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THE NATIONAL FORENSICS AGENCY ACT, 2024

[24th December, 2024]

ACT No. XXXVII OF 2024

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ACT

to provide for establishment of a National Forensics Agency

WHEREAS, it is expedient to establish a National Forensics Agency to conduct examination of forensics materials and render opinion to the courts, tribunals, authorities or any other entity and to assist in civil, criminal, corporate and for the public matters and the matters ancillary thereto, under investigation by any authority or agency established by the Federal Government or Provincial Governments, if so requested by that Provincial Government;

It is hereby enacted as follows:-

1. Short title, extent and commencement.—(1) This Act shall be called the National Forensics Agency Act, 2024.

(2) It shall extend 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) "Agency" means the National Forensics Agency established under section 3 of this Act;

(b) "alumni" means the alumni of, inter alia, science, technology, engineering, mathematics (STEM) Careers Program, Higher Education Commission of Pakistan or any other STEM program of any university of Pakistan who is a citizen of Pakistan;

(c) "artificial intelligence" or "AI" means the use of intelligent and smart technologies to create a system that depicts humans or human systems using machines;

(d) "Board" means a Board of Governors of the Agency constituted. under section 6 of this Act;

(e) "conventional forensics" conventional forensics refers to traditional methods and practices used in the investigation of crimes or incidents. It includes pathology, anthropology, DNA analysis, toxicology, narcotics, fingerprints, serology, ballistics, explosives, odontology, entomology, document examination and crime scene investigation, etc.;

(f) "consultant" an alumni, expert or company in a relevant field who or which may be hired for a specific period of time on a specified fee determined by the Board;

(g) "deep fake" means an audio, video, picture or any other form of fabricated digital media using AI deep learning algorithms to impersonate or malign any real or imaginary person;

(h) "Director General" or "DG" means the Director General of the Agency;

(i) “digital forensics” also known as computer forensics, a branch that focuses on the investigation and analysis of digital devices and electronic data to gather evidence for legal purposes. Its branches include computer forensics, mobile device forensics, network forensics, memory forensics, digital forensics imaging, database forensics and cloud forensics etc.;

(Gj) “employee” means an officer, official, expert or such other person appointed on regular basis;

(k) “forensics services” means to render expert opinion with regards to forensics cases referred to the Agency by a court, tribunal or an authority;

(1) “forensics material” means a document, material, equipment, impression, sample or any other object connected with the commission of an offence, a civil cause, an inquiry or any other proceedings;

(m) “Government” means the Federal Government;

(n) “project” means any identified and approved project of the agency;

(o) “prescribed” means prescribed by rules and regulations made under this Act;

(p) “rules” means rules made under this Act; and

(q) “regulations” means regulations made under this Act.

(2) Words or expressions used but not defined under this Act shall have the same meaning as assigned thereto in the Pakistan Penal Code (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898), the Qanun-E-Shahadat Order, 1984 (P.O. No. 10 of 1984) and the Prevention of Electronic Crimes Act, 2016 (XL of 2016).

3. Establishment of the Agency.—(1) On commencement of this Act, there stands established an agency to be called the National Forensics Agency, which shall be independent in the performance of its functions. The Agency shall be a body corporate with financial and administrative autonomy and having perpetual succession and a common seal with power, subject to the provisions of this Act, to enter into contracts, acquire and hold property, both movable and immovable, and to sue and be sued in its name:

Provided that the Agency established under this sub-section shall be at the existing facility of the National Forensics Agency (NFA) with additional infrastructure.

(2) The headquarters of the Agency shall be at Islamabad, and the Agency may, from time to time, establish other offices at such places as it deems appropriate.

(3) The Agency shall consist of a Director General, Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers and employees as may be prescribed:

Provided that till such time the regular Director General is appointed in accordance with the provisions of this Act, the Project Director of NFA project shall exercise the powers and functions of the Director General.

4. Functions and responsibilities of the Agency.—(1) The following shall be the functions and responsibilities of the Agency, namely;

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expand its infrastructure and human resource to establish a research department, other forensics departments and a state-of-the-art digital forensics department to assist in matter of national security and work as a Centre of Excellence for the country and one window resources center,

act as a central coordinating agency being a supreme agency providing intimate conventional, digital forensics services in prescribed manners to Government departments as well as private sector at Federal and provincial level including Azad Jammu and Kashmir (AJK) and Gilgit- Baltistan (GB) and all forensics agencies and laboratories in country including the law enforcing agencies;

be center of excellence for conventional, digital forensics, employing cutting-edge AI tools and a new research center to develop indigenous solutions;

prepare, update and approve standard operating procedures under this Act, International Organization for Standardization (ISO) and world best practices for sharing to all government departments and forensic laboratories to follow the same to maintain the integrity of conventional, digital forensics material;

collect, preserve and handle conventional, digital forensics materials as and when required from crime scene;

through notified experts conduct examination, render expert opinion, appear in a court as such expert with regard to conventional, digital forensics materials referred to the Agency by a court, tribunal, authority or an any other entity in a prescribed manner;

(g) levy and collect such fees, in respect of any of its functions at such rates as may be

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prescribed;

maintain record and database of conventional, digital forensics material or data received

and analyzed by the Agency;

image, video, voice enhancement to maximize the output while maintaining the integrity of actual digital media as per international best practices;

procure, operate, and maintain scientific instruments for examination of conventional, digital forensics material;

accreditation and certification of public and private conventional, digital forensics laboratories, facilities and experts in Pakistan as deemed appropriate by the government;

re-examination of conventional, digital forensics reports shared by any federal, provincial, local or international agency;

(m) perform research to identify specialized projects related to conventional and digital

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forensics, Artificial Intelligence new technologies that are of national importance and Alumni or expert consultants from STEM fields shall be hired for these projects;

conduct gap analysis of the country with contemporary systems used in modern world in terms of conventional, digital forensics, AI, new technologies and give recommendation to bridge this gap;

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training of Judicial and law officers with latest trends in conventional, digital forensics and recommend appropriate laws to the government;

to work as a member of a committee that drafts and finalize international agreements related to conventional, digital forensics;

coordinate and collaborate with provincial government departments, public and private sector institutions, international organizations, universities, research institutes and conventional, digital forensics laboratories for research and training programs;

coordinate and oversee collaboration between public and private institutes, organizations, universities and conventional, digital forensics labs from within the country and abroad;

perform referral and consultative role whenever requested by provincial governments or by courts of law or any other entity;

perform such other functions as the Government may assign to the Agency in furtherance of the aims and objectives of the Agency.

The report and opinion of the Agency shall be an admissible evidence in courts and tribunals for the purposes of section 510 of the Code of Criminal Procedure, 1898 (Act V of 1898) and Articles 59 and 164 of the Qanoon-e-Shahadat Order, 1984 (P.O. No. 10 of 1984).

5. Superintendence of the Agency.—The general directions and superintendence of the Agency shall vest in the Board under this Act.

6. Board of Governors.—There shall be a Board of Governors of the Agency which shall

comprise-

S. No. Membership Status

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1. [Secretary of the division to which business of the Agency stands Chairperson allocated

2. [Inspector General of Police, Islamabad Capital Territory or in his] Member absence his nominee not below an officer of BPS-20 or equivalent

3. [National Coordinator of National Counter Terrorism Authority] Member (NACTA) or in his absence his nominee not below an officer off IBPS-20 or equivalent

4. Director General of National Police Bureau (NPB) or in his absence] Member his nominee not below an officer of BPS-20 or equivalent

5. [Director General of the Agency Member-cum-Secretary

7. Meetings of the Board.—(1) The Chairperson may convene meetings of the Board at such time and place as he considers necessary for the efficient performance of the functions of the Board.

(2) At any meeting of the Board the quorum shall be three members.

(3) All issues arising at any meeting of the Board shall be decided by the majority of votes of the members present and voting.

(4) Subject to the provisions of this Act, the Chairperson may give directions regarding the procedure to be followed at or in connection with any meeting of the Board.

8. Powers and functions of the Board.—(1) The powers and ‘functions of the Board shall include—

(a) lay down procedures for the conduct of the business of the Board, committees, bodies or working groups constituted by the Board to assist in discharge of its functions;

(b) oversee functioning activities of the Agency;

(c) approve guidelines to be followed by the Agency for vetting of local and international agreements that relate to conventional, digital forensics;

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approve guidelines for the Director General and Directors to take cognizance of cases related to conventional and digital forensics;

(e) approve specialized projects, resources required for consultants, consultancy fee, etc.;

(f) creation, abolition, re-designation and up-gradation or down-gradation of any post provided the expenditure is met from within the allocated budget of the Agency;

(g) to re-appropriate funds from one head of account to another head of account and to sanction expenditure on any item from within the allocated budget;

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hiring appointment of human resource on initial appointment, regular, contract. deputation or on attachment basis in prescribed manner;

(i) to recommend absorption of officers posted in Agency on attachment, deputation or on contract basis against regular approved posts in prescribed.manner;

(j) to conduct its business in a prescribed manner; and

(k) to approve the annual budget prepared by the Agency.

(2) The annual report and accounts of the Agency for every financial year shall be submitted at a meeting of the Board within three months after the end of the financial year to which the accounts relate.

(3) There shall be an executive committee of the Board which shall consist of—

(a) Secretary of the division to which business of the Agency stands allocated.

(b) any member of the Board appointed by the Chairperson; and

(c) Director General of the Agency or in his absence his nominee not below an officer of BPS-20 or equivalent.

(4) The executive committee shall exercise all the powers of the Board in urgent matters. All decisions of the executive committee shall be placed before the Board in the next meeting for its approval.

(5) The Board may constitute committees for performing functions of the Agency under this Act.

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(6) The Board shall conduct and hold its meetings in a prescribed manner.

9. Appointment of the Director General.—(1) There shall be a Director General of the Agency who shall within six months of the commencement of this Act be appointed by the Federal Government in such manner and on such terms and conditions as may be prescribed by rules:

Provided that no person shall be appointed if he holds nationality of any other country.

(2) Till such time the regular Director General is appointed in accordance with sub-section (1), the Prime Minister may designate an officer not below the rank of BPS-20 or equivalent to act as Director General in accordance with the provisions of this Act.

(3) The Prime Minister may, after notice and inquiry in the prescribed manner, remove the Director General on the ground of inefficiency, misconduct, corruption or inability to perform functions.

(4) The Director General may, by writing under his hand addressed to the Prime Minister through the division concerned, tender his resignation and shall cease to hold office upon acceptance of his resignation:

Provided that where the Prime Minister does not accept the resignation within thirty days, it shall be deemed that the resignation stands accepted.

10. Appointment of officers, staff, etc. by the Agency.—The Agency may appoint employees, consultants and such other persons in the manner and on the terms and conditions as may be prescribed by regulations.

11. Employees to be public servants.—The Director General, employees and such other persons appointed under this Act, when acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

12. Powers of the Director General.—(1) The Director General, as the chief executive of the Agency, shall exercise administrative as well as financial powers with regards to the functioning of the Agency, under this Act.

(2) The Director General shall ensure that the Agency performs its activities and functions in accordance with the provisions of this Act, as well as the rules and regulations made thereunder.

(3) In particular and without prejudice to generality of the foregoing powers, the powers of the Director General shall include—

(a) acting as a principal accounting officer of the Agency;

(b) proposing, recommending and presenting budget estimates of the Agency to the Board;

(c) sanctioning all expenditure provided for in the approved budget as may be prescribed;

(d) constituting sub-committees and assigning specific tasks to the said committees or sub-committees, for performance of the Agency's functions under this Act; and

(e) exercising and performing such other powers and functions as may be deemed connected with or ancillary to works and activities of the Agency under this Act.

(4) Until the executive committee is duly constituted, the Director General shall, subject to such directions as the Government may give from time to time, exercise the powers and perform the functions of the executive committee.

(5) The employees of the Agency shall have such powers and perform such functions as may be assigned to them by the Director General.

13. Establishment of Agency fund.—(1) There shall be a fund of the Agency which shall be non-lapsable fund vesting in the Agency to be known as the NFA fund. The Fund shall consist of-

(a) grants made by the Government;

(b) funds provided by the Federal and Provincial Government, if the Provincial Governments so desired;

(c) loans and grants from the national or international agencies received by the Government to finance the functions of the Agency;

(d) charges and fees collected for services provided or from such sources as may be approved by the Board;

(e) income from investments and deposits as approved by the Board and in accordance with rules;

(f) income from the sale of movable or immovable property;

(g) donations and endowments;

(h) all other sums received by the Agency in lieu of service; and

(i) proceeds from any other service rendered by the Agency, including Inspection Services (foreign or local), projects or income from sale of any publication;

(2) All sums received in lieu of services provided by the Agency shall be credited to NFA fund.

(3) The Director General may utilize the NFA fund for expenditure in accordance with the regulations of the Agency.

(4) The NFA Fund shall be kept in one or more accounts maintained by the Agency in local or foreign currency in any scheduled bank in Pakistan and shall be operated in accordance with regulations of the Agency.

14. Re-examination of forensic material.—Aggrieved person or a department may seek the provision of re-examination of conventional, digital forensics material against a report submitted in an investigation through a court or tribunal in a prescribed manner.

15. Bar to action and indemnity.—(1) No action taken under this Act shall be called in question in any court or otherwise except in the manner provided in this Act.

(2) No civil or criminal proceedings shall be instituted against any person for anything done in good faith or purported to have been done under this Act.

(3) No suit, prosecution or other legal proceeding shall lie against the Government or any Provincial Government or local authority or any other person exercising any power or performing any

function under this Act or for anything which is done in good faith or purporting or intended to be done under this Act or any rules made thereunder.

16. Accounts and audit.—(1) Subject to Articles 169 and 170 of the Constitution, the Agency shall prepare its budget, with respect to each financial year, and shall maintain complete and accurate books of accounts of their actual expenses, income, payments, receipts, assets and liabilities, etc.

(2) The annual accounts of the Agency shall be audited by the Auditor General of Pakistan, in terms of Articles 169 and 170 of the Constitution and if required by a reputable firm of chartered accountants, within the meaning of Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Board.

17. Annual report.—(1) The Agency shall submit its annual report to the Prime Minister through the division concerned before the 31st day of September of each financial year.

(2) The Minister concerned shall, within the period of one month of the receipt of the annual report, lay the same in the National Assembly and the Senate.

(3) The Director General shall submit the following reports to the Board, namely:-

(a) periodical reports, returns, statements and statistics as may be required by the Government or the Board;

(b) annual report on different research and operational activities;

(c) information and reports required by the Government on any specific point;

(d) copies of documents required by the Government; or

(e) any other information or data required by the Government.

18. Power to make rules.—The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act in respect of external matters of the Agency.

19. Power to make regulations.—The Agency may, with approval of the Board and by notification in the official Gazette, make regulations for its internal matters not inconsistent with the provisions of this Act and the rules.

20. Delegation of powers.—The Agency may, by general or special order and subject to such conditions as it may deem appropriate in writing delegate, all or any of its powers and functions to the Director General or any other officer of the agency under this Act.

21. Assistance to Agency.—The Agency may seek assistance from all executive authorities of the Federation and in the provinces as may be required for the exercise or performance of Agency's activities and functions under this Act.

22. Issuance of policy directives.—(1) The Government may, as and when deemed necessary, issue policy directives to the Agency.

(2) The Board shall take all necessary steps to ensure that the activities and works of the Agency, to the extent practicable, are carried out in accordance with the policy directives issued by the Government.

23. Relationship with other laws.—Save as provided in this section the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

24. Transfer and savings.—(1) On commencement of this Act,-

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all acts done, actions taken, obligations and liabilities incurred, rights and assets acquired, persons appointed or authorized, jurisdictions or powers conferred, endowments, bequests, funds or trusts created, donations or grants made, orders issued and rules or regulations made by or in relation to the Agency, before the commencement of this Act, shall be deemed to have been done, taken, incurred, acquired, appointed, conferred, created, made or issued with respect to the Board or the Agency, respectively, under this Act;

all funds, properties, rights and interests, etc. issued, used, enjoyed, possessed, owned or vested in the National Forensics Science Agency (NFS) Project and its Transformation to National Forensic Agency (NFA) Project shall immediately stand transferred to the Agency established under this Act;

all persons in service of the NFA Project shall immediately stand transferred to the Agency established under this Act without entitlement to any additional compensation or benefit in lieu thereof:

Provided that-

(i) the persons so transferred shall have the option to exercise a non-revocable one-time option within sixty days of the commencement of this Act either to retain the terms and conditions of their service existing immediately before commencement of this Act or opt for the new terms and conditions as shall be admissible to the employees of the Agency on commencement of this Act which shall not be less favourable than their former terms and conditions of service;

(ii) the persons on deputation, attachment or secondment, etc. to the NFA Project shall on exercising the option under sub-clause (i) may continue with their existing status of appointment on their existing terms and conditions of service in the Agency or may opt for absorption with consent of their lending organization as employee of the Agency on new terms and conditions of service or opt for repatriation to their parent organization;

(iii) where no option is exercised under sub-clause (i) or sub-clause (ii), it shall be deemed that the persons have opted for absorption in the Agency on the new terms and conditions of their service in case of the persons under sub-clause (i) at their own consent and in case of the persons under sub-clause (ii) with consent of their lending organization; and

(iv) where any departmental proceedings or criminal proceedings in the court of competent jurisdiction are pending finalization against any person so transferred to the Agency, the same shall remain pending and shall be decided in accordance with

his terms and conditions of service immediately existing before commencement of this Act.

(2) The provisions of the Industrial Relations Act, 2012 (X of 2012) shall not apply to matters relating to or arising out of transfer of employees to the Agency.

25. Offence.—(1) If an expert or official of the Agency knowingly or negligently renders false, incorrect or misleading opinion before a court, tribunal or authority, he shall be liable to the punishment of imprisonment which may extend to one year or with fine which may extend to one hundred thousand Rupees or with both.

(2) No court shall take cognizance of an offence under this Act unless an officer authorize by the Director General makes a complaint in writing in this behalf.

26. Removal of difficulties.—In case a difficulty arises in giving effect to any of the provisions of this Act, the Government may make such orders, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing such difficulty.