

PARLIAMENT OF CEYLON

3rd Session 1954-55



Indian and Pakistani (Parliamentary Representation) Act, No. 36 of 1954

Date of Assent : July 16, 1954

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AN ACT TO MAKE PROVISION FOR, RELATING TO AND IN CONNECTION WITH, THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES TO REPRESENT PERSONS WHO ARE REGISTERED AS CITIZENS OF CEYLON UNDER THE INDIAN AND PAKISTANI RESIDENTS (CITIZENSHIP) ACT, No. 3 OF 1949.

[Date of Assent: July 16, 1954]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Indian and Pakistani (Parliamentary Representation) Act, No. 36 of 1954, and shall come into operation on such date as may be appointed by the Governor-General by Order published in the *Gazette*.

Short title
and date of
operation.

2. (1) The provisions of sections 3 and 4 of this Act shall cease to be in force on a date in 1966 to be appointed by the Governor-General by Order published in the *Gazette*:

Date on which
sections 3
and 4 shall
cease to be
in force.

Provided that, if there is no dissolution of Parliament in 1966, those provisions shall continue in force until the date of the dissolution of the Parliament for the time being, and shall thereafter cease to have effect.

(2) Upon the provisions of sections 3 and 4 ceasing to be in force by virtue of the publication of an Order by the Governor-General under sub-section (1), sub-section (3) of section 6 of the Interpretation Ordinance shall apply as though those provisions had been repealed.

Cap. 2.

3. So long as the provisions of this section remain in force, the Ceylon (Constitution) Order in Council, 1946, shall have effect subject to the following modifications:—

Modifications
of the Ceylon
(Constitution)
Order in
Council, 1946.

(1) As though in sub-section (1) of section 3 of that Order there were inserted immediately after the definition of "Governor-General", the following new definition:—

“ Indian and Pakistani electoral district ” means the Indian and Pakistani electoral district constituted under this Order;’.

(2) As though the following new section were inserted immediately after section 11 of that Order:—

Constitution
and
representation
of the Indian
and Pakistani
electoral
district.

11A. (1) An electoral district, by the name of the Indian and Pakistani electoral district and comprising the Island, is hereby constituted. The Indian and Pakistani electoral district hereinbefore constituted shall be an electoral district of the Island for all the purposes of this Order and of any law for the time being in force relating to the election of members of the House of Representatives; and the provisions of this Order and of any such law shall be construed accordingly.

(2) Notwithstanding the constitution of the Indian and Pakistani electoral district—

(a) no Member or Members of the House of Representatives shall be returned for that district;

(b) no person or persons shall be entitled to be so returned; and

(c) no election shall be held or other steps taken for the purpose of returning such Member or Members for that district,

until after the date specified in the notice published by the Governor-General under sub-section (3), and the provisions of this Order and of any law for the time being in force relating to the election of members of that House shall be construed accordingly:

Provided, however, that nothing in the preceding provisions of this section shall affect or be deemed or construed to affect the operation of the provisions of sections 23A to 23D of the Ceylon (Parliamentary

Elections) Order in Council, 1946 (both sections inclusive); and accordingly steps may be taken under those sections before the date aforesaid for the preparation or revision and certification of the register of electors for the Indian and Pakistani electoral district.

(3) There shall be returned, after a date specified by the Governor-General by notice published in the *Gazette*, for the Indian and Pakistani electoral district four Members.

(4) Notwithstanding that the Indian and Pakistani electoral district comprises the Island, the Island may continue to be divided into electoral districts in accordance with Part IV of this Order, and any such division shall be valid for all purposes although such electoral districts include areas comprised within the limits of the Indian and Pakistani electoral district.

Any such division effected prior to the date of the constitution of the Indian and Pakistani electoral district and in force on that date shall be valid and shall continue in force until it is superseded or altered by a fresh division in accordance with this Order.

(3) As though in section 24 of that Order, there were inserted, immediately after sub-section (2) of that section, the following new sub-sections:—

“ (3) The Governor-General may, by notice published in the *Gazette*, order the holding of an election for the purpose of electing the first members of the House of Representatives for the Indian and Pakistani electoral district. Such notice shall, for all the purposes of this Order and of any law for the time being in force relating to the election of members of that House, have the same force and effect as a notice under sub-section (2) for the holding of an election to fill a vacancy

in the seat of a member of Parliament; and the provisions of this Order and of any such law shall be construed accordingly.

(4) No notice shall be published by the Governor-General under sub-section (3) of this section until after the date specified in the notice published by the Governor-General under sub-section (3) of section 11A."

Modifications
of the Ceylon
(Parliamentary
Elections)
Order in
Council, 1946.

4. So long as the provisions of this section remain in force, the Ceylon (Parliamentary Elections) Order in Council, 1946, as subsequently amended, shall have effect subject to the following modifications:—

(1) As though in sub-section (1) of section 3 of that Order—

(a) there were inserted, immediately after the definition of "Commissioner", the following new definition:—

' "disqualification mark" means the disqualification mark referred to in paragraph (a) of sub-section (4) of section 23A; ' ;

(b) there were substituted in the definition of "electoral district", for the words and figures "Order in Council, 1946;", the words and figures "Order in Council, 1946, and includes the Indian and Pakistani electoral district; " ; and

(c) there were inserted, immediately after the definition of "House of Representatives", the following new definition:—

' "Indian and Pakistani electoral district" means the Indian and Pakistani electoral district constituted under the Ceylon (Constitution) Order in Council, 1946; ' .

- (2) The provisions of section 4 of that Order shall not apply to or in relation to the register of electors for the Indian and Pakistani electoral district.
- (3) The provisions of section 4A of that Order shall in so far and in so far only, as they impose an incapacity for registration as an elector, not apply to or in relation to the registration of a person as an elector in the register of electors for the Indian and Pakistani electoral district.
- (4) The provisions of section 5 of that Order shall not apply to or in relation to the register of electors for the Indian and Pakistani electoral district.
- (5) As though the following new sections were inserted immediately after section 5 of that Order:—

Qualifications
for registration
in the register
for the Indian
and Pakistani
electoral
district.

5A. No person shall be qualified to have his name entered or retained in the register of electors for the Indian and Pakistani electoral district in any year unless—

- (1) such person is registered as a citizen of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949; and
- (2) the name of such person is entered in any other register of electors for the time being in operation under this Order; and
- (3) the name of such person is marked in such other register of electors with the disqualification mark.

Special dis-
qualification
for voting at
elections.

5B. A person whose name is marked with the disqualification mark in any register of electors for any electoral district shall, notwithstanding that his

name is entered in that register, be incapable of voting at any election under this Order for the election of a Member for that district. Such register shall not be conclusive evidence of the right of such person to vote and the provisions of section 38 shall be construed accordingly.

(6) The expression "register" occurring in section 8 of that Order shall be deemed not to include the register of electors for the Indian and Pakistani electoral district.

(7) Sub-section (1) of section 9 of that Order shall in its application in the case of the Indian and Pakistani electoral district have effect as though—

(a) there were substituted, for the words "is created," the words "is created or constituted," ;

(b) there were substituted, for the words "registering and revising officers", the words "registering officers"; and

(c) there were omitted the words "or revising officer" wherever they occur therein, and the words "or an assistant revising officer, as the case may be."

(8) Section 10 of that Order shall in its application in the case of the Indian and Pakistani electoral district have effect as though—

(a) there were substituted, for the words "is created," the word "is created or constituted,"; and

(b) sub-section (2) of that section were repealed.

(9) Sections 15 to 23 of that Order shall, subject to the provisions of sections 23A to 23D (both sections inclusive), not apply to or in relation to the Indian and Pakistani electoral district and the preparation or revision and certification, of the register of electors for that district.

- (10) As though the following new sections were inserted in Part III of that Order, immediately after section 23:—

Preliminary
steps for the
preparation
and revision
of register
for the
Indian and
Pakistani
electoral
district.

23A. (1) For the purposes of the preparation of the first register of electors for the Indian and Pakistani electoral district, the Commissioner may, by notice published in the *Gazette*, direct the registering officer of every other electoral district to comply with the provisions of paragraph (a) of sub-section (4) in respect of the register of electors for the time being in operation under this Order for every such district. It shall be the duty of the registering officer of every such district, after compliance with those provisions as directed by the notice, to transmit a copy of that register to the registering officer of the Indian and Pakistani electoral district.

(2) The registering officer of any electoral district (other than the Indian and Pakistani electoral district) shall, immediately before the certification by him under this Order of the register of electors prepared for that district under section 15 of this Order, comply with the provisions of paragraph (a) of sub-section (4) in respect of that register. It shall be the duty of such officer—

(a) after compliance with those provisions as hereinbefore required; and

(b) after that register has been certified and has come into operation under this Order,

to transmit a copy of that register to the registering officer for the Indian and Pakistani electoral district.

(3) The registering officer of each electoral district (other than the Indian and Pakistani electoral district) shall, after the completion of the revision in any year of the register of electors for that district and immediately before its certification

as required by this Order, comply with the provisions of paragraphs (a) and (b) of sub-section (4) in respect of that register. It shall be the duty of such officer—

(a) after compliance with those provisions as hereinbefore required; and

(b) after that register has been certified and has come into operation under this Order,

to transmit a copy of that register to the registering officer of the Indian and Pakistani electoral district.

(4) (a) A registering officer who is required by or under the preceding provisions of this section, to comply with the provisions of this paragraph in respect of any register of electors—

(i) shall ascertain the total number of persons who, being persons whose names are entered in that register, are registered as citizens of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949; and

(ii) shall, if such total number amounts to or exceeds two hundred and fifty, mark the name of each such person with an asterisk or other suitable distinguishing mark (in this Order referred to as the “disqualification mark”).

(b) A registering officer who is required by the preceding provisions of this section to comply with the provisions of this paragraph, in addition to the provisions of paragraph (a) of this sub-section, in respect of any register of electors shall—

(i) if the total number of persons ascertained as required by the said paragraph (a) is less than two hundred and fifty; and

(ii) if the name of any such person
is already marked with the
disqualification mark,
erase that mark.

Preparation
and revision
of register
for Indian
and Pakistani
electoral
district.

23B. (1) Upon the receipt of all the registers of electors which are required to be transmitted to him under sub-section (1) of section 23A, the registering officer of the Indian and Pakistani electoral district shall prepare or cause to be prepared in the English language the first register of electors for that district, so however, that every name appearing in any one of the registers received by him and marked in such register with the disqualification mark shall be entered in the register of electors for that district and no other name shall be so entered.

Nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude the registering officer from commencing the preparation of the register of electors for that district upon the receipt of the first register of electors transmitted to him under sub-section (1) of section 23A.

(2) Upon the receipt of a register of electors transmitted to him under sub-section (2) of section 23A, the registering officer of the Indian and Pakistani electoral district shall revise or cause to be revised the register of electors for that district, so however, that every name appearing in the register received by him and marked in such register with the disqualification mark shall, if it is not already entered in the register of electors for the Indian and Pakistani electoral district, be entered in the register for that district.

(3) Upon the receipt of all the registers of electors which are required to be transmitted to him under sub-section (3) of section 23A, the registering officer of the Indian and Pakistani electoral district shall revise or cause to be revised the register of electors for that district, so however, that—

(a) every name appearing in any one of the registers of electors received by him and marked in such register with the disqualification mark shall, if it is not already entered in the register of electors for the Indian and Pakistani electoral district, be entered in that register; and

(b) every name already entered in the register of electors for that district which either does not appear in any one of the registers aforesaid or does so appear but is not marked with the disqualification mark, shall be erased from the register of electors for the Indian and Pakistani electoral district.

Nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude the registering officer from commencing the revision of the register of electors for the Indian and Pakistani electoral district upon the receipt of the first register of electors transmitted to him under sub-section (3) of section 23A.

Certification
of register
for Indian
and Pakistani
electoral
district and
commencement
and period of
operation.

23c. (1) Upon the completion of the preparation or revision under section 23B of the register of electors for the Indian and Pakistani electoral district, the registering officer of that district shall forthwith certify that register.

(2) On a certification of the register of electors for the Indian and Pakistani electoral district under sub-section (1), the registering officer shall give notice in the *Gazette* and in one or more newspapers circulating in that district that the register has been certified and that such register or a copy thereof is open for inspection at all reasonable hours of the day at such place or places in the district as may be specified in the notice.

(3) The certified register of electors for the Indian and Pakistani electoral district shall come into operation upon the date of the publication of the notice aforesaid and shall continue in operation until superseded by the next certification of the same.

Assistance in the preparation or revision of the register for the Indian and Pakistani electoral district.

23D. For the purpose of assisting registering officers in complying with the provisions of section 23A, the Commissioner for the Registration of Indian and Pakistani Residents shall cause to be furnished to such registering officers from time to time all such information as he may have in his possession as to the persons who are registered as citizens of Ceylon under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, and as to their places of residence.

(11) As though in section 24 of that Order, there were substituted, for the words and figures "Order in Council, 1946.", the words and figures "Order in Council, 1946, or by that Order."

(12) Section 38 of that Order shall have effect—

(a) as though for the words "shall be conclusive", there were substituted the words "shall, subject to the provisions of section 5B, be conclusive"; and

(b) as though in the Proviso to that section there were substituted, for the words and figures "section 4A of this Order," the words and figures "section 4A or section 5B of this Order,".

(13) As though the following sub-section were inserted immediately after sub-section (1) of section 42 of that Order:—

"(1A) No ballot paper shall be delivered to any voter at any election for any electoral district (other than the Indian and Pakistani electoral district) if his name is marked in the register of electors with the disqualification mark or if the presiding

officer or any person acting under his authority is satisfied that it should have been so marked.”.

- (14) As though in paragraph (e) of sub-section (1) of section 85 of that Order, there were substituted, for the words and figures “section 4A of this Order,” the words and figures “section 4A or section 5B of this Order,”.