

A

BILL

to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2007, and to amend certain laws

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2007 and to amend laws for the purposes hereafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the Finance Act, 2007.

(2) It extends to the whole of Pakistan.

(3) It shall, unless otherwise provided, come into force on the first day of July, 2007.

2. Amendment of Act VIII of 1923. – In the Workmen’s Compensation Act, 1923 (VIII of 1923), the following further amendments shall be made, namely:-

(1) in section 2, in clause (n), in sub-clause (ii), the comma and the words “on monthly wages not exceeding three thousand rupees” shall be omitted; and

(2) in Schedule IV, first column shall be omitted;

3. Substitution of Act IV of 1924. – The provisions of the Central Board of Revenue Act, 1924 (IV of 1924), are hereby substituted in the manner specified in the First Schedule to this Act.

4. Amendment of section 5, Ordinance LVII of 1962.- In the Banking Companies Ordinance, 1962 (LVII of 1962), hereinafter referred to as the said Ordinance, in section 5,-

(a) in clause (c) after the word “Pakistan” the words and comma “and includes their branches and subsidiaries functioning outside Pakistan of banking companies incorporated in Pakistan” shall be inserted;

(b) in clause (e) after the figure “1913” the words “and includes a branch of a foreign banking company doing banking business in Pakistan under a licence issued by the State Bank of Pakistan in this behalf” shall be inserted;
and

(c) after clause (ff) the following new clause shall be inserted, namely:-

“(ffa) “foreign banking company” means a banking company, not incorporated in Pakistan, which has a branch or branches doing banking business in Pakistan under a licence issued by State Bank in this behalf;”.

5. Amendment of section 7, Ordinance LVII of 1962.- In the said Ordinance, in section 7, in sub-section (1), in clause (o), for the words and commas “Federal Government may, by notification in the official Gazette,” the words “State Bank by circular” shall be substituted;

6. Amendment of section 14, Ordinance LVII of 1962.- In the said Ordinance, in section 14, in sub-section (1), in clause (ii), after the word “shares” the words “and perpetual non-cumulative preference shares” shall be inserted.

7. Amendment of section 19, Ordinance LVII of 1962.- In the said Ordinance, in section 19, after sub-section (2), the following shall be added, namely:-

“(3) Notwithstanding anything to the contrary contained in sub-section (1) or in the Companies Ordinance, 1984 (XLVII of 1984), if a banking company meets the minimum capital requirement and capital adequacy ratio as specified by State Bank from time to time, and has also accounted for the portion of capitalized expenses, goodwill etc., for the year to the satisfaction of the auditor of the banking company, it shall also be eligible for payment of dividend out of profits of the banking company for the said year.”.

8. Amendment of section 35, Ordinance LVII of 1962.- In the said Ordinance, in section 35,-

(a) in sub-section (1), after the word “companies” occurring for the second time the full-stop and word “. The State Bank shall classify the panel of auditors, so maintained, in different categories for different banking companies keeping in view the scope and size of such banking companies.” shall be inserted; and

- (b) after sub-section (2), sub-sections (3), (4) and (5) shall be re-numbered as sub-sections (5),(6) and (7) of that section and the following new sub-sections shall be inserted, namely:-

“(3) If the State Bank is not satisfied with the performance of the auditor of a banking company or the auditor has not fulfilled any of the requirements laid down in this section the State Bank after giving the auditor an opportunity of being heard may,-

- (a) revoke the appointment of external auditors of the banking company;
- (b) downgrade the category of the auditor in the panel of the Auditors;
and
- (c) remove the auditor from the panel of the auditors for a maximum period of five years.

(4) The auditors shall report all the matters of material significance to State Bank and reporting of such information and material shall not constitute breach of confidentiality under any law for the time being in force.”.

9. Amendment of section 41, Ordinance LVII of 1962.- In the said Ordinance, in section 41, after sub-section (1), sub-section (2), shall be re-numbered as sub-section (3) of that section and the following new sub-section shall be inserted, namely:-

“(2) State Bank may, from time to time issue direction, guidelines and instructions with respect to activities and operations of banks and the institutions mentioned

in section 3A as may be deemed necessary by it for carrying out purposes and provisions of this Ordinance or anything ancillary thereto.”

10. Amendment of section 48, Ordinance LVII of 1962.- In the said Ordinance, in section 48,-

- (a) in sub-section (4), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that in case of foreign banking companies, notwithstanding the fact that a meeting of the shareholders has not been so called, such sanction may be granted by the State Bank, upon a certificate issued by their respective head offices, approving the scheme.”; and

- (b) in sub-section (7), after the words “companies” occurring for the fourth time the comma and words “, branch of a foreign banking company doing business in Pakistan” shall be inserted.

11. Amendment of section 82B, Ordinance LVII of 1962.- In the said Ordinance, in section 82B,-

- (a) in sub-section (4), in clause (b), the word “and”, occurring for the second time, shall be omitted and thereafter the existing clause (c) shall be re-numbered as clause (e) of that sub-section and following new clauses shall be inserted, namely:-

“(c) receiving evidence on affidavit;

(d) issuing commission for the examination of witnesses; and”;

(b) in sub-section (5), after clause (b), the following new clause shall be added, namely:-

“(c) The Banking Mohtasib shall not entertain any complaint or application which has already been disposed off by the State Bank, or any court in Pakistan before the commencement of the Banking Companies (Amendment) Act, 2007.”

12. Amendment of section 82D, Ordinance LVII of 1962.- In the said Ordinance, in section 82D, in sub-section (2), for the words “three months” occurring twice, the words “forty-five days” shall be substituted.

13. Amendment of section 82E, Ordinance LVII of 1962.- In the said Ordinance, in section 82E,-

(a) subsection (4) shall be substituted with the following:

“(4) Any bank, or official of a bank, or a complainant aggrieved by any order passed by the Banking Mohtasib may, within thirty days of the order, prefer an appeal to the Governor State Bank, who shall decide the appeal within sixty days.”

(b) After sub-section (4), sub-sections (5) and (6) shall be re-numbered as sub-sections (6) and (7) of that section and the following new sub-section shall be inserted, namely:-

“(5) The findings of Banking Mohtasib shall be implemented by the concerned bank or financial institution within a period of forty days and compliance thereof shall be submitted accordingly. In case an appeal against the decision of the Banking Mohtasib is filed before the State Bank the aforesaid period of forty days shall be reckoned from the date of decision of appeal.”; and

- (c) in sub-section (6), as renumbered hereinabove, after the words “against” the words “within a period of thirty days from the date of order” shall be inserted.

14. Amendment of section 83, Ordinance LVII of 1962.- In the said Ordinance, in section 83,-

- (a) in sub-section (1), after the word “fine” the words “not exceeding five hundred thousand rupees” shall be inserted;
- (b) in sub-section (1A), after the word “fine”, the words “not exceeding ten million rupees” shall be inserted;
- (c) in sub-section (1AA), after the word “ fine”, the words and comma “not exceeding the amount of loan, advance or financing facility so extended” shall be inserted;
- (d) in sub-section (1C),-

- (i) after the word “fine”, occurring for the first time, the words “not exceeding five million rupees” shall be inserted; and
 - (ii) for the word “ten” the words “one hundred” shall be substituted;
- (e) in sub-section (2), for the words “not exceeding twenty thousand rupees” the words “which may extend to the amount of loan so extended and with a further fine which may extend to one hundred thousand rupees for every day during which such contravention continues” shall be substituted”;
- (f) in sub-section (3), for the words “two thousand” and “one hundred” the words “two hundred thousand” and “twenty thousand” shall respectively be substituted;
- (g) in sub-section (5),for the words “twenty” and “one” the words “two hundred” and “ten” shall respectively be substituted; and
- (h) after sub-section (7), the following new sub-section shall be added, namely:-

“(8) Without prejudice to the provisions of sub-section (5) the pecuniary fines prescribed under this Ordinance shall be imposed and recovered by State Bank:

Provided that if a banking company fails or refuses to pay the fines or penalties imposed by State Bank under this Ordinance, the State Bank may, without notice to the banking company, debit the amount of default to any account of the banking company held with the State Bank.”.

15. Amendment of section 93C, Ordinance LVII of 1962.- In the said Ordinance, in section 93C,-

- (a) in sub-section (1), for the words “the Pakistan Banking Council” the words “any other person providing credit information services” shall be substituted; and
- (b) in sub-section (2) for the words “the Pakistan Banking Council”, occurring for the first time, the words “any credit information provider” and for the words “the Pakistan Banking Council”, occurring for the second time, the words “such credit information provider” shall be substituted.

16. Insertion of new sections, Ordinance LVII of 1962.- In the said Ordinance, after section 93D, the following new sections shall be inserted, namely:-

“93E. Disclosure of information.-(1) Notwithstanding anything contained in section 33A, banking companies and financial institutions shall disclose information on confidential basis to the State Bank, about their respective clients as required by State Bank, in such manner and within such time as may be prescribed from time to time.

(2) In case any grounds for suspicion exist in respect of a business transaction the banking company or the financial institution concerned shall forthwith report to the State Bank, giving details in respect of the identity of the person involved, the transaction or any other circumstances concerning such business transaction.

Explanation: The expression “suspicion” refers to a suspicious business transaction as the State Bank may, by regulations, determine

(3) If the State Bank has reasonable grounds to suspect that a person or a company or corporation is involved in an offence of money laundering or funding of terrorism or terrorists, it may send such information to the law enforcement agency having jurisdiction in the matter.

(4) It shall not be unlawful for any person or the State Bank or a banking company or any employee thereof to make any disclosure in good faith in compliance with the provisions of this section.

(5) No action, suit or proceedings shall lie against any bank or financial institution including State Bank and their employees for any injury or loss caused to any person due to the disclosure made under this section. Further no person shall be entitled to claim any compensation or damages or institute any suit or proceedings for any injury or loss caused to him by disclosure of such information. No bank or financial institution shall take any action of whatever nature against any employee of bank or financial institution for disclosing any information under sub-section (1) or sub-section (2).

Provided that where State Bank, after examination, concludes that a transaction reported to State Bank under subsection (2) was conveyed with malafide intent, it shall take action against the concerned bank and the concerned employees for misreporting under subsection (1) of section 83.

(6) Pending investigation in the case, the State Bank may pass an order for freezing the accounts of such person or company or corporation.

Provided that the investigation shall be completed by State Bank within one hundred and eighty days.

(7) Any person aggrieved by such order may make a representation to the State Bank against such order. The State Bank shall decide such representation within thirty days and any person aggrieved by the decision may prefer an appeal to the High Court.

(8) If incriminating evidence is not found during the investigation, the State Bank shall withdraw such order.

(9) The court or the authority, to which the case is referred after completion of the investigation, may confirm, modify, rescind or alter the order passed by the State Bank under sub-section (6) or it may pass any other order as deem fit by law:

Explanation:- “Money Laundering” includes engaging in any manner, whether directly or indirectly, in a transaction that involves property which is proceed of a crime, or transferring proceeds of crime through legitimate means in order to conceal or make untraceable their original source, or doing of such other act that may constitute the offence of money laundering under any other law; and “terrorism” or “terrorist” shall have the same meaning as assigned to them by the Anti-Terrorism Act, 1997 (XXVII of 1997).

93F. Disclosure of information liable to punishment.- (1) Any person who knows or suspects that an investigation into offence of money laundering or funding of terrorism or terrorists has been, is being or is about to be made, divulges that fact or other information to another person whereby the investigation is likely to be prejudiced or falsifies or the relevant material is concealed, destroyed or otherwise disposed off, or caused or permitted the falsification, concealment, destruction or disposal of any material which is or is likely to be relevant to the investigation such person, upon complaint by an officer of the State Bank specially authorized in this behalf, shall on conviction by Court of Sessions be punishable with imprisonment of either description which may extend to five years or with fine which may extend to one hundred thousand rupees or with both.

(2) The offence described in sub-section (1) shall be non-bailable and non-compoundable.

17. General amendment, Ordinance LVII of 1962.- In the said ordinance, for the words, comma, figures, brackets and letters “Companies Act, 1913 (VII of 1913)” wherever occurring, the words, comma, figures, brackets and letters “Companies Ordinance, 1984 (XLVII of 1984) shall be substituted.

18. Amendment of Ordinance I of 1967. – The following amendments shall be made in the Natural Gas (Development Surcharge) Ordinance, 1967 (I of 1967), namely:-

(1) in section 3, in sub-section (3) for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely.-

“Provided that the Federal Government may, subject to such conditions or restrictions as it may think fit to impose, by notification in the official gazette, grant only one-time exemption to any company from the requirement to pay additional amount payable under this sub-section, and a notification issued under this proviso shall be effective from the date specified therein notwithstanding the date of its issue in the official Gazette.”; and

(2) in section 4,-

(a) for the figure “23” the figure “20” and for the figure “1979” the figure “2001” shall respectively be substituted; and

(b) in the margin, for the figures and word “XXXI of 1979” the figure and words “XLIX of 2001” shall be substituted.

19. Amendment of Ordinance VI of 1968. – In the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (VI of 1968), in the Schedule, in Order 12, in clause (6), in the first proviso, for the full stop at the end a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

“Provided further that if through collective bargaining the employer offers and contributes to an “Approved Pension Fund” as defined in the Income Tax Ordinance, 2001 (XLIX of 2001), and where the contribution of the employer is not less than fifty *per cent* of the limit prescribed in the aforesaid Ordinance, and

to which the workman is also a contributor for the remaining fifty *per cent* or less, no gratuity shall be payable for the period during which such contribution has been made.”.

20. Amendment of Act XII of 1968. – In the Companies Profits (Workers Participation) Act, 1968 (XII of 1968), the following further amendments shall be made, namely: -

(1) in section 2, -

(a) in clause (b) , -

(i) for the words, comma and figure “Companies Act, 1913” the words, comma and figures “Companies Ordinance, 1984” shall be substituted; and

(ii) in the marginal heading, for the figures and word “VII of 1913” the figures and word “XLVII of 1984” shall be substituted; and

(b) in clause (f), -

(a) after the word “company” occurring for the second time, commas and the words “, including employed by or through the contractors,” shall be inserted; and

(b) for the words “in the employment of” the words “working for or in” shall be substituted; and

- (2) in section 3, in sub-section (1), in clause (b), the commas, words, figures and brackets “, which shall, where the accounts have been audited by an auditor appointed under section 23 of the Industrial Relations Ordinance, 1969 (XXIII of 1969), be assessed on the basis of such audit” shall be omitted.
- (3) in the Schedule, in paragraph 4, -
 - (a) in clause (a), under the heading “Categories”, for the existing entries, the following shall be substituted, namely:-
 - “1. Workers drawing average monthly wages not exceeding seven thousand five hundred rupees.
 - 2. Workers drawing average monthly wages exceeding seven thousand five hundred rupees but not exceeding fifteen thousand.
 - 3. Workers drawing average monthly wages exceeding fifteen thousand rupees”.; and
 - (b) in clause (d), for the word “three” the word “four” shall be substituted.

21. Amendments of Act IV of 1969.- In the Customs Act, 1969 (IV of 1969), the following further amendments shall be made, namely:-

- (1) in the preamble, after the word “customs-duties” the comma and words “,fee and service charges” shall be inserted;
- (2) in section 2,-

(a) for clause (b), the following shall be substituted, namely:-

“(b) “appropriate officer”, in relation to any function to be performed under this Act, means the officer of customs to whom such functions have been assigned by or under this Act and the rules made thereunder;”; and

(b) for clause (e), the following shall be substituted, namely:-

“(e) “Board” means the Federal Board of Revenue, constituted under the Federal Board of Revenue Act, 2007;”;

(3) for section 3A, the following shall be substituted, namely:-

“3A. Directorate General of Intelligence and Investigation, Federal Board of Revenue.- The Directorate General of Intelligence and Investigation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”;

(4) for section 3B, the following shall be substituted, namely:-

“3B. Directorate General of Internal Audit.- The Directorate General of Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”;

(5) for section 3D, the following shall be substituted, namely:-

“3D. Directorate General of Valuation.- The Directorate General of Valuation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”;

(6) in section 18,-

- (a) in sub-section (3), after the figure “25”, the words, commas and figure “or, as the case may be, section 25A” shall be added;
- (b) in sub-section (5), after the figure “25”, the words, commas and figure “or, as the case may be, section 25A” shall be added; and
- (c) in sub-section (5), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the cumulative incidence of customs-duties leviable under sub-sections (1),(3) and (5) shall not exceed the rates agreed to by the Government of Pakistan under multilateral trade agreements.”;

(7) after section 18C, the following new section shall be inserted, namely:-

“18D. Levy of fee and service charges.- The Federal Government may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, levy fee and service charges for examination, scanning, inspections, sealing and desealing, valuation

check or in respect of any other service or control mechanism provided by any formation under the control of the Board, including ventures of public-private partnership, at such rates as may be specified in the notification.”;

- (8) after section 19B, the following new section shall be inserted, namely:-

“19C. Minimal duties not to be demanded.- Where the cumulative amount of all duties and taxes on a Goods Declaration is equal to, or less than, one hundred rupees, the same shall not be demanded.”;

- (9) in section 21A, in sub-section (2), for the word “fifteen” the word “fourteen” shall be substituted;

- (10) after section 22, the following new section shall be inserted, namely:-

“22A. Temporary export of imported plant and machinery.- Imported plant and machinery, temporarily exported that have not undergone any alteration, renovation, addition or refurbishment, may be re-imported duty free subject to the specific or general terms and conditions the Board may by the rules prescribe.”;

- (11) in section 25,-

- (a) in the marginal note, for the words “Determination of Customs value of goods” the words “Value of imported and exported goods” shall be substituted;

- (b) in sub-section (4), for the word “writing” the words “such manner as the Board may by rules prescribe” shall be substituted; and
- (c) in sub-section (10),-
 - (i) the words “under this Act” shall be omitted; and
 - (ii) for the words “are required to” the word “may” shall be substituted;
- (12) for section 25A, the following shall be substituted, namely:-

“25A. **Power to determine value of goods.**- (1) Notwithstanding anything contained in section 25, the Directorate General of Valuation may from time to time, by notification in the official Gazette, for the purposes of levying customs-duties under this Act or any other law for the time being in force, determine and notify the value of goods specified in the First Schedule at such rates as it may deem fit and subject to such conditions or limitations as it may impose.

(2) Different values may be determined for different classes of or description of the same type of goods.

(3) A notification issued under sub-section (1) shall be effective from the date specified therein, notwithstanding its date of publication in the official Gazette.”;
- (13) after section 25C, the following new section shall be inserted, namely:-

“25D. Value Determined not to be challenged.- Notwithstanding anything in this Act, or any other law for the time being in force, and notwithstanding any decision or judgment of any forum, authority or court, where the value of any goods or class of goods for the purposes of levying customs-duties has been determined by the Directorate General of Valuation or, as the case may be, the Collector of Customs, on the basis of computation of value of raw materials including value addition, input-output ratio or any other method in consultation with a trade body or committee formed for such purpose, and such basis of valuation shall not be called into question before any court of law, unless a representation supported by documents in the matter of dispute in valuation is referred to the Directorate General of Valuation, and all the proceedings pending before any court shall forthwith abate.”;

(14) in section 39, in clause (b), after the word “than” the words “or equal to” shall be substituted;

(15) in section 81,-

(a) in sub-section (1), in the first proviso, after the word “guarantee”, the words “or pay order” shall be inserted; and

(b) in sub-section (2), in the proviso, after the word “Customs”, the commas and words “or, as the case may be, Director of Valuation” shall be inserted;

- (16) in section 179, in sub-section (1),-
- (a) in entry (ii), for the word “five” the word “eight” shall be substituted;
and
 - (b) in entry (iii), for the words “two hundred and fifty” the words “three hundred” shall be substituted;
- (17) in section 185A, in sub-section (1), in clause (a), the words “or by an officer-in-charge of a police-station” shall be omitted;
- (18) in section 185F, in sub-section (1),-
- (a) for the words “Central Board of Revenue” the word “Board” shall be substituted; and
 - (b) after the word “Customs”, the words “or Director of Intelligence and Investigation” shall be inserted;
- (19) in section 193A,-
- (a) for sub-section (3), the following shall be substituted, namely:-

“(3) The Collector (Appeals) may, after making such further inquiry as may be necessary pass an order, within ninety days from the date of filing of appeal or within such extended period as the Collector (Appeals) may for reasons to be recorded in writing, extend, confirm, modify or annul the decision or order appealed against:

Provided that such extended period shall not exceed ninety days unless the Board further extends at any time during the pendency of appeal.”; and

(b) in the second proviso, after the word “Provided”, the word “further” shall be inserted;

(20) in section 194, for sub-section (3), the following shall be substituted, namely:-

“(3) A technical member shall be an officer of Customs and Excise Group equivalent in rank to that of a Member of the Board or Chief Collector of Customs or Director General or a senior Collector with five years experience in that position or any other officer of Customs and Excise Group with any other designation equivalent to that of the aforesaid designations.”;

(21) in section 194A,-

(a) for sub-section (2), the following shall be substituted, namely:-

“(2) Where the Board or the Collector of Customs is aggrieved by an order passed by the Collector (Appeals), it, or as the case may be, he may prefer an appeal to the Appellate Tribunal. Such appeal shall be preferred by an officer, not below the rank of Assistant Collector or Assistant Director so authorized by the Board or the Collector or the Director, as the case may be, in writing.” and

- (b) after sub-section (7), the following new sub-section shall be added, namely:-

“(8) Notwithstanding anything in this Act where any reference or appeal was preferred with the approval of Collector of Customs by the officer of lower rank than that of the Collector and the reference or appeal is pending before an appellate forum or the Court, such reference or appeal shall be deemed always to have been so filed by the Collector and for removal of doubt it is hereby declared the pending appeals shall not abate solely on this ground.”;

- (22) in section 194B, in sub-section (2), for the word “three” the word “one” shall be substituted;

- (23) in section 194C,-

- (a) in sub-section (3), for the words and commas “relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment,” the words and commas “deciding a case involving duty, tax, penalty or fine exceeding five million rupees” shall be substituted;

- (b) in sub-section (3A), the “Explanation” shall be omitted; and

- (c) in sub-section (4), clause (b) shall be omitted and for clause (c) the following shall be substituted, namely:-

“(c) in any disputed case, the difference in duty or tax involved or the duty or tax involved, or the amount of fine or penalty involved does not exceed five million rupees.”;

(24) in section 195C,-

(a) for sub-section (1), the following shall be substituted, namely:-

“(1) Notwithstanding any other provision of this Act, or the rules made thereunder, any aggrieved person in connection with any dispute pertaining to liability of customs-duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition, which is sub-judice in any Court of Law or an Appellate Authority, except in the cases where FIRs have been lodged or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved, and in any other matter by reasons given in writing, may apply to the Board for the appointment of a Committee for the resolution of dispute in appeal and only such application shall be entertained for dispute resolution under this section.”;

(b) for sub-section (2), the following shall be substituted, namely:-

“(2) Subject to the provision of sub-section (1), the Board, after examination of the application of an aggrieved person, may appoint

a committee, within thirty days of receipt of such application, consisting of an officer of customs and two persons from a notified panel of retired District and Sessions judge and retired judges of High Court or Chartered or Cost Accountants, Advocates, Tax consultants or reputable taxpayers for the resolution of the hardship or dispute.”; and

- (c) in sub-section (3), for the word “forty-five”, wherever occurring, the word “sixty” shall be substituted;

(25) in section 196, in sub-section (1),-

- (a) after the word “Collector”, occurring for the first time, the words “or Director of Intelligence and Investigation” shall be inserted;
- (b) after the word “Collector”, occurring for the second time, the words “or Additional Director” shall be inserted; and
- (c) after the word “Collector”, occurring for the third time, the words “or Director in writing” shall be inserted;

(26) in section 202,-

- (a) in clause (b), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that notwithstanding anything contained in any other law for the time being in force, if a defaulter sells or transfers ownership of his assets, the defaulted amount of duty and taxes shall be the first charge on the business so transferred.”; and

- (b) in sub-section (5), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that if any arrears which may be payable by way of duty, surcharge, fee, service charges, fine or penalty or any other amount which is adjudged or payable under any bond, guarantee or other instrument executed under this Act or the rules made thereunder, cannot be recovered, the Board or any officer authorized by the Board, may for reasons to be recorded, write off the arrears in the manner as may be prescribed by rules.”;

- (27) after section 203, the following new section shall be inserted, namely:-

“203A. Power to authorize expenditure.- The Board may authorize and prescribe the manner in which fee and service charges collected including by ventures of public-private partnership under section 18D are expended.”;

- (28) in section 207,-

- (a) the words “or issuance of bill of lading” shall be omitted; and

- (b) after the word “conveyance” the words “or any customs clearance related activity” shall be inserted;
- (29) in section 211, in sub-section (2), for the word “three” the word “five” shall be substituted;
- (30) after section 224, the following new section shall be added, namely:-
- “225. Transition to Federal Board of Revenue.-** Any reference to the Central Board of Revenue, wherever occurring, in this Act and the rules made thereunder and Notifications, Orders, General Orders, regulations, or any other instrument issued thereunder shall be construed to be reference to the Federal Board of Revenue on the commencement of the Federal Board of Revenue Act, 2007.”; and
- (31) for the First Schedule to the Customs Act, 1969 (IV of 1969), the Second Schedule specified in the Schedules to this Act shall be substituted.

22. Special surcharge.- (1) There shall be levied and collected as additional customs-duty a special surcharge on import of goods as specified in the First Schedule to the Customs Act, 1969 (IV of 1969), at the rate of one percent of the value of the said goods as determined under section 25 or, as the case may be, 25A of the said Act:

Provided that for the purposes of the Sales Tax Act 1990 (VII of 1990) the additional customs-duty shall not constitute a part of such value of goods:

Provided further that the goods specified in the Table below shall be exempt from the special surcharge, namely:-

TABLE

PCT CODE	DESCRIPTION
(1)	(2)
Chapter 07	All goods classifiable in chapter 07.
15.07	Edible oils and fats
15.08	
15.09	
15.10	
15.11	
15.12	
15.13	
15.14	
15.15	
15.16	
15.17	
15.18	
2709.0000	Petroleum oils and oils obtained from bituminous minerals, crude
2710.1110	Motor spirit
2710.1120	Aviation spirit

2710.1931	High speed diesel oil
2710.1941	Furnace-oil
Chapter 30	Pharmaceutical products
Chapter 31	Fertilizers
Chapter 99	Special Classification provisions
Respective Headings	Temporary importation under SRO 1065(I)/2005, imports under DTRE Scheme and imports under manufacturing bonds scheme.

(2) The Federal Government, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, may, by notification in the official Gazette, exempt any goods from the whole or any part of the additional customs duty leviable under sub-section (1), and no exemption from payment of customs duty under the Customs Act, 1969(IV of 1969), or any other law for the time being in force shall apply to the additional customs duty leviable under the said sub-section.

(3) Notwithstanding anything contained in any other law for the time being in force or any decision of any court, the rate of additional duty leviable under sub-section (1) shall include the amount of such additional duty that may have become payable in consequence of the withdrawal of the whole or any part of the exemption from such additional duty whether before or after the conclusion of a contract or agreement for the sale of such goods or opening of a letter of credit in respect thereof.

23. Amendments of Ordinance XVII of 1969. – The following further amendments shall be made in the Securities and Exchange Ordinance, 1969 (XVII of 1969), namely:

-

- (1) in section 3, the word “Stock” shall be omitted;
- (2) in section 4, -
 - (i) in sub-section (1), the word “Stock” shall be omitted; and
 - (ii) in sub-section (2),
 - (a) in clause (c), for the words “a Stock” the word “an” shall be substituted;
 - (b) in clause (e), for the words “a Stock” the word “an” shall be substituted;
- (3) in sections 5,6,7 and 21, the word “Stock”, wherever occurring, shall be omitted;
- (4) in section 22, in sub-section (1) for the words “one hundred thousand” the words “fifty million” and for the words “two thousand” the words “two hundred thousand” shall respectively be substituted; and
- (5) in section 33, in sub-section (2), in clause (b), for the words “a Stock Exchange” the words “the Exchange” shall be substituted;
- (6) in section 34, the word “Stock”, wherever occurring, shall be omitted; and

(7) section 35 shall be omitted.

24. Amendment of W.P. Ordinance, XX of 1969. – In the Minimum Wages for Unskilled Workers Ordinance, 1969 (XX of 1969), in the Schedule, in column (2), for the figure “4000”, occurring thrice, the figure “4600” shall be substituted.

25. Amendment of Act XIX of 1974: - In the Banks (Nationalization) Act, 1974 (XIX of 1974), the following further amendments shall be made, namely: -

(a) in section 5,-

- (i) in sub-section (6), in clause (a), for the words “not less than twenty-six”, the words “upto forty-nine” shall be substituted; and
- (ii) in section 5A, in sub-section (1), in clause (a), for the words “not less than twenty-six” the words “upto forty-nine” shall be substituted;

(b) in section 11,-

- (i) in sub-section (1), in clause (b), after the word “members”, at the end, the words, commas and figures “including one or more directors whose election by the private shareholders, removal and other matters shall be governed by the Companies Ordinance, 1984 (XLVII of 1984)” shall be added;
- (ii) in sub-section (3), after the word “Board” the words “representing the Federal Government’s direct and indirect shareholding” shall be added; and
- (iii) in sub-section(3), in clause (d), for the words “for a further period of three years” the words “for such further term or terms as may be determined” shall be substituted.

26. Amendments of Act XIV of 1976. - In the Employees' Old-age Benefits Act, 1976 (XIV of 1976), the following further amendments shall be made, namely:-

- (1) in section 22B, for the words "equal to the minimum pension", wherever occurring, the words "at the rate specified in the Schedule" shall be substituted;
- (2) In the Schedule,-
 - (a) in the title, after the figure "22" a comma and the figure and alphabet "22B" shall be added;
 - (b) in paragraph (1),
 - (i) after the word "person" occurring for the first time, the words "and survivor's pension payable to surviving spouse" shall be inserted; and
 - (ii) in formula the word "Average" shall be omitted;
 - (c) in paragraph (2) , -
 - (i) the word "average" shall be omitted;
 - (ii) for the words "payable in respect of twelve calendar months", the words "paid in the month" shall be substituted; and
 - (iii) in the proviso, -

- (a) after the word “person” the words “and survivor’s pension payable to surviving spouse” shall be inserted; and
- (b) for the words “one thousand and three hundred” the words “one thousand and five hundred” and for the figure “2006” the figure “2007” shall be substituted.
- (iv) after paragraph (2) the following new paragraph shall be added, namely:-

“(3) The monthly rate of old-age pension, invalidity pension and survivors pension being paid on or before first day of July, 2007, under paragraph (1) above shall be increased by fifteen *per cent.*”.

27. Amendment of Ordinance XLVII of 1984.- The following further amendments shall be made in the Companies Ordinance, 1984 (XLVII of 1984), namely:-

- (1) for the word “Authority” wherever occurring, the word “Commission” shall be substituted;
- (2) in section 2,-
 - (a) clause (3) shall be omitted;
 - (b) for clause (5) the following shall be substituted, namely: -

“(5) “book and paper”, “book or paper” or “books of account” include accounts, deeds, vouchers, writings and documents, maintained on paper or computer network, floppy, diskette, magnetic cartridge tape, CD-Rom or any other computer readable media;”;

- (c) in clause (14) after the word “register” the words and comma “whether issued, sent or kept in pursuance of this Ordinance or any other law for the time being in force, whether maintained in any medium capable of being retrieved by any electronic means or in any other manner” shall be added;
- (d) in clause (26), in sub-clause (b), after the word “Government” the words “or the Commission as the case may be” shall be inserted;
- (e) after clause (30A), the following new clause shall be inserted, namely: -

“(30B) “register” means the register of members of a company and includes the register of debenture-holders or holders of other securities maintained on paper or computer network, floppy, diskette, magnetic cartridge tape, CD-Rom or any other computer readable media;”;

- (3) in section 24, sub-section (2) shall be omitted;

- (4) in section 30, in sub-section (1), the words and commas “in the Province or the part of Pakistan not forming part of a Province, as the case may be, in which the registered office of the company is stated by the memorandum to be situate” shall be omitted;
- (5) in section 95, in sub-section (1), for the full stop, at the end, a colon shall be substituted and hereinafter the following proviso shall be added, namely: -

“Provided that a subsidiary shall not be barred -

- (a) from acting as a trustee unless its holding company is beneficially interested under the trust; and
- (b) from dealing in shares of its holding company in the ordinary course of its business, where such subsidiary carries on a bona fide business of brokerage.

Provided further that a subsidiary dealing in shares of its holding company in the ordinary course of its brokerage business, shall not exercise the voting rights attached to such shares.”;

- (6) in section 158, in sub-section (1), -
- (a) for the word “four” the word “three” shall be substituted; and
- (b) in the proviso for the word “sixty” the word “thirty” shall be substituted;

- (7) after section 178, the following new section shall be inserted, namely: -

“178A. Fresh election of directors on request of substantial acquirer.-

(1) Notwithstanding anything contained in this Ordinance, where a person acquires 12.5% or more voting shares in a listed company in his own name, he may apply to the Commission for requiring the company to hold fresh election of directors in accordance with the procedure laid down in section 178 in the next coming annual general meeting of the company.

(2) The Commission may, if it deems appropriate in the interest of the company, its minority shareholders or the capital markets generally, direct the company to hold the election of directors in the manner so provided, and the company shall comply with such direction.

(3) The person on whose request fresh election of directors is held shall not sell or otherwise dispose of the shares acquired by him for at least one year from the date of election of directors held under sub-section (2).”;

- (8) in section 183, in clause (b), after the word “Government” occurring for the second time, the words “or the Commission” shall be inserted.

- (9) in section 204A, -

(a) in the marginal note, after the word “secretaries” the words “and share registrars” shall be added;

- (b) the existing section shall be numbered as sub-section (1) of that section and after sub-section (1), numbered as aforesaid, the following new sub-section shall be added, namely: -

“(2) Listed companies shall have an independent share registrar possessing such qualifications and performing such functions as may be specified by the Commission.”;

- (10) in section 208, -

- (a) in sub-section (1), for the letter “A” the words, figure and letter “Subject to sub-section 2A” shall be substituted;

- (b) after sub-section (2) the following new sub-section shall be inserted, namely: -

“(2A) Notwithstanding anything in sub-section (1), the Commission may –

- (a) through notification, published in the official Gazette, specify the class of companies or undertakings to which the restriction provided in sub-section (1) shall not apply; and
- (b) through regulations made thereunder, specify such conditions and restrictions on the nature, period, amount of investment and terms and conditions attached thereto, and

other ancillary matters, applicable to such class of companies as it deems fit.”;

(c) in sub-section (3), -

(a) after the word and comma “section,” occurring for the first time, the words and comma “or the regulations,” shall be inserted; and

(b) for the word “one” the word “ten” shall be substituted; and

(d) sub-section (4) shall be omitted;

(11) in section 233, in sub-section (1), -

(a) for the word “four” the word “three” shall be substituted; and

(b) in the proviso for the word “two” the word “one” shall be substituted;

(12) after section 234 the following new section shall be inserted, namely:-

“234A. Special audit.- (1) The Commission may on its own motion, or upon an application made by members holding not less than 20% voting rights in a company, order a special audit of the company and appoint an auditor to carry out detailed scrutiny of the affairs of the company.

(2) The Commission may, during the course of the special audit, pass such interim orders and directions as may be deemed appropriate by the Commission.

(3) On receipt of the special audit report, the Commission may issue such directions for immediate compliance to the company and its management as the Commission deems fit.

(4) In case where the special audit has been ordered by the Commission on an application made by members of the company, one half of the expenses of the special audit shall be borne and paid in advance by such members, and the other half shall be borne by the company.

(5) In case where the special audit has been ordered by the Commission on its own motion, the expenses of the special audit shall be payable by the company.

(6) Where the expenses of the special audit are payable by the company, such expenses in the first instance may be defrayed by the Commission, and the company shall be liable to reimburse the Commission in respect of such expenses.

(7) The amount of expenses liable to be paid by the company, the members or any other persons, as the case may be, shall be recoverable as arrears of land revenue.

(8) The provisions of section 255 shall apply *mutatis mutandis* to the auditor appointed to carry out the special audit of the company under sub-section (1).”;

- (13) in section 242, in sub-section (3) after the word “company” the words “having paid up capital of less than 7.5 million rupees” shall be added;
- (14) in section 246, -
- (a) in sub-section (1)
- (i) for the word “The” the words “Notwithstanding anything contained in any other provision of this Ordinance, the” shall be substituted; and
- (ii) after the word “reports”, the words and comma “audited by an auditor,” shall be inserted.
- (b) in sub-section (2), -
- (i) after the word “fine” the words “not exceeding one million rupees and to a further fine” shall be inserted; and
- (ii) for the word “one” the word “ten” shall be substituted;
- (15) in section 248, in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:
- “Provided that no dividend shall be declared or paid out of unrealized gain on investment property charged to profit and loss account”;
- (16). in section 254, after sub-section (3), the following new sub-section shall be inserted, namely:-

“(3A) For the purposes of clause (d) of sub-section (3) a person who owes,-

(a) a sum of money not exceeding five hundred thousand rupees to a credit card issuer ; or

(b) a sum to a utility company in form of unpaid dues for a period not exceeding ninety days,

shall not be deemed to be indebted to the company.”;

(17) in section 255, in sub-section (5), for the words, “Federal Government” the word “Commission” shall be substituted;

(18) in section 267, in sub-section (2), the proviso shall be omitted;

(19) in section 282A,- in sub-clause (b),-

(a) before the word “such”, the words “notified entities which include” shall be inserted;

(b) after the word “body”, the words “or trust or any other entity or person” shall be inserted; and

(c) after the word “purpose”, the words “under this sub-clause” shall be inserted;

(20) in section 282 B,-

- (a) in the marginal note, for word “Rules” the words and commas “rule and regulations and issue directives, circulars, codes, guidelines, etc.” shall be substituted;
- (b) the existing section shall be numbered as sub-section (1) of that section and in sub-section (1) numbered as aforesaid-
 - (i) after the letters “NBFCs”, occurring for the first time, the words and comma “and notified entities, and their businesses and activities and” shall be inserted;
 - (ii) the words and semicolon “conditions relating to qualifications of directors, chief executive, chairman, auditors, for licensing, capital and audit requirements;” shall be omitted; and
 - (iii) for the words “companies established under the rules framed hereunder”, the words “the notified entities” shall be substituted; and
- (c) after sub-section (1), the following new sub-sections shall be added, namely:-

“(2) The Commission may make regulations, for the establishment and regulation of NBFCs and notified entities and their business and activities and such regulations may provide for any matter

which the Commission deems fit for the effective regulation of NBFCs, notified entities and their businesses and activities.

(3) The Commission may issue such directives, circulars, codes, notifications and guidelines as are necessary to carry out the purposes of Part VIIIA and the rules and regulations made thereunder.”;

(21) in section 282 C,

(a) in sub-section (2) after the word “conditions”, the words “and payment of such fees” shall be inserted;

(b) in sub-section (3), before the word “section”, occurring for the second and third time, the words, bracket and letter “clause (a) of” shall be inserted;

(c) in such section (4)-

(i) for the words “paid up capital”, the word “equity” shall be substituted,

(ii) before the word “section ” the words, brackets and letter “clause (a) of” shall be inserted.

(d) after the sub-section (4), amended as aforesaid, the following new sub-section shall be inserted, namely:-

“(5) Notwithstanding anything in this Ordinance, the provisions of this Part VIIIA and the rules and regulations made thereunder shall continue to apply to any NBFC whose licence has expired, or any NBFC or notified entity whose licence or registration has been cancelled or suspended, or to any existing company or entity carrying on a business specified in clause (a) of section 282A or notified under clause (b) of section 282A which has not applied for a fresh licence or registration, or whose application for a fresh licence or registration has not been decided by the Commission.”;

(22) after section 282C, the following new section shall be inserted, namely:-

“282 CA. Registration of notified entities.- (1) Any entity notified by the Commission under clause (b) of section 282A shall not operate without prior registration with the Commission.

(2) Notwithstanding anything contained in this Ordinance or any other law, the Commission may register the notified entity on such terms and conditions and payment of such fee, as the Commission may deem fit to impose from time to time.

(3) Every entity notified by the Commission under clause (b) of section 282A which is in existence before the commencement of this provision, and every other entity notified by the Commission under the aforesaid section shall within a period of six months apply in writing to the Commission for registration under this section, and the Commission after

being satisfied that the applicant has fulfilled the conditions specified by the Commission may register the notified entity.”;

(23) in section 282D, in sub-section (1),-

- (a) after the letters “NBFC”, wherever occurring, the words “or notified entity” shall be inserted;
- (b) in clause (b) before the word “being “ the word “from “ shall be inserted;
- (c) after the letters “NBFCs”, wherever occurring, the words “or notified entities” shall be inserted;
- (d) after the word “shareholders”, the words and comma “or unit holders as the case may be,” shall be inserted;
- (e) after the word and comma “generally,” occurring for the first time, in a new line the words “it may” shall be inserted; and
- (f) after the words “particular”, the words “to do or desist from doing such acts as the Commission may deem fit and” shall be inserted.

(24) in section 282E,-

- (a) in sub-section (1),-
 - (i) after the letters “NBFC” wherever occurring the words “or a notified entity” shall be inserted

- (ii) after the word “chief executive”, occurring for the first time, the words “by whatever name called” shall be inserted;
- (iii) after the word “officer”, the words “or person responsible for the affairs” shall be inserted;
- (iv) after the word “shareholders”, occurring for the first time, the words “or the notified entity” shall be inserted;
- (v) after the word “shareholders”, occurring for the second time, the words and comma “or unit holders as the case may be, or the participants” shall be inserted;
- (vi) after the word “chief executive”, occurring for the second time, the words “by whatever name called” shall be inserted; and
- (vii) after the word “officer”, occurring for the second time, the words “or person responsible for the affairs” shall be inserted; and

(b) in sub-section (2),-

- (i) after the letters “NBFC” wherever occurring the words “or a notified entity” shall be inserted;
- (ii) after the word “officer”, occurring for the first time, the words “or person responsible for the affairs” shall be inserted;

- (iii) after the word “shareholders”, the words “or unit holders as the case may be” shall be inserted;
- (iv) in clause (i),-
 - (a) after the word “chief executive”, the words “by whatever name called” shall be inserted;
 - (b) after the word “officer”, the words “or person responsible for the affairs” shall be inserted;
 - (c) in sub-clause (a) after the word “officer”, the words “or person responsible for the affairs” shall be inserted;
and
- (c) in sub-section (3),-
 - (i) after the letters “NBFC” wherever occurring the words “or a notified entity” shall be inserted
 - (ii) after the word “chief executive”, occurring for the first time, the words “by whatever name called” shall be inserted;
 - (iii) after the word “officer”, occurring for the first time, the words “or person responsible for the affairs” shall be inserted;
- (25) in section 282F, in such section (1), after the letters “NBFC”, wherever occurring, the words “or a notified entity” shall be inserted;
- (26) in section 282G,
 - (i) after the letters “NBFC” wherever occurring, the words “or notified entity” shall be inserted;

- (ii) after the letters “NBFCs” wherever occurring the words “or a notified entities” shall be inserted;
- (27) in section 282H, after the letters “NBFC”, wherever occurring, the words “or notified entity” shall be inserted;
- (28) in section 282 I, -
 - (a) in sub-section (1),-
 - (i) the words “licensed under this Ordinance” shall be omitted;
 - (ii) after the word “or”, occurring for the second time, the words “of any notified entity or” shall be inserted; and
 - (iii) after the word “officers”, the words “or persons responsible for its affairs” shall be inserted;
 - (b) in sub-section (2),-
 - (i) for the word “Where”, the words and comma “Notwithstanding anything contained in any other law for the time being in force where,” shall be substituted;
 - (ii) after the letters “NBFC”, wherever occurring, the words “or the notified entity” shall be inserted; and
 - (c) in sub-section (3), after the letters “NBFC”, the words “or the notified entity” shall be inserted;

(29). in section 282J-

(a) in sub-section (1),-

- (i) after the letters “NBFC”, wherever occurring, the words “or a notified entity” shall be inserted;
- (ii) after the figure and word “282B or”, the words “regulation, circular or directive or” shall be inserted;
- (iii) for the word “five” the word “fifty” shall be substituted; and
- (iv) in the proviso after the word “officer”, the words “or person” shall be inserted;

(b) in sub-section (2),-

- (i) after the word “cancel”, the words “or suspend” shall be inserted;
- (ii) after the letters “NBFC”, occurring for the first time, the words “or registration granted to any notified entity” shall be inserted; and
- (iii) after the letters “NBFC”, occurring for the second time, the words and comma “or notified entity as the case maybe,” shall be inserted;

(c) in sub-section (3),-

- (i) after the word “licences”, the words “or registrations” shall be inserted;
- (ii) after the letters “NBFC”, whenever occurring, the words “or the notified entity” shall be inserted; and
- (iii) after the word “and”, occurring for the second time, the words and comma “notwithstanding anything contained in section 305 or sub-clause (c) of the proviso to section 309,” shall be inserted; and
- (d) for sub-section (4), the following shall be substituted, namely:-

“(4) Where a NBFC or a notified entity carries on the business after its licence or registration to do such business has been suspended by the Commission, the chief executive, by whatever name called, and every director, manager, and other officer of the NBFC or the notified entity as the case maybe, who is responsible for such default, shall be punishable with fine not exceeding fifty million rupees and to a further fine of two hundred thousand rupees for every day after the first during which the default continues.”;

(30) in section 282K,-

- (a) in sub-section (1),

- (i) after the word “called” the commas and words “, or a person not being a professional advisor in accordance with whose directions or instructions the directors are accustomed to act,” shall be inserted;
 - (ii) after the letters “NBFC”, wherever occurring, the words “or a notified entity” shall be inserted;
- (b) in sub-section (2), after the letters “NBFC”, the words “or the notified entity” shall be inserted; and
- (c) in sub-section (3),-
 - (i) after the letters “NBFC”, the words “or a notified entity” shall be inserted; and
 - (ii) after the comma following the word “cancelled”, the words “or which has not been registered under section 282C or its registration has been cancelled” shall be inserted;
- (31) after section 282M, the following new section shall be inserted, namely:-

“282N. Rehabilitation of NBFCs and notified entities.– (1)

Notwithstanding anything contained in this Ordinance, the Commission shall have the same powers as are exercisable by the Federal Government under section 296 for the rehabilitation of a NBFC or a notified entity which is facing financial or operational problems.

(2) Where in exercise of its powers granted under sub-section (1) the Commission declares a NBFC or a notified entity as sick, the Commission may, in addition to any other powers specified in section 296-

(a) make an application to the Court under section 412 or section 413 and the provisions contained in sections 412 to 415 shall, *mutatis mutandis*, apply thereto in all respects; and

(b) make an application to the Court for declaring any preference, made or done by or against the NBFC or the notified entity within twelve months before such NBFC or notified entity is declared sick, as fraudulent as provided in section 408, and the provisions contained in sections 408 and 409 shall *mutatis mutandis* apply thereto in all respects.

(3) Whosoever fails to give effect, or carry out or implement the rehabilitation plan approved by the Commission or any matter provided therein or any direction issued, shall be liable to a fine not exceeding ten million rupees and, in case of a continuing failure, to a further fine not exceeding ten thousand rupees for every day after the first during which the failure or default continues.”;

(32) in section 361, in sub section (1) the words “in the official Gazette, and also” shall be omitted;

(33) in section 460, in clause (c) in the proviso -

- (a) in clause (ii), after the semicolon the word “and” shall be added;
and
 - (b) clause (d) shall be omitted;
- (34) in section 466 in sub-section (1), the comma and words “, and no company shall be registered except at an office within the Province or Territory in which, by the memorandum, the registered office of the company is declared to be established” shall be omitted;
- (35) in section 477-
 - (a) in sub-section (1),-
 - (i) in clause (b) the word “and” , at the end, shall be omitted;
 - (ii) clause (c) shall be omitted; and
 - (b) sub-section (2) shall be omitted;
- (36) in section 484,-
 - (a) in sub-section (1),-
 - (i) for the colon, at the end of sub-section (1) a full stop shall be substituted; and
 - (ii) the proviso shall be omitted;
 - (b) in sub-section (2),-

- (i) after the word “Commission” occurring for the first time, the words “or the registrar” shall be inserted; and
 - (ii) for the words “the Commission’s” the word “such” shall be substituted;
- (37) in section 485, in section (1), in the proviso, after the word “be”, at the end, the comma and words “, or an order against which an appeal lies before the Appellate Bench of the Commission” shall be added;
- (38) in section 492, for the word “one” the word “five” shall be substituted;
- (39) in section 496 for the word “five” the words “five hundred” shall be substituted;
- (40) in section 497, for the word “fifty” the words “five hundred” and for the words “five hundred” the words “ten thousand” shall respectively be substituted;
- (41) in section 498, for the words “fifty thousand” the words “one million” and for the words “five hundred” the words “one hundred thousand” shall respectively be substituted;
- (42) in section 506, in sub-section (2),-
 - (i) for the word “fifty” the words “five hundred” shall be substituted; and
 - (ii) for the words “five hundred” the words “ten thousand” shall be substituted;

(43) after section 506, the following new sections shall be inserted.-

“506A. Power to make regulations.- (1) The Commission may, by notification in the official Gazette, make such regulations as may be necessary to carry out the purposes of this Ordinance:

Provided that the power to make regulations conferred by this section shall be subject to the condition of previous publication and before making any regulations the draft thereof shall be published in the manner considered most appropriate by the Commission for eliciting public opinion thereon within a period of not less than fourteen days from the date of publication.

(2) Any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a fine which may extend to five hundred thousand rupees and, where the contravention is a continuing one, with a further fine which may extend to ten thousand rupees for every day after the first during which such contravention continues.

506B. Power to issue directives, circulars, guidelines, etc.- The Commission may issue such directives, prudential requirements, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Ordinance and the rules and regulations made under this Ordinance.”.

28. Amendment of Act No. VI of 1987.— In the Finance Act, 1987, section 12 shall be omitted.

29. Amendment of Act, V of 1989.— The following further amendments shall be made in the Finance Act, 1989 (V of 1989), namely:-

(1) In section 7, in sub section (1) after the words “power of attorney”, the words, brackets, figure and semi-colons “other than revocable and time bound (not exceeding sixty days) executed between spouses, father and son or daughter, grand parents and grand children, brother and sister” shall be inserted;

(2) in sub-section (2), paragraph (c) shall be omitted.

30. Amendments of the Sales Tax Act, 1990.— In the Sales Tax Act, 1990, (VII of 1990), the following further amendments shall be made, namely:-

(1) in section 2,—

(a) after clause (5AA), the following new clause shall be inserted, namely:-

“(5AB) “cottage industry” means a manufacturer whose annual turnover from taxable supplies made in any tax period during the last twelve months ending any tax period does not exceed five million rupees or whose annual utility (electricity, gas and telephone) bills during the last twelve months ending any tax period do not exceed six hundred thousand rupees;”.

(b) in clause (14), after sub-clause (d), the following new sub-clause shall be added, namely:-

“(e) levied under the Punjab Sales Tax Ordinance, 2000 (Pb. Ord II of 2000), North West Frontier Province Sales Tax Ordinance, 2000 (III of 2000), Sindh Sales Tax Ordinance, 2000 (VIII of 2000), Balochistan Sales Tax Ordinance, 2000 (I of 2000) and Islamabad Capital Territory (Tax on Services) Ordinance, 2000 (XLII of 2000);”;

(c) for clause (20), the following shall be substituted, namely:-

“(20) “output tax” in relation to any registered person means—

- (i) the tax charged under this Act in respect of a supply of goods made by that person;
- (ii) duties of excise chargeable under section 3 of the Federal Excise Act, 2005, on such excisable goods or services as are mentioned in the Second Schedule or services as are specified by the Federal Government under section 7 thereof and on which such duties are charged, levied and paid as it were a tax payable under section 3 of this Act ; and
- (iii) the tax levied under the Punjab Sales Tax Ordinance, 2000 (Pb. Ord II of 2000), North West Frontier

Province Sales Tax Ordinance, 2000 (N.W.F.P. Ord III of 2000), Sindh Sales Tax Ordinance, 2000 (Sindh Ord. VIII of 2000), Balochistan Sales Tax Ordinance, 2000 (Bal. Ord. I of 2000) and Islamabad Capital Territory (Tax on Services) Ordinance, 2000 (XLII of 2000);”;

- (d) in clause (27), after the word “all”, the word and comma “duties,” shall be inserted;
- (e) in clause (37), in item (iii), after the word “falsifying”, the words “or causing falsification” shall be inserted;
- (f) for clause (44), the following shall be substituted namely:-

“(44) “time of supply” a supply shall be deemed to have taken place at the time of delivery of goods by the supplier:

Provided that –

- (a) where any goods are supplied by a registered person to an associated person and the goods are not to be removed, the time of supply shall be the time at which these goods are made available to the recipient; and

- (b) where the goods are supplied under hire purchase agreement, the time of supply shall be the time at which the agreement is entered into”;
- (2) in section 4, after clause (c), a new clause shall be added, namely:-
- “(d) such other goods as may be specified by the Federal Board of Revenue through a general order as are supplied to a registered person or class of registered persons engaged in the manufacture and supply of zero-rated goods.”;
- (3) in section 7, in sub-section (1), in the beginning, for the word “For” the words, figure and comma, “Subject to the provisions of section 8B, for ” shall be substituted;
- (4) in section 8, in sub-section (1), in clause (a), the words “for the manufacture or production of taxable goods or” shall be omitted.
- (5) in section 8A, for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-
- “Provided that the Board may by notification in the official gazette, exempt any transaction or transactions from the provisions of this section.”;
- (6) after section 8A, the following new section shall be added, namely:—

“8B. Adjustable input tax.– (1) Notwithstanding anything contained in this Act, in relation to a tax period, a registered person shall not be allowed to adjust input tax in excess of ninety per cent of the output tax for that tax period:

Provided that the tax charged on the acquisition of fixed assets shall be adjustable against the output tax in twelve equal monthly installments after the start of production of a new unit:

Provided further that the Board may, by notification in the official Gazette, exclude any person or class of persons from the purview of sub-section (1).

(2) A registered person, subject to section (1), may be allowed adjustment of input tax inadmissible under sub-section (1) subject to the following conditions, namely:–

- (i) in the case of registered persons, whose accounts are subject to audit under the Companies Ordinance, 1984, upon furnishing a statement along with annual audited accounts, duly certified by the auditors, showing value additions less than the limit prescribed under sub-section (1) above; or
- (ii) in case of other registered persons, subject to the conditions and restrictions as may be specified by the Board by notification in the official Gazette.

- (3) The adjustment of input tax mentioned in sub-section (2), if any, shall be made on yearly basis in the second month following the end of the financial year of the registered person.
- (4) Notwithstanding anything contained in sub-section (1) and (2), the Board may, by notification in the official Gazette, prescribe any other limit of input tax adjustment for any person or class of persons.
- (5) Any auditor found guilty of misconduct in furnishing the certificate mentioned in sub-section (2) shall be referred to disciplinary action under section 20D of Chartered Accountants, Ordinance, 1961.”;
- (7) for section 10, the following shall be substituted, namely:-

“(10) Refund of input tax.— (1) If the input tax paid by a registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period, the excess amount of input tax shall be refunded to the registered person not later than forty-five days of filing of refund claim in such manner and subject to such conditions as the Board may, by notification in the official Gazette specify:

Provided that the Board may, subject to such conditions and restrictions as it may impose, by notification in the official Gazette, prescribe the procedure for refund of excess input tax against other taxable supplies.

- (2) If a registered person is liable to pay any tax, default surcharge or penalty payable under any law administered by the Board, the refund of input tax shall be made after adjustment of unpaid outstanding amount of tax or, as the case may, default surcharge and penalty.
- (3) Where there is reason to believe that a person has claimed input tax credit or refund which was not admissible to him, the provisions regarding limitation of time shall not apply till the investigation, including the verification of the deposit of tax claimed as refund, is completed and the claim is either accepted or rejected.”
- (8) in section 11, in sub-section (4), the words, commas and brackets “or, as the case may be, Collector (Adjudication)” shall be omitted;
- (9) in section 22,—
- (a) after sub-section (1), the following new sub-section shall be inserted, namely:-
- “(1A). Notwithstanding anything in any other law for the time being in force, the Board may require, by notification in the official Gazette, a registered person or class of registered persons to declare and use only as many number of business bank accounts as may be specified by the Board in such notification to make or receive payments on account of purchase and sale transactions for

the purpose of this Act or rules made thereunder and to make payment of due tax from such accounts only.”; and

- (b) after sub-section (3), the following new sub-section shall be added, namely:—

“(4). The registered persons, whose accounts are subject to audit under the Companies Ordinance, 1984, shall be required to submit a copy of the annual audited accounts, along with a certificate by the auditors certifying the payment of due tax by the registered person.”;

- (10) in section 23, after sub-section (3), the following shall be added, namely:-

“(4) The Board may, by notification in the Official Gazette, prescribe the manner and procedure for regulating the issuance and authentication of tax invoices.”;

- (11) in section 24, for the word “three”, wherever occurring, the word “five” shall be substituted;

- (12) in section 30A, for the words “Customs and Excise” wherever occurring, the word “CBR” shall be substituted;

- (13) in section 30B, the words “of Inspection and” wherever occurring shall be omitted;

(14) in section 30D, amended as aforesaid, the words “and Post Clearance Audit” wherever occurring shall be omitted;

(15) after section 30D, the following new section shall be inserted, namely:-

“30DD. Directorate of Post Clearance Audit.— The Directorate of Post clearance Audit shall consist of a Director and as many Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.”;

(16) in section 37A,—

(a) in sub-section (1), the words “in respect of a supply or supplies made by him” shall be omitted; and

(b) after the word “fraud”, wherever occurring, the words “or any offence warranting prosecution under this Act” shall be inserted;

(17) in section 38A, for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the Collector may require any regulatory authority to provide information concerning the licenses and authorizations issued by it.”;

(18) for section 47A, the following shall be substituted namely:-

“47A Alternative dispute resolution.— (1) Notwithstanding any other provisions of this Act, or the rules made thereunder, any registered person aggrieved in connection with any dispute pertaining to:—

- (a) the liability of tax against the registered person, or admissibility of refunds, as the case may be;
- (b) the extent of waiver of default surcharge and penalty;
- (c) the quantum of input tax admissible in terms of sub-section (3) of section 7;
- (d) relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
- (e) any other specific relief required to resolve the dispute,

may apply to the Federal Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any Court of Law or an Appellate authority, except in the cases where FIRs have been lodged under the Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Federal Board of Revenue is involved, may apply to the Federal Board of Revenue for the appointment of a committee for the resolution of dispute in appeal and only such

application may be entertained for dispute resolution under the provisions of this section.

(2) The Board may, after examination of the application of a registered person, appoint a committee within thirty days of receipt of such application in the Board, consisting of an officer of sales tax not below the rank of an Additional Collector and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies or associations, or any other reputable taxpayers, for the resolution of dispute.

(3) The committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of sales tax or any other person to conduct an audit and make recommendations within sixty days of its constitution, in respect of the resolution of the dispute as it may deem fit:

Provided that the Board may extend the period of sixty days stipulated for making the recommendations for another sixty days on specific request of the committee.

(4) The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate.

(5) The registered person may make payment of sales tax and other duty and taxes as determined by the Board in its order under sub-section

(4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *subjudice* for consideration of orders as deemed appropriate.

(6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

(19) in section 48,—

(a) in sub-section (1), for the word “where”, the words, brackets, figure and comma “subject to sub-section (1A), where” shall be substituted;

(b) in sub-section (1), in clause (f), the word “may”, in the beginning, shall be omitted; and

(c) after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1A) If any arrears of tax, default surcharge, penalty or any other amount which is adjudged or payable by any person and which cannot be recovered in the manner prescribed above, the Board or any officer authorized by the Board, may, write off the arrears in the manner as may be prescribed by the Board.”

(20) in section 50A,—

(a) in sub-section (2), for the word “their”, the words “matters such as grant of” shall be substituted; and

(b) after sub-section (2), amended as aforesaid, the following new sub-sections shall be added, namely:—

“(3) Unless otherwise proved, the information received in the computerized system from or on behalf of any registered person shall, for all official and legal purposes, be deemed to have been furnished by and received from such registered person.

(4) The business information gathered through computerized system shall be confidential to be used only for official and legal purposes and no unauthorized person shall claim for any access to such information.”;

(21) in section 67,—

(a) for the word “return”, the words, “refund claim” shall be substituted; and

(b) for the words and figure “in section 10 from the date”, the words and comma “as aforesaid,” shall be substituted;

(22) after section 75, the following new section shall be added, namely:—

“76. Federal Board of Revenue.-- Any reference to the Central Board of Revenue, wherever occurring in the Sales Tax Act, 1990 and rules or notifications made thereunder shall be construed to a reference to the Federal Board of Revenue from the commencement of Federal Board of Revenue Act, 2007.”

(23) in the Sixth Schedule,—

(a) in Table-1, in column (1),—

(i) against serial number 1,—

(1) in column (2), after the word “Animals”, the words “and live poultry” shall be added;

(2) in column (3), the figures, and comma “0105.9200, 0105.9300”, the figures, “0105.9400” shall be substituted;

(ii) against serial number 2, in column (2) and (3), for the existing entries the following shall be substituted, namely:-

“Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or otherwise, preserved	02.01, 02.02 and 02.04.”;
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- (iii) for serial number 3 and the entries relating thereto in columns (2) and (3), the following shall be substituted, namely:-

“3. Fish and crustaceans excluding live 03.02,
fish whether or not fresh, frozen or 03.03,
otherwise preserved. 03.04,
03.05 &
03.06”;

- (iv) against serial number 12, in column (2), for and words and comma “and tubers, etc”, the comma and words “, roots and the like” shall be substituted;
- (v) against serial number 13, in column (3), for the figures and comma “0709.5200, 0709.5900”, the figures and comma “0709.5910, 0709.5990” shall be substituted;
- (vi) against serial number 15, in column (3), the figures and comma “0810.3000,” shall be omitted;
- (vii) in serial number 19,—

- (a) for the entry relating thereto in columns (2), the following shall be substituted, namely:-

“Cereals and products of milling industry.”

- (b) in column (3), for the words and figures “and respective headings of 1104”, the figures, commas

and word “1104.2200, 1104.2300, 1104.2900 and 1104.3000” shall be substituted;

(viii) against serial number 20, in column (3), the figures and comma “1209.2600,” shall be omitted;

(ix) against serial number 24,

(i) in column (2),—

(A) after the word “collected”, the words “by a registered manufacturer or importer” shall be inserted; and

(B) after the existing entry, amended as aforesaid, the following explanation shall be inserted, namely:-

“Explanation.— Exemption of this entry shall not be available to distributors, wholesalers or retailers.”;

(ii) in column (3), the figures and commas “15119010,” and “1517.1000,” wherever occurring, shall be omitted;

(x) against serial number 25, the entry relating thereto in column (3), the following shall be substituted, namely:-

(vi) “1901.1000,1901.9020

and 1901.9090”;

(xi) against serial number 28, in column (3), for the figures, commas and words “2306.7000, 2309.9000 and respective headings of 29.36”, the figures, commas and word “2309.9010, 2309.9020, 2309.9090, 2936.2100, 2936.2200, 2936.2300, 2936.2400, 2936.2500, 2936.2600, 2936.2700 and 2936.2800” shall be substituted;

(xii) after serial number 29 and the entries relating thereto in columns (2) and (3), the following two new serial numbers shall be inserted, namely:-

“29A.	Surgical tapes	30.05
29B.	Ultrasound gel	3006.7000
29C.	Glass bangles	7020.0090”;

(xiii) for serial number 30 and the entries relating thereto in columns (2) and (3), the following shall be substituted, namely:-

“30.	Diapers for adults (patients)	4818.4010”;
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(xiv) against serial number 31, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“4901.9910, 8523.2100, 8523.2910, 8523.2990,
8523.4010, 8523.4030, 8523.4090, 8523.5100,
8523.5200, 8523.5910, 8523.5990, 8523.8010,
8523.8020 and 8523.8090”;

(xv) against serial number 35, for the entry relating thereto in column (2), the following shall be substituted, namely:-

“Building blocks of cement.”;

(xvi) against serial number 36, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“7106.1000, 7106.9110 and 7106.9190”;

(xvii) against serial number 37, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“7108.1100.7108.1210 and 7108.1290”;

(xviii) against serial number 38, in column (3), after the figures “7108.2000”, the word, figures “and 7108.2090” shall be added;

(xix) against serial number 41, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“8523.2990, 8523.4010, 8523.4090, 8523.5990 and 8523.8090”;

(xx) against serial number 44, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“8901.2000, 8901.3000 and 8901.9000”;

(xxi) against serial number 45,—

(i) in column (2), the word “imported” shall be omitted;
and

(ii) in columns (3), for the figures “9201.3900”, the figures “9021.3900” shall be substituted;

(xxii) against serial number 46, for the entry relating thereto in column (2), the following shall be substituted, namely:-

“Goods imported by various agencies of the United Nations, diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts and, Orders, rules and regulations made thereunder; and agreements by the Federal Government provided that such goods are

charged to zero-rate of customs duty under Customs Act, 1969 (IV of 1969), and the conditions laid therein”;

(xxiii) against serial number 60, in column (3), for the words “Respective headings”, the figures word “3926.9020 and 4014.1000” shall be substituted;

(xxiv) against serial number 69, for the entry relating thereto in column (3), the following shall be substituted, namely:-

“8701.9010, 8701.9020, 8429.1900 and 8433.5100”;

(xxv) for serial number 70 and the entries relating thereto in columns (2) and (3), the following shall be substituted, namely:-

“70. Import and supply of 8702.9010 and
fully dedicated CNG 8702.9090”;
Euro-2 buses whether in
CBU or CKD condition.

(b) in Table-2, in columns (1),—

(i) against serial number 3, in column (2), the words “other than cottonseed” shall be omitted;

- (ii) for serial number 3 and the entries relating thereto in columns (2) and (3), the following shall be substituted, namely:-

“3. Supplies made by (a) Respective cottage industry; and (b) headings.”; retailers whose annual turnover from supplies, whether taxable or otherwise, made in any tax period during the last twelve months ending any tax period does not exceed rupees five million.

31. Amendment of Act XLII of 1997 – The following further amendments shall be made in the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997), namely:-

- (i) in section 12,-
- (a) in sub-section (1) for the word “nine” the word “ten” shall be substituted;
- (b) in sub-section (2) –

(i) in clause (a) for the word “five” the word “six” shall be substituted;

(ii) sub-clause (i) shall be re-numbered as sub-clause “ia” and before sub-clause (ia) re-numbered as aforesaid, the following new sub-clause shall be inserted, namely: -

“(i) *ex officio* the Finance Minister or, in his absence, the Adviser to Prime Minister on Finance, as the case may be;”;
and

(c) for sub-rule (7), the following shall be substituted, namely: -

“The Finance Minister or, as the case may be, the Adviser to Prime Minister on Finance shall be the Chairman of the Board who shall, in the event of a tie, have a casting vote.”.

(2) in section 20, in sub-section (4), after clause (j), the following new clause shall be inserted, namely: -

“(ja) regulating professionals who provide services within the financial services markets;”;

(3) in section 29, in sub-section (1), after the word “Act”, at the end, the word “or any other law administered by the Commission” shall be added;

(4) in section 33, for sub-section (1), the following shall be substituted, namely: -

“(1) Except as otherwise provided any person aggrieved by an order of the Commission passed by one Commissioner or an officer authorized in this behalf by the Commission, may within thirty days of the order, prefer an appeal to an Appellate Bench of the Commission constituted under sub-section (2):

Provided that no appeal shall lie against -

- (a) an administrative direction given by a Commissioner or an officer of the Commission;
 - (b) an order passed in exercise of the powers of revision or review;
 - (c) a sanction provided or decision made by a Commissioner or an officer of the Commission to commence legal proceedings in a court of law; and
 - (d) an interim order which does not dispose of the entire matter.”;
- (5) in section 40, in sub-section (1), after the word “Act”, at the end, the words “or the functions of the Commission specified in sub-section (4) of section 20” shall be added.
- (6) after section 40, the following new sections shall be inserted, namely: -

“40A Penalty for violation of rules and regulations.- (1) Any rule made under section 39 or regulation made under section 40 may provide that a contravention thereof shall be punishable with a fine which may extend to ten million rupees and, where the contravention is a continuing one, with a further fine which may extend to one hundred thousand rupees for every day after the first during which such contravention continues.

(2) A fine under sub-section (1) shall be imposed by the Commission after providing a reasonable opportunity of being heard to the party.;

40B. Power of the Commission to issue directives, circulars, guidelines, etc.- The Commission shall have the power to issue such directives, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Act, the rules and regulations made thereunder and all laws administered by it.”; and

(7) after section 42, the following new section shall be inserted, namely: -

“42A. Indemnity.- No suit, prosecutions or other legal proceedings shall lie against the Commission, Commissioners, officers, members and officer or any employee of the Commission for anything done in good faith or intended to be done in pursuance of this Act or any administered legislation or any rule or regulation made there under.”.

32. Amendment of section 20, Ordinance XXXII of 2000.- In the Khushhali Bank Ordinance, 2000 (XXXII of 2000), in section 20, in sub-section (2), for the words “another three years”, the words “a similar term or terms” shall be substituted.

33. Amendment of Ordinance XXXIX of 2000. – The following further amendments shall be made in the Insurance Ordinance, 2000 (XXXIX of 2000), namely:-

1. in section 32, in sub-section (1),-

(a) in clause (c) the words “not to be admissible assets” be omitted;
and

- (b) in clause (d) , the comma, brackets, letter and figure “being assets referred to in clause (g) of sub-section (2)” shall be omitted.
- 2. in section 42, -
 - (a) sub-section (1) shall be omitted: and
 - (b) in sub-section (3) for the brackets and figure “(1)” the brackets and figure “(2)” shall be substituted.
- 3. in section 43,-
 - (a) in sub-section (1), after the word “insurer” the words and letters “having reinsurance with Pakistan Re-insurance Company Ltd.,” shall be inserted ; and
 - (b) for the brackets and figure “(1)” wherever occurring the brackets and figure “(2)” shall be substituted;
- 4. in section 44,- in the marginal note, after the word “ compulsory” the word “surplus” shall inserted;
- 5. in section 59,- after sub-section (3) the following new sub-section shall be inserted, namely:-
 - “(4). Power of the Commission to undertake on-site inspection of insurance companies:-

- (a) The Commission may undertake on-site inspections of an insurer to ensure that the requirements of sound and prudent management are being fulfilled by the insurer and the insurer is complying with the requirements of the ordinance and the rules made there under.
- (b) On-site inspections shall be conducted with such frequency as the commission may deem appropriate.
- (c) All officers and agents of the company, including lawyers, auditors and actuaries shall supply all information, documents and assistance that may be required by the Commission in the course of the inspection.
- (d) The inspectors shall have the right to enter any company premises during conduct of the inspections, and may search, seize, take possession of any record, object, article, material whether electronic or otherwise, account books or other documents, including any travel or other personal documents which may be used as evidence.
- (e) Except where the Commission believes that the record may be destroyed by the insurer, the Commission shall give two week written notice to the insurer before undertaking an on-site inspection.”

(a) in sub-section (1) for the words and comma “to have the charge of an insurer, the Commission shall make a report of the fact to the Tribunal” the words and comma “the Commission may make an order that such person shall cease to hold the office with the insurer with effect from such date as may be specified in the order, and thereupon that office shall, with effect from the said date, become vacant provided that for public section insurance company or corporation i.e. National Insurance Company Ltd., Pakistan Re-insurance Company Ltd., and State Life Insurance Corporation of Pakistan the Commission may make a recommendation only to the Federal Government for the purpose” shall be substituted;

(b) sub-section (2) shall be omitted; and

(c) in sub-section (3) and (4) for the brackets and figure “(2)” the brackets and figure “(1)” and for the word “Tribunal” the word “Commission” shall be substituted.

7 in section 156,- after the words “Ordinance” occurring for the second time the words and comma “ or any direction made by the Commission, the Commission shall have the power to levy fine on the insurer” shall be inserted.

8 in section 158,-

- (a) the words and comma “with imprisonment for a term which may extend to three years, or” shall be omitted;
- (b) after the word “punishable” the words “by the Commission” shall be inserted; and
- (c) the comma and the words “, or with both” shall be omitted: and

9 in section 172,- the proviso shall be omitted.

34. Amendment of the Income Tax Ordinance, XLIX of 2001.— The following further amendments shall be made in the Income Tax Ordinance, 2001 (XLIX of 2001), namely:—

(1) in section 2,-

- (a) in clause (1A) after the word “undertakings” the words “or companies engaged in providing services and not being a trading company or companies” shall be inserted;
- (b) in clause (19A),-
 - (i) for the words “has obtained” the word “holds” shall be substituted; and
 - (ii) after the word “Number” the words “or Computerized National Identity Card” shall be inserted;

- (c) after clause (45), the following new clauses shall be inserted, namely:-

“(45A) “Private Equity and Venture Capital Fund” means a fund registered with the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007;

(45B) “Private Equity and Venture Capital Fund Management Company” means a company licensed by the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007;”;

- (d) in clause (59A),-

- (i) after paragraph (i), the following new paragraph shall be inserted, namely,-

“(ia) has employees not exceeding two hundred and fifty any time during the year;” and

- (ii) in paragraph (ii), after the word “hundred” the words “and fifty” shall be inserted;

- (2) in section 18, in sub-section (4), after the word “fund” the words “or a Private Equity and Venture Capital Fund” shall be inserted;

- (3) in section 49, in sub-section (3), for the full stop, at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

Provided that exemption under this section shall not be available in the case of a corporation, company, a regulatory authority, a development authority or other body or institution established by or under a Federal law or a Provincial law or an existing law or a corporation, company or other body or institution set up, owned and controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of such income, as laid down in Article 165A of the Constitution of the Islamic Republic of Pakistan.”;

- (4) after section 56, the following new section shall be inserted, namely:-

“56A Set off of losses of companies operating hotels.- Subject to sections 56 and 57, where a company registered in Pakistan or Azad Jammu and Kashmir (AJ&K), operating hotels in Pakistan or AJ&K, sustains a loss in Pakistan or AJ&K for any tax year under the head “income from business” shall be entitled to have the amount of the loss set off against the company's income in Pakistan or AJ&K, as the case may be, for the year.”;

- (5) in section 57A, for sub section (1), the following shall be substituted, namely:-

“(1) The assessed loss for the tax year, other than brought forward and capital loss, of the amalgamating company or companies shall be set off against business profits and gains of the amalgamated company, and vice versa, in the year of amalgamation and where the loss is not adjusted against the profits and gains for the tax year the unadjusted loss shall be carried forward for adjustment upto a period of six tax years succeeding the year of amalgamation.”.

- (6) after section 59A, the following new section shall be inserted, namely:-

“59AA. Group taxation. – (1) Holding companies and subsidiary companies of 100% owned group may opt to be taxed as one fiscal unit. In such cases, besides consolidated group accounts as required under the Companies Ordinance, 1984 (XLVII of 1984), computation of income and tax payable shall be made for tax purposes.

(2) The companies in the group shall give irrevocable option for taxation under this section as one fiscal unit.

(3) The group taxation shall be restricted to companies locally incorporated under the Companies Ordinance, 1984 (XLVII of 1984).

(4) The relief under group taxation would not be available to losses prior to the formation of the group.

- (5) Accounts of the group companies shall be prepared and audited by a Chartered Accountant as prescribed for listed companies under the Companies Ordinance, 1984 (XLVII of 1984).
- (6) Group taxation may be regulated through rules as may be made by the Central Board of Revenue.”;
- (7) for section 59B, the following shall be substituted, namely:-

“59B. Group relief. – (1) Subject to sub-section (2), any company, being a subsidiary of a holding company, may surrender its assessed loss (excluding capital loss) for the tax year (other than brought forward losses and capital losses), in favour of its holding company or between subsidiaries of the holding company:

Provided that such holding company being a public company listed on a registered stock exchange in Pakistan, directly acquires fifty-five per cent or more of the share capital of the subsidiary company. Where none of the companies in the group is a listed company, the holding company shall acquire seventy-five per cent or more of the share capital of the subsidiary company.

- (2) The loss surrendered by the subsidiary company may be claimed by the holding company or a subsidiary company for set off against its income under the head “income from Business” in the tax year and the following two tax years subject to the following conditions, namely:-

- (a) there is continued ownership for five years, of share capital of the subsidiary company to the extent of fifty-five per cent in the case of a listed company, or seventy-five per cent or more, in the case of other companies;
- (b) none of the group companies is engaged in the business of trading;
- (c) holding company, being a private limited company with seventy-five per cent of ownership of share capital gets itself listed within three years from the year in which loss is claimed;
- (d) the group companies are locally incorporated companies under the Companies Ordinance, 1984 (XLVII of 1984);
- (e) the loss surrendered and loss claimed under this section shall have approval of the Board of Directors of the respective companies;
- (f) the subsidiary company continues the same business during the said period of three years;
- (g) accounts of the group companies are prepared and audited by a Chartered Accountant as prescribed for listed companies under the Companies Ordinance, 1984 (XLVII of 1984); and

(h) the group companies observe Code of Corporate governance as provided in the Companies Ordinance, 1984 (XLVII of 1984).

(3) The subsidiary company shall not be allowed to surrender its assessed losses for set off against income of the holding company for more than three tax years.

(4) Where the losses surrendered by a subsidiary company are not adjusted against income of the holding company in the said three tax years, the subsidiary company shall carry forward the unadjusted losses in accordance with section 57.

(5) If there has been any disposal of shares by the holding company during the aforesaid period of five years to bring the ownership of the holding company to less than fifty-five per cent or seventy-five per cent, as the case may be, the holding company shall, in the year of disposal, offer the amount of profit on which taxes have not been paid due to set off of losses surrendered by the subsidiary company.

(6) Loss claiming company may, with the approval of the Board of Directors, transfer cash to the loss surrendering company equal to the amount of tax payable on the profits to be set off against the acquired loss. The transfer of cash would not be taken as a taxable event in the case of either of the two companies.

- (7) The transfer of shares between companies and the share holders, in one direction, would not be taken as a taxable event provided the transfer is to acquire share capital for formation of the group and approval of the Security and Exchange Commission of Pakistan or State Bank of Pakistan, as the case may be, has been obtained in this effect. Sale and purchase from third party would be taken as taxable event.”;
- (8) in section 62, in sub-section (2), in paragraph C, in clause (c), for the word “two” the word “three” shall be substituted;
- (9) in section 92,-
- (i) in sub-section (1), the words, brackets, figure and comma “Subject to sub-section (2),” shall be omitted; and
 - (ii) sub-sections (2), (3), (4)) and (5) shall be omitted;
- (10) section 93, shall be omitted;
- (11) in section 95, in sub-section (2), in clause (b), in sub-clause (ii), the words “at fair market value” shall be omitted;
- (12) in section 96, in sub-section (2), in clause (b), in sub-clause (ii), the words “at fair market value” shall be omitted;
- (13) in section 97, in sub-section (2), in clause (b), in sub-clause (ii), the words “at fair market value” shall be omitted;
- (14) after section 97, following new section shall be inserted, namely:-

“97A. Disposal of asset under a scheme of arrangement and reconstruction.”-(1) No gain or loss shall be taken to arise on disposal of asset from one company (hereinafter referred to as the “transferor”) to another company (hereinafter referred to as the “transferee”) by virtue of operation of a Scheme of Arrangement and Reconstruction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 (XLVII of 1984) or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962), if the following conditions are satisfied, namely:-

- (a) the transferee must undertake to discharge any liability in respect of the asset acquired;
- (b) any liability in respect of the asset must not exceed the transferor’s cost of the asset at the time of the disposal;
- (c) the transferee must not be exempt from tax for the tax year in which the disposal takes place; and
- (d) scheme is approved by the High Court, State Bank of Pakistan or Securities and Exchange Commission of Pakistan, as the case may be, on or after first day of July, 2007.

(2) No gain or loss shall be taken to arise on issue, cancellation, exchange or receipt of shares as a result of scheme of arrangement and reconstruction under sections 282L and 284 to 287 of the companies Ordinance, 1984 (XLVII of 1984)

or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962) and approved by:

- (i) the High Court;
- (ii) State Bank of Pakistan; or
- (iii) Securities and Exchange Commission of Pakistan,

as the case may be, on or after first day of July, 2007.

(3) Where sub-section (1) applies –

(a) the asset acquired by the transferee shall be treated as having the same character as it had in the hands of the transferor;

(b) the transferee's cost in respect of acquisition of the asset shall be-

(i) in the case of a depreciable asset or amortised intangible, the written down value of the asset or intangible immediately before the disposal;

(ii) in the case of stock-in-trade valued for tax purposes under sub-section (4) of section 35 that value; or

(iii) in any other case, the transferor's cost at the time of the disposal;

(c) if, immediately before the disposal, the transferor has deductions allowed under sections 22, 23 and 24 in respect of the asset

transferred which have not been set off against the transferor's income, the amount not set off shall be added to the deduction allowed under those sections to the transferee in the tax year in which the transfer is made.

(4) In determining whether the transferor's deductions under sections 22, 23 or 24 in respect of the asset transferred have been set off against income for the purposes of clause (c) of sub-section (2), those deductions shall be taken into account last.

(5) Where sub-section (2) applies and the shares issued vested by virtue of the Scheme of Arrangement and Reconstruction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 (XLVII of 1984) or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962) and approved by the Court or State Bank of Pakistan or Securities and Exchange Commission of Pakistan as the case may be, are disposed of, the cost of shares shall be the cost prior to the operation of the said scheme.”;

(15) after section 100, the following new section shall be inserted, namely:-

“(100A) **Special provisions relating to banking business.-** (1) Subject to sub-section (2), the income, profits and gains of any banking company as defined in clause (7) of section 2 and tax payable thereon shall be computed in accordance with the rules in the Seventh Schedule.

(2) Sub-section (1) shall apply to the profits and gains of the banking companies relevant to tax year 2008 and onwards.”;

(16) in section 113A, in sub-section (3), for the brackets and figure “(2)”, the brackets and figure “(1)”, shall be substituted and after full stop, the words “The retailer shall not be entitled to claim any adjustment of withholding tax collected or deducted under any head during the year.” shall be inserted;

(17) in section 113B,

(i) for the words “rate of one per cent of turnover for a tax year”, the words “following rates” shall be substituted;

(ii) the words “at the rate of three per cent of the declared turnover”, shall be omitted; and

(iii) for the full stop at the end, a colon shall be substituted.

S.No.	Amount of turnover	Rate of tax
1.	Where turnover exceeds Rs.5,000,000 but does not exceed Rs.10,000,000	Rs.25,000 plus 0.5% of the turnover exceeding Rs.5,000,000
2.	Where turnover	Rs. 50,000 plus

exceeds	0.75% of the
Rs.10,000,000	turnover exceeding
	Rs.10,000,000.

(iv) The retailer shall not be entitled to claim any adjustment of withholding tax collected or deducted under any head during the year”

(18) in section 114, in sub-section (2A), after the word “signatures”, the words and comma “and other matters relating to electronic filing of returns, statements or documents etc.” shall be inserted;

(19) in section 116,-

(a) in sub-section (1), for the words, brackets, figure, comma and word “subject to sub-section (2), the” the word “The” shall be substituted; and

(b) in sub-section (2), after the word “income” occurring for the second time, the words “or the declared income for the year” shall be inserted;

(20) in section 130, in sub-section (4), after the word “Commissioner” the words “or Commissioner of Income Tax or Commissioner of Income Tax (Appeals) having at least five years experience as a Commissioner” shall be inserted;

(21) in section 147,-

(a) after sub-section (4A), the following new sub-section shall be inserted, namely:-

“(4AA) Tax liability under section 113 shall also be taken into account while working out payment of advance tax liability under this section.”; and

- (b) after sub-section (6), the following new sub-section shall be inserted, namely:-

“(6A) Notwithstanding anything contained in this section, where the taxpayer is a company, advance tax shall be payable in the absence of last assessed income also. The taxpayer shall estimate the amount of advance tax payable on the basis of estimated quarterly accounting profit of the company and thereafter pay such amount after:

- (i) taking into account tax payable under section 113 as provided in sub-section (4AA);
- (ii) making adjustment for the amount (if any) already paid.”;

- (22) in section 148,-

- (a) for sub-section (2), the following shall be substituted, namely:-

“(2) Nothing contained in sub-section (1) shall apply to any goods or class of goods or persons or class of persons importing such goods or class of goods as may be specified by the Central Board of Revenue.”;

- (b) sub-sections (3) and (4) shall be omitted;

(c) for sub-section (4A), the following shall be substituted, namely:-

“(4A) Where, in the case of a person (other than covered by PTR), the Commissioner is satisfied that such person is not likely to pay any tax (other than tax under section 113), the Commissioner shall, upon application in writing made by such person, issue the person certificate of exemption from the tax collectable under section 148;

(d) in sub-section (7),-

(i) in clause (c), for the word “car” occurring twice, the words “motor vehicles” shall be substituted; and

(ii) after clause (c), the following new clauses shall be added, namely:-

“(d) large import houses, who-

(i) have paid-up capital of exceeding Rs.100 million;

(ii) have imports exceeding Rs.500 million during the tax year;

(iii) own total assets exceeding Rs.100 million at the close of the tax year;

(iv) is single object company;

(v) maintain computerized records of imports and sale of goods;

- (vi) maintain a system for issuance of 100% cash receipts on sales;
 - (vii) present accounts for tax audit every year;
 - (viii) is registered with Sales Tax Department; and
 - (ix) made sales to only Sales Tax registered persons.”;
- and
- (e) in sub-section (9), in the definition of “value of goods” after the words “customs-duty”, the comma and the words “, Federal Excise Duty”, shall be inserted and shall be deemed always to have been so inserted and shall have effect accordingly;
- (23) in section 149, in sub-section (1),-
 - (a) for the words “such adjustment” the words “adjustment of tax withheld from employee under other heads and tax credit admissible under sections 61, 62, 63 and 64 during the tax year after obtaining documentary evidence” shall be substituted;
 - (b) after the word “for”, occurring for the second time, a colon shall be inserted; and
 - (c) for the words “any excess deduction or deficiency arising out of any previous deduction or failure to make a deduction during the year” the following shall be substituted, namely:-

- (i) tax withheld from the employee under this Ordinance during the tax year;
 - (ii) any excess deduction or deficiency arising out of any previous deduction; or
 - (iii) failure to make deduction during the year;”;
- (24) in section 152, in sub-section (2), after the brackets and figure “(1)” the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;
- (25) in section 153,-
 - (i) sub-section (1A), shall be omitted;
 - (ii) in sub-section (4), the word, brackets and figure “or (3)” shall be omitted;
 - (iii) in sub-section (5), after clause (ba), the following new clause shall be inserted, namely:-

“(bb) a cotton ginner who deposits in the Government Treasury, an amount equal to the amount of tax deductible on the payment being made to him, and evidence to this effect is provided to the “prescribed person;”;
 - (iv) in sub-section (6), in the proviso, for the full stop, at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

“Provided further that this sub-section shall not apply to payments received on account of-

(i) advertisement services, by owners of newspapers and magazines;

(ii) sale of goods and execution of contracts by a public company listed on a registered stock exchange in Pakistan.”;

(v) after sub-section (6A), the following new sub-section shall be added, namely:-

“(6B) The provisions of sub-section (6) in so far as they relate to payments on account of sale of goods from which tax is deductible under this section shall apply on account of an individual and AOP.

This sub-section shall be applicable from tax year 2007”; and

(vi) sub-section (8A), shall be omitted;

(26) in section 154, in sub-section (4), for the words “export or sale to an exporter” the words “transactions referred to in this section” shall be substituted;

(27) in section 169, in sub-section (3), after the figure “5”, the brackets, words, figure and letter “(other than inter-corporate dividend within group companies as referred in section 59B)” shall be inserted;

(28) in section 181, in sub-section (3), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the Board may in the case of individuals allow use of Computerized National Identity Card in place of National Tax Number.”;

(29) after section 231A, the following new section shall be inserted, namely,-

“231B. **Purchase of motor cars,-** (1) Every manufacturer or authorized dealer of motor cars shall at the time of sale of a motor car, collect advance tax at the rate specified in Division VIII of Part IV, of the First Schedule.

(2) Advance tax under this section shall not be collected in the case of purchase made by-

(i) the Federal Government or a Provincial Government; or

(ii) a foreign diplomat or diplomatic mission in Pakistan”;

(30) after section 234, the following new section shall be inserted, namely:-

“234A **CNG Stations.-** (1) There shall be collected advance tax at the rate specified in Division VII of Part IV of the First Schedule on the amount of gas bill of a Compressed Natural Gas station.

(2) The person preparing gas consumption bill shall charge advance tax under sub-section (1) in the manner gas consumption charges are charged.

(3) The tax collected under this section shall be a final tax on the income of a CNG station arising from the consumption of the gas referred to in sub-section (1).”;

(31) in section 235, after sub-section (3), the following new sub-section shall be added, namely:-

“(4) The tax collected under this section shall be minimum tax on the income of a person (other than a company). There shall be no refund of the tax collected under this section, unless the tax so collected is in excess of the amount for which the taxpayer is chargeable under this Ordinance in the case of a company.”;

(32) after section 239, the following new section shall be inserted, namely:-

“239A. **Transition to Federal Board of Revenue.**- Any reference to the Central Board of Revenue, wherever occurring, in this Ordinance and the rules made thereunder and Notifications, Orders, or any other instrument issued thereunder shall be construed as a reference to the Federal Board of Revenue on the commencement of the Federal Board of Revenue Act, 2007.”;

(33) in the First Schedule,-

(i) in Part I,-

- (a) in Division IA, for the figure and sign “0.75%” the figure and sign “0.50%” shall be substituted;
- (b) in Division II,-
 - (i) for clause (i), the following shall be substituted, namely:-
 - “(i) The rate of tax imposed on the taxable income of a company for the tax year 2007 and onward shall be 35%”;
 - (ii) in clause (ii), for the words “the public” the word “a” shall be substituted;
- (c) in Division III,-
 - (i) after the words “shall be”, the figure, sign and full stop “10%.” shall be inserted; and
 - (ii) clauses (a) and (b) shall be omitted;
- (ii) in Part II,-
 - (a) for the figure “6” the figure “5” shall be substituted; and
 - (b) after the word “good”, the words “including polyester filament yarn” shall be added;
- (iii) in Part III,-

- (a) in Division III, for clause (2), the following shall be substituted, namely:-

“(2) The rate of tax to be deducted from a payment referred to in clause (b) of sub-section (1) of section 153 shall be –

- (i) in the case of transport services, two per cent of the gross amount payable; or
- (ii) in any other case, six per cent of the gross amount payable.

- (b) in Division IV, for clause (1) and the table, the following new clause shall be substituted, namely:-

“(1) The rate of tax to be deducted under sub-section (1), (3), (3A) or (3B) of section 154 shall be 1% of the proceeds of the export.”;

- (c) after Division VIA, the following new Division shall be added, namely:-

“Division VIB

CNG STATIONS

The rate of tax to be collected under section 234A in the case of a Compressed Natural Gas station shall be six per cent of the gas consumption charges.”;

- (iv) in Part IV, after Division VII, the following new Division shall be added, namely:-

“Division VIII

PURCHASE OF MOTOR CARS

The rate of tax to be collected under section 231B shall be 5 per cent of the gross amount payable for the purchase of motor vehicle.”;

- (34) in the Second Schedule,-

- (i) in Part I,-

- (a) in clause (57), in sub-clause (2), after the word “trust” occurring for the first time, the words “or Private Equity and Venture Capital Fund” shall be inserted;
- (b) in clause (66), after sub-clause (xvii), the following new sub-clause shall be added, namely:-

“(xviii) Micro Finance Banks for a period of five years starting from first day of July 2007:

Provided such banks shall not issue dividends to their share holders and their profit and gain (if any) shall be utilized for Micro Finance Operations only.”;

- (c) in clause (99), after the word “income” occurring for the first time the words “except income arising from Continuous Funding System (CFS)” shall be inserted; and
- (d) after clause (99), the following new clause shall be inserted, namely:-

“(99A) Profits and gains accruing to a person on sale of immovable property to a real estate investment trust upto thirtieth day of June, 2010.”;

- (e) in clause (101), after the figure “2000” occurring for the second time, the words “and a Private Equity and Venture Capital Fund” shall be added;
- (f) in clause (103), after the figures “2003” the words “or a Private Equity and Venture Capital Fund” shall be inserted;
- (g) in clause (110), for the figures “2007”, the figures “2008” shall be substituted;
- (h) after clause (110), the following new clauses shall be inserted, namely:-

“(110A) Any gain on transfer of a capital asset of the existing stock exchanges to new corporatized stock exchange, in the course of corporatization of an existing stock exchange.

(110B) Any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.”;

(i) in clause 132,-

(a) in second proviso, for the full stop, the colon shall be substituted; and

(b) after second proviso amended as aforesaid, the following new proviso shall be added, namely:-

“Provided further that the exemption under this clause shall be available to companies registered in Pakistan or Azad Jammu and Kashmir owning and managing Hydel Power Projects, set up in Azad Jammu and Kashmir or Pakistan.”;

(j) in clause (133A), for the figures “2007” the figures “2008” shall be substituted;

(ii) in Part II,-

- (a) in clause (3), the words “or construction contracts” shall be omitted;
- (b) after clause (3) amended as aforesaid, the following new clause shall be inserted, namely:-

“(3A) The tax in respect of income from construction contracts outside Pakistan shall be charged at the rate of one per cent of the gross receipts provided that such income is brought into Pakistan in foreign exchange through normal banking channel.”;

- (c) after clause (5), the following new clauses shall be inserted, namely:-

“(5A) The rate of withholding tax in respect of payments for profit on debt payable to a non-resident person, having no permanent establishment in Pakistan, shall be the rate as provided in Avoidance of Double Taxation Treaty of the respective country of the non-resident.

(5B) The tax in respect of capital gains derived by a person from the sale of shares or assets by a private limited company to Private Equity and Venture Capital Fund shall be charged at the rate of ten per cent of such gains.”;

- (d) for clause (13), the following new clause shall be substituted, namely:-

“(13) Tax under section 148 shall be collected at the rate of 1% on imports of capital goods and raw material (other than polyester filament yarn) imported exclusively for its own use by a manufacturer registered with Sales Tax Department.”;

- (e) in clause (13H),-

(i) after the word “duty” comma and words “Federal Excise Duty” shall be inserted;

(ii) in sub-clause (ii), the word “and” shall be omitted;

(iii) in sub-clause (iii), for the full stop at the end, semi colon shall be substituted; and

(iv) after sub-clause (iii) amended as aforesaid, the following new sub-clauses shall be added, namely:-

“(iv) edible oils including crude oil imported as raw material for manufacture of ghee or cooking oil;

(v) Energy saver lamps [PCT heading 8539.10];

(vi) Bitumen [PCT heading 2714];

(vii) Fixed Wireless Terminal [PCT heading 8525.2040];

- (viii) Pesticides and weedicides.”;
- (f) clauses (22), (25) and (27) shall be omitted;
- (iii) in Part IV,-
 - (a) in clause (11), in sub-clause (xii),-
 - (i) for the word “and”, comma shall be substituted; and
 - (ii) after the word “fund”, the word “and Private Equity and Venture Capital Fund” shall be inserted;
 - (b) in clause (33), after the figure “2006” occurring for the last time, the words “or a Private Equity and Venture Capital Fund” shall be added;
 - (c) after clause (41A),- the following new clause shall be inserted, namely:-

“(41B) The provisions of sub-section (2) of section 152 shall not apply in respect of payments to foreign news agencies, syndicate services and non-resident contributors, who have no permanent establishment in Pakistan.”;
 - (d) in clause (43A), after the word “person” appearing for the first time, the words “including Permanent Establishment of Non-resident Petroleum Exploration and Production (E&P) Companies” shall be inserted;

- (e) after clause (43A) amended as aforesaid, the following new clause shall be inserted, namely:-

“(43B) The provisions of clause (a) sub-section (1) of section 153 shall not apply to payments received on sale of air tickets by traveling agents, who have paid withholding tax on their commission income.”;

- (f) in clause (47B), after the figures “2006” the words “or a Private Equity and Venture Capital Fund” shall be added;

- (g) in clause (56),-

- (i) after sub-clause (xxi), the following new sub-clauses shall be added, namely:-

“(xxii) Capital goods and raw material imported by manufacturer exporter registered with Sales Tax Department as a manufacturer.

(xxiii) Petroleum (E&P) companies covered under SRO.678(I)2004 dated 07.08.2004 except motor vehicles imported by such companies.

(xxiv) Companies importing high speed diesel oil, light diesel oil, high octane blending component or motor spirit, furnace oil, JP-1, MTBE, kerosene oil, crude oil

for refining and chemical use in refining thereof in respect of such goods; and

(xxv) The re-importation of re-usable containers for re-export qualifying for customs-duty and sales tax exemption on temporary import under the Customs Notification No. S.R.O. 344(I)/95 dated the 25th day of April, 1995.”;

(h) after clause (57), the following new clause shall be inserted, namely:-

“(57A) The provisions of sections 153 and 169 shall not apply to large import houses:

Provided that the exemption under this clause shall not be available if any of the conditions provided in section 148 are not fulfilled for a tax year;

(35) in the Fourth Schedule, in clause (6A) for the figures “2007”, the figures “2008” shall be substituted;

(36) for the Seventh Schedule, the following new Schedule shall be substituted, namely:-

“THE SEVENTH SCHEDULE

(See section 100A)

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF A BANKING COMPANY AND TAX PAYABLE THEREON

1. Income, profits and gains of a banking company shall be taken to be the balance of the income, from all sources before tax, disclosed in the annual accounts required to be furnished to the State Bank of Pakistan subject to the following provisions, namely:-

- (a) Deduction shall be allowed in respect of depreciation, initial allowance and amortization under sections 22, 23, and 24 provided that accounting depreciation, initial allowance or amortization deduction shall be added to the income. No allowance or deduction under this rule shall be admissible on assets given on finance lease.
- (b) Section 21, sub section (8) of section 22, section 68 and Part III of Chapter IV shall, *mutatis mutandis*, for computation of a banking company apply.
- (c) Provisions for classified advances and off balance sheet items shall be allowed as claimed in the accounts, provided a certificate from the external auditors is furnished by the banking company to the effect that such provisions were in line with the requirements of the Prudential Regulations.
- (d) The amount claimed as expense, on account of “irrecoverable debt” classified under the Prudential Regulations issued by the State Bank of Pakistan as “substandard”, shall not be allowed.

- (e) Where any addition made under paragraph (d) is reclassified by the taxpayer as 'doubtful' or 'loss', under the Prudential Regulations issued by the State Bank of Pakistan, a deduction shall be allowed in computing the income for that tax year.
 - (f) Where any addition made under paragraph (d) is reclassified by the taxpayer in a subsequent year as 'recoverable', a deduction shall be allowed in computing the income for that tax year.
 - (g) Adjustment made in the annual accounts, on account of application of international accounting standards 39 and 40 shall be excluded in arriving at taxable income.
 - (h) An adjustment shall be made for exclusions from income on account of paragraph (g) for determining the cost of related item in the financial statement in the year of disposal of such item or asset or the discharge of the liability, as the case may be.
2. (1) Where a deduction is allowed for any expenditure (other than on account of charge for irrecoverable debt) in the manner referred to in rule 1 and the liability or a part of the liability to which the deduction relates is not paid within three years of the end of the tax year in which the deduction was allowed, the unpaid amount of the liability shall be chargeable to tax under the head "Income from Business" in the first tax year following the end of three years.

- (2) Where an unpaid liability is chargeable to tax as a result of the application of sub-rule (i) and such liability or a part thereof is subsequently paid, a deduction shall be allowed for the amount paid in the tax year in which the payment is made.
- (3) Loss on sale of shares of listed companies shall be adjustable only against gain on sale of share of the listed companies. Where such loss is not fully set off against gain of a tax year the unadjusted loss shall be carried forward to the following tax year and set off against such gain. No loss shall be carried forward for more than six years immediately succeeding the tax year for which the loss was first computed.

3. **Treatment for 'shariah compliant banking'.**

- (1) Any special treatment for 'Shariah Compliant Banking' approved by the State Bank of Pakistan shall not be provided for any reduction or addition to income and tax liability for the said 'Shariah Compliant Banking' as computed in the manner laid down in this schedule.
- (2) A statement, certified by the auditors of the bank, shall be attached to the return of income to disclose the comparative position of transaction as per Islamic mode of financing and as per normal accounting principles. Adjustment to the income of the company on this account shall be made according to the accounting income for purpose of this schedule.

4. **Head office expenditure.**

- (1) In case of foreign banks head office expenditure shall be allowed as deduction as per the following formula, namely:-

$$\text{Head office expenditure} = (A/B) \times C$$

Where—

A is the gross receipts of permanent establishment in Pakistan;

B is the world gross receipts; and

C is the total Head Office expenditure.

- (2) The head office expenditure shall have the meaning as given in sub-sections (3) and (4) of section 105.
- (3) The head office expenditure shall only be allowed if it is charged in the books of accounts of the Permanent Establishment and a certificate from external auditors to the effect that the claim of Head Office expenditure has been made in accordance with provision of this rule is provided and are reasonable in relation to operation of the Permanent Establishment in Pakistan.

5. **Advance tax.**-

- (1) The banking company shall be required to pay advance tax for the year under section 147 in twelve equal installments payable by 15th of every month. Other provisions of section 147 shall apply as such.

- (2) Provisions of withholding tax under this Ordinance shall not apply to a banking company as a recipient of the amount on which tax is deductible.

6. **Tax on income computed.**- Income computed under this Schedule shall be chargeable to tax under the head “income from business” and tax payable thereon shall be computed at the rate applicable in Division II of Part I of the First Schedule. The income under the head “dividend” and “capital gains on sale of shares of listed companies” shall be taxed at the rate of ten per cent.

Provided that where the shares of listed companies are disposed of within one year of the date of acquisition, the gain shall be computed under section 37 and taxed at the rate provided in Division II of Part I of the First Schedule.

7. The provisions of section 113 shall apply to banking companies as they apply to any other resident company.

8. **Exemptions.**- (1) Exemptions and tax concessions under the Second Schedule to this Ordinance shall not apply to income of a banking company computed under this Schedule.

(2) The provisions relating to group relief as contained in section 59B shall be available to the banking companies provided the holding and subsidiary companies are banking companies. The accounts of the group companies shall be audited by the chartered accountants firm on the panel of auditors of the State Bank of Pakistan. The surrender and claim of loss would be subject to the approval of the State Bank of Pakistan.

(3) The holding and subsidiary companies of 100% owned group of banking companies may opt to be taxed as one fiscal unit as per the provisions of section 59AA relating to group taxation subject to the approval of the State Bank of Pakistan.

9. **Provision of Ordinance to apply.**- The provisions of the Ordinance not specifically dealt with in the aforesaid rules shall apply, *mutatis mutandis*, to the banking company.

35. Amendment of Ordinance LV of 2001.- In the Microfinance Institutions Ordinance, 2001 (LV of 2001), the following further amendments shall be made, namely:-

(1) In section 6, in sub section (2),-

(a) in clause (a), after the word, “transactions”, at the end, the comma and words “,except as provided in this Ordinance” shall be added; and

(b) after clause (p), the following new clause shall be inserted; namely:-

“(pa) to receive remittances from abroad, payable only in Pakistan Rupees to beneficiaries in Pakistan subject to rules and regulations and authorization issued by State Bank of Pakistan from time to time.”; and

(2) in section 10, for sub-section (1) the following shall be substituted, namely:-

“(1) Power to prescribe paid-up capital requirements for microfinance banks shall vest in State Bank of Pakistan and no microfinance bank shall operate unless it has a minimum paid-up capital as State Bank may, from time to time, prescribe. The State Bank may prescribe varying minimum paid-up capital requirements for microfinance banks operating at district, regional, provincial, and national level.

Explanation. – For the purpose of this sub-section the expression “district” shall include the Islamabad Capital Territory and such other territories as the Federal Government may, by notification in official Gazette, specify.”.

36. Amendments of the Federal Excise Act, 2005.- In the Federal Excise Act, 2005, the following further amendments shall be made, namely:-

(1) in section 2,—

(a) after clause (8a), the following new clauses shall be inserted, namely:-

“(8b) “dutiable goods” means all excisable goods specified in the First Schedule except those which are exempt under section 16 of the Act;

(8c) “dutiabale supply” means a supply of dutiable goods made by a manufacturer other than a supply of goods which is exempt under section 16 of the Act;

(8d) “dutiabale services” means all excisable services specified in the First Schedule except those which are exempt under section 16 of the Act;”;

(b) after clause (16), the following new clause shall be inserted, namely:-

“(16a) “non-fund banking services” includes all non-interest based services provided or rendered by the banking companies or non-banking financial institutions against a consideration in the form of a fee;”;

(c) after clause (21), the following new clause shall be inserted, namely:-

“(21a) “sales tax mode” means the manner of collection and payment under the Sales Tax Act, 1990, and rules made thereunder, of the duties of excise chargeable under this Act specified to be collected and paid as if such duties were tax chargeable under section 3 of the said Act and all the provisions of that Act and rules, notifications, orders and instructions made or issued thereunder shall, *mutatis mutandis*, apply;”;

- (d) after clause (23), the following new clause shall be inserted,
namely:-

“(23a) “supply” includes sale, lease or other disposition of goods and shall include such transaction as the Federal Government may notify in the official Gazette from time to time;

- (2) in section 3,—

- (i) after sub-section (4), the following new sub-section shall be added,
namely:-

“(5) The liability to pay duty shall be—

- (a) in case of goods produced or manufactured in Pakistan, of the person manufacturing or producing such goods;
- (b) in case of goods imported into Pakistan, of the person importing such goods;
- (c) in case of services provided or rendered in Pakistan, of the person providing or rendering such service; and
- (d) in case of goods produced or manufactured in non-tariff areas and brought to tariff areas for sale or

consumption therein, of the person bringing or causing to bring such goods to tariff areas.”;

(3) in section 4,—

(a) in sub-section (1), for the words and comma “At the close of a month every registered person, after payment of the amount of duty due from him for the month”, the words and comma “For every month, a registered person” shall be substituted;

(b) for sub-section (2), the following shall be substituted, namely:-

“(2) Duty due for the dutiable supplies made or services rendered during a month shall be deposited by the registered person in the designated branch of the bank at the time of filing of his return under sub-section (1):

Provided that the Board may, by notification in the official Gazette, prescribe any other manner of depositing the duty.”; and

(c) in sub-section (7), for the word “challan”, the word “return” shall be substituted;

(4) in section 7,—

(a) after the word “Gazette”, the words and commas “the duty shall be payable in sales tax mode, whereby” shall be substituted; and

- (b) in the Explanation, the comma, words, brackets and figures “, provided that the date for payment of duty under this Act shall be the date specified under sub-section (1) of section 4” shall be omitted;
- (5) in section 10, in clause (a), for the word “cleared” the word “supplied” shall be substituted;
- (6) in section 12, in sub-section (4), after the words “inclusive of all” the word and comma “duties,” shall be inserted;
- (7) after section 14, the following new section shall be inserted, namely:-

“(14A) Short paid amounts recoverable without notice.–

Notwithstanding the provisions of this Act or the rules made thereunder, where a registered person pays the amount of duty less than the duty due as indicated in his return, the short paid amount of duty along with default surcharge shall be recovered from such person by stopping removal of any goods from his business premises and through attachment of his business bank accounts without prejudice to any other action under this Act or the rules made thereunder:

Provided that no penalty under this Act or rules made thereunder shall be imposed unless a show cause notice is given to such person.”;

- (8) in section 17, in sub-section (1), for the word “three” the word “five” shall be substituted;

(9) in section 29, in sub section (2),—

(a) in clause (a), for the words and symbol “Customs & Excise”, the letters “CBR” shall be substituted; and

(b) in clause (b), the word and symbol “of Inspection &” shall be omitted;

(10) in section 33, in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that such order shall be passed not later than ninety days from the date of filing of appeal or within such extended period, not exceeding ninety days, as the Collector (Appeals) may, for reasons to be recorded in writing, extend”;

(11) for section 38, the following shall be substituted, namely:—

“38- Alternative dispute resolution.— (1) Notwithstanding any other provisions of this Act, or the rules made thereunder, any registered person aggrieved in connection with any dispute pertaining to,—

(a) the liability of excise duty against the registered person or, as the case may be, admissibility of refunds;

(b) the extent of waiver of default surcharge and penalty;

- (c) the confiscation of goods;
- (d) relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
- (e) any other specific relief required to resolve the dispute, may apply to the Central Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application

and such dispute is under litigation in any Court of law or an Appellate authority, except in the cases where FIRs have been lodged under this Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Central Board of Revenue is involved, may apply to the Central Board of Revenue for the appointment of a Committee for the resolution of dispute in appeal and only such application may be entertained for dispute resolution under the provisions of this section.

(2) The Board may, after examination of the application of a registered person, appoint a committee within thirty days of receipt of such application in the Board, consisting of an officer of Federal excise not below the rank of an Additional Collector and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies

or associations, or any other reputable taxpayers, for the resolution of dispute.

(3) The Committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of Federal excise or any other person to conduct an audit and make recommendations within sixty days of its constitution, in respect of the resolution of the dispute as it may deem fit:

Provided that the period of sixty days stipulated for making the recommendations may be extended by the Board for another sixty days on specific request of the Committee.

(4) The Board may, on the recommendation of the Committee, pass such order, as it may deem appropriate.

(5) The registered person may make payment of duty and other taxes as determined by the Board in its order under sub-section (4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *sub-judice*, for consideration and orders as deemed appropriate.

(12) after section 48, the following new section shall be added, namely:—

“49. Federal Board of Revenue.-- Any reference to the Central Board of Revenue, wherever occurring in the Federal Excise Act, 2005, and the Rules or notifications or other statutory instruments made thereunder, shall be construed as a reference to the Federal Board of Revenue from

the date when the Federal Board of Revenue Act, 2007, comes into force.”;

(13) in the First Schedule,

(a) in Table-I, in column (1),—

(i) for serial numbers 9, 10 and 11 and the entries relating thereto in columns (2), (3) and (4) the following shall be substituted, namely:—

“9.	Locally produced cigarettes if their retail price exceeds fifteen rupees per ten cigarettes.	24.02	Sixty-three per cent of the retail price.
10.	Locally produced cigarettes if their retail price exceeds six rupees and fifty seven paise per ten cigarettes but does not exceed fifteen rupees per ten cigarettes.	24.02	Two rupees and eighty paise per ten cigarettes plus sixty-nine per cent per incremental rupee or part thereof.
11.	Locally produced cigarettes if their retail price does not exceed six rupees and fifty seven paise per ten cigarettes.	24.02	Two rupees and eighty paise per ten cigarettes.”;

(ii) serial numbers 14, 15, 16, 19 and 20 the entries relating thereto in columns (2), (3) and (4) shall be omitted; and

- (iii) against serial number 25, in column (2), for the existing entry, the following shall be substituted, namely:-

“Lubricating oil manufactured from reclaimed oils or sludge or sediment, subject to the condition if sold in retail packing or under brand names the words manufactured from reclaimed oil or sludge or sediment should be clearly printed on the pack”;

- (iv) serial number 38 and the entries relating thereto in column (2), (3) and (4) shall be omitted.

- (b) in Table II, in column (1),—

- (i) against serial number 3, in column (2), for clause (b) and the entries relating thereto in columns (3) and (4), the following shall be substituted, namely:-

“(b) Services 9803.1100
provided or rendered in
respect of travel by air
of passengers
embarking on
international journey to
or from Pakistan

- | | | |
|-----|--|--|
| (i) | Passengers
embarking to or
from SAARC
region, UAE
(Middle East),
Saudi Arabia,
Africa, | Three thousand two
hundred rupees for
economy and
economy plus
classes, and four
thousand two
hundred rupees for
club, business and |
|-----|--|--|

Afghanistan

first classes

- | | | |
|------|--|---|
| (ii) | Passengers embarking to or from Europe, Far East, China, USA, Canada, Australia, South America, others | Four thousand and two hundred rupees for economy and economy plus classes, and five thousand and seven hundred rupees for club, business and first classes.”; |
|------|--|---|

- (ii) against serial number 6, in column (2), in entry (xiii), after the word “services”, the words “used for voice and video telecommunication services” shall be added;

- (iii) for serial number 8 and the entries relating thereto in columns (2), (3) and (4), the following serial number and the entries relating thereto shall be substituted, namely:-

“8	Non-fund services provided by banking companies or non-banking financial companies	98.13	Five per cent of the charges.”;
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- (iv) serial number 9 and the entries relating thereto in columns (2), (3) and (4), shall be omitted; and

- (v) serial number 10 and the entries relating thereto in columns (2), (3) and (4) shall be omitted;

(14) in the Third Schedule, in Table-I, in column (1),—

- (a) serial number 2 and the entries relating thereto in columns (2) and (3) shall be omitted; and
- (b) after serial number 3 and the entries relating thereto in columns (2) and (3), the following new serial numbers and the entries relating thereto shall be inserted, namely:—

“3A Life insurance 9813.1500

3B Health insurance 9813.1600”.

37. Enactment of the Payment System of Electronic Fund Transfer Act, 2007. The Payment System of Electronic Fund Transfer Act, 2007 is hereby enacted as specified in the Second Schedule to this Act.

THE FIRST SCHEDULE
(See section 3)

“AN

ACT

to provide for the establishment of Federal Board of Revenue and for matters connected therewith or ancillary thereto

WHEREAS it is desirable to enhance the capacity of the tax system to collect due taxes through application of modern techniques, providing assistance to tax payers and creating a motivated, satisfied, dedicated and competent professional work force that is required to perform at an enhanced efficiency levels;

WHEREAS the Federal Board of Revenue must pursue its objective and vision to be a modern, progressive, effective, autonomous and credible organization for optimizing revenue by providing quality services and promoting compliance with tax related laws, while being mindful of upholding values such as integrity, professionalism, teamwork, courtesy, fairness, transparency and responsiveness;

WHEREAS it is expedient to regulate the matters relating to the fiscal and economic policies; administration, management; imposition, levy and collection of taxes and duties;

AND WHEREAS it is necessary to re-organize the Board of Revenue to enhance the scope of activities and operations and to have appropriate autonomy and re-constituting Central Board of Revenue as the Federal Board of Revenue;

It is hereby enacted as follow:-

1. Short title, extent and commencement.- (1) This Act may be called the Federal Board of Revenue Act, 2007.

(2) It extends to the whole of Pakistan.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions.

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

(a) “Board” means the Federal Board of Revenue established under section 3;

(b) “Cabinet Committee for Federal Revenue” means the Cabinet Committee for Federal Revenue constituted under section 6;

(c) “Central Board of Revenue” means the Central Board of Revenue established under the Central Board of Revenue Act, 1924(IV of 1924);

(d) “Chairman” means the Chairman of the Board duly appointed by the Federal Government and shall include acting Chairman for the time being;

(e) “Committee” means a committee constituted under this Act;

- (f) “employees” means the persons in the employment and service of the Board and its offices, organizations and attached departments;
- (g) “fiscal laws” means a general reference to the laws relating to tax matters, including but not being limited to, the Customs Act, 1969 (IV of 1969), Sales Tax Act 1990, Income Tax Ordinance 2001(XLIX of 2001) and the Federal Excise Act 2005, and any other law having nexus with taxation as the Federal Government may by notification specify;
- (h) “human resource policy” means the policy related to employees for the purpose of enhancing efficiency in the functioning of the Board, which has been approved by the competent authority from time to time;
- (i) “member” means any person who is duly appointed as a member of the Board established under this Act;
- (j) “person” includes the natural person, entity, any company or association or body of persons, whether incorporated or not;
- (k) “prescribed” means prescribed by rules;
- (l) “rules” means the rules made under this Act; and
- (m) “regulations” means the regulations made under this Act;

3. Establishment of the Federal Board of Revenue.- (1) There is hereby established a Board to be called the Federal Board of Revenue, which shall consist of not less than seven members to be appointed by the Federal Government.

- (2) The Board established under this Act shall exercise all the powers and functions that were vested in exercisable by the Central Board of Revenue under the Central Board of Revenue Act, 1924 (IV of 1924), in addition to powers and functions vested under section 4.
- (3) The Federal Government may appoint a Chairman on such terms and conditions as it may determine.
- (4) The Chairman may designate any member who shall act as an Acting Chairman in his absence.
- (5) The Chairman shall appoint the Secretary of the Board who shall be responsible to regulate all matters connected with the meetings of the Board.
- (6) In case the appointment of the Chairman is delayed for any reason, the Federal Government may appoint or designate most senior member as Acting Chairman.
- (7) The Board shall meet at least six times in a year and a special meeting of the Board may be convened on the request of any member.
- (8) The Board may constitute one or more committees to consist of members that are appointed by the Board and they shall perform such functions as are entrusted to them by the Board.

(9) The Federal Government may delegate any of its powers under this Act to the Chairman on such terms and conditions as the Federal Government may determine.

4. **Powers and functions of the Board.-** (1) The Board shall exercise powers and perform all such functions that are necessary to achieve the objects and purposes of this Act and include the following, namely:-

- (a) to implement the tax administration reforms;
- (b) to promote voluntary tax compliance and to make the Board a service oriented organization; and to implement comprehensive policies and programs for the education and facilitation of taxpayers, stakeholders and employees, etc., in order to develop the Board into a modern efficient authority;
- (c) to adopt modern effective tax administration methods, information technology systems and policies in order to consolidate assessments; improve processes, organize registration of tax payers, widen the tax base, and make departmental remedies more efficient including enforcement of, or reduction or remission in, duty, penalty or tax, in accordance with the relevant law for the time being in force;
- (d) to improve the productivity through a comprehensive and effective human resource strategy;

- (e) to identify and select through Internal Job Posting process the employees for designated jobs;
- (f) to grant additional allowances or any other incentives and rewards to the employees and members of the Board;
- (g) to take appropriate measures including internal controls to combat corruption within the organizations under the Board and provide checks to ensure the integrity of employees that is verified periodically through applicable procedure which shall be made one of the criterion for promotion and incentives;
- (h) to re-designate existing posts within its jurisdiction, prepare job description of any post and create posts in accordance with the rules;
- (i) to direct or advise, where necessary, investigation or inquiry into suspected duty tax evasion, tax and commercial fraud, money-laundering, financial crimes cases and to coordinate with the relevant law enforcement agencies;
- (j) to introduce and maintain a system of accountability of performance, competence and conduct of the employees.
- (k) to implement the provisions of all the fiscal laws for the time being in force and to exercise all powers provided under the provisions of the fiscal laws and to take any action, make policy, issue rules or guidelines for the

purpose to make the implementation of the fiscal laws clearer, transparent, effective and convenient;

- (l) to implement international obligations pursuant to a treaty, resolution or any international commitment;
- (m) to establish a foundation for the welfare of the present and retired employees and their families, and to create, establish, organize, assist in the social and cultural facilities;
- (n) to create a surplus pool of employees as and when required;
- (o) to make regulations, policies, programs, strategies in order to carry out the purposes of this Act;
- (p) to engage any person or entity on contract basis to carry out assignments or for the consultancy in accordance with the rules of the Federal Government;
- (q) to regulate and enter into any agreement, contract, understanding, with any international organization or institution or donor agency or counter part entity with approval of the Federal Government;
- (r) to create field formations of Board for greater efficiency in implementation of fiscal laws and refer to them with appropriate titles;
- (s) to set up mechanism and processes that facilitate removal of grievances and complaints of the tax payers;

- (t) to carry out any other function, activity and acts, etc., as decided and determined by the Board to its offices, organization and attached department;
- (u) to enable electronic communication in respect of all taxation matters such as e-filing, e-payments, e-notice, e-notification, digital imaging, protocols or agreements as may be prescribed; and
- (v) to perform any other functions entrusted from time to time by the Federal Government.

(2) The Board may, where appropriate, issue statutory rules and orders (SROs), orders, circulars and instructions for the enforcement of any of the provisions of fiscal law and the provision of this Act.

(3) The Board shall perform all other functions assigned by the Federal Government for the purpose of implementation of this Act.

5. **Human resource management.**- (1) The power of the Board in respect of its employees shall include, interalia, the following powers, namely:-

- (a) power to implement the human resource policy;
- (b) power to assess, identify, create, decrease and reduce or designate or re-designate posts and prepare, execute the internal job posting regime in accordance with the rules;

- (c) power to lay down qualifications and criteria for the posting of employees against specialized or available posts;
 - (d) power to implement a transparent evaluation process to assess if the official is qualified for posting against a specialized or available post;
 - (e) power to make assessment of integrity of the employees for the purpose of evaluation process or for the purpose of posting, promotion or transfer;
 - (f) power to transfer, select or post the official or employees against any post on the basis of transparent criteria of selection for internal job postings or transfers;
 - (g) power to transfer any official to any post in any entity owned by the Board;
 - (h) power to prepare and recommend to the competent authority, the voluntary severance scheme and on approval subsequently implement the same;
 - (i) power to take any action, issue rules, regulations, guidelines, code of conduct, in order to fulfill the objects and purposes of the Act; and
 - (j) powers to make rules for uniformed services with regard to maintenance and up keep of uniform and discipline and matter connected therewith or incidental thereto.
- (2) Notwithstanding the appointment of any official against any post, the official shall not have any vested right to retain the said post.

(3) Notwithstanding the policy of selection, incentives, award or any such benefit, no employee shall be treated by the Board on terms less favorable to the ones that he was availing as per terms and conditions of his employment except the allowances, benefits, incentive specific to any post under internal job posting process or any other consideration relatable to the assignment.

6. Constitution of the Cabinet Committee for Federal Revenue.- (1) The Federal Government shall constitute the Cabinet Committee for Federal Revenue and also nominate and notify its members. The Secretary, Ministry of Finance shall be ex-officio member of the Committee.

(2) The Cabinet Committee for Federal Revenue shall be headed by the Minister for Finance and Revenue or the Advisor to the Prime Minister on Finance and Revenue as the Federal Government may determine.

(3) The Cabinet Committee for Federal Revenue as a supervisory body shall approve guidelines with regard to the policy, planning, reforms, budget and any such other matter referred to it by the Board.

7. Representation to the Chairman.- (1) Any person aggrieved by any action done or taken for the enforcement of the fiscal laws or any notification issued by the Federal Government or due to any act of maladministration, corruption and misbehaviour by any officer or employee of the Board or any unnecessary delay or hardship caused due to any administrative process may prefer representation to the Chairman for redressal of his grievance.

(2) The Chairman or the Board or any other designated officer, as the case may be, on behalf of the Chairman, shall take the appropriate action to redress such grievance.

8. Delegation of functions and powers by the Board.- The Board may, subject to such conditions as it deems necessary, delegate any of its functions and powers to any Government agency, Chairman or any member or employee duly appointed under this Act.

9. Validity of proceedings.- No act proceeding, decision or order of the Board or a committee of the Board shall be invalid by reason only of the existence of vacancy in, or any defect in the constitution of, the Board or any committee.

10. Directions from Federal Government.-The Federal Government may, from time to time, direct or advise the Board to conduct its affairs and perform its functions in such manner as may be specified by the Federal Government in this behalf. The Federal Government may also entrust the Board the functions and powers under any law for the time being in force and such directions shall be binding on the Board.

11. Budget and accounts of the Board.- (1) The Board shall, in respect of each financial year, in accordance with the prescribed financial procedure, prepare its accounts of the receipts and payments and budget estimates and submit the same to the Finance Division for further process.

(2) Once the budget has been approved, the Board shall have the full powers to incur expenditure, or re-appropriate funds, subject to any general or specific

instructions that the Finance Division or any other competent forum or authority may from time to time issue in this regard.

(3) The Board shall maintain its accounts in accordance with the procedure prescribed by the Controller General of Accounts and such accounts shall be audited by the Auditor-General of Pakistan.

(4) The Board shall provide an annual financial report to the Federal Government.

12. Annual report.- The Board shall prepare an annual report of its activities and present it to the Prime Minister.

13. Indemnity.- No prosecution, suit or other legal proceeding shall lie against the Board, the Chairman, Members, officers and the other employees for anything done in good faith for carrying out the purposes of this Act, rules or regulations or orders made or issued thereunder.

14. Power to create and maintain data bank.- (1) The Board shall create and maintain a data bank containing information from third parties necessary to perform the objects and purposes of this Act. Such data shall be used for increasing the taxpayers base and to ensure accuracy of information submitted by existing taxpayers and for the financial analysis leading to proper economic assessments, audits, detection of tax evasion and policy decisions as may be necessary. The data shall be used further to evaluate the performance of the employees.

(2) The Board shall have power to share its data and obtain data from the data bases maintained by the Federal Government or a Provincial Government or any of its statutory body, law enforcement entity or utility companies, stock exchanges, State Bank, banks, financial institutions, the trade bodies and any other organizations.

(3) The Board may advise any entity in respect of collecting tax related information as may be required by the Federal Board under arrangement between the Board and such entity or person.

15. Continuance in force.- (1) All orders made, proceedings taken and acts done by the Central Board of Revenue which were in force and in effect before the commencement of this Act, shall continue in force unless modified pursuant to any provision of this Act or the rules and regulations made thereunder.

(2) All existing rules, regulations, procedures, notifications, statutory rules and orders (SROs) and orders in effect or in operation or adopted in or by the Central Board of Revenue shall continue to be in force unless they are not inconsistent with any provision of this Act and shall continue to be in force until rescinded, altered, revised or amended by the competent authority under the provisions of this Act or rules made thereunder.

(3) All existing contracts, agreements and commitments made by the Central Board of Revenue for the purpose of Central Board of Revenue Act 1924 or rules made or notifications issued thereunder or by any person under its authority, in

effect, on the commencement of this Act, shall continue to be in force till amended or modified or rescinded by the competent authority.

16. Properties and assets, etc., to vest in the Board.- (1) All properties, assets and records which, before the commencement of this Act, were vested in or belonged or allocated to the Central Board of Revenue shall vest in and become the property of the Federal Board of Revenue from the commencement of this Act.

(2) The logo, insignia, stationary, printed forms, returns, challans and online communication shall continue to be utilized unless prescribed otherwise under the rules and in any other case as modified by the Board.

(3) All rights, liabilities and obligations of the Central Board of Revenue, whether arising out of contract or otherwise, shall be the rights, liabilities and obligations of the Board under this Act.

(4) All intellectual property rights arising from technical or professional report, analysis, or system, written, prepared or developed by the employees of the Central Board of Revenue shall vest in the Federal Board of Revenue.

17. Continuance of service of the employees, etc., of the Central Board of Revenue after the reconstitution of Federal Board.- (1) Subject to the provisions of this Act, any person who immediately before the commencement of this Act was in the employment and service of Central Board of Revenue, its field offices, organizations and attached departments, shall continue to be in the employment and service of Federal Board of Revenue, its field offices, organizations and attached departments, on

the same terms and conditions as were applicable to him as an employee of the Central Board of Revenue, unless modified or amended under the provisions of this Act or the rules or regulations made thereunder.

(2) All the authorities and officers of the Central Board of Revenue throughout Pakistan exercising functions immediately before commencement of this Act shall continue to exercise their respective, powers, policies, programmes, reforms, projects, functions and processes etc. as were being carried out, or proposed to be carried out, unless modified under the provisions of this Act or rules and regulations made thereunder.

18. **Reference to Central Board of Revenue.-** Subject to the provisions of this Act, reference to Central Board of Revenue (CBR) wherever occurring in any law or the rules, regulations, orders, statutory rules and order (SROs) or notifications, etc, for the time being in force shall be read as a reference to the Federal Board of Revenue.

19. **Board may impose any fee or charges.-** The Board may levy any fee or charges for making expenditure on the provision of enhanced facilities for the taxpayers, or direct cost reimbursement of expenses, and reasonable return on investment or profit; where services are provided in the matters relating to or under any fiscal law under public-private partnership.

20. **Act to override other laws.-** The provisions of sections 4, 5, 11, 13, 16, 18, 19 and 20 of this Act shall have overriding effect, notwithstanding anything contained in any other law for the time being in force and the rules made thereunder.

21. **Power to make rules.-** The Federal Government may make rules for the purposes of this Act.

22. **Power to make regulations.-** The Board may make regulations for the administration of this Act.

23. **Repeal and savings.-** (1) Subject to the provisions of this Act, the Central Board of Revenue Act, 1924 (IV of 1924) is hereby repealed.

(2) Except as otherwise provided in this Act, the repeal of the Central Board of Revenue Act, 1924 (IV of 1924), under sub-section (1), hereinafter referred to as the said Act, shall not,-

- (a) revive anything not in force or existing at the time of commencement of this Act;
- (b) affect the previous operation of the repealed Act or anything duly done under the said Act,
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Act,
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under the said Act, or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

24. Removal of difficulties.- The Federal Government may, for the purposes of removing any difficulty or for bringing the provisions of this Act into effective operation, by order, direct that provisions of this Act shall, during such period as may be specified in the order, have effect subject to such adaptations whether by way of modification or addition or omission as it may deem to be necessary or expedient:

Provided that the power under this section shall not be exercised after expiry of three years from the commencement of this Act.”.

THE SECOND SCHEDULE

(See section 37)

“AN

ACT

to provide regulatory framework for payment systems and electronic fund transfers

WHEREAS it is necessary to supervise and regulate Payment Systems and Electronic Fund Transfers in Pakistan and to provide standards for protection of the consumer and to determine respective rights and liabilities of the financial institutions and other Service Providers, their consumers and participants;

It is hereby enacted as follows:-

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.-** (1) This Act may be called the Payment Systems and Electronic Fund Transfers Act, 2007.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.-** (1) In this Act, unless there is anything repugnant in the subject or context,

- (a) **“Accepted Card”** means a card, code or other means of access to a Consumer’s Account for the purpose of initiating Electronic Fund Transfers;
- (b) **“Access Code”** includes pin, password or code, which provides a means of access to a Consumer’s Account for the purpose of initiating an Electronic Fund Transfer;
- (c) **“Account”** means a current deposit, saving deposit, or any other account maintained by a consumer in a Financial Institution in which credits and debits may be effected by virtue of Electronic Fund Transfers;
- (d) **“Authorized”** means authorized by the State Bank for the purposes of this Act;
- (e) **“Automated Teller Machine (ATM) Card”** means any card for use at any ATM to initiate Electronic Fund Transfers.
- (f) **“Authorized Party”** means a bank, a Financial Institution, a Clearing House, a Service Provider or any person authorized by the State Bank to transact business under this Act in Pakistan;
- (g) **“Automated Teller Machine (ATM) Operator”** means any person or a Financial Institution operating any ATM at which consumers initiate Electronic Fund Transfers;

- (h) **“Bank”** means a banking company as defined in section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962);
- (i) **“Book Entry Government Securities”** means any securities issued by the Government under any written law transferable by a book entry on a register or otherwise;
- (j) **“Business Day”** means any day on which offices of consumers, Financial Institutions, operators or Service Providers involved in Electronic Fund Transfer are open to the public;
- (k) **“Card”** means any card including an ATM card, Electronic Fund Transfer point of sale card, debit card, credit card or stored value card, used by a Consumer to effect an Electronic Fund Transfer;
- (l) **“Cheque in the Electronic Form”** means a cheque which contains the exact image of a paper cheque in electronic form and is generated, written and signed in a secure system ensuring minimum safety standards as may be prescribed by the State Bank;
- (m) **“Clearing House”** means corporation, company, association, partnership, agency or other entity that provides clearing or settlement services for a Payment System;
- (n) **“Consumer”** means any person who or which avails the facility of Electronic Fund Transfer;

- (o) **“Debit Instrument”** means a Card, Access Code, or other device other than a cheque, draft or similar paper instrument, by the use of which a person may initiate an Electronic Fund Transfer;
- (p) **“Designated Payment Instrument”** means a Payment Instrument designated by the State Bank as Payment Instrument under section 12.
- (q) **“Designated Payment System”** means a Payment System designated by the State Bank under section 4 to be a Designated Payment System for the purposes of this Act;
- (r) **“Electronic”** has the same meaning as assigned to it by the Electronic Transactions Ordinance, 2002 (LI of 2002);
- (s) **“Electronic Fund or Electronic Money”** means money transferred through an Electronic Terminal, ATM, telephone instrument, computer, magnetic medium or any other electronic device so as to order, instruct or authorize a banking company, a Financial Institution or any other company or person to debit or credit an account and includes monetary value as represented by a claim on the issuer which is stored in an electronic device or Payment Instrument, issued on receipt of funds of an amount not less in value than the monetary value issued, accepted as means of payment by undertakings other than the issuer and includes electronic store of monetary value on a electronic device that may be used for making payments or as may be prescribed by the State Bank;

- (t) **“Electronic Fund Transfer”** means any transfer of funds, other than a transaction originated by cheque, draft or similar paper instrument, which is initiated through an Electronic Terminal, telephonic instrument, point-of-sale Terminal, stored value card Terminal, debit card, ATM, computer magnetic tape or any other electronic device so as to order, instruct, or authorize a Financial Institution to debit or credit an Account;
- (u) **“Electronic Money Institution”** means an undertaking, that issues means of payment in the form of Electronic Money and is duly authorized to do so;
- (v) **“Electronic Payment System”** means implementation of Payment System Electronically;
- (w) **“Electronic Terminal”** means an electronic device, operated by a consumer, through which a consumer may initiate an Electronic Fund Transfer;
- (x) **“Financial Institution”** means a financial institution as defined in the Financial Institutions (Recovery of Finances) Ordinance, 2001(XLVI of 2001) and includes a banking company or any other Electronic Money Institution or person, authorized by the State Bank in this behalf, that directly or indirectly holds an account belonging to a consumer.
- (y) **“Government”** means the Federal Government or any Provincial Government;

- (z) **“Netting”** means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant either issues to, or receives from, one or more other participants with the result that only a net claim can be demanded or a net obligation be owed;
- (za) **“Operator”** means any financial or other institution or any person, authorized by the State Bank to operate any Designated Payment System;
- (zb) **“Participant”** means a party to an arrangement that establishes a Payment System;
- (zc) **“Payment Instrument”** means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment; but excludes Payment Instruments prescribed in Negotiable Instrument Act, 1881(XXVI of 1881);
- (zd) **“Payment System”** inter-alia means a system relating to payment instruments, or transfer, clearing, payment settlement, supervision, regulation or infrastructure thereof and includes clearing, settlement or transfer of Book Entry Government Securities;
- (ze) **“Person”** includes a legal person or a body of persons whether incorporated or not.
- (zf) **“Preauthorized Electronic Fund Transfer”** means an Electronic Fund Transfer Authorized in advance;

- (zg) **“Prescribed”** means prescribed by rules, circulars, directions, orders or bye-laws.
- (zh) **“Real Time Gross Settlement System”** means a Payment System which can effect final settlement of funds, payment obligations and Book Entry Government Securities and instruments on a continuous basis during such operating hours of a processing day as the State Bank may determine on a transaction-by-transaction basis;
- (zi) **“Service Provider”** includes an operator or any other Electronic Fund Transfer Service Provider.
- (zj) **“State Bank”** means the State Bank of Pakistan established under section 3 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956);
- (zk) **“Systemic Risk”** means the risk that relates to the inability of a participant to meet its obligations in the Payment System as they become due or a disruption to the Payment System that could, for whatever reason, cause other participants in the Payment System to be unable to meet their obligations as they become due; and
- (zl) **“Truncated Cheque”** means a cheque which is truncated in a secure system, during the course of a clearing cycle, by an Authorized Party, whether paying or receiving payment, immediately on capture of a scanned image, substituting physical movement of the cheque in the original form, and includes a cheque in the electronic form.

3. **Powers of the State Bank.-** (1) The State Bank may, generally in respect of this Act, or in respect of any particular provision of this Act, or generally in respect of payment systems, the conduct of all or any of the Service Providers, Operators of Payment Systems or issuers of Payment Instruments, issue such rules, guidelines, circulars, bye-laws, standards or directions as it may consider appropriate.

(2) The State Bank may, by written notice, require an operator of a Designated Payment System or issuer of Designated Payment Instrument to make modifications or alterations to –

- (i) the Designated Payment System or Designated Payment Instrument including governance arrangements;
- (ii) operational arrangements;
- (iii) documents and information submitted by operator of a Payment System or issuer of Payment Instruments;
- (iv) any other documents relating to the Designated Payment System or Designated Payment Instrument.

(3) In exercising its powers under sub-section (1), the State Bank shall have regard to-

- (i) the Systemic Risk;
- (ii) the object of the State Bank to promote monetary stability and a sound financial structure;
- (iii) the interest of the public including market conditions and behaviour;

- (iv) the safety, integrity, efficiency or reliability of the Designated Payment System or Designated Payment Instrument including security and operating standards and infrastructure arrangements;
- (v) the interests of the current Participants of the Designated Payment System or users of the Designated Payment Instruments; or
- (vi) the interests of persons who, in the future, may want access to the Designated Payment System or may want to use the Designated Payment Instrument.

CHAPTER II

Payment Systems And Their Operation

4. **Designation of Payment System.-** (1) The State Bank may, if it finds it to be necessary in the public interest, by a written order designate a Payment System as a Designated Payment System.

(2) The State Bank may, in considering whether to designate a Payment System as a Designated Payment System, inspect the premises, equipment, machinery, apparatus, books or other documents, or accounts and transactions relating to the Payment System.

5. **Revocation of Designation of Payment System.-** (1) The State Bank may revoke the designation of a Designated Payment System if it is satisfied that –

- (i) the Designated Payment System has ceased to operate effectively as a Payment System;
- (ii) the operator of the designated system has knowingly furnished information or documents to the State Bank in connection with the designation of the Payment System which is or are false or misleading in any material particular;
- (iii) the operator or settlement institution of the Designated Payment System is in the course of being wound up or otherwise dissolved, whether in Pakistan or elsewhere;

- (iv) any of the terms and conditions of the designation or requirements of this Act has been contravened; or
 - (v) the State Bank considers that it is in the public interest to revoke the designation.
- (2) The State Bank shall not revoke a designation without giving the operator of the Designated Payment System an opportunity to be heard.

Provided that the State Bank may, if an immediate systemic risk is involved, suspend the designation of a Payment System without notice pending the final order.

6. Real Time Gross Settlement (RTGS) System.- (1) The State Bank may establish and operate one or more Real Time Gross Settlement Systems for the transfer of funds and settlement of payment obligations as approved by it.

- (2) A settlement system may be linked to another Payment System in Pakistan or elsewhere for the clearing or settlement of payment obligations, securities or instruments, whether or not such Payment System is operated on a real time gross settlement basis.
- (3) The State Bank may enter into agreements with participants of a settlement system and issue to the participants, in writing, rules for the operation of the settlement system.
- (4) The State Bank may, if it considers it necessary in the interest of the Payment System, stop or suspend the operation of the Payment System

or stop or suspend the privileges or right of any participant or class of participants;

(5) Without prejudice to the generality of sub-section (3), the rules provided for in the said sub-section, may provide-

- (i) for the conduct of participants;
- (ii) for the authentication of transactions carried out electronically;
- (iii) for the appointment of auditors or inspectors for the auditing or inspection of the operating systems of participants in respect of the settlement system; and
- (iv) for the payment of fees to the State Bank.

7. **Requirement For Retention of Electronic Record.-** Financial Institutions or other Authorized Parties providing funds transfer facility shall be required to retain complete record of electronic transactions in electronic form in the same manner as provided in section 6 of the Electronic Transactions Ordinance, 2002 (LI of 2002) for a period as may be determined by the State Bank.

8. **Disqualification of Staff.-** (1) No person shall be appointed to serve in any capacity by an operator of a Designated Payment System if –

- (i) such person has been adjudged a bankrupt, or has suspended payments, or has compounded a debt with his creditors, whether in or outside Pakistan, within ten years prior to the date of the appointment; or

(ii) such person has been convicted of an offence under this Act or committed any other offence involving moral turpitude or such an offence has been compounded against him.

(2) Any person being the chairman, director, chief executive, by whatever name called, or official liquidator, or an officer of a designated payment system mismanages the affairs of the payment system or misuses his position for gaining direct or indirect benefit for himself or any of his family members or any other person, shall be disqualified to serve in any capacity in a designated payment system.

9. **Effect of Disqualification.-** (1) Where a person becomes disqualified, as provided for in the foregoing provisions, after his appointment –

(i) he shall immediately cease to hold office; and

(ii) the operator of the Designated Payment System shall immediately terminate his appointment.

(2) Any person disqualified under section 8, notwithstanding any contract of service, shall not be entitled to claim any compensation for his loss of office or termination of appointment.

10. **Governance Arrangements.-** The operator of a Designated Payment System shall establish adequate governance arrangements which are effective, accountable and transparent or which may be required by the State Bank to ensure the continued integrity of such Designated Payment System.

11. **Operational Arrangement.**- An Operator of a Designated Payment System shall establish the following operational arrangements:

- (i) rules and procedures setting out the rights and liabilities of the operator and the participant and the financial risks the participants may incur;
- (ii) procedures, controls and measures for the management of credit, liquidity and settlement risk, including rules determining the time when a payment instruction and a settlement is final;
- (iii) criteria for participation in the Designated Payment System; and
- (iv) measures to ensure the safety, security and operational reliability of the Designated Payment System including contingency arrangements.

CHAPTER III

Payment Instruments

12. **Designation of Payment Instrument.**- (1) Where the State Bank is of the opinion that

- (i) a Payment Instrument is or may be in widespread use as a means of making payment and may affect the Payment Systems of Pakistan; and
- (ii) it is necessary to protect the interest of the public or it is necessary to maintain the integrity, efficiency and reliability of a Payment Instrument, the State Bank may prescribe such Payment Instrument as a Designated Payment Instrument.

2. Where a Payment Instrument is prescribed as a Designated Payment Instrument, the issuer of such Designated Payment Instrument shall comply with the requirements of section 13 within such period as the State Bank may specify.

13. **Issuing of Designated Payment Instruments.-** (1) No person shall be issued a Designated Payment Instrument unless the issuer has –

- (i) complied with the requirements of this Act;
- (ii) submitted to the State Bank the documents and information as may be prescribed thereby;
- (iii) paid the fee Prescribed by the State Bank; and
- (iv) obtained a written approval from the State Bank to issue a Designated Payment Instrument.

2. The State Bank may in giving its approval –

- (i) require all or any of the documents submitted to be modified and altered as it may deem necessary; and
 - (ii) impose such restrictions, limitations or conditions as it may deem fit.
- (3) Any Payment Instrument so issued should carry minimum security features to make its usage secure as per the current international standards.

14. **Prohibition of Issuance of Payment Instruments.-** (1) The State Bank may, by a written order, prohibit any person from issuing or using any Payment Instrument if, in its opinion –

- (i) the issuing or use of the Payment Instrument is detrimental to the reliable, safe, efficient and smooth operation of the Payment Systems of Pakistan or monetary policy of the State Bank;
 - (ii) the prohibition is in the interest of the public; or
 - (iii) the Payment Instrument has been issued with an object to entice or defraud the public.
 - (iv) the Person has, in the opinion of the State Bank, failed to comply with the requirements of this Act.
- (2) The State Bank may, in considering whether to prohibit any Person from issuing or using any Payment Instrument, inspect the premises, equipment, machinery, apparatus, books or other documents, or accounts and transactions of the issuer of the Payment Instrument.
- (3) Any Person causing or attempting to cause obstruction to an officer or representative of the State Bank in inspection of the premises or equipment shall, upon complaint made to a court having jurisdiction, be liable to punishment which may extend to three years imprisonment of either description or with fine which may extend to five million rupees or with both.

- (4) The State Bank shall before passing an order under this section, give such Person a reasonable opportunity to make representation before it.

Provided that State Bank may, in appropriate cases, without notice direct a Person to immediately stop issuing a Payment Instrument, pending the final order.

15. **Security** - Financial Institutions and other institutions providing Electronic Funds Transfer facilities shall ensure that secure means are used for transfer, compliant with current international standards and as may be prescribed by the State Bank from time to time.

16. **Third Party.-** If a person other than a Financial Institution is holding a Consumer's Account, the State Bank shall by instructions ensure that the disclosures, required to be made for Electronic Fund Transfers, and the protections, responsibilities and remedies created by this Act, are made applicable to such Persons and services.

17. **Payment by Truncated Cheque.-** (1) Notwithstanding anything to the contrary provided in the Negotiable Instruments Act, 1881 (XXVI of 1881), or any other law, for the time being in force, Electronic Fund Transfers may be initiated by an Authorized Party by means of a truncated cheque.

- (2) In case, any transfer of funds takes place in the manner as provided in sub-section (1), the original cheque shall cease to be negotiable.

- (3) Validity of a cheque shall not be affected if for any technical reason or otherwise, transfer of funds as provided in sub-section (1) fails to take effect.
- (4) If transfer of funds does not take effect as provided in sub-section (3), the Bank or the Authorized Financial Institution concerned may require physical delivery of the cheque from the originator.

CHAPTER IV

Clearing and Other Obligations

18. **Clearing Houses, Audit and Inspection.-** (1) The State Bank may nominate one or more Clearing Houses to provide clearing or settlement services for a Payment System on such terms and conditions as may be determined by it.

- (2) The State Bank may, for the purposes of carrying out its functions under this Act, conduct audits and inspections of Clearing Houses, and the Clearing House shall, as required, assist the State Bank to the extent necessary to enable it to carry out an audit or inspection.

- (3) Auditors for carrying out the purposes provided for in sub-section (1) shall be appointed with prior approval in writing of the State Bank.

19. **Notice Required of Significant Changes.-** Every Clearing House shall, in respect of its Designated Payment System, provide the State Bank with reasonable notice of not less than fifteen Business Days in advance of any change to be made by

the Clearing House that is of a significant nature in relation to the Designated Payment System and, without limiting the generality of the foregoing, the notice shall be provided in respect of any change affecting –

- (a) the legal documents and bye-laws of the Clearing House;
- (b) the operation of the Designated Payment System;
- (c) the bye-laws, agreements, rules, procedures, guides or other documentation governing the Designated Payment System;
- (d) the composition of a board of directors of the Clearing House due to resignation or otherwise; or
- (e) the appointed auditor of the Clearing House.

20. Participants Responsible Where Clearing House Fails to Comply, etc. .-

Where a Clearing House fails to comply with the obligations imposed on it under this Act in respect of its Payment System or otherwise contravenes the provisions of this Act, the Participants jointly and severally shall comply with those obligations in the same manner and to the same extent as if the participants were the Clearing House on which the obligations are imposed or they committed the contravention.

21. Settlement Provisions.- (1) Notwithstanding anything to the contrary provided in this Act or any other law for the time being in force, the settlement rules of a Designated Payment System shall be valid and binding on the operator and the participants and any action may be taken or payment made in accordance with the settlement rules.

(2) Where the settlement rules of a Designated Payment System provide that the settlement of a payment obligation through an entry to or a payment out of an Account of a Participant or a Clearing House at the State Bank is final and irrevocable the entry or payment shall not be required to be reversed, repaid or set aside.

22. **Rights, etc., Not Subject to Stay .-** (1) The rights and remedies of a participant, a Clearing House, or the State Bank in respect of collateral granted to it as security for a payment or the performance of an obligation incurred in a Designated Payment System may not be the subject of any stay to be granted by any court or order affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

23. **Settlement Rules .-** (1) The State Bank may make “settlement rules” to provide the basis on which payment obligations are calculated, netted or settled including rules for the taking of action in the event that a participant is unable or likely to become unable to meet its obligations to the Clearing House, or to the other participants.

(2) Every participant and Clearing House shall, in respect of its Designated Payment System, provide the State Bank with such information, at such times and in such form as the State Bank may require in writing.

24. **Electronic Money Institution.-** (1) An applicant that wants to become an Electronic Money Institution shall submit an application to the State Bank for issue of a license to perform Electronic Money activity.

- (2) An Electronic Money Institution may perform only such activities as are specified in its license;

25. **Preservation of Rights, etc.** .- (1) Except to the extent expressly provided, this Act shall not operate to limit, restrict or otherwise affect -

- (i) any right, title, interest, privilege, obligation or liability of a person resulting from any transaction in respect of a transfer order which has been entered into a Designated Payment System; or
- (ii) any investigation, legal proceeding or remedy in respect of any such right, title, interest, privilege, obligation or liability.

(2) Nothing in this Act shall be construed to require.

- (i) the unwinding of any Netting done by the operator of a Designated Payment System, whether pursuant to its default arrangements or otherwise;
- (ii) the revocation of any transfer order given by a participant which is entered into a Designated Payment System; or
- (iii) the reversal of a payment or settlement made under the rules of a Designated Payment System.

CHAPTER V

Supervisory Control of the State Bank

26. **Issuance of Model Clauses.-** The State Bank may issue model clauses for use by the Financial Institutions and Authorized Parties to facilitate compliance with the disclosure requirements as specified in section 29 and to aid consumers in understanding the rights and responsibilities of participants in Electronic Fund Transfers by utilizing readily understandable language.

27. **Modification of Requirements.-** Instructions issued by the State Bank may provide for such adjustments and exceptions for any class of Electronic Fund Transfers, as in the opinion of the State Bank are necessary or proper for the purposes of this Act, to prevent circumvention or evasion thereof, to facilitate compliance therewith and to alleviate any undue compliance burden on small Financial Institutions.

28. **Service Providers Other Than Financial Institutions.-** The State Bank shall determine, which provisions of this Act, subject to any modifications, adjustments or exceptions as provided for in section 26, shall apply to a person other than a Financial Institution, holding a Consumer's Account.

29. **Requirement of Notice.-** (1) The instructions issued by the State Bank under section 3 shall require any ATM Operator or any other Service Provider who imposes a fee on any consumer for providing services to such consumer, to provide notice in accordance with sub-sections (2) and (3) to the consumer of the fact that –

- (i) a fee is imposed by such operator or Service Provider for providing the service; and
 - (ii) the amount of any such fee.
- (2) The notice required by sub-section (1) with respect to any fee shall be posted at a prominent and conspicuous location on or at the ATM or other Electronic Terminal at which the consumer initiates the Electronic Fund Transfer.
- (3) The notice required under sub-section (1) with respect to charging of fee shall appear on the conspicuous part of the ATM or Electronic Terminal in the manner as may be determined and notified by the State Bank in this behalf.
- (4) No fee may be imposed by any ATM Operator or other Service Provider, as the case may be, in connection with any Electronic Fund Transfer initiated by a consumer for which a notice is required under sub-section (1), unless the consumer receives such notice in accordance with sub-sections (2) and (3) and such consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

30. Terms and Conditions of Transfers.- (1) The terms and conditions of Electronic Fund Transfers involving a Consumer's Account shall be disclosed by a Financial Institution, operator or other Authorized Party in English and in a manner clearly understood by the consumer, at the time the Consumer contracts for an Electronic Fund Transfer service, in accordance with the instructions of the State Bank.

- (2) Such disclosures may include the following, namely:-
- (i) the Consumer's liability for unauthorized Electronic Fund Transfers and, at the option of the Financial Institution or Authorized Party or Operator, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a Card, Access Code or other means of access;
 - (ii) the telephone number and address of the Person or office to be notified in the event the Consumer believes that an unauthorized Electronic Fund Transfer has been or may be effected;
 - (iii) the kind and nature of Electronic Fund Transfers which the Consumer may initiate, including any limitations on the frequency or amount of such transfers;
 - (iv) any charges for Electronic Fund Transfers or for the right to make such transfers;
 - (v) the Consumer's right to stop payment of a Preauthorized Electronic Fund Transfer and the procedure to initiate such a stop payment order;
 - (vi) the Consumer's right to receive information of Electronic Fund Transfers under section 29;

- (vii) a summary, in a form Prescribed by the State Bank, of the error resolution provisions of section 36 which, the Financial Institutions, Authorized Parties or Operators shall be required to transmit at least once per calendar year;
- (viii) the Financial Institution's, Authorized Party's or Operator's liability to the Consumer;
- (ix) the circumstances under which the Financial Institution, Authorized Party or Operator will in the ordinary course of business disclose information concerning the Consumer's Account to third Persons; and
- (x) a notice to the Consumer that a fee may be imposed by an ATM Operator or Service Provider, if the Consumer initiates a transfer from an ATM or other Electronic Terminal that is not operated by the Person or the Financial Institution issuing the Card or other means of access.

31. **Notification of Changes.**- (1) A Financial Institution or any other Authorized party, shall notify a Consumer in writing or such other means as may be prescribed by the State Bank from time to time, at least twenty-one days prior to the effective date of any material change in any term or condition of the Consumer's Account required to be disclosed under sub-section (1) of section 29, unless such change is immediately necessary to maintain or restore the security of an Electronic Fund Transfer system or a Consumer's Account.

- (2) Financial Institution shall be required to make a subsequent notification, provided for in sub-section (1), if such a change is made permanent.

CHAPTER VI

Documentation of Transfers

32. **Availability of Documentation and Proof.-** For each Electronic Fund Transfer initiated by a Consumer from an Electronic Terminal, the Financial Institution holding such Consumer's Account shall, directly or indirectly, at the time the transfer is initiated, make available to the Consumer documentation and proof of such transfer, clearly setting forth, as may be required by such transaction, the following particulars, namely –

- (i) the amount involved and the date on which the transfer is initiated;
- (ii) the type of transfer;
- (iii) the identity of the Consumer's Account with the Financial Institution from which or to which funds are transferred;
- (iv) the identity of any third party to whom or from whom funds are transferred;
- (v) the location or identification of the Electronic Terminal involved; and
- (vi) name of the Accountholder from or to which funds are transferred.

33. **Periodic Statement.-** (1) A Financial Institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed electronically.

- (2) Such statement shall be provided at least once every month, or as required by the consumer, or such other period as the State Bank may determine from time to time.
- (3) Such statement shall include all the necessary particulars in respect of the Consumer's Account and shall clearly set forth the balances in Consumer's Account at the beginning and the close of the period, the amount of any fee or charge assessed by the Financial Institution during the period, for whatever purpose and the address and telephone number to be used by the Financial Institution for the purpose of receiving any enquiry or notice of account error from the Consumer.

34. **Documentation as Evidence.-** In any action involving a Consumer or any Participant, any documentation required by either section 31 or 32 of this Act to be given to the Consumer, which indicates that an Electronic Fund Transfer was made to another Person, shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

35. **Preauthorized Transfers.-** (1) A preauthorized Electronic Fund Transfer from a Consumer's Account may be authorized by the Consumer either in writing, or in any other accepted form.

- (2) A consumer may stop payment of a Preauthorized Electronic Fund Transfer by notifying the Financial Institution.

CHAPTER VII

Notification of Error

36. **Notification of error.-** (1) In this section, the following shall be construed as error, namely –

- (i) an unauthorized Electronic Fund Transfer;
 - (ii) an incorrect Electronic Fund Transfer to or from the Consumer's Account.
 - (iii) the omission of an Electronic Fund Transfer from a periodic statement;
 - (iv) a computational or book keeping error made by the Financial Institution relating to an Electronic Fund Transfer;
 - (v) the Consumer's receipt of an incorrect amount of money from an Electronic Terminal; or
 - (vi) any other error as determined by the State Bank.
- (2) When an error has occurred, the Financial Institution or the Authorized Party shall investigate the alleged error to determine whether an error has occurred, and report in writing the result of such investigation to the consumer within ten Business Days.
- (3) The Financial Institution may require written confirmation to be provided to it within ten Business Days of an oral notification of error.
- (4) A Financial Institution or Authorized Party shall not be liable to credit a Consumer's Account in accordance with the provisions of section 37 in

case no error is found pursuant to investigation under sub-section (2) and or the written confirmation required by it is not received by it within the ten days period, provided for in sub-section (3).

37. **Correcting Error.-** If the Financial Institution or Authorized Party determines that an error did occur, it shall promptly, and in no event later than one Business Day after such determination, correct the error, including the crediting of a Consumer's Account with mark up where applicable:

Provided that such investigation shall be concluded not later than ten Business Days after receipt of notice of the error

38. **Absence of Error.-** If the Financial Institution or the Authorized Party determines after its investigation that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within three Business Days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer copies of all documents which the Financial Institution or the Authorized Party relied on to conclude that such error did not occur.

39. **Triple Damages.-** (1) If in any case filed under section 50 of this Act, the court finds that a Financial Institution and/or an Authorized Party is guilty of the commission of any act, provided for in sub-section (2) or (3) of this section, the Financial Institution, shall in addition to costs incurred by the consumer, be further liable to pay to the Consumer, triple damages determined under section 50.

(2) The Financial Institution or the Authorized Party shall be liable to pay damages, provided for in sub-section (1), if it did not re-credit a

Consumer's Account within the ten days period specified in section 37 and the Financial Institution and/ or the Authorized Party did not make a good faith investigation of the alleged error or it did not have reasonable basis for believing that the Consumer's Account was not in error.

- (3) The Financial Institution or the Authorized Party shall also be liable to pay damages, provided in sub-section (1), if it knowingly and willfully concluded that the Consumer's Account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the Financial Institution or the Authorized Party at the time of its investigation.

CHAPTER VIII

Liability of Parties

40. **Consumer's Liability.-** A consumer shall be liable for any unauthorized Electronic Fund Transfer involving the Account of such consumer only if the card or other means of access utilized for such transfer was an Accepted Card or other means of access and if the issuer of such card, code or other means of access has provided a means whereby the user of such card, code or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or finger print or by electronic or mechanical confirmation.

41. **Burden of Proof.-** In any action which involves a consumer's liability for an unauthorized Electronic Fund Transfer, the burden of proof shall be upon the Financial

Institution or the Authorized Party to show that the Electronic Fund Transfer was authorized or, if the Electronic Fund Transfer was authorized, then the burden of proof shall be upon the Financial Institution or the Authorized Party to establish that the conditions of liability set forth in this Act were met, and the disclosures required to be made to the consumer under this Act were in fact made in accordance with the provision thereof.

42. Liability in Case of Extension of Credit.- In the event of transaction which involves both an unauthorized Electronic Fund Transfer and an extension of credit limit pursuant to an agreement between the consumer and the Financial Institution or the Authorized Party, nothing shall impose liability upon a consumer for an unauthorized Electronic Fund Transfer in excess of his liability for such transfer under any other applicable law or under any agreement with the Consumer's Financial Institution or Authorized Party.

43. Liability of Financial Institutions/ Authorized Parties.- Subject to what is provided in this section or section 44, a Financial Institution or the Authorized Party shall be liable to a consumer for all damages proximately caused by –

- (i) the Financial Institution's or Authorized Party's failure to make an Electronic Fund Transfer, in accordance with the terms and conditions of an Account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where-

- (a) the Consumer's Account has insufficient funds;

- (b) the funds are subject to legal process or other encumbrance restricting such transfer;
 - (c) such transfer would exceed an established credit limit;
 - (d) as otherwise provided in instructions by the State Bank.
- (ii) the Financial Institution's or Authorized Party's failure to make an Electronic Fund Transfer due to insufficient funds when the Financial Institution or Authorized Party failed to credit, in accordance with the terms and conditions of an Account, a deposit of funds to the Consumer's Account which would have provided sufficient funds to make the transfer, and
- (iii) the Financial Institution's or Authorized Party's failure to stop payment of Preauthorized transfer from a Consumer's Account when instructed to do so in accordance with the terms and conditions of Account.

44. **Force Majeure.-** A Financial Institution, an Authorized Party, Operator or a Participant shall not be liable under clauses (i) and (ii) of section 43 if it shows by a preponderance of evidence that its action or failure to act resulted from –

- (i) force majeure or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required;

- (ii) a technical malfunction which was known to the Consumer at the time he attempted to initiate an Electronic Fund Transfer or, in case of Preauthorized transfer, at the time such transfer should have occurred

45. **Intent.-** In case of failure described in clauses (i) and (ii) of section 43 was not intentional and it resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error, the Financial Institution, Authorized Party, operator or the participant shall be liable for actual damages proved.

46. **Prohibition on Improper Issuance.-** No person may issue to a Consumer any Card, code or other means of access to such Consumer's Account for the purpose of initiating an Electronic Funds Transfer other than in response to a request or application therefor; or as a renewal of, or in substitution for, an Accepted Card, code or other means of access, whether issued by the initial issuer or a successor.

47. **Exceptions.-** (1) Notwithstanding the provisions of section 46, a person may distribute to a consumer on an unsolicited basis a card, code or other means of access for use in initiating an Electronic Fund Transfer from such Consumer's account if –

- (i) such card, code or other means of access is not validated;
- (ii) such distribution is accompanied by a complete disclosure, in accordance with section 29 of the Consumers' rights and liabilities which will apply if such Card, code or other means of access is validated;
- (iii) such distribution is accompanied by a clear explanation, in accordance with instructions of the State Bank, that such card, code, or other means

of access is not validated and how the Consumer may dispose of such code, card, or other means of access if validation is not desired and such Card, code, or other means of access is validated only in response to a request or application from the Consumer, upon verification of the Consumer's identity.

- (2) For the purpose of this section, a card, code, or other means of access is validated when it may be used to initiate an Electronic Fund Transfer.

48. **Suspension of Obligation** - If a technical malfunction prevents the effectuation of an Electronic Fund Transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the Consumer's obligation to the other person shall be suspended until the malfunction is corrected and the Electronic Fund Transfer may be completed, unless such other Person has subsequently, by written request, demanded payment by means other than an Electronic Fund Transfer.

49. **Waiver of Rights.**- No writing or other agreement between a Consumer and any other Person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this Act, and any such writing waiving any right or cause of action shall be void and of no legal effect.

CHAPTER IX

Action Before the Court

50. **Damages.-** Except as otherwise provided by this section or the provisions of this Act, any person who fails to comply with any provision of this Act with respect to any other person, except for an error resolved in accordance with the provisions of this Act, shall, upon an action brought before a court, be liable to such person for payment of an amount equal to the sum of any actual damage sustained by that person as a result of such failure.

51. **Bonafide Error. -** Except as provided by section 50, a person may not be held liable in any action brought under this chapter for any violation of this Act if the person shows by preponderance of evidence that the violation was not intentional and resulted from a bonafide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

52. **Actions Taken in Good Faith.-** (1) The provisions of section 50 shall not apply to any act done or omitted in good faith, or purported to be done in conformity with any rule, instruction or interpretation of approval by an official of the State Bank duly authorized to issue such interpretations or approvals under such procedure of the State Bank as may be prescribed for.

(2) A Financial Institution or an Authorized Party shall not incur any liability under section 50 on account of any failure to make a disclosure in proper form, if such institution utilized an appropriate model clause issued by the State Bank, notwithstanding the fact that after such act, omission, or failure has occurred, such rule, instruction, approval or model clause under sub-section (1) was

amended, rescinded or determined by judicial or other authority as invalid for any reason.

53. **Notification to Consumer Prior to Action.-** A person shall not incur any liability for any failure to comply with any requirement under this Act, if prior to the institution of an action under this Act, such person notifies the consumer concerned of the failure, complies with the requirements of this Act and makes an appropriate adjustment to the Consumer's account and pays actual damages or, where applicable, damages in accordance with section 39.

54. **Action in Bad Faith.-** On finding by the court that an unsuccessful action for any alleged failure was brought in bad faith or for the purposes of harassment, the court may award to the defendant(s) costs of such litigation and the attorney's fees found reasonable in relation to the work.

55. **Jurisdiction of Courts.-** (1) With regard to the amount in controversy, any civil action under this Act may be brought in any court of competent jurisdiction.

(2) The court exercising jurisdiction shall not adjourn the case for more than ten days at a time; provided that the aggregate of adjournments granted to the defendant shall not exceed three.

(3) The court shall announce its judgment within ninety days after notice upon the defendant in the case was first served.

56. **Criminal Liability.-** Whoever knowingly and willfully gives false information or inaccurate information or fails to provide information which he is required to disclose by

this Act or any instruction issued thereunder, or otherwise fails to comply with any provision of this Act shall be punished with imprisonment of either description which may extend to three years, or with fine which may extend to three million rupees, or with both.

57. Violations Affecting Electronic Commerce.- Whoever –

- (1) knowingly, in a transaction effected by electronic commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained Debit Instrument to obtain money, goods, services or anything else of value aggregating five thousand rupees or more, or
- (2) knowingly receives, conceals, uses or transports money, goods, services or anything else of value aggregating five thousand rupees or more obtained by use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained Debit Instrument, or
- (3) knowingly receives, conceals, uses, sells, or transports one or more tickets for transportation, and which have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained Debit Instrument,

shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine which may extend to one million rupees, or with both.

Explanation.-For the purpose of this section e-commerce means the activity of buying, selling or contracting for goods, services and making payments using internet or worldwide web through communication networks including of wireless networks, within or outside Pakistan.

58. Cheating by Use of Electronic Device.- Whosoever cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is, or by cheating by impersonation, fraudulently or dishonestly uses any credit or debit card, or code or any other means of access to an Electronic Fund Transfer device, and thereby causes any wrongful gain to himself or any wrongful loss to any other person, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine which shall not be less than the wrongful loss caused to any person, or with both.

CHAPTER X

Miscellaneous

59. Act to override Law of Insolvency: (1) Notwithstanding anything to the contrary provided in the law of insolvency, rights and liabilities of persons arising from transfer orders in this Act shall be governed subject to the provisions of this section, in case such person is a participant.

(2) No transfer order passed under this Act, any disposition of property in pursuance of such order, or the default arrangements of a designated

system shall be regarded to any extent as invalid on the ground of inconsistency with the law of insolvency.

- (3) No order of the court or any office holder acting under the law of insolvency shall interfere with settlement of a transfer order passed in accordance with the rules of the designated system.
- (4) A debt or other liability arising out of a transfer order which is the subject of action taken under default arrangements, may not be proved in a bankruptcy or winding up proceedings, or may not be taken into account for the purpose of any set-off until the completion of the action taken under default arrangements.
- (5) The Netting arrangement shall be valid and enforceable and an operator or participant of a designated system shall be required to give effect to such arrangement.
- (6) Nothing in this section shall be construed to require the unwinding of any netting or gross payment done by the operator of a Designated Payment System, whether pursuant to its default arrangements or otherwise:

Provided that this section shall not apply in relation to any transfer order which is entered into a Designated Payment System after the expiry of the day on which a court made an order for insolvency, judicial management or winding up in respect of the participant, or after a resolution for voluntary winding up of the participant was passed.

Explanation.- In this section “**Default Arrangements**” means the arrangements put in place by a designated system to limit systemic and other kinds of risks which arise in the event of a participant appearing to be unable, or likely to become unable, to meet its obligations in respect of a transfer order, including any arrangements for netting.

60. **Operator of Designated Payment System Insolvent:** (1) Where the State Bank is satisfied that any operator of a Designated Payment System is insolvent or likely to become insolvent, or has become or likely to become unable to meet all or any of his obligations, or has suspended payments or compounded with his creditors, or where it is in the public interest, State Bank may:

- (i) assume control of the whole of the property, business and affairs of the operator of the Designated Payment System and carry on the whole of his business and affairs and appoint its own officers, or assume control of such part of its property, business and affairs and carry on such part of its business and affairs as the State Bank may determine, and it may further order that the cost and expenses of the State Bank or the remuneration of any Person so appointed by the State Bank, may be paid out of the funds and properties of the operator of the Designated Payment System which shall be regarded as the first charge thereon; and
- (ii) take any action or initiate any proceedings against the operator under the law of insolvency, whether or not an order has been made under the preceding sub-section

- (2) No order under this section shall be made unless the operator of a Designated Payment System or any director or officer of the operator of the Designated Payment System in respect of which an order is to be made, or who in pursuance of such order is to be removed from office, has been given a reasonable opportunity of making representation against the proposed order.

Provided that State Bank may, if an immediate systemic risk is involved, take immediate action under this section pending the final order.

61. **Application of Fine.-** A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied towards compensation to the aggrieved person for any loss caused by the person committing an offence under this Act.

62. **Power to Investigate.-** (1) Notwithstanding anything to the contrary provided by any other law for the time being in force, any information relating to commission of an offence under this Act shall be recorded in writing by an officer-in-charge of a police station, generally empowered in this behalf under the Code of Criminal Procedure, 1898 (Act V of 1898).

- (2) Investigation of offences committed under this Act shall be carried out by an officer-in-charge of the police station empowered under the Code of Criminal Procedure, 1898 (Act V of 1898) to exercise such powers, including power to examine witnesses, to arrest any person or to seize any document or thing or search any place, and do all other acts or things necessary for such purpose;

Provided that such officer shall be subject to the same restrictions in respect of any document or record of a financial or Electronic Money Institution as is provided in respect of documents in custody of a Bank or a banker in section 94 of the Code of Criminal Procedure 1898 (Act V of 1898).

63. **Trial of Offence.-** (1) Notwithstanding anything to the contrary provided by any other law for the time being in force, offences provided for in Chapter IX of this Act shall be tried by the Court of Sessions, having territorial jurisdiction in the case, which shall observe the same procedure as provided for trial of offences by the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) Cognizance shall be taken by the court upon a report of facts made in writing by a police officer or upon receiving a complaint of facts which constitute the offence.

(3) In case of a complaint, the court may postpone the issue of process for attendance of the person complained against and refer the complaint to the officer-in-charge of a police station for investigation and report.

64. **Application to acts done outside Pakistan.-** The provisions of this Act shall apply notwithstanding the matters being the subject hereof occurring outside Pakistan, in so far as they are directly or indirectly connected to, or have an effect on or bearing in relation to persons, Payment Systems or events within the territorial jurisdiction of Pakistan.

65. **Offences to be non-cognizable etc.** – Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act are bailable, non-cognizable and compoundable with the permission of the court.

66. **Procedure.**- (1) Notwithstanding anything to the contrary provided in this Act or any other law for the time being in force, no Court or authority or officer shall take cognizance of any offence against this Act which is alleged to have been committed by any person, party, participant, Service Provider, operator or Financial Institution or any officer or auditor thereof, who is authorized, licensed or designated under the Act, except on the complaint in writing of the State Bank:

Provided that nothing in this sub-section shall apply to a prosecution by a person, party, participant, Service Provider, operator or Financial Institution or any of its officers or employees:

Provided further that, where the State Bank is itself empowered to impose a penalty or fine, it may take cognizance of the offence and start proceedings on the basis of a memorandum of allegations placed on record by an officer of State Bank

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the personal attendance of the complainant before the Court or authority trying the offence shall not be necessary unless the Court, for reasons to be recorded, requires his personal attendance at the trial.

67. **Overriding Effect.-** This Act shall have effect notwithstanding anything to the contrary provided in any other law for the time being in force or any agreement, contract, memorandum or articles of association.

68. **Removal of Difficulties.-** If any difficulty arises in giving effect to any provision of this Act, the Federal Government may, in consultation with the State Bank, make such order as appears to it to be necessary for the purpose of removing the difficulty.

69. **Power to Call For Information.-** (1) The State Bank may direct any Financial Institution or Service Provider or any other Authorized Party to give or furnish to the State Bank, within such time as the State Bank may specify in this behalf, such information, documents or records in respect of any business carried on by such institution or Service Provider or other Authorized Party, as may be within its knowledge or under its possession, custody or control.

(2) If such institution or Service Provider or other Authorized party fails or omits to furnish any information required by the State Bank under sub-section (1) or willfully makes a statement which is false in any material particular it shall be liable to get its license under section 24 withdrawn by the State Bank and to pay it fine which may extend to one million rupees.

(3) Any party or person aggrieved by an order passed under sub-section (2) may appeal within fifteen days of such order to the Governor of the State Bank, who shall dispose of the appeal within sixty days.

70. **Secrecy and Privacy.-** (1) A Financial Institution or any other Authorized party shall, except as otherwise required by law, not divulge any information relating to an

Electronic Fund Transfer, affairs or account of its consumer, except in circumstances in which, according to the practice and usage customary among bankers, it is necessary or appropriate for a Financial Institution to divulge such information, or the consumer has given consent therefor.

(2) No person other than an officer or agent appointed by the Financial Institution that maintains the account of a consumer may have access through an Electronic Terminal to information relating to Electronic Fund Transfer, the affairs, or the account of the consumer.

(3) The rules governing the operation of individual accounts will be applicable to Electronic Fund Transfers in relation to disclosure of information to third parties.

71. Complaint Resolution.- (1) A consumer, not satisfied with the outcome of a complaint made to a Financial Institution in relation to any Electronic Fund Transfer or disclosure made by a Financial Institution to a third party, without prejudice to any right to seek any other remedy under the law, may make a complaint to the State Bank.

(2) The State Bank after hearing the parties may pass such order as it deems fit under the circumstances of the case.

72. Suspension of Operation.- (1) The Federal Government in consultation with the State Bank may by a general order, for the time being suspend operation of any provision of this Act, and from the date of such order, such provision shall cease to apply.

(2) When the order made under sub-section (1) is withdrawn by the Federal Government such suspension shall cease to operate with effect from the date specified by the Federal Government in this behalf.

73. Immunity of the State Bank and its Employees, etc. .- (1) No suit or other legal proceedings shall lie against the State Bank or any officer or employee thereof or any person acting under its direction:

- (i) for any act done in good faith,-
 - (a) in the performance, or intended performance, of any function or duty; or
 - (b) in the exercise, or intended exercise, of any power, in the capacity of the State Bank as the designated Bank under this Act; or
- (ii) for any neglect or default in the performance or exercise in good faith of such function, duty or power.

74. Penalties.- (1) Any financial Institution or Service Provider, who willfully fails to comply with any provision of this Act or rules, circulars, directions, orders or bye-laws issued under this Act or any provision thereof, shall be liable to pay fine to the State Bank which may extend to one million rupees.

- (2) In case of failure to pay the fine, State Bank may suspend or revoke the license of the Service Provider or Financial Institution concerned, as the case may be.

- (3) If any amount of fine under sub-section (1) remains unpaid, it may be recovered as arrears of land revenue.”.