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PART I

Acts, Ordinances, President's Orders and Regulations

**GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE**

Islamabad, the 3rd July, 2023

No. F. 2(1)/2023-Pub.— The following Ordinance Promulgated on 3rd July, 2023 by the President is hereby published for general information:—

ORDINANCE NO. I OF 2023

AN

ORDINANCE

further to amend the National Accountability Ordinance, 1999

WHEREAS it is expedient further to amend the National Accountability Ordinance, 1999 (XVIII of 1999), in the manner and for the purposes hereinafter appearing:

(529)

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[1258(2023)/Ex. Gaz.]

AND WHEREAS the Senate and 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;

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.**—(1) This Ordinance shall be called the National Accountability (Amendment) Ordinance, 2023.

(2) This Ordinance shall come into force at once and shall be deemed to have taken effect on and from the commencement of the National Accountability Ordinance, 1999 (XVIII of 1999).

2. **Insertion of section 14A, Ordinance XVIII of 1999.**—In the said Ordinance, after the omitted section 14, the following new section 14A shall be inserted, namely:—

14A. **Presumption against accused accepting illegal gratification.**—

(1) Where in any trial of a scheduled offence punishable under this Ordinance, 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 Pakistan Penal Code (Act XLV of 1860), or, as the case may be, without consideration, or for a consideration which he believed to be inadequate.

(2) Wherein any trial of an offence punishable under section 165A of the Pakistan Penal 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 Ordinance, 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 or corrupt practices and his conviction therefore shall not be invalid by reason only that it is based solely on such a presumption.”

3. Amendment of section 24, Ordinance XVIII of 1999.—In the said Ordinance, in section 24,—

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

“(aa) The Chairman NAB may also issue warrant of arrest during the course of inquiry if the accused is not joining inquiry despite notices or willfully does not cooperate in such inquiry; and

- (B) in sub-section (d), for the word “fourteen”, the word “thirty” shall be substituted.

4. Substitution of section 26, Ordinance XVIII of 1999.—In the said Ordinance, for section 26, the following shall be substituted, namely:—

“26. Tender of pardon.—(1) Notwithstanding anything contained in the Code, at any stage of inquiry, investigation or trial, the Chairman NAB may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to any offence, tender a full or conditional pardon to such a person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the said offence including the names of the persons involved therein whether as principals or abettors or otherwise.

- (2) Every person accepting a tender of pardon under sub-section (1) shall be examined by a Magistrate and shall also be examined as a witness in the subsequent trial.

- (3) Subject to sub-section (4), the person to whom pardon has been granted under this section shall not—
- (a) in the case of a full pardon, be tried for the offence in respect of which the pardon was granted; and
 - (b) in the case of conditional pardon, be awarded a punishment or penalty higher or other than that specified in the grant of pardon notwithstanding the punishment or penalty authorized by law.
- (4) Where the Chairman NAB certifies that in his opinion, any person who has accepted such tender has, either by willfully concealing anything essential or by giving false evidence through willful or reckless mis-statement, not complied with the condition on which the tender of pardon was made, such a person may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the said matter including the offence of giving false evidence, which he knows or ought to know is false.
- (5) Any statement made before a Magistrate by a person who has accepted a tender of pardon may be given in evidence against him at the trial.”

5. Amendment of section 28, Ordinance XVIII of 1999.—In the said Ordinance, in section 28,—

- (A) in sub-section (a), for the words “National Accountability Bureau”, the words “Chairman NAB” shall be substituted; and
- (B) for sub-section (b), the following shall be substituted;

“(b) The Chairman NAB may appoint advisers, consultants and experts on payment of such fee or remuneration as he may determine to assist him in performing the functions of the NAB and the discharge of his duties under this Ordinance.”

6. Amendment of section 33F, Ordinance XVIII of 1999.—In the said Ordinance, in section 33F, for the words “a reference has been filed against such persons”, the words “inquiry has been finalized” shall be substituted.

7. Amendment of section 36, Ordinance XVIII of 1999.—In the said Ordinance, in section 36, for the proviso, the following shall be substituted, namely:—

“Provided that if the accused has been acquitted by the Court on the ground that the case was initiated with *malafide* intention based on fabricated evidence, the person found guilty of such act by the said Court shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.”


MUHAMMAD SADIQ SANJRANI,
Acting President.

RAJA NAEEM AKBAR,
Secretary.

STATEMENT OF OBJECTS AND REASONS

The National Accountability Ordinance, 1999 was promulgated with the aim to curb corruption and corrupt practices in the country and thereunder National Accountability Bureau (NAB) was established to execute the aims and objectives of the said Ordinance. Currently NAB is dealing with a large number of inquiries and investigations in addition to handling mega corruption cases. Under the existing regime, a number of inquiries have been initiated by NAB, however, due to procedural shortcomings the outcome of such inquiries is not up to the required expectations. From time to time amendments were made in the said Ordinance as and when pointed out by NAB Authorities and Accountability Courts to address the procedural shortcomings. Although the said Ordinance was lastly amended through Act Nos. XI of 2022 and XXIV of 2023 to cover up the procedural shortcomings and legal infirmities, still NAB Authorities were practically facing such issues in dealing with the pending inquiries, investigations and trials with particular reference to presumption against accused accepting illegal gratification, non-arrest of accused if he is willfully not joining inquiry despite notices, period of detention of the accused in the custody of NAB was not sufficient enough to deal with the white collar crimes during their inquiry and investigation, procedure of tender of pardon, appointment of officers and staff in NAB, restriction on NAB officials on issuance of public statements and matter related to indemnity.

2. The National Accountability (Amendment) Ordinance, 2023 (I of 2023), deemed to be a Bill in terms of paragraph (b) of clause (3) of Article 89 of the Constitution of the Islamic Republic of Pakistan, has been designed to achieve the aforesaid objective.


Minister-in-charge