



House of the Federation

**SENATE SECRETARIAT**

**REPORT OF THE  
SENATE STANDING COMMITTEE ON INTERIOR**

**(REPORT NO. 9)**

**“THE EXIT FROM PAKISTAN (CONTROL)  
(AMENDMENT) BILL, 2018”**

**PRESENTED BY**

**SENATOR A. RHMAN MALIK  
Chairman  
Standing Committee on Interior**

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## SENATE SECRETARIAT

### REPORT OF SENATE STANDING COMMITTEE ON INTERIOR ON "THE EXIT FROM PAKISTAN (CONTROL) (AMENDMENT) BILL, 2018 " MOVED BY SENATOR MIAN RAZA RABBANI

I, Chairman of Senate Standing Committee on Interior, have the Honour to present report on the Bill "The Exit from Pakistan (Control) (Amendment) Bill, 2018" introduced by Senator Mian Raza Rabbani in the sitting of the Senate on 12<sup>th</sup> November, 2018.

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House.

3. The composition of the Standing Committee on Interior is as under: -

i.	<b>Senator A. Rehman Malik</b>	<b>Chairman</b>
ii.	Senator Kalsoom Parveen	Member
iii.	Senator Muhammad Javed Abbasi	Member
iv.	Senator Chaudhary Tanvir Khan	Member
v.	Senator Muhammad Asad Ali Khan Junejo	Member
vi.	Senator Rana Maqbool Ahmad	Member
vii.	Senator Muhammad Talha Mehmood	Member
viii.	Senator Farooq Hamid Naek	Member
ix.	Senator Syed Shibli Faraz	Member
x.	Senator Haji Momin Khan Afridi	Member
xi.	Senator Muhammad Ateeq Shaikh	Member
xii.	Senator Kauda Babur	Member
xiii.	Senator Sardar Muhammad Shafiq Tareen	Member
xiv.	Minister for Interior	Ex-Officio Member

4. The Committee considered and discussed the Bill in its meetings held on 31<sup>st</sup> December, 2018. The following Members of the committee and Mover of the Bill attended the meeting: -

i.	<b>Senator A. Rehman Malik</b>	<b>Chairman</b>
ii.	Senator Mian Muhammad Ateeq Shaikh	Member
iii.	Senator Haji Momin Khan Afridi	Member
iv.	Senator Sardar Muhammad Shafiq Tareen	Member
v.	Senator Kalsoom Parveen	Member
vi.	Senator Mian Raza Rabbani	Mover

5. Senator Mian Raza Rabbani, Mover of the Bill, briefed the Committee on the purposes and objectives of the Bill. He stated that the Provisions of the Exit from Pakistan (Control) Ordinance, 1981 are in conflict with the fundamental rights conferred by the Constitution of the Islamic Republic of Pakistan, 1973. The proposed amendments bring in harmony the provisions of the Ordinance with the Constitution and are based on the observations of the Superior Courts in several cases.

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6. The Chairman Committee informed that the matter of the ECL Policy of the government was taken up and thoroughly discussed in the Committee in its meeting held on 22<sup>nd</sup> October, 2018.

7. He stated that the Exit from Pakistan (control) Rules 1981, Exit from Pakistan (Control) Rules 2010, and the Executive Order in 2015 regarding the ECL, are the governing rules in materializing the procedure for ECL. He also informed the Committee regarding the criteria being adopted for placement or deletion of the name of a person from the ECL. He stated that the names of persons are placed on the ECL on the recommendations of the courts and law enforcement agencies. He also apprised the Committee that the Ministry of Interior is devising a strategy to intimate the individuals as and when their names are put on the ECL.

8. Chairman Committee stated that the existing ECL Policy of the government is being used as a tool of punishment in some cases. He was of the view that it was a matter of national interest as the public is facing problems due to the lengthy and irrational procedure of the ECL Policy. He further stated that the Constitution of Pakistan does not impose any restriction on the right of travel or movement of any Pakistani without valid reason.

9. The Chairman Committee observed that the liaison between the Cabinet and Ministry during the process of deletion or inclusion of a person in ECL leads to a cumbersome and lengthy. He also highlighted the issue of unawareness of any individual in connection with the placement of his or her name on ECL, due to which he or she may lose the opportunity to file an appeal in the Court which might cause serious loss of that individual with respect to his foreign engagements.

10. The Chairman Stated that the Committee had already recommended that the existing ECL Policy should be **Reviewed** in accordance with the following points:-

- (a) The Committee recommended that the basic rights of a citizen enshrined in the Constitution of Pakistan should not be taken away at the pretext of ECL.
- (b) The Committee recommended that the Article 9 of the Constitution should be followed in letter and spirit which provides guarantee of liberty and right of movement to every citizen of Pakistan as reproduced below:-

**Article 9: - Security of person:**

***"No person shall be deprived of life or liberty save in accordance with law".***


- (c) There is a need to revisit the, procedure and SOPs for placing anyone's name on ECL where the concerned person should be informed within 10 days without affecting his basic right to get relief from the Court.

- (d) The Committee observed that it is unfortunate that the person on ECL come to know at the eleventh hour at the airport, which causes inconvenience to the citizens / person. Hence the person being placed on ECL should be informed with the right to representation within 10 days. The reason of placing on ECL should be recoded and informed to him and be sent to the review Committee.
- (e) The instructions given by the Courts shall be implemented for placing the accused on ECL.
- (f) The Committee also observed as under:-
- i. It is unfair to place persons on ECL just because of simple inquiry by the LEAs.
  - ii. The persons whose cases are pending for Challan or Trial should not be placed on ECL unless ordered by the Court or some cogent reasons to be recorded by the Competent Authority before placing him on ECL.
  - iii. It was felt that the existing system of dealing the matter of placement or deletion from ECL is very cumbersome, lengthy and causes inordinate delay / inconvenience to the general public.
- (g) **The Chairman Committee directed that the Ministry of Interior should send a Draft to the Ministry of Law and Justice for amendments in the ECL Act, in accordance with the following proposed amendments in the Clauses / inclusion of new sections in the ECL Act, as under:-**
- (h) Concerned Clause may be amended as under:-  
“In the ECL Act the words “Competent Authority” should be substituted with words “Federal Secretary, Ministry of Interior” for all purposes including placing or deleting the person from the ECL”.
- (i) Concerned Clause may be amended as under:-  
“The person included in the ECL will be informed by the Competent Authority within 10 days alongwith the reasons recorded to be placed on ECL”.
- (j) New Section should incorporated as under:-  
“No person should be placed on the ECL during preliminary enquiry/FIR by the Law Enforcing Agencies”.
- (k) New Section should be incorporated as under:-  
“The persons whose cases are pending for Challan or Trial should not be placed on ECL unless ordered by the Court or some cogent reasons to be recorded by the Competent Authority before placing him on ECL”.

- (l) New Section should be incorporated as under:-  
All references against the accused involved in espionage, terrorism, any other anti-state activities reported by the Law Enforcement Agencies (LEAs) should be placed on ECL with immediate effect.
- (m) New Section should be incorporated as under:-  
“All those names which have been included in the ECL for the last 03 years with no decision from any court or there is no progress in the matter may be reviewed and removed accordingly from the ECL with immediate effect”.

11. In view of the above, the Committee recommends that “The Exit from Pakistan (Control) (Amendment) Bill, 2018” as introduced in the House, may be passed by the Senate. (Copy of the Bill is enclosed).

  
(TANVIR AHMED)  
D.G./Secretary Committee

  
(SENATOR A. REHMAN MALIK)  
Chairman Committee

[AS INTRODUCED IN THE SENATE]

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*further to amend the Exit from Pakistan (Control) Ordinance, 1981*

WHEREAS it is expedient further to amend the Exit from Pakistan (Control) Ordinance, 1981 (XLVI of 1981) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Exit from Pakistan (Control) (Amendment) Act, 2018.

(2) It shall come into force at once.

**2. Amendment of section 2, Ordinance No. XLVI of 1981.-** In the Exit from Pakistan (Control) Ordinance, 1981 (Ordinance No. XLVI of 1981), hereinafter referred to as the said Ordinance, in section 2,-

(i) for sub-section (2) the following shall be substituted, namely:-

“(2) Before making an order under sub-section (1), the Federal Government shall specify the grounds on which the order is proposed to be made and shall communicate such grounds within twenty-four hours of the making of the order to the person or class of persons prohibited.”.

(ii) sub-section (3) shall be omitted.

**3. Amendment of section 3, Ordinance No. XLVI of 1981.-** In the said Ordinance, in section 3, for sub-section (3) the following shall be substituted, namely:-

“(3) The Federal Government shall decide the representation made in sub-section (1) within fifteen days, failing which the order made under sub-section (1) of section 2 shall lapse.”.

**STATEMENT OF OBJECTS AND REASONS**

The provisions of the Exit from Pakistan (Control) Ordinance, 1981 are in conflict with the fundamental rights conferred by the Constitution. The proposed amendments bring in harmony the provisions of the Ordinance with the Constitution and are based on the observations of the Superior Courts in several cases.

**SENATOR MIAN RAZA RABBANI**  
Member-in-Charge