

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON THE SUPREME COURT (PRACTICE AND PROCEDURE) BILL, 2023

I, Chairman of the Standing Committee on Law and Justice, have the honour to present this report on the Bill to provide for certain practices and procedures of the Supreme Court [The Supreme Court (Practice and Procedure) Bill, 2023 (Govt. Bill)] referred to the Committee on 28th March, 2023.

2. The Committee comprises the following:-

1.	Ch. Mahmood Bashir Virk	Chairman
2.	Mr. Usman Ibrahim	Member
3.	Mr. Mohsin Nawaz Ranjha	Member
4.	Ms. Mehnaz Akbar Aziz	Member
5.	Mr. Muhammad Moeen Watoo	Member
6.	Dr. Samina Matloob	Member
7.	Ms. Zahra Wadood Fatemi	Member
8.	Ms. Nafisa Shah	Member
9.	Mr. Qadir Khan Mandokhail	Member
10.	Syed Naveed Qamar	Member
11.	Ms. Aliya Kamran	Member
12.	Ms. Kishwer Zehra	Member
13.	Dr. Muhammad Afzal Khan Dhandla	Member
14.	Dr. Ramesh Kumar Vankwani	Member
15.	Mr. Azam Nazeer Tarar Minister for Law and Justice	Ex-officio Member

3. The Committee considered the Bill as introduced in the National Assembly placed at **(Annex-A)**, in its meeting held on 29-03-2023 and proposed the following amendments therein:-

1) **Preamble**

In the preamble, after first paragraph, the following new paragraph shall be inserted, namely:-

“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 to Article 175 (2) read with Article 191 of the Constitution this law is being enacted;”

2)

Insertion of new Clause (3)

After clause 3, the following new clause 4, shall be inserted and the remaining clauses shall be renumbered, accordingly;

“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.”

3)

Clause 5

In renumbered clause 5, the existing clause shall be numbered as sub-clause (1), and thereafter following new sub-clause(2), shall be added, namely:-

“(2) The provisions of sub-section (1) shall not withstanding anything contained in sub-section (2) of section 1, also apply to the cases decided within thirty days prior to the commencement of this Act.”

4. The Committee unanimously recommended that the Bill as amended placed at **ANNEX-B** may be passed by the Assembly.

Sd/-

TAHIR HUSSAIN

Secretary

Islamabad, 29th March, 2023

Sd/-

(Ch. Mahmood Bashir Virk)

Chairman

[AS INTRODUCED IN 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 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 senior most 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. **Appeal.**— An appeal shall lie within thirty days from a final 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.

5. **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.

6. **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.

7. **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

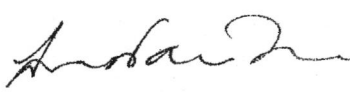
Whereas, the exercise of original jurisdiction by the Supreme Court under clause (3) of Article 184 of the Constitution has been a subject of discussion by various forums with respect to invoking of *suo motu* powers, constitution of benches and the absence of right of appeal.

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

AS REPORTED BY THE STANDING COMMITTEE

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.

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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 a final 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 provisions of sub-section (1) shall notwithstanding anything contained in sub-section (2) of section 1, also apply to the cases decided within thirty days prior to 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.

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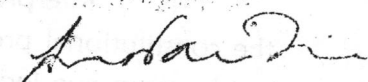
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Minister-in-charge