

SENATE OF PAKISTAN



REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR

ON

[THE EASEMENTS (AMENDMENT) BILL, 2023]
PRIVATE MEMBER BILL INTRODUCED BY
SENATOR SEEMEE EZDI ON 16TH JANUARY, 2023

PRESENTED BY

SENATOR MOHSIN AZIZ
CHAIRMAN SSC ON INTERIOR

SENATE SECRETARIAT

SUBJECT: REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR
ON THE EASEMENTS (AMENDMENT) BILL, 2023.

I, Senator Mohsin Aziz, Chairman Senate Standing Committee on Interior, have the honor to present report of the Committee on a Bill further to amend the Easements Act, 1882, [The Easements (Amendment) Bill, 2023]. This is a Private Member Bill introduced by Senator Seemee Ezdi in the Senate sitting held on 16th January, 2023 and referred to the Senate Standing Committee on Interior for consideration and report.

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

Senator Mohsin Aziz	Chairman
Senator Syed Yousuf Raza Gillani	Member
Senator Azam Nazeer Tarar	Member
Senator Samina Mumtaz Zehri	Member
Senator Moula Bux Chandio	Member
Senator Saifullah Abro	Member
Senator Rana Maqbool Ahmad	Member
Senator Faisal Saleem Rehman	Member
Senator Shahadat Awan	Member
Senator Faisal Subzwari	Member
Senator Fawzia Arshad	Member
Senator Sarfraz Ahmed Bugti	Member
Senator Dilawar Khan	Member
Senator Kamil Ali Agha	Member
<u>Minister for Interior</u>	<u>Ex-Officio Member</u>

3. The Committee considered the Bill in its meeting held on 27th February, 2023 and 13th April, 2023. On 27th February, 2023, the ICT Administration requested for deferment as the Bill requires some improvements in consultation with the Mover, therefore, after taking consent of the Mover, the Bill was deferred with the direction that the District Attorney along with other relevant officials may have a meeting with the Mover in her office to arrive at a consensus regarding the instant amendment.

4. The Bill was finally considered by the Committee in its meeting held on 13th April, 2023. The meeting was attended by the following members:

The meeting was attended by the following Members:

1. Senator Mohsin Aziz	Chairman
2. Senator Rana Maqbool Ahmad	Member
3. Senator Moula Bux Chandio	Member
4. Senator Saifullah Abro	Member
5. Senator Samina Mumtaz Zehri	Member
6. Senator Shahadat Awan	Member
7. Senator Fawzia Arshad	Member
8. Senator Dilawar Khan	Member
9. Senator Seemee Ezdi	Mover


5. The Mover informed the Committee that she had consultation with the representatives of the Ministry of Law and Justice and concerned departments and she has incorporated the amendments as suggested by them. The draftsman of the M/O Law and Justice stated that he in consultation with the Mover has fine tuned the Bill and now it is up to the Ministry of Interior to support or oppose the Bill.

6. Chairman CDA also endorsed the Bill as it is need of the hour under the current situation. The Special Secretary Ministry of Interior also supported the Bill as amended by the Mover in consultation with the M/O Law and Justice.

7. In view of the above, the Bill was put to the vote of the Committee which was unanimously recommended by the Committee as amended and the Committee recommended that the Senate may pass the Bill as amended/reported by the Committee. The Bill as introduced in the Senate is at Annexure-A and the Bill as reported by the Committee is at Annexure-B. The Committee also gave approval of presentation of report of the Committee to the House. Hence, this report is presented to the House.



(MUHAMMAD AZAM)
Secretary Committee



(SENATOR MOHSIN AZIZ)
Chairman Committee

CHARGE

CHARGE

AS REPORTED BY THE COMMITTEE

A

Bill

Further to amend the Easements Act, 1882

WHEREAS it is expedient further to amend the Easements Act, 1882 (V of 1882) in its application to the Islamabad Capital Territory, for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement:- (1) This Act shall be called the Easements (Amendment) Act, 2023.

(2) It shall come into force at once

(2) Amendment of section 7, Act V of 1882.- In the Easements Act, 1882 (V of 1882), hereinafter called the said Act, after section 7, the followings shall be inserted, namely:-

“ 7A. use of natural water by the Municipal of local Government.-

Use of water from natural stream, lake or pond as well as any existing aquifer, well or mechanized tube-well shall be regulated by the concerned Municipality or local government department of the province, as the case may be, under whose territorial jurisdiction it falls to ensure the equitable distribution of water to all and prevent the depletion of the groundwater table or over-extraction of groundwater.

Explanation.- For the purpose of this illustration,-

(a) " aquifer" refers to the rocks in which groundwater is stored;

(b) "natural stream" means a stream, whether permanent or intermittent, tidal or tide less, on the surface or land or underground, which flows by the operation of nature only and in a nature and known course; and

(c) The right to construct new wells or tube wells shall be regulated by the concerned Municipal department, as the case may be."

2. Addition of new sections.- In the said Act, after section 64, the following new sections 65 and 66 shall be added, namely:-

"65. Power to make rules.- The Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act:

66. Power to make regulations.- The Municipal department or Local Government department concerned may by notification in the official Gazette, after approval of the Government may formulate regulations to carry out the purposes of this Act."

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[TO BE INTERODUCED IN THE SENATE]

A
BILL

further to amend the Easements Act, 1882

WHEREAS it is expedient further to amend the Easements Act, 1882 (V of 1882) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement. - (1) This Act may be called the Easements (Amendment) Act, 2023.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Amendment of section 7, Act V of 1882.- In the Easements Act, 1882 (V of 1882), hereinafter referred to as the said Act, in section 7,-

(a) illustration (g) shall be omitted; and

(b) for illustration (j), the following illustrations shall be substituted, namely:-

"(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land;

Provided that the use of water from such natural stream, lake or pond as well as any existing aquifer, well or mechanized tube-well shall be regulated by the concerned Municipality / local government department of the relevant province, as the case may be, under whose territorial jurisdiction it falls to ensure the equitable distribution of water to all and prevent the depletion of the groundwater table or over-extraction of groundwater.

Explanation.- For the purposes of this illustration,-

(a) "aquifer" refers to the rocks in which groundwater is stored;

(b) "natural stream" means a stream, whether permanent or intermittent, tidal or tide less, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

- (k) The right to construct new wells or tube wells shall be regulated by the concerned Municipal department, as the case may be."

3. **Insertion of new sections 7A and 7B, Act V of 1882.** - In the said Act, after section 7, the following new sections shall be inserted, namely:-

"7A. Power of the Government to make rules.- The Government may, by notification, make rules consistent with the existing laws on the use and regulation of groundwater to ensure equitable distribution of groundwater and prevent the depletion of the water table.

7B. Power of Municipal Department and Local Government Department to make regulations.- The Municipal Department and Local Government Department concerned, as the case may be, may formulate the regulations to ensure equitable distribution of water and prevent depletion of the water table under their territorial jurisdiction."

STATEMENT OF OBJECTS AND REASONS

The total groundwater potential of Pakistan is about 68 bmc, out of which 60 bmc is currently exploited. This indicates that the groundwater resource is almost exhausted, because the remaining groundwater is in the regions where it is not easy to abstract due to economic and technical reasons.

2. The Easements Act, 1882 is a pre-Independence legislation that is based on the principle that ownership of groundwater flows from the ownership of land. Section 7 (g) of the Act provides every landowner with the right to collect and dispose, within his own limits, all water under the land and on the surface. This private ownership of groundwater has led to its unregulated use, which has resulted in over extraction of water and a depletion of the water table.

3. In this context, it must be noted that the Under provision of Article 38(d) of the Constitution, it is the primary duty of Government to provide people basic necessities of life which includes unpolluted water for their consumption. This means that the Government should be the ultimate guardian of all natural resources, including groundwater, to prevent over-extraction and ensure equitable distribution.

4. It is the prerogative of the Federal as well as provincial legislatures to amend or enact laws pertaining to ground water management and regulation that are in line with the public trust doctrine, as set out under this Act.

5. The Bill has been designed to achieve the aforementioned purpose.

**SENATOR SEEMEE EZDI
MEMBER IN CHARGE**