

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



**“The Code of Civil Procedure (Amendment) Bill, 2017
(Amendment of Sections 80 & 82)”**

Report No. 42

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT


REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CONSTITUTION (AMENDMENT) BILL, 2017"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Code of Civil Procedure (Amendment) Bill, 2017 (Amendment of Sections 80 & 82)" introduced by Senator Mohammad Azam Khan Swati on 6th March, 2017. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:-

1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meeting held on 27th March, 2017, under the Chairmanship of Senator Muhammad Javed Abbasi, which was attended by the following hon'ble Members:-

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- i. Senator Syed Muzafar Hussain Shah
 - ii. Senator Ms. Ayesha Raza Farooq
 - iii. Senator Nawabzada Saifullah Magsi
 - iv. Senator Saeed Ghani

4. The member-in-charge of the Bill briefed the Committee that main objective of the proposed Bill is to reduce the reasons of delay in the suits by or against the Government. In Article 25 of the Constitution “equality of citizens” states that all citizens are equal before the law and are entitled to equal protection of law but these provisions of the Code of Civil Procedure contradict with the Constitutional provision. The proposed amendments will be helpful to the courts in expeditious disposal of the suits by or against the Government.

5. Ministry of Law and Justice supported the Bill on the following grounds:-

- a. Section 80 of CPC deals with suit against the government or against public officer after the expiration of two months next after notice in writing has been delivered to the Secretary of the Government or to the public officer. It has been proposed that the two months period, before which suit cannot be instituted, shall be curtailed to fifteen days.
- b. Section 82 of CPC deals with execution of decree against the government or public officer. Presently, the provision is that time shall be specified in the decree within which it shall be satisfied and if the decree is not satisfied within the specific time, the court shall report the case for orders of the Provincial Government. It has been proposed that the time for satisfaction of decree shall not be more than six months. The consequential period of three months given in section 82(2) of CPC is proposed to be curtailed to thirty days.

6. The Members unanimously supported the Bill, however, were of the view that the proposed period of “fifteen days” is short. Therefore, the Committee made following amendments in the said Bill:-

In Clause 2,-

- a. In sub-clause (i), for the words “fifteen days” the words “one month” shall be substituted;
- b. In sub-clause (ii), for the words “fifteen days” the words “one month” shall be substituted.

7. The proposed amendments were duly supported by the Minister for Law and Justice and the member-in-charge.

8. In view of the above mentioned the Committee recommends that "The Code of Civil Procedure (Amendment) Bill, 2017(Amendment of Sections 80 & 82)", as reported by the Committee may be passed by the Senate. (The Bill reported by the Committee is annexed as "A" and the Bill introduced in the Senate is annexed as "B").



(RABEEA ANWAR)
J.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman

[AS REPORTED BY THE 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), in its application to the Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement. – (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2017.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Amendment of section 80, Act V of 1908.– In the Code of Civil Procedure, 1908 (V of 1908), hereinafter referred to as the said Code, in section 80,-

(i) in sub-section (1), for the words “two months” the words “**one month**” shall be substituted;

(ii) in sub-section (2), for the words “two months” occurring twice, the words “**one month**” shall be substituted; and

(iii) in the existing proviso for the full stop occurring at the end, a colon “.” shall be substituted, and thereafter the following second proviso shall be inserted, namely:-

“Provided further that in a suit instituted without such notice, the Court shall allow not less than one month and not more than two months to the Government to submit its written statement.”

3. Amendment of section 82, Act V of 1908.– In the said Code, in section 82,-

(i) In sub-section (1), after the word “satisfied” occurring for the first time, the words “which shall not be more than six months from the date of decree” shall be inserted; and

(ii) in sub-section (2), for the words “three months” the words “thirty days” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The main objective of the proposed Bill is to reduce the reasons of delay in the suits by or against the Government. In Article 25 of the constitution "equality of citizens" states that all citizens are equal before the law and are entitled to equal protection of law. And these provisions of the Code of Civil Procedure contradict with the Constitutional provision regarding fundamental rights. So it is necessary that law should be according to the Constitutional principles. The proposed amendments will be helpful to the courts in expeditious disposal of the suits by or against the Government.

The Bill has been designed to achieve the aforesaid objectives.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-In-Charge

[TO BE INTRODUCED IN THE SENATE]

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BILL

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