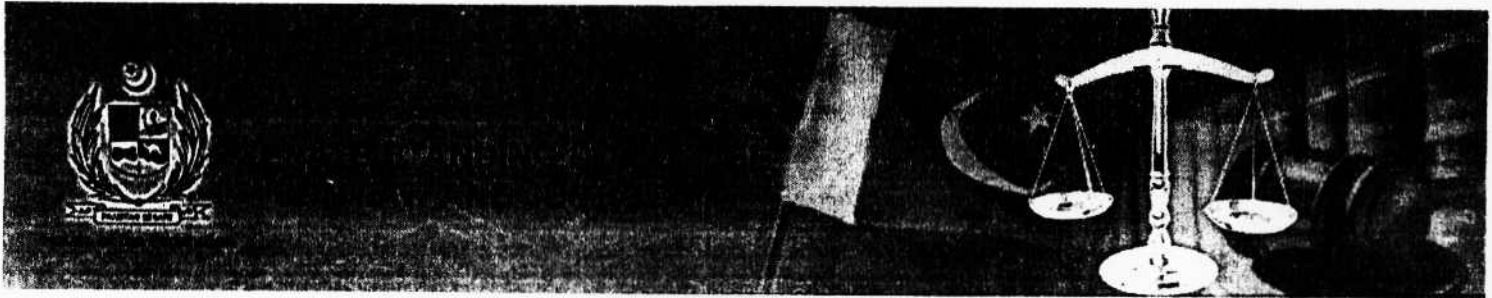


SENATE OF PAKISTAN



REPORT NO. 42

**REPORT OF THE SENATE STANDING COMMITTEE ON
LAW AND JUSTICE**



“THE CONSTITUTION AMENDMENT (AMENDMENT) BILL, 2020”

(Amendment of Article 93)

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 CONSTITUTION (AMENDMENT) BILL, 2020"

1, Senator Muhammad Javed Abbasi, Chairman Standing Committee on Law and Justice, have the honor to submit, on behalf of the Committee, this report on "The Constitution (Amendment) Bill, 2020" (Amendment of Article 93), introduced by Senator Sirajul Haq, in the Senate sitting held on 26th October, 2020 and referred to the Committee for consideration and report.

2. The composition of the Committee is as under:-

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|--|-------------------|
| 1. Senator Muhammad Javed Abbasi | Chairman |
| 2. Senator Mian Raza Rabbani | Member |
| 3. Senator Farooq Hamid Naek | Member |
| 4. Senator Zeeshan Khanzada | Member |
| 5. Senator Sirajul Haq | Member |
| 6. Senator Syed Muzafar Hussain Shah | Member |
| 7. Senator Ayesha Raza Farooq | Member |
| 8. Senator Dr. Ghous Muhammad Khan Niazi | Member |
| 9. Senator Mustafa Nawaz Khokhar | Member |
| 10. Senator Sana Jamali | Member |
| 11. Senator Walid Iqbal | Member |
| 12. Senator Muhammad Ali Khan Saif | Member |
| 13. Senator Musadik Masood Malik | Member |
| 14. Minister for Law and Justice | Ex-Officio Member |

3. The Committee considered the Bill in its various meetings and held conclusive discussion in the meeting on 29th January 2021, under the chairmanship of Senator Muhammad Javed Abbasi, with the following in attendance:


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|----------------------------------|----------|
| 1. Senator Muhammad Javed Abbasi | Chairman |
| 2. Senator Sana Jamali | Member |
| 3. Senator Zeeshan Khanzada | Member |
| 4. Senator Mustafa Nawaz Khokhar | Member |

4. Senator Muhammad Javed Abbasi informed the Committee that after detailed discussions and arguments upon the amendments proposed by Senator Sirajul Haq, it was decided by the Committee that the Bill may be withdrawn, to which the Member In-Charge had agreed.

5. Brief background of discussions on the Bill is that Senator Sirajul Haq had proposed that before entering upon office of Adviser to the Prime Minister of Pakistan, he/she should make an oath before the President of Pakistan as per the prescribed form of oath set out in the Third Schedule of Constitution, on the analogy Federal Ministers or Ministers of State as they attend meetings of Cabinet, participate in important decisions of the Government and get access to classified information. The Chairman Committee commented that Constitution of Pakistan has defined Cabinet and Advisers to the Prime Minister are not included therein. He further added that it is compulsory for Members of Cabinet to be elected, whereas Advisers are not elected representatives, therefore, obligation to take oath for an Adviser may not be imposed. Senator Walid Iqbal enquired from Ministry of Law and Justice about the legislative intent to exclude Advisers in the Constitution from taking oath. Ministry of Law and Justice opposed the Bill and noted that the Advisers cannot be obliged to take oath as they are only answerable to the Prime Minister.

6. The Committee recommends that Senator Sirajul Haq may be granted leave to withdraw "The Constitution (Amendment) Bill, 2020" (Amendment of Article 93). The Committee also gave approval for presentation of this report to the House. Copy of the Bill is annexed.


(Haris Rehman)
DS / Secretary Committee


(Senator Muhammad Javed Abbasi)
Chairman, Standing Committee on Law and Justice

[TO BE INTRODUCED IN THE SENATE]

A

BILL

further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Amendment) Act, 2020.

(2) It shall come into force at once.

2. Amendment of Article 93 of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 93, after clause (2) the following new clause (3) shall be added, namely:-

“(3) Before entering upon office, an Adviser shall make before the President oath in the Form set out in the Third Schedule.”

3. Amendment of Third Schedule of the Constitution.- In the Constitution, in the Third Schedule for the Oath Form for the office of the Federal Minister or Minister of State, the following shall be substituted, namely:-

**"FEDERAL MINISTER OR MINISTER OF STATE OR ADVISER
[Articles 92 (2) and 93 (3)]**

(in the name of Allah, the most Beneficent, the most Merciful.)

I, _____ do solemnly swear that I will bear true faith and allegiance to Pakistan:

That, as Federal Minister (or Minister of State) or Adviser; I will discharge my duties, and perform my functions, honestly, to the best of my ability, faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of Pakistan:

That I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan:

That I will not allow my personal interest to influence my official conduct or my official decisions:

That I will preserve, protect and defend the Constitution of the Islamic Republic of Pakistan:

That, in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will:

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Federal Minister (or Minister of State) or Adviser, except as may be required for the due discharge of my duties as Federal Minister (or Minister of State) or Adviser, or as may be specially permitted by the Prime Minister.

May Allah Almighty help and guide me (A'meen)"

STATEMENT OF OBJECTS AND REASONS

It is necessary to prescribe oath for Advisers just like for Minister or Minister of State.

These Advisers have access to all official secrets. They also attend the meetings of the cabinet and can participate in the proceedings of both the Houses of the Parliament.

By making them accountable before Majlis-e-Shoora (Parliament), it should be obligatory for them to take oath under Constitution of Islamic Republic of Pakistan.

Every member of the cabinet and every member of the Parliament work under oath not these Advisers.

This is major lacuna in the Constitution and must be rectified by prescribing the same oath for these Advisers as its provided in the Constitution for the Minister or Minister of State.

**SENATOR SIRAJUL HAQ
MEMBER-IN-CHARGE**