

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to repeal the National Accountability Ordinance, 1999; abolish all anti-corruption Establishments and to enact new law of accountability.

Whereas it is expedient to repeal the National Accountability Ordinance, 1999 (XVIII of 1999) and to enact new law of Accountability, providing for accountability of holders of public office in just, transparent and non-oppressive manner;

It is hereby enacted as follows: -

1. **Short Title, Extent and Commencement**- (1) This act may be called The Holders of Public Exchequer (Accountability) Act 2015.
- (2) It shall extend to the whole of Islamic Republic of Pakistan.
- (3) It shall come into force from the first day of January 1985.

CHAPTER- 1

PRELIMINARY

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

- (a) "Appropriate Government" means the Federal Government, the Provincial Government or the local Government, or as the case may be;
- (b) "Assets" means any property owned, controlled by or belonging to any accused; children whether dependants or not; spouse; parents; brothers and sisters whether directly or indirectly, or held benami whether within or outside Pakistan which he cannot reasonably account for or for which he cannot prove payment of full and lawful consideration;
- (c) "Benamidar" means any person who ostensibly holds or is in possession or custody of any property of any accused on his behalf for the benefit and enjoyment of the accused;
- (d) "Chairman" means the Chairman of the Accountability Commission appointed under the provisions of this Act;
- (e) "Code" means the Code of Criminal Procedure, 1898(Act V of 1898);
- (f) "Commission" means the Accountability Commission established under this Act;
- (g) "Court" means Bench of three or more Judges of High Court nominated by the Chief Justice of the High Court for the trial of offences under this Act;
- (h) "enquiry" means an enquiry upon a matter received under the provisions of this Act;
- (i) "Holder of Public Office" means any person who has drawn any or some benefit from public exchequer in any scale or grade or in any office or position and shall include all whether elected, nominated, selected or under any contractual obligations where public exchequer is wholly or partially involved. It shall include any person who has held office in any service of Pakistan or has rendered any service in connection with the affairs of the Federal, Provincial or the local governments, or the co-operative societies or in the management of corporations, banks or any financial institutions, firms, or any other institution or organization

established, controlled or administered by the Federal or Provincial Governments or the case may be. It shall extend and apply to member in the Armed Forces of Pakistan including Air Force and Navy and to all the Members of Judiciary whether in service or retired or performing any services whether judicial or advisory;

- (j) "investigation" means an enquiry approved for a reference by the Commission and includes the collection of evidence for successful prosecution;
- (k) "Member" means member of the Commission;
- (l) "Officer" means a person who is selected for a post in the Commission through a process of selection by the Federal Public Service Commission; or as the case may be;
- (m) "Parliamentary Electoral Committee" means the committee specially constituted for one time for the Selection of Chairman; Deputy Chairmen and Advisors;
- (n) "Property" includes movable and immovable property situated whether in or outside Pakistan; and
- (o) "Public Exchequer" includes loans, shares, term certificates and debentures obtained from national and international financial institutions; aids, grants and donations received by the Government of Pakistan as the case may be.

CHAPTER 2

THE ACCOUNTABILITY COMMISSION

3. The Accountability Commission.- (1) As soon as possible after commencement of this Act, there shall be an Accountability Commission for the purposes of enquiry, investigation, probe and prosecution of offences under this Act.

(2) The Headquarter of the Commission shall be at Islamabad with ten Regional offices which shall be established at such places as are considered necessary by the Commission;

Provided that three Regional offices shall be in Punjab, two in Sindh; two in Khyber Pakhtun Khwa; one in Baluchistan and one in Federal Capital Territory with such areas as may be included in its region.

(3) The Commission shall consist of the one Chairman, ten Deputy Chairmen, two financial experts or Chartered Accountants and Six(6) Advisors to be its members who are known for their professional competence and integrity.

4. Chairman & Deputy Chairmen.- (1) There shall be a Chairman and Ten Deputy Chairmen of the Commission duly elected by a majority vote by the Election Commission of Pakistan through a secret ballot.

(2) The Election Commission of Pakistan shall publicize and invite nominations from all over the country and will forward such nominations to the Scrutiny Committee of the Parliamentary Electoral Committee which will shortlist candidates.

(3) Parliamentary Electoral Committee shall consist of :

- (a) The Prime Minister;
- (b) Leader of Opposition;
- (c) Chairman Senate;
- (d) Speaker National Assembly;
- (e) Minister for Law Justice and Human Rights;

- (f) All Serving Judges of the Supreme Court of Pakistan;
- (g) All Serving Judges of the High Courts of Pakistan;
- (h) Chairman or the President of all the Political Parties duly registered with the Election Commission provided that such head of the party has ever been elected in any Assembly either in a province or Pakistan;
- (i) Chief Ministers of Four Provinces;
- (j) Leaders of Opposition in Four Provincial Assemblies;
- (k) Chief of Army Staff, Air Staff & Naval Staff;
- (l) Ten Members of National Assembly to be nominated by the Speaker;
- (m) Four Members of Senate to be nominated by the Chairman; and
- (n) Secretary Establishment.

(4) The Chief Election Commissioner of Pakistan shall immediately publish a list of names of the parliamentary electoral committee in the official gazette.

(5) The Chief Election Commissioner shall formulate a scrutiny committee from amongst the members of the Parliamentary Electoral Committee which shall not exceed more than ten members.

(6) The Scrutiny Committee shall shortlist candidates within 15 days and will send its recommendations to the CEC who shall publish such list in the gazette. Thereafter, within 7 days through a secret ballot, an Accountability Commission shall be established.

(7) Chief Election Commissioner shall dissolve both the committees once the Commission has been established save for the election of 6 Advisors. The election of the Commission shall be a onetime affair and thereafter no other institution in Pakistan shall have any role to play in the Commission save for the election of Advisors.

(8) The Commission shall make rules for the smooth functioning and day to day affairs. It shall immediately formulate the seniority list of its deputy chairmen and other officers. The Commission shall make rules for the creation of new independent services group in the services of Pakistan and the Federal Public Service Commission shall conduct those examinations.

(9) No officer from any other Division or service group shall be allowed to serve in any capacity in the Commission on deputation basis; neither will an officer of the Commission be allowed to serve in any other department in the services of Pakistan.

(10) The Deputy Chairmen of the Commission will serve on the basis of seniority, performance and services to the Commission. Thereafter, the senior most Deputy Chairman would become the Chairman and would take charge of the office on the afternoon of the last day of the office of the Chairman.

(11) The term of the Chairman and Advisors shall be for a period of four years and shall not be eligible for any extension of service or reappointment. The Deputy Chairmen shall retire at the age of 65 years.

(12) The salary and the privileges of the Chair man shall be equivalent to that of the Chief Justice of the Supreme Court of Pakistan and of Deputy Chairmen and Advisors shall be equivalent to that of the Chief Justices of the Provincial High Court.

(13) The Chairman may resign from office by writing under his hand to the Commission and upon presentation of resignation, it shall be deemed to have been accepted. The Deputy Chairman may resign from office by writing under his hand addressed to the Chairman and it shall deem to have been accepted upon presentation.

(14) The Chairman or the Deputy Chairman may be removed from office on the ground of misconduct or being incapable of performing the duties of his office in the manner specified in Article 209 of the Constitution.

(15) At any time when the Chairman is absent or unable to perform the functions of his office due to any other cause, the most senior Deputy Chairman shall act as Acting Chairman.

(16) The Commission may engage experts, professionals and consultants on such terms and conditions deemed appropriate on case to case basis or as the case may be; provided that there is a specific issue and the services of such experts are essential for the successful prosecution or assistance to the Commission for the prosecution.

(17) The Commission shall make its own budget and the Federal Government shall present the budgetary demands of the Commission to the Parliament. The budget of the Commission shall be subject to the rules and regulations of the office of the Auditor General of Pakistan.

(18) The Commission or the staff or the informer shall be entitled to receive an amount of ten percent (10%) of the amount recovered by virtue of its efforts as a reward.

(19) In case of a tie or conflict in the seniority of the Deputy Chairmen, the Parliamentary Electoral Committee shall elect the new chairman from amongst the panel of Deputy Chairmen.

5. Chief Prosecutor.- (1) The Commission may appoint a Chief Prosecutor who is qualified and the services of prosecutors on full-time basis or part-time basis or case to case on such terms and conditions as deemed appropriate by the Commission.

(2) The Chief Prosecutor shall hold independent office on a full-time basis and shall not hold any other office concurrently.

(3) Any office holder may by writing under his hand resign from his office and the resignation shall be addressed to the Chairman.

(4) The Chief Prosecutor may be removed from the office by the Commission itself by a majority vote provided there are substantive grounds warranting his removal.

(5) The Chief Prosecutor shall advise the Commission on the matters and perform such other functions as many referred or assigned to him by the Chairman or commission or as the case maybe. He shall be the head of the prosecution of the Commission and shall conduct day to day affairs of the prosecution.

(6) On the recommendations of the Chief Prosecutor, the Commission may appoint Additional Prosecutors for the Regional offices on such terms and conditions as are deemed appropriate.

6. Appointment of members of the staff and officers.- (1) The members of the staff and officers of the Commission shall be appointed by the Commission and the Federal Public Service Commission respectively.

(2) The Members of the staff and officers of the Commission shall be entitled to such salary, allowances, perks and privileges as the Commission shall determine.

CHAPTER 3
OFFENCES AND PUNISHMENTS

7. Corruption and corrupt practices.- (1) A holder of public office is said to commit the offence of corruption and corrupt practices;

- (a) if he accepts or obtains from any other person any gratification, other than the 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 functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person;
- (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 to have been, or likely to be, concerned in any proceedings 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;
- (c) if he by corrupt, illegal and dishonest means, obtains or seeks to obtain for himself any property, valuable thing or pecuniary advantage;
- (d) if dishonestly or fraudulently misappropriates or otherwise converts for his own use or for the use of any other person, any property, amount or valuable things entrusted or under his control or will fully allows any other person so to do ;
- (e) if he or any of his dependents or benamidars own, possess or has acquired a right or title in any asset or holds irrevocable power of attorney in the respect of any asset or pecuniary resources disproportionate to his own sources of income which he cannot reasonably account for;
- (f) if he or any of his dependants enjoy a luxurious lifestyle which he cannot possibly account for all or cannot reasonably justify for the declaration he had declared in his assets or those of his dependants or benamidars;
- (g) if he commits the offence of cheating as defined in section 415 of the Pakistan Penal Code, 1860 (Act XLV of 1860), and thereby dishonestly induces members of the public at large to deliver any property including money or valuable security to any person or to himself;
- (h) if he commits the offence of criminal breach of trust as defined in section 405 of the Pakistan Penal Code, 1860 (Act XLV of 1860) with regard to any property including money or a valuable security entrusted to him by the members of the public at large;
- (i) if he commits an offence of Willful Default. A holder of public office is said to commit an offence of the Willful default under this Act if he does not pay, or continues not to pay, or return or repay the amount exceeding One million rupees due from him to any bank, financial institution, cooperative society, government department, statutory body or an authority established or controlled by a government on that date that it became due as per agreement containing the obligation to pay, return or repay or according to the laws, rules, regulations, instructions, issued or notified by the State bank of Pakistan, or the bank, Financial institution, co-operative society, government department, statutory body or an authority established or controlled by a government, as the case maybe and a thirty days notice has been given to such person or holder of public office;

Provided that the minimum limit of the amount as aforesaid shall not apply to pending cases or cases under inquiry or investigation before the commencement of this Act;

Provided further that it is not willful default under this act if a holder of public office was unable to pay, return or repay the amount as aforesaid on account of any willful breach of agreement or obligation to perform statutory duty on the part of any bank, financial institution, corporate society, or a department or authority established or controlled by the government;

Provided further that in the case of default concerning a bank or financial institution a seven days notice has also been given to such person or holder of public office by the governor state bank of Pakistan;

Provided further that the aforesaid 30 days or seven days notice shall not apply to cases pending trial at the time of the commencement of this Act.

Explanation: In this case dependent in relation to a holder of a public office means his wife, children, step children, parents, brothers and sisters.

(j) if he maintains an account in any bank or financial institution in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which have been not declared and

accounted for;

(k) if holds an office of profit or interest in any company or organization established in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for;

(l) if he owns any property whether free hold, lease hold or even in the form of license, assets, shares or any interest in any company based in a foreign country, whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for;

(m) if he carries out business including any commercial activity in any organization or establishment based in a foreign country whether in his own name, or in the name of his spouse, children or dependents or as the case may be which has not been declared or accounted for; and

(n) if he by virtue of his office uses his influence to dispossess or repossess any asset or purchases any asset for less than its lawful consideration.

(2) Any person who aids, assists, abets, attempts or acts in conspiracy with a holder of public office accused of an offence as provided in clauses supra of subsection (1) shall be said to have committed the offence of corruption and corrupt practices and punished accordingly.

8. Punishment for corruption and corrupt practices. - A person who commits the offence of corruption or corrupt practices shall be punishable with imprisonment for life and fine. He shall be deemed to be guilty of high treason and shall be punished with the offence of capital punishment as envisaged in the Article 6 of the Constitution. And such of the assets of such person, whether in his name or in the name of his benamidar

or dependant obtained through such an offence during the tenure of his office, shall be forfeited to the appropriate government.

9. Imposition of fine & costs.- Where a person found guilty of an offence under this Act is sentenced irrespective of the amount and term of imprisonment, he would be charged a mandatory fine and costs incurred including the costs of consultants or lawyers or as the case may be; for the retreat or prosecution, along with the mark-up accrued from the day the offence was committed.

10. Voluntary returns etc..- (1) Where a holder of public office or any other person accused of an offence under this Act but prior to the authorization of investigation voluntarily returns to the Commission, the property, assets or gains as determined by the Commission acquired in the course, or as a consequence, of such an offence, the Commission or the Chairman shall not file the reference and the case shall stand closed but subject to costs.

(2) Where at any time after filing of the reference and before the commencement of the trial or at anytime thereafter with the leave of the court, any person accused of an offence under this Act voluntarily returns to the Commission, the property, assets or gains as determined by the Chairman with approval of the court, acquired through corruption or corrupt practices, the Court shall not proceed with the trial and the accused shall stand discharged or as the case may be; subject to costs.

(3) A holder of public office or any other person whose case under subsections (1) and (2), he shall deemed to have been convicted and in case such holder of public office is an elected member, he shall cease to hold such office and shall stand disqualified from being elected or chosen for five years from the date his case is closed.

(4) The holder of public office who is in service of Pakistan or any autonomous body, organization, institution, undertaking concern or establishment, controlled or administered by or under the Federal or provincial government or local government or otherwise as envisaged in this act as the case may be and whose case is closed under subsection 1 and 2 , he shall be deemed to have been convicted and shall stand dismissed from service, without benefits and shall not be eligible to hold public office for five years from the date his case is closed;

Provided the provisions of subsections 1 & 2 shall not apply to members of judiciary and armed forces.

Provided further that in case of the members of judiciary, the Commission along with all the substantive evidence shall move a reference to the Supreme Judicial Council as envisaged in article 209 of the Constitution of Islamic Republic of Pakistan and shall act as if it was the complainant;

Provided further that in case of the members of armed forces including air force and naval staff, the reference shall be prepared and sent for court martial proceedings under the Armed forces Act.

(5) The assets or gains and deposited with the Commission shall be transferred to the respective government or as the case may be.

11. Disqualification for contesting elections for public office.- Where a holder of a public office or any other person is convicted by the court, he shall stand disqualified from being elected or chosen to any elected body for life.

CHAPTER 4

COGNIZANCE AND TRIAL OF OFFENCE AND APPEAL

12. Court not to take cognizance.- (1) The Court shall not take cognizance of an offence under this Act except on a reference made by the Chairman or any officer of the Accountability Commission duly authorized by the Chairman in this behalf.

(2) A reference under this Act may be initiated by the accountability commission on:

- (a) a complaint received from the appropriate government;
- (b) a complaint received from a private person accompanied by an attested copy of his CNIC; an affidavit supporting the allegations made in the complaint duly attested by the oath commissioner and his postal address; or

(c) It's own accord.

(3) Where, the Chairman is of the opinion that it is the necessary to initiate proceedings against the holder of a public office on a complaint or on his own accord, as the case maybe, he shall refer the matter for enquiry or investigation which shall be completed within 90 days.

(4) The enquiry and investigation of an offence alleged to have been committed under this Act shall be conducted by the Commission or any officer delegated by the Commission to do so;

Provided that the accountability Commission may require the assistance of any agency, police officer or other official or any person, if it so deems fit and such agency, shall render necessary assistance.

(5) The Chairman and such members, officers or servants of the Commission as are duly authorized in the writing in this behalf by the Chairman shall have an exercise, for the purposes of an enquiry or investigation, the power to arrest any person and all the powers of an officer in charge of a police station under the code and for that purpose, may cause the attendance of any person and if the assistance of any agency, police officer or any other official or agency, as the case, may be is a sought by the Commission such official or agency shall render such assistance;

Provided that no person shall be arrested with out prima facie evidence has been collected and without prior approval of the Chairman.

(6) If on the completion of the investigation indicating that the matter may require a reference to the Court, the Chairman after appraisal of material and evidence submitted to him by the investigating officer in the form of Report as required under section 173 of the Code, he shall make reference along with such a report within seven days.

(7) If after completing the enquiry or investigation of an offence against the holder of public office, the Chair man is satisfied that prima facie no case is made out against the holder of public office or any other person, the Chairman shall after recording his the reasons through a speaking order, close the enquiry or investigation.

(8) Where the Chairman is of the opinion that the complaint received by him is prima facie mala fide or has been filed with the intent to malign or defame the holder of a public office, he may for reasons to be recorded in writing refer the matter to the court as a reference and the provisions of the Act shall apply. The Court shall deem such a reference to be a reference under this Act and shall proceed accordingly:

Provided that conviction by the court shall be punishable with the imprisonment for a term which may extend to seven years with fine and mandatory costs.

13. Trial of offence.- (1) Subject to the provisions of subsection 2 and notwithstanding anything contained in any other law for the time being in force, a person shall be prosecuted for the offence of corruption and corrupt practices under this act before the court defined in clause (g) of section 2 and the case shall be heard from day to day and disposed of within 10 days.

(2) A holder of a public office shall be prosecuted by a Court in a Province from which he was elected and if he is a person in the service of Pakistan or any statutory body or organization he shall be triable in a province where his place of duty is or was located at the time of commission of offence.

Explanation: In this section, expression high court means the High Court within the local limits of whose jurisdiction the offence is alleged to have been committed.

(3) The trial under this act shall be a special trial and it shall be fixed and coordinated with the Court. The prosecution or the accused shall not be caught by surprise. All the evidence shall be disclosed and witness statements or any other admissible evidence shall be exchanged between the prosecution and the accused. Issues shall be framed accordingly. Time and date shall be fixed in consultation with the Court.

(4) The Court shall proceed to fix the trial in consultation with both the parties once it is satisfied that the case is complete; no adjournment on any ground will be necessary and it should be fixed for hearing.

(5) The Court, Prosecution and the Accused shall complete the process of Discovery, Exchange of witness statements and matters incidental thereto within 90 days. The Court shall then proceed and fix a date for hearing and shall pronounce judgement within the prescribed period.

(6) The Court shall not allow any adjournment on any ground whatsoever. The case once fixed for hearing will not be adjourned even on medical grounds unless concluded.

(7) The Court shall make special rules for the purposes of adjudication under the provisions of this Act.

14. Order to produce document or others.- (1) Whenever the Chairman or any officer authorized by him considers that the production of any document or other thing is necessary or desirable for the purpose of any investigation of any offence under this Act, the Chairman or such officers may issue written orders, to the person who is in possession or has power of production of such document or things; or is believed to be in his possession; requiring him to attend and produce it or to produce, at the time and place stated in the order:

Provided that no such order requiring the production of any document or other thing shall be issued which is in the custody of a Bank or Banker as defined in the Bankers Books Evidence Act, 1891(XVIII of 1891) and relates or might disclose any

information which relates to the bank account of any person except with the prior permission in writing of the Court or Commission.

15. Provisions of the code to apply etc.- (1) Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act, the provisions of this Code shall mutates mutandis apply to the inquiry or investigation and other proceedings including bail under this Act.

(2) Subject to sub section (1), the provisions of Chapter XXIIA of the Code shall apply to trials under this Act.

(3) Notwithstanding anything in section 234 of the Code, a person accused of more offences than one of the same kind committed during the space of any number of years from the first to the last offences may be charged with and tried at one trial for any number of such offences.

16. Withdrawal from prosecution.- The chief prosecutor may, with the consent of the court, withdraw from the prosecution of any accused generally or in respect of one or more of the offences for which he is tried and upon such withdrawal if it is made:

(a) before a charge has been framed , the accused shall be discharged in respect of such offence or offences; and

(b) after a charge has been framed , he shall be acquitted in respect of such offence or offences.

17. Chief Prosecutor etc. deemed to be Public Prosecutor.- The chief prosecutor or any other officer conducting prosecution under this act shall be deemed to be public prosecutor within the meaning of this Code.

18. Special rules of evidence.- In any trial of an offence punishable under this act , the fact that the accused person or his benamidar 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 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 therefore shall not be invalid by reason only that it is based solely on such a presumption.

19. Cognizance of false evidence etc.- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, on pronouncement of judgment, the court shall have the jurisdiction and power to take cognizance of an offence committed in the course of investigation or trial of a case by any officer, witness including an expert who has deposed in the court or not, or any other person under sections 176 to 182 of Chapter X or sections 193 to 204, or 211 to 216, 217 to 223, or 225-A of Chapter XI of the Pakistan Penal Code (Act XLV of 1860) or under any other law relating to false evidence offences against public justice, and to summarily try him and award punishment provided for the offence under the law.

(2) For the purposes of trial, the court may, as nearly as maybe, follow the procedure specified in Chapter XXII of the Code.

(3) The proceedings under subsection (1) may be initiated by the court on its own accord at any time after the decision of case or, in that even that there is an appeal,

after the decision thereof, or on an application made by prosecutor or the person accused of an offence tried by the Court within 90 days.

20. Power to freeze property.- (1) The chairman or the court trying an accused for any offence as specified under this act, may, at any time if there appear reasonable grounds for believing that accused has committed such an offence, ordering the freezing of his property, Or part thereof, Whether in his possession or in the possession of any other person on his behalf.

(2) If the property order to be frozen under subsection (1) is a debt or other moveable property, the freezing may be made:

- (a) By seizure;
- (b) By appointing of receiver;
- (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 or other methods as the court or the chairman as the case may be, deem 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 land is situated and in all other cases, and in all other cases;

- (a) By taking possession, or
- (b) By appointment of receiver or
- (c) By prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or
- (d) By all other or any of such methods as the chairman or the court may deem fit;

Provided that any order of the afore said seizure, freezing, attachment or any other prohibitory order by the chairman, shall remain in force for a period not exceeding 15 days unless confirmed by the court, where the reference under this act shall be sent by the chairman;

Provided further that notwithstanding anything to the contrary contained herein, the order of the chairman or the court shall be effective from the time of passing thereof or proclamation thereof in a newspaper widely circulated and dispatched at the last known address of the accused either by registered post AD or courier service or electronic media as the court may deem proper having regard to the facts and circumstances of the case.

(4) If the property ordered to be frozen consists of livestock, or is of perishable nature the chairman, or the court may if deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the chairman or the court or as it may direct as appropriate.

(5) The powers, duties and liabilities of a receiver, if any, 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).

(6) The order of freezing provided for in subsections (1) to(5) shall remain operative until the final disposal of the case by the court, and in the event of the acquittal of the accused, shall continue to remain operative for a period of ten days after receipt of

certified copy of the order of acquittal or release wherefore it shall be subject to an order by the court in which an appeal, if any is filed.

21. Claim or objection against freezing.- (1) Notwithstanding the provisions of any law for the time being in force, the court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under section 20 above. Such claims or objections shall be made before the court within 14 days from the date of the order freezing such property.

(2) The court may for sufficient cause extend, for a period not exceeding additional 14 days, the time for filing such claims or objections.

(3) The accused or any other aggrieved party whose claims or objections against freezing of property has been dismissed by the court, may, 15 days file an appeal days file an appeal against such order before the supreme court.

22. Power to call for information and seek assistance.- (1) The chairman may during the course of an inquiry or investigation of an offence under this act:

- (a) Call for information from any person for the purposes of satisfying himself whether there has been any contravention of the provisions of this act or any rule or order made there under;
- (b) Require any person to produce or deliver any document or thing useful or relevant to this inquiry;
- (c) Examine any person acquainted with the facts and circumstances of the case;
- (d) Where there is a reasonable suspicions that any person is involved in or is privy to an offence under this act, the chairman may, with the prior approval in writing of the high court concerned, direct that surveillance of that person may be carried out through such means as may be necessary in the facts and circumstances of the case and the chairman, may in this regard seek the aid and assistance of any governmental agency and the information so collected may be used as evidence in the trial under this act.

Provided that the copies of documents obtained or information received or evidence collected under this clause shall be kept confidential and shall not be used for any purpose other than for legal proceedings under this act ; and

- (e) Seek assistance from any department of the federal; government, provincial government, local authority, bank, financial institution, person or any authority and institution or department in the public or the private sector for disposal of any property surrendered to or seized by the Commission.

23. Transfer of cases.- (1) In respect of any pending cases before a court, if the chief prosecutor or any other prosecutor authorized by him in this behalf having regard to the facts and circumstances of the case and in the interest of justice and for the protection and safety of witnesses, considers it necessary that such case may be transferred, he may apply:

- (a) To the supreme court of Pakistan in case the transfer is intended from a court in a province to a court in another province; and
- (b) To the high court of the province in case the transfer is intended from one court in a province to another court in the same province;

And the Supreme Court or the High Court or as the case may be, if it considers it in the interest of justice, transfer the case from one court to another court and the case so transferred shall be tried under this act without recalling any witness whose evidence may have been recorded.

(2) The accused may also make an application to supreme court for the transfer of case from a court in one province to a court in another province to the high court for transfer of case from one court in a province to another court in the same province and the supreme court or the high court, as the case may be if considers it in the interest of justice, transfer the case from one court to another court, and the case so transferred shall be tried under this act without recalling any witness whose evidence may have been recorded.

24. **Appeal.**- Any person convicted or the chief prosecutor if so directed by the chairman, aggrieved by the final judgment or order of the court under this act may within 30 days of judgment or the order prefer an appeal to the Supreme Court of Pakistan.

25. **Copy of judgment to be given to accused.**- In every case where the accused is convicted of an offence under this act a copy of the judgment shall be given to him free of cost at the time of announcement of judgment.

CHAPTER 5

BANKING & SP DIVISIONS

26. **Commission to establish special divisions.**- (1) The Commission shall establish amongst others, five separate and special divisions:-

- (a) Special Banking Division to look into the matters including written off bank loans of all banks and financial institutions of Pakistan and matters related thereto;
- (b) Special Taxation Division to look into the tax evasions, tax thefts and special discriminatory tax holidays and matters related thereto;
- (c) Special Civil Division to look into the award of civil or building contracts and evaluate the quality of the civil works;
- (d) Judiciary Division to evaluate and collect evidence against the corrupt members of judiciary and pursue cases against such members before the Supreme Judicial Council;
- (e) Police and Revenue Division to identify and prosecute against such officers of the State.

(2) The Commission may appoint consultants, accountants, taxation experts, architects or engineers for advice, investigation and interrogation or as the case may be on such terms as it deems fit for the successful prosecution.

(3) The Commission may ask any state organization which has the role of regulatory authority or is involved with the affairs of the state to assist and provide information which may be necessary for investigation.

CHAPTER 6
MISCELLANEOUS:

27. International cooperation and request for his mutual legal assistance.- (1) The chairman or if so authorized by the chairman any officer of the accountability commission, may request a Foreign State to do the following acts in accordance with the law of such state:

- (a) have evidence taken or documents or other articles produced; and
- (b) transfer to Pakistan any such evidence, documents, things, articles, assets or proceeds realized from the disposal of such articles or assets.

(2) The evidence and other matters mentioned in clause (a) and clause (b) of subsection (1) shall be admissible in accordance with the Qanoon-e-Shahadat Order, 1984 (P.O.10 of 1984).

28. Indemnity.- (1) No proceeding under this act shall lie against the holders of public office for anything which has been done in good faith or in pursuance of or in exercise of powers vested in him or believed to be vested in him, or intended to be done at the material time by virtue of that office;

Provided that the above provision shall not apply where there has been a financial loss to the exchequer.

(2) The provisions of this Act shall not apply to any holder who voluntarily appears before the Commission and returns any unlawful gains received.

29. Overriding effect to other laws.- The provisions of this Act shall have the effect notwithstanding anything contained in any other law for the time being in force.

30. Chairman to submit an annual report.- the chairman shall after the end of every quarter submit a quarterly report and at the end of every year, submit to the parliament a report of its affairs for that year; which report shall be a public document and on its publication copies thereof shall be provided to the public at a reasonable cost.

31. Delegation of power.- The chairman may, by order in writing, delegate any of his powers under this act to the deputy chairman subject to such conditions and limitations as the accountability commission may think fit to impose.

32. Power to make rules.- The Commission may, by notification in the official gazette make rules for carrying out the purposes of this Act.

33. Repeal and savings.- (1) The National Accountability Ordinance, 1999 (XVIII of 1999) is hereby repealed along with other laws as expressed in the preamble:

(2) On the commencement of this Act,-

- (a) the Accountability Courts established under the said Ordinance shall stand abolished and judges of such courts who are serving judges shall stand repatriated to their respective high courts and services of retired accountability courts judges shall stand terminated;
- (b) all cases pending before any accountability court immediately before the commencement of this act shall stand transferred to the court having jurisdiction under this act and such court shall proceed with the cases from the stage at which they were pending without the necessity of recalling any witnesses:

Provided that the court under this act may, if the facts and circumstances of the case so warrant, refer back any such case to the Chairman for reconsideration or reinvestigation which shall be completed within 90 days;

- (c) all inquiries , investigations and proceedings initiated and conducted by the National Accountability Bureau along with previous record shall be transferred to accountability commission and on finalization of an enquiry or investigation if reference is made by the accountability commission to the court the same shall be decided in accordance with the provisions of HOPE.
 - (d) all members of the staff serving on deputation with the NAB shall stand repatriated to their parent departments;
 - (e) the employees of NAB including those appointed on contract where contract period has not expired before the commencement of this act, shall stand transferred to the Accountability Commission on their existing terms and conditions of their service and
 - (f) all assets , rights , privileges and all property , moveable and immovable , cash and bank balance reserve funds and all interests and rights in or arising out of such property and all debts liabilities and obligations of whatever kind of the NAB subsisting immediately before the commencement of the Act shall stand transferred to the Accountability Commission.
- (3) If any difficulty arises in giving effect to the provisions of this section ,the Commission may order the removal of difficulty.
- (4) Unless otherwise provided in this Act, the repealed Ordinance herein after shall not:
- (a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect or be called in question in any court of law the previous operation of repealed law or anything duly done or suffered thereunder;
 - (c) affect or be called in question in any court of law any acquittal or withdrawal of prosecution by operation of law or otherwise, right, privilege, obligation or liability acquired, accrued or incurred under repealed law;
 - (d) affect or be called in question in any court of law any penalty, forfeiture or punishment incurred in respect of any offence committed against repealed law; or
 - (e) affect or be called in question in any court of law any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

STATEMENT OF OBJECTS AND REASONS

Concept of Corruption is unknown in Islam. Not only is it forbidden but it is abhorred and detested. Any person, who is involved in corruption in any of its forms, has been condemned to "hell" in my religion. Often one is essentially poised with certain circumstances and becomes helpless in addressing this menace of society.

Pakistan is a victim of corruption and corrupt practices. Had there been a control over it, this country would have been in the top developed countries of the world. There is ample raw talent available in my country but it is this evil of society which is not allowing

my country to take-off at a desirable pace. There is corruption in executive & judiciary besides other institutions. Imagine, where would Pakistan be had there be no corruption or a controlled disease?

I would like to pay my salutation to those who have lead honest lives but with extreme modesty. They have sacrificed luxuries to their generation. They are not in a position to answer when asked; what have they done to deserve this when their colleagues are enjoying such a blessed life and are well respected amongst our society too.

Distinction between right and wrong is diminishing at an alarming pace from our society. Norms of our society have been relegated in such a manner that they are being dictated by those who are perpetrators of crime. A stage has arisen where such honest are being suffocated. If they are not saved, they will cease to exist as they are being pushed towards extinction. The words of "shame, honour and integrity" are loosing support in masses. Few decades ago, corrupt people were not only ignored but they were isolated from the respectable of society. There were times when people sought adjournments from courts and would wait for a dishonest judge to adjudicate upon their issue but in the present times, one has no choice but to wait for an honest judge to pronounce a judgment.

Life is the most precious thing for a human. A soldier who usually is from a humble background and absolutely oblivious to the luxuries or norms of the modern society so to say; does his job diligently and honestly while defending his motherland from the enemy. He willfully and desirably sacrifices the most precious thing this universe has granted him while fulfilling his duty. Thankfully he is not corrupt and we as a nation, instead of paying any tribute, do not even remember thousands of those "Shaheeds" who were honest enough to sacrifice whatever they had been blessed with in this life.

Parliamentarians are the leaders of the masses of my country. They are born to lead and not to be lead. In order to do so, threshold for such leaders has to be raised from others. If we cannot eradicate this menace from society, who will? If we cannot justify our election, who will? If we cannot take our motherland up there to the top, who will? If confident about us, henceforth this bill.

I for one, should be blamed or criticized for all the mistakes in the drafted legislation since I wrote every word of it. Record was consulted from the previous drafted bills. As a soldier of parliamentarians, I dedicate this bill to the poor, deprived, unrepresented, "just surviving", and struggling but honest people of Pakistan. I dedicate to the nameless "shaheeds" of Pakistan who are resting in peace with the vow that their sacrifice will be appreciated in all the elected forums of Pakistan.

Sd/-

MR. MUHAMMAD RAZA HAYAT HIRAJ
Member, National Assembly