

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



“THE COST OF LITIGATION (AMENDMENT) BILL, 2017”

Report No. 38

PRESENTED BY

SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN

SENATE SECRETARIAT

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

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Cost of Litigation (Amendment) Bill, 2017" as passed by the National Assembly and introduced in the Senate on 14th February, 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:-

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

4. The Minister for Law and Justice briefed the Committee and stated that the tendency of filing vexatious cases and taking baseless grounds for defense is unfortunately on the increase. This tendency leads to numerous evils, including heavy expenses incurred by the affected parties, causing them financial loss and mental torture, apart from wasting precious

time of the courts. It is, therefore, necessary to empower courts to impose costs to discourage false and frivolous litigation and unnecessary adjournments. Through this Bill amendments are proposed in the Code of Civil Procedure, 1908 for this purpose. Amendments are also being proposed in the Code of Criminal Procedure, 1898 to provide for imposition of adjournments costs in criminal cases.

5. The Committee held extensive discussions. Senator Syed Muzafar Hussain Shah appreciated the rationale behind the proposed legislation, however, raised following queries:-

- I. The proposed clause 35 makes its mandatory for the parties to provide details of "fee paid to council," which is a privileged communication between the council and client.
- II. Substitution of "twenty-five thousand" rupees of fine with "one hundred thousand" rupees fine will be too high.

6. The Minister for Law and Justice replied to the said queries. He stated that the client may claim privilege and write nil. Regarding the enhancement of amount of fine, he stated that twenty-five thousand was provided in the year 1985, therefore, the proposed enhancement is justified in view of the existing realities.

7. Senator Nawabzada Saifullah Magsi also showed reservation on disclosure of fee paid to the Council. He also raised objections as to the exclusion of public servants, in the criminal proceedings, from the domain of proposed law. The Minister for Law and Justice responded that this is a point of initiation, once operationalized, the public servants would also be gradually brought into its domain.

8. All Members present voted in favour of the Bill.

9. In view of the above mentioned, the Committee recommends that "The Cost of Litigation (Amendment) Bill, 2017", 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).


(Rabbea Anwar)
J.S / Secretary Committee


(Senator Muhammad Javed Abbasi)
Chairman

[AS PASSED BY THE NATIONAL ASSEMBLY]

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further to amend the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908) and the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, application and commencement.— (1) This Act may be called the Costs of Litigation Act, 2017.

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

(3) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, specify and shall apply to such courts in the Islamabad Capital Territory as the Federal Government may, by notification in the official Gazette, determine in this behalf and different dates may be specified in respect of different courts.

**PART-I
CIVIL PROCEEDINGS**

2. Amendment of Act V of 1908.— In the Code of Civil Procedure, 1908 (Act V of 1908),—

(I) for section 35, the following shall be substituted, namely:-

