

**SENATE OF PAKISTAN
HOUSE OF THE FEDERATION**

REPORT NO.9 OF 2017



House of the Federation

**REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE,
ECONOMIC AFFAIRS, STATISTICS AND PRIVATIZATION**

ON

**THE PRIVATE MEMBERS' BILL TITLED
"THE PARTNERSHIP (AMENDMENT) BILL, 2016"
INTRODUCED BY SENATOR MUHAMMAD AZAM KHAN SWATI**

PRESENTED BY

SENATOR SALEEM MANDVIWALLA

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE, ECONOMIC AFFAIRS, STATISTICS AND PRIVATIZATION ON THE PRIVATE MEMBER'S BILL TITLED "THE PARTNERSHIP (AMENDMENT) BILL, 2016"

I, Senator Saleem Mandviwalla, Chairman Standing Committee on Finance, Revenue, Economic Affairs, Statistics and Privatization, have the honour to submit, on behalf of the Committee, this report on a Private Members' Bill further to amend the Partnership Act, 1932, in its applications to the Islamabad Capital Territory [The Partnership (Amendment) Bill, 2016], introduced on 26th September, 2016, by Senator Muhammad Azam Khan Swati and referred to the Committee for consideration and report;

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

(1)	Senator Saleem Mandviwalla	Chairman
(2)	Senator Ilyas Ahmed Bilour	Member
(3)	Senator Muhammad Mohsin Khan Leghari	Member
(4)	Senator Ms. Ayesha Raza Farooq	Member
(5)	Senator Muhammad Talha Mahmood	Member
(6)	Senator Ms. Nasreen Jalil	Member
(7)	Senator Kamil Ali Agha	Member
(8)	Senator Mushahid Uallah Khan	Member
(9)	Senator Saud Majeed	Member
(10)	Senator Sardar Fateh Muhammad Muhammad Hassani	Member
(11)	Senator Osman Saifullah Khan	Member
(12)	Senator Mohsin Aziz	Member
(13)	Minister for Finance, Revenue, Economic Affairs, Statistics and Privatization	Ex-Officio Member

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3. The Committee considered the said Bill in its meetings held on 18th & 27th October, 24th November, 12th December, 2016, 27th January, 16th February, 6th April and 9th May, 2017. The last meeting was attended by the following, namely:-

(1)	Senator Saleem Mandviwalla	Chairman
(2)	Senator Muhammad Mohsin Khan Leghari	Member
(3)	Senator Kamil Ali Agha	Member
(4)	Senator Mushahid Ullah Khan	Member
(5)	Senator Sardar Fateh Muhammad Muhammad Hassani	Member
(6)	Senator Mohsin Aziz	Member
(7)	Senator Muhammad Azam Khan Swati	Mover

4. In the meeting held on 18th October, 2016, the Committee was informed by the Additional Secretary Finance that the subject of Partnership was either not related to the Finance Division or the SECP, however, the mover of the Bill was of view that the proposed bill relates to the Partnership Act which dealt with the revenues, therefore, the Finance Division should be the relevant stakeholder in that regards.

5. In the meeting held on 27th October, 2017, the Addl. Secretary Finance informed the Committee that after consultation with the Cabinet Division, it was transpired that the subject of Partnership was allocated to the Finance Division as post devolution arrangement. He said that in view of the proposed Bill, it was forwarded to the M/o Interior and Chief Commissioner ICT since the Registrar (Firms) falls under the ICT to send their comments.

6. In the meeting held on 24th November, 2016, the representative of the Securities and Exchange Commission of Pakistan (SECP) informed the Committee that they were revisiting to amend whole of the Partnership Act, 1932, taking in view the international jurisdiction like UK & India including the amendments proposed in the said Bill.

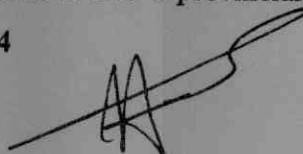
7. In the meeting held on 21st December, 2016, the representative of the Securities and Exchange Commission of Pakistan informed the Committee that the amendment proposed by the mover and the views/comments of the M/o Interior and ICT Administration had also been addressed in the draft amendments prepared by the SECP. He said that the amendments were being shared with the Institute of Chartered Accountants of Pakistan (ICAP) and the same were also being placed on the website of the SECP for eliciting public opinion thereon and requested for two weeks' more time for finalization of the proposed amendments.



8. In the meeting held on 27th January, 2017, the Additional Secretary Finance apprised the Committee that in an internal meeting held with the representatives of the ministries of Interior, Law & Justice and the ICT Administration a conflict was arise that it was the subject matter under the control of ICT and the M/o Interior while it was allocated to the Finance Division under Rules of Business, 1973, therefore, being the subject of ICT and it was considered as an independent territory and out of mandate of the Finance Division and the SECP. However, the matter was referred to the Law Division for seeking their opinion with regard to its domain. The representative of the Law Division was of the view that it was a provincial subject, however, the proposed amendments could be made in the said Act to the extent of the ICT. The Legal Advisor of the ICT Administration informed that under the Islamabad Capital Territory Administration Order 1980, the executive authority of the federation in respect of the ICT shall be exercised by the President either directly or to such extent as he thinks fit through the Chief Commissioner to be appointed by him. He said that an SRO was also issued on the same date under which all powers of the provincial governments to the extent of the ICT rests with the Chief Commissioner, ICT.

9. In the meeting held on 16th February, 2017, the Additional Secretary Finance informed the Committee that they had just received legal opinion of the Law Division regarding jurisdiction on the subject of Partnership. He said, the Law Division had informed that the legislative powers were with the Parliament under Article 142 (d) of the Constitution of Pakistan, whereby Parliament was empowered to enact for those areas of Federation which does not form part of any province and hence Partnership Act, 1932 could be amended to give its administration to any entity other than ICT Administration. He further said Bill pertains to the Interior Division, therefore, the same may be referred to the Senate Standing Committee on Interior for consideration.

10. In the meeting held on 6th April, 2017, the Secretary Finance informed the Committee that the ICT had the status of provincial government as per the Constitution, therefore, it has adopted the different laws of the provinces, so the Partnership Act had also adopted by the ICT, however, there was a confusion regarding administrative division of the said Act. He said that in light of the Rules of Business, it lies with the M/o Finance but practically it was administrated by the ICT under the supervision of M/o Interior. The Chief Commissioner ICT informed the Committee that ICT administration was organized under the Presidential Order 1980, which describes ICT as a provincial government. He said that under the Article 12 (b) of the Constitution, ICT was a territory and analogous to a province and its controlling authority was the M/o Interior. He said that there was an anomaly i.e. if Land Revenue Act or the Stamp Act was amended, the ICT would enforce it like a provincial government and

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similarly the Partnership Act was originally conceived to be a part of the concurrent list, however, after passage of the 18th Constitutional Amendment all the substantive laws were transferred to the provinces. He further said that if the provincial governments would not incline such amendment then the ICT could not implement the same.

11. The Committee considered the said Bill for the last seven months, but unfortunately the M/o Finance was failed to resolve the matter of its ownership, however, in the last meeting held on 9th May, 2017, the Finance Division apprised that in order to resolve the issue of discrepancy in allocation of subject and administrative control of Partnership Act, 1932, a meeting was held with the officers of the Finance Division, Interior Division, Law and Justice Division and ICT Administration in the Finance Division on 5th May, 2017, in which it was unanimously decided that the subject of Partnership Act be transferred from the M/o Finance to the M/o Interior. It was further decided that the Cabinet Division may be approached to carry out amendment in the Rules of Business, 1973, for transfer of the said subject and accordingly, the Cabinet Division was being requested for transfer of the said subject matter to the M/o Interior along with necessary amendments in the Rules of Business, 1973.

12. The Committee, however, did not agree with the instance taken by the M/o Finance. At this stage, the mover pointed out a typo error in the said Bill that in clause 4 of the Bill, in the proposed new section 70(A) for the word "**civil**", the word "**competent**", shall be substituted. After due deliberation, the Committee unanimously recommended that the Partnership (Amendment) Bill, 2016, introduced by Senator Muhammad Azam Khan Swati with the minor typo correction, may be passed by the Senate. The Committee gave approval for presentation of this report to the House.

13. The Bill, as introduced in the Senate, is Annexed.



(MUHAMMAD TAHIR KHAN)
Secretary (Committee)



(SENATOR SALEEM MANDVIWALLA)
Chairman (Committee)

Islamabad, the
9th May, 2017

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~~TO BE~~ INTRODUCED IN THE SENATE]

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BILL

further to amend the Partnership Act, 1932, in its applications to the Islamabad Capital Territory

WHEREAS it is expedient further to amend the Partnership Act, 1932 (IX of 1932), in its applications to the Islamabad Capital Territory for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Partnership (Amendment) Act, 2016.

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

(3) It shall come into force at once.

2. Insertion of new section 58A, Act IX of 1932.- In the Partnership Act, 1932 (IX of 1932), hereinafter referred to as the said Act, after section 58, the following new section shall be inserted, namely:

"58A. Verification of documents.- The Registrar shall verify documents submitted for filing under the Partnership Act, 1932 and in case of a foreigner partner the credentials shall be verified through the relevant security agencies of Government in the manner as may be prescribed."

3. Amendment of section 70, Act IX of 1932.- In the said Act, in section 70, after the word "fine", the words "which may extend to five hundred thousand rupees but not less than ten thousand rupees" shall be inserted.

4. Insertion of new section 70A, Act IX of 1932.- In the said Act, after section 70, the following new section shall be inserted, namely:-

"70A. Cognizance of offence.- The Registrar or any authorized officer may file complaint against a firm or its partner in the court of ~~civil~~ jurisdiction of the district where main office of the firm is situated, against any person who signed any statement, amending statement, notice or intimation under this Chapter, containing any particular which he knows to be false or does not believe to be correct, or containing particulars which he knows to be incomplete or does not believe to be complete."

Complaint

STATEMENT OF OBJECTS AND REASONS

The Partnership Act, 1932 regulates the creation of a partnership firm and rights and liabilities associated with it. However, contemporary era demands adequate amendments to improve the applicability and operation of existing law. The Islamabad Partnership (Amendment) Bill seeks to make the partnership law more comprehensive. The Bill also strives to make the law on partnership more harmonious and attuned to the present day requirements. Hence this Bill.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-In-Charge