

**[TO BE INTRODUCED IN SENATE]**

**A  
BILL**

*further to amend the Muslim Family Laws Ordinance, 1961*

Whereas it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961), in its application to the extent of Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows: -

**1. Short title and commencement.** - (1) This Act may be called the Muslim Family Laws (Amendment) Act, 2024.

(2) It shall come into force at once.

**2. Amendment of section 2, Ordinance No. VIII of 1961.**- In the Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961), hereinafter referred to as the said Ordinance, in section 2, after clause (b), the following new clauses shall be inserted, namely:-

“(ba) **“Maintenance of children”** means a religious, legal, moral and social monitory obligation of a father to spend according to his financial status or his capability to earn, on food, clothing, lodging, a necessity of a nanny/nurse, and other necessary expenses of a child, including medical expenses and education expenses, from birth until adulthood of his Children;

(bb) **“Maintenance of children after adulthood”** means continuation of maintenance defined under sub-para. (f) to:

(i) a son only if he is physically or mentally disabled, or he is a student, till the time he is able to stand on his own;

(ii) and to a daughter until she desires to get married and in the case of the break-down of her marriage, the father again becomes responsible for the maintenance of his daughter;

- (bc) **"Maintenance of wife"** means a religious, legal, moral and social monetary obligation of a husband to spend according to his financial status or his capability to earn, on food, clothing, lodging, a necessity of a nurse, and any other necessary expenses of a wife, including medical expenses including mental illnesses/s during the period she is living with her husband or in following circumstances:
- (i) a wife is entitled to housing and maintenance when a separation occurs without a divorce;
  - (ii) if the wife gets a disease that she is unable to establish a marital relationship with her husband, as long as she has asked for maintenance and is prepared to live in her husband's home;
  - (iii) maintenance of the wife is obligatory for the man whether the wife is Muslim or non-Muslim; whether she is poor or rich; whether the marriage is consummated or not consummated and whether she is old enough or due to any considerable reason, is not able to perform her obligatory duties towards her husband such as physical relationship;
  - (iv) in the event of a divorce, whether reversible or irrevocable and regardless of whether she is pregnant or not, she is entitled to housing and maintenance during the *iddat* period as long as the marriage was consummated:

Provided that, if the separation is brought about by the husband initiating *khula*, she will not be entitled to both maintenance and lodging. Yet she has the right to do so if she requested a separation through *khula* in exchange for giving up child support. This is true because her claim to maintenance has already been established, and she is free to do so as payment to *khula*:

Provided further that the maintenance is the absolute right of a woman till the time of consummation of wedding."

3. **Amendment of Section 9, Ordinance No. VIII of 1961.-** In the said Ordinance, in Section 9, in sub-section (1) after the words, "Arbitration Council", occurring for the first time, the words, "not later than seven working days" and after the word, "certificate" the words, "within a period of thirty-one working days" shall be inserted.

#### **STATEMENT OF OBJECTS AND REASONS**

Article 35 of the Constitution of the Islamic Republic of Pakistan, 1973 provides protection to the mother and child. For reference, aforesaid Articles are reproduced as under: "35. The State shall protect the marriage, the family, the mother and the child." Maintenance for a wife is an absolute right of a woman on consummation of marriage. It may be for the future, past or the *Iddat* period of a woman under the Islamic injunctions as well as the decisions of courts. A wife, till the time she is not accompanying her husband without a legal and justifiable excuse, he must maintain whether the wife is sick and is even unable to perform her matrimonial duties whether the marriage is consummated or not. As per the apex Court in Pakistan maintenance is not confined merely to food, clothing and lodging but it cannot be extended to incorporate within it education at higher levels ad infinitum. Similarly, Under Islamic law, as well as Pakistani law, a father is obliged to pay maintenance for his child. This obligation continues until the child reaches the age of majority in the case of a son, and until marriage in case of a daughter. If a son is unable to earn after reaching the age of majority, the father will be obliged to maintain him until his son can maintain himself. Where Islamic law provides detailed rules regarding the maintenance of children, Pakistan, on the other hand, lacks detailed legislation on this issue as well as due to lengthy and complex procedures of courts, cases of maintenance remain pending for years.

Hence the bill has been proposed in order to fill up the lacunas in existing laws.

**SENATOR SAMINA MUMTAZ ZEHRI  
MEMBER-IN-CHARGE**