

NATIONAL ASSEMBLY SECRETARIAT

Subject: - REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 2016

I, Chairman of the Standing Committee on Law and Justice, have the honor to present this report on the Bill further to amend the Code of Civil Procedure, 1908 (V of 1908) [The Code of Civil Procedure (Amendment) Bill, 2016] referred to the Committee on the 14th March, 2017.

2. The Committee comprises the following members: -

i)	Chaudhry Mahmood Bashir Virk	Chairman
ii)	Justice (Retd.) Iftikhar Ahmad Cheema	Member
iii)	Chaudhary Muhammad Ashraf	Member
iv)	Mr. Mohsin Shah Nawaz Ranjha	Member
v)	Mr. Muhammad Moeen Wattoo	Member
vi)	Mr. Muhammad Raza Hayat Harraj	Member
vii)	Sardar Muhammad Amjad Farooq Khan Khosa	Member
viii)	Ms. Kiran Haider	Member
ix)	Syed Ayaz Ali Shah Sherazi	Member
x)	Mr. Mumtaz Ahmed Tarar	Member
xi)	Ms. Asiya Naz Tanoli	Member
xii)	Mr. Rajab Ali Khan Baloch	Member
xiii)	Syed Naveed Qamar	Member
xiv)	Mr. Muhammad Ayaz Soomro	Member
xv)	Ms. Shagufta Jumani	Member
xvi)	Eng. Ali Muhammad Khan Advocate	Member
xvii)	Dr. Arif Alvi	Member
xviii)	Mr. S.A Iqbal Quadri	Member
xix)	Moulana Muhammad Khan Sherani	Member
xx)	Ms. Aisha	Member
xxi)	Mr. Zahid Hamid, <i>Minister for Law and Justice</i>	Ex-officio Member

3. The Committee considered the Bill on 5th April, 2017 and 2nd May, 2017. The Committee recommends that the Bill placed at Annex-A may not be passed by the Assembly.

Sd/-
(CHAUDHRY MAHMOOD BASHIR VIRK)
Chairman
Standing Committee on Law and Justice

Sd/-
(JAWAD RAFIQUE MALIK)
Secretary
Islamabad the 10th May, 2017

[AS REPORTED BY THE STANDING COMMITTEE]

A

BILL

further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (V of 1908), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2016.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Omission of section 115, Act V of 1908.- In the Code of Civil Procedure, 1908 (V of 1908), hereinafter referred to as the said Code, section 115 shall be omitted.

3. Amendment of Order VIII, rule 1 of Act V of 1908.- (1) In the said Code, in Order VIII,-

(i) for rule 1 the following shall be substituted, namely:-

"1. Written statement.- The defendant may, and, if so required by the Court, shall at or before the first hearing or within such time as the court may permit, which shall not exceed thirty days, present a written statement of his defence:

Provided that the court may, for reasons to be recorded and for sufficient cause, allow not more than one extension in no case exceeding seven days to a party to file a written statement failing which an adverse right will be deemed to have immediately vested in the plaintiff or defendant, as the case may be, and the Court shall not allow the defaulting party to address it on the specific matter with respect to which there has been such default and shall proceed *ex parte* with respect to that matter alone:

Provided further that the Party adversely affected by the preceding clause has been duly served notice of the proceeding and has entered appearance in the case."

(ii) in rule 10, for the word "may" the word "shall" shall be substituted.

4. Amendment of Order X, Act of 1908. In the said Code, in order X, after rule 1, the following new rules shall be added, namely:-

1A. The Court shall conduct pretrial hearing to-

(i) expedite disposal of the case;

- (ii) improve the quality of the trial through more thorough preparation;
- (iii) issue, with the consent of parties, commission to examine witnesses, admit evidence and take other steps for the purpose of trial, and
- (iv) adopt, with the consent of the parties, any alternative method of dispute resolution including mediation, conciliation or any such other means.

1B. Scheduling Order.- The Court shall, within seven days of the pretrial hearing, issue a scheduling order, with the consent of the parties, determining the agreed time lines for the disposal of the suit.

Provided that the timelines shall not exceed the given time period of thirty days for the conclusion of trial."

5. Amendment of Order XVII, rule 2 of Act V of 1908. In the said Code, in Order XVII, in rule 2, for the proviso the following shall be substituted, namely: -

"Provided that, -

- (a) When the hearing of the suit has commenced, it shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds that, for the exceptional reasons to be recorded by it, the adjournment of the hearing beyond the following day is necessary;
- (b) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;
- (c) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment; and
- (d) where a witness is present in Court but a party or his pleader is not present or the party or his pleader, though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination or cross-examination of the witness, as the case may be, by the party or his pleader not present or not ready as aforesaid."

6. Amendment of Order XLI, rule 30 of Act V of 1908. In the said Code, in Order XLI, in rule 30, for the full stop (.) occurring at the end a colon (:) shall be substituted and the said rule shall read as follows:-

Provided that the total period involved in the decision of an appeal, including the pronouncement of judgment, shall not exceed forty five days."

7. Amendment of Order XLVIII, rule 1 of Act V of 1908. In the said Code, in Order XLVIII, in rule 1, in sub-rule (2), after the word "paid" the words "within seven days or" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The main objective of the proposed Bill is to curb the reasons of delay in the civil litigations on various excuses. A new rule in Order X has been proposed which authorizes the courts to conduct pre-trial hearing and to issue the scheduling order providing the time lines of the suit with the consent of the parties which will then be binding upon the parties. Moreover, it has been proposed that the court shall conduct day to day hearings of the suits and adjournments shall be granted to either party except in extra ordinary circumstances. The number of days for decision of the appeals has also been specified in the proposed Bill. The proposed amendments will be helpful to the courts in expeditious disposal of the suits.

1. **SENATOR RAJA MUHAMMAD ZAFAR-UL-HAQ,**
 2. **SENATOR AITZAZ AHSAN,**
 3. **SENATOR COL. (R) SYED TAHIR HUSSAIN MASHHADI,**
 4. **SENATOR HASIL KHAN BIZENJO,**
 5. **SENATOR SAEED GHANI,**
 6. **SENATOR MUHAMMAD TALHA MEHMOOD,**
 7. **SENATOR MUSHAHID HUSSAIN SYED,**
 8. **SENATOR IQBAL ZAFAR JHAGRA,**
 9. **SENATOR MUHAMMAD USMAN KHAN KAKAR,**
 10. **SENATOR DR. JEHANZEB JAMALDINI,**
 11. **SENATOR BAZ MUHAMMAD KHAN,**
 12. **SENATOR HIDAYAT ULLAH,**
 13. **SENATOR NAUMAN WAZIR KHATTAK,**
 14. **SENATOR SIRAJUL HAQ AND**
 15. **SENATOR SYED MUZAFAR HUSSAIN SHAH**
- MEMBERS-IN-CHARGE**