

Our Correspondent

Govt advised to take cases against private sector from NAB

KARACHI: Businessmen advised the government to transfer existing proceedings against the private sector from the National Accountability Court (NAB) to another appropriate court.

The Pakistan Business Council (PBC) said the NAB's powers should be restricted solely to those who hold public offices. "Other government investigation agencies, regulators and courts should exercise their powers to hold the private sector accountable, without the interference of NAB," it said in a statement.

The government is currently considering amendments into the NAB Ordinance 1999. Under a proposed amendment, the application of the NAB laws may not be extended in respect of a private person or entity, who/which is directly and indirectly unconnected with a holder of public office.

The PBC said the proposed amendment would provide little comfort to the private sector as in a great majority of cases there can be some direct or indirect connection with a holder of a public office.

"This is a valuable opportunity to create a framework that strengthens business confidence and allows the private sector to invest, create jobs, boost exports and encourage import substitution," Ehsan Malik, chief executive officer of PBC said, cautioning against rushing through with half measures to amend the NAB law.

PBC said proposed changes are not sufficient and would provide backdoor to the NAB to probe private sector. The council said the proposed amendment – aimed at curtailing NAB's powers to investigate private persons and entities – is woefully inadequate, leaving enough room for it to continue to probe the private sector on the pretext of direct or indirect connection with holders of public office.

The PBC recommended that the section 3 of the ordinance needs to be amended as stating: "3 Ordinance to override other laws. The provisions of this Ordinance, insofar as the same pertains to holders of public office, shall have effect notwithstanding anything contained in any other law for the time being in force."

A new section 3 A needs to be added to state: "3A. Application of Ordinance to holders of public office only.

(i) No provision of this Ordinance shall apply to any person other than the holder of a public office in the discharge of his official duties; (ii) all pending inquiries, investigations and/or trial relating to persons other than a holder in public office shall stand abated and transferred to the relevant agency/court as may be prescribed under the rules hereunder."

The PBC further advised amendments into section 9(a) and section 9(a)(xii).

“9(a) A holder of a public office is said to commit or to have committed the offence of corruption and corrupt practices,” the advised amendment said.

“(xii) if he aids, assists, abets, attempts or acts in conspiracy with a holder of public office convicted of an offence as provided in clauses (i) to (xi).].”

The council advised the government to delete material provisions relating ‘to any person’ from the ordinance to exclude private persons and entities in the NAB ordinance.

“The Ordinance should apply only to mega corruption cases by holders of public office,” it added. “The suggested threshold of PKR500 million in the proposed amendment is too low and should be increased to a minimum of PKR2 billion (and the mechanism for determining the valuation will need to be set forth in detailed rules).”

The PBC advised amendment in the law to provide pre- and post-arrest bail by the accountability court, thereby reducing the burden on the High Court and the Supreme Court – with provisions for an appeal to the High Court both by the accused and the prosecutor.

“The definition of inquiry and investigation and thereafter the various stages of trial should be clarified in the Ordinance,” it said. “Presently, the Ordinance does not address this issue (other than section 24 of the Ordinance).

Clarifying the same will bring more transparency in the application of the NAB laws.”