



THE REPRESENTATION OF PEOPLE ACT, 1976



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THE REPRESENTATION OF THE PEOPLE ACT, 1976
(ACT NO. LXXXV OF 1976)

**An Act to provide for the conduct of elections to the National Assembly
and the Provincial Assemblies.**

WHEREAS it is expedient to provide for the conduct of elections to the National Assembly and the Provincial Assemblies and to guard against corrupt and illegal practices and other offences at or in connection with such elections and for the determination of doubts and disputes arising out of or in connection with such elections, and other matters arising out of or connected therewith :—

It is hereby enacted as follows.

CHAPTER I
PRELIMINARY

1. Short title, extent, application and commencement.—(1) This Act may be called the representation of the People Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall apply to the general elections to the national Assembly and the Provincial Assemblies to be held under the Constitution and to the bye-elections to be held to the seats in those Assemblies falling vacant after the general election.

(4) It shall come into force at once.

2. Definition. In this Act unless there is anything repugnant in the subject or context,—

- (i) “Article” means Article of the Constitution;
- (ii) “Assembly” means the National Assembly or a Provincial Assembly for a province ;
- (iii) “ballot paper account” means ballot paper account prepared under sub-section (10) of section 38 ;
- (iv) “candidate” means a person proposed as a candidate for, or seeking election as a member;
- (v) “Commission” means the Election commission constituted under Article 218;
- (vi) “Commissioner” means the Chief Election Commissioner appointed under the Constitution and includes—
- (vii) “constituency” means a constituency delimited under the Delimitation of Constituencies Act, 1974 (XXXIV of 1974);
- (viii) “contesting candidate” means a validly nominated candidate who has not withdrawn his candidature;
- (ix) “election petition” means election to a seat of a member held under this Act;
- (x) “election agent” means an election agent appointed by a candidate under section 22 and, where no such appointment is made, then candidate acting as his own election agent ;

- (xi) “election petition” means an election petition made under section 52;
- (xii) “election”, in relation to a constituency, means a person who is enrolled on the electoral roll for any electoral area in that constituency ;
- (xiii) “electoral roll” means an electoral roll prepared, revised or corrected under the Electoral Rolls Act, 1974 (XXI of 1974);
- (xiv) “member” means member of an Assembly ;
- (xv) “nomination day” means the day appointed under section 11 for the nomination of candidate ;
- (xvi) “polling agent” means a polling agent appointed under section 23;
- (xvii) “polling day” means the day on which poll is taken for an election;
- (xviii) “polling officer” means a polling officer appointed under section 9 for a polling station;
- (xix) “prescribed” means prescribed by rules made under this Act;
- (xx) “Presiding Officer” means a Presiding Officer appointed under section 9 for a polling station and includes an Assistant Presiding Officer; exercising the powers and performing the functions of Presiding Officer;
- (xxi) “returned candidate” means a candidate who has been declared elected as a member under this Act;
- (xxii) “returning Officer” means a Returning Officer appointed under section 7 and includes an Assistant Returning Officer exercising the powers and performing the functions of Returning Officer;
- (xxiii) “scrutiny day” means the day appointed under section 11 for the scrutiny of nomination papers ;
- (xxiv) “spoilt ballot paper” means a ballot paper which has been spoiled and is returned to the Presiding Officer under section 36;
- (xxv) “Tribunal” means an Election Tribunal appointed under section 57 for the trial of election petitions;
- (xxvi) “validly nominated candidate” means a candidate whose nomination has been accepted ; and
- (xxvii) “withdrawal day” means a day appointed under section 11 on or before which candidature may be withdrawn.

CHAPTER II

ELECTION COMMISSION

3. Procedure of the Commission.—(1) Subject to the provisions of this section, the Commission shall regulate its procedure.

(2) If, upon any matter requiring a decision of the Commission, there is difference of opinion among its members, the opinion of the majority shall prevail and the decision of the Commission shall be expressed in terms of the opinion of the majority.

(3) The Commission may exercise its powers and perform its functions notwithstanding that there is a vacancy in the office of any one of its members or that any one of its members is, for any reason, unable to attend its proceedings and the decision of the other two members shall have the effect of the decision of the Commission ;

Provided that, in the event of a difference of opinion between the two members attending the proceedings of the Commission, the matter shall be placed for decision before the Commission.

4. Delegation of powers, etc.-The Commission may authorise its Chairman or any of its members or any of the officers of the Commission to exercise and perform all or any of its powers and functions under this Act.

5. Assistance to the Commission.-(1) All executive authorities in the Federation and in the Provinces shall render such assistance to the Commissioner and the Commission in the discharge of his or their functions as may be required of them by the Commissioner or the Commission.

(2) The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purposes of this Act as he or it way direct.

6. Power to requisition property.-(1) The Provincial Government or an officer authorised by it in this behalf may, upon a request made in this behalf by the Commission, by order in writing, requisition any such vehicle, vessel or animal as is needed or is likely to be needed for the purpose of transporting to and from any polling station ballot boxes or other election material or any officer or other person engaged for the performance of any duties in connection with the election;

Provided that no vehicle, vessel or animal which is being used by a candidate or his election agent for any purpose connected with the election of such candidate shall be so requisitioned.

(2) Any person authorised in this behalf by the Provincial Government may take possession of any vehicle, vessel or animal requisitioned under subsection (1) and may for that purpose use such force, including police force, as may be reasonably necessary.

(3) Where any vehicle, vessel or animal is requisitioned under subsection (1). there shall be paid to the owner thereof compensation the amount of which shall be determined by the Provincial Government or the officer requisitioning the vehicle, vessel or animal on the basis of the fares and rates prevailing in the locality for its hire;

Provided that, where the owner of the vehicle, vessel or animal, being aggrieved by the amount of compensation so determined makes an application to the Provincial Government within a period of thirty days from the date the amount has been determined for the matter being referred to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Provincial Government may determine.

CHAPTER III

APPOINTMENT OF RETURNING OFFICER, ETC.

7. Appointment of ¹[District Returning Officer. And] Returning Officer, etc.-(1) The Commission shall appoint, from amongst the officers of the Federal Government, Provincial Governments, corporations controlled by any such Government and local authorities, a ²[District Returning Officer for each District and Returning Officer for each constituency]

Provided that, a person may be appointed as Returning Officer for two or more constituencies.

³[*Explanation*,—In this sub-section (2). ‘officers of the Federal Government’ includes officers of the Armed Forces.].

(2) The Commission may appoint, from amongst the Officers of the Federal Government, Provincial Governments, corporations controlled by any such Government and local authorities, as many Assistant Returning Officers as may be necessary.

(3) An Assistant Returning *Officer shall* assist the Returning Officer in the performance of his functions under this Act and may, subject to any condition imposed by the Commission, exercise and perform, under the control of the Returning Officer, the powers and functions of the Returning Officer.

(4) It shall be the duty of a Returning Officer to do all such acts and things as may be necessary for effectively conducting an election in accordance with the provisions of this Act and the rules.

⁴[(5) Subject to the superintendence, direction and control of the Commission, the District Returning Officer shall coordinate and supervise all work in the district in connection with the conduct of elections and shall also perform such other duties and function s as may be entrusted to him by the Commission].

⁵[(6) The commission or the commissioner may, at any time, for reasons to be recorded in writing, suspend any officer performing any duty in connection with an election, or any other public functionary, or any member of the police force or any other law-enforcing agency, who obstructs or prevents or attempts to obstruct or prevent the conduct of fair and impartial poll or interferes or attempts to interfere with an elector when he records his vote, or influences in any manner the polling staff or an elector or does any other act calculated to influence the result of election, and make such arrangements as it or he may consider necessary for the performance of the functions of the officer so suspended.

(7) Where the Commission or the commissioner suspends any officer under sub-section (6), the Commission or the commissioner shall refer the matter to the appropriate authority for taking disciplinary action against such officer.]

¹ Inserted vide Ordinance No. II of 1985, s. 2.

² Subs. *ibid*.

³ Explanation added by the Representation of the People (4th Amdt.) Ordinance, 1977 (28 of 1977) s. 3.

⁴ Substituted *ibid*.

⁵ Added by the Representation of the People (Amdt.) Act, 1991, (9 of 1991), s. 2.

8. Polling station.—(1) The Returning Officer shall, before such time as the Commission may fix, submit to the ¹[District Returning Officer] Commission a list of polling stations he proposes to provide in a constituency for the purpose of election of a member for that constituency.

²[(2) The Commission may make such alterations in the list of polling stations submitted under subsection (t) as it deems necessary and shall, at least fifteen days before the polling day, publish in the *official Gazette* the final list of polling stations specifying the electoral area the electors whereof will be entitled to vote at each polling station.

(3) The Returning Officer shall establish in each constituency polling: stations according to the final list published under subsection (2).

(4) No polling station shall be located in any premises which belong to, or are under the control of, any candidate.

9. Presiding Officers and Polling Officers.—(1) A Returning Officer shall appoint for each polling station a Presiding Officer and such number of Assistant Presiding Officers and polling officers to assist the Presiding Officer as the Returning Officer may consider necessary;

Provided that a person who is, or has at any time been, in the employment of any candidate shall not be appointed as a Presiding Officer, Assistant Presiding Officer or polling officer.

(2) A list of such Presiding Officers and polling officers shall be submitted to the ¹[District Returning Officer] at least fifteen days before the polling day for its approval and no change in the personnel shall be made except with the approval of the Commission.

(3) A Presiding Officer shall conduct the poll in accordance with the provisions of this Act and the rules, shall be responsible for maintaining order at the polling station and shall report to the Returning Officer any fact or incident which may, in his opinion, affect the fairness of the poll ;

Provided that, during the course of the poll, the Presiding Officer may entrust such of his functions as may be specified by him to any Assistant Presiding Officer and it shall be the duty of such Assistant Presiding Officer to perform the functions so entrusted.

(4) The Returning Officer shall herefore one of the Assistant Presiding Officer to act in place of the Presiding Officer if the Presiding Officer is, at any time during the poll, by reason of illness or other cause, not present at the polling station, or is unable to perform his functions; and any absence of the Presiding Officer, and the reason herefore, shall, as soon as possible after the close of the poll, be reported to the Returning Officer.

(5) The Returning Officer may, at any time during the poll, for reasons to be recorded in writing, suspend any Presiding Officer, Assistant Presiding Officer or polling officer and make such arrangements as he may consider necessary for the performance of the functions of the officer so suspended.

10. Supply of electoral rollsw.—(1) The Commission shall provide the Returning Officer for each constituency with copies of electoral rolls for all the electoral areas within that constituency.

(2) The Returning Officer shall provide the Presidnig Officer of each polling station with copies of electoral rolls containing the names of the electors entitled to vote at that polling station.

¹Subs. by the Representation of the People (Amdt.) Ordinance, 1985 (2 of 1985), s. 3.

²Subs. *ibid.*, s. 4.

CHAPTER IV

Conduct of Elections

11. notification for election.— ¹[(1) As soon as the President makes an announcement of the date or dates on which the polls shall, be taken, the Election Commission not later than thirty days of such commencement . by notification in the official Gazette, call upon

(a) the last date for making nominations, which shall be the sixth day after the date of publication of the notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

²[(b) the dates for the scrutiny of nominations, which shall be the seven days immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;]

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(d) the last date for filing of appeals against acceptance or rejection of nominations, which shall be the ⁴[fourth] day following the ⁵[last] date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(e) the last date for decision of appeals, which shall be the ⁴[Sixth] day following the last date for filing of appeal or, if that day is a public holiday, the next succeeding day which is not a public holiday;

⁶(ee) the last date for the withdrawal of candidature, which -shall be the day following the last date for decision of appeals or, if that day is a public holiday, the next succeeding day which is not a public holiday;.]

(f) the last date for publication of the revised list of candidates, which shall be the second day following the last date for decision of appeals; and

(g) the date or dates on which a/ poll shall, if necessary be taken, which or the first of which shall be a date not earlier than the twenty-second day after the publication of the revised list of candidates.].

(3) A Returning Officer shall, as soon as may be after the publication of a notification under sub-section (1), give public notice of the dates specified by the Commission in respect of the constituency or constituencies of which he is the Returning Officer; and the public notice shall be published at some prominent place or places within the constituency to which it relates.

(4) A Returning Officer shall, by the public notice given under sub-section (3), invite nominations specifying the time by which and the place at which nomination papers shall be received by him.

¹Subs. by the Representation of the People (Amdt.) Ordinance, 1985 (2 of 1985), s. 5.

²Subs. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), s. 3. for cl. (b).

³Cl. (c) omitted by the Representation of the People (Amdt > Act. 1991 (9 of 1991) s. y.

⁴Ins. *ibid.*

⁵Subs. *ibid.*, for "second",

⁶Cl. (ee) Ins. *ibid.*

¹[**11 A. Alteration in election programme.** Notwithstanding anything contained in section 11, ' the Commission may, at any time after the issue of ^notifications under sub-section (1) of that section, make such alterations in the programme announced in that notification for the different stages of the election as may, in its opinion, be necessary.]

²[**12. Nomination for election.**—³[(1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.]

(2) Every nomination shall be made by a separate nomination paper in the prescribed form which shall be signed by ⁴[both the proposer and the seconder] and shall contain a declaration signed by the candidate that he has consented to the nomination and that he is not subject to any disqualification for being elected as a member.

⁵[(3) Every nomination paper shall be delivered to the Returning Officer by the candidate or by his proposer or seconder or, if so authorised in writing by the candidate, by his nominee, and the Returning Officer shall acknowledge receipt of the nomination paper specifying the date and time of receipt.]

(4) A person may be nominated in the same constituency by not more than five nomination papers.

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(6) The Returning Officer shall assign a serial number to every nomination paper and endorse thereon the name of the person presenting it, and the date and time of its receipt, and inform such person, of the time and place at which he shall hold scrutiny.

(7) The Returning Officer shall cause to be affixed at a conspicuous place in his office a notice of every nomination paper received by him containing the particulars of the candidate as shown in the nomination paper].

13. Deposits.—(1) Subject to the provisions of sub-section (2), no nomination paper delivered under section 12 shall be accepted unless—

¹ New section 11A ins. by the Representation of the People (Second Amdt.) Ordinance, 1979 (54 of 1979), s. 2.

² Ins. *ibid.*, s. 2.

³ Subs. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991). s. 4 for sub-section (1).

⁴ Subs. *ibid.*, for the certain words.

⁵ Subs. *ibid.*, for sub-section (3).

⁶ Sub-section (5) omitted by the Representation of the People (4th Amdt.) Ordinance, 1985 (8 of 1985), s. 2.

(a) a sum of rupees—

(i) ¹[four thousand] for election to a seat in the National Assembly, and

(ii) ¹[two thousand] for election to a seat in the Provincial Assembly, is deposited in cash by the candidate or by any person on his behalf at the time of its delivery ; or

(b) it is accompanied by a bank draft for a sum a aforesaid drawn in favour of the Returning Officer or j receipt showing that a sum as aforesaid has been deposited by the candidate or by any person on hi: behalf at any branch of the National Bank of Pakistan or at a Government Treasury or sub-treasury. (2) Not more than one deposit under sub-section (1) shall be required in the case of a person who has been nominated as a candidate for the same seat by more than one nomination paper.

14. Scrutiny.—(1) The candidates, their election agents, 2[the proposers and seconders and one other person authorised in this behalf by each candidate] may attend the scrutiny of nomination papers, and the Returning Officer shall give them reasonable opportunity for examining all nomination papers delivered to him under section 12.

(2) The Returning. Officer shall, in the presence of the persons attending the scrutiny under sub-section (1), examine the nomination papers and decide any objection raised by any such person to any nomination.

(3) The Returning Officer may, either of his own motion or upon any objection 3[by any person referred to in sub-section (I),] conduct such summary enquiry as he may think fit and may /eject a nomination paper if he is satisfied that— .

(a) the candidate is. not qualified to be elected as a member

⁴[(b) the proposer or the seconder is not qualified to subscribe to the nomination paper;]

(c) any provision of section 12 or section 13 has not been complied with; or

¹Subs. by the .Representation of the People (Amdt.) Act. 1991* (9 of 1991). s. 5. :

²Subs. *ibid.*, s. 6 for certain words.

³Ins. *ibid.*,

⁴Ins. *ibid.*, which was previously omitted by Ord. 8 of 1985. s. 3.

¹[(d) the signature of the proposer or the seconder is not genuine:]

Provided that—

- (i) the rejection of a nomination paper shall not invalidate the nomination of a candidate by any other valid nomination paper;
- (ii) the Returning Officer shall not reject a nomination paper on the ground of any defect which is not of a substantial nature and may allow any such defect to be remedied forthwith, including an error in regard to the name, serial number in the electoral roll or other particulars of the candidate ²[his proposer or seconder] ³* * * ; and
- (iii) the Returning Officer shall not enquire into the correctness or validity of any entry in the electoral (2) roll ⁴[but shall not reject a nomination paper on the basis of an entry in the electoral roll which contains an obvious error or defect.]

⁵[(4) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it and shall, in the case of rejection, record brief reasons there for;]

⁶[(5) A candidate may prefer an appeal against the decision of the Returning Officer rejecting or, as the case may be, accepting the nomination paper of the candidate to the Tribunal constituted for the constituency to which the nomination relates and consisting of not less than two nor more than three Judges of the High Court nominated by the Commissioner, with the approval of the President; and such appeal shall be summarily decided within such time as may be notified by the Commission and any order passed thereon shall be final.]]

(6) An appeal not disposed of within the period specified in sub-section (5) shall be deemed to have been rejected.

(7) Announcement of the day and time appointed for the "hearing of an appeal under sub-section (5) over the radio ⁷[or television] or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed.

¹ Ins. by the Representation of the People (Amendment) Act, 1991 (19 of 1991), s. 31, which was previously omitted by Ord. 8 of 1985, s. 3.

² Subs. *ibid.*, which was previously ins. by Ord. 2 of 1985, s. 7.

³ Omitted by the Representation of the People (Amendment) Ordinance, 1977 (28 of 1977), s. 6 (only for the purposes of forthcoming elections).

⁴ Ins. *ibid.*.

⁵ Subs. by the Representation of the People (Amendment) Ordinance, 1985 (2 of 1985), s. 7.

⁶ Subs. by Act. 9 of 1991, s. 6, for sub-section 5.

⁷ Ins. by Ordinance 2 of 1985, s. 7.

14A. *[Action on duplicate of nomination paper.] Omitted by the Representation of the People (Amdt.) Ordinance, 1985 (2 of 1985), s.8.*

15. Publication of list of candidates. —{1) The Returning Officer shall, after the scrutiny of nomination papers, prepare and publish in the prescribed manner a list of validly nominated candidates.

(2) In case, an appeal against the decision of the Returning Officer is accepted by the tribunal referred to in sub-section (5) of section 14], the Returning Officer shall revise the list of validly nominated candidates accordingly.

(3) The Returning Officer shall, on the 2[second day following the last date for decision of appeal] under sub-section (5) of section 14, prepare and publish in the prescribed manner the revised list of validly nominated candidates.

16. Withdrawal.—³[(1) Any validly nominated candidate may, by notice in writing signed by him and delivered to the Returning Officer on or before the withdrawal date either by the candidate himself or through an advocate duly authorized in writing by him, withdraw his candidature.

Explanation.—Authorization in favour of an advocate shall be attested by a competent authority, such as, Oath Commissioner or a Notary appointed under the Notaries Ordinance, 1961(XIX of 1961).

(2) A notice of withdrawal under sub-section (1) shall, in no circumstances, be open to recall or cancellation.

(3) On receiving a notice of withdrawal under sub section (1), the Returning Officer shall, if he is satisfied that the signature on the notice is that of the candidate, cause a copy of the notice to be affixed at a conspicuous place in his office.

(4) The Returning Officer shall, 4[on] the withdrawal day, prepare and publish in the prescribed manner a list of contesting candidates which shall, if there are more than one contesting candidates, indicate their respective symbols and supply a copy of the list to each of them.

17. *[Retirement from election, etc.] omitted by the Representation of the People (Amdt.) Ordinance 1977 (XXVIII. of 1977), s. 9 (only for the purposes of forthcoming Elections).*

18. Death of a candidate after nomination.—(1) If a contesting candidate dies before the day for taking of the poll, the Returning Officer shall, by public notice, terminate the proceedings relating to that election.

¹ Subs, by the Representation of the People (Amdt.) Act, 1991 (9 of 1991) s. 7, for "commission".

² Subs. *ibid.*, for certain words.

³ Subs, by the Representation of the People (Amdt.) Ordinance 1985 (2 of 1985) s. 7 for section (I).

⁴ Subs. *ibid.*, for "within three days of".

(2) Where the proceedings relating to an election have been terminated under sub-section (1), fresh proceedings shall be commenced in accordance with the provisions of this Act, as if for a new election:

Provided that it shall not be necessary for the other contesting candidates to file fresh nomination papers or make a further deposit under section 13.

19. Postponement, etc., under certain circumstances.—(1) Where the proceedings relating to nomination, scrutiny or withdrawal cannot, for reasons beyond the control of the Returning Officer, to be recorded in writing, take place on the day appointed there for he may postpone such proceedings.

(2) When the proceedings are postponed by the Returning Officer under sub-section (1), he shall inform the Commission of his having done so and the Commission shall, by notification in official Gazette, fix another day for the proceedings so postponed and, if necessary, also the day or days for any subsequent proceedings.

¹**[20. Uncontested Election.**—(1) Where, after scrutiny under section 14, there remains only one validly nominated candidate or where, after withdrawal under section 16, there remains only one contesting candidate, the Returning Officer shall so inform the Commission and forward to it all the nomination papers received by him from the constituency concerned and such other papers as may be specified by the Commission.

(2) The Commission shall after such inquiry as it may deem necessary in any case, by notification in the official Gazette, the candidate referred to in sub-section (1) to be elected to the seat:

Provided that, if after scrutiny and candidate indicates that he intends to file an appeal under sub-section (5) of -section 14, no person shall be declared elected until the period appointed for filing such, appeal has expired and no such appeal has been filed or, where an appeal is filed, until the disposal Of such appeal.]

1 Subs, by the Representation of the People (4th Amdt.) Ordinance, 1977 (28 of 1977). s. 10, fors. 20. (Only for the purposes of forthcoming Elections).

21. Contested election and allocation of symbols.—¹[(1) If there are more contesting candidates than one in respect of any constituency, the Returning Officer shall—

- (a) allocate, subject to any direction of the Commission, one of the prescribed symbols to each contesting candidate; and in so doing shall, so far as possible, have regard for any preference indicated by the candidate at the time of filing his nomination papers;
- (b) publish in such manner as the Commission may direct the name of the contesting candidates arranged in the Urdu, alphabetical order specifying against each the symbol allocated to him; and
- (c) given public notice of the poll:

Provided that the Commission may, on an application made to it in this behalf, allot one of the prescribed' symbols to any political party or a combination of two or more political parties who have agreed to put up joint candidates for election.]

(2) The Returning Officer shall arrange to exhibit prominently at each polling station the name and symbols of each contesting candidate.

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22. Election Agent.—(1) A candidate may appoint a person qualified to be elected as a member to be his election agent.

(2) The appointment of an election agent may, at any time, be revoked in writing by the candidate and, when iris so revoked or the election agent dies, another person may be appointed by the candidate to be his election agent,

(3) When an election agent is appointed, the candidate shall send to the Returning Officer a notice in writing of the appointment containing the name, father's name and address of the election agent.

(4) Where no appointment of an election agent is made under this section, a candidate shall be deemed to be his own election agent and shall, so far-as the circumstances permit, fce subject to the provisions of this Act both as a candidate and as an election agent.

¹ Subs, by the Representation of the People (Amdt.) Act, 1991 (9 of 1991) s.8. for sub-section (1).

² Omitted by the Representation of the People (Amdt.) Ordinance, 1984 (49 of 1984) s. 3.

23. Polling agent.—(1) The contesting candidate or his election agent may, before the commencement of the poll, appoint for each polling station-as many polling agents as may be prescribed and shall give notice thereof in writing to the Presiding Officer ¹[:]

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(2) The appointment of a polling agent under sub-section (1) may at any time be revoked by the candidate or his election agent and, when it is so revoked or the polling agent dies, another person may be appointed by the candidate or the election agent to be a polling agent; and a notice of such appointment shall be given to the Presiding Officer.

24. Absence of candidates, etc., not to invalidate acts, etc. Where any act or thing is authorised by this Act to be done in the presence of the candidate, an election agent or a polling agent, the failure of such person to attend at the time and place appointed for the purpose shall not invalidate any act or thing otherwise validly done.

25. One day poll. Polls for a general election for an Assembly shall be held on the same day and the polls for National Assembly seats and the Provincial Assembly seats may be held simultaneously:

Provided that, if the Commission is satisfied that polls cannot take place in a constituency on account of a natural calamity or for any other reason beyond its control, the Commission may fix another day for holding the poll in that constituency.

26. Hours of the poll. The Commission shall fix the hours, which shall not be less than eight, during which the poll shall be held and the Returning Officer, shall give public notice of the hours so fixed and hold the poll accordingly.

³**27. Adjournment of poll in emergencies.**—(1) If at an election the proceedings at any polling station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, the Presiding Officer shall report the circumstances to the Returning Officer who may adjourn the poll to a date to be notified later. .

(2) Whenever a poll is adjourned under sub-section (1), the Returning Officer shall immediately report the circumstances to the Commission and shall, as soon as may be, with the previous approval of the Commission, appoint the day on which the poll shall re-commence and fix the polling station at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

¹Subs. and added, by the Representation of the People (Amdt.) Ordinance 1984 (49 of 1984) s. 4.

²Proviso omitted by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), s. 9.

³Subs. by the Representation of the People (4th Amdt.) Ordinance. 1977 (28 of 1977), s. II. (only for the purposes of forthcoming Elections).

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Commission may direct the date, place and hours of polling fixed under sub-section (2).

27 A. fresh poll in the case of destruction, etc., of ballot boxes.—(1) If at any election—

- (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, or
- (b) any error or irregularity which is likely to vitiate the poll is committed at a polling station, the Returning Officer shall forthwith report the matter to the Commission.

(2) The Commission may, on its own motion or on receipt of a report under sub-section (1), and for reasons to be recorded, either—

- (a) declare the poll at that polling station to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or
- (b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity is not material, issue such directions to the Returning Officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and the rules and orders made there under shall apply to every fresh poll taken under sub-section (2).].

28. Election by secret ballot. An election under this Act shall be decided by secret ballot and, subject to the provisions of section 29 every elector shall cast his vote by inserting, in accordance with the provisions of this Act, in the ballot box, a ballot paper in the prescribed form.

29. Postal ballot.—(1) The following persons may cast their votes by postal ballot in such manner as may be prescribed, namely:—

- (a) a person referred to in sub-section (3) or sub-section (4) or sub-section (5) of section 7 of the Electoral Rolls Act, 1974; (XXI of 1974.) and
- (b) person appointed by the Returning Officer, including police personnel, for the performance of any duty in connection with an election at a polling station other than the one at which he is entitled to cast his vote.

(2) An elector who, being entitled to do so, intends to cast his vote by postal ballot shall,—

- (a) in the case of a person referred to in clause (a) of subsection (1), within such

Commission soon after the issue of the notification under section 11; and

- (b) in the case of a person referred to in clause (b) of subsection (1), as soon as may be after his appointment,

apply to the Returning Officer of the constituency in which he is an elector for a ballot paper for voting by postal ballot; and every such application shall specify the name of the elector, his address and his serial number in the electoral roll.

(3) The Returning Officer shall immediately upon the receipt of an application by an elector under sub-section (2) send by post to such elector a ballot paper and an envelope bearing on its face a form of certificate of posting, showing the date thereof, to be filled in by the proper official of the Post Office at the time of posting by the elector.

(4) An elector on receiving his ballot paper for voting by postal ballot shall record his vote in the prescribed manner and, after so recording, post the ballot paper to the Returning Officer in the envelope sent to him under sub-section (3), so as to reach the Returning Officer before the consolidation of results by him.

30. Ballot boxes.—(1) The Returning Officer shall provide each Presiding Officer with such number of ballot boxes as may be necessary.

(2) The ballot boxes shall be of such material and design as may be approved by the Commission.

(3) Not more than one ballot box shall be used at a time for the purpose of the poll at any polling station, or at any polling booth, where there are more than one polling booths at a polling station.

(4) Before the time fixed for the commencement of the poll, the Presiding Officer shall—

- (a) ensure that every ballot box to be used is empty;
- (b) show the empty ballot box to the contesting candidates and their election agents or polling agents whoever may be present, and record their statements in this behalf ¹[in the prescribed form] and obtain their signatures on them ;
- (c) after the ballot box has been shown to be empty, close and seal it with his own seal and with the seal of such of the candidates, or their election agents or polling agents as may be present and may desire to put their own seals on it ; and
- (d) place the ballot box so as to be conveniently accessible to the electors, and at the same time within his view and within the view of such candidates or their election agents or polling agents as may be present.

(5) If one ballot box is full or cannot further be used for receiving ballot papers, the Presiding Officer shall seal that ballot box with his own seal and with the seals of the candidates or their polling agents who may wish to seal it and keep it in a secure place in the polling station and use another ballot box in the manner laid down in subsection (4).

(6) A Presiding Officer shall make such arrangements at the polling station that every elector may be able to secretly mark his ballot paper before folding and inserting it in the ballot box.

31. Admission to the polling station.—The Presiding Officer shall, subject to such instructions as the Commission may give in this behalf, regulate the number of electors to be

admitted to the polling station at a time and shall exclude from the polling station all other persons except-

- (a) any person on duty in connection with the election ; and
- (b) the contesting candidates, their election agents and polling agents;
- (c) such other persons as may be specifically permitted by the Returning Officer.

32. Maintenance of order at the polling station.—(1) The Presiding Officer shall keep order at the polling station and may remove or cause to be removed any person who misconducts himself at a polling station or fails to obey any awful orders of the Presiding Officer.

(2) Any person removed under subsection (1) from a polling station shall not, without the permission of the Presiding Officer, again enter the polling station during the poll and shall, if he is accused of an offence in a polling station, be liable to be arrested without warrant by a ¹[member of the Armed Forces.]

(3) The powers under this section shall be so exercised not to deprive an elector of an opportunity to cast his vote at the polling station at which he is entitled to vote.

33. Voting procedure. —²[(1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall issue a ballot paper to the elector after satisfying himself about the identity of the elector ³[and shall, for that purpose, require the elector to produce his identity card provided for in the National Registration Act, 1973 (LVI of 1973),].]

(2) Before a ballot paper is issued to an elector—

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(b) the number and name of the elector as entered in the electoral roll shall be called out;

⁵[(c) the entry relating to the elector on the electoral roll shall be struck off to indicate that a ballot paper has been issued to him;].

⁶[(cc) he shall be required to receive a personal mark, made with indelible ink, on any finger of either hand as indicated by the Commission];

⁷[(d) the ballot paper shall on its back be stamped with the official mark and "[Signed] by the Presiding Officer;].

¹Subs, by the Representation of the People (4th Amdt.) Ordinance, 1977 (28 of 1977), s. 12. (only for the purposes of forth coming Elections).

²Subs, by the Representation of the People (Amdt.) Ordinance, 1985 (2 of 1985), s. II, for sub-section(1).

³Subs, by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), s. 10, for certain words.

⁴Cl. (a) "Omitted" ibid. s. 10, which was previously amended by various enactments.

⁵Subs, by the Representation of the People (Amdt.) Ordinance, 1979 (50 of 1979).s.7,forcl.(c).

⁶Cl. (cc) Ins. by Ordinance 2 of 1985, s. 11.

⁷Subs, by Ordinance 28 of 1977, s. 13. (only for the purposes of forthcoming Elections).

⁸Subs, by Ordinance, 2 of 1985, s. 11.

- (e) the Presiding Officer shall record on the counterfoil of the ballot paper the number of the elector on the electoral roll, stamp it with the official mark ¹[Sign it and obtain on it] thumb impression of the elector.

²[(3) A ballot paper shall not be issued to a person who;—

- (a) fails or refuses to produce his identity card provided for in the National Registration Act, 1973 (LVI of 1973).
- (b) refuses to have his identity card punched by the Presiding Officer or polling officer to indicate the issue of a ballot paper to him;
- (c) refuses to put his thumb impression on the counterfoil or whose thumb bears traces of its having already been used for putting an impression; or
- (d) refuses to receive the personal mark with indelible ink or who already bears such a mark or traces of such a mark.].

(4) If a contesting candidate or his election agent or polling agent alleges that an elector to whom a ballot paper is about to be issued already has one or more ballot papers in his possession, the Presiding Officer may require the elector to satisfy him that he does not have any other ballot paper in his possession and may also take such measures as he thinks fit to ensure that such elector does not insert more than one ballot paper in the ballot box.

(5) On receiving the ballot paper; the elector shall—

- (a) forthwith proceed to the place reserved for marking the ballot paper;
- (b) put the prescribed mark on the ballot paper at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote; and
- (c) after he has so marked the ballot paper, fold and insert it in the ballot box.

(6) The elector shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper in the ballot box.

(7) Where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of a companion, the Presiding Officer shall allow him such assistance and thereupon such elector may do with such assistance anything which an elector is required or permitted to do under this Act.

34. Tendered ballot papers.—(1) If a person representing himself to be an elector applies for a ballot paper when another person has already represented himself to be that elector and has voted under the name of the person so applying, he shall be entitled, subject to the provisions of this section, to receive a ballot paper (hereinafter referred to as "tendered ballot paper") in the same manner as any other elector.

¹Subs. by the Representation of the People (Amdt.) Ordinance, 1985 (2 of 1985) s. 11.

²Subs. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991). s. 10 for sub-section (3).

(2) A ballot paper issued under sub-section (1) shall, after it has been marked and folded by the elector, be placed in the same condition in a separate packet bearing the label "tendered Ballot Paper" instead of being placed in the ballot box and shall not be included in the count by the Presiding Officer or the Returning Officer.

(3) The name of the person applying for a ballot paper under sub-section (1) and his number on the electoral roll shall be entered in a list (hereinafter referred to as "the tendered vote list") to be prepared by the Presiding Officer.

35. Challenge of electors.—(1) If, at the time a person applies for a ballot paper for the purpose of voting, a candidate or his polling agent declares to the Presiding Officer that he has reasonable cause to believe that person has already voted at the election, at the same or another polling station, or is not the person against whose name entered in the electoral roll he is seeking to vote, and undertakes to prove the charge in a court of law and deposits with the Presiding Officer in cash a sum of two rupees, the Presiding Officer may, after warning the person of the consequences and obtaining on the counterfoil, his thumb impression and, if he is literate, also his signature, issue a ballot paper (hereinafter referred to as "challenged ballot paper") to that person.

(2) If the Presiding Officer issues a ballot paper under subsection (1) to such person he shall enter the name and address of that person in a list to be prepared by him (hereinafter referred to as "the challenged votes list") and obtain thereon the thumb impression and, if he is literate, also the signature of that person.

(3) A ballot paper issued under sub-section (1) shall, after it has been marked and folded by the elector, be placed in the same condition in a separate packet bearing the label "Challenged Ballot Papers", instead of being placed in the ballot box.

36. Spoilt ballot paper.—(1) An elector who has inadvertently so spoilt his ballot paper that it cannot be used as a valid ballot paper may, upon proving the fact of inadvertence to the satisfaction of the Presiding Officer and returning the ballot paper to him, obtain another ballot paper and cast his vote by such other ballot paper.

(2) The Presiding Officer shall forthwith cancel the ballot paper returned to him under sub-section (1), make a note to that effect on the counterfoil over his own signatures and sign the cancelled ballot paper, and place it in a separate packet bearing the label "Spoilt Ballot Papers".

37. Voting after close of poll. No person shall be given any ballot paper or be permitted to vote after the hour fixed for the close of the poll, except the persons who at that hour are present within the building, room, tent or enclosure in which the polling station is situated and have not voted but are waiting to vote.

38. Proceedings at the close of poll.—(1) The Presiding Officer shall count the votes immediately after the close of the poll in the presence of such of the contesting candidates, election agents and polling agents as may be present.

(2) The Presiding Officer shall give such of the contesting candidates, election agents and polling agents as may be present, reasonable facility of observing the count and give them such information with respect thereto as can be given consistent with the orderly conduct of the count and the discharge of his duties in connection therewith.

(3) No person other than the Presiding Officer, the Polling Officer, any other person on duty in connection with the poll, the contesting candidates, their election agents and polling agents shall be present at the count.

(4) The Presiding Officer shall—

- (a) open the used ballot box or ballot boxes and count the entire lot of ballot papers taken out there from;
- (b) open the packet bearing the label "Challenged Ballot Papers" and count them;
- (c) count, in such manner as may be prescribed, the votes cast in favour of each contesting candidate excluding from the count the ballot papers which bear—
 - (i) no official mark '[and signature of the Presiding Officer];
 - (ii) any writing or any mark other than 2[the official mark the signature of the Presiding Officer] and the prescribed mark or to which a piece of paper or any other object of any kind has been attached;
 - (iii) no prescribed mark to indicate the contesting candidate for whom the elector has voted; or
 - (iv) any mark from which it is not clear for whom the elector has voted:

Provided that a ballot paper shall be deemed to have been marked in favour of a candidate if the whole or more than half of the area of the prescribed mark appears clearly within the space, containing the name and symbol of that candidate and, where the prescribed mark, is divided equally between two such spaces, the ballot paper shall be deemed invalid.

(5) The Presiding Officer may recount the votes—

- (a) of his own motion if he considers it necessary; or
- (b) upon the request of a contesting candidate or an election agent present if, in his opinion, the request is not unreasonable.

¹Added by the Representation of the People (Amdt.) Ordinance, 1977. (28 of 1977) s. 14 which had been subs, by Ordinance 2 of 1985, s. 12, to read as above (only for the purposes of forth coming Elections).

²Subs, *ibid.*, s. 14, which had been subs, by Ordinance 2 of 1985, s. 12. (only for, the purposes of forth coming Elections).

(6) The valid ballot papers cast in favour of each contesting candidate shall be put in separate packets and each such packet shall be sealed and shall contain a certificate as to the number, both in letters and figures, of the ballot-papers put in it and shall also indicate the nature of the contents thereof, specifying the name and symbol of the contesting candidate to whom the packet relates.

(7) The ballot papers excluded from the count shall be put in a separate packet indicating thereon the total number both in letters and figures, of the ballot papers, contained therein.

(8) The packets mentioned in sub-sections (6) and (7) shall be put in a principal packet which shall be sealed by the Presiding Officer.

(9) The Presiding Officer shall, immediately after the count prepare a statement of the count in such form as may be prescribed showing therein the number of valid votes polled by each contesting candidate and the ballot papers excluded from the count.

(10) The Presiding Officer shall also prepare in the prescribed form a ballot paper account showing separately—

- (a) the number of ballot papers entrusted to him;
- (b) the number of un-issued ballot papers;
- (c) the number of ballot papers taken out of the ballot box or boxes and counted;
- (d) the number of tendered ballot papers;
- (e) the number of challenged ballot papers; and
- (f) the number of spoilt ballot papers.

(11) The Presiding Officer shall give a certified copy of the statement of the count and the ballot paper account to such of the candidates, their election agents or polling agents as may be present '[and obtain a receipt for such copy].

¹ Added by the Representation of the People (Amdt.) Ordinance, 1979 (50 of 1979), s. 8 ;

(12) The Presiding Officer shall seal in separate packets—

- (a) the un-issued ballot papers;
- (b) the spoilt ballot papers;
- (c) the tendered ballot papers; .
- (d) the challenged ballot papers;
- (e) the marked copies of the electoral rolls;
- (f) the counterfoils of used ballot papers;
- (g) the tendered votes list;
- (h) the challenged votes list; and
- (i) such other papers as the Returning Officers may direct.

(13) The Presiding Officer shall obtain on each statement and packet prepared under this section the signature of such of the contesting candidates or their election agents or polling agents as may be present and, if any such person refuses to sign, the Presiding Officer shall record that fact.

(14) A person required to sign a packet or statement under sub-section (13) may, if he so desires, also affix his seal to it.

(15) After the close of the proceeding under the foregoing sub-sections, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf, cause the packets, the statement of the count and the ballot paper account prepared by him to be sent to the Returning Officer together with such other records as the Commission may direct.

39. Consolidation of results.—(1) The Returning Officer shall give the contesting candidates and their election agents a notice in writing of the day, time and place fixed for the consolidation of the results, and, in the presence of such of the contesting candidates and election agents as may be present, consolidate in the prescribed manner the results of the count furnished by the Presiding Officers, including therein the postal ballots received by him before the time aforesaid.

(2) The consolidation proceedings shall be held without any avoidable delay as soon as possible after the polling day.

(3) Before consolidating the results of the count, the Returning Officer shall examine the ballot papers excluded from the count by the Presiding Officer and, if he finds that any such ballot paper should not have been so excluded, count it as a ballot paper cast in favour of the contesting candidate for whom the vote has been cast thereby.

(4) The Returning Officer shall also count the ballot papers received by him by post in such manner as may be prescribed and include the votes cast in favour of each contesting candidate in the consolidated statement except those which he may reject on any of the grounds mentioned in sub-section (4) of section 38.

(5) The ballot papers, rejected by the Returning Officer under sub-section (4) shall be shown separately in the consolidated statement.

(6) The Returning Officer may recount the ballot papers—

(a) upon the request of, or challenge in writing made by, a contesting candidate or his election agent, if the Returning Officer is satisfied that the request or the challenge is reasonable; or

(b) if so directed by the Commission,

in which case the recount shall be held in such manner and at such place as may be directed by the Commission.

40. The Returning Officer shall—

(a) immediately after preparing the consolidated statement and the return of election, reseal in the prescribed manner the packets and statements opened by him for the purpose of consolidation, permitting such of the candidates and their election agents as may be present to sign the packets and affix their seals to such packets; and

(b) supply duly attested copies of the consolidated-statement and the return of election to such Of the candidates and their election agents as may be present.

41. Equality of votes. —(1) Where, after consolidation of the results of the count under section 39, it appears that there is equality of votes between two or more contesting candidates and the addition of one vote for one such candidate would entitle him to be declared elected, the Returning Officer or the Commission, as the case may be, shall forthwith draw a lot in respect of such candidates and the candidate on whom the lot falls shall be deemed to have received the highest number of votes entitling him to be declared elected.

(2) The lot shall be drawn in the presence of such of the contesting candidates and their election agents as may be present.

(3) The Returning Officer or the Commission, as the case may be, shall keep a record of the proceedings and obtain thereon the signature of such of the candidates and election agents as have been witness to the proceedings, and if any such person refuses to sign, such fact shall be recorded.

42. Declaration of results.—(1) The Returning Officer shall, after obtaining the result of the count under section 39 or of the drawal of the lots under section 41, intimate the results of the count to the Commission which shall declare by public notice the contesting candidate who has or is deemed to have received the highest number of votes to be elected.

(2) The public notice shall contain the name of, and the total number of votes received by, each contesting candidate as a result of consolidation under section 39 or as a result of drawal of lots under section 41.

(3) The Returning Officer shall, immediately after the count, ' submit to the Commission a copy of the consolidated statement in the prescribed form.

(4) The Commission shall publish in the official Gazette the name of the returned candidate.

43. Return or forfeiture of deposit.—(1) After the termination of the proceedings relating to an election under section 18 where the proceeding have been so terminated and the contesting candidate does not want to utilize his security deposit for a subsequent election, or after the declaration of the result of an election under section 20 or section 42 the deposit made under "section 13, in respect of any candidate shall be returned to the person making it or to his legal representative, except the deposit in respect of a candidate who has received less than one-eighth of the total number of votes cast at the election ¹[:]

²[Provided that a deposit shall not-be required to be returned after six months of the termination of the proceedings or, as the case may be, the declaration of the result of the election, as aforesaid].

(2) A deposit which is not required to be returned under subsection (1) shall be forfeited to the Federal Government.

44. Documents to be sent to, and retained by, the commission. The Returning Officer shall forward to the Commission—

- (a) the packets containing the ballot papers each of which shall be sealed with the seal of the Presiding Officer, or, if opened by the Returning Officer, with the seal of the Returning Officer; .
- (b) the packets containing the counterfoils of issued ballot papers;
- (c) the packets containing the marked copies of the electoral rolls;
- (d) the packets containing the ballot paper account;
- (e) the packets containing the tendered ballot papers, the challenged ballot papers, the tendered votes list and the challenged votes list; and
- (f) such other papers as the Commission may direct.

(2) The Returning Officer shall endorse in each packet forwarded under sub-section (1) the description of its contents, the date of the election to which the contents relate and the name and number of the constituency for which the election was held.

(3) The Commission shall retain the documents contained in the packets received under sub-section (1) for a period of one year from the date

¹Subs, by the Representation of the People (Amdt.) Act. 1991, (9 of 1991) s. 12, "for full stop."

²Proviso added *ibid.*,

of their receipt and thereafter shall, unless otherwise directed by a Tribunal, cause them to be destroyed.

45. Public inspection of documents. The documents retained by the Commission under section 44, except the ballot papers, shall be open to public inspection at such time and subject to such conditions as may be prescribed, and the Commission shall, upon an application made in this behalf and on payment of such fee and subject to such conditions as may be prescribed, furnish copies of, or extracts from, those documents.

46. Order for production of documents.—(1) A Tribunal may order the opening of packets of counterfoils and certificates or the inspection of any counted ballot papers.

(2) An order under sub-section (1) may be made subject to such conditions as to persons, time, place and mode of inspection, production of documents and opening of packets as the Tribunal making the order may think expedient:

Provided that, in making and carrying into effect an order for the inspection of counted ballot papers, care shall be taken that no vote shall be disclosed until it has been held by the Tribunal to be invalid.

(3) Where an order is made under sub-section (1), the production by the Commission of any document in such manner as may be directed by the order shall be conclusive evidence that the document relates to the election specified in the order, and any endorsement on any ballot papers or packet of ballot papers or documents so produced shall be *prima facie* evidence that the ballot papers or documents are what the endorsement states them to be.

(4) The production from proper custody of a ballot paper purporting to have been used at an election and of a numbered counterfoil bearing the signature or thumb impression of the elector shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the elector who had on the electoral rolls the same number as was written on the counterfoil.

(5) Save as is provided in this section, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the Commission.

¹[CHAPTER V]

ELECTION TO SEATS RESERVED FOR WOMEN

47. [*Election to Seats Reserved for women.*] *Omitted by the Representation of the People (Amendment) Act, 1991 (IX of 1991), s. 13.*

²[CHAPTER V-A]

ELECTION TO RESERVED SEATS

47-A. Party lists for reserved seats, etc.— (1) For the purpose of election to seats reserved for women and non-Muslims in the National Assembly and Provincial Assemblies, the political parties contesting election for such seats shall, within the period fixed by the Election Commission for submission for nomination papers, file separate lists of their candidates in order of priority for seats reserved for women and non-Muslims with the Chief Election Commissioner, who shall forthwith cause such lists to be published for information of the public at large.

(2) The parties lists referred to in clause (1) may contain as many names of additional candidates as a political party may deem necessary for contesting seats reserved for women and non-Muslims to provide for any disqualification of candidates during scrutiny of nomination papers or for filling of any vacant the terms of National Assembly and Provincial Assemblies, as the case may be.

(3) Where a seat reserved for women or non-Muslims in the National Assembly or a Provincial Assembly falls vacant for death, resignation or disqualification of a member, it shall be filled in by the next person in order of procedent from the party's list of the candidate submitted to the Election Commission under clause (1)

(4) Every candidate contesting election on a seat reserved for women or non-Muslims shall, alongwith the nomination papers and other relevant documents, submit to the Returning Officer appointed by the Election Commission in this behalf—

- (a) a copy of the party list of the candidate's political party for such seats;
- (b) declarations and statements as required by law or rules in support of the nomination; and
- (c) the fee required under any law for the time being in force for filling nomination papers.]

¹Subs. by the Representation of the People (Amdt.) Ordinance, 1979 "(50 of 1979), s.9.

²Subs. by Ord.36 of 02,s.10.

CHAPTER VI

ELECTION EXPENSES

48. *[Definition] Omitted by the Representation of the People (Amendment) Act, 1991 (IX of 1991), s. 14.*

49. *[Restriction on election expenses.] Omitted by the Representation of the People (Amendment) Act, 1991, (IX of 1991) s. 15.*

50. *[Return of election expenses.] . Omitted by the Representation of the People (Amdt.) Act, 1991, (IX of 1991) s. 16.*

51. *[Inspection of returns, etc.] Omitted by the Representation of the People (Amdt.) Act. 1991 (IX of 1991) ,s. 17.*

CHAPTER VII

ELECTION DISPUTES

52. Election petition.—(1) No election shall be called in question except by an election petition made by a candidate for that election (hereafter in this Chapter referred to as the petitioner).

(2) An election petition shall be presented to the Commissioner within ¹[forty-five] days of the publication in the official Gazette of the name of the returned candidate and shall be accompanied by a receipt showing that the petitioner has deposited at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favour of the Commissioner, under the prescribed head of account, as security for the costs of the petition, a sum of one thousand rupees.

53. Presentation of petition.—(1) An election petition shall be presented by a petitioner and shall be; deemed to have been presented—

(a) when it is delivered in person to the Secretary to the Commission or to such other officer as may be appointed by the Commission in that behalf,—

(i) by the petitioner; or

(ii) by a person authorised in writing in this behalf by the petitioner; or

(b) when delivered by registered post to the Secretary to the Commission or to such other officer as aforesaid.

(2) An election petition, if sent by registered post, shall be deemed to have been presented in time if it is posted within the period specified in sub-section (2) of section 52.

¹ Subs. by the Representation of the People (Sixth Amdt.) Ordinance, 1985 (18 of 1985), s. 3.

54. Parties to the petition. The petitioner shall join as respondents to his election petition—

(a) all contesting candidates; and

(b) any other candidate against whom any allegation of any corrupt or illegal practice is made,

and shall serve personally or by registered post on each such respondent a copy of the petition.

Explanation.—In this section and in the following provisions of this Chapter, "corrupt or illegal practice" means a "corrupt practice" or an "illegal practice" within the meaning of Chapter VIII

55. Contents of petition.—(1) Every election petition shall contain—

(a) a precise statement of the material facts on which the petitioner relies;

(b) full particulars of any corrupt or illegal practice or other illegal act alleged to have been committed, including as full a statement as possible of the names of the parties alleged to have committed such corrupt or illegal practice or illegal act and the date and place of the commission of such practice or act; and

(c) the relief claimed by the petitioner.

(2) A petitioner may claim as relief any of the following declarations, namely:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that the petitioner or some other person has been duly elected; or

(c) that the election as a whole is void. ,

(3) Every election petition and every schedule or annex to that petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, (Act V of 1908), for the verification of pleadings.

56. Procedure on receipt of petition by the commissioner.—(1) If the Commissioner finds that any provision of section 52, section 53 or section 54 has not been complied with, the petition shall be dismissed forthwith.

(2) If an election petition is not dismissed under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

57. Appointment of Tribunal.—(1) For the trial of election petitions under this Act, the Commissioner shall appoint as many Election Tribunals as may be necessary.

(2) An Election Tribunal shall consist of a person who has been, or is, or, at the time of his retirement as a District and Sessions Judge, was qualified to be, a Judge of a High Court.

58. Power to transfer petition. The Commissioner, either of his own motion or on an application made in this behalf by any of the parties, may, at any stage, transfer an election petition from one Tribunal to another Tribunal and the Tribunal to which the election petition is so transferred—

(a) shall proceed with the trial of the petition from the stage from which it is transferred; and

(b) may, if it thinks fit, recall and examine any of the witnesses already examined.

59. Place of trial. The trial of an election petition shall be held at such place or places as the Tribunal may think fit.

60. Advocate General to assist the Tribunal. The Advocate-General for a Province shall, if a Tribunal so requires, assist the Tribunal at the hearing of an election petition in such manner as it may require.

61. Appearance before Tribunal. Any appearance, application or act before a Tribunal may be made or done by a party in person or by an advocate or any other person entitled or allowed to plead in any civil court and duly appointed to act on his behalf:

Provided that the Tribunal may, where it considers it necessary, direct any party to appear in person.

¹[**62. Procedure before Tribunal.**—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried in accordance with the procedure laid down by the Election Commission.].

(2) Subject to the provisions of this Act, the Evidence Act, 1872 (I of 1872), shall apply for the trial of an election petition.

(3) The Tribunal may, at any time, upon such terms and on payment of such fee as it may direct, allow a petition to be amended in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial and for determining the real questions at issue, so however that no new ground of challenge to the election is permitted to be raised.

(4) At any time during the trial of an election petition, the Tribunal may call upon the petitioner to deposit such further sum by way of security, in addition to the sum deposited under section 52, as it may think fit.

63. Dismissal of petition during trial. The Tribunal shall dismiss an election petition, if—

(a) the provisions of section 54 or section 55 have not been complied with; or

(b) if the petitioner fails to make the further deposit required under sub-section (4) of section 62.

64. Power of the Tribunal. The Tribunal shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), and shall be deemed to be a civil court within the meaning of sections ¹[476,] 480 and 482 of the Code of Criminal Procedure, 1898.

¹ Ins. by the Representation of the people (Seventh Amdt.) Act, 1985 (9 of 1985), s.2.

65. Further provision relating to evidence and witnesses.—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no document shall be inadmissible in evidence at the trial of an election petition only on the ground that it is not duly stamped or registered.

(2) No witness shall be excused from answering any question as to any matter in issue, or relevant to a matter in issue, in the trial of an election petition upon the ground that the answer to such question may incriminate or tend to incriminate him or that it may expose or tend to expose him to any penalty or forfeiture; but no witness shall be required or permitted to state for whom he has voted at an election.

(3) A witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal and an answer given by him to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of his evidence, be admissible in evidence against him in any civil or criminal proceedings.

(4) A certificate of indemnity granted to any witness under sub-section (3) may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Pakistan Penal Code, or under this Act (Act LXV of 1860), arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by any law for the time being in force.

(5) The reasonable expenses incurred by any person in attending to give evidence may be allowed to him by the Tribunal and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

66. Recrimination where seat is claimed.—(1) Where in an election petition a declaration is claimed that a candidate other than the returned candidate has been duly elected, the returned candidate or any other party may produce evidence to prove that the

¹ Ins. by the Representation of the People (Seventh Amdt.) Act, 1985 (9 of 1985), s. 2.

election of such other candidate would have been declared void-had he been the returned candidate and had a petition been, presented calling his election in question:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he or it has, within the fourteen days next following the commencement of the trial, given notice to the Tribunal of his intention so to do and has also deposited the security referred to in section 52.

(2) Every notice referred to in sub-section (1) shall be accompanied by a statement of the case, and all the provisions relating to the contents, verification, trial and procedure of an election petition, or to the security deposit in respect of an election petition, shall apply to such-a statement as if it were an election petition.

67. Decision of the Tribunal.—(1) The Tribunal may, upon the conclusion of the trial of an election petition, make an order—

- (a) dismissing the petition;
- (b) declaring the election of the returned candidate to be void;
- (c) declaring the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected; or
- (d) declaring the election as a whole to be void.

¹[(1A) The Election Tribunal shall proceed with the trial of the election petition on day basis and the decision thereof shall be taken within four months from its receipt:

Provided that where the delay in the proceedings is occasioned by any act or omission of a returned candidate or any other person acting on his behalf, the Tribunal shall refer to the Commissioner that such candidate may be declared by the Commission to have ceased to perform the functions of his office either till the conclusion of the proceedings or for such period as the Commission may direct."]

(2) Save as provided in sub-section (3), the decision of a Tribunal on an election petition shall be final.

²[(3) Any person aggrieved by a decision of the Tribunal may, within thirty days of the announcement of the decision, appeal to the Supreme Court and the decision of the Supreme Court on such appeal shall be final.

Explanation.—In this sub-section, "decision of the Tribunal" shall not be deemed to include an order made by the Commission in the exercise of its powers under ³[section 103AA".]]

68. Ground for declaring election of returned candidate void.—(1) The Tribunal shall declare the election of the returned candidate to be void if it is satisfied that—

- (a) the nomination of the returned candidate was invalid; or
- (b) the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a member; or
- (c) the election of the returned candidate has been procured or induced by any corrupt or illegal practice; or

¹ Added by Ord.36 of 02, s.12.

² Subs, and shall be deemed always to have been so subs, by the Representation of the People (Third Amdt.) Ordinance, 1977 (16 of 1977)", s. 2, for the existing sub-section (3).

³ Subs. by the Representation of the People (Amdt.) Ordinance, 1977 (28 of 1977), s. 15, which had been amended by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), s. 18, to read as above.

- (d) a corrupt or illegal practice has been committed by the returned candidate or his election agent or by any other person with the connivance of the candidate or his election agent.

(2) The election of a returned candidate shall not be declared void on the ground—

- (a) that any corrupt or illegal practice has been committed, if the Tribunal is satisfied that it was not committed by, or with the consent or connivance of that candidate or his election agent and that the candidate and the election agent took all reasonable precaution to prevent its commission; or
- (b) that any of the other contesting candidates was, on the nomination day, not qualified for or was disqualified from, being elected as a member.

69. Ground for declaring a person other than a returned candidate elected. The Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other) contesting candidate to have been duly elected, if it is so claimed by the petitioner or any of the respondents and the Tribunal is satisfied that the petitioner or such other contesting candidate was entitled to be declared elected.

70. Ground for declaring election as a whole void. The Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of—

- (a) the failure of any person to comply with the provisions of this Act or the rules; or
- (b) the prevalence of extensive corrupt or illegal practice at the election.

71. Decision in case of equality of votes.—(1) Where, after the conclusion of the trial, it appears that there is an equality of votes between two or more contesting candidates and the addition of one vote for one such candidate would entitle him to be declared elected the Tribunal shall draw a lot in respect of such candidates and the candidate on whom the lot falls shall be deemed to have received the highest number of votes entitling him to be declared elected.

(2) Before proceeding to draw a lot under sub-section (1), the Tribunal shall give notice to the contesting candidates between whom there is an equality of votes and shall proceed to draw a lot on the day and at the time and place stated in the notice:

Provided that, if the contesting candidates are present when it appears that there is an equality of votes between them, the Tribunal may proceed forthwith to draw a lot without giving notice as aforesaid.

72. Other provisions relating to Tribunal.—(1) An order of the Tribunal under section 67 shall take effect on the date on which it is made and shall be communicated to the Commissioner who shall publish it in the official Gazette.

(2) The Tribunal shall after an election petition has been disposed of, forward the record thereof to the Commissioner who shall retain it for a period of five years from the date of its receipt and shall thereafter cause it to be destroyed.

73. Withdrawal of petition.—(1) An election petition may be withdrawn—

(a) before the Tribunal has been appointed, by leave of the Commissioner; and

(b) after a Tribunal has been appointed, by leave by the Tribunal.

(2) Where leave is granted by the Tribunal, the petitioner shall be ordered to pay the costs incurred by the respondents to the election petition Or such portion thereof as the Tribunal may direct.

74. Abatement on death of petitioner.—(1) An election petition shall abate on the death of a sole petitioner or of the sole survivor of several petitioners.

(2) Where a petition abates under sub-section (1) after a Tribunal has been appointed, notice of the abatement shall be given by the Tribunal to the Commissioner.

75. Death or withdrawal of respondent. If, before the conclusion of the trial of an election petition, a respondent dies or gives notice in the prescribed form that he does not intend to contest the petition, and no respondent remains to contest the petition, the Tribunal shall, without any further hearing, or after giving such person as it may think fit an opportunity of being heard, decide the case *ex-parte*.

76. Failure of petitioner to appear. Where, at any stage of the trial of an election petition, no petitioner makes an appearance the Tribunal may dismiss the petition for default, and make such order as to costs as it may think fit.

¹[**76A. Additional powers of Election Tribunal.**— (1) If an election Tribunal, on the basis of any material coming to its knowledge from any source or information laid before it, is of the opinion that returned candidate was defaulter of laan, taxes, government dues or utility charges, or has submitted false or incorrect declaration regarding payment of loans, taxes, government dues or utility charges or has submitted a false or invorrect statement of assets and liabilities of his own, his spouse or his dependents under section 12, it may, on its own motion or otherwise, call upon such candidate to show cause why his election should not be declared void and, if it satisfied that such candidate statement, as aforesaid, it may, without predudice to any order that may be, or has been made on an election petition, or any other punishment, penalty or liability which such candidate may have incurred under this Act or under any other law for time being in force, make an order—

(a) declaring the election of the returned candidate to be void; and

(b) declaring any other, contesting candidate to have been duly elected.

¹ Added by Ord.36 of 02,s.13.

(2) If on examination the material or information referred to in sub-section (1), an Election Tribunal finds that there appear reasonable grounds for believing that a returned candidate is a defaulter or has submitted a false or incorrect declaration referred to in sub-section (1) it may, pending decision of the motion under sub-section (1), direct that the result of the returned candidate shall not be published in the official Gazette.

(3) No order under sub-section (1) or sub-section (2) shall be made unless the returned candidate is provided an opportunity of being heard."]

77. Order as to costs. —(1) The Tribunal shall, when making an order under section 67, also make an order determining in its discretion the costs and specifying the persons by and to whom such costs are to be paid.

(2) If, in any order as to costs under sub-section (1) there is a direction for the payment of costs by any party to any person, such costs shall, if they have not already been paid, be payable in full and shall, upon application in writing in that behalf made to the Tribunal within six months of the order by the person to whom costs have been awarded, be paid, as far as possible, two of the security for costs deposited by such party.

(3) Where no costs have been awarded against a party who has deposited security for costs, or where no application for payment of costs has been made within the aforesaid six months, or where a residue remains after costs have been paid out of the security, such security or the residue thereof, as the case may be, shall, upon application in writing therefor by the person who made the deposit or by his legal representative, be returned by the Tribunal to the person making the application.

(4) Any order for costs may be enforced upon application in writing made to the principal civil court of original jurisdiction of the district in which the person from whom the costs are to be recovered resides or owns property, or of the district in which the constituency, or any part of the constituency, to which the disputed election relates is situate, as if such order were a decree passed by that court:

Provided that no proceeding shall be brought under this subsection except in respect of costs which have not been recovered by an application under sub-section (2).

CHAPTER VIII

OFFENCE, PENALTY AND PROCEDURE

78. Corrupt practice. A person is guilty of corrupt practice if he—

1* * * * * *

(2) is guilty of bribery, personation or undue influence;

(3) makes or publishes a false statement—

(a) concerning the personal character of a candidate or any of his relation calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing, and did believe, the statement to be true;

(b) relating to the symbol of a candidate, whether or not such symbol has been allocated to such candidate; or

(c) regarding the withdrawal of a candidate; ²[or]

(4) calls upon or persuades any person to vote, or to refrain from voting, for any candidate on the ground that he belongs to a particular religion, province, community, race, caste, bradari, sect or tribe;

(5) knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purposes of conveying to or from the polling station any elector except himself and members of his immediate family; or

¹ Cl. (1) omitted by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), s. 19.

² Ins. Omitted and added by Ord.36 of 02,s.14.

(6) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

79. Bribery. A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf—

(1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting or for being or refraining from being a candidate at, or for withdrawing from, an election;

(2) gives, offers or promises any gratification to any person—

(a) for the purpose of inducing—

(i) a person to be, or to refrain from being, a candidate at an election;

(ii) an elector to vote, or refrain from voting, at an election; or

(iii) a candidate to withdraw from an election; or

(b) for the purpose of rewarding—

(i) a person for having been, or for having refrained from being, a candidate at an election;

(ii) an elector for having voted or refrained from voting at an election; or

(iii) a candidate for having withdrawn from an election.

Explanation.—In this section, "gratification" includes a gratification in money or estimable in money and all forms of entertainment or employment.

80. Personation. A person is guilty of personation, if he votes, or applies for a ballot paper for voting, as some other person whether that other person is living or dead or fictitious.

¹**[80A. Penalty for adversely affecting the interests of candidate.** Whoever, as a proposer, or in a fictitious name as a proposer, wilfully does any act which he is prohibited by law from doing, or omits to do any act which he is required by law to do, or makes any entry in a nomination form which is not correct, or subscribes to a nomination form a signature which is not genuine, and thereby adversely affects the interests of any person as a candidate, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.]

81. Undue influence. A person is guilty of undue influence, if he—

(1) in order to induce or compel any person to vote or refrain from voting, or to offer himself as a candidate, or to withdraw his candidature, at an election, directly or indirectly, by himself or by any other person on his behalf—

(a) makes or threatens to make use of any force, violence or restraint;

(b) inflicts or threatens to inflict any injury, damage, harm or loss;

¹ Ins. By the Representation of the People (Fourth Amdt.) Ordinance, 1985 (8 of 1985), s. 5.

- (c) calls down or threatens to call down divine displeasure or the displeasure or disapprobation of any saint or pir;
- (d) gives or threatens to give any religious sentence; or
- (e) uses any official influence or governmental patronage; or
- (f) maligns the Armed Forces of Pakistan; or

(2) on account of any person having voted or refrained from voting, or having offered himself as a candidate or having withdrawn his candidature, does any of the acts specified in clause (1); or

(3) directly or indirectly, by himself or by any other person on his behalf,—

- (a) uses any place of religious worship, or any place reserved for the performance of religious rites, for the purpose of canvassing for votes or for persuading electors to vote, or not to vote, at an election or for a particular candidate; or
- (b) for any of the purposes specified in sub-clause (a), by words, spoken or written, or by signs or visible representation, publishes anything or does any act prejudicial to the glory of Islam or the integrity, security or defence of Pakistan or any part thereof; or

(4) by abduction, duress or any fraudulent device or contrivance,—

- (a) impedes or prevents the free exercise of the franchise by an elector; or
- (b) compels, induces or prevails upon any elector to vote or refrain from voting.

Explanation.—In this section, "harm" includes social ostracism or excommunication or expulsion from any caste or community.'

82. Penalty for corrupt practice. Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

¹["**82A. Capturing of polling station and polling booth, etc.**— Whoever—

(a) seize a polling station or a place fixed for the poll or makes polling authorities surrender the ballot papers or ballot box or both and doing of any other act which affects the orderly conduct of elections;

(b) takes possession of a polling station or a place fixed for the poll and allows his supporters to exercise their right to vote and prevent others from free exercise of their right to vote.

(c) coerces, intimidates or threatens directly or indirectly any elector and prevents him from going to the polling station or a place fixed for the poll to cast his vote; or

(d) being in the service of Government or corporations or institutions controlled by the Government of all or any of the aforesaid activities or aids or connives at, any such activity in the furtherance of the prospects of the election of a candidate.

shall be guilty of an offence punishable with imprisonment for a term which shall not be less than three years and may extend to five years and with fine which shall not be less than fifty thousands rupees and may extend to one hundred thousand rupees or with both."]

¹ Ins. by Ord. 36 of 02, s.15.

83. Illegal practice.—(1) A person is guilty of illegal practice if he—

- ¹[(a) fails to comply with the provision of section 50;]
- (b) obtains or procures or attempts to obtain or procure, the assistance of any person in the service of Pakistan to further or hinder the election of a candidate;
- (c) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for, or is disqualified from, voting;
- (d) votes or applies for a ballot paper for voting more than once in the same polling station;
- (e) votes or applies for a ballot paper for voting in more than one polling station for the same election;
- (f) removes a ballot paper from a polling station during the poll; or
- (g) knowingly induces or procures any person to do any of the aforesaid acts.

(2) Any person guilty of illegal practice shall be punishable with ¹[imprisonment for a term which may extend to six months and fine which may extend to five] thousand rupees.

83A. Prohibition of affixing hoardings, etc.— No person or a political party shall affix posters, hoardings or banners larger than the sizes prescribed by the Election Commission:

Provided that such posters, hoarding or banners shall not be affixed not parties flags shall be hoisted on any public property or at any public place, except with the permission in writ in a from and on payment of such fee or charges as may be chageable by the concerned local government or authorities.

(2) Wall-chalking as part of an election campaign is prohibited in all foarms.

(3) Loudspeakers shall not be used for election campaign except at the election meetings.

(4) The Zila Nazim and the Returning Officer shall be reponsible for the effective implementation of the provisions of this section.

(5) The contravention of the provisions of sub-section (1), (2) and (3) shall be punishable with imprisonment for a term not exceeding one year, or with fine, or with both.

84. Prohibition of public meetings, etc., during certain period.—(1) No person shall convene, hold or attend any public meeting, and no person shall promote or join in any procession, within the area of any constituency during a period of forty-eight hours ending at midnight following the conclusion of the poll for any election in that constituency.

(2) Any person who contravenes the provisions of subsection (1) shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

85. Prohibition of canvassing in or near polling station. A person is guilty of an offence punishable with fine which may extend to one thousand rupees if he, within a radius of four hundred yards of the polling station, on the polling day—

- (1) canvasses for votes;
- (2) solicits the vote of any elector;
- (3) persuades any elector not to vote at the election or for a particular candidate; or

¹ Ins. by Ord.36 of 02,s.15.

(4) exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate or his election agent beyond the radius of one hundred yards of the polling station, any notice, sign, banner or flag designed to encourage the electors to vote or discourage the electors from voting, for any contesting candidate.

86. Disorderly conduct near polling station. A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, if he, on the polling day—

(1) uses, in such manner as to be audible within the polling station, any gramophone, magaphone, loudspeaker or other apparatus for reproducing or amplifying, sounds;

(2) persistently shouts in such manner as to be audible within the polling station;

(3) does any act which—

(a) disturbs or causes annoyance to any elector visiting a polling station for the purpose of voting; or

(b) interferes with the performance of the duty of a Presiding Officer, Assistant Presiding Officer, Polling Officer or any other person performing any duty at a polling station; or

(4) abets the doing of any of the aforesaid acts.

¹**[86A. Certain offences triable by officers authorized by the Commission.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an officer for the time being exercising the powers of a civil or criminal court, or an officer of the Armed Forces, or an officer performing a duty in connection with an election, who is authorised by the Commission in this behalf may—

(a) exercise the powers of a Magistrate of the first class under the said Code in respect of the offences punishable under section 80, section 84, section 85, section 86 and section 87; and

(b) take cognizance of any such offence under any of the clauses of sub-section (1) of section 190 of the said Code;

and shall try any such offence in a summary way in accordance with the provisions of the said Code relating to summary trials.]

87. tampering with papers.—(1) Except as provided in sub-section (2), a person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he,—

(a) intentionally defaces or destroys any nomination paper, ballot paper or official mark on a ballot paper;

(b) intentionally takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other **than the ballot paper he is authorised by law to put in;**

¹Subs. by the Representation of the People (Amdt.) Ordinance, 1985 (14 of 1985), s. 2.

(c) without due authority,—

(i) supplies any ballot paper to any person;

(ii) destroys, takes, opens or otherwise interferes with any ballot box or packet "of ballot papers in use for the purpose of election; or

(iii) breaks any seal affixed in accordance with the provisions of this Act,—

(d) forges any ballot paper or official mark; or

(e) causes any delay or interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll.

(2) A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer or any other officer or clerk on duty in connection with the election who is guilty of an offence under sub-section (1), shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

88. Interference with the secrecy of voting. A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both if he—

(a) interferes or attempts to interfere with an elector when he records his vote;

(b) in any manner obtains or attempts to obtain in a polling station information as to the candidate for whom an elector is about to vote or has voted; or

(c) communicates at any time any information obtained in a polling station as to the candidate for whom an elector is about to vote or has voted.

89. Failure to maintain secrecy. A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, or polling officer, or' any candidate, election agent or polling agent attending a polling station, or any person attending at the counting of votes is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he—

(a) fails to maintain or aid in maintaining the secrecy of voting;

(b) communicates, except for any purpose authorised by any law, to any person before the poll is closed any information as to the official marks; or

(c) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

90. Official not to influence voters. A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, polling officer or any other officer or clerk performing a duty in connection with an election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, if he, in the conduct or management of an election or maintenance or order at a polling station,—

- (a) persuades any person to give his vote;
- (b) dissuades any person from giving his vote;
- (c) influences in any manner the voting of any person; or
- (d) does any other act calculated to influence the result of the election.

91. Breaches of official duty in connection with election. A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer or any other person employed by any such officer in connection with his official duties imposed by or under this Act, ¹[or any person required under subsection (2) of section 5 to perform any functions or render any assistance" shall be inserted] is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees or with both, if he, Wilfully and without reasonable cause, commits breach of any such official duty, by act or omission [or fails to perform such functions or render such assistance].

³**92. Assistance by Government servants, etc., prohibited.** —(1) No person such as is referred to in sub-paragraph (4) of paragraph (a) of clause (2) of Article 10 of the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977

⁴[President's (Post-Proclamation) Order No. 5 of 1977], or in subparagraphs (2), (3) and (4) of paragraph (b) of that clause shall give any assistance to further or to hinder the election of a candidate.

(2) If any person acts in contravention of sub-section (1), he shall be guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine, or with both.].

93. Certain powers of a police officer. A member of the Armed Forces] may—

- (a) arrest without warrant, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any person— "
 - (i) who commits personation or an offence under section 86 if the Presiding Officer direct him to so arrest such person;
 - (ii) who, being removed from the polling station by the Presiding Officer under section 32 commits any offence at the polling station;
- (b) remove any notice, sign, banner or flag used in contravention of section 85; and
- (c) seize any instrument or apparatus used in contravention of section 86 and take such steps, including use of force, as may be reasonably necessary for preventing such contravention.

94. Certain offences cognizable. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under ⁵[section 80A or] section 82 or section 85 or sub-section(1) of section 87 shall be a cognizable offence.

95. Prosecution of offences by public officers.—(1) No Court shall take cognizance of an offence punishable under sub-section (2) of section 87, section 89, section 90, section 91 or section 92 except upon a Complaint in writing made by order of, or under authority from, the Commission or the Commissioner.

(2) The Commission or the Commissioner shall, if it or he has reason to believe that any offence specified in sub-section.(1) has-been committed, cause such enquiries to be made or prosecution to be instituted as it or he may think fit.

¹ Ins. by the Representation of the People (4th Amdt.) Ordinance, 1977 (28 of 1977) s. 17, only for the purposes of forth coming Elections.

² Added *ibid.*,

³ Section 92 subs, *ibid.*s 18.

⁴ Subs. by the Representation of the People (4th Amdt.) Ordinance, 1977 (28 of 1977), s. 19

⁵ Ins. by the Representation of the People (Fourth Amdt.) Ordinance 1985. (8 of 1985), s. 6.

(3) An offence specified in sub-section (1) shall be exclusively triable by the Court of Session within the jurisdiction of which the offence is committed.

¹[(4) In respect of an offence specified in sub-section (1), section 494 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if, after the word and comma "may", therein, the words "if so directed by the Chief Election Commissioner and" were inserted.]

96. Court proceedings relating to election expenses. The Commission shall direct the Returning Officer to launch proceedings in the appropriate court against persons who contravene the provisions of section 49 or fail to comply with the provisions of section 50.

97. Court to report convictions to the Commission. A Court convicting any person for an offence punishable under this Chapter, other than corrupt practice, shall send a report to the Commission of such conviction together with its recommendations, if any, considering the special circumstances of any case, for the mitigation or remission of any disqualification incurred by such person under this Act.

98. Punishment under this Chapter not in derogation of any other liability. Any punishment imposed on any person for an offence punishable under this Chapter shall be in addition to, and not in derogation of, any liability incurred by such person under any other provision, of this Act.

CHAPTER IX

DISQUALIFICATIONS

99. ²[Qualifications and disqualifications. —(1) A person shall not be qualified to be elected or chosen as a member of an Assembly unless—

(a) he is a citizen of Pakistan;

(b) he is, in the case of National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll for election to a Muslim seat or a non-Muslim seat as the case may be in that Assembly;

¹Sub-section(4) added by the Representation of the People (Amdt.) Act 1991 (9 of 1991) s. 21.

²Subs. *ibid.*, for the marginal heading and sub-section (1).

- (c)** he is, in the case of Provincial Assembly" not less than twenty-five years of age and is enrolled as a voter in any electoral roll for election to a Muslim seat or a non-Muslim seat as the case may be in that Assembly;
- (d)** he is of good character and is not commonly known as one who violates Islamic Injunctions;
- (e)** he has adequate knowledge of Islamic teachings and practises obligatory duties prescribed by Islam as well as abstains from major sins;
- (f)** he is sagacious, righteous and non-profligate and honest and ameen;
- (g)** he has not been convicted for a crime involving moral turpitude or for giving false evidence; and
- (h)** he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the Ideology of Pakistan:

Provided that the disqualifications specified in clauses (d) and (e) shall not apply to a person who is a non-Muslim, but such a person shall have good moral reputation.

- (1A)** A person shall be disqualified from being elected as, and from being, a member of an Assembly, if—
 - (a)** he is of unsound mind and he has been so declared by a competent court; or
 - (b)** he is an undischarged insolvent; or
 - (c)** he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or
 - (d)** he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or
 - (e)** he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or
 - (f)** being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in Azad Jammu and Kashmir from being elected as a member of the Legislative Assembly of Azad Jammu and Kashmir; or
 - (g)** he is propagating any opinion, or acting in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity or security of. Pakistan, or. morality, or the maintenance of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan; or

- (h)** he has been on conviction for any offence which in the opinion of the Chief Election Commissioner involves moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release ; or
- (i)** he has been dismissed from the service of Pakistan on the ground of misconduct, unless a period of five years has elapsed since the dismissal; or
- (j)** he has been removed or compulsorily retired from the service of Pakistan on the ground of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or
- (k)** he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service; or
- (l)** he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect; or
- (m)** he has been convicted under section 7 of the Political Parties Act, 1962, unless a period of five years has elapsed from the date of such conviction; or
- (n)** he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract/-not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of, any service undertaken by, Government:

Provided that the disqualification under this clause shall not apply to a person—

- (i)** where the share or interest in the contract devolves on him by inheritance or succession or as a legatee, executor or administrator, until the expiration of six months after it has so devolved on him;
- (ii)** where the contract has been entered into by or on . behalf of a public company as defined in the Companies Ordinance, 1984 (XLVII of 1984), of which he is a shareholder but is not a director holding ah office of profit under the company; or

- (iii) where he is a member of a Hindu undivided family and the contract has been entered into by any other member of that family in the course of carrying on a separate business in which he has no share or interest; or

Explanation—In this section, "goods" does not include agricultural produce or commodity grown or produced by him or such goods as he is, under any directive of Government or any law for the time being in force, under a duty or obligation to supply;

- (o) he holds any office of profit in the service of Pakistan other than the following offices, namely:—

(i) an office which is not whole time office remunerated either by salary or by fee;

(ii) the office of Lumbardar, whether called by this office or any other title;

(iii) the Qaumi Razakars;

(iv) any office the holder whereof, by virtue of such office, is liable to be called up for military training or military service under any law providing for the constitution or raising of a Force; or

- (p) having, whether by himself or by any person in trust for him or for his benefit or on his account, any share or interest in a contract for—

(i) the supply of goods to; or

(ii) the execution of any work, or the performance of any service, undertaken by, the Government, or a local authority or an autonomous body in which the Government has a controlling share or interest, he, does not, after his election as a member but within thirty days of his making oath as such-, make a declaration in writing to the Commissioner that he has such share or interest, unless a period of five years has elapsed since his failure to do so; or

- (q) being a managing agent, manager or secretary of, or holding any other office carrying the right to remuneration in, any company or corporation (other than a cooperative society) in the capital of which the Government has not less than twenty-five per cent share or which is managed by the Government, he does not, after his election as a member but within thirty days of his making oath as such, make a declaration in writing to the Commissioner that he is such managing agent, manager or secretary, or holds such office, unless a period of five years has elapsed since his failure to do so.

Explanation.—In this sub-section, "service of Pakistan" has the same meaning as in Article 260.]

(2) If a person, having been elected to an Assembly as a candidate or nominee of a political party, withdraws himself from that party, he shall, from the date of such withdrawal, be disqualified from being a member of the Assembly for the unexpired period of his term unless he had been re-elected at a bye-election held after his disqualification.

100. disqualification on account of certain offences.—¹[(1)] Where a person has been convicted for ²[any]. offence under this Act, or has been found guilty of any corrupt or illegal practice by a Tribunal, he shall, if the Commissioner makes an order to that effect, be disqualified, for such period not exceeding five years as may be specified in the order, from being, or being elected as, a member of an Assembly.

¹[(2) Where a person has been convicted for an offence punishable under section 171J of the Pakistan Penal Code (Act XLV of 1860), he shall be disqualified for a period of seven years from being or being elected as a member of an Assembly.].

101. Disqualifications for being election agent. Any person who is for any period disqualified under section 100 for being, or being elected as, a member of an Assembly shall also stand disqualified for that period for being appointed as an election agent.

102. *[Removed and remission of disqualification] Omitted, by the Representation of the People (Amdt.) Act, 1991 (IX of 1991) s. 24.*

CHAPTER X

MISCELLANEOUS

103. Commission to ensure fair election, etc. Save as otherwise provided, the Commission may

- (a) stop the polls at any stage of the election if it is convinced that it shall not be able to ensure the conduct of the election justly, fairly and in accordance with law due to large scale mal-practices, including coercion, intimidation and pressures, prevailing at the election;
- (b) review an order passed by an officer under this Act or the rules, including rejection of a ballot paper; and
- (c) issue such instructions and exercise such powers, and make such consequential orders, as may, in its opinion, be necessary for ensuring that an election is conducted honestly, justly and fairly, and in accordance with the provisions of this Act and the rules.

¹ Re-numbered and added by the Representation of the People (Third Amdt.) Ordinance, 1984 (55 of 1984), s. 2.

² Subs. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991) s. 23, for certain words.

¹[**103A. Power of Commission to punish for contempt.** The Commission shall have the same power as the High Court has to punish any person for contempt of court and the Contempt of Court Act, 1976 (LXIV of 1976), shall have effect accordingly as if reference therein to a "court" and to a "judge" were a reference, respectively, to the "Commission" ²[and the Commissioner or, as the case may be, a] member of the Commission".]

³[**103AA. Power of Commission to declare a poll void.**—(1) Notwithstanding anything contained in this Act, if, from facts apparent on the face of the record and after such summary inquiry as it may deem necessary, the Commission is satisfied that, by reason of grave illegalities or violation of the provisions of this Act or the rules, the poll in any constituency ought to be declared void, the Commission may make a declaration accordingly and, by notification in the official Gazette, call upon that constituency to elect a member in the manner provided for in section 108.

(2) Notwithstanding the publication of the name of a returned candidate under sub-section (4) of section 42, the Commission may exercise the powers conferred on it by sub-section (1) before the expiration of sixty days after such publication; and, where the Commission does not finally dispose of a case within the said period, the election of the returned candidate shall 'be deemed to have become final, subject to a decision of a Tribunal.

(3) While exercising the powers conferred on it by sub-section (1), the Commission shall be deemed to be a Tribunal to which an election petition has been presented and shall, notwithstanding anything contained in Chapter VII, regulate its own procedure.]

104. Directions of commission in certain matters. Anything required to be done for carrying out the purpose of this Act for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commission may direct.

105. Jurisdiction of courts barred. No court shall question the legality of any action taken in good faith by or under the authority of the Commission, the

¹ New section 103 A ins. by the Representation of the People (Amdt.) Act, 1977 (10 of 1977) s. 2.

² Subs. by the Representation of the People (Amdt.) Ordinance, 1984 (49 of 1984), s. 6. .

³ S. 103AA ins. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991) s. 25.

Commissioner, a Returning Officer, Presiding Officer or an Assistant Presiding Officer or any decision given by any of them or any other officer or authority appointed under this Act or the rules.

106. Protection of action taken in good faith. No suit, prosecution or other legal proceeding shall lie against the Commission, the Commissioner or any officer or other person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or of any rule or order made or any direction given there under.

107. Power to make rules. The Commission may with the approval of the 1 President, make rules for carrying out the purposes of this Act.

108. Bye-elections etc.—(1) When the seat of a member becomes vacant, the ¹[Commissioner] shall, by notification in the official Gazette, call upon the constituency concerned to elect a person to fill the seat for such constituency before such date as may be specified in the notification, and thereupon the provisions of this Act and the rules shall apply, as far as may be, to the election to fill such seat:

Provided that, notwithstanding anything contained in subsection ²[(1)] of section 11, the days for the several stages of an election shall be such as may be specified in the aforesaid notification.

(2) For the purpose of holding an election to fill a casual vacancy in an Assembly, and, during the period when a Commission does not stand constituted, for the purpose of section 107, reference in this Act to the Commission shall be construed as reference to the Commissioner.

109. Repeal. The National and Provincial Assemblies (Elections) Ordinance, 1970 (XIII of 1970), and the National and Provincial Assemblies (Elections to Reserved Seats) Act, 1976 (XVIII of 1976), are hereby repealed in their application to the elections to which this Act applies.

¹Subs. by the Representation of the People (Amdt.) Act, 1991 (9 of 1991), for "Commission" s. 26.

²Subs. *ibid.*, s. 26.

