

1. National Accountability Bureau (NAB) Ordinance 1999

A: Summary of the main Ordinance

Sec 1	Title	National Accountability Bureau (NAB) Ordinance 1999 (XVIII of 1999)
Sec 2	Commencement	With effect from first day of January, 1985
Sec 3	Application	Whole of Pakistan / all persons in Pakistan including FATA/ PATA.
Sec 9	Corruption and Corrupt Practices	Committed by holder of public office or any other person is cognizable under NAB Ordinance, 1999
Sec 10	Punishment for corruption and corrupt practices	Punishment upto 14 years imprisonment or fine or both.
Sec 11	Imposition of fine	Shall not be less than the gains derived by the accused.
Sec 12	Power to freeze property	Chairman or the Court competent to order freezing or movable or immovable property
Sec 13	Claim or objection against freezing.	Objection against the freezing are to make within 14 days from the date of freezing.
Sec 14	Presumption against accused accepting illegal gratification.	The burden of proof that the property is and assets were in accordance with his pecuniary resources on accused.
Sect 15	Disqualification to contest election to hold public office.	Person convicted stands disqualified for 10 years. Shall cease to hold public office, if any, forthwith.
Sec 16	Trial of offences	Accountability Court has the exclusive jurisdiction to try under NAB Ordinance, 1999. The Chairman, NAB has authority to file a reference.
Sec 16A	Transfer of Cases	The Chairman may apply that a case be transferred to the Accountability Court.
Sec 16B	Contempt of Court	Punishment for contempt of Court 6 months and with fine extending to Rs. 1. Million.
Sec 17	Provision of the Code to Apply	The provision of CrPC shall apply. The court may, dispense with any provision of the code and follow any procedure as it may deem fit.
Sec 18	Cognizance of offence	The Accountability Court can only take cognizance of any offence upon a reference by the Chairman NAB or an officer of the NAB duly authorized by him.
Sec 19	Power to call for information	The chairman NAB or any authorized officer may call for information from any person during inquiry/ investigation in connection with the provisions of the Ordinance.
Sec	Reporting of	The bank and financial institution are to take

20	suspicious financial Transaction	notice of unusual or large transaction, which have no apparent economic or lawful purpose and shall be referred to Chairman, NAB. Failure to do so is punishable with imprisonment extending to 5 years or with fine or both.
Sec 21	International cooperation requested for mutual legal Assistance.	The Chairman NAB or an officer authorized by the Federal government may request a Foreign State to have the evidence taken/ obtained, freeze assets, confiscate articles, transfer such evidence or articles or assets to Pakistan and transfer the person in custody to Pakistan.
Sec 22	Jurisdiction	The Chairman NAB may inquire/ investigate any suspected offence in conjunction with any other agency or with any person.
Sec 23	Transfer of Property	Void Once the Chairman NAB initiates investigation in the offence under the Ordinance no accused person shall transfer or create any charge on any property, and such transfer shall be void. The contravention is punishable upto 3 years imprisonment and fine not exceeding the value of the property.
Sec 24	Arrest	The Chairman NAB has the power to direct the accused be arrested during investigation of the case. The chairman NAB or an officer of NAB authorized by him may submit a reference before the court. Custody of NAB for the purposes of inquiry and investigation for a period not exceeding 90 days. The Chairman NAB has the authority to declare and notify any place as a Police Station or a sub-Jail at his discretion.
Sec 25	Voluntary return (plea bargaining)	The Court or Chairman NAB with the approval of the Court or appellate Court, as the case may be, may release the accused.
Sec 25A	Payment of Loans, etc	Arrested or in custody accused regarding willful default can apply to the Governor, State Bank of Pakistan for reconciliation.
Sec 26	Tender of Pardon to accomplice /Plea-bargaining	The Chairman NAB at any stage of investigation is empowered to tender full or conditional pardon to any accused with a view to obtain evidence of such person who is supposed to have been directly or indirectly concerned in or privy to the offence.
Sec 27	Power to seek assistance	The Chairman, NAB or person authorized by him to seek full & complete assistance from any department, organization, office.
Sec 28	Appointment of Officer and Staff in the NAB	The Chairman NAB is authorized to appoint officers & staff and the terms & conditions be determined with the approval of the Chief Executive. Provisions of Civil Servant Act, 1973 (LXXI of 1973) are not applicable to persons

		appointed in NAB.
Sec 29	Accused to be competent witness	The accused is a competent witness for his defence but he cannot be compelled to make any statement.
Sec 30	False Evidence etc	The Accountability Court is empowered to take cognizance of false evidence during the investigation or trial.
Sec 31	Prohibition to hamper investigation.	Any person who compromise, hampers, misleads, jeopardizes or defeats an investigation of a case under process before NAB Ordinance is deemed to have committed / corrupt practices. However no person can be proceeded under this section except with the sanction of NAB committee comprising Cn NAB, Dy Cn, NAB and PGA.
Sec 31A	Absconding to void service of Warrants	Any person who has absconded to avoid service of process of Court or any authority or officer under NAB Ordinance is punishable with imprisonment extending to 3 years.
Sec 31B	Withdrawal from prosecution	The PGA may with the consent of the court, withdraw from the prosecution of any person and upon withdrawal the accused shall be released if not wanted in any other case.
Sec 31C	Court to take cognizance of offence with prior approval of the SBP	No Court is competent to take cognizance against an officer or any employee of Bank with regard to writing off, waiving restructuring or refinancing any financial facility without approval of the State Bank of Pakistan
Sec 31D	Inquiry, investigation or proceedings in respect	The NAB is prohibited to initiate or conduct any inquiry/ investigation with regard to imprudent loans, defaulted loans or rescheduled loans without a reference for the Government State Bank of Pakistan.
Sec 31E	Protection of witnesses	The Chairman NAB or the Court can take measures for the safety, security and protection of witnesses and their families.
Sec 32	Appeal	<i>Any person convicted or the Prosecutor General Accountability, if so directed by the NAB, can file an appeal within 10 days of the final judgment before the High Court of the province where the Court is situated and such appeals are to be heard by a Bench comprising not less than two Judges constituted by the Chief Justice of High Court and are to disposed off within thirty days.</i> No appeal is maintainable against any interim order of the court. Similarly all Courts are restrained from granting any stay of the proceeding before the Court.
Sec 33	Transfer of pending	All the proceedings i.e. references pending before the Courts constituted under Ehtesab

	proceedings	Act, 1997 stood transferred to the respective Accountability Court.
Sec 33A	Payment of bonuses etc	There may be paid bonuses or ex-gratia payment to the officers and staff of the National Accountability Bureau and others.
Sec 34	Rules	The president of the Islamic Republic of Pakistan in consultation with the Chief Justices of Pakistan may make rules for carrying out the purposed of the NAB Ordinance.
Sec 34A	Delegation of powers by the Chairman	The Chairman NAB can delegate any of his powers and authorized performance of his functions to nay officer of NAB.
Sec 35	Repeal	On coming into force of NAB Ordinance 1999, Ehtesab Act 1997, as also ordinance No. XX of 1997 stood repealed
Sec 36	Indemnity	No suit or prosecution is competent against Federal or Provincial govt. Chairman, or any person exercising any power or performing the functions or any thing done in good faith or intended to be done under this Ordinance.
Sec 37	Removal of Difficulties	The President of Pakistan, in consultation with the Chief Justice of Pakistan, is competent to make any order for the purpose of removing any difficulties inrespect of Ordinance.

B: Amendments since promulgation

- **1999**

¹"Ordinance No XIX of 1999, an Ordinance to amend the National Accountability Bureau Ordinance, 1999; Whereas it is expedient to amend the National Accountability Bureau Ordinance, 1999 (XVIII of 1999), for the purposes hereinafter appearing; And whereas the National Assembly and the Senate stand suspended in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provincial Constitution Order No 1, as amended; And whereas the President is satisfied that circumstances exist which render it necessary to take immediate action; Now, therefore, in pursuance of Proclamation of the 14th day of October, 1999, and Provisional Constitutional Order as well as Order No 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1 Short title and commencement-

¹ National Accountability Bureau (Amendment) Ordinance 1999 (No XIX of 1999)

(1) This Ordinance may be called the National Accountability Bureau (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

2. Substitution of section 3, Ordinance XVIII of 1999. -- In the National Accountability Bureau Ordinance, 1999 (XVIII of 1999), hereinafter referred to as the said Ordinance, for section 3, the following shall be substituted and shall be deemed always to have been so substituted namely;- "3-Ordinance to override other laws. -- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force".

3. Substitution of section 33, Ordinance XVIII of 1999.-- In the said Ordinance, for section 33, the following shall be substituted and shall be deemed always to have been so substituted namely:- "33 Transfer of pending proceedings. -- Any and all proceedings pending before a Court under the Ehtesab Act, 1997 (IX of 1997), shall stand transferred to an Accountability Court as soon as it is constituted under this Ordinance within the same Province, and it shall not be necessary to recall any witness or again to record any evidence that may have been recorded."

4. Amendment of section 35, Ordinance XVIII of 1999.-- In the said Ordinance, in section 35, in sub-section (a), after the word "shall occurring for the second time the commas and words", subject to the provisions of section 33, "shall be inserted and shall be deemed always to have been so inserted."

- **2000**

²By virtue of National Accountability Bureau (Amendment) Ordinance No.IV of 2000, Section 25A was added which provides that when any person arrested by NAB apply to the Chairman, NAB for reconciliation of his liabilities through Conciliation Committee. The Governor, State Bank of Pakistan was empowered to nominate a Senior Officer of the Bank well qualified in the profession of Banking as his nominee and also a Chartered Accountant can be appointed by the State Bank of Pakistan. The Committee

² National Accountability Bureau (amendment) Ordinance No.IV of 2000.

after examining the case calculate the amount against the accused in accordance with laws, rules and regulations of State Bank of Pakistan.

“25A. Payment of loans, etc. --- (b) The Conciliation Committee shall consist of a nominee of NAB, who shall be the Chairman of the Commission, a nominee of the Prosecutor General NAB, an officer of the Banking Cell of NAB nominated by the Chairman NAB, a nominee of the Governor of the State Bank of Pakistan being a senior officer of the State Bank well qualified in the profession of banking, a Chartered Accountant appointed by the State Bank of Pakistan, a Chartered Accountant appointed by the accused who will represent him and a Chartered Accountant appointed by the lender.

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

³The National Accountability Bureau Ordinance, 2000 was further amended, wherein it was provided that when any person is arrested or apprehend such arrest under this Ordinance may at any stage before or after such arrest apply to the Governor, State Bank of Pakistan for reconciliation of his liabilities through the Conciliation Committee and if the Governor deems fit prefer the matter to the Committee, the Governor, State Bank of Pakistan may constitute one or more Conciliation Committee. The Committee consist of a nominee of the Governor, State Bank of Pakistan who shall be the Chairman of the Committee, two Chartered Accountants are nominated by Governor, State Bank of Pakistan and a Chartered Accountant by the Council of Institute of Chartered Accountants of Pakistan and a nomination is obtained by Governor, State Bank of Pakistan. The recommendations of the Committee which were earlier submitted to Chairman, NAB, now required to be submitted to Governor, State Bank of Pakistan. It was also provided that the Governor, State Bank of Pakistan shall consider the recommendations and may accept the recommendations or

³ National Accountability Bureau (Second Amendment) Ordinance No.XXIV of 2000.

may for reasons to be recorded pass such appropriate order. The acceptance or passing any other order shall constitute the decision of the Governor, State Bank of Pakistan. The period of 30-days for concluding the reference may be extended by the Governor, State Bank of Pakistan by giving reasons.

“In clause (r), for the words and comma “a bank, including the State Bank of Pakistan” the words and commas “the State Bank of Pakistan, or the bank,” shall be substituted.”

Amendment of Section 25-A, Ordinance XVIII of 1999. – In the said Ordinance, in section 25-A, --

“(1) for subsection (a), the following shall be substituted, namely, -

“(a) Where a person has been arrested or is in the custody of NAB or apprehends such arrest or custody for the investigation of the charge against him of committing an offence of willful default on account of non-payment of dues to a bank or financial institutions or Cooperative Society, he may at any stage before or after such arrest or before, during or after such custody or investigation apply to the Governor, State Bank of Pakistan for reconciliation of his liability through the Conciliation Committee and the Governor may, if he deems fit, refer the matter to the Conciliation Committee.

(aa) The Governor, State Bank of Pakistan shall constitute one or more Conciliation Committees for the purposes of this Ordinance.

(2) For subsection (b), the following shall be substituted, namely, -

“(b) The Conciliation Committee shall consist of a nominee of the Governor, State Bank of Pakistan, being a senior officer of the State Bank well qualified in the profession of banking who shall be the Chairman of the Committee, two nominees of the NAB to be nominated by the Chairman, NAB, two Chartered Accountants to be nominated by the Governor, State Bank of Pakistan, one Chartered Accountant to be nominated by the Council of the Institute of Chartered Accountants of Pakistan, Karachi, such nomination to be obtained by the Governor, State Bank of Pakistan, a Chartered Accountant to be nominated by the borrower and a Chartered Accountant to be nominated by the lender bank or financial institution.

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

(bb) The Chairman of the Conciliation Committee shall convene the meetings and conduct proceedings of the Committee in the manner he deems fit.

(3) For subsection (c), the following shall be substituted, namely: --

“(c) The Conciliation Committee, after examination of the record of the lending bank or financial institution and the borrower and after hearing the parties through their Chartered Accountant , shall determine the amount outstanding against the borrower calculated in accordance with law, rules, regulations and circulars of the State Bank of Pakistan and further determine the manner and the schedule of repayment having regard to the facts of each case. The borrower, if he so desires, shall be heard at commencement and before the conclusion of proceedings:

Provided that the borrower shall have the right to have access to, and instruct, the Chartered Accountant representing him before the Conciliation Committee even if the borrower is in the custody, during the proceedings of the Conciliation Committee.

(4) in subsection (d), for the words and letters “Chairman NAB” occurring at the end, the words and comma “Governor, State Bank of Pakistan” shall be substituted.

(5) For subsection (e), the following shall be substituted, namely: --

(e) The Governor, State Bank of Pakistan shall consider the recommendations submitted to him under subsection (d) and may accept the recommendations or may, for reasons to be recorded, pass such other appropriate order thereon as he deems fit. The acceptance of the recommendations of the Committee or passing any other order as aforesaid shall constitute the decision of the Governor, State Bank of Pakistan.

(6) in subsection (f), for the word “accused” occurring for the first time and word “borrower” shall be substituted.

(7) for subsection (h), the following shall be substituted, namely: -

(h) In the event of failure either of the Conciliation Committee to conclude the reference within thirty days of the commencement of the conciliation proceedings or the failure of the borrower to accept and implement the decision of the Governor, State Bank of Pakistan regarding the payment and matters relating thereto, such failure to

accept or implement the decision shall be referred to the Accountability Court subject to the provisions of section 31-D and the Court may proceed with the case thereafter:

Provided that the period of thirty days may be extended by the Governor, State Bank of Pakistan by such further period or periods as he may find necessary having regard to the facts and circumstances of the case and for reasons to be recorded.”

After section 31-C, the following new section shall be inserted, namely: --

“31-D. Inquiry, investigation or proceedings in respect of imprudent bank loans, etc. – Notwithstanding anything contained in this Ordinance or any other law for the time being in force, no inquiry, investigation or proceedings in respect of imprudent loans, defaulted loans or rescheduled loans shall be initiated or conducted by the National Accountability Bureau against any person, company or financial institution without reference from Governor, State Bank of Pakistan.

Provided that cases pending before any Accountability Court before coming into force of the National Accountability Bureau (Second Amendment) Ordinance, 2000, shall continue to be prosecuted and conducted without reference from the Governor, State Bank of Pakistan.”

- **2001**

⁴Amendment of Section 25-A, Ordinance XVIII of 1999.

Clause (g) of Section 25-A was amended to read as follows:

“(g) The decision of the Governor, State Bank of Pakistan shall be communicated to the Chairman, NAB, which shall be binding on him, except for valid reasons to be recorded in writing subject to approval of the Court, to be accorded within a period of seven days.”

⁴ National Accountability Bureau (Amendment) Ordinance No.XXXV of 2001.