

NATIONAL ACCOUNTABILITY BUREAU ORDINANCE

No. XVIII of 1999

November 16, 1999

Amended by: ORDINANCE NO XIX OF 1999, ORDINANCE NO IV OF 2000

AN ORDINANCE to provide for the setting up of a National Accountability Bureau so as to eradicate corruption and corrupt practices and hold accountable all those persons accused of such practices and matters ancillary thereto;

WHEREAS it is expedient and necessary to provide for effective measures for the detection, investigation, prosecution and speedy disposal of cases involving corruption, corrupt practices, misuse/abuse of power, misappropriation of property, kickbacks, commissions and for matters connected and ancillary or incidental thereto;

AND WHEREAS there is an emergent need for the recovery of outstanding amounts from those persons who have committed default in the repayment of amounts to Banks, Financial Institutions, government and other agencies;

AND WHEREAS there is a grave and urgent need for the recovery of state money and other assets from those persons who have misappropriated or removed such assets through corruption, corrupt practices and misuse of power and/or authority;

AND WHEREAS it is necessary that a National Accountability Bureau be set up so as to achieve the above aims;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of the Fourteenth day of October 1999 and the Provisional Constitution Order No. 1 of 1999, as amended;

AND WHEREAS the President is satisfied that circumstances exist which renders it necessary to take immediate action;

NOW THEREFORE, in pursuance of the aforesaid Proclamation and Provisional Constitutional Order as well as Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1 Title

This Ordinance may be called the National Accountability Bureau Ordinance, 1999 (No XVIII of 1999).

2 Commencement

This Ordinance shall come into force at once and shall be deemed to have come into force from the 1st day of January 1985.

3 Ordinance to override other laws

The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4 Application

It extends to the whole of Pakistan and shall apply to all persons in Pakistan, and persons who are or have been in the service of Pakistan wherever they may be, including areas which are part of Federally and Provincially Administered Tribal Areas.

5 Definitions

a "Accused" shall include a person in respect of whom there are reasonable grounds to believe, is or has been involved in the commission of any offence triable under this Ordinance and/or is subject of an investigation/inquiry by the National Accountability Bureau, or concerned Agency.

- 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, financial institution, bank, authority undertaking or any other organization set up, controlled or administered by or under the authority of the Federal Government or the Provincial Government concerned.
- c. "Assets" means any property owned, controlled by or belonging to any accused, whether directly or indirectly, or held benami in the name of his spouse or relatives or associates, whether within or outside Pakistan, for which they cannot reasonably account, or for which they cannot prove payment of full and lawful consideration.
- d. "Associates" means:-
- i. any individual who is or has been managing the affairs for or keeping accounts of the accused or who enjoys or has enjoyed any benefit from the assets referred to above.
 - ii. any association of persons, body of individuals, partnership firms or private limited companies within the meaning of Companies Ordinance 1984, of which such a person is or has been a member, partner or director or which have been promoted, floated, established or run by the same group of persons.
 - iii. any trustee of a Private Trust.
 - iv. any person who ostensibly holds or is in possession or custody of any property of an accused on his behalf for the benefit and enjoyment of the accused.
- e. "Chairman National Accountability Bureau" means a person who is appointed as such by the President of the Islamic Republic of Pakistan as mentioned in Section 6 (b) hereafter.
- f. "Code" means the Code of Criminal Procedure, 1898.
- fa. "Conciliation Committee" means the Conciliation Committee constituted under section 25A;
- g. "Court" means an Accountability Court which shall consist of a Judge who shall be appointed by the President of Pakistan after consultation with the Chief Justice of Pakistan through notification in the official Gazette.
- h. "Judge" means a person who has been a Judge of the High Court, is, or has been a District & Sessions Judge qualified to be a Judge of the High Court or any lawyer who is qualified to be a Judge of the High Court.
- j. "Deputy Chairman" means the person appointed as Deputy Chairman of the National Accountability Bureau by the Chief Executive of the Islamic Republic of Pakistan.
- k. "National Accountability Bureau" means the Bureau set up and notified under this Ordinance, (hereinafter known as NAB).
- l. "Freezing" includes attachment, sealing, prohibition, holding, controlling and/or managing any property either through a Receiver or otherwise as may be directed by the Court or Chairman NAB, and in case it is deemed necessary the disposal thereof, by sale through auction or negotiation subject to confirmation by the Court or by Chairman National Accountability Bureau as the case may be after public notice.
- m. "Holder of Public Office" means a person who :-
- i. has been the President of Pakistan or the Governor of a Province.

- ii. is, or has been the Prime Minister, Chairman Senate, Speaker of the National Assembly, 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 holds or has held 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 who holds or has held a post or office with the rank or status of a Provincial Minister;
- iv. is holding, or has held, an office or post 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 management of 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 any of the armed forces of Pakistan, 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, a 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, 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.

For the purpose of this sub-clause the expressions "Chairman" and "Vice Chairman" shall include "Mayor" and "Deputy Mayor" as the case may be, and the respective councilors therein.

- vi. has served in and retired or resigned from or has been discharged or dismissed from the Armed Forces of Pakistan.
- n. "Offence" means the offences of corruption and corrupt practices as defined in this Ordinance and includes those offences as specified in the Schedule to this Ordinance.
- o. "PERSON" includes in the case of a corporate body, the sponsors, Chairman, Chief Executive, Managing Director, elected Directors, by whatever name called, and guarantors of the company or any one exercising direction or control of the affairs of such corporate body, but will not include employees appointed and designated as Director or Chief Executive; and in the case of any firm, partnership or sole proprietorship, the partners, proprietor or any person having interest in the said firm, partnership or proprietorship concern or direction or control thereof.
- p. "Property" includes any or all movable and immovable properties situated within or outside Pakistan.

- q. "Government Property" means both moveable & immovable properties belonging to the Government and includes gifts, donations, financial assistance, grants, aid received or collected in whatever name or for whatever purpose during the tenure of office.
- r. "Wilful Default": a person is said to commit an offence of wilful default under this Ordinance if he does not pay or return or repay the amount to any bank, financial institution, cooperative society, or a Government department or a statutory body or an authority established or controlled by a Government on the date that it became due according to the laws, rules, regulations, instructions, issued or notified by a bank, including the State Bank of Pakistan, financial institution, cooperative society, Government Department, statutory body or an authority established or controlled by a Government, as the case may be, and a period of thirty days has expired thereafter:

Provided that it is not wilful default under this Ordinance if the accused was unable to pay, return or repay the amount as aforesaid on account of any wilful breach of agreement or obligation or failure to perform statutory duty on the part of any bank, financial institution, cooperative society or a Government department or a statutory body or an authority established or controlled by Government.

6. National Accountability Bureau

a. There shall be constituted a National Accountability Bureau for the whole of Pakistan.

b. Chairman National Accountability Bureau

- i. There shall be a Chairman NAB to be appointed by the President.
- ii. The Chairman NAB shall be appointed on such terms and conditions and shall have the status and privileges as may be determined by the President.
- iii. The Chairman NAB may resign his office by writing under his hand addressed to the President.

c. Acting Chairman, National Accountability Bureau

As and when the Chairman NAB is absent or unable to perform the functions of his office due to any reason whatsoever, the Deputy Chairman will act as the Chairman NAB, and in case the Deputy Chairman is absent or unable to perform the functions of the office, any other person duly authorized by the Chairman NAB, to act as Chairman NAB.

7. Deputy Chairman, National Accountability Bureau

a. There shall be a Deputy Chairman NAB appointed by the President in consultation with the Chairman NAB. The Deputy Chairman shall assist the Chairman in the performance of his duties and carry out such functions as may be directed by the Chairman.

b. The Deputy Chairman shall serve at the pleasure of the President.

8. Prosecutor General Accountability.

a. The Chairman NAB may appoint any person to act as the Prosecutor General Accountability, notwithstanding any other appointment or office the latter may concurrently hold, upon such terms and conditions as may be determined by the Chairman.

- b. The Prosecutor General shall give advice to the Chairman NAB upon such legal matters and perform such other duties of a legal character as may be referred or assigned to him by the Chairman NAB and in the performance of his duties, he shall have the right of audience in all Courts established under this Ordinance and all other Courts and Tribunals in Pakistan.
- c. The Prosecutor General Accountability Bureau, in consultation with the Attorney General of Pakistan, may, with prior approval of the Chairman NAB, appoint Special Prosecutors to conduct prosecution of specific cases under this Ordinance, before any Accountability Court or any other Court or Tribunal.

9. Corruption and Corrupt Practices

- a. A holder of a public office, or any other person, is said to commit or to have committed the offence of corruption and corrupt practices:-
- i. If he accepts or obtains from any person or offers any gratification directly or indirectly, 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 for-bearing 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
 - ii. If he accepts or obtains or offers 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 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
 - iii. 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, or willfully allows any other person so to do; or
 - iii. If he by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse and/or dependents or any other person, any property, valuable thing, or pecuniary advantage; or
 - v. If he or any of his dependents or benamidars owns, possesses, or has 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
 - vi. Misuses his authority so as to gain any benefit or favour for himself or any other person, or to render or attempt to do so;
 - vii. If he has issued any directive, policy, or any SRO (Statutory Regulatory Order) or any other order which grants or enables any concession or benefit in any taxation matter or law or otherwise so as to benefit himself or any relative or associate or a benamidar; or
 - vii. if he commits an offence of willful default.
- b. All offences under this Order shall be non-bailable and, notwithstanding anything contained in sections 426, 491, 497, 498 and 561A or any other provision of the Code, or any other law for the time being in force no Court including the High Court shall have jurisdiction to grant bail to any person accused of any offence under this Order.
- c. Where the Chairman NAB decides to release from custody or detention a holder of a public office or any other person accused of an offence under this Ordinance, he shall do so after considering the gravity of the charge against such person and where the accusation specifies any amount in respect of which the offence is alleged to have been committed, he shall not be released unless such amount is deposited with the NAB;

Provided that the Chairman NAB may impose other conditions for release from custody or detention.

d. The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, etc, within one month of the date of such deposit.

10. Punishment for Corruption and Corrupt Practices

- a. A person who commits the offence of corruption and corrupt practices shall be punishable with imprisonment for a term which may extend to 14 years, or with fine, or with both, and such of the assets and property of such person which is found to be disproportionate to the known sources of his income or which is acquired by money obtained through corruption and corrupt practices whether in his name or in the name of any of his dependents, or benamidars shall be liable to be forfeited to the appropriate Government.
- b. Any 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 that may be awarded to a holder of a public office as may be deemed fit by the Court.

11. 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 or any relative or associate which may be set off against the forfeited or frozen assets and property.

12. Power to freeze property

- a. The Chairman NAB or the Court trying a person for any offence as specified under this Ordinance, 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 part thereof, whether in his possession or in the possession of any relative, associate or person on his behalf;
- b. If the property ordered to be frozen under sub-section (a) is a debt or other movable property, the freezing may be made:-
- i. by seizure; or
 - ii. by appointment of receiver; or
 - iii. by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
 - iv. by all or any of such or other methods as the Court or the Chairman NAB as the case may be, deem fit;
- c. 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 situated, and in all other cases:-
- i. by taking possession; or
 - ii. by appointment of receiver; or
 - iii. by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or

iv. by all or any of such methods as the Chairman NAB or the Court may deem fit.

Provided that any Order of seizure, freezing, attachment or any prohibitory order mentioned above by the Chairman NAB, shall remain in force for a period not exceeding 30 days unless confirmed by the Accountability Court, where the Reference under this Order shall be sent by NAB.

Provided further that notwithstanding that the Order of NAB or the Court shall be effective from the time of passing thereof or proclamation thereof in a Newspaper, widely circulated and dispatch at the last known address of the accused.

- d. If the property ordered to be frozen consists of livestock or is of a perishable nature, the Chairman NAB, OR the Court may, if it deems proper and expedient, order the immediate sale thereof and the proceeds of the sale may be deposited with the Chairman NAB or the Court, or as either may direct as appropriate.
- e. 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).
- f. That the Order of freezing etc. mentioned above in Section 12(a to e) shall, as the case may be, remain operative until final disposal by the Accountability Court or the Appellate Forum, notwithstanding filing of or pendency of an Appeal under this Order.

13. Claim or objection against freezing

- a. Notwithstanding the provisions of any law for the time being in force, the Accountability Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under section 12 above. Such claims or objections shall be made before the Accountability Court within 14 days from the date of the order freezing such property.
- b. The Court may for sufficient cause extend the time for filing such claims or objections for a period not exceeding additional 14 days.
- c. No appeal shall lie against an Order made under Section 12 of this Ordinance.

14. Presumption against accused accepting illegal gratification

- a. Where in any trial of a scheduled offence punishable under this Order, 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 section 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;

- b. 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 section 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.
- c. In any trial of an offence punishable under this Order, 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/or corrupt practices and his conviction therefore shall not be invalid by reason only that it is based solely on such a presumption.
- d. Where a person is accused of an offence under section 9(a) (vi) and (vii), the burden of proof that he used his authority, or issued any directive, or authorised the issuance of any policy or statutory rule or order (SRO), or made any grant or allowed any concession, in the public interest, fairly, justly, and for the advancement of the purpose of the enactment under which the authority was used, directive or policy or rule or order was issued or grant was made or concession was allowed shall lie on him, and in the absence of such proof the accused shall be guilty of the offence, and his conviction shall not be invalid by the reason that it is based solely on such presumption.

15. Disqualification to contest elections or to hold public office

- a. Where an accused person is convicted for the offence of corruption or corrupt practices as specified in the Schedule to this Ordinance, he shall stand disqualified for 21 years for seeking, or from being elected chosen appointed or nominated as a member or representative of any public office, or any statutory or local authority of the Government of Pakistan.

Provided that any accused person who has availed the benefit of sections 25 of this Ordinance shall also be deemed to have been convicted for an offence under this Ordinance, and shall stand disqualified for 21 years as above.

- b. Any person convicted of an offence of corruption and/or corrupt practices as described at serial No. 1 of the Schedule shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances from any Bank or Financial Institution in the public sector, for a period of 10 years from the date of conviction.

16. Trial of Offences

- a. Notwithstanding anything contained in any other law for the time being in force, all persons accused of a scheduled offence, shall be prosecuted for such offence by Court established pursuant to this Ordinance exclusively as constituted under section 5 (g) and the case shall be heard from day to day and disposed of within 30 days.

- b. The court shall sit at such place or places as the Government may, by order, specify in this behalf.
- c. Where more courts than one have been established for an area, the Chief Justice of the High Court of the Province concerned shall, keeping in view the seniority and status of the Judges of various Courts, designate a Judge of any such Court to be an Administrative Judge.
- d. Notwithstanding anything contained in this section, if in respect of any case relating to an offence triable under this Ordinance, the Chairman NAB, having regard to the facts and circumstances of the case may file a reference before any Accountability Court established anywhere in Pakistan, and such Court shall have the jurisdiction to try the same.

16A. Transfer of Cases

- a. Notwithstanding anything contained in any other law for the time being in force, the Chairman NAB may apply to any court of law or tribunal that any case involving a scheduled offence under this Ordinance pending before such court or tribunal shall be transferred to a Court established under this Ordinance, then such other Court or Tribunal shall transfer the said case to any Court established under this Ordinance and it shall not be necessary for the Court to recall any witness or again to record any evidence that may have been recorded.
- b. In respect of any case pending before a Court established under this Ordinance, the Chairman NAB having regard to the facts and circumstances of the case and in the interest of justice and for the protection and safety of witnesses it is necessary that such case is transferred for trial may direct the Prosecutor General Accountability to apply for the transfer of the case from any such Court in one province to a court in another province or from one Court to a Court in another Province from one Court in a Province to another Court in the same Province, provided that:-
 - i. in case the transfer is intended from a Court in a Province to a court in another Province to the Chief Justice of Pakistan; and
 - ii. in case the transfer is intended from one Court in a Province to another Court in the same Province to the Chief Justice of the High Court;and if the Chief Justice of Pakistan or, as the case may be, the Chief Justice of High Court considers it expedient in the interest of justice so to do, he may transfer the case from one Court to another Court and case so transferred shall be tried under this Ordinance without recalling any witness whose evidence may have been recorded.

17. Provision of the Code to apply

- a. Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Ordinance, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1989), shall mutatis mutandis, apply to the proceedings under this Order.
- b. Subject to sub section (a), the provisions of Chapter XXIIA of the Code shall apply to trials under this Ordinance.
- c. Notwithstanding anything contained in sub-section (a) or sub-section (b) or in any law for the time being in force, the Accountability Court may, for reasons to be recorded, dispense with any provision of the Code and follow such procedure as it may deem fit in the circumstances of the case.

18. Cognizance of Offences

- a. The Accountability Court shall not take cognizance of any offence under this Ordinance except on a reference made by or on behalf of the Chairman National Accountability Bureau.
- b. A reference under this Order shall be initiated by the Chairman National Accountability Bureau on
 - i. a reference received from the appropriate government; or
 - ii. receipt of a complaint; or
 - iii. his own accord.
- c. Where the Chairman National Accountability Bureau is of the opinion that it is or may be necessary and appropriate to initiate proceedings against any person on receipt of a reference or complaint or on his own accord, as the case may be, he shall refer the matter to the Deputy Chairman National Accountability Bureau or to any other officer for inquiry and investigation.
- d. The responsibility for inquiry into and investigation of an offence alleged to have been committed under this Ordinance shall rest on the NAB to the exclusion of any other agency or authority, unless any such agency or authority is required to do so by the Chairman or/and Deputy Chairman NAB.
- e. The Chairman NAB and such members, officers and/or servants of the NAB shall have and exercise, for the purposes of an inquiry and/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 when and if the assistance of any agency, police officer or any other official or agency, as the case may be, is sought by the NAB such official or agency shall render such assistance provided that no person shall be arrested without the permission of the Chairman or any officer duly authorized by the Chairman NAB.
- f. Any Inquiry and Investigation under this Order shall be completed expeditiously but not exceeding a period of 75 days, or earlier as soon as may be practical and feasible.
- g. The Chairman NAB, shall appraise the material and the evidence placed before him during the inquiry and the investigation, and if he decides that it would be proper and just to proceed further, he shall refer the matter to an Accountability Court.
- h. If a complaint is inquired into and investigated by the NAB and it is concluded that the complaint received was prima facie frivolous or has been filed with intent to malign or defame any person, the Chairman or Deputy Chairman NAB or the prescribed law officer, may refer the matter to the Court, and if the complainant is found guilty he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

19. Power to call for information

The Chairman NAB or any authorized officer may, during the course of an inquiry or investigation in connection with contravention of any provision of this Ordinance:-

- a. call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Ordinance or any rule or order made thereunder;
- b. require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation;
- c. examine any person acquainted with the facts and circumstances of the case; and

d.require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information relating to any person whosoever.

20. Reporting of suspicious financial transactions

a. Notwithstanding anything contained in any law for the time being in force, it shall be the duty of all banks and financial institutions to take prompt and immediate notice of all unusual or large transactions with context to the account, which have no apparently genuine economic or lawful purpose and upon bonafide professional judgement of the Bank suspicion that such transactions could constitute or be related to illegal or illicit activities, corruption or corrupt practices, the manager or director of such financial institution shall report all such transactions to the Chairman NAB forthwith by the quickest possible mode of communication to be confirmed in writing.

b. Whoever fails to supply the information in accordance with subsection (a) shall be punishable with rigorous imprisonment which may extend to 5 years, or with fine, or with both.

c. Where there are reasonable grounds to believe that the assets of a person or any part thereof were acquired through corruption or corrupt practices, and there was no other likely source of acquiring such assets or part thereof, it shall be presumed, unless proved to the contrary by the accused person, that such assets or part thereof were acquired, generated or obtained through corruption and corrupt practices.

21. International Cooperation - Request for mutual legal assistance

The Chairman NAB or any officer authorized by the Federal Government 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;

b. obtain and execute search warrants or other lawful instruments authorizing search for things relevant to investigation or proceedings in Pakistan believed to be located in that State, and if found, seize them;

c. freeze assets, by whatever processes are lawfully available in that State, to the extent to which the assets are believed on reasonable grounds to be situated in that State;

d. confiscate articles and forfeit assets to the extent to which the articles or assets, as the case may be, are believed to be located in that State;

e. transfer to Pakistan any such evidence, documents, things, articles, assets or proceeds realized from the disposal of such articles or assets; and

f. transfer in custody to Pakistan a person detained in the foreign State who consents to assist Pakistan in the relevant investigation or proceedings.

22. Jurisdiction

a. The Chairman NAB may inquire into and investigate any suspected offence which appears to him on reasonable grounds to involve serious offences as given in the Schedule to this Ordinance, and has been referred to him, or of his own accord.

b. The Chairman NAB may, if he thinks fit, conduct any such investigation in conjunction with any other agency or any other person which/who is, in the opinion of the Chairman NAB, a proper Agency or person to be concerned in it.

23. Transfer of property void

(a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated investigation into the offences under this Ordinance, alleged to have been committed by an accused person, such person or any relative or associate of such person or any other person on his behalf, shall not transfer by any means whatsoever, create a charge on any movable or immovable property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Accountability Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void.

(b) Any person who transfers, or creates a charge on property in contravention of subsection (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved.

24. a. The Chairman NAB shall have the power, at any stage of the investigation under this Ordinance, to direct that the accused, if not already arrested, shall be arrested.

b. If the Chairman, NAB decides to refer the case to a Court, such reference shall contain the substance of the offence/offences alleged to have been committed by the accused and a copy of such reference shall be forwarded to the Registrar of the Court to which the case has been sent to try the accused, and another copy shall be delivered to the accused.

c. The provisions of sub-section (a) shall also apply to cases, which have already been referred to the Court.

d. Notwithstanding anything contained in the code, where the holder of the public office or any other person accused of an offence is arrested by NAB under this Ordinance, NAB shall, as soon as may be, inform him of the grounds and substance on the basis of which he has been arrested and produce him before the court established under this Ordinance within a period of twenty four hours of arrest excluding the time necessary for the journey from the place of arrest to the court and such person shall, having regard to the facts and circumstances of the case, be liable to be detained in the custody of NAB for the purpose of inquiry and investigation for a period not exceeding ninety days provided that no accused arrested under this Ordinance shall be released without the written order of the Chairman NAB or the order of the Court.

e. All persons presently in custody shall immediately upon coming into force of this sub-section, unless previously produced before an Accountability Court, be produced before such court as provided in sub-section (d) and the Order authorizing retention of custody by NAB shall be deemed to relate to the date of arrest.

f. The Chairman, NAB may declare and notify any place as a police station or a sub-jail at his discretion.

25. Voluntary Return (Plea Bargaining)

(1) Where at any time whether before or after the commencement of trial the holder of a public office or any other person accused of any offence under this Ordinance, returns to the NAB the assets or gains acquired through corruption or corrupt practices;

(i) if the trial has not commenced, the Chairman NAB may release the accused; and

(ii) if the trial has commenced, the Court may, with the consent of the Chairman, release the accused.

(2) The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, etc., within one month from the date of such deposit.

25A. Payment of Loans, etc

a. Where a person has been arrested or is in the custody of NAB on the charge that he is guilty of committing the offence of wilful default on account of non-payment of dues to a bank or financial institution or cooperative society, he may apply to the Chairman NAB for the reconciliation of his liability through Conciliation Committee and the Chairman NAB may refer the matter to a Conciliation Committee.

b. The Conciliation Committee shall consist of a nominee of NAB, who shall be the Chairman of the Commission, a nominee of the Prosecutor General NAB, an officer of the Banking Cell of NAB nominated by the Chairman NAB, a nominee of the Governor of the State Bank of Pakistan being a senior officer of the State Bank well qualified in the profession of banking, a Chartered Accountant appointed by the State Bank of Pakistan, a Chartered Accountant appointed by the accused who will represent him and a Chartered Accountant appointed by the lender.

Explanation: Where the lender is a consortium or group of banks or financial institutions, the lender means the lead bank or financial institution.

c. The Conciliation Committee after examining the record and accounts of the bank and the written evidence produced by the accused through his Chartered Accountant, if any, shall determine the amount outstanding against the accused calculated in accordance with law, circulars, rules and regulations of the State Bank of Pakistan and the manner and schedule of repayment. The accused, if he so desires, shall be heard at the commencement and before the conclusion of proceedings provided that the Chartered Accountant representing the accused shall have access to him for obtaining instructions during the proceedings of the Conciliation Committee.

d. The Conciliation Committee shall conclude the reference within thirty days and its recommendations shall be recorded by its Chairman and shall contain the views of all members of the Committee. The recommendations of the Conciliation Committee shall be submitted to the Chairman NAB.

e. The Chairman NAB shall consider the recommendations submitted to him under sub-section (d). The Chairman NAB may accept the recommendations or may, for reasons to be recorded, pass such appropriate order including rejecting or modifying the same as he may deem fit.

f. Where the accused undertakes to repay the amount as determined by the Conciliation Committee or the Chairman NAB, as the case may be, the Chairman NAB may release the accused for the purpose of this Ordinance.

g. Notwithstanding anything contained in this Ordinance or any other law for the time being in force, if the Chairman NAB is satisfied that any agreement entered

into between a bank or a financial institution, a cooperative society and a lender is vitiated by the provisions of section 23 or any other provision of the Contract Act, 1872 (IX of 1872), or any other law or the same is collusive or is against public interest, he may refuse to take such agreement into consideration for the purposes of Conciliation Committee or the conclusion drawn by them.

h. In the event of failure either of the Conciliation Committee to conclude the reference within thirty days of the commencement of the conciliation proceedings or the failure of the accused to accept and implement the decision of the Chairman NAB regarding the payment and matters relating thereto, the case shall be proceeded with and referred to the Accountability Court.

26. Tender of pardon to accomplice/plea-bargaining

a. Notwithstanding anything contained in the Code, at any stage of investigation or inquiry, the Chairman 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.

b. Every person accepting a tender of pardon under sub-section (a) shall be examined as a witness in the subsequent trial.

c. Subject to sub-section (d), the person to whom pardon has been granted under this section shall not -

i. in the case of a full pardon be tried for the offence in respect of which the pardon was granted; and

ii. in the case of a 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.

d. 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 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.

e. Any statement made before the Chairman NAB or the Court by a person who has accepted a tender of pardon may be given in evidence against him at such trial.

27. Power to seek Assistance

The Chairman NAB shall have the power to seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or proceeding pending before the NAB, 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 sector or the private sector, as he may deem it fit and proper to demand or require, provided that in any case in which a question of secrecy is involved or is raised at any time, the Chairman's decision shall be final.

28. Appointment of officers and staff in the National Accountability Bureau

a. The NAB may appoint such officers and staff as it may consider necessary for efficient performance of its functions and exercise of its powers under this Ordinance.

- b. The officers and members of staff shall be appointed by the Chairman NAB or by a person authorized by the Chairman NAB.
- c. The officers and members of staff shall be entitled to such salary, allowances and other terms and conditions of services as the Chairman NAB may, with the approval of the Chief Executive, determine.
- d. Subject to sub-section (e), the provisions of the Civil Servants Act, 1973 (LXXI of 1973) shall not apply to the persons appointed in NAB.
- e. Nothing contained in sub-section (d) shall apply to a person who is a civil servant within the meaning of the law relating to appointments as civil servant of the Federation or a Province and is deputed to or posted in NAB.

29. Accused to be competent witness

Any person charged with an offence punishable under this Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him.

Provided that the accused shall not be compelled to be a witness against himself:

Provided further that, where an accused person appears as a witness of his own choice and refuses to answer any question, the Court may draw such adverse inference from such refusal as it may think proper.

30. False evidence etc.

- a. Notwithstanding anything contained in the preceding provisions or any other law already in force, on pronouncement of judgement, the Accountability Court shall have the jurisdiction and power to take cognizance of an offence committed in the course of the investigation or trial of a case by any officer, any witness, including an expert, who has tendered false evidence in the case, whether he deposed in court or not, or any other person, under sections 176 to 182 of Chapter X, or sections 191 to 204, or 211 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 and offences against public justice, and to summarily try him and award punishment provided for the offence under the law.
- b. For the purpose of trial under sub-section (a), the Court may, as nearly as may be, follow the procedure specified in Chapter XXII of the Code.
- c. The proceeding under sub-section (a) may be initiated by the Court on its own accord at any time after the decision of the case or, in the event that there is an appeal, after the decision thereof, or on an application made by the Prosecutor or the person accused of an offence tried by the Court, within thirty days.

31. Prohibition to hamper investigation

- a. Notwithstanding anything contained in any other law for the time being in force, if any person concerned with the inquiry and investigation and prosecution of a case consciously and deliberately and with malice aforethought compromises, hampers, misleads, jeopardizes or defeats an investigation of a case under process before NAB or any concerned agency or authority or any Court or an

Accountability Court, he shall be deemed to have committed the scheduled offence of corrupt practice and/or corruption.

- b.No person will be proceeded with under this section except with the sanction of a Committee composing the Chairman NAB, Deputy Chairman NAB and the Prosecutor General Accountability.

31A.Absconding to avoid service of warrants

Whoever absconds in order to avoid being served with any process issued by any Court or any other authority or officer under this Ordinance or in any manner prevents, avoids or evades the service on himself of such process or conceals himself to screen himself from the proceedings or punishment under this Ordinance shall be guilty of an offence punishable with imprisonment which may extend to three years notwithstanding the provisions of section 87 and 88 of Code of Criminal Procedure, 1898, or any other law for the time being in force.

31B.Withdrawal from prosecution

Where at any stage of the proceedings, the Chairman NAB is of the opinion that ends of justice so require he may direct the Prosecutor General Accountability to withdraw from prosecution of any person under this Ordinance and upon such withdrawal the accused shall be released if not required in any other case under this Ordinance.

- 31C.**No Court established under this Ordinance shall take cognizance of an offence against an officer or an employee of a bank or financial institution for writing off, waving, restructuring or refinancing any financial facility, interest or markup without prior approval of the State Bank of Pakistan.

32. Appeal

- a.Any person convicted or the Prosecutor General Accountability, if so directed by NAB aggrieved by the Final Judgement and Order of the Court under this Ordinance may, within ten days of the final Judgement and Order of the Accountability Court prefer an Appeal to the High Court of the Province where the Court is situated.
- b.All Appeals against the final Judgement filed before the High Court will be heard by a Bench of not less than two judges constituted by the Chief Justice of the High Court and shall be finally disposed off within thirty days of the filing of the Appeal.
- c. Notwithstanding any other law for the time being in force or this Ordinance, no appeal against any interlocutory order of the Court during the proceedings pending before it under this Order, shall lie and an appeal shall lie only against the Final Judgement of the Court.
- d.No stay of proceedings before the Court shall be granted by any Court on any ground whatsoever, nor proceedings thereof be suspended or stayed by any Court on any ground whatsoever.

33. Transfer of pending proceedings

Any and all proceedings pending before a court under the Ehtesab Act, 1997 (IX of 1997), shall stand transferred to an Accountability Court as soon as it is constituted under this Ordinance within the same Province, and it shall not be necessary to recall any witness or again to record any evidence that may have been recorded.

- 34.** The President of the Islamic Republic of Pakistan in consultation with the Chief Justice of Pakistan may make Rules for carrying out the purposes of this Ordinance and the said Rules, shall on promulgation be a part of this Ordinance.

35. Repeal

- a. The Ehtesab Act 1997 (Act IX of 1997) shall stand repealed from the date of promulgation of this Ordinance, provided that notwithstanding the Repeal of the said Act, any proceedings pending under Ordinance CXI of 1996, Ordinance No. XX of 1997 and the Ehtesab Act, 1997 before any Court established under the said Act of 1997 and/or any of the aforesaid Ordinances amending the same, shall, continue under this Ordinance as transferred under sub-section (b) of section 33 to an Accountability Court.
- b. Any case or proceeding pending under the aforesaid Act of 1997 immediately before the commencement of this Ordinance and transferred to any court established under this Ordinance shall be proceeded with and all subsequent proceedings shall be completed in accordance with, and under the provisions of, this Ordinance.

36. Indemnity

No suit, prosecution, or any other proceedings shall lie against the Federal Government, Provincial Government, Chairman NAB, or any other member of the NAB or any person exercising any power or performing any function under this Ordinance or the Rules made hereunder for any act or thing which has been done in good faith or intended to be done under this Ordinance or the Rules thereof.

37. Removal of Difficulties Order.

The President may for the purpose of removing any difficulties in the enforcement of this Ordinance may make modifications, additions or omissions as may be deemed necessary or expedient for the interest of the State.

SCHEDULE OF OFFENCES

S.No.	Offences	Punishment	Remarks
1	Corruption and Corrupt Practices.	14 years or less along with fine	
a.	Wilful default in repayment of outstanding dues to a Bank or a Financial Institution a cooperative society, a Government department or an authority established or controlled by the Government shall be an offence or deemed to be an offence of corruption and / or corrupt practices.	14 years or less plus fine	
	Any person who aids, abets or through any willful act or omission is instrumental in the commission of the offence specified at Serial 1(a) above of this Schedule or with wrongful intent for illegal gratification by misuse of power, authority, influence, nepotism, favoritism writes off, waives, restructures or refinances illegally, improperly or without sufficient justification the principal amount of loan on any financial facility, interest or mark-up on any loan or financial facility provided to any person by any bank or financial institution, a cooperative society, a Government department or an authority established or controlled by the Government shall have committed or be deemed to have committed the offence of corruption and/or corrupt practices.	14 years or less plus fine amounting to the loss incurred	
2.	Criminal conspiracy/attempt to commit any scheduled offence.	10 years or less	

3.	Knowingly furnishes false information to any member of the National Accountability Bureau or to any agency investigating any alleged offence.	10 years or less	To be read with Sections 175-177 PPC
4.	Refuses to answer questions, or to provide information to the National Accountability Bureau or any other agency when required to do so.	5 years or less	To be read with Sections 180-182 PPC
5.	Giving or fabricating false evidence during inquiry, investigation of an offence by the National Accountability Bureau or any agency:		To be read with following sections of PPC:-
	? When given by a complainant/witness/accused.	5 years or less	193, 195, 197, 198, 199, 200, 201, 202, 203, 204, 211
	? When given by any inquiry officer, investigator of the National Accountability Bureau or concerned agency.		
6.	Offence under section 409 PPC	14 years or less	
7.	Misuse of authority / power in committing any offence above, by any person holding a public office including any offence under sections 161 to 165A of the Pakistan Penal Code.	14 years or less	
8.	Fraud	14 years or less	
9.	Acquisition, retention and possession of assets derived from corrupt practices by corrupt or/and illegal means in abuse of power and/or authority.	14 years or less along with fine and confiscation of property	
10.	Section 31A of this Ordinance	3 years	

MUHAMMAD RAFIQ TARAR

President of the Islamic Republic of Pakistan