

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

“Pakistan Air Force (Amendment) Bill, 2017”

**Report No. 16
(Fifteenth Parliamentary Year)**

**PRESENTED BY
(SENATOR MUSHAHID HUSSAIN SAYED)
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE SENATE STANDING COMMITTEE ON DEFENCE

I, Senator Mushahid Hussain Sayed, Chairman of the Senate Standing Committee on Defence, have the honour to present the report, on behalf of the Committee which was referred to the Standing Committee for consideration and report.

2. The Agenda before the Committee was as follows:-

“Pakistan Air Force (Amendment) Bill, 2017”

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

1.	Senator Mushahid Hussain Sayed	Chairman
2.	Senator Ilyas Ahmad Bilour	Member
3.	Senator Hidayat Ullah	Member
4.	Senator Atta Ur Rehman	Member
5.	Senator Col. (R) Syed Tahir Hussain Mashadi	Member
6.	Senator Lt. Gen. (R) Salahuddin Tirmizi	Member
7.	Senator Lt. Gen. (R) Abdul Qayyum	Member
8.	Senator Muhammad Javed Abbasi	Member
9.	Senator Farhatullah Babar	Member
10.	Senator Saleem Mandviwala	Member
11.	Senator Mrs. Sehar Kamran	Member
12.	Senator Brig (R) John Kenneth Williams	Member
13.	Minister for Defence	Ex-Officio Member

4. A meeting of the Senate Standing Committee on Defence was held on 17th April, 2017. The following members of the Committee attended the meeting:-

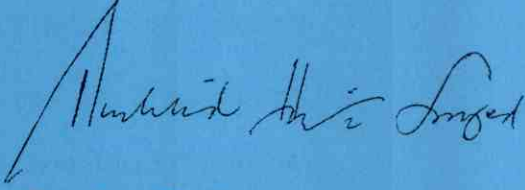
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| 1. | Senator Col. (R) Syed Tahir Hussain Mashhadi | Member |
| 2. | Senator Lt. Gen (R) Salahuddin Tirmizi | Member |
| 3. | Senator Lt. Gen. (R) Abdul Qayyum | Member |
| 4. | Senator Muhammad Javed Abbasi | Member |
| 5. | Senator Farhatullah Babar | Member |
| 6. | Senator Mrs. Sehar Kamran | Member |
| 7. | Senator Brig. (R) John Kenneth Williams | Member |
| 8. | Senator Saleem Mandviwala | Member |

5. Senators Sardar Muhammad Azam Khan Musakhel & Muhammad Usman Khan Kakar also attended the meeting as Special Invitee / Mover.

6. After threadbare discussion, the Committee recommended that the “**The Pakistan Air Force (Amendment) Bill, 2017**” may be passed in its present form. Senator Farhatullah Babar however gave a note of dissent in the matter which is a part of the minutes of the meeting held on 17th April, 2017 & is also attached.

7. The Chairman DEFCOM & the Senate Standing Committee on Defence adopted this report and approved its laying before the August House.


(Asim Khan Goraya)
JS / Secretary Committee


(Senator Mushahid Hussain Sayed)
Chairman

[AS PASSED BY THE NATIONAL ASSEMBLY]

A
Bill

further to amend the Pakistan Air Force Act, 1953

WHEREAS it is expedient further to amend the Pakistan Air Force Act, 1953 (VI of 1953), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.— (1) This Act may be called the Pakistan Air Force (Amendment) Act, 2017.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 1st January, 2000.

2. Amendment of section 121, Act VI of 1953.— In the Pakistan Air Force Act, 1953 (VI of 1953), in section 121, in sub-section (3), after the figure "37", the words and figure "or section 52" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

1. This proposed amendments seeks to further amend the Pakistan Air Force Act, 1953 (VI of 1953) with a view to bring one of its provision at par with Section 92, Pakistan Army Act, 1952 and Section 106, Pakistan Naval Ordinance, 1961 as follows:-

2. **Amendment of Section 121 PAF Act** This section prescribes to meet the case of a person who commits an offence against this Act while subject to it and then ceases to be so subject. The provisions of this section are inadequate. Hence, it does not include the procedure according to which such offender can be taken into and kept in Air Force custody, tried and punished for committing an offence under Section 52 while subject to this Act and then ceases to be so subject. The proposed provision is to be inserted for the maintenance of discipline and for eradication of corruption.

Khawaja Muhammad Asif
Minister-In-Charge

MEETING OF SENATE STANDING COMMITTEE ON DEFENCE
APRIL 17, 2017

Agenda Item (iii): The Pakistan Air Force (Amendment) Bill, 2017

Note of Dissent

The proposed amendment seeks to vest powers in the executive to reopen cases, with retrospective effect, against retired PAF officers under the Air Force Act. Retroactive application of any legislation is a bad law. It is not clear as to who are the former PAF officers who are intended to be tried retrospectively. This ambiguity will raise questions about the intent.

It is wrong to allow arrest, investigation and trial of a former long retired officer under the Air Force Act instead of other applicable laws.

The rationale for making legislation applicable from as far back as over 17 years has been not been adequately explained.

The honorable AS Defence has stated that a review of all past transactions and mega purchases by the PAF is underway and it is necessary to arm the PAF with the powers to try those who may be found guilty of misappropriation and wrong doing.

It appears very strange that the PAF has woken up at this belated stage to the need for carrying out audit of transaction/purchases made 17 years ago. Even if this explanation is accepted the question still remains as to why the retired officers (now a civilian) accused of wrong doing cannot be tried under the existing NAB law, which is applicable from 1985.

One also wonders as to what is the rationale behind the specific date of Jan 01, 2000. Why the cutoff date is not say Jan 01, 2010 or Jan 01, 1990? Such unanswered questions create doubt that the proposed amendment may be person(s)-specific.

After all there must be some purpose behind a back dated legislation and that purpose must be fully explained. If it is not person specific then there is no need for a back dated amendment.

There would be no quarrel if the amendment was made with immediate effect but giving it back dated effect is not acceptable, hence this dissent note.

Sd/-

(Senator Farhatullah Babar)
17th April, 2017