices.** - (1) A person who commits the offence of corruption and corrupt practices shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both, and such of the moveable or immoveable property of such person, whether in his name or in the name of any of his dependents or benamidars obtained through such an offence during the tenure of his office, shall be liable to be forfeited to the appropriate Government:

Provided that, where any person is convicted for an offence under clause (e) of section 3, the property, including bank deposits, found to be disproportionate to the known sources of his income shall be forfeited to the appropriate Government.

(2) A person giving illegal gratification, or abetting, assisting or aiding a holder of a public office, or receiving or holding any property obtained or acquired by a holder of public office through corruption or corrupt practices, or being a beneficiary of any asset, property or gain obtained through corruption or corrupt practices shall fall within the

scope of this section and shall be liable to the same or a lesser punishment than may be awarded to a holder of a public office as may be deemed fit by the Court.

5. **Imposition of fine.**- Where a person found guilty of an offence is sentenced to pay a fine, irrespective of whether or not a sentence of imprisonment is imposed, the amount of the fine shall in no case be less than the gain derived by the accused.

6. **Power of the Court to freeze property.**- (1) The Court trying a holder of a public office for an offence under this Act may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property, movable or immovable, or any part thereof, whether in his possession or in the possession of any person on his behalf.

(2) If the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made -

- (a) by seizure; or
- (b) by appointment of a receiver; or
- (c) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
- (d) by all or any of such methods as the Court may think fit.

(3) If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situate, and in all other cases -

- (a) by taking possession; or
- (b) by appointment of a receiver; or
- (c) by prohibiting the payment of rent or delivery of property to the accused or to anyone on his behalf; or

(d) by all or any of such methods as the Court may deem fit.

(4) If the property ordered to be frozen consists of livestock or is of a perishable nature, the Court may, if it thinks expedient, order the immediate sale thereof and in such a case the proceeds of the sale may be invested in such Government securities or Government sponsored saving schemes as the Court may direct.

(5) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Order XL of the Code of Civil Procedure, 1908 (Act V of 1908).

7. Claim or objection against freezing.- (1) All claims or objections against the freezing of any property under section 6 shall be made within thirty days from the date of the order freezing such property:

Provided that, where a person satisfies the Court that he had sufficient cause for not making the claim or objection within such period, the Court may admit such claim or objection, as the case may be, after that period:

Provided further that any claim or objection made within the period allowed under this sub-section may, in the event of the death of a claimant or objector, be continued by his legal representative.

(2) The Court may, after such enquiry as it may deem fit, allow or disallow any claim or objection, in whole or in part and pass the appropriate order thereon.

(3) Any person aggrieved by an order passed under this section may prefer an appeal against such order to the Supreme Court within thirty days.

8. Presumption against holder of public office accepting illegal gratification.- (1) Where in any trial of an offence punishable under sections 161 to 165 of the Pakistan Penal Code (Act XLV of 1860), it is proved that an accused person has

accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person any gratification, other than legal remuneration, or any valuable thing, or any pecuniary advantage from a person or any agent of a person, for any favour shown or promised to be shown by the accused, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing or pecuniary advantage for himself or some other person, as the case may be, as a motive or a reward such as is specified in sections 161 to 163 of the said Code, or, as the case may be, without consideration or for a consideration which he believed to be inadequate.

(2) Where in any trial of an offence punishable under section 165A of the Pakistan Code (Act XLV of 1860), it is proved that any gratification other than legal remuneration or any valuable thing has been given, or offered to be given, or attempted to be given, by any accused person, it shall be presumed, unless the contrary is proved, that he gave, or offered to give, or attempted to give, that gratification, or that valuable thing, as the case may be, as a motive or a reward such as is specified in sections 161 to 163 of the said Code, or, as the case may be, without consideration or for a consideration which he believed to be inadequate.

(3) In any trial of an offence punishable under this Act, the fact that the accused person or any other person on his behalf, is in possession, for which the accused person cannot satisfactorily account, of property or pecuniary resources disproportionate to his known sources of income, or that such person has, at or about the time of the commission of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, the Court shall presume, unless the contrary is proved, that the accused person is guilty of the offence of corruption and corrupt practices and his conviction therefor shall not be invalid by reason only that it

