

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

to provide for certain practices and procedures of the Supreme Court

WHEREAS Article 191 of the Constitution provides that subject to the Constitution and the law, the Supreme Court may make rules regulating the practice and procedure of the Supreme Court;

AND WHEREAS Article 10A, of the Constitution mandated right to fair trial and due process, Article 4 of the Constitution guarantees treatment in accordance with law, Article 25 of the Constitution prohibits discriminatory treatment and right of appeal is a universal fundamental principle of jurisprudence and Islam guarantees right of appeal, therefore, pursuant of Article 175 (2) read with Article 191 of the Constitution this law is being enacted;

AND WHEREAS it is expedient to make a law providing for certain practices and procedures of the Supreme Court;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act shall be called the Supreme Court (Practice and Procedure) Act, 2023.

(2) It shall come into force at once.

2. Constitution of Benches.—(1) Every cause, appeal or matter before the Supreme Court shall be heard and disposed of by a bench constituted by the Committee comprising the Chief Justice of Pakistan and two most senior judges, in order of seniority.

(2) The decisions of the Committee shall be by majority.

3. Exercise of original jurisdiction by the Supreme Court.— Any matter invoking exercise of original jurisdiction under clause (3) of Article 184 of the Constitution shall be first placed before the Committee constituted under section 2 for examination and if the Committee is of the view that a question of public importance with reference to enforcement of any of the fundamental rights conferred by Chapter I of Part II of the Constitution is involved, it shall constitute a bench comprising not less than three judges of the Supreme Court of Pakistan which may also include the members of the Committee, for adjudication of the matter.

4. Interpretation of the Constitution.— In the matters where interpretation of the constitutional provision is involved, Committee shall constitute a Bench comprising not less than five Judges of the Supreme Court.

5. Appeal.— (1) An appeal shall lie within thirty days from an order of a bench of the Supreme Court who exercised jurisdiction under clause (3) of Article 184 of the

Constitution to a larger bench of the Supreme Court and such appeal shall, for hearing, be fixed within a period not exceeding fourteen days.

(2) The right of appeal under sub-section (1) shall also be available to an aggrieved person against whom an order has been made under clause (3) of Article 184 of the Constitution, prior to the commencement of this Act:

Provided that the appeal under this sub-section shall be filed within thirty days of the commencement of this Act.

6. Right to appoint counsel of choice.— For filing a review application under Article 188 of the Constitution, a party shall have the right to appoint counsel of its choice.

Explanation: For the purpose of this section, 'counsel' shall mean an Advocate of the Supreme Court.

7. Application for fixation of urgent matters.— An application pleading urgency or seeking interim relief, filed in a cause, appeal or matter, shall be fixed for hearing within fourteen days from the date of its filing.

8. Act to override other laws etc.— The provisions of this Act shall have effect notwithstanding anything contained in any other law, rules or regulations for the time being in force or judgment of any Court including the Supreme Court and a High Court.

STATEMENT OF OBJECTS AND REASONS

Whereas, the exercise of original jurisdiction by the Supreme Court under clause (3) of Article 184 of the Constitution has been a subject of discussion by various forums with respect to invoking of *Suo Motu* powers, constitution of benches and the absence of right of appeal.

Whereas, in order to ensure right of free trial and due process of Law as enshrined under Article 10 A of the Constitution.

Whereas, applications filed by early hearing of a cause, appeal of matter are not fixed for hearing and it is expedient to address this issue.

And whereas it is the right of every citizen under article 10A of the Constitution to appoint a counsel of his choice which ought to the review of cases filed under Article 188 of the Constitution.

The Bill has been designed to achieve the aforesaid objective.

Minister-in-Charge