



SENATE SECRETARIAT

Report No. 17

REPORT OF THE SENATE STANDING COMMITTEE ON LAW AND JUSTICE



“THE LETTERS OF ADMINISTRATION AND SUCCESSION CERTIFICATES BILL, 2020”

PRESENTED BY

**Senator Muhammad Javed Abbasi
Chairman
Standing Committee on Law and Justice**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE LETTERS OF ADMINISTRATION AND SUCCESSION CERTIFICATES BILL, 2020"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Letters of Administration and Succession Certificates Bill, 2020" as passed by the National Assembly and introduced in the Senate on 14th January, 2020. 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 Mian Raza Rabbani	Member
3.	Senator Farooq Hamid Naek	Member
4.	Senator Ghous Muhammad Khan Niazi	Member
5.	Senator Siraj ul Haq	Member
6.	Senator Syed Muzafar Hussain Shah	Member
7.	Senator Ayesha Raza Farooq	Member
8.	Senator Muhammad Ali Khan Saif	Member
9.	Senator Musadik Masood Malik	Member
10.	Senator Mustafa Nawaz Khokar	Member
11.	Senator Sana Jamali	Member
12.	Senator Walid Iqbal	Member
13.	Senator Zeeshan Khanzada	Member
14.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meetings held on 22nd and 24th January, 2020, respectfully, under the Chairmanship of Senator Muhammad Javed Abbasi. Final consideration of the Bill was held in the meeting dated 24th January, 2020, which was attended by the following members:-

- i. Senator Muhammad Javed Abbasi
- ii. Senator Ghous Muhammad Khan Niazi
- iii. Senator Siraj ul Haq
- iv. Senator Ayesha Raza Farooq
- v. Senator Muhammad Ali Khan Saif
- vi. Senator Sana Jamali
- vii. Senator Zeeshan Khanzada

4. The Ministry of Law and Justice briefed the Committee that the proposed law provides for an efficacious and speedy mechanism for issuance of letters of Administration and Succession Certificates aimed at preventing identity fraud and forgery by NADARA. The proposed law either the whole law or part thereof, for the time being, shall extend only to Islamabad Capital Territory and will come into force on such dates as are notified by the Government. NADRA shall be authorized to issue Letters of Administration or Succession Certificates to the legal heirs of a deceased in respect of immovable or movable property, in accordance with Family Registration Certificate maintained by NADRA, where there is no "dispute" amongst the legal heirs. "Dispute", for this purpose has been defined, inter alia, as an objection by legal heirs or by any claimant of legal heirship, any complication which may arise in establishing the identity of legal heirs or any situation, matter or even requiring adjudication or recording of evidence or where at least one of the legal heirs is a minor. NADRA shall establish or notify any of its offices, domestic or abroad, as Succession Facilitation Unit(s) (SFU) for the purpose of receipt, processing and assessment of applications and issuance of the Letters of Administration and Succession Certificates. The SFU shall receive, process and assess the applications by way of a summary enquiry and in case of any dispute amongst the legal heirs, decline to assess the applications for filing afresh before the appropriate forum in accordance with the provisions of the Succession Act, 1925. Unless NADRA declines to process an application for issuance of the Letters of Administration or Succession Certificates by the legal heirs, jurisdiction of the courts has been barred. Prior to issuance of Letters of Administration or Succession Certificates, NADRA shall issue a notice to the general public on a web portal and daily newspapers of wide circulation. NADRA is also required to obtain bio-metric verification of the applicant and all the legal heirs before issuance of the letters of administration or succession certificates under the proposed law. NADRA while conducting verification of legal heirs and applicant will be permitted to resort to all available modern devices including biometric verification. Any person who knowingly makes any false statement or furnishes any false information shall be punishable with rigorous imprisonment. The letters of administration or succession certificates issued under this law shall be in favour of all legal heirs of deceased with details of their respective shares as provided in the personal law of such legal heirs. Any aggrieved person may seek remedies available under the law against the issuance of Letters of Administration or Succession Certificates by the Authority. NADRA has been authorized to appoint employees, experts and consultants etc. on such terms and conditions to be specified by

NADRA. NADRA is also required to maintain an online portal providing for updated record of the Letters of Administration and Succession Certificates issued under the proposed legislation. NADARA may also charge fees or other sums for its services including sums incurred on publication of public notice. All the charges or sums of collected shall then be credited to the NADRA Fund. The proposed legislation has been given an overriding effect. Most importantly, the procedure prescribed these days take several years before letters of administration or succession certificates could be issued by the courts which in any even use NADRA date. However, in the proposed legislation, letters of administration or succession certificates could be issued within 15 days. The proposal is for ICT. Other provinces need to pass similar laws.

Consideration of Bill in the meeting dated 22nd January, 2020

5. Senator Farooq Hamid Naek inquired about the provision of Family Registration Certificate in the National Database and Registration Authority Ordinance, 2000. He further asked about the appellant authority in case of rejection of issuance certificate by NADRA. He also sought clarity as to the phrase "in any other law" used in clause 12. Ministry of Law and Justice in response to the queries raised by Senator Farooq Hamid Naek clarified, that family registration certificate is a prescribed certificate issued by NADRA. Furthermore, the term "any other law" as provided in Section 12 includes laws relevant to the subject matter.

6. The Committee also sought input from NADRA as the main stakeholder for operationalization/application of this law will be NADRA. Chairman NADRA assured the Committee that NADRA is committed to provide full support and assistance for effective implementation of the proposed law.

Final Consideration of Bill in the meeting dated 24th January, 2020

7. The Committee noted that keeping in view the difficulties being faced by citizens in obtaining succession certificate, the Chairman Senate had referred this matter to the Standing Committee in order to explore the possibility of declaring family registration certificate as succession certificate. Thereafter, the Committee held extensive deliberations and on the basis of said deliberations the Ministry of Law and Justice drafted this Bill.



8. The Chairman Committee pointed out that in case of rejection of grant of certificate no right of appeal has been provided, resultantly people will be forced to make recourse to the prevailing legal system which might cause difficulties and result in excessive litigation. The Ministry of Law and Justice made reference to Clause 8 of the Bill and informed that the remedies will have to be sought under other available law.

9. Senator Ayesha Raza Farooq was of the opinion that such an important legislation should not be made in haste. She added that proposals by the Committee Members to rectify the flaws therein in order to ensure of the Committee that enactment of this law shall mitigate litigation and provide speedy mechanism for obtainment of succession certificate.

10. Senator Muhammad Ali Khan Saif pointed out that the phrase letter of administration used in the titled of this law has not been defined in the Bill. The source of evidence of this succession certificate would be the Family Registration Certificate (FRC) which will be a computer generated document and not protected from errors / flaws. He was of the opinion that this may widen the scope of litigation as the affectless will also include NADRA alongwith other parties in the array of defendants. He further deliberated that right to inheritance is provided through legal and judicial mechanism, however, this Bill provides that this would be dealt by a certificate of succession issued by NADRA on the basis of its record hence it may result in converting a judicial/quasi-judicial function into an administrative function which may have repercussions on this important Islamic legal right. The Hon'ble Senator also made reference to the preamble of the Bill and objected to limiting the aim to "curtailing fraud and forgery".

11. The Ministry of Law and Justice made reference to clause 4 and briefed that the existing set up of NADRA will not be performing functions with regard to issuance of succession certificate, as a Succession Facilitation Unit (SFU) will be established comprising of experts, consultants, advisors and other employees to undertake functions under the law. Therefore, the quasi-judicial function will not be performed by the administrative authority rather experts will be engaged in the process.

12. Senator Siraj ul Haq gave a note of dissent which is annexed as "A".

13. The Minister for Parliamentary Affairs assured the Committee that after the passage of this Bill, the Government will bring amending legislative proposal to address the issues raised by the Members.

14. The Chairman Committee put the Bill to the vote of the Committee, wherein all Members present except Senator Siraj ul Haq voted in favour of the Bill.

15. Accordingly, the Committee recommends that "The Letters of Administration and Succession Certificates Bill, 2020", as passed by the National Assembly and introduced in the Senate, may be passed by the Senate of Pakistan. (Copy of Bill as passed by the National Assembly and introduced in the Senate is annexed as "B").



(RABEEA ANWAR)
J.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman
Standing Committee on Law & Justice

محترم جناب چیئرمین
قائمہ کمیٹی برائے قانون و انصاف
سینیٹ آف پاکستان
اسلام آباد۔
السلام علیکم ورحمة اللہ!

اختلافی نوٹ

گزارش ہے کہ میں نے پروانہ انصرام جائیداد اور وراثتی سٹیٹ بل 2020 جو کہ قومی اسمبلی سے منظور ہونے کے بعد سینیٹ کی طرف سے مزید غور کے لیے کمیٹی ہذا کے سپرد کیا گیا ہے۔ میں نے اس کے اغراض و مقاصد اور شق 2 کو غور سے پڑھا ہے اور ریکارڈ کے لیے میری تحریری رائے ہے کہ

۱۔ الگ قانون کی ضرورت نہیں ہے۔ نادرا قانون میں ترمیم ہونی چاہیے یا جائینی ایکٹ 1925 میں ترمیم ہونی چاہیے۔

۲۔ نادرا کے ساتھ وراثتی نظام کو منسلک کرنے کا فائدہ صرف ان وراثت کو ہوگا جن کا نادرا کے پاس ریکارڈ ہے اور اگر کوئی مرد یا عورت جو کہ متوفی کے ترکہ میں حصہ دار ہیں نادرا کے ریکارڈ میں نہیں آ رہے تو وہ محروم ہو جائیں گے

۳۔ اس مجوزہ قانون میں کہا گیا ہے کہ نادرا صرف ان افراد کو وراثت سمجھے گا جن کا اس کے پاس ریکارڈ موجود ہے۔ اگر نادرا کے فیصلہ سے کسی کو اختلاف ہو یا وراثت نے اس کو ظاہر نہ کیا اور اسکو بعد میں معلومات حاصل ہوں تو وہ عدالتوں سے رجوع کرے گا۔ یہ سقیم ہے اور اسکو دور ہونا چاہیے۔

۴۔ نادرا سے سرٹیفکیٹ حاصل کر کے اگر کوئی بینک سے پیسے نکلاتا ہے تو وہ تو خرچ کر دے گا یا بیرون ملک چلا جاتا ہے تو اس کا کون ذمہ دار ہوگا اس حوالہ سے یہ قانون خاموش ہے۔

۵۔ نادرا کے پاس فیس لینے کے اختیار کا مطلب ہے کہ وہ جتنی فیس چاہیں گے وصول کریں گے۔ لہذا یہ قانون

اس حوالہ سے خاموش ہے۔

۶۔ اس کو صرف اسلام آباد کی حد تک محدود کیا گیا ہے میں سمجھتا ہوں کہ اس کو پورے پاکستان پر محیط ہونا چاہیے

تھا۔

تکنیکی طور پر اس قانون کی حمایت کرنا مشکل ہے۔ آپ عدالتوں کو پابند کریں کہ وہ کم سے کم وقت میں فیصلے کریں اور ان کے فیصلہ کی روشنی میں نادرا اسٹیفلیٹ جاری کرے لیکن یہاں الٹ ہو رہا ہے۔ سینیٹ کو اس قانون کو اس شکل میں منظور نہیں کرنا چاہیے۔

والسلام!

سراج الحق (سینیٹر)

24-01-2020

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

to provide for an efficacious and speedy mechanism for issuance of Letters of Administration and Succession Certificates;

WHEREAS it is expedient to provide for an efficacious and speedy mechanism for facilitating issuance of Letters of Administration and Succession Certificates, aimed at curtailing fraud and forgery;

It is hereby enacted as follows:-

1. Short title, extent and commencement-. (1) This Act may be called the Letters of Administration and Succession Certificates Act, 2020

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

(3) This Act or any part thereof shall come into force on such dates as the Government may, by notification in the official Gazette, appoint.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,

(a) 'Authority' means the National Database and Registration Authority established under section 3 of the Ordinance;

(b) 'factual controversy' includes an objection by legal heirs or by any claimant of legal heirship, any dispute which may arise in establishing the identity of legal heirs which is not resolvable by the Authority or any situation, matter or event requiring adjudication or recording of evidence or where at least one of the legal heirs is a minor;

(c) 'Government' means the Federal Government;

(d) 'legal heir' means a person who has entitlement to a share in the property of the deceased;

(e) 'Ordinance' means National Database and Registration Authority Ordinance, 2000 (VIII of 2000);

(f) 'prescribed' means prescribed by rules; and

(g) 'rules' means the rules made under this Act;

3. Issuance of Letters of Administration or Succession Certificates.- Notwithstanding anything contained in any other law for the time being in force, the Authority may issue Letters of Administration or Succession Certificates, as the case may be, to the legal heirs of a deceased in respect of immovable or movable property, in accordance with the Family Registration Certificate maintained by the Authority.

