



YOUTH GENERAL ASSEMBLY

# **AN ANALYSIS OF ACTS OF NATIONAL ASSEMBLY 2018-20**

**Youth General Assembly** is an autonomous assembly that has been formed in order to provide a credible platform that instigates a true sense of policy & strategy making, equitable administration and non-customary legislative, public speaking and social issues by empowering enthusiasm in youth for being the future ambassadors and democrats.

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**YOUTH GENERAL ASSEMBLY**

# NATIONAL ASSEMBLY ACTS

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## ACT NO. 1

### ANALYSIS OF FINANCE ACT 2018

Pakistan published the Finance Act, 2018, which received President's assent on 22 May 2018. The Act provides the implementation of the measures proposed as part of the 2018/2019 Budget, with some amendments. The main measures are summarized as follows:

#### Tax Rate Changes

Tax rate changes include:

- A reduction in the corporate tax rate from 30% to 29% for the 2018/19 tax year, followed by an additional 1% reduction per year until reaching 25% from the 2022/23 tax year;
- A reduction in the corporate tax rate for small companies from 25% to 24% for the 2018/19 tax year, followed by an additional 1% reduction per year until reaching 20% from the 2022/23 tax year;
- A reduction in the super tax rate for non-bank tax taxpayers with income exceeding PKR 500 million to 2% for the 2018/19 tax year, 1% for the 2019/20 tax year, and 0% from the 2020/21 tax year;
- A reduction in the super tax rate for banking companies to 0% for the 2017/18 tax year, then back to 4% for the 2018/19 tax year, and then reduced to 3% from the 2019/20 tax year and 2% for the 2020/21 tax year;
- Changes to the undistributed profits tax on public companies, including a reduction in the minimum required distribution from at least 40% of after-tax profits within six months of the end of the tax year to at least 20% of after-tax profits (if minimum condition met, the tax does not apply), and a reduction in the tax rate from 7.5% of accounting profits before tax to 5%;
- The withdrawal of the 5% withholding tax on the issuance of bonus shares; and
- A reduction of the withholding tax on dividends paid by real estate investment trust schemes from 12.5% to 7.5%.

The Finance Act further amends the new tax brackets and rates for individuals introduced by Income Tax (Amendment) Ordinance, 2018 as follows:

- up to PKR 400,000 – 0%
- over PKR 400,000 up to 800,000 – PKR 1,000 minimum tax
- over PKR 800,000 up to 1.2 million – PKR 2,000 minimum tax
- over PKR 1.2 million up to 2.4 million – 5%
- over PKR 2.4 million up to 4.8 million – 10%
- over PKR 4.8 million – 15%

The new tax brackets for associations of persons are further amended as follows:

- up to PKR 400,000 – 0%
- over PKR 400,000 up to 1.2 million – 5%
- over PKR 1.2 million up to 2.4 million – 10%
- over PKR 2.4 million up to 3.6 million – 15%
- over PKR 3.6 million up to 4.8 million – 20%
- over PKR 4.8 million up to 6.0 million – 25%
- over PKR 6.0 million – 30%

### **Taxation of Gains from the Alienation of Pakistan Assets**

New rules introduced for the taxation of gains from the disposal or alienation outside of Pakistan of assets located in Pakistan of a non-resident person, including indirect transfers through the alienation of shares or interests in a non-resident company where:

- The shares or interests derive, directly or indirectly, their value wholly or principally from assets located in Pakistan –principally means on the last day of the tax year preceding the date of transfer, the fair market value of the assets exceeds PKR 100 million and the assets represent at least 50% of the non-resident's total assets; and
- The alienated shares or interest represent 10% or more of the share capital of the non-resident company.

The rules provide that the person acquiring the assets from the non-resident person is to deduct tax from the gross amount paid as consideration for the assets at the rate of 10% of the fair market value of the assets and remit to the tax authority. When the assets are held through a resident Pakistan company, however, advance tax must be collected by the resident company equal to the higher of:

- 20% of the real market value of the assets less acquisition costs; or
- 10% of the real market value of the assets.

Where tax has been deducted by the person acquiring the asset, the tax so deducted is allowed as a credit against the advance tax to be paid by the resident company. As long as tax has been paid by the buyer or resident company, no tax is payable by the non-resident.

### **New CFC Rules**

New controlled foreign company (CFC) rules are introduced to provide inclusion of CFC income in the taxable income of resident of Pakistan. The rules include that a non- resident company will be considered a CFC if:

- More than 50% of the capital or voting rights in the non-resident company are directly or indirectly held by one or more persons resident in Pakistan, or 40% if held by a single resident;
- The tax paid by the non-resident company, after taking into account any foreign tax credits available to the non-resident company, is less than 60% of the tax that would be paid if resident in Pakistan;
- The non-resident company does not derive active business income; and

- The shares of the non-resident company are not traded on a stock exchange recognized by the law of the country or jurisdiction of which it is resident for tax purposes.

For the purpose of the CFC rules, a company will be considered to derive active business income if:

- More than 80% of the income of the company does not include income from dividend, interest, property, capital gains, royalty, annuity payment, supply of goods or services to an associate, sale or licensing of intangibles, and management, holding or investment in securities and financial assets; and
- The company principally derives income under the head "income from business" in the country or jurisdiction of which it is a resident.

The income of a CFC is to be determined as it was resident in Pakistan and will be attributed to a Pakistan taxpayer for a tax year in accordance with the formula:  $A \times (B/100)$ , where:

- A is the amount of income of the CFC; and
- B is the percentage of capital or voting rights, which is higher, held by the person, directly or indirectly, in the CFC.

The amount of attributable income will be treated as zero, however, if the capital or voting rights of the resident taxpayer are less than 10% or the income of the CFC is less than PKR 10 million.

### Tax on Offshore Digital Services

A new 5% tax is introduced on payments for offshore digital services performed by non-resident persons, which includes:

- Online advertising including digital advertising space;
- Designing, creating, hosting, or maintenance of websites;
- Digital or cyberspace for websites, advertising, e-mails, online computing, blogs, online content, and online data,
- Providing any facility or service for uploading, storing, or distribution of digital content including digital text, digital audio, or digital video;
- Online collection or processing of data related to users in Pakistan; and
- Any facility for the online sale of goods or services or any other online facility.

The 5% tax is to be deducted by banking companies and financial institutions remitting payments outside Pakistan for offshore digital services on behalf of any resident or a permanent establishment of a non-resident in Pakistan.

### Other Changes

Other Changes includes:

- The amendment of PE rules to include rules in line with OECD guidance in relation to agency PEs and the splitting-up of contracts to avoid PEs;
- Expanded provisions with respect to the tax authority's power to re-characterize income and deductions in cases of tax treaty abuse, including that from tax year 2018 and onwards, the tax authority may disregard an entity or a corporate structure that

does not have an economic or commercial substance or was created as part of the tax avoidance scheme;

- The introduction of a limit for the offset of unabsorbed depreciation and amortization carried forward to 50% of business income per year, except where taxable income does not exceed PKR 10 million;
- An extension to 30 June 2021 of the 10% tax credit for investments in plant and machinery for the purpose of extension, expansion, balancing, modernization, and replacement of existing plant and machinery, as well as the 100% tax credits for investments in plant and machinery for new industrial undertakings and the expansion of existing undertakings with at least 70% new equity;
- The introduction of incentives for film production in Pakistan, including a 70% tax reduction for five years for domestic filmmakers and a 50% tax rebate for foreign filmmakers producing in Pakistan; and
- Changes in the alternative dispute resolution (ADR) mechanism to provide that the orders of ADR committees will be binding on both the taxpayer and the Federal Board of Revenue and that the orders of ADR committees must be passed within 120 days of appointment.

The measures of the Finance Act, 2018 generally apply from 1 July 2018.

## ACT NO. 2

# THE WEST PAKISTAN JUVENILE SMOKING (REPEAL) ACT, 2018

### Executive Summary of the Act:

This act was being presented in the National Assembly, on Monday 10th December 2018 by Minister In charge. The following Act of Majlis-e-Shoora (Parliament) received the President's assent on Tuesday, 25th December 2018, and published on 27th December 2018. Law and Justice Commission of Pakistan in its report No. 126 while discussing "Repeal of Obsolete and Redundant Legislations" proposed to repeal the West Pakistan Juvenile Smoking Ordinance, 1959 (Ordinance No. XU of 1959) in view of Prohibition of Smoking and Protection of Non-Smokers' Health Ordinance, 2002. This act was called as Act No. XXXIX of 2018.

### Introduction and Problem Statement:

In this act, following amendments are being made which are as follow:

**1. Short title, extend and commencement:**

(1) This Act may be called the West Pakistan Juvenile Smoking (Repeal) Act, 2018.

(2) It shall come into force at once in its applicability to the extent of Islamabad Capital Territory.

**2. Repeal:**

The West Pakistan Juvenile Smoking Ordinance, 1959 (ordinance No. XII of 1959) is hereby repealed.

### Background History/Evidence:

**The Senate unanimously passed 'The West Pakistan Juvenile smoking (Repeal) Bill, 2018', arguing that an identical new law, which is Prohibition of Smoking and Protection of Non-Smokers Health Ordinance 2002, covers all the relevant provisions of juvenile smoking.**

The Bill was moved by Minister for National Health Services Aamir Mehmood Kiyani. According to the Bill, the enactment of the Prohibition of Smoking and Protection of Non-Smokers Health Ordinance, 2002, the said law had lost its importance and all relevant provisions were already covered in the said Ordinance. Therefore, there was no need for retention of the West Pakistan Juvenile Smoking Ordinance, 1959.

According to the statement of objects and reasons, Law and Justice Commission of Pakistan in its report while discussing Repeal of Obsolete and Redundant Legislations' proposed to repeal the West Pakistan Juvenile Smoking Ordinance, 1959 (Ordinance No XII of 1959) given Prohibition of Smoking and Protection of Non-Smoker's Health Ordinance, 2002.

In June this year, the Senate Standing Committee on National Health Services, Regulations and Coordination had approved the West Pakistan Juvenile Smoking (Repeal) Bill 2018. The bill repeals the West Pakistan Juvenile Smoking Ordinance 1959 that was promulgated to prevent the sale of tobacco to Minor under 16 years of age.

The National Health Services Ministry officials informed the committee in a meeting that after the promulgation of 2002 Ordinance, selling cigarettes and other smoking substances to a person under the age of 18 years is illegal. Since the 2002 Ordinance is modern and more comprehensive in its scope so the Law and Justice Commission had recommended repealing the West Pakistan Juvenile Smoking Ordinance 1959.

Ref: <https://arynews.tv/en/senate-repeals-west-pakistan-juvenile-smoking-law-1959/#:~:text=The%20bill%20repeals%20the%20West,under%2016%20years%20of%20age>  
e.

**Criteria used in making of Act:**

This bill is to repeal the West Pakistan Juvenile Smoking Ordinance, 1959 to the extent of Islamabad Capital Territory WHEREAS, it is expedient to repeal the West Pakistan Juvenile Smoking Ordinance, 1959 (Ordinance No. XII of 1959) to the extent of Islamabad Capital Territory.

**Conclusions:**

It is to repeal the West Pakistan Juvenile Smoking Ordinance, 1959 to the extent of Islamabad Capital Territory. The Senate on Tuesday unanimously passed 'The West Pakistan Juvenile Smoking (Repeal) Bill, 2018', arguing that an identical new law, which is Prohibition of Smoking and Protection of Non-Smokers Health Ordinance 2002, covers all the relevant provisions of juvenile smoking. The Bill was moved by Minister for National Health Services Aamir Mehmood Kiyani. The National Health Services Ministry officials informed the committee in a meeting that after promulgation 2002 Ordinance, selling cigarettes and other smoking substances to a person under the age of 18 years is illegal. Since the 2002 Ordinance is modern and more comprehensive in its scope so the Law and Justice Commission had recommended repealing the West Pakistan Juvenile Smoking Ordinance 1959.

Smoking has adverse effects on a young age and to eradicate this problem. This act is repealed and it is applicable in the Islamabad territory. Even a shopkeeper can't sell a cigarette to a young one.



## ACT NO. 3

# THE WEST PAKISTAN PROHIBITION OF SMOKING IN CINEMA HOUSES(REPEAL) ACT, 2019

### **Executive Summary of the Act:**

This act was being presented in the National Assembly, on Monday, 14th January 2019 by Minister In charge. The following Act of Majlis-e-Shoora (Parliament) received the President's assent on Thursday, 31st January 2019, and published in official gazette on 06th February 2019. Law and Justice Commission of Pakistan in its report No. 126 while discussing "Repeal of obsolete and Redundant Legislations" proposed to repeal the West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 (Ordinance No. IV of 1960) given Prohibition of Smoking and Protection of Non-Smoker's Health Ordinance, 2002. This act was called as Act No. I of 2019.

### **Introduction and Problem Statement:**

In this act, following amendments are being made which are as follow:

#### **1. Short title, extend and commencement:**

- (i) This Act may be called the West Pakistan Prohibition of Smoking in Cinema Houses (Repeal) Act, 2019.
- (ii) It shall come into force at once in its applicability to the extent of Islamabad Capital Territory.

#### **2. Repeal:**

The West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 (Ordinance No. IV of 1960) is hereby repealed.

### **Background History/Evidence:**

The National Assembly on Monday unanimously passed 'The West Pakistan Prohibition of Smoking in Cinema Houses (Repeal) Bill, 2018', saying all such relevant provisions of the bill were already covered in Non-smokers Health Ordinance, 2002.

The bill was moved in the House by Minister for Parliamentary Affairs Ali Muhammad Khan on behalf of the Minister for National Health Services, Regulations, and Coordination.

According to the statement of Objects and Reason, Law and Justice Commission of Pakistan in its report while discussing 'Repeal of Obsolete and Redundant Legislations' proposed to repeal the West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 (Ordinance No IV of 1960) given Prohibition of Smoking and Protection of Non-Smoker's Health Ordinance, 2002.

### **Criteria used in making of Act:**

This bill is to repeal the West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 to the extent of Islamabad Capital Territory

WHEREAS. It is expedient (1) repeal the West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 (Ordinance No. IV of 1960) to the extent of Islamabad Capital Territory.

**Conclusions:**

The Bill was moved in Senate by Minister for National Health Services Aamir Mehmood Kiyani.

Minister said after enactment of the Prohibition of Smoking and Protection of Non-Smokers Health Ordinance 2002, the said law had lost its utility and now all relevant provisions were already covered in the said Ordinance. Therefore there was no need for retention of the said Ordinance.

He said the ministry was of the view that the said ordinance did not apply initially to the Federal Capital as it expressly mentioned in the Gazette copy, which was further amended in 1964, whereby the expression Federal capital was omitted in order to its application to the Federal Capital.

## ACT NO. 4

### ELECTIONS (AMENDMENT) ACT, 2019

#### **Executive Summary of the Act:**

This act was being presented in National Assembly, on Monday, 4<sup>th</sup> March, 2019 by Mr. Ali Muhammad Khan, Minister of State for Parliamentary Affairs. The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the Friday, 8<sup>th</sup> March, 2019 and published on 10<sup>th</sup> February, 2019. Existing provision of Section 6 (3) of the Elections Act, 2017 authorizes the Election Commission to constitute a bench comprising three or more members of the Commission to hear and decide complaints, applications, petitions or appeal etc.

The Commission faces immense difficulty in disposing of higher numbers of such appeals/complaints etc. through a single bench. Hence, the instant amendment is incorporated into the Act to Facilitate the Commission for constitution of more benches to effectively dispose of such complaints/petitions/appeals. This act was called as Act No. II of 2019.

#### **Introduction and Problem Statement:**

In this act, following amendments are being made which are as follow:

1. **Short title, extend and commencement:**
  - (i) This Act may be called the Elections (Amendment) Act, 2019.
  - (ii) It shall come into force at once.
2. **Amendment of section 5. Act XXXIII of 2017:**

In the Elections Act, 2017 (XXXIII of 2017), In section 6, in sub-section (3). For the word "three" the word "two" shall be substituted.

#### **Background History/Evidence:**

Pakistan's new election law has caused a political disturbance since its passage in early October 2017. Major opposition parties have appealed against the Elections Act 2017, with petitions to nullify the law lodged in the Supreme Court. Meanwhile, the religious party *Tehreek-i-Labbaik Ya Rasool Allah* staged protests against the new election legislation. Escalating in late November, the protests left several people dead and hundreds more injured and ended only with the resignation of Law and Justice Minister Zahid Hamid.

As these events have unfolded, the Elections Act has predictably come in for criticism and attracted a raft of bad press. But is a new law all bad? Controversies notwithstanding, the Elections Act is the first major electoral reform effort since Pakistan's first direct elections in 1970. The Elections Act seek media's vast attention and it is based on a partial and possibly unfair reading of the law, focused on a few, now infamous provisions. And no wonder: election laws are typically long, complex, and densely technical documents. Consolidating eight existing laws into one, Pakistan's Elections Act 2017 is all these things and more.

The political disruption of late is no doubt alarming, but it also risks overshadowing the extensive work behind the Elections Act. Pakistan's Parliament deserves less bad press and more credit for this initiative and the numerous positive measures the new law introduces – measures which have considerable potential to enhance the credibility of elections in Pakistan if effectively implemented.

Ref: <https://democracy-reporting.org/pakistans-elections-act-2017-what-you-need-to-know/>

#### **Criteria used in making of Act:**

This act is further to amend the Elections Act, 2017.

WHEREAS it is expedient further to amend the Elections Act 2017 (XXXIII of 2017), for the purpose hereinafter appearing;

AND WHEREAS existing provision of section 6 (3) of the Elections Act, 2017 (XXXIII of 2017), authorizes the Election Commission to constitute a bench comprising three or more members of the Commission to hear and decide complaints, applications, petitions or appeal etc. but due to said provision only one bench can be constituted since the total number of members of the Commission including the Chairman is five. The Commission is, therefore, facing immense difficulty in disposing of higher numbers of such complaints petitions or appeal etc. through a single bench. Hence, the instant amendment is necessary to take immediate action to facilitate the Commission for constitution of more benches to effectively dispose of such complaints, petitions or appeals etc.

### **Conclusions:**

In the Elections Act, 2017 (XXXIII of 2017), in section 6, in subsection (3), for word “three” the word “two” shall be substituted.

This act was introduced by Ali Muhammad Khan, Minister of State for Parliamentary affairs, from *Pakistan Tehreek e Insaaf*, and passed on 4<sup>th</sup> March 2019. This bill was introduced to amend Elections Act, 2017 and received assent of the President on 8<sup>th</sup> March, 2019. The main purpose of this bill was to amend the Section 6 (3) of Elections Act, 2017 which states that in order to report complaints and queries from people (parliamentarians), Election Commission can make bench of 3-4 persons. However, including Election Commissioner, there are only 5 members which means not more than 1 bench can come into being. After amendment, Election Commission can make more than 1 bench to hear and solve the complaints and queries. Main purpose was to reduce ambiguity for parliamentarians and anyone filing a complaint in Election Commission. This plan is a relief plan both for people from assemblies and people logging complaints regarding any issue. Since PTI promised to bring reforms into institutions and also bring justice more accessible to people, it could be considered as a step from PTI to bring relief to citizens. One commission can take ages to respond to number of complaints logged in, however more than one commission can finish this work in lesser time, bringing ease and justice closer to people. People raise their voices that their complaints, issues never gets solve on time, this step will swift the proceedings of Election Commission.

In my opinion this step of Pakistan Tehreek e Insaaf is a neutral step, however there always two sides of everything. Govt. institutions are popular with the claims that they never hear, or respond on time to the queries or complaints logged in, by normal citizens. These institutions have always preferred to hear people with strong backgrounds and heavy influences. This step will probably help in order to solve the queries of strong people swiftly, as after amendment more than one commission to hear complaints, but a normal human stands there where he was standing before this act. Govt. should take steps in order to make these laws accessible for common people. Correct method for this was that government should make an act for Election Commission to make 2 commissions, one for common people and other for parliamentarians or executives. Beside this, it is a step to speed up the proceedings of Election Commission.

## ACT NO. 5

### ANALYSIS OF FINANCE ACT 2019

The government, through Finance Act 2019 has reduced the rate of tax credit to 5 percent from 10 percent for investment in the purchase of plant & machinery for extension, expansion, balancing, modernizing & replacement for Tax Year 2019.

The Final Tax Regime (FTR) was now converted into Minimum Tax Regime (MTR) for commercial imports, brokerage and commission, non-resident persons for certain services, local supply of goods, execution of contracts (residents as well as non-residents) and income from CNG stations; adding that the concept of carrying forward of minimum tax over actual tax liability was not envisaged, which is considered as very harsh.

Furthermore, the concept of 'filer' and 'non-filer' has been abolished in Finance Act 2019 and the government had introduced the tenth schedule whereby the rate of tax withholding was enhanced by 100% for persons, not appearing in Active Taxpayers' List (ATL).

A mechanism had been placed whereby a withholding agent or the person from whom the tax was required to be collected or deducted, were empowered to furnish a notice to the commissioner to allow payment without the enhanced rate of deduction or collection of tax where such a person not appearing in ATL had no requirement to furnish a return of income or a statement of final taxation and added that the tenth schedule provided the procedure for provisional assessment and penalty proceedings if a person failed to furnish the return of income for the respective tax year.

Any income beyond imputed income was now subjected to tax under section 111 of Income Tax Ordinance 2001 and the concept of further amendment of provisional assessment had also been introduced in this budget.

The late filers could now become part of ATL by paying a surcharge at the applicable rates and on the filing of returns, the taxpayers could claim a refund of tax withheld more than the actual tax liability; adding that the period during which the names of such persons did not appear in ATL, refund would not be issued during that period and, this period would also not be considered for additional compensation for delayed refund.

The non-monetary gifts, which had not received from grandparents, parents, spouse, brother, sister, son or a daughter, will be considered as 'other sources of income' for the recipient and the commission paid or payable more than 0.2 % of the gross amount of supplies of third schedule products would not be disallowed, if the person to whom such commission was paid or payable was not appearing in ATL, he maintained. Further, the government had slashed the immunity limit to Rs. 5 million from Rs. 10 million worth of foreign remittance through banking channels under section 111(4) of the Ordinance and added that displaying of a business license by every person engaged in any business, profession or vocation was now mandatory even where they were not required to obtain NTN. A new sub-section (6) has been inserted in section 8B providing that if tier-1 retailer failed to get its system integrated with FBR in a prescribed manner during a tax period or part thereof, the admissible input tax for the period of default would be reduced by 15%.

The condition of CNIC had been waived where retailers supply goods to ordinary consumers for their consumption with transaction value not exceeding Rs 50,000 (including sales tax). The collection of CNIC's of unregistered buyers had also been postponed till August 1, 2019, and the supplier would not be penalized for the wrong declaration of CNIC number by the buyer in case of sales made in good faith.

The exemption available to life insurance services provided to individuals for insurance policy coverage up to Rs 500, 000 and group life insurance services had been withdrawn and now group life insurance services are taxable at 13% whereas insurance policies coverage up to Rs 500, 000 were now taxable at 3 percent.

Moreover, the advertisement in newspapers and periodicals, except color advertisement and black and white advertisement occupying specified space in newspapers or periodicals. Such advertisement shall now be chargeable at the rate of 3%. Similarly, internet services, up to 4 Mbps, and other such services are now taxable at 19.5 percent.

Furthermore, the service provided or rendered by banking companies and non-banking financial companies in respect of Hajj and Umrah, Cheque Book issuance and Musharika and Modaraba financing are now taxable @ 13%; adding that the construction and repair services of roads, ports, airports, railways, transport terminals and bridges provided to government including local government and cantonment board buildings are now taxable at 5 percent.

Ref: <https://fp.brecorder.com/2019/07/20190712496552/>

## ACT NO. 6

### THE ELECTIONS (SECOND AMENDMENT) ACT, 2019

#### **Executive Summary of the Act:**

This act was being presented in National Assembly, on Thursday, 25th April, 2019 by Mr. Ali Muhammad Khan, Minister of State for Parliamentary Affairs. The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the Friday 14<sup>th</sup> May, 2019 and officially published on 16<sup>th</sup> May, 2019.

Pursuant to 25th Constitutional Amendment. The Election Commission is obliged to conduct elections on 16 general seats of east while FATA including Frontier Regions 1br the Provincial Assembly of Khyber Pakhtun Khuwa before 25th July, 2019. The Election Commission of Pakistan is facing great difficulty in delimiting the six ex-Frontier Regions which have been annexed by the Provincial Government with other adjoining districts.

2. Section 20 (2) of the Elections Act. 2017 provides that the Elections Commission may while delimiting constituencies for the general seats in the National Assembly for the Tribal Areas group two or more separate areas into one constituency. In order to avert disenfranchisement of ex-Tribal areas including its non-contiguous Frontier Regions, the Commission suggested to insert identical provision for delimitation of general seats of newly allocated Provincial Assembly of Khyber Pakhtunkhwa for erstwhile FATA. This act was called as Act No. II of 2019.

#### **Introduction and Problem Statement:**

In this act, following amendments are being made which are as follow:

3. **Short title, extend and commencement:**

- a. This Act may be called the Elections (Second Amendment) Act. 2019.
- b. It shall come into force at once

4. **Amendment of section 20, Act XXXIII of 2017:**

In the Elections Act. 201 7 (XXXIII of 2017), in section 20, alter sub-section (2). The following new sub-section, shall be inserted. Namely: - (2A) "For the purpose of delimiting constituencies. For the general seats of the Provincial Assembly of Khyber Pakhtunkhwa for Tribal Areas two or more separate areas may be grouped into one constituency for their elections to be held in 2019 and bye-elections related thereto and thereafter this sub-section shall stand omitted."

#### **Background History/Evidence:**

The National Assembly passed the Elections Amendment Bill 2019 on Thursday.

The bill was moved by Pakistan Tehreek-e-Insaf (PTI) Ali Muhammad Khan and it sought to amend sub-section 3 of section 6 of the Elections Act, 2017 which stated that the commissioner of Elections Commission of Pakistan (ECP) shall constitute three or more member benches to hear and decide complaints, applications, appeals or petitions.

The amendment said that since the total number of members in the commission, including the chairman, amounts to five, constituting benches with at least three members was delaying the process of resolving matters brought to the commission's attention. "Due to said provision, only one bench can be constituted. The commission is, therefore, facing immense difficulty in disposing of higher number of such petitions or appeals etc. through a single bench."

Stressing the importance of constituting higher number of benches to dispose of appeals, the

bill recommended bringing the number of members in a bench down to two.

### **Section 6: Delegation of powers**

- 1) The Commission may authorize the Commissioner or any of its members or any of the officers of the Commission to exercise and perform any of its powers and functions under this Act.
- 2) The Commissioner shall exercise powers relating to the appointment of officers and staff to be employed in connection with the functions of the Commission and determine their terms and conditions of employment in accordance with the Rules.
- 3) The Commissioner shall constitute benches comprising three or more members of the Commission to hear and decide complaints, applications, petitions or appeals filed before it under this Act.
- 4) The decision of a Bench constituted under sub-section (3) shall be deemed to be a decision of the Commission except where due to difference of opinion among members of the bench, the matter is required to be placed before the full Commission for decision under section 3.

Ref: <https://tribune.com.pk/story/1959093/1-na-passes-elections-amendment-bill-2019>

### **Criteria used in making of Act:**

This is an Act further to amend the Elections Act, 2017

WHEREAS it is expedient further to amend the Elections Act, 2017 (XXXIII of 2017), for the purpose hereinafter appearing.

### **Conclusions:**

In the Elections Act, 2017 (XXXIII of 2017), in section 20, after sub-section (2), the following new sub-section, shall be inserted, namely:-

“(2A). For purpose of delimiting constituencies, for the general seats of the Provincial Assembly of Khyber Pakhtunkhwa (KPK) for Tribal Areas two or more separate areas may be grouped into one constituency for their elections to be held in 2019 and bye-elections related thereto and thereafter this sub-section shall stand omitted”.

This act was introduced by Ali Muhammad Khan, Minister of State for Parliamentary affairs, from Pakistan Tehreek e Insaaf, and passed on 25<sup>th</sup> April, 2019. This bill was introduced to amend Elections Act, 2017 (second amendment) and received assent of the President on 14<sup>th</sup> May, 2019. This was the 25<sup>th</sup> amendment to the constitution of Pakistan. This act was passed for the elections of Federally Administered Tribal Areas (FATA) as they will be sitting with existing members of KPK assembly to form 11<sup>th</sup> provincial assembly. This landmark amendment was signed by former President Mamnoon Husain on 31<sup>st</sup> May, 2018 which was already passed by National Assembly and Senate of Pakistan. In order to fulfil this, new President of Pakistan direct Election Commission, later in 2018, to conduct elections on these seats in May, 2019 which were held on 20<sup>th</sup> July, 2019. This was to give representation and rights to the people of these tribal areas.

The main purpose of this bill was to bring relief and rights home to these tribal areas population. Pakistan Tehreek e Insaaf's manifesto mentions to consolidate integration of FATA with KPK, which they have achieved, even though this step was taken in the tenure of previous government, PTI will get the credit of successfully conducting elections in tribal areas. As mentioned in the introduced document by minister, Election Commission face great difficulty in conducting elections there. This act has received its purpose after forming an assembly with tribal area representatives. However, mere 16 members from this area cannot make a big difference for such a big area. According tribune, it is mentioned that it's not as



beneficial for people as it was claimed by both parties. Tensions may arise as these members got no say when PTI government announced 100 billion to be spent this year in tribal areas and 1000 billion in upcoming 10 years.

In my opinion, this step is not significant as it has been portrayed. Even though these steps were taken for the betterment of people of FATA, to give those rights and representation. This revolutionary amendment helped to bring home rights as PTI government allocated Rs1000 billion for this region. Politically, this a milestone however practically this may not play a significant role for tribal region. Mentioned in tribune, 16 members in a house of 115 members may not make a big a difference. To resolve this issue, along with mentioned above, this area needs to be given a fair or its own representation and also their words should be considered while legislating for them. Beside this, it can be considered a first step towards the betterment of these tribal areas.

## ACT NO 8

### HEAVY INDUSTRIES TAXILA BOARD (AMENDMENT) ACT, 2019

#### Executive summary of the Act:

This act amends the Heavy Industries Taxila Act, 1997. Heavy Industries Taxila (HIT) functions under a Board established in 1994 which was later enacted by the Parliament as HIT Board Act No. XII of 1997. MS. ZUBAIDA JALAL, Minister for Defence Production introduced a Bill to amend the Heavy Industries Taxila Board Act, 1997 [The Heavy Industries Taxila Board (Amendment) Bill, 2019].

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on Thursday, 5th September 2019, and published on Friday, 6th September 2019.

The amendment was introduced to explore the commercial potential of the defence production industry and promote sales locally and internationally.

The amendment bill was designed to achieve the object such as the main object and reason of the bill were that, if HIT potential was tapped to its optimum and suitably enhance, sufficient revenue could be generated to subsidize the ever-increasing demand of funds for the support of defence products. Though, being a national asset, it had saved billions of dollars over the years through indigenization of defence hardware.

#### Introduction and Problem Statement:

The act is divided into three parts or three amendments are being made, as given below:

- 1. Short title and commencement**
- 2. Amendment of section 6, Act XII of 1997**

In the Heavy Industries Taxila Board Act, 1997 (XII of 1997), hereinafter called as the said Act, in section 6, in sub-section (l), for the words 'surplus capacity' the words "commercial potential" shall be substituted.

- 3. Amendment of section 7, Act XII of 1997**

In the said Act, in section 7, for clause (h), the following shall be substituted, namely:

"(h) to utilize, create and enhance commercial capacity and capability for manufacturing marketable products, promote sales thereof and provide services within country and abroad, through:-

- (A) establishment of limited company under the Companies Act, 2017 (XIX of 2017) to undertake with approval of the Board, commercial activities on corporate lines with private or public sectors both within country and abroad for the following, namely:-
  - (i) undertake joint ventures with experienced national and international partners;
  - (ii) establish subsidiary companies;
  - (iii) without utilizing public money, raise funds through private investment or bank credit;
  - (iv) maintain receipt and expenditure account of the commercial revenue in scheduled banks jointly operated in consultation with member finance;
  - (v) frame audit accounts and costing manuals on modern techniques;
  - (vi) marketing of commercial products through internal marketing department or through hiring of agents: and
  - (vii) Formulate own recruitment and procurement procedures.

- (B) the company and its subsidiaries are subject to audit by the Chartered Accountants firms; and
- (C) revenue earned by utilizing commercial activities to subsidize defense budget which will reduce burden on national economy, for reinvestment and to provide benefit to the Board's management and employees in prescribed manners."

### **Background History:**

Heavy Industries Taxila (HIT) functions under a Board established in 1994 which was later enacted by the Parliament as HIT Board Act No. XII of 1997.

The principal function of the Board is to meet the needs of defence of the country and utilize surplus capacity for commercial activities.

Heavy Industries Taxila was envisaged in the early seventies and its first production unit i.e. Heavy rebuild Factory (T-Series) went into production in 1980. With the establishment of several other factories in the early nineties. Having six productions consisting of Major Production Units, Support Facilities, Research and Development Centre, and Administrative Establishment.

The Senate Committee on Defence Production passed the Heavy Industries Taxila Board (Amendment) Bill, 2019 for seeking usage of the surplus commercial potential of all defence production establishments should not only be utilized but also be enhanced to earn sufficient revenue to be utilized in supporting the defence production industry. The amendment will allow rebuilding and manufacturing factories in HIT and will allow HIT to obtain fir joint ventures with local and foreign companies.

Senator Abdul Qayyum said the legislation was of due importance in the backup of potential for a window of commercial expansion of the HIT.s he pointed out that HIT was established on sprawling 1400 acre pieces of land and as many as 7,000 manpower was involved in its functioning.

### **Conclusion:**

Such an amendment for the defence of the country is per the PTI's Manifesto, as can be seen in chapter 7 of the Manifesto to transform the better defence policy. The amendment will give benefits such as earning revenue to subsidize the defence budget, which will reduce the burden on the national economy; moving incrementally towards self-sustenance, involving private sector industrial growth, and bringing the latest technology in the country.

This amendment has braced for the expansion of commercial activities by establishing a limited company and getting it registered with the SECP. This will benefit the specialized defence projects, and thus sufficient revenue can be generated to subsidize ever increasing demand for funds for the support of army projects and defence of the country.

# ACT NO 9

## PAKISTAN NAVY (AMENDMENT) ACT 2020

### **Executive summary of the Act:**

This act amends the provision of the Pakistan Navy Ordinance, 1961. Defence Minister Pervez Khattak tabled the bills in the lower house of parliament. This amendment Bill was passed by the National Assembly under the order of the Supreme Court.

The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Thursday, 9<sup>th</sup> January. The new amendment gives measures to the President of Pakistan, on the advice of the Prime minister, to specify the tenure as well as terms and conditions of service of the Chief of the Army Staff or the Chairman Joint Chiefs of Staff Committee including the grant of extension and re-appointment of the Chief of the Army Staff or Chairman Joint Chiefs of Staff Committee.

Furthermore, the amendment has also fixed **64 years** as the maximum age and the amendment provisions would ensure that future extensions of services chief won't be challenged before any Court of Law on any ground whatsoever is.

### **Introduction and Problem Statement**

The act is divided into seven parts or seven amendments are being made, as given below:

- 1. Short title and commencement**
- 2. Amendment of section 4, Ordinance XXXV of 1961**

In the Pakistan Navy Ordinance, 1961 (XXXV of 1951), hereinafter referred to as the said Ordinance, in section 4, after clause (IV), the following new clause shall be inserted, namely:-

“(Via) “Chairman, Joint Chiefs of Staff Committee” means an officer who has been appointed as the Chairman, Joint Chiefs of Staff Committee, by the President, in accordance with Article 243 of the Constitution of the Islamic Republic of Pakistan, read with section 14D;”

- 3. Insertion of new Chapter, Ordinance XXXV of 1961**

In the said Ordinance, after Chapter-III, the following new Chapter shall be inserted, namely;

#### “CHAPTER IIIA”

#### **Appointment of the chief of the naval staff and the chairman, Joint Chiefs of Staff committee**

14A. Appointment of the Chief of the Naval Staff

- (1) The President shall, on the advice of the Prime Minister, appoint an Admiral as the Chief of the Naval Staff, for a tenure of three (03) years.
- (2) The terms and conditions of the Chief of the Naval Staff shall be determined by the President, on the advice of the Prime Minister.

14B. Reappointment or extension of the Chief of the Naval Staff

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President, on the advice of the Prime Minister, may reappoint the Chief of the Naval Staff for additional tenure of three (03) years, or extend the tenure(s) of the Chief

of the Naval Staff up to three (03) years, on such terms and conditions, as may be determined by the President, on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.

- (2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of the Court, the appointment, reappointment or extension of the Chief of the Naval Staff, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

#### 14C. Retirement age and service limits of the Chief of the Naval Staff

The retirement age and service limits prescribed for an Admiral, under the Rules and Regulations made under this Ordinance, shall not be applicable to the Chief of the Naval Staff, during his tenure of appointment, reappointment, or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure(s), the Chief of the Naval Staff shall continue to serve as an Admiral in the Pakistan Navy.

#### 14D. Appointment of the Chairman, Joint Chiefs of Staff Committee

- (1) The President may, on the advice of the Prime Minister, appoint a Chairman, Joint Chief of Staff Committee, from amongst Generals in the Pakistan Army, Admirals in the Pakistan Navy, or Air Chief Marshals in the Pakistan Air Force, for a tenure of three (03) years.
- (2) The terms and conditions of the Chairman, Joint Chiefs of Staff Committee shall be determined by the President, on the advice of the Prime Minister.
- (3) If the Chairman, Joint Chiefs of Staff Committee is appointed from amongst Admirals in the Pakistan Navy, the provisions of this Ordinance shall be applicable to such Chairman, Joint Chiefs of Staff Committee.

#### 14E. Reappointment or extension of the Chairman, Joint Chiefs of Staff Committee

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the President, on the advice of the Prime Minister, may reappoint the Chairman, Joint Chiefs of Staff Committee for additional tenure of three (03) years or extend the tenure(s) of the Chairman, Joint Chiefs of Staff Committee up to three (03) years, on such terms and conditions, as may be determined by the President, on the advice of the Prime Minister, in the national security interest or exigencies, from time to time.
- (2) Notwithstanding anything contained in this Act or any other law, or any order or judgment of any Court, the appointment, reappointment or extension of the Chairman, Joint Chiefs of Staff Committee, or the exercise of discretion by the appointing authority in this regard, shall not be called into question before any Court on any ground whatsoever.

#### 14F. Retirement age and service limits of the Chairman, Joint Chiefs of Staff Committee

In case an Admiral of the Pakistan Navy is appointed as the Chairman, Joint Chiefs of Staff Committee, the retirement age and service limits, prescribed under the Rules and Regulations made under this Ordinance, shall not be applicable to the said Admiral during his tenure of appointment, reappointment or extension, subject to a maximum age of sixty-four (64) years. Throughout such tenure(s), the Chairman, Joint Chief of Staff Committee, appointed under this Ordinance, shall continue to serve as an Admiral in the Pakistan Navy.

### **4. Amendment of section 15, Ordinance XXXV of 1961**

In the said Ordinance, in section 15, the word "Every" the expression, "subject 10 Chapter III-A, every" shall be substituted and for the full stop at the end, a colon shall be substituted and thereafter, the following provisos shall be inserted namely:-

"Provided that the appointment, reappointment, extension, and tenure of the Chief of the Naval Staff shall be determined in accordance with sections 14A, 14B and 14C.

Provided further that the appointment, reappointment, extension and tenure of the Chairman, Joint Chiefs of Staff Committee shall be determined in accordance with sections 14D, 14E and 14F."

#### **5. Amendment of section 172 Ordinance XXXV of 1961**

In the said Ordinance, in section 177, in sub-section (2), sub clause (a), after the word "the", occurring for the first time, the words and commas "appointment, reappointment, extension" and after the word "Ordinance", the words and commas "including the Chief of the Naval Staff and the Chairman, Joint Chiefs of Staff Committee" shall be added.

#### **6. Amendment of section 178, Ordinance XXXV of 1961**

In the said Ordinance, in section 178, in sub-section (1), after the word "forces", the words and commas "including the Chief of the Naval Staff and the Chairman, Joint Chiefs of the staff Committee", shall be added.

#### **7. Overriding effect**

- (1) The provisions of this Act shall have effect notwithstanding anything contained in the said Ordinance, any other law, rules, regulations or bye-laws, notifications and other legal instruments for the time being in force.
- (2) In case there is any conflict between the Provisions of this Act and any other Law for the time being in force, the Provisions of this Act shall prevail to the extent of inconsistency.

#### **Background History:**

Before this bill, when the original tenure of the Chief of Army Staff, Qamar Javed Bajwa, was going to end on November 29, 2019, but Prime Minister Imran Khan, announced to extend the tenure, for another three years. Soon after the announcement, a petition was filed by Riaz Rahi into the Supreme Court, requesting the court to look into such extensions, as the petitioner believed, that the government did not follow proper procedure as enshrined in the Constitution of Pakistan.

A bench headed by former Chief Justice of Pakistan, Asif Saeed Khosa, along with Justice Mazhar Alam Khan Miankhel and Justice Syed Mansoor Ali Shah heard the petition and issued a short order on November 28, 2019, just one day before Qamar Javed Bajwa's potential retirement. The order, read out by Chief Justice Asif Saeed Khosa, that the parliament to introduce legislation for appointment of army chief under Article 243. The court had asked the government to submit an undertaking that Parliament would enact a law on this in six months.

The CJP remarked that the court is observing judicial restraint and leaving the matter to the parliament. We have reviewed several laws including Army Act 1952 and Rule 1954, the chief judge said.

#### **Conclusion:**

The main purpose of this amendment was to empower the President, on the advice of the Prime Minister. To specify the tenure, terms, and conditions and to provide for other related matters to such extensions, appointment, and re-appointment, in the light of the Supreme Court's order dated 28th November 2019, passed in the CP No. 39 of 2019.

As per the PTI Manifesto, the democratic process will be initiated, the motive was to give a transparent democratic process and the premier had emphasized that the representative of the people is answerable to them (the people).

The hot debate on legislation regarding the appointment, re-appointment, and extension of services chiefs has been legally closed for further debate. The process has been clarified now this amendment will clear all ambiguity in the future.

## Act no 10

# PAKISTAN AIR FORCE (AMENDMENT) ACT, 2020

### **Executive summary of the Act:**

This act amends the provision of the Pakistan Air Force Act, 1953 (VI of 1953). Defence Minister Pervez Khattak tabled the bills in the lower house of parliament. This amendment Bill was passed by the National Assembly under the order of the Supreme Court.

The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Thursday, 9th January. The new amendment gives measures to the President of Pakistan, on the advice of the Prime minister, to specify the tenure as well as terms and conditions of service of the Chief of the Air Staff or the Chairman, Joint Chiefs of Staff Committee including the grant of extension and re-appointment of the Chief of the Air Staff or the Chairman, Joint Chiefs of Staff Committee.

Furthermore, the amendment has also fixed 64 years as the maximum age and the amendment provisions would ensure that future extensions of services chief won't be challenged before any Court of Law on any ground whatsoever is.

### **Introduction and Problem Statement**

The act is divided into six parts or six amendments are being made, as given below:

1. Short title and commencement
2. Amendment of section 4, Act VI OF 1953
3. Insertion of new Chapter, Act VI of 1953
4. Amendment of section 18, Act VI of 1953
5. Amendment of section 202, Act VI of 1953
6. Overriding effect

### **Background History:**

Before this bill, when the original tenure of the Chief of Army Staff, Qamar Javed Bajwa, was going to end on November 29, 2019, but Prime Minister Imran Khan, announced to extend the tenure, for another three years. Soon after the announcement, a petition was filed by Riaz Rahi into the Supreme Court, requesting the court to look into such extensions, as the petitioner believed, that the government did not follow proper procedure as enshrined in the Constitution of Pakistan.

A bench headed by former Chief Justice of Pakistan, Asif Saeed Khosa, along with Justice Mazhar Alam Khan Miankhel and Justice Syed Mansoor Ali Shah heard the petition and issued a short order on November 28, 2019, just one day before Qamar Javed Bajwa's potential retirement. The order, read out by Chief Justice Asif Saeed Khosa, that the parliament to introduce legislation for appointment of army chief under Article 243. The court had asked the government to submit an undertaking that Parliament would enact a law on this in six months.

The CJP remarked that the court is observing judicial restraint and leaving the matter to the parliament. We have reviewed several laws including Army Act 1952 and Rule 1954, the chief judge said.

### **Conclusion:**

The main purpose of this amendment was to empower the President, on the advice of the Prime Minister. To specify the tenure, terms, and conditions and to provide for other related matters to such extensions, appointment, and re-appointment, in the light of the Supreme Court's order dated 28th November 2019, passed in the CP No. 39 of 2019.



As per the PTI Manifesto, the democratic process will be initiated, the motive was to give a transparent democratic process and the premier had emphasized that the representative of the people is answerable to them (the people).

The hot debate on legislation regarding the appointment, re-appointment, and extension of services chiefs has been legally closed for further debate. The process has been clarified now this amendment will clear all ambiguity in the future.

## Act No. 11

# THE PAKISTAN ARMY AMENDMENT ACT

### Executive Summary of the Act:

The act amends the act and the amendment Bill was passed by the National Assembly under the light of the Supreme Court's order, and an unprecedented political consensus was observed in the country. The legislation provides a measure to the President of Pakistan, acting on the advice of the Prime Minister of Pakistan, to specify the tenure and terms and conditions of service of the Chief of the Army Staff or the Chairman Joint Chiefs of Staff Committee including the grant of extension and re-appointment of the Chief of the Army Staff or Chairman Joint Chiefs of Staff Committee. Also, it can no longer be called into question before any court on any ground whatsoever. Further, it sets an upper age limit of 64 years for the Chief of Army Staff.

The bill is designed to achieve the aforesaid objects.

### Introduction and Problem Statement

The act is divided into six parts as given below:

4. Short title and commencement
5. The introduction of the new section named as 8A
6. Insertion of new chapter
7. Amendment of section 176
8. Amendment of section 176A
9. Overriding effect

Important points from the act;

- The bill seems to amend the provisions of the Pakistan Army Act 1952 to empower the President
- It was presented to grant an extension or for the reappointment of the Chief of Army Staff.
- The retirement age rule will not apply to the Chief of Army Staff.

### History / Background

The development started when the original tenure of the Chief of Army Staff, Qamar Javed Bajwa, was going to end on November 29, 2019, but the Prime Minister of Pakistan, Imran Khan, on August 19, 2019, announced that he has extended the tenure of the Chief of Army Staff, Qamar Javed Bajwa, for another three years above the original tenure. Soon after the announcement of the extension, a petition was filed by Riaz Rahi into the Supreme Court of Pakistan (SCP) requesting the court to look into the matter as the petitioner believed that the Government of Pakistan did not follow proper procedures outlined in law and the Constitution of Pakistan. A bench headed by former Chief Justice of Pakistan, Asif Saeed Khosa, along with Justice Mazhar Alam Khan Miankhel and Justice Syed Mansoor Ali Shah heard the petition and issued a short order on November 28, 2019, just one day before Qamar Javed Bajwa's potential retirement. The order, read out by Chief Justice Asif Saeed Khosa, ordered the parliament to introduce legislation for appointment of army chief under Article 243. The court had asked the government to submit an undertaking that Parliament would enact a law on this in six months. The CJP remarked that the court is observing judicial restraint and leaving the matter to the parliament. We have reviewed several laws including Army Act 1952 and Rule 1954, the chief judge said. The detailed judgment was issued by the Supreme Court of Pakistan on December 16, 2019, which was welcomed by many experts. Both Justice

Mazhar Alam Khan Miankhel and Justice Asif Saeed Khosa agreed with Justice Shah's judgment, with Justice Khosa saying in his additional note that it had been a "shocking revelation" to the bench that the terms and conditions of service of the COAS, the tenure of his office, extension in the tenure of his office or his reappointment to that office "have remained unregulated by any law so far". Afterward, the Government of Pakistan filed a review petition against the judgment and requested to hear the review petition with a larger bench. The government maintained that the court should have taken the existing challenges to Pakistan into consideration. "General Bajwa is someone who can bring Pakistan out of the chaotic situation," said Fawad Chaudhary in an interview.

**Conclusion:**

The act can be considered to be in line with the PTI manifesto because they mentioned appointing someone competent enough to deal with the relevant issues of the military. The extension was granted based on performance.

The bill would not only benefit the incumbent COAS but also three services chiefs and JCOSC. To conclude, with this legislation, the debate regarding the appointment/reappointment/extension / maximum age of service of the Chief of Army Staff, Chief of Air Staff, Chief of Naval Staff and Chairman Joint Chiefs of Staff Committee has been legally closed. The main purpose of this legislative effort was to be able to comply with the Supreme Court's order to do away with ambiguity in the rules that govern the extension of the Army Chief's tenure in service. The process is now clarified and it is considered a futurist and pragmatic amendment in all three acts.

**Act no 12**

**THE NAYA PAKISTAN HOUSING AND DEVELOPMENT AND  
AUTHORITY ACT,2020**

**Executive Summary of the Act:**

“To provide for housing and real estate development and other activities related to land and construction through the establishment of Naya Pakistan housing and Development Authority”

Keeping in mind the above statement, this act came into force to make the idea of affordable housing into a reality. After making the necessary amendments, the standing committee approved it in Sept 2019. This bill was passed by NA on 10 December 2019. This act extends to the whole of Pakistan and comes into force at once. This act will under the possession of federal government and purposes to develop real estate for low to middle-class people on the low- interest level. The main objective is also the refurbishment, uplift, and maintenance of infrastructure and other civic and municipal tasks. This shall apply to the immoveable properties under the federal government and Prime minister of Pakistan shall be the patron of the authority. This bill was also promulgated by an ordinance.

There is a pressing need to implement such enactment as;

The constitution of Pakistan has stressed on the need to ensure affordable housing for the less privileged.

**Introduction and Problem Statement:**

The act is divided into twelve chapters which covers the preliminary explanation till the miscellaneous tasks which will be performed by the government officials.

1. Preliminary
2. Incorporations and Functions
3. Patron ,Policy Board and Administration
4. Federal Land Bank ETC.
5. Development of Schemes and Procurements ETC
6. Register of Titles
7. House finance and Mortgages
8. Common Property
9. Tax Fee and Charges
10. Offences , Enforcement and Adjudication
11. Financial Provisions
12. Miscellaneous

**Highlights from the Act;**

The head of the authority shall be the chairman who shall be appointed by Prime minister of Pakistan. The federal authority shall constitute the federal land bank for the immovable properties. This project also shall work with public-private partnerships and outsource any development work. The authority may reconstruct the scheme. Funding for this scheme shall be from loans granted by the federal and provincial government and lease or sales from the property. All the dealings of funds shall be under authority.

**Background History/ Evidence**

Naya Pakistan Housing and Development Authority needs to be established for' planning, development, constructional, and management of real estate development schemes and projects. Including housing, and matters connected with and ancillary thereto to pursue

Philanthropic and other objectives on profit and non-profit basis and to carry out refurbishment, uplift of establishment and maintenance of infrastructure, roads etc. and the performance of other civic and municipal ventures or tasks. The respective ordinance for the establishment of the Naya Pakistan Housing and Development Authority shall apply to the works. Lands and buildings owned or acquired by, vested in, or in the possession of the Federal Government in the specified area and the schemes developed or redeveloped under this Ordinance. The Authority shall also identify immovable properties and projects suitable for the development. The initiative was also taken to ensure town planning and suitable management of the resources. It further stresses the need to collect all levies, taxes, penalties, tolls, and the charges due when any immovable property is transferred.

**Criteria used in making the Act:**

The act, as mentioned in the background has been an objective of the government to provide housing to the citizens at an affordable amount.

**Conclusion:**

According to chapter 4 of the PTI's manifesto, Government aimed to develop a housing scheme for lower-middle-income segments. This is also the basic agenda of PTI to build 5 million houses. At least two million have registered in this scheme, while 40 different types of companies also reported being involved in this project. While nearly two years on, the economy is still in the struggle so the Naya Pakistan housing scheme also needs some momentum. The government uses public-private relationships in this project by house finance and mortgages from a financial institution but still, the target seems impossible to achieve. Recent updates have shown that progress has been made but the actual fruit from the project can be seen when people will be living in a balanced society.

## Act No. 13

# THE FEDERAL GOVERNMENT EMPLOYEES HOUSING AUTHORITY ACT, 2020

### Executive Summary:

“An Act to provide for the establishment of Federal Government Employees Housing Authority” it was expedient to establish the Federal Government Employees Housing Authority for planning and development of housing schemes for serving and retired Federal government employees and other specified groups and matters connected therewith and ancillary. Minister for Housing and Works Chaudhary Tariq Bashir Cheema moved the bill for the establishment of Federal Government Employees Housing Authority in the House.

The Statement of Objects and Reasons of the Act says that the Federal Government Employees Housing Foundation (FGEHF) is a public limited company registered with the Security Exchange Commission of Pakistan operating under auspices of Housing Ministry. The mandate of FGEHF is to provide affordable residential accommodation to the federal government employees and other specific groups on no profit, no basis without involving any funds or public exchequer.

So far FGEHF has launched five housing schemes and provided about 23,000 housing units. The bill will help extend the jurisdiction of FGEHF to whole Pakistan with current projects at Islamabad/Rawalpindi and Karachi.

### Introduction and Problem Statements:

The act is divided into 32 parts;

1. Short title, extent and commencement
2. Definitions
3. Authority
4. Executive board
5. Powers and Functions of the Executive Board
6. Director General
7. Powers of the Director General
8. Appointment of the officials and the officers
9. Delegation of powers
10. Committees
11. Funds of the Authority
12. Acquisition of Land
13. Land to be marked , measured an planned
14. Public notice of Acquisition
15. Enquiry and Award by the Deputy Commissioner
16. Compensation
17. Vesting of Land in the Authority
18. Powers of the Deputy Commissioner
19. Appeals and Reviews
20. Deputy Commissioner to have power over Civil courts
21. Power to Cancel allotment
22. Encroachments
23. Violation of building Regulations
24. Transfer of savings
25. Appeal against the order of the Director General

And the list goes on.

### **Important points from the Act:**

The act has broadly covered the powers and duties of the officials and moreover the benefits given to the employees. It makes sure that each employee is dealt with utmost transparent rules and regulations to ensure benefit and accountability at the same time.

### **History/ Evidence:**

The act points to the incompetence of the Capital Development Authority (CDA) regarding its mismanagement in the sectors G-13 and G-14 of the federal capital. "Maintenance of existing schemes is not possible without the status of authority, thus the residents are suffering badly because of poor facilities and lack of basic utility services. {In the sectors G-13 and G-14, the CDA is neither performing nor allowing FGEHF (Federal Government Employees Housing Foundation) to provide basic services by collecting requisite revenues and disposal of assets)," it says.

Furthermore, the bill which is extended to the whole of Pakistan mainly deals with the complexities regarding the land acquisition. "The process of land acquisition and securing approvals of layout plans to launch any project is extremely complex and time-consuming and dependent on other regulatory bodies (development authorities and district administrations) (Two major schemes i.e. F-14 and Park Enclave are pending adjudication in Supreme Court on land acquisition issues)- Therefore, there is an urgent need of a body to expedite the projects on fast track basis by establishing a one-window facility through legislation, so as to address the above-narrated issues."

Minister for Housing and Works Tariq Bashir Cheema presented the bill in the Senate session. The bill had first landed in the Senate on April 25, 2019, and was referred to the relevant Senate the Senate panel and eventually by the house.

According to the draft of the bill, the federal government shall, by notification in the Official Gazette, establish the Federal Government Employees Housing Authority, within 30 days of the commencement of this Act.

"The Authority shall be a body corporate having perpetual succession and a common seal with power to purchase, procure through acquisition or otherwise, land as well as movable and immovable properties and assets with the object to hold, possess, sell, lease, transfer, exchange any property including landed property and to regulate the schemes undertaken by it in the specified area."

### **Conclusion:**

This act also comes under chapter seven of the PTI's manifesto which aims at building homes. The federal government employees' housing authority not only wanted a quick system to resolve the issues for the employees but also for the ones who are retired. The FGEHA has launched several housing schemes since 1990 and so far, has been able to provide only 23,000 residential units to the federal government employees and other specified groups. However, a huge backlog persists of about 200,000 federal government employees, registered with FGEHA and waiting for allotment of plots. It is pertinent to mention here that the FGEHA, working under the auspices of the Ministry of Housing & Works, had been established through an Act of Parliament, Act No IV of 2020 on January 15, 2020. The

mandate of FGEHA is to provide affordable residential facilities to the federal government employees and other specified groups, on no profit no loss basis. Now it's uncertain whether this department takes undue advantage of the act or provides the facilities timely.



# ACT no 14

## THE LETTERS OF ADMINISTRATION AND SUCCESSION CERTIFICATES ACT, 2020

### **Executive Summary:**

“To provide for an efficacious and speedy mechanism for issuance of Letters of Administration and succession certificates”

The purpose of this Act is to provide for an efficacious and speedy mechanism for facilitating the issuance of a Letter of Administration and Succession Certificates. The Act also aimed at curtailing fraud and forgery in the matters related to the Succession Certificates.

In Pakistan legal heirs have to suffer the lengthy court procedures to get Succession Certificates and Letter of Administration. Generally, a Letter of Administration is used for the immovable property, and Succession Certificate is used for movable property. It also put a huge burden on the courts in the country and it consumed a lot of court time in the cases related to succession certificates. Letter of Administration and Succession Certificate Act 2019 is aimed to reduce the burden on the courts and also to facilitate the citizens of Pakistan.

### **Introduction and Problem Statement:**

There are 13 points covered in the Act;

1. Short title, extent and commencement
2. Definitions
3. Issuance of Letters
4. Succession facilitation units
5. Functions of these units
6. Application for letter of administration
7. Forms of letters of administrations
8. Objection
9. Fee and Cost
10. Bar of Jurisdiction
11. Penalty, Offences and Trial
12. Act to override other laws
13. Power to make rules

### **Important features of the Act:**

The act has been able to provide absolute justice to the heirs of the people served in the Government sector. Under section 4 of this Act, The NADRA shall establish a Succession Facilitation Unit for the purpose of receipt, processing, and assessment of applications for the grant of Succession Certificates. Now a person can only contact the court if the Authority declines to process an application for issuance of the Letter of Administration or Succession Certificate (as mentioned in section 10).

### **History/Evidence:**

Upon the death of an individual, the legal heirs languish in courts for years before they can obtain letters of administration (for immovable properties) and succession certificates (for movable properties). Nearly half of the population of Pakistan is likely to be involved in litigation, whereby courts are required to issue orders for the grants of Letters of Administration and Succession Certificates. Via this legislation, wherever, NADRA has a Citizen.' Database and there is no dispute amongst the legal heirs, it may, after inviting public objections in

newspapers issued Letters of Administration and Succession Certificates, without the need of approaching courts. This law will also prevent fraudulent practice where there is no facility to swear affidavits through a bio-metric NADRA facility. The mechanism envisaged in the statute shall considerably reduce the burden on the courts. This marks the counterforce against fraudulent practices as well. This shows the need for this enactment.

**Conclusion:**

Succession certificates are currently issued by civil judges, but since they also adjudicate on other legal suits the process can take months. The new legislation empowers NADRA to issue certificates to legal heirs following an individual's death per the family tree in its database. Under this law, NADRA will have to set up a succession facilitation unit for receipt, processing, and assessment of applications to grant these documents. In case of any factual controversy among legal heirs, the unit can decline to assess the applications which would be filed anew before the appropriate forum under the law. NADRA is also supposed to maintain an online portal providing updated records of letters of administration and succession certificates issued under the act.

Under the light of manifesto of PTI, suitable governance; right to services has been achieved but it depends on the capability of NADRA to accommodate the people in case of letters and also filling the forms.

## Act no 15

### THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHT ACT, 2020

#### **Executive Summary:**

Another important bill passed by the National Assembly of Pakistan, to secure the rights of women to own and inherit property. Ministry of Law and Justice has termed the enforcement of Women's Property Rights Act 2020 as a significant step towards empowering women. In a statement, the Ministry said empowering a woman is a major step towards enlightenment of a society. It said under Article 23 of the Constitution of Pakistan, it is citizens' right to acquire, hold and dispose of property in any part of Pakistan. Prime Minister Imran Khan, from the very onset of taking over the reins of the Government, was of the view that women should be empowered by giving them what belongs to them. The Government and the Ministry of Law and Justice reached an important milestone on February 14, 2020, when Enforcement of Women's Property Rights Bill (now an Act), 2020 received Senate's nod. The Act empowers the Ombudsman to take appropriate action to address the issue of a woman's inheritance.

According to press release any woman, who is deprived of ownership or possession of her property by any means, can file a complaint to the Ombudsman, if no proceedings in a court of law are pending regarding that property, it said. In case the woman deprived of her property is unable to do so, any person or an NGO may initiate action on her behalf. The Ombudsman, after preliminary assessment will direct the matter to concerned Deputy Commissioner. The Deputy Commissioner will conduct an inquiry and submit a report to the Ombudsman within 15 days following which; the Ombudsman may call for further record or submission of objections by the complainant and her adversaries. The Ombudsman will pass the orders, preferably within 60 days of receipt of the complaint.

#### **Introduction and Problem Statement:**

The act contains the following 12 parts;

1. Short title, extent and commencement
2. Definitions
3. Power of ombudsman
4. Complaint to ombudsman in case of no proceedings
5. Delivery of possession and transfer of ownership to women
6. Reference to court
7. Complaint to ombudsman in case the proceedings are pending
8. Loss of rent
9. Execution of orders
10. Appointment of officers
11. Bar of jurisdiction
12. Power to make rules

#### **History/ Evidence:**

- The Islamic Republic of Pakistan has given the due the rights to the women in our society. But it is always observed that due to cultural norms, the women are seemed to be deprived of their basic rights. In order to prevent forgery, crime, coercion and fraud by their family members it was a necessity to provide the women with this kind

of security. It is a known fact that financial independence is a key to empowerment as well Islam ensured woman's right to property 1400 years ago.

- Under Article 23 of the Constitution of Pakistan, it was citizens' right to acquire, hold and dispose of property in any part of Pakistan.
- The Act empowers the Ombudsman to take appropriate action to address the issue of a woman's inheritance.

This is a very important step towards women empowerment which is global objective as well. It is also necessary to make them aware of their rights and educate them to be able to advocate their voice.

**Conclusion:**

Giving concluding remarks on the current act will not be a piece of cake as the issues women face across the country are enormous and the act covers just a single portion. The government will become much successful with this legislation when tribal areas will shun the infringement of women's right of inheritance. However, it would be unfair not to mention that the initiative is clearly in line with the PTI's manifesto. It does secure the women but the question lies how far the legislation is implemented?

The media hasn't been able to communicate this act to the people, then how it is expected to raise awareness. Moreover, the job of ombudsman must be performed methodically to ensure safety of this right.

## **Act no. 16**

# **THE CODE OF CIVIL PROCEDURE (AMENDMENT), ACT 2020**

### **Executive Summary of the Act:**

This act was being presented in the National Assembly by the government (Ruling Party), on Thursday, 2<sup>nd</sup> May 2019, by Farogh Naseem (Law Minister) and Minister in-charge. The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on Tuesday, 18<sup>th</sup> February 2020, and published on 21<sup>st</sup> February 2020. This Bill is designed to achieve the objective i.e. to Delay defeats justice. It is especially true in the context of disputes pending adjudication before civil courts as it takes many years or even decades to get cases decided by civil courts. This, in civil litigation practice, normally occurs when a party files a suit accompanied by an injunction/stay application, the main suit does not proceed. The court only focuses on the stay application and it takes many years to decide the stay/injunction. The main suit remains in a state of inertia. To curb delays, a new concept of a two-tier system has been introduced where two different judges will hear the entire suit. In the first tier, the main case would be heard by one judge and not going to be interrupted until the finalization of the proceedings. If there are miscellaneous applications, in particular stay/ injunction application, these are going to be heard in the second tier where a separate file is going to be opened and adjudicated by a different judge without interfering with the main case being adjudicated in the first tier. Also, reforms are proposed with regard filing of plaint, service of summons, filing of a written statement, case management system, commission for the recording of evidence, appeals, the introduction of spot checks by Presiding Officer and limiting unnecessary discretion of courts and restriction in granting of adjournments and subjecting the parties at fault with heavy penalties in the shape of costs. The proposed amendment in the existing Code of Civil Procedure is aimed towards expeditious disposal of cases without compromising the fundamental right to a fair trial. This act was called as Act No. VII of 2020.

### **Introduction and Problem Statement:**

In this act, nineteen (19) amendments are being made which are as follow:

**5. Short title, extend and commencement**

**6. Amendment of section 1, Act V of 1908:**

In the Code of Civil Procedure, 1908 (Act V of 1908), hereinafter referred to as the said Act, in section I, after sub-section (3), the following new sub-section shall be inserted, namely:-

"(4) The primary objective of this Code is to enable the Courts to,

(a) Deal with the cases justly and fairly;

(b) Encourage parties to alternate dispute resolution procedure if it considers appropriate;

(c) Save expense and time both of courts and litigants; and

(d) Enforce compliance with provisions of this Code."

**7. Substitution of section 3, Act V of 1908:**

In the said Act for section 3, the following shall be substituted, namely:-

**'3. Sub-ordination of Courts.**-For the purposes of this Code, the hierarchy and sub-ordination of Civil Courts shall be the same as prescribed in the West Pakistan Civil Courts Ordinance, 1962 (W.P Ordinance No. II of 1962);'

**8. Substitution of section 6, Act V of 1908:**

In the said Act, for section 6, the following shall be substituted, namely:-

**\*6. Pecuniary jurisdiction.**-Save in so far as is provided for the Islamabad High Court exercising original civil jurisdiction at Islamabad, all civil suits shall be filed in the following manner, namely:-

(a) where the amount or value of the subject matter of the suit is below rupees fifty million, the suit shall be filed in the court of Civil Judge, as may be prescribed by the High Court; and

(b) Where the amount or value of the subject matter of the suit is above rupees fifty million the suit shall be filed in the court of District Judge, as may be prescribed by the High Court."

**9. Omission of section 7, Act V of 1908.**

**10. Substitution of section 26, Act V of 1908:**

**"26. Institution of suits through plaint or otherwise;**

(1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) On presentation of the plaint it shall be the duty of the Court to *prima facie* Satisfy itself of jurisdiction, cause of action and limitation:

Provided that if Court does not satisfy itself it shall be bound to record reasons for doing so.

(3) The plaintiff shall, at the time, file as many copies of the plaint and accompanying documents as there are defendants to the suit to be sent along-with the summons and two extra copies of the entire set.

(4) It shall be duty of the Court to maintain electronic records of proceedings in suits as may be prescribed.

*Explanation.* - For the purposes of this sub-section suits includes any proceedings in applications, appeals, review, revision or anything incidental thereto.

**26A. Written statement and proposed issues by the defendant.** -(1) The defendant shall file written statement not later than thirty days from the date of service to the plaintiff:

Provided that if the defendant fails to file written statement on the date fixed, the court may grant an opportunity to file the same not later than fifteen days subject to payment of adjournment costs:

Provided further that if the defendant fails to file after the opportunity given under the first proviso, a final opportunity may be given by the Court to file the written statement not later than fifteen days subject to payment of adjournment costs after which the defendant shall lose the right of defense and the Court shall close the right to defend the case:

Provided also that the written statement may be allowed to be filed by the Court upon payment of costs to be determined by it, if the defendant through an application supported by an affidavit, satisfies the Court that he had just and sufficient cause and the Court record reasons for it.

(2) The defendant shall file proposed issues along-with the written statement: Provided that if no issues are proposed by the defendant, the Court shall permit the defendant to file proposed issues not later than seven days upon payment of cost to be determined by the Court.

(3) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and the Court.

**268. Proposed issues by the plaintiff.**-The plaintiff shall file proposed issues not later than seven days from the date of receiving the written statement:

Provided that in case the plaintiff fails to file the proposed issues, the Court shall permit the plaintiff to file proposed issues not later than seven days upon payment of cost to be determined by the Court.

**26C. Framing issues and filing of list of witnesses and recording of evidence.**

(1) Not later than ninety days of the institution of a suit the Court after considering the pleadings and issues proposed by parties, shall determine the material propositions of fact and laws which the parties are at variance and frame issues.

(2) For the purposes of sub-section (1), the Court in its discretion as it may deem fit may proceed to frame issues without hearing.

(3) In case issues are framed without hearing, any party, not later than seven days of the framing of issues, may file an application seeking modification of the issues, which application shall be decided within fifteen days.

(4) After framing the issues, the Court shall order parties to file list of witnesses, not later than fifteen days-

(5) If any party fails to comply with the orders of Court in subsection (4), a final opportunity may be given by the Court to file list of witnesses not later fifteen days subject to payment of adjournment costs.

(6) Immediately upon framing of issues and filing of the list of witnesses, the Court shall direct the recording of evidence through Commission in the prescribed manner.

(7) For the purposes of sub- section (6), of this section, the Court shall appoint a Commission from a list of approved panel of such Commission, comprising advocates and retired judges maintained by the Court in the prescribed manner, on such fee and terms and conditions as determined by the Court.

(8) The parties shall file affidavits as evidence of their respective witnesses, before the Commission which shall be construed to be examination-in-chief.

(9) On the affidavits in evidence, the witnesses shall be subjected to cross examination and if necessary, just and expedient, shall be subjected to re-examination followed by cross-examination or re-examination.

(10) The Commission shall record the evidence and proceedings thereof in written and audio and video recording.

(11) Not later than ninety days of the order under sub-section (6), the Commission shall finalize the recording of the evidence and submit a report in this regard to the

Court along-with the complete written, audio and video record of the proceedings under subsection (10).

(12) The High Court shall frame rules for the purposes of recording of evidence through Commission, inter alia, empowering the Commission to regulate the Commission's proceedings including but not limited to allowing or disallowing questions, documents, choosing sides, extension of Commission and passing such ancillary or other orders which are necessary to carry out the functions of the Commission.

**26D. Hearing of final arguments.** (1) The Court after submission or closing of evidence, as the case may be shall fix a date not later than fifteen days, for hearing of final arguments by parties.

(2) The Court may require the parties to file their written arguments in addition to oral arguments."

**11. Amendment of section 27, Act V of 1908:**

The said Act –

(a) in section 27, after the word "claim", the words "not later than fifteen \_ days" shall be inserted; and

(b) After section 27, as amended herein-above, the following new section shall be inserted" namely:-

**"27A. Process of summons to be simultaneous.** (1) Summons shall be sent simultaneously unless otherwise ordered by the Court, to the defendant, by registered post acknowledgment due and another copy of the summons by courier service signed and sealed in the manner prescribed, or as the court may determine, by urgent mail service of Pakistan Post, at the cost of plaintiff.

(2) The acknowledgement purported to be signed by the defendant of the receipt of the registered communication or an endorsement by a courier messenger or postal employee that the defendant refused to take delivery of the summons shall be deemed by the Court issuing the summons to be *prime facie* proof of the service of summons.

(3) Simultaneously, the Court shall order service by,-

(a) affixing a copy of the summons at some conspicuous part of the house, if any, in which the defendant is known to have last resided or carried on business or personally worked for gain;

(b) Any modem device including electronic device of communication which may include mobile, telephone, telegram, phonogram, telex, fax, radio, television etc. in a prescribed manner;

(c) Urgent mail service or public courier services;

(d) beat of drum in the locality where the defendant resides;

(e) Announcement through, mosque, temple, community center etc.;

(f) Publication in the press in the prescribed manner;

(g) Or any other manner or mode as it may think fit:

Provided that the Court may order the use of all or any of the aforesaid manners and modes of service simultaneously-

(4) If the defendant fails to appear, the Court may direct service again by any of the modes mentioned in sub-section (3) to appear on a date not later than seven days.



(5) Location of bailiff or process-server serving the summons shall be monitored by modern devices, in a manner prescribed, and a photograph shall be taken of the defendant or the premises or the person accepting summons on behalf of defendant and be made part of the record as a proof of delivery."

**12. Amendment of section 33, Act V of 1908:**

In the said Act in section 33, after the word 'Judgment"', the words "within ninety days of the final hearing" shall be inserted

**13. Insertion of new section 75A, Act V of 1908:**

In the said Act5 after section 75, the following new section shall be inserted, namely:-

**'75A. Spot checks.** (1) In order to further the primary objective mentioned in sub-section (4) of section 1, in any proceedings in a suit, the Presiding Officer of the Court in its discretion may, on his own or at the application of any of the parties, at any stage may carry out spot checks including inspection of documents and premises in order to ascertain issues of partition, demarcation, possession, state of construction and anything incidental and ancillary thereto.

*Explanation I*, -For the purposes of this sub-section, spot checks may be carried out after passing of decree to ensure Court orders are implemented as decreed.

*Explanation II*, -For the purpose of this sub-section a spot check conducted by Presiding Officer of a Court should not be construed to be an inspection through the appointment of Commission.

(2) The Court may call for the evidence of any person or documents at the spot.

*Explanation*, -F or the purpose of this sub-section, person includes parties to the suit individual person at the spot or any individual Court may deem proper to give evidence in the matter in issue.

(3) After conducting spot checks an interim order recording the findings of the spot inspection shall be prepared and signed by the Presiding Officer of the Court: Provided that the interim order shall state the date, time, purpose of visit evidence recorded and interim findings.

(4) The Presiding Officer, in his discretion shall be entitled to pass an order or judgment upon the basis of interim order mentioned in sub-section (3) of this section provided the same is confronted to all the parties, who are given a reasonable opportunity to file objections to the same."

**14. Substitution of section 96, Act V of 1908:**

In the said Act, for section 96, the following shall be substituted, namely:-

**\*96. Appeal from final judgment or decree.** -Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court not later than thirty days from every final judgment passed by any Court exercising original jurisdiction on any question of law or fact erroneously determined by the original court and the High Court shall decide the appeal within ninety days."

**15. Omission of sections, Act V of 1908.-**

- In the said Act sections 100, 101, 102 and 103 shall be omitted.
16. **Amendment of section 106, Act V of 1909:**  
In the said Act for section 106, the following shall be substituted, namely:-  
**"106. What Courts to hear appeals.**-Appeals against order passed under this Code shall lie to the Court directly from its sub-ordinate court exercising original jurisdiction adjudicating the suit in the manner prescribed."
17. **Amendment of section 111, Act V of 1908:**  
In the said Act in section 111, clause (b) shall be omitted.
18. **Amendment of section 114, Act V of 1908:**  
In the said Act, in section 114,  
(a) in clause (b), the word "or", at the end, shall be omitted; and  
(b) for clause (c) the following shall be substituted, namely:-  
"May apply for a review of judgment to the Court which passed the decree or made the order and the Court may make such order thereon as it think fit."
19. **Substitution of section 115, Act V of 1908:**  
In the said Act, for section the following shall be substituted namely:-  
**"115. Revision.**-Any party aggrieved by an order under section 104, passed by the Court of District Judge or Additional District Judge in an appeal against an interlocutory order passed by a Civil Judge or Senior Civil Judge, as the case may be, may within thirty days of the said order may file a revision to the High Court on an obvious mis-apprehension of law or in respect of a defect in jurisdiction."
20. **Amendment of section 128, Act V of 1908:**  
In the said Act in section 128, after sub-section (2) the following new sub-section (3) shall be inserted namely:-  
**"(3) The High Court shall make rules,** not inconsistent with the provisions of this Code, for case management and scheduling conferences binding the parties to follow the schedules and timelines prescribed therein."
21. **Substitution of section 141, Act V of 1908:**  
In the said Act for section 141, the following shall be substituted, namely:-  
**"141. Proceedings regarding application for injunctions and other miscellaneous application and issues.** (1) The procedure provided in this Code with regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction. (2) All suits, in which interlocutory applications have been filed shall have duplicate sets, one of which shall be placed in the court hearing the main suit and other shall be placed in the court hearing interlocutory applications.  
(3) At all material times, the respective offices of the two courts mentioned in sub-section (1) of this section, shall keep both the files in the two courts updated and tallied with each other in duplicate and identically including the respective orders and diary sheets.  
(4) Both the courts hearing the main case and the interlocutory applications respectively shall proceed collaterally according to the timelines prescribed in this Code and rules or by any order of the Court.  
*Explanation;* - It is clarified that the pendency of any interlocutory application shall be no ground to stay or delay the proceedings before the Court hearing the main case.  
(5) All applications for addition, deletion and substitution of parties, amendments to pleadings, modification or alteration of issues, rejection of complaints, and stay of

suits shall be heard and adjudicated by the Court hearing the main case, while all other applications shall be: construed to be interlocutory applications wanting to be filed and decided by the Court hearing the interlocutory applications.

(6) The filing of any application including an application for the rejection of the plaint or a dismissal of suit shall be no ground to dispense with or waive the requirement of filing a written statement within the timelines prescribed in this Code.

(7) This section shall have effect notwithstanding any other provision in this Code or any other law for time being in force."

**22. Amendment of section 151, Act V of 1908:**

In the said Act in section 151, after word "Court", occurring for the first time, the words "to be exercised after recording reasons" shall be inserted.

**23. Insertion of new section, Act No. V of 1908:**

In the said Act, after section 158, the following new section shall be inserted, namely:-

**'159. Savings of proceedings.** -All proceedings instituted prior to enactment of the Code of Civil Procedure (Amendment) Act 2020 shall be deemed to proceed and dealt in accordance with the provisions of Code of Civil Procedure which existed prior to the said amendment Act.

*Explanation.*-In this section the expression "proceedings" includes sui appeal, review, revision, execution applications or any other proceedings and any matter incidental thereto."

### **Background History/Evidence:**

To give uniformity to Civil Procedure, Legislative Council of India, enacted Code of Civil Procedure, 1858, which received the assent of Governor-General on 23 March 1859. The Code however, was not applicable to the Supreme Court in the Presidency Towns and to the Presidency Small Cause Courts. It did not meet the challenges and was replaced by Code of Civil Procedure Code, 1877. But still it did not fulfil the requirements of time and large amendments were introduced. In 1882, the Code of Civil Procedure, 1882 was introduced. With passing of time it is felt that it needed flexibility for timeliness and effectiveness. To meet these problems Code of Civil Procedure, 1908 was enacted. Though it has been amended number of times it has withstood the test of time.

The National Assembly Standing Committee on Law and Justice passed the 'Code of Civil Procedure (Amendment) Bill, 2019' seeking to ensure expeditious disposal of cases without compromising the fundamental right to fair trial.

The committee met with MNA Riaz Fatyana in the chair and approved the proposed amendment, moved by the government, in the existing Code of Civil Procedure.

Minister of Law and Justice Farogh Naseem while briefing the committee about the bill said that civil cases mostly take 30 to 40 years to be decided by civil courts due to shortcomings in the existing Code of Civil Procedure.

"The existing Code of Civil Procedure is British made law which has become outdated," he said, adding that following the approval of amendments in the existing law, civil cases will be decided within six months or a year.

Naseem said that in civil litigation, practice normally occurs when a party files a suit accompanied by an injunction/stay application, and the main suit does not proceed. The court only focuses on the stay application and it takes many years to decide the stay application and lift the main case, he said.

He said that in order to control delay in disposal of cases, a new concept of two-tier system has been introduced where two different judges will hear the entire suit (the stay and main case). In the first tier, the main case would be heard by one judge and it is not going to be interrupted till finalization of the proceedings, he said, adding if there are miscellaneous applications, such as stay application, these are going to be heard in the second tier where a separate file is going to be opened and heard by a different judge without interfering the main case.

The minister said that reforms are also proposed with regard to filing of complaint, service of summons, filing of written statement, case management system, commission for recording evidence, appeal, introduction of spot checking by presiding officer and limiting unnecessary discretion of courts, restricting granting adjournments and subjecting the parties at fault with heavy penalties in the shape of costs.

Majority of the committee members, including MNA Mehmood Bashir Virk of Pakistan Muslim League-Nawaz (PML-N), MNA Muhammad Sanaullah Khan Mastikhel of Pakistan Tehreek-e-Insaf (PTI), MNA Malik Muhammad Ehsan Ullah Tiwana of PTI, MNA Muhammad Farooq Azam Malik of PTI, MNA Attaullah of PTI, MNA Lal Chand of PTI, MNA Maleeka Ali Bokhari of PTI supported the bill except MNA Nafeesa Shah of Pakistan Peoples' Party (PPP) and MNA Aliya Kamran of Jamiat Ulema-e-Islam-Fazl (JUI-F).

Mehmood Bashir Virk said that there is no fault of procedure in delay in disposal of case but the fault lies in characters. "In the proposed amendment, efforts have been made to control the character," he said, adding that he supports the bill.

#### **Criteria used in making of Act:**

It is stated in the act that this is an Act to take p

#### **Conclusions:**

In accordance with PTI's Manifesto, this law is a perfect example of Manifesto's chapter 2 of "TRANSFORM GOVERNANCE" which include following aspects,

- Reform the criminal justice system and provide speedy access to justice
- Reform the Civil Service
- Institutionalize E-Governance practices in public administration
- Facilitate delivery through legislative reform (Right to Information, Right to Services)
- Reform government procurement

Keeping in view the aim of speedy justice and reform in the civil law of the land this bill was proposed in the parliament by the law minister and passed on 19<sup>th</sup> February, 2020. The law minister claimed that this act will curtail the time frame of a civil dispute into couple of years whereas the present law required almost 30 to 40 years for the civil suit to be completed. There were number of amendments in the Code of Civil procedure, 1908 regarding the limitation on the time, modern mode of communications and modes of appeal. Whereas there

is a fundamental curtailment in the enforceable of these amendments could be seen as these sections are in contradiction with the Orders of the CODE OF CIVIL PROCEDURE, 1908 as there was no amendment in the orders, these orders can only be amend thorough the higher courts and there relevant bodies. Another curtailment is that this act only extends to the territory of Islamabad and in view of these principles all the provinces has to amend the rules according to their provinces, this shows that such amendments are not enforceable till now and would not applicable till than the amendments of the orders of the code.

**Act no 17.**  
**THE SUPERIOR COURTS (COURT DRESS AND MODE OF ADDRESS) ORDER (REPEAL), ACT 2020**

**Executive Summary of the Act:**

This act was being presented in the National Assembly, Friday, 13<sup>th</sup> September 2019, and demonstrated by Farogh Naseem (Law Minister) and Minister in-charge. The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Tuesday, 18<sup>th</sup> February 2020, and published on 21<sup>st</sup> February 2020. The Code of Civil Procedure (Amendment) Bill. The Bill is designed to achieve the objective Article 191 and 202 of the Constitution of the Islamic Republic of Pakistan empower, Supreme Court and High Court to make rules regulating its practice and procedure. Therefore, the matter relating to Court dress and mode of address to judges may be regulated by the Superior Courts. This act was called as Act No. VIII of 2020.

**Introduction and Problem Statement:**

In this act, nineteen (19) amendments are being made which are as follow:

**24. Short title, extend and commencement**

This Act may be called the Superior Courts (Court Dress and Mode of Address) Order (Repeal) Act 2020 and it shall come into force at once.

**25. Repeal of President's Order No. 15 of 1980:**

The Superior Courts (Court Dress and Mode of Address) Order, 1980 (P.O. No. 15 of 1980), is hereby repealed.

**Background History/Evidence:**

The government has decided to abolish the prevailing compulsory dress of judges of the Supreme Court and high courts while holding judicial proceedings or attending State or ceremonial functions and mode of address to them.

In this connection, a bill has been moved in the National Assembly to repeal a 1980 presidential order, providing for the dress and mode of address in the superior courts. It was tabled on September 13 but went unnoticed, unreported.

The statement of objects and reasons of the bill, moved by the concerned minister, said that Articles 191 and 202 of the Constitution empower Supreme Court and high courts to make rules regulating their practice and procedure. Therefore, the matter about dress and mode of address may be regulated by them.

The bill said it is expedient to repeal the Superior Courts (Court Dress and Mode of Address) Order, 1980 (P.O. No.15 of 1980). Articles 191 and 202 say that the Supreme Court and high courts may make rules regulating their practice and procedure. The high courts may control their respective subordinate judiciary.

In a meeting attended by the chief justices of the superior courts in June 1979, certain decisions were taken having regard to the views of the Pakistan Bar Council relating to dress and mode of address in these judicial forums.

The 1980 presidential order said that a superior court judge will wear while he is attending sittings of the court a black suit with a white shirt, a black tie, and a black gown; and while he is attending State or ceremonial functions a black suit with a white shirt and a black tie.

Similarly, a lady judge will wear while she is attending the sittings of the court white dress with a winged color white shirt, black coat, and black gown, and while she is attending the State or ceremonial functions white dress with a winged color white shirt and black coat.

The order said that the use of the expressions “My Lord” and “Your Lordship” and the like, about a judge, will be discontinued and he will only be addressed as “Sir” or “Janab-e-Wala” or “Janab-e-Aali” or referred to in judgments, correspondence or other instruments as “Mr. Justice” so and so or the like.

It also said superior court means the Supreme Court of Pakistan or a High Court or the Federal Sharia Court and “judge” includes chief justice or, in the case of the Federal Shariat Court, its chairman or its member.

In the United States, judges of the Court of Appeal and Supreme Court are addressed as My Lord, or My Lady, or Your Lordship, or Your Ladyship, depending on the grammatical context. Masters and registrars of the Supreme Court are addressed as Your Honor. Provincial court judges are also called Your Honor.

In the Courts of England and Wales, Supreme Court judges are called Justices of the Supreme Court. Judges of the high court and court of appeal are addressed when sitting in those courts as "My Lord" or "My Lady" and referred to as "Your Lordship" or "Your Ladyship".

The dress code for lawyers or legal practitioners varies with the season. During the winter months, a formal black suit and tie are worn with the gown. During the hot summer months, a white shirt and trousers and a white neckband may be worn.

#### **Criteria used in making of Act:**

It is stated in the act that this is an Act to repeal the President's Order No.15 of 1980

Whereas it is expedient to repeal the Superior Courts (Court Dress and Mode of Address) Order, 1980 (P.O. No.15 of 1980).

#### **Conclusions:**

In accordance with PTI’s Manifesto, this law is a perfect example of Manifesto’s chapter 2 of “TRANSFORM GOVERNANCE” which include following aspects,

- Reform the Civil Service
- Reform government procurement

This act was tabled by the Farogh Naseem and passed on 10<sup>th</sup> January, 2020. This act do not receive any opposition as it was an act to repeal the order of the president in 1980 which related to the dress of the court and mode of address to the court. This act sets out that the higher courts including Supreme Court and high court are themselves empowered under the article 191 and article 202 of the Constitution of Pakistan, 1973 to make the rules and procedures of the courts. Therefore, the matter pertaining to dress and mode of address may be regulated by them. This act comes in view of the promises of the PTI to make the institutions stronger and independent as this repeal act would result in allowing the judiciary to make the rules according to their own interest and needs.

**Act no. 18**  
**THE SUPERIOR COURTS (COURT DRESS AND MODE OF ADDRESS) ORDER (REPEAL), ACT 2020**

**Executive Summary of the Act:**

This act was being presented in National Assembly, on Tuesday, Friday, 13th September 2019 by Dr. Abdul Hafeez Shaikh (Adviser to PM on Finance, Revenue, and Economic Affairs). It was passed by NA on Monday, 13th January 2020. The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Tuesday, 18th February 2020, and published on 21st February 2020. The Superior Courts (Court Dress and Mode of Address) Order (Repeal), Act 2020 is designed to achieve the objective Regulatory supervision of all non-banking institutions including National Investment Trust Limited (NITL) has been brought under the regulatory purview of the Securities & Exchange Commission of Pakistan. It is therefore necessary to exclude NITL from the purview of the Banks (Nationalization) Act, 1974. Further. Small Business Finance Corporation (SBFC) and Regional Development Finance Corporation (RDFC) were merged and SME Bank Limited was formed, therefore, exclusion of names of SBFC and RDFC from section 11-A is also proposed. This act was called as Act No. IX of 2020.

**Introduction and Problem Statement:**

In this act, nineteen (19) amendments are being made which are as follow:

**1. Short title, extend and commencement**

This Act may be called the Banks (Nationalization) (Amendment) Act 2020 and it shall come into force at once.

**Amendment of Section 11A, Act XIX of 1974:**

In the Banks (Nationalization) Act 1974 (XIX of 1974), in section 11A, clauses (iii), (v) and (vi) shall be omitted.

**Background History/Evidence:**

The Nationalisation process in Pakistan (or historically simply regarded as the "Nationalisation in Pakistan") was a policy measure program in the economic history of Pakistan, first introduced, promulgated and implemented by Prime Minister Zulfikar Ali Bhutto and the Pakistan Peoples' Party to lay the foundation of socialist economics reforms to improve the growth of the national economy of Pakistan. Since the 1950s, the country had undergone speedy industrialization and became an industrial paradise in Asia. But, as time progressed, the labor trade unions and labor-working class had increasingly strained relations with the industrial business oligarch class, having neglected to improve working conditions and failing to provide a healthy and safe environment for the workers in these industrial industries.

The nationalization program began on 2 January 1972, with a vision to promote economic democracy, liberalization, and an initial mainstream goal to put Pakistan in line with state progressivism. Ended effectively in 1977, the nationalization program was again put forward by Prime Minister Benazir Bhutto in 1996, and most recently by then-current Prime minister Yousaf Raza Gillani in 2012 who activated the program to bring three major mega-corporations (Steel Mills, Railways and International Airlines) under government ownership in an attempt to improve its structure and to alleviate its profitable process.

Despite its success in its formative years, such policy measure programs met with an extreme [clarification needed] level of spontaneous demonstration and international and national opposition that left disastrous effects on Pakistan's national economy until it was replaced with



the privatization program set forward by Prime Minister Nawaz Sharif in 1990 until the program's final execution in 2008 by Shaukat Aziz.

**Criteria used in making of Act:**

It is stated in the act that this is an Act is further to amend the Bank Act (Nationalization) Act, 1974 (XIX of 1974).

**Conclusions:**

This Act is by the PTI Manifesto's chapter 2 of "Inclusive Economic Growth" which include the following aspects,

Revive manufacturing and facilitate rapid growth of the SMEs

Transform key economic institutions

This act was introduced in the lower house of the parliament by the minister of state Mr. Ali Muhammad Khan on the advice of the Dr. Abdul Hafeez Sheikh advisor to the prime minister on finance and revenue affairs on 13th September 2019 and passed on 18th February 2020. This is an amendment act that aims to bring the non-banking institute under the regulatory purview of the Securities and Exchange Commission of Pakistan. The act excluded the National Investment Trust Limited, small business Finance Corporation, and regional development Finance Corporation as proposed by the standing committee. The act was based on the promises of the PTI to bring accountability to the core government and deal directly with the issues. This act helped in resolving the issues related to such on the technical basis and coming to these non-banking institutions under the accountability of the Federal institution of Security and Exchange Commission of Pakistan.

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**Act no 19.**  
**THE FOREIGN EXCHANGE REGULATION (AMENDMENT), ACT**  
**2020**

**Executive Summary of the Act:**

This act was being presented in the National Assembly, on Tuesday, Monday, 22nd April 2019 by Mr. Asad Umar (Former Minister for Finance, Revenue and Economic Affairs). It was passed by NA on Monday, 17th February 2020, and further elaborated by Dr. Abdul Hafeez Sheikh (Adviser to PM on Finance and Revenue). The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Tuesday, 21st February 2020, and published on 26th February 2020. The Foreign Exchange Regulation (Amendment), Act 2020 is designed to achieve the objective that Foreign exchange policy and operations in Pakistan are governed under the provisions of Foreign Exchange Regulation Act, 1947 (FERA, 1947), which empowers the State Bank of Pakistan to regulate flows of foreign exchange into and out of the country. However, the State Bank of Pakistan does not have explicit powers under FERA, 1947 to issue any regulation/Instruction relating to the inland movement of foreign currencies. Furthermore, it has also been considered necessary to enhance the punishments provided in section 23 Of FERA, 1947 to create firmer deterrence against contravention of various provisions of the Act. This Bill, therefore, seeks to amend FERA. 1947 to enable the State Bank of Pakistan to regulate the foreign exchange regime in Pakistan more comprehensively as well as to strengthen the effectiveness of the Act. This act is called ACT NO. X OF 2020.

**Introduction and Problem Statement:**

In this act, following amendments are being made which are as follow:

**26. Short title, extend and commencement**

This Act may be called the Foreign Exchange Regulation (Amendment) Act 2020 and it shall come into force at once.

**27. Amendment of section 23, Act VII of 1947:**

In sub-section (1)

- i. After the word "with", the word 'rigorous' shall be inserted; and
- ii. For the word 'two', the word 'five' shall be substituted in sub-section (3)

In the proviso, the expression "and is not declared by the Federal Government under the proceeding sub-section (1) be cognizable for the time being' shall be omitted and for full stop at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

"Provided further that if a person not authorized under section 3, 3A or 3AA is found involved in illegal foreign exchange business the complaint as required in this sub-section shall not be required ; and

After sub-section 3(A) the following new sub-section shall be inserted namely:-

"(3B) A Tribunal taking cognizance under sub-section (1) shall conclude the proceedings within six months. The Tribunal may, be given cogent reason in writing, extend the said period by six months further"

**Background History/Evidence:**

The Finance Ministry has stated that amendments to the Foreign Exchange Regulation (FERA) Act 1947 are being sought to enable the State Bank of Pakistan (SBP) to regulate the foreign exchange regime in the country more comprehensively.

The Finance Division further stated that Prime Minister Imran Khan has sought curb on the

practice of Hawala/Hundi and other forms of illegal foreign exchange transactions which are detrimental to the economy, and the Finance Division was directed to take immediate steps to curb illegal practice through amendments to the existing laws.

In a statement of objects and reasons, the ministry stated that foreign exchange policy and operation in Pakistan are governed by the SBP under the provision of the FERA 1947, which empowers the SBP to regulate the flow of foreign exchange into and out of the country. However, the SBP does not have the explicit powers under the FERA to issue any regulations/instructions relating to the inland movement of foreign currencies. Additionally, it was also considered necessary to enhance punishment provided in Section 23 of the FERA Act to create firm deterrence against contravention of various provisions of this act. This was stated to the Senate Standing Committee on Finance, which cleared the proposed law except for the condition of carrying not more than \$10,000 by a person within the country.

The ministry added that after a series of meeting with stakeholders, some amendments were suggested in the FERA Act. The SBP proposed to amend section 23 of the FERA, by enhancing the punishment, making the offense punishable under the section as cognizable and non-bailable, adding new provisions give explicit powers to FIA to take prompt action against illegal foreign exchange operators without the requirement of any formal complaint from SBP and empowering the tribunals to take action against illegal foreign exchange operators in an expeditious and time-bound manner. The ministry further said that moreover, a new section 8A is inserted to restrict the free movement of foreign exchange within the country without any limit. The bill was introduced in the Senate on January 1, 2020, and was referred to the Senate Standing Committee on Finance

Ref: <https://www.brecorder.com/2020/01/11/560873/amendments-to-fera-law-aim-to-regulate-forex-regime-mof/>

#### **Criteria used in making of Act:**

It is stated in the act that this Act is expedient further to amend the Foreign Exchange Regulation Act 1947 (VII of 1947).

#### **Conclusions:**

This Act is in accordance with the PTI Manifesto's chapter 2 of "Inclusive Economic Growth" which include following aspects,

- Revive manufacturing and facilitate rapid growth of the SMEs
- Enhance Access to Finance for citizens and industry
- Make Pakistan business-friendly

According to the manifesto of the ruling party PTI, they work for making the government offices effective and strong. According to their manifesto on finance and making government departments effective and strong, they implemented this act rightly. This act works best for the betterment and improvement of the State Bank of Pakistan, now the state bank of Pakistan has the authority to monitor the inland foreign currency movements that are; now if anyone traveling within the country with the amount of \$10,000 or more requires, that individual requires permission from the State Bank of Pakistan which made the SBP effective and strong. According to manifesto about finance, the ruling party has made access to SBP for every citizen. In Pakistan before the implementation this act only 23%, people have bank accounts and access to formal instrumentation. The banking has paved the path through the effective banking system in Pakistan and regulated finance through the efficient banking system and in addition to this, the proper administrative working of the banking system has made access to innovative financial instruments and helped in uplifting the economy of the state.

From a general point of view, the leader Imran Khan of the ruling party is working hard for this state but unfortunately, his team is not working as hard as he is doing, due to misconduct and mismanagement Imran Khan's party is facing trouble. PTI manifesto is clear but it's working is

slow and facing troubles as financial crises, poor team coordination, and so many other things have cause hindrance in the path of this ruling party. But still, the party manages to make the best out of the resources given to them. PTI is working on its manifesto to make this state stand again with progress and power

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## **Part 2: ANTI-MONEY LAUNDERING (AMENDMENT) ACT, 2020**

### **Executive Summary of the Act:**

This act was being presented in National Assembly, on Monday, 22nd April 2019 by Dr. Abdul Hafeez Sheikh (Adviser to the Prime Minister on Finance and Revenue). It was passed by NA on Monday, 17th February 2020, and further elaborated by Dr. Abdul Hafeez Sheikh (Adviser to PM on Finance and Revenue). The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Tuesday, 21st February 2020, and published on 26th February 2020. The main focus of this bill was to bring further improvements in the anti-money laundering act, 2010. This bill was passed with a majority vote in the house. Moreover, the suggestion of AML/CFT stakeholders particularly the law enforcement agencies responsible for the enforcement of the act, 2010 involved. The proposed amendments in the bill were to strengthen the regime of anti-money laundering. This bill aimed to streamline the existing AML law according to the standards of international law and enhancing the punishment of offense of money laundering to make it more powerful, dissuasive, and deterrent. Furthermore, these amendments would also allow the financial monitoring unit to seek Egmont group membership (Group of financial Intelligence Unit) which is the requirement under the financial action task force recommendations. This act is called ACT NO. XI OF 2020.

### **Introduction and Problem Statement:**

- Amendment of section 4, Act VII of 2010. In the Anti- Money Laundering Act, 2010 (VII of 2010), hereinafter referred to as "the Act", in section 4, for the words "not be less than one year but may extend to ' the words "be up to" shall be substituted and for the words "one million" the words "five million" shall be substituted.
- Amendment of section 7, act VII of 2010, In the section-7:-

in sub-section (I), in the proviso, for the words and comma, "immediately, but no later than seven working days after forming that suspicion" the word "promptly" shall be substituted; and in sub-section (4). For the word 'five" the word, ten shall be substituted.

- Amendment of section 8, Act VII of 2010. in the Act, in section 8, in sub-section (1), for the word "ninety' the words "one hundred and eighty" shall be substituted and for the full slop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the court may grant the further extension for a period up to one hundred and eighty days.”

- Amendment of section 9, Act VII of 2010.-In the Act, in section 9, in sub-section (5), for the word "or". Occurring for the first time. The word “and” shall be substituted.
- Amendment of section 33, Act VII of 2010. In the Act, in Section 33, in sub-section. (I). for the words 'three" and "one" the words "five" and “five” shall respectfully be substituted.
- Amendments of section 34, Act VII of 2010. In the act, in section 34, in sub-section (2), for the words "three" and "five hundred thousand" the words "five' and two million shall respectfully be substituted.

### **Background History/Evidence:**

According to The Anti-Money Laundering (Amendment) Bill, 2020, section 4 regarding punishment for money laundering, the fine has been extended from one million to five million.

An amendment was also approved in section 7 which described "Every reporting entity shall keep and maintain all records related to suspicious transaction reports and CTRs filed by it for at least '10 years' after reporting of transaction under sub-sections (1), (2) and (3).

An amendment to section 8 of the Act says, "Provided that the Court may grant a further extension for a period up to 180 days."

According to the objectives of the bill, the proposed amendments will reflect the government's firm resolve to strengthen its anti-money laundering (AML) regime.

These amendments are aimed at streamlining the existing AML law in line with international standards and suggest enhancing the punishment of offense of money laundering to make it more dissuasive and deterrent.

These amendments would also allow the Financial Monitoring Unit to seek the Egmont Group Membership (Group of Financial Intelligence Unit), which is the requirement under the Financial Action Task Force (FATF) recommendations.

According to objects and reasons for "The Foreign Exchange Regulation (Amendment) Bill, 2020", the law would empower the State Bank of Pakistan to regulate flows of foreign exchange into and out of the country.

Furthermore, it has also been considered necessary to enhance the punishments provided in Section 23 of the Foreign Exchange Regulation Act (FERA), 1947, to create firmer deterrence against contravention of various provisions of the Act.

Ref: <https://www.brecorder.com/2020/02/18/572098/anti-money-laundering-amendment-two-other-bills-passed-by-na/>

### **Criteria used in making of Act:**

It is stated in the act that this Act is expedient further to amend the Anti-Money Laundering Act. 2010 (VII of 2010)

### **Conclusions:**

This Act is in accordance with the PTI Manifesto's chapter 2 of "Inclusive Economic Growth" which include following aspects,

- Revive manufacturing and facilitate rapid growth of the SMEs
- Enhance Access to Finance for citizens and industry
- Make Pakistan business-friendly

According to the manifesto of the ruling party PTI, Imran Khan the leader of this state and the ruling party has committed with people during the campaign to stop money laundering, and people who had been involved in it shall be taken to the task. This act is one of the examples of the implementation of PTI's manifesto. The PTI manifesto of working against corruption is also so clear through this act. Through this amendment of the act, the trial under FERA will be completed within six months to one year and the amendment also provides ten years rigorous imprisonment and fine with rupees five million to the offenders that are the step against corruption and it also stabilizes the economic system of the state and makes the working effective.

From the general point of view, Pakistan is facing crises for many years, every government came and work according to their ways but unfortunately, no one fulfils the commitments as

they did with people during the voting campaigns. But the ruling party is better than the rest as it is working on its manifesto and trying its level best to fulfil its commitment. But still, they need more effective implementation in their work. PTI stated that the party would work against corruption but unfortunately, there are many things that are needed to be addressed inside of PTI as well and but the good thing is the party still manages to prove itself best for the future of Pakistan. This state can progress only when our leaders start working according to their manifestos and commitments.

## Act no 20 THE NATIONAL COUNTER TERRORISM AUTHORITY, ACT 2020

### **Executive Summary of the Act:**

This ordinance was being presented in Senate, on Tuesday, 1st October 2019 by Senator Azam Khan Swati, Minister for Parliamentary Affairs. The following Act of Majlis-e-Shura (Parliament) received the assent of the President on Tuesday, 18th February 2020, and published on 20th March 2020. The National Counter Terrorism Authority, Act 2020 is designed to achieve the objective to proceed with a strategy against terrorism to protect the state and nation. The terrorist activities have destroyed the basic fabric of the society and caused the huge financial and human loss. This necessitates effective coordination and contribution by all the major stakeholders including M/o interior and NACTA. In view of the exigencies of national security, some amendments are necessary to be incorporated in the NACTA Act 2013 to make it a more efficient and effective organization. This Bill is designed to achieve the same goal.

### **Introduction and Problem Statement:**

Following amendments are being made in this act:

- ❖ The National Coordinator of the Authority shall act as the Secretary to the Board.
- ❖ The Board may invite any person to the meeting on special invitation."
- ❖ Amendment of section 8, act XIX of 2013.-In the said Act in section 8, for sub section (l), the following shall be substituted, namely:-
- ❖ '8. Executive Committee (1) The Board shall be assisted by an Executive Committee comprising the following, namely:-
  - a) National Coordinator, NACTA      Convener
  - b) Additional Secretary, Finance      Member Division
  - c) Additional Secretary, Interior      Member Division
  - d) Additional Secretary, Ministry      Member of Foreign Affairs
  - e) Additional Secretary, Ministry      Member of law and Justice
  - f) Additional secretaries Home of the Provinces of Sindh, Punjab, Khyber Pakhtunkhwa Baluchistan. Gilgit-Baltistan and State of Azad Jammu and Kashmir and representative of Chief Commissioner, Islamabad Capital Territory (ICT)-

### **Background History/Evidence:**

The National Counter Terrorism Authority (NACTA) (Urdu: نیشنل کونٹر ٹیررزم اتھارٹی), commonly called Nacta, is a Pakistani internal counterterrorism authority. It is mandated to devise a counter-terrorism strategy that should address short, medium, and long-term goals and devise action plans for their implementation.

NACTA was initially set up in 2009, administratively, but its powers and mandate have been spelled out in March 2013, under an Act of Parliament. The NACTA 2013 Act sets up the framework of the organization.

The Senate Standing Committee on Interior in its meeting unanimously passed "The National Counter Terrorism Authority (Amendment) Bill, 2019 (Ordinance No. VII)" after deliberations.

In the said Act, in section 5, the Committee proposed that one member from the opposition and one member from Treasury benches from the Senate of Pakistan and National Assembly to be nominated by the Chairman Senate Speaker, National Assembly respectively for the Board of governors of NACTA. The Bill was proposed by Senator Azam Khan Swati, Minister for Parliamentary Affairs.

**Criteria used in making of Act:**

It is stated in the act that this is an Act is further to amend the National Counter Terrorism Authority Act, 2011 (XIX of 2013).

**Conclusions:**

This Act is in accordance with the PTI Manifesto's chapter 7 of "Ensure Pakistan's National Security" which include following aspects,

- External Dimension
- Structural reforms and policy principles
- Internal Dimension
- Structural reforms and policy principles
- Defense policy

According to the manifesto of the ruling party PTI, they propose amendments to the criminal procedure code to reduce procedural delays. Additionally, they also promote access to justice by amending existing laws. PTI government also supports reform initiatives for the operational performance of departments. Counter-terrorism Authority (amendment) act, 2020 is appropriate and according to the manifesto of the ruling party, the act has certain amendments to make the terrorism system more effective and stronger. And since the last year, we can see that the terrorism rate in our state has reduced. But it doesn't mean that we rely on amendments only, we need more proper functioning and implementation through these amendments and reforms.



## Act no. 21

# THE ZAINAB ALERT, RESPONSE AND RECOVERY, ACT 2020

### **Executive Summary of the Act:**

This act was being presented in the National Assembly, on Wednesday, 24th April 2019, by Dr. Shireen M. Mazari (Federal Minister for Human rights). The following Act of Majlis-e-Shura (Parliament) received the assent of the President on the 19th March 2020. Zainab Alert Response and Recovery Bill were presented to raise the required alerts and initiate the responses required for recovery of missing, abducted, abused, or kidnapped children in Islamabad Capital Territory (ICT) at first. It is stated in the bill that the magnitude of violence against children is on an alarming stage. The current laws and procedures required to be strengthened to effectively monitor, trace, or recover missing and abducted children. Given that, there is an urgent and pressing need to:

1. Enact special laws to provide a speedy system of alerts, responses, recoveries, investigations, trials, and rehabilitation to prevent and curb criminal activities against the children in ICT; and
2. To ensure harmonization and cohesion in the workings of the new agencies and institutions established for the protection of children and already existing mechanisms within this field.

This bill was first introduced for ICT but later, it was stated when it became an act, that it was going to extend to whole Pakistan and came into force at once. This act was called as Act No. XV of 2020.

### **Introduction and Problem Statement:**

This act is divided into five parts and seventeen (17) points as given below:

28. Short title, extend and commencement
29. Definitions of different terms used in Act
30. Establishment of Zainab Alert, Response and Recovery Agency
31. Superintendence and administration of ZARRA
32. Powers and Functions of ZARRA
33. Powers and functions of the ICT Child Protection Advisor: /
34. Board for the purposes of this Act
35. Registration of FIR
36. Punishment under this act
37. Power to make rules
38. Power to amend Schedule A to this act
39. Financing of ZARRAA
40. Director General, officers and employees deemed to be public servants
41. Application of code
42. Completion of trail
43. Act to override other laws
44. Removal of Difficulties

Few important points from the act:

- **Establishment of Zainab alert, respond and recovery act 2020:**

- 1) The Government shall, by notification in the official Gazette, establish Zainab Alert, Response and Recovery Agency (ZARRA) of missing and abducted children.

2) The ZARRA shall consist of a Director General who shall be appointed by the Prime Minister after public advertisement in such manner and in such terms and conditions as may be prescribed by Ministry of Human Rights. Other officers and employees shall be appointed by the Director General in consultation with Ministry of Human Rights in such manner and on such terms and conditions as may be prescribed by rules.

3) The management staff of ZARRA shall be suitably equipped with skills of managing databases. Conducting planning and monitoring of programs, analysing data preparing reports and coordinating with all other offices.

4) Standard operating procedures (SOPS) shall be devised to ensure the safety and protection in the hands of authorities of the recovered missing or abducted child.

5) All help lines including helpline 1099 shall forward to ZARITA all complains relevant to the mandate of ZARRA.

- **Superintendence and administration of ZARRA:**

1) The superintendence of the ZARRA shall vest with the ICT Child Protection Advisory Board.

2) The administration of ZARRA shall be vest in the director general.

### **Background History/Evidence:**

The Senate Functional Committee on Human Rights in its meeting held on Friday at the Parliament House discussed in detail Zainab Alert Response and Recovery Bill (ZARRA), 2020, introduced in the house by Minister for Human Rights Dr. Shireen Mazari.

The National Assembly passed the bill on 10th January, after which it was referred to the Senate Functional Committee on Human Rights. This meeting was the fourth in the line of a series of meetings held on 20 January, 10 February, and 17 February 2020. The committee considered part-v of the bill and proposed certain amendments to remove loopholes. Sections 14 and 15 of the bill were omitted and a line from Section 17 was added after Section 8 (1).

In January 2018, a young innocent girl was raped and killed in Kasur, Pakistan. Since her death, many other children have been a rape victim. Most of them, being under 12 years of age, can't bear the pain and pass away. The Police did catch the culprit, Imran, and was hanged to death. However, sadly, it has been really difficult for the police to catch culprits in the country. Hence, a bill had to be introduced. Ayesha Jehangir Khan and Shahbaz A. Khan drafted the bill on 14th March 2018. In April 2019, the bill was passed into the National Assembly. And it has now moved and passed by and through the Senate. The bill was named after Zainab, as is known as Zainab Alert Bill

ZARRA will be a platform that has to be reported to when a child goes missing. The police will inform ZARRA within two hours of the received information. Likewise, ZARRA has to do the same. Moreover, ZARRA would ask the relevant police station to file a case under Section 154 of CrPC, as to start the investigation. PTA and other networking agencies will be approached to find the whereabouts of the missing child, ASAP.

Nevertheless, if the Police delays in giving information or register FIR, the responsible officer will be 'rewarded' with two years of imprisonment. Moreover, a fine of Rs 100,000 would be imposed on them.

The culprit, however, would be given a maximum of a life sentence and a minimum of 10 years of imprisonment, depending upon the case, according to Zainab Alert Bill.

### **Criteria used in making of Act:**

It is stated in the act that this is an Act to make provisions for raising alert, response, and recovery of missing and abducted children

WHEREAS the Constitution of the Islamic Republic of Pakistan recognizes the inviolability of life, liberty, and dignity of a person as a fundamental right;

AND WHEREAS, in recognition of the Constitution's fundamental rights' it is necessary to make provisions for the protection of missing and abducted children under the age of eighteen years, that includes raising an alert, responding and recovering of missing and abducted children;

AND WHEREAS it is obligatory on the Government of Pakistan to make provisions for ensuring the right to life and protection from violence, abuse, neglect, abduction or exploitation of children under the age of eighteen years, as envisaged under various national and international laws, conventions, covenants and instruments, relating to the rights of children, including, but not limited to, the United Nations Convention on the Rights of the Child ratified by Pakistan on 12th November 1990;

AND WHEREAS it is a matter of national concern that children under the age of eighteen years, who are abducted, are at high risk of violence, exploitation, abuse, trafficking, rape or death;

AND WHEREAS it is urgent and necessary to introduce systems for raising alerts, as well as the response and recovery of missing and abducted children, so that incidents such as that of a seven-year-old Zainab, resident of district Kasur, who was abducted, raped and murdered in January 2018. Do not occur again in the future;

AND WHEREAS it is in the interest of efficacy and avoidance of duplication of efforts that the ZARRA established under this Act will work supporting and complementing the mandate of federal and provincial law enforcement agencies and child protection and welfare institutions and coordinate and guide the efforts of all governmental agencies, authorities, and departments about cases of missing and abducted children.

### **Conclusions:**

In accordance with PTI's Manifesto, this law is an perfect example of Manifesto's chapter 2 of "REFORM GOVERNANCE" which include following aspects,

- Bring accountability to the core of government
- Empower people at the grassroots through local government
- Depoliticize and strengthen Police
- Reform the criminal justice system and provide speedy access to justice
- Reform the Civil Service
- Institutionalize E-Governance practices in public administration
- Facilitate delivery through legislative reform (Right to Information, Right to Services)
- Reform government procurement

As this act was passed in sudden and no one was expecting such kind of act but due to Zainab's case, the current government needs to pass this act on an urgent basis but it still took months to formulate. The government has no such manifesto on this type of cases and act, but other than their manifesto this act was very important and the need of the hour, under PTI's government the Zainab's criminal Imran Ali has sentenced to death and was executed in the early morning of October 17, 2018, at Lahore's Kot Lakhpat jail. This act is the red signal for all child predators and serial killers and help in the reduction of such cases.

From the general point of view, every child of this state is the future of this state and has the right to life. The children are the most essential part of any state for improvement and progress

in the future how can we overshadow or neglect the capital of our state. To protect the children of this state we need to have this kind of law and act for the recovery of abducted and missing children. This act also promotes the right of children in our state, but the unfortunate part is our authorities take such strict steps only when something worse happens. We need to make our law formulation and implementation strong before anything worse happens. This act is effective and strong, however, we still need more work on the protection of our innocent children so we can eliminate the curse of child predators and serial killers from Pakistan.

## ACT NO. 24 & 25

### ANALYSIS OF FINANCE ACT 2020

The National Assembly approved major tax concessions for certain individuals and influential groups of society, weakening the tax base broadening drive and creating more distortions in the tax system.

On recommendations of the *Pakistan Tehreek-e-Insaf (PTI)* government, the National Assembly approved the Finance Act 2020 including some major amendments that the ruling party decided to make it part of existing law after the presentation of the budget on June 12.

Before the approval of the budget, the government withdrew the new tax it had proposed for luxury houses and farms, located in the Islamabad Capital Territory.

The new tax concessions that were not part of the Finance Bill 2020 but have now been included and reduced income tax rates for engineering services, shipping business, exempting from tax the income of real estate investment trusts, few educational institutions, lowering tax rates for electric vehicles and Hajj operators.

In a major retreat, the government amended Section 73 that barred persons from selling goods to unregistered people above the value of Rs100 million in a year. Currently, this restriction was only limited to the manufacturers and producers, which the Federal Board of Revenue (FBR) had proposed to extend to persons. This would weaken the government's drive to document the informal economy.

Capital gains tax rates have been lowered for companies not listed at the stock exchange through a provision added into Section 37-A that deals with tax rates for securities trade at the stock market.

"Shares of a public company shall be considered as security if such company is a public company at the time of disposal of such shares," said the amendment.

For a resident company engaged in the hotel business in Pakistan, the government has allowed tax credit claims against losses for eight years against the existing six years.

The government included some amendments to the Finance Act that were opposed by the International Monetary Fund (IMF), like concessionary rates for shipping business and Real Estate Investment Trusts (REITs). The IMF was against a person or institution-specific tax exemptions but the National Assembly approved an income tax exemption for the Foundation University.

The National Assembly approved 3% income tax on engineering services, warehousing services, services rendered by asset management companies, data services provided under the license issued by the Pakistan Telecommunication Authority, and telecommunication infrastructure (tower) services.

On June 12, the government had proposed 8% advance income tax on engineering services. The main beneficiaries of this concession are a foreign company engaged in oil and gas exploration and people involved in the engineering services business.

The National Assembly approved a concessional sales tax for the shipping business for another seven years to 2030. The IMF had opposed further extension in the concession.

Donations to Alamgir Welfare Trust International were exempted from income tax. The assembly approved an unconditional income tax exemption for the Sindh Institute of Urology and Transplantation, SIUT Trust, and Society for the Welfare of SIUT, Shaukat Khanum Memorial Trust, and National Endowment Scholarship for Talent (NEST). It also gave income tax exemption to Foundation University.

The National Assembly approved exemption from the minimum turnover tax on Hajj Group Operators for the tax year 2021. The minimum income tax has also been waived for a resident company engaged in the hotel business in Pakistan in respect of turnover for the period starting on the first day of April 2020 and ending on September 30, 2020.

Exemption from tax on profit and gains on the sale of immovable property to a development REIT scheme with the objective of development and construction of residential buildings has been extended up to June 2023 – an extension of three years.

In the Finance Bill 2020, the government had proposed a one-year extension but within two weeks it decided to grant a three-year extension.

The National Assembly also approved exemption from withholding and advance income tax on cash withdrawal from banks and banking transactions in a Pak rupee account in a tax year to the extent of foreign remittances credited into such account during that tax year.

The National Assembly approved exemption from withholding tax on commission being charged by the retail branchless banking agent on amount disbursed by the Ehsaas Emergency Cash Transfer Programme for the period commencing on April 16, 2020, and ending on September 30, 2020.

The National Assembly approved tax concessions for electric vehicles under the Electric Vehicle Policy 2020. The concessions will be admissible for five years with effect from July 1, 2020, on the import of 10 electric vehicles (CBU) of the same variant to be assembled/ manufactured to the extent of maximum 200 units, to two and three-wheeler segment, duly approved/certified by the Engineering Development Board (EDB).

The electric auto-rickshaws, three-wheeler electric loader, and electric motorcycle can be imported at 50% of the prevailing tariff rate of customs duty as specified in the First Schedule to the Customs Act, 1969. The electric buses, trucks and prime movers can be imported at 1% duties.

The national assembly approved to exempt a 5% sales tax on oil cake and other solid residues.

The government has also lowered the sales tax rates on the import of mobile phones in CKD kits for certain categories while it has fixed the sales tax at Rs10 per set on the supply of locally manufactured mobile phones in CBU condition in addition to fixed tax at the import stage.

The National Assembly has approved to connect FBR's database with NADRA, Emigration Office, FIA, provincial and local land record authorities, all electricity suppliers, and gas transmission companies.

The Limited Liability Partnership Act, 2017 companies have been allowed to avail PM's Construction sector tax amnesty scheme.

The national assembly also approved to keep the withholding tax rate for mutual funds at 15% as against the original budget proposal of 25%.

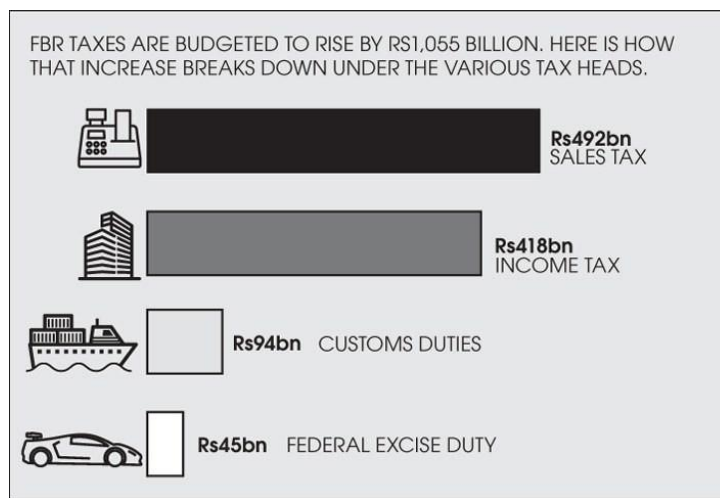
The budget proposal to impose 25% regulatory duty on energy drinks has been withdrawn. The duties on imported cigarettes of tobacco, cigars, cheroots, and cigarillos of tobacco have been imposed at a rate of 65% as against the budget proposal of 100%.

The excise duty on cement has been reduced by 50 paise to Rs1.5 per kg, which will lower the prices of each bag by Rs50.

The Ministry of Finance did not accept the recommendations of the Senate Standing Committee on Finance and got the amendments approved from the national assembly as per its wisdom. Now, instead of presenting detailed items for each demand for the grant, only “major objects for each demand for grant”, will be presented before the parliament in the Annual Budget Statement.

The finance ministry did not accept the Senate’s demand for presenting the annual budget before the standing committees and instead, it will now present a report on the budget.

Ref: <https://tribune.com.pk/story/2252577/finance-bill-2020-na-approves-major-tax-relief>



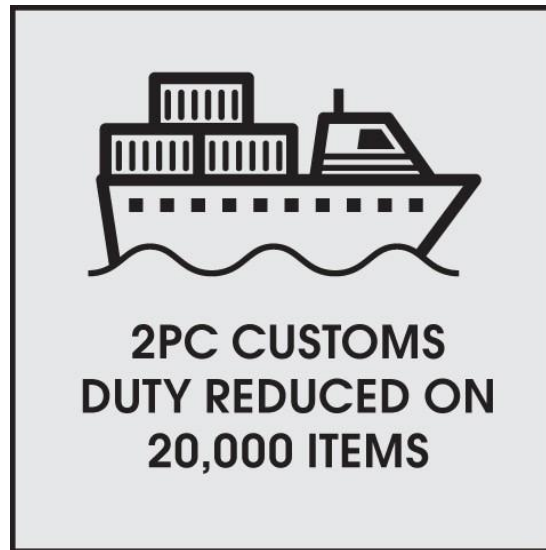
The second budget of the PTI government aims to reduce the input cost of industries and that of personal protection equipment for frontline healthcare workers, but there is nothing in the tax plan that explains how they intend to meet the Rs 1,055 billion hike in the Federal Board of Revenue (FBR) target.

Top tax officials would only tell Dawn that the purpose of the revenue changes announced in the finance bill is to give away Rs45bn in tax relief to industries and individuals. Of these, Rs25bn was given in reduced duty rates and abolishing of two per cent additional customs duty on industrial raw materials and semi-finished products.

Under the income tax and sales tax, FBR estimates revenue relief of Rs20bn. Of these Rs7bn is because of abolishing nine withholding taxes and Rs13bn due to a reduction in the rate of withholding tax rate on cement.

Background talks with officials in the finance division and FBR suggest the government has other plans to cover the expected shortfall in revenue collection.

One official source told Dawn that Finance Adviser Dr Abdul Hafeez Shaikh has informed the cabinet that shortfalls in the FBR revenue will be met through gains from four non-revenue measures — petroleum development levy, profits of the State Bank of Pakistan, privatisation of at least three state-owned enterprises and further expenditure cuts.



The same person also said the government is confident that the International Monetary Fund will revise the FBR revenue target after the review. Even in the current fiscal year, the IMF revised the target two times in the pre-COVID-19 period.

Another key source tells Dawn that the FBR is expecting to post a shortfall in the range of Rs400-500bn in 2020-21 due in significant measure to partial lockdowns that may continue for the first two quarters.

Speaking to Dawn, a senior tax official did not rule out the possibility of a mini-budget in case the economy revived.

The FBR also estimates maximum revenue this year from the construction sector and hopes to activate over Rs555bn worth of revenue measures that it took in the last budget but did not see through to full implementation.

It further expects to see the impact of Rs200-Rs250bn income tax revenue measures this year. "We are expecting the impact of these revenue measures this year," the official said.

At the same time, the revival of imports will also help the FBR generate additional revenue this year. Normally, it collects almost 50pc of total taxes on the import stage.

### **Sales Tax**

The minimum threshold of supplies by retailers for obtaining CNIC of the buyers is enhanced to Rs 100,000 from Rs50,000. Meanwhile, the exemption on sales tax for health-related items was extended for another three months and was exempted on import of dietetic foods.

To encourage documentation, the sales tax rate was slashed to 12pc, from 14pc for organised retail sector integrated online with the FBR through Point of Sale system.

The government has also introduced the concept of active and non-active taxpayers' for sales tax and FED.

The policies related to mobile manufacturing, tax concessions and exemptions to Gwadar Port and Gwadar Free Zone were made part of the Finance Bill 2020.



Under the Alternative Dispute Resolution Committee, the taxpayer is allowed to withdraw his case from any court of law or any appellate authority after the ADRC's decision, which once conveyed by the taxpayer to the authorities, is binding.

The FBR is empowered to fix minimum production on the basis of single or more inputs and for fixation of wastage. It will also have access to databases of various entities such as National Database and Regulatory Authority, Federal Investigation Agency, provincial excise and taxation departments etc.

### **Income Tax**

The government has done away with nine withholding tax provisions which include; advance tax on education-related expenses; steel melting and composite units; withdrawal of balance under a pension fund; tax on local purchase of cooking oil or vegetable ghee; advance tax on functions and gatherings; cable operators and other electronic media; advance tax on dealers, commission agents etc. and advance tax on insurance premium and tobacco.

To rationalise withholding tax regime, it has been decided to reduce withholding tax from 5pc to 2pc on raw materials and 1pc on capital goods.

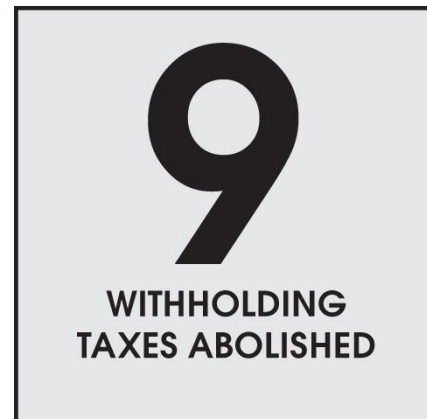
The rate of withholding tax will be 5.5pc on finished goods irrespective of the status of importers. However, the prevailing concessional rates on certain items such as scrap of iron and steel, potassic and urea fertilisers, LNG, gold, cotton, goods that were importable by manufacturers, mobile phones, etc under various SROs are being maintained.

The threshold was raised to Rs100 million, from Rs50m for becoming the prescribed person for withholding of tax supplies, services contracts. In the case of sales tax, it was set at Rs100m to be a withholding agent.

In case of immovable property sold by auction, the rate of withholding tax was lowered to 5pc, from 10pc and to provide a level-playing field for the permanent establishment of non-residents viz-a-viz resident taxpayers, it was reduced to 3pc, from 8pc on account of payment for certain services.

The government has also done away with the concept of the bifurcation of plots and constructed property for determining the holding period of capital gains. The holding period for taxation of capital gains on disposal of immovable property is being restricted to four years. In addition, rates are also being reduced on capital gains emanating from the disposal of immoveable property.

Moreover, it has increased the thresholds for expenditures to be incurred through cash — without a bank — for declaring in returns. Under the first head, it was raised from Rs 10,000 to Rs 25,000, which can now be made without banks. In the single source payment, the threshold was enhanced to Rs 250,000, from Rs 50,000.



Similarly, the threshold for expenditure was increased to Rs 25,000 per month, from Rs 15,000 which again can be made without banks.

The withholding tax exempted on cash withdrawal to the extent of foreign remittances. The property expenses of all individuals and associations of persons were allowed for adjustability. To promote investment in government debt instruments through a foreign bank account, a non-resident rupee account repatriable or an international currency account was allowed.

The government also plans to establish a centralised Income Tax Refunds and Hajj operators are exempted from withholding tax on payments to non-residents. Meanwhile, the advance tax was exempted on vehicles up to 200cc and that on auction immovable property is to be collected in instalments and issue exemption certificates to public listed companies within 15 days. Collection of advance tax by educational institutions will not apply to persons on the active taxpayers' list.

Key non-revenue measures unveiled were enabling e-audit, streamlining alternate dispute resolution mechanisms, strengthening compliance of non-profit organisations. The government extended the concessions to Gwadar Port and Gwadar Free Zone, construction industry, and relief measures provided through SROs during Covid-19.

### **Customs Duty**

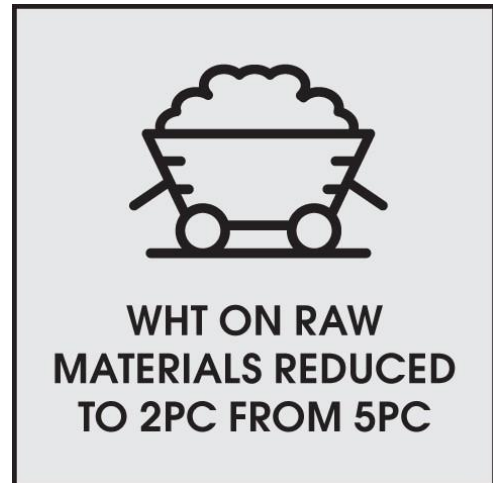
The duty reductions in customs are a major relief for industries, for some ordinary people and to discourage smuggle-prone items.

The additional 2pc customs duty was abolished on more than 1,600 tariff lines, which include more than 20,000 items and constitute 20pc of the total non-agriculture tariff lines. The items comprise chemical, leather, textile, rubber, and fertilisers.

The second major relief to the industrial sector is reducing the slab of 11pc on 90 tariff lines to 3pc or zero. These include raw materials and semi-finished products. Furthermore, the government reduced customs duty on 200 tariff lines from 20pc, 16pc, and 11pc to lower rates.

Similarly, regulatory duty on hot-rolled coils of iron and steel has been reduced from 12.5pc and 17.5pc to 6pc and 11pc, respectively and also brought down for smuggled-prone items under 136 tariff lines such as cloth, sanitary ware, electrodes, blankets, and padlocks to bring them under the legal import regime.

The relief was given in duty exemption on import of raw materials to manufacturers of Nashiran-e-Quran, Butyl Acetate, syringes and saline infusion sets, buttons, interlining/buckram, Wire rod, beverage can manufacturers, the food packaging industry and exemption of custom duties and regulatory duty on import of machinery, equipment and other project-related items for setting up of internet cable landing stations.



Among relief measures given to common people was the exemption on import of 61 items related to Covid-19 extended further, from its initial expiry on June 20. The exemption of 2pc additional customs duty on import of edible oil and oilseeds has also been stretched.

The government exempted import of dietetic foods for children with inherited metabolic disorders, inputs of ready-to-use supplementary foods (RUSF), exempted all duties and taxes on import of diagnostic kits for cancer and coronavirus and life-saving drug Meglumine Antimonite for treatment of leishmaniasis.

Moreover, customs duty exemption on imports for setting up new industries in erstwhile Federally Administered Tribal Areas was extended to 2023 while the levy of regulatory duty on import of 18 tariff lines which are locally manufactured was increased.

At the same time, the government reduced additional customs duty on Palm Stearin to incentivize the soap manufacturing industry and the scope of concessions available to Special Economic Zones was further enhanced. The concept of the advance ruling was introduced in customs and the government has given minimum penalty powers to customs officers for taking action against people involved in smuggling.

### **Federal Excise Duty**

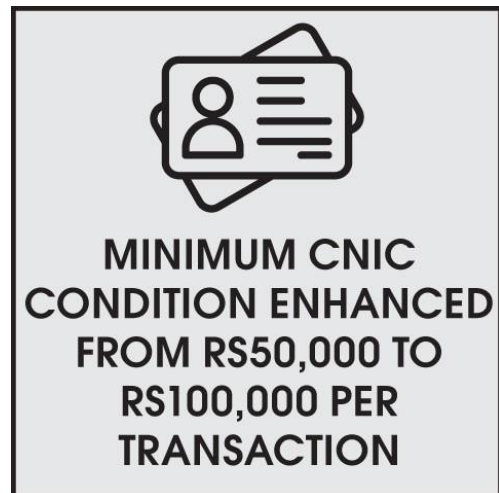
Federal excise duty on cigars, cheroots, and cigarillos and cigarettes has been raised to 100pc of the retail price, from 65pc while that on filter rods increased to Re1 per filter unit, from Rs0.75.

The government imposed a levy of FED on e-liquids of electric cigarettes at Rs10 per ml while another 25pc will be applicable on caffeinated energy drinks.

A 7.5pc FED ad valorem is imposed on locally manufactured double cabin (4x4) pick-up vehicles and 25pc in the case of imported ones.

On the other hand, it has been cut to Rs1.75 per kg of cement, from Rs2. The FBR is empowered to fix minimum production on the basis of single or more inputs and for fixation of wastage; the scope of seizure of non-duty paid goods is extended to all products subject to FED besides cigarettes and beverages.

Ref: <https://www.dawn.com/news/1563183>





YOUTH GENERAL ASSEMBLY