

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

further to amend certain election laws

WHEREAS it is expedient further to amend certain election laws for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**—(1) This Act may be called the Election Laws (Amendment) Act, 2012.

(2) It shall come into force at once.

2. **Amendment of Act LI of 1975.**—In the Senate (Election) Act, 1975 (LI of 1975),—

(1) for section 3, the following shall be substituted, namely:—

“3. **Procedure of the Commission.**—(1) Subject to the provisions of this section, the Commission shall regulate its own 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 majority of the members shall have the effect of the decision of the Commission:

Provided that—

(a) where the members attending the proceedings of the Commission are four and they are equally divided in their opinion; or

(b) where the members attending the proceedings of the Commission are three and there is difference of opinion among them,

the matter shall be placed before the Commission for decision.”;

(2) for section 4, the following shall be substituted, namely:—

“4. Delegation of powers, etc.—(1) The Commission may authorize two or more of its members, acting together, to exercise and perform all or any of its powers and functions under this Act.

(2) Where two or more members are authorized under sub-section (1),—

(a) their decision shall be expressed in terms of the opinion of the majority; or

(b) if they are equally divided, the matter shall be placed before the Commission.”;

(3) in section 7,—

(a) for the word “Commissioner” the word “Commission” shall be substituted; and

(b) for the word “he” the word “it” shall be substituted;

(4) in section 8, in sub-section (1),—

(a) for the word “Commissioner” the word “Commission” shall be substituted; and

(b) for the word “his” the word “its” shall be substituted;

(5) in section 13,—

(a) for sub-section (5), excluding proviso, the following shall be substituted, namely:

“(5) Where the nomination of a candidate has been rejected by a Returning Officer, an appeal shall lie within two days of the scrutiny day, to the Commission or to a Bench consisting of not less than two members of the Commission and any order passed on such appeal, shall be final:” ;

(b) in the proviso to sub-section (5), for the words “Member of the Election Commission” the word and commas “Commission, or a Bench consisting of not less than two members of the Commission” shall be substituted; and

(c) in sub-section (6), for the words “member of the Commission” the words and commas, “Commission or, as the case may be, the Bench” shall be substituted;

(6) in section 14, in sub-section (2), the words “by the Commissioner” shall be omitted;

- (7) in section 32,—
- (a) in sub-section (1), for the word "Commissioner" the word "Commission" shall be substituted;
 - (b) in sub-section (3) for the word "Commissioner" occurring twice, the word "Commission" shall be substituted;
 - (c) in sub-section (5),—
 - (i) for the word "Commissioner" the word "Commission" shall be substituted; and
 - (ii) in clause (b), for the word "he" the word "it" shall be substituted; and
 - (d) in sub-section (6), for the word "Commissioner" the word "Commission" shall be substituted;
- (8) in section 37,—
- (a) in sub-section (1),—
 - (i) for the word "Commissioner" occurring twice, the word "Commission" shall be substituted; and
 - (ii) for the word "he" the word "it" shall be substituted; and
 - (b) in sub-section (2), for the word "Commissioner" the word "Commission" shall be substituted;
- (9) in section 75,—
- (a) in sub-section (1), for the word "Commissioner" the word "Commission" shall be substituted; and
 - (b) in sub-section (2),—
 - (i) for the word "Commissioner" the word "Commission" shall be substituted; and
 - (ii) for the word "he" the word "it" shall be substituted;
- (10) in section 78, for clauses (g), (h), (i) and (j), the following shall be substituted, namely:
- "(g) he has been convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, 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, unless a period of five years has elapsed since his release; or

- (h) he has been, on conviction for any offence involving 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 or service of a corporation or office set up or, controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of five years has elapsed since his dismissal; or
 - (j) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or”;
- (11) in section 80,—
- (a) for the word “Commissioner” the word “Commission” shall be substituted; and
 - (b) for the word “he” the word “it” shall be substituted;
- (12) in section 81,—
- (a) for the word “Commissioner” the word “Commission” shall be substituted; and
 - (b) for the word “he” the word “it” shall be substituted;
- (13) in section 82, the word “Election” shall be omitted;
- (14) in section 84,—
- (a) in the marginal note, for the word “Commissioner”, the word “Commission” shall be substituted;
 - (b) for the word “Commissioner” , the word “Commission” shall be substituted; and
 - (c) for the word “his” the word “its” shall be substituted; and
- (15) in sections 5, 6, 9, 10, 16, 17, 18, 20, 22, 23, 24, 25A, 33, 34, 38, 39; 43, sub-section (1A) of section 48, 52, 53, 54, 57, 75A, 77, 79, 82A, 85, 86, 87 and 88, for the word “Commissioner”, wherever occurring, the word “Commission” shall be substituted.

3. Amendment of Act LXXXV of 1976.—In the Representation of the People Act, 1976 (LXXXV of 1976),—

(1) in section 3, in sub-section (3),—

(a) for the words “other two members”, the words “the majority of the members” shall be substituted; and

(b) for the proviso, the following shall be substituted, namely:—

“Provided that—

(a) where the members attending the proceedings of the Commission are four and they are equally divided in their opinion; or

(b) where the members attending the proceedings of the Commission are three and there is difference of opinion among them,

the matter shall be placed before the Commission for decision.”;

(2) in section 7,—

(a) in sub-section (6),—

(a) the words “or the Commissioner” shall be omitted; and

(b) the words “or he” shall be omitted; and

(b) in sub-section (7), the words “or the Commissioner” occurring twice shall be omitted;

(3) in sub-section (5) of section 14, sub-section (3) of section 42 A, sub-section (2) of section 52, section 56, sub-section (1) of section 57, section 58, section 72, clause (a) of sub-section (1) of section 73, sub-section (2) of section 74 and sub-section (1) of section 100, for the word “Commissioner” wherever occurring, the word “Commission” shall be substituted;

(4) in section 33,—

(i) in sub-section (2),—

(a) in clause (d), the word “and” shall be omitted;

(b) for clause (e), the following shall be substituted, namely:—

“(e) the Presiding Officer shall record on the counterfoil of the ballot paper the number of the elector on the electoral roll, the number of National Identity Card of the elector, stamp it with the official mark, sign it and obtain on it the thumb impression of the elector with magnetized ink; and”;

- (c) after clause (e), substituted as aforesaid, the following new clause shall be added, namely:—
- “(f) The Presiding Officer shall obtain thumb impression of the elector with magnetized ink on the space provided on the electoral roll for the purpose against the photograph of the elector.”; and
- (ii) in sub-section (3), for clause (c), the following shall be substituted, namely:—
- “(c) refuses to put his thumb impression with magnetized ink on the counterfoil or, as the case may be, on the space provided for the purpose on the electoral roll against his photograph therein or whose thumb bears traces of its having already been used for putting an impression; or”;
- (5) in section 47A,—
- (a) in sub-section (1),—
- (i) for the words “Election Commission” the word “Commission” shall be substituted;
- (ii) for the words “Chief Election Commissioner” the word “Commission” shall be substituted; and
- (iii) for the word “he” the word “it” shall be substituted;
- (b) in sub-section (3), for the words “Election Commission” the word “Commission” shall be substituted; and
- (c) in sub-section (4) for the words “Election Commission” the word “Commission” shall be substituted;
- (6) in section 62,—
- (a) in sub-section (1), for the words “Election Commission”, the word “Commission” shall be substituted; and
- (b) in sub-section (2), for the words, figures, comma and brackets “Evidence Act, 1872 (I of 1872)” the words, figures, comma and brackets “Qanun-e-Shahadat, 1984 (X of 1984)” shall be substituted;
- (7) in section 95,—
- (a) in sub-section (1), the words “or the Commissioner” shall be omitted;
- (b) in sub-section(2),—
- (i) the words “or the Commissioner” shall be omitted; and
- (ii) the words “or he” occurring twice shall be omitted; and

- (c) in sub-section (4), for the words "Chief Election Commissioner" the word "Commission" shall be substituted;
- (8) in section 99, in sub-section (1A) for clauses (g), (h), (i) and (j), the following shall be substituted, namely:—
- "(g) he has been convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, 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, unless a period of five years has elapsed since his release; or
- (h) he has been, on conviction for any offence involving 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 or service of a corporation or office set up or, controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of five years has elapsed since his dismissal; or
- (j) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a Local Government on the grounds of misconduct, unless a period of three years has elapsed since his removal or compulsory retirement; or"; and
- (9) in section 108,—
- (a) in sub-section (1), for the word "Commissioner" the word "Commission" shall be substituted; and
- (b) sub-section (2) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The proposed amendments in the Representation of the People Act, 1976 and the Senate (Election) Act, 1975 are essentially required to bring the provisions of the said Acts in conformity with the provisions of Articles 63 and 219 of the Constitution as amended by the Constitution (Eighteenth Amendment) Act, 2010. Accordingly, consequential amendments have been proposed in the aforesaid statutes.

2. The Bill seeks to achieve the above said objects.

(FAROOQ HAMID NAEK)
Minister for Law, Justice & Parliamentary Affairs

Member-in-charge