

[AS INTRODUCED IN THE SENATE]

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 documents 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-in-chief 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 after the substitution the following proviso shall be added, namely:-

“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.

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 - 2. SENATOR AITZAZ AHSAN,**
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 - 4. SENATOR HASIL KHAN BIZENJO,**
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 - 6. SENATOR MUHAMMAD TALHA MEHMOOD,**
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 - 8. SENATOR IQBAL ZAFAR JHAGRA,**
 - 9. SENATOR MUHAMMAD USMAN KHAN KAKAR,**
 - 10. SENATOR DR. JEHAZEB 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**