

A

Bill

To further amend the Representation of the People Act, 1976 (LXXXV of 1976) for the purposes hereinafter appearing:

Whereas it is expedient further to amend the Representation of the People Act, 1976 (LXXXV of 1976) for the purposes hereinafter appearing:

It is hereby enacted as follows:

1. **Short title and commencement:**— (1) This Act may be called the Representation of the People (Amendment) Act, 2013.

(2) It shall come into force at once.

2. **Amendment of Section 7, Act LXXXV of 1976.**— In the Representation of the People Act, 1976, hereinafter referred to as ‘the Act’, in Section 7, for sub-sections (6) and (7), the following new section shall be inserted, namely:

“7A. Disciplinary Proceedings.— (1) The Commission may, at any time, for reasons to be recorded in writing, suspend or withdraw 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 prevent 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 influence in any manner the polling staff or an elector or does any other act calculated to influence the result of election, or disobeys any order or avoid to carry out any instruction duly issued by the Commission or any officer authorized to issue any order or instruction.

(2) Notwithstanding anything contained contrary in any other law for the time being in force the Commission shall be competent to initiate and finalize disciplinary action and impose any penalty against any official for any act of misconduct provided in the efficiency and discipline rules as applicable to such official or under any provision of misconduct under this Act.

(3) Where the Commission suspends or withdraws any official, the Commission may refer the matter to the authorized officer appointed under sub-section (5).

(4) Where the Commission suspends or withdraws any official it may, if such official is working in any polling station, at once appoint any other officer to resume the duty of the official so removed.

(5) The Commission may appoint any officer to act as an authorized officer to initiate and finalize proceedings under efficiency and discipline rules or under this Act.

(6) The authorized officer shall complete inquiry proceedings under efficiency and discipline rules as applicable to official concerned or under this Act within thirty days of such reference and submit report of the inquiry to the Commission within seven days of the completion of such inquiry.

(7) The Commission may impose any penalty as provided in efficiency and discipline rules applicable to such official or any penalty provided under this Act.

(8) Any official aggrieved by any final order passed by the Commission, may prefer an appeal within thirty days of receipt of such order to the High Court concerned and the order passed in appeal shall be final. “

3. Substitution of Section 8, Act LXXXV of 1976.— In the said Act, for section 8, the following shall be substituted, namely:

“8. Polling Stations.— (1) The Commission shall provide to the Returning Officer a draft list of polling stations for each constituency in the prescribed format;

(2) The Returning Officer, after physical verification of each polling station mentioned in the draft list submitted under sub-section (1), may make such alterations in that list as he may deem necessary and shall publish the same within a period of fifteen days inviting objections from the electors of that constituency to be filed with the District Returning Officer within a period of ten days of the publication of draft list.

(3) The District Returning Officer, after due notice to the objector and after making such inquiry as he may deem fit, shall decide the objections within a period of seven days.

(4) A final list of polling stations specifying the electoral area, the electors whereof will be entitled to vote shall be published in the official gazette by the District Returning Officer at least fifteen days before the polling day after making necessary changes therein in the light of decisions made by him on the objections.

(5) No change shall be made in the final list of polling stations published in the official gazette under sub-section (4) except with the prior approval of the Commission.

(6) The Returning Officer shall establish in each constituency polling stations according to the final list published under sub-section (4).

(7) A polling station shall be situated in a Government building for the constituency and, where no Government building is available for the purpose, an improvised polling station shall be set up on a public property:

Provided that no polling station shall be located in any premises which belong to, or are under the direct or indirect control of any candidate.”

4. **Amendment of Section 11, Act LXXXV of 1976.**— In the said Act, in section 11,—
- (a) In sub-section (1);
 - (i) in clause (b), for the word “seven”, the word “thirty”, shall be substituted;
 - (ii) in clause (e), for the word “seventh”, the word “tenth” shall be substituted; and
 - (iii) after clause (e), as amended aforesaid, the following proviso shall be added:

“Provided that the Tribunal may commence the hearing of appeals with the filing of such appeals without waiting for the last date of filing thereof;” and
 - (b) existing sub-section (3) and sub-section (4) shall be renumbered as sub-section (2) and sub-section (3);
5. **Amendment of Section 13, Act LXXXV of 1976.**— In the said Act, in Section 13, in sub-section (1), in clause (a),-
- (a) in clause (i), for the words “four thousand”, the word “fifty thousand” shall be substituted; and
 - (b) in clause (ii), for the words “two thousand”, the word “twenty five thousand” shall be substituted.
 - (c) after clause (ii), as amended aforesaid, the following two provisos shall be added, namely:

“Provided that the sum deposited shall not be refunded to a candidate who has received less than one fourth of the total number of votes cast at the election:”

“ Provided further that a deposit which is required to be refunded shall not be returned after three months of the termination of the proceedings or, as the case may be, the declaration of the result of the election; and”
 - (d) after sub-section (2), the following new sub-section shall be added, namely:

(3) A deposit which is not required to be returned under sub-section (2) shall be forfeited to the Federal Government”
6. **Amendment of Section 14, Act LXXXV of 1976.**— In the said Act, in Section 14,—
- (i) in sub-section (3), in clause (d), clause (1a), in the proviso, clause (1a) shall be renumbered as clause (ii) and shall be substituted as under:

“(ii). the Returning Officer may, for the purpose of scrutiny, require any person, agency or authority to produce any document, record or information and any such person, agency or authority shall provide the requisite document, record or information within the time specified by the Returning Officer.

- (ii) the existing clauses (ii) and (iii) shall be renumbered as clauses (iii) and (iv);
- (iii) the existing sub-section (3A), (4), (5), (5A), (6) and (7) shall be renumbered as sub-section (4), (5), (6), (7), (8) and (9), respectively; and
- (iv) for existing sub-section (5), renumbered as sub-section (6) as aforesaid, the following shall be substituted, namely:

“(6) 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 Commission, in consultation with the Chief Justice of the High Court concerned 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”

7. **Amendment of Section 23, Act LXXXV of 1976.**— In the said Act, in Section 23, the following proviso shall be added, namely:

“Provided that a person appointed as a polling agent for a polling station shall be an elector of that electoral area, the electors of which are entitled to vote at the polling station.”

8. **Amendment of Section 35, Act LXXXV of 1976.**— In the said Act, in Section 35, in sub-section (1), for the word “two”, the word “ten” shall be substituted.
9. **Omission of Section 43, Act LXXXV of 1976.**— In the said Act, Section 43 shall be omitted.
10. **Amendment of Section 52, Act LXXXV of 1976.**— In the said Act, in Section 52, in sub-section (2) for the word “Commissioner”, the words “Tribunal concerned” shall be substituted.
11. **Amendment of Section 53, Act LXXXV of 1976.**— In the said Act, in Section 53, in sub-section (1), for clauses (a) and (b), the following shall be substituted, namely:

- (a) when it is delivered in person to the Registrar of the Tribunal concerned; or
- (b) when delivered by registered post to the Registrar of the Tribunal concerned.

12. **Amendment of Section 54, Act LXXXV of 1976.**— In the said Act, in Section 54, for clause (a), the following shall be substituted, namely:

“(a) Returned candidate”

13. **Amendment of Section 55, Act LXXXV of 1976.**— In the said Act, in Section 55, for sub-section (3) the following shall be substituted, namely:

“(3) An election petition and the schedule or annex to that

petition shall be signed by the petitioner and the petition shall be verified only in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.”

14. **Omission of Section 56, Act LXXXV of 1976.**— In the said Act, Section 56 shall be omitted.
15. **Amendment of Section 62, LXXXV of 1976.**— In the said Act, in Section 62, in sub-section (2) for the words and figures “Evidence Act, 1872 (I of 1872)”, the words and figures “Qanun-e-Shahadat Order, 1984 (PO NO. 10 of 1984)” shall be substituted.
16. **Amendment of Section 63, LXXXV of 1976.**— In the said Act, in Section 63, for clause (a), the following shall be substituted, namely:

“(a) the provisions of Section 52, Section 53, Section 54 or Section 55 have not been complied with; or”
17. **Amendment of Section 80A, section 83(2), section 83A(5), section 84(2), section 85, section 86, section 87(1) and (2), section 88, section 89 and section 90, Act LXXXV of 1976.**— In the said Act, in Section 80A, section 83(2), section 83A(5), section 84(2), section 85, section 86, section 87(1) and (2), section 88, section 89 and section 90, for the amount of fine provided therein, the amount “one hundred thousand rupees” shall be substituted.
18. **Amendment of Section 82, section 82A, section 91 and section 92, Act LXXXV of 1976.**— In the said Act, in Section 82, section 82A, section 91 and section 92, for the amount of fine provided therein the amount “fifty thousand rupees” shall be substituted.
19. **Amendment of Section 83A, Act LXXXV of 1976.**— In the said Act, in section 83A-
 - (i) **for sub-section (1), the following shall be substituted, namely:**

“(1) No person or a political party shall affix or paste posters, handbills or leaflets larger than the sizes prescribed by the Election Commission:

Provided that such posters, handbills or leaflets shall not be affixed or pasted nor parties flags shall be hoisted on any public property or at any public place, except with the permission in writing from, and on payment of such fee or charges as may be chargeable by, the concerned local government or authorities.”
 - (ii) **for sub-section (4), the following shall be substituted, namely:**

“(4) The District Returning Officer and the Returning Officer shall be responsible for the effective implementation of the provisions of this section with the assistance of district administration including district police officer and other law enforcing agencies.”
20. **Amendment of Section 86A, Act LXXXV of 1976.**— In the said Act, in section 86A, for clause(a), the following shall be substituted, namely:

“(a) exercise the powers of a Magistrate of the First Class under the said Code in respect of offences punishable under section 78, section 79, section 80, section 81,

section 82A, section 83, section 83A, section 84, section 85, section 86 and section 87; and”

21. **Insertion of new sections 86B and 86C, Act LXXXV of 1976.**— In the said Act, after section 86A, the following new sections shall be inserted, namely:

“**86B. Violation of the Code of Conduct.**— (1) Notwithstanding anything contained in any other law for the time being in force, the District Returning Officer, if so authorized by the Commission, shall take cognizance of violation of any of the provisions of the Code of Conduct, issued by the Commission under Article 18 of the Political Parties Order, 2002 (Chief Executive’s Order No. 18 of 2002), other than the provisions which relate to corrupt or illegal practices under this Act;

(2) A person who violates any provision of the code of conduct, referred to in sub-section (1) shall be punishable with fine which may extend to one hundred thousand rupees.”

“**86C. Power to transfer any person in the service of Pakistan:** The commission, after issuance of election schedule under Section 11 of the Act, may direct the appropriate authority to transfer any person in the service of Pakistan, if such transfer, in its opinion, is necessary for the conduct of free, fair and honest election.”

22. **Substitution of Section 94, Act LXXXV of 1976.**— In the said Act, for section 94, the following shall be substituted, namely,-

“**94. Certain offences cognizable.**- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under Section 78, section 79, section 80A, section 81, section 82A, section 85 and sub-section (1) of section 87 shall be cognizable offence.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force, the offences referred to in sub-section (1) shall be tried by the Sessions Judge and an appeal against his order shall lie before a Division Bench of the High Court.

(3) The Commission, either on its own motion or, on receipt of any information or complaint from any quarter, or as the case may be, any person, may file a complaint with the Sessions Judge concerned against the person or persons, who has or have been alleged to have committed any of the offences referred to in sub-section (1).

Provided that before filing a complaint in the Court of Sessions Judge, the Commission shall provide an opportunity of hearing to the parties.”

23. **Substitution of Section 96, Act LXXXV of 1976.**— In the said Act, for section 96, the following shall be substituted, namely.-

“**96. Proceedings relating to election expenses.** — (1) The Returning Officer, shall launch appropriate proceedings in the court of Magistrate First Class against a person who contravened the provisions of Section 49 or failed to comply with the provisions of Section 50;

(2) The Returning Officer shall provide an opportunity of hearing to a person who fails to comply with the provisions of section 50 and if, despite service of notice, such person does not file requisite returns of election expenses, the Returning Officer shall proceed against such person under sub-section (1);

(3) If the Returning Officer, upon examination of the return of election expenses filed by a contesting candidate and of any other information coming to his knowledge relating to election campaign of such candidate, is, prima facie, of the view that the offence under section 49 has been committed, he shall file a complaint in the Court of Sessions Judge concerned under section 94 of the Act;

(4) The Returning Officer shall inform the Commission about the complaints filed by him under sub-section (2) or sub-section (3)."

24. Amendment of Section 103AA, Act LXXXV of 1976.— In the said Act, in Section 103AA, in sub-section (1) , after the word "declared", the words "wholly or partially" shall be inserted

25. Insertion of section 104B, Act LXXXV of 1976.— In the said Act, after section 104A, inserted as aforesaid, the following new section shall be inserted, namely,

"104B. Monitoring of election campaign, etc. (1) The Commission shall appoint teams of monitors consisting of such number of members as may be determined by the Commission, for a constituency or a group of constituencies which shall monitor election campaign of the candidates and shall report in the format approved by the Commission violations of the code of conduct on daily basis, if any, by the candidates, to the District Returning Officer.

(2) The District Returning Officer, on receipt of reports mentioned in sub-rule (1), shall proceed in accordance with the provisions of Section 86B(1) of the Act."

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