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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 4th January, 1977

The following Acts of Parliament received the assent of the President on the 31st December, 1976, and are hereby published for general information:—

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 elections.

(4) It shall come into force at once.

2. Definitions.—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—
 - (i) the person continuing in the office of Chief Election Commissioner by virtue of Article 275 ; and
 - (ii) a Judge of the Supreme Court nominated under Article 217 to act as Chief Election Commissioner ;
- (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- (viii) "contesting candidate" means a validly nominated candidate who has not withdrawn his candidature ;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" 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, the candidate acting as his own election agent ;
- (xi) "election petition" means an election petition made under section 52 ;
- (xii) "elector", 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 candidates ;
- (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 may 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 sub-section (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 sub-section (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 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 Returning Officer for each constituency for the purpose of election of a member for that constituency :

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

(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.

8. Polling stations.—(1) The Returning Officer shall, before such time as the Commission may fix, submit to the 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) The Commission may make such alterations in the list of polling stations submitted under sub-section (1) 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 sub-section (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 Commission 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 authorise 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 therefor, 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 rolls.—(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 Presiding Officer of each polling station with copies of electoral rolls containing the names of the electors entitled to vote at that polling station.

CHAPTER IV

CONDUCT OF ELECTIONS

11. Notification for election.—(1) For the purpose of holding general elections to an Assembly, the Commission shall, by notification in the official Gazette, call upon the electors to elect a member from each constituency :

Provided that, in the case of general elections to be held to an Assembly following its dissolution, such notification shall be issued within two days of such dissolution becoming effective.

(2) In the notification issued under sub-section (1), the Commission shall, in relation to each constituency, specify—

- (a) a day, at least ^{four} ~~five~~ days after the publication of the notification, for the nomination of candidates ;
- (b) a day, at least one day after the nomination day, for the scrutiny of nomination papers ;
- (c) a day, at least nine days after the nomination day, on or before which candidature may be withdrawn ; and

1. Subs vide Ord. XLIX of 1984.

- (d) a day, at least forty-two days after the nomination day, for the taking of the poll.

(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.

12. Nomination for election.—(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 proposal shall be made by a separate nomination paper in the **prescribed form** which shall be signed by the proposer and the seconder and shall contain—

- (a) 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; and
- (b) a declaration signed by the proposer and the seconder that neither of them has subscribed to any other nomination paper, either as proposer or seconder.

(3) Every nomination paper shall be delivered by the candidate, or his proposer or seconder, to the Returning Officer or his nominee who shall acknowledge **receipt of the nomination paper** specifying the date and time of receipt:

Provided that a candidate may send his nomination paper by post so as to reach the Returning Officer within the time specified by him in the public notice **given under sub-section (3)** of section 11:

Provided further that actual receipt of nomination paper by the Returning Officer within the time aforesaid shall be necessary and no presumption shall attach to its content or despatch by post.

(4) A person may be nominated in the same constituency by more than one nomination paper.

(5) If any person subscribes to the nomination of more than one candidate, **all nomination papers** to which he has subscribed shall be void.

(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 and the names of the proposer and seconder 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—

- (a) a sum of rupees—
 - (i) one thousand for election to a seat in the National Assembly, and
 - (ii) five hundred 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 as aforesaid drawn in favour of the Returning Officer or a receipt showing that a sum as aforesaid has been deposited by the candidate or by any person on his 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, proposers and seconders, and one other person authorised in this behalf of 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, conduct such summary enquiry as he may think fit and may reject a nomination paper if he is satisfied that—

- (a) the candidate is not qualified to be elected as a member;
- (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
- (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, his proposer or seconder so as to bring them in conformity with the corresponding entries in the electoral roll; and
- (iii) the Returning Officer shall not enquire into the correctness or validity of any entry in the electoral roll.

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

(5) An appeal against the decision of the Returning Officer under sub-section (4) rejecting a nomination paper shall lie to the Commission within two days of the scrutiny day and shall be decided by the Commission within three days of its being preferred; and any order passed on such appeal 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 or by publication in the press shall be deemed to be sufficient notice of the day and time so appointed.

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 Commission, the Returning Officer shall revise the list of validly nominated candidates accordingly.

(3) The Returning Officer shall, on the day following the day on or before which an appeal is to be decided under sub-section (5) of section 14, prepare and publish in the prescribed manner the revised list of validly nominated candidates.

16. Withdrawal.—(1) Any validly nominated candidate may, by notice in writing signed by him and delivered to the Returning Officer, on or before the withdrawal day either by such candidate in person or by his proposer or seconder authorised in this behalf in writing by such candidate, withdraw his candidature.

(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, within three days of 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.—(1) A contesting candidate may retire from the contest by a notice in writing signed by him and delivered to the Returning Officer on any day not later than four days before the polling day either by such candidate in person or by an agent authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of retirement under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall upon receiving a notice of retirement under sub-section (1) cause a copy thereof to be affixed at some conspicuous place in his office and also to be published in such manner as he may think fit.

(4) A person in respect of whom a notice of retirement has been published under sub-section (3), shall be deemed to have withdrawn his candidature under section 16.

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.

(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 therefor 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.

20. Uncontested election.—(1) Where, after scrutiny under section 14, there remains only one validly nominated candidate or where, after withdrawal under section 16 or retirement under section 17, there remains only one contesting candidate, the Returning Officer shall, by public notice, declare such candidate to be elected to the seat :

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 14 against the rejection of his nomination paper, 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.

(2) The Returning Officer shall submit to the Commission a return of the election in respect of which he has made a declaration under sub-section (1).

(3) The Commission shall, after such inquiry as it may deem necessary in any case, publish in the official Gazette the name of the candidate declared elected under sub-section (2).

21. Contested election and allocation of symbols.—(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 names of contesting candidates arranged in the Urdu alphabetical order with English transliteration thereof below the name of each contesting candidate, specifying against each the symbol allocated to him ; and
- (c) give public notice of the poll.

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

(3) A ~~contesting~~ candidate may, within three days of the publication of the list of ~~contesting~~ candidates along with the symbols, file an appeal to the Commission against the decision regarding the allocation of a symbol to him by the Returning Officer; and the decision of the Commission on such an appeal shall be final.

(4) ~~The Commission shall not entertain any appeal filed after the expiry of the period of three days referred to in sub-section (3).~~

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 it is 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, be subject to the provisions of this Act both as a candidate and as an election agent.

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.

(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.

27. Stopping of the poll.—(1) The Presiding Officer of a polling station shall stop the poll and inform the Returning Officer that he has done so if—

- (a) the poll at the polling station is, at any time, so interrupted or obstructed for reasons beyond the control of the Presiding Officer that it cannot be resumed during the polling hours fixed under section 26; or

1. Omitted by Add XLIX of 1984.

- (b) any ballot box used at the polling station is unlawfully taken out of the custody of the Presiding Officer, or is accidentally or intentionally destroyed, or is lost or is damaged or tampered with to such an extent that the result of the poll at the polling station cannot be ascertained.

(2) Where a poll has been stopped under sub-section (1) the Returning Officer shall immediately report the circumstances to the Commission and the Commission shall direct a fresh poll at that polling station, unless it is satisfied that the result of the election has been determined by the polling that has already taken place at that polling station, taken with the result of the polling at other polling stations in the same constituency.

(3) Where the Commission orders a fresh poll under sub-section (2), it shall, by notification in the official Gazette,—

- (a) appoint a day for a fresh poll and fix the place at which and the hours during which such fresh poll shall be taken ; and
- (b) the Returning Officer shall give public notice of the day so appointed and the place and hours so fixed.

(4) At a fresh poll taken under sub-section (3) at a polling station, all electors entitled to vote there at shall be allowed to vote and no vote cast at the poll stopped under sub-section (1) shall be counted ; and the provisions of this Act and the rules and orders made thereunder shall apply to such fresh poll.

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) a 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 sub-section (1), within such time as may be specified by the 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 sub-section (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 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 sub-section (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 ;
- (b) the contesting candidates, their election agents and polling agents ; and
- (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 lawful orders of the Presiding Officer.

(2) Any person removed under sub-section (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 police officer.

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(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.—(1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall, after satisfying himself about the identity of the elector, issue to him a ballot paper.

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

- (a) he shall be required to receive a personal mark, made with indelible ink, on any finger of either hand ;
- (b) the number and name of the elector as entered in the electoral roll shall be called out ;
- (c) a mark shall be placed on the electoral roll against the number and name of the elector to indicate that a ballot paper has been issued to him ;
- (d) the ballot paper shall be stamped on its back with the official mark ;
- (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 and obtain on it the signature or thumb impression of the elector.

(3) A ballot paper shall not be issued to a person who refuses to receive the personal mark with indelible ink or already bears such a mark or traces of such a mark or refuses to put his signature or thumb impression on the counterfoil.

(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.

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(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 votes 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 sub-section (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.

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(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 therefrom ;
- (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 ;
 - (ii) any writing or any mark other than the official mark 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.

(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.

(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 proceedings 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

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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. Resealing of packets and supply of copies.—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 proceedings have been so terminated and the contesting candidate does not want to utilise 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.

(2) A deposit which is not required to be returned under sub-section (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 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.

CHAPTER V

ELECTION TO SEATS RESERVED FOR WOMEN OR CERTAIN COMMUNITIES

47. **Election to reserved seats.**—(1) Nothing in Chapters III and IV shall apply to an election to fill a seat reserved in an Assembly for women or for persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi communities and persons of the Qadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes.

(2) The members for seats reserved for women in an Assembly shall be elected, subject to the provisions of clause (5) of Article 51 or, as the case may be, clauses (4) and (5) of Article 106, by the persons elected to the general seats in that Assembly so that there is one member for each of the constituencies for seats reserved for women in that Assembly.

(3) The members for seats reserved in an Assembly for persons belonging to the Christian, Hindu, Sikh, Buddhist and Parsi Communities and persons of the Qadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes shall be elected, subject to the provisions of clause (4A) of Article 51 or, as the case may be, clause (5) of Article 106, by the persons elected to the general seats in that Assembly.

(4) The Commission shall hold and conduct the election to fill the seats reserved in an Assembly for the persons referred to in clause (3) of Article 106 or for women in such manner as may be prescribed.

CHAPTER VI

ELECTION EXPENSES

48. **Definition.**—In this Chapter, "election expenses" means any expenditure incurred before, during and after an election or payment made, whether by way of gift, loan, advance, deposit or otherwise, for the arrangement, conduct or benefit of, or in connection with, or incidental to, the election of a candidate, including the expenditure on account of issuing circulars or publications or otherwise presenting to the electors the candidate or his views, aims or objects, but does not include the deposit made under section 13.

49. Restriction on election expenses.—(1) No person shall, except as provided in sub-section (2), make any payment whatsoever towards the election expenses of a candidate except to such candidate.

(2) No person other than the candidate shall incur any election expenses of such candidate :

Provided that any person may, if so authorised by a contesting candidate in writing specifying a maximum amount, to the extent of such amount, make payment for stationery, postage, telegram and other petty expenses.

(3) The election expenses of a contesting candidate shall not exceed, in the case of an election to a seat in the National Assembly, forty thousand rupees and, in the case of an election to a seat in a Provincial Assembly, twenty-five thousand rupees or a sum calculated at the rate of fifty paisa for each entry in the electoral roll for the constituency for election to that seat, whichever is greater.

(4) Any person incurring any expenditure or making any payment under sub-section (2) shall, within fourteen days of the declaration of the result of the election, send to the candidate a statement of such expenditure or the particulars of such payment.

(5) A candidate shall, by a bill stating the particulars and by a receipt, vouch for every payment made in respect of election expenses except where the amount is less than twenty-five rupees.

50. Return of election expenses.—(1) Every contesting candidate shall, within forty-five days after the publication of the name of the returned candidate, submit to the Returning Officer a return of election expenses in the prescribed form containing—

- (a) a statement of all payments made by the contesting candidate together with all the bills and receipts ;
- (b) a statement of all disputed claims of which the contesting candidate is aware ;
- (c) a statement of all unpaid claims, if any, of which the contesting candidate is aware ; and
- (d) a statement of all moneys, securities or equivalent of money received from any person for the purpose of election expenses specifying the name of every such person.

(2) The return submitted under sub-section (1) shall be accompanied by an affidavit in the prescribed form sworn by the contesting candidate.

51. Inspection of returns, etc.—(1) The return and documents submitted under section 50 shall be kept by the Returning Officer in his office or at such other convenient place as he may think fit and shall, during one year from the date of their receipt by him, be open to inspection by any person on payment of the prescribed fee.

(2) The Returning Officer shall, on an application made in this behalf and payment of the prescribed fee, give any person copies of any return or document kept under sub-section (1) or of any part thereof.

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 sixty 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.

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.

62. Procedure before Tribunal.—(1) Subject to the provisions of this Act and the rules, every election petition shall be tried, as nearly as may be, in accordance with the procedure for the trial of suits under the Code of Civil Procedure, 1908 (Act V of 1908) :

Provided that the Tribunal may—

(a) where the election petition claims as relief a declaration that the election of the returned candidate is void on the ground that the returned candidate was not, on the nomination day, qualified for, or was disqualified from, being elected as a member, decide the question of such qualification or disqualification as a preliminary issue ;

- (b) make a memorandum of the substance of the evidence of each witness as his examination proceeds unless it considers that there is special reason for taking down the evidence of any witness in full ; and
- (c) refuse to examine a witness if it considers that his evidence is not material or that he has been called on a frivolous or vexatious ground for the purpose of delaying the proceedings or defeating the ends of justice.

(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 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

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 (Act LXV of 1860), or under this Act, 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 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.

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

(3) Any person aggrieved by a decision of the Tribunal may, within thirty days of the announcement of the decision, appeal to the High Court and the decision of the High Court on such appeal shall be final, and shall not be subject to appeal to the Supreme Court. Every such appeal shall be heard by a Division Bench of two Judges of the High Court.

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
- (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.

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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.

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, out 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 sub-section 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) contravenes the provisions of section 49 ;
- (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 ;
- (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
- (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.

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 ;
 - (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 ex-communication 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.

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

- (a) fails to comply with the provisions 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 fine which may extend to two thousand rupees.

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 sub-section (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
- (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.

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 ;
- (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, 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.

92. Assistance by Government servant.—A person in the service of Pakistan is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both, if he misuses his official position in a manner calculated to influence the result of the election.

93. Certain powers of a police officer.—A police officer 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, an offence punishable under 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.

(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.

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. **Disqualifications.**—(1) A person shall be disqualified from being elected as, and from being a member of an Assembly, if—

- (a) he has been, on conviction for any offence which in the opinion of the 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
- (b) he has been dismissed from the service of Pakistan on the ground of misconduct, unless a period of five years has elapsed since his dismissal ; or
- (c) 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
- (d) he has been in the service of Pakistan, except service on contract for a fixed term, unless a period of two years has elapsed since he ceased to be in such service ; or
- (e) he is found guilty of a corrupt or illegal practice under any other 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
- (f) he has, at any time on or after the twentieth day of December, 1971, been an office-bearer of a political party dissolved under sub-section (2) of section 6 of the Political Parties Act, 1962 (III of 1962), and has not, before a declaration in respect of such party is made under sub-section (1) of that section, resigned, or publicly announced his dissociation, from such party, unless a period of five years has elapsed from the date of such dissolution ; or
- (g) he has been convicted under section 7 of the Political Parties Act, 1962 (III of 1962), unless a period of five years has elapsed from the date of such conviction ; or
- (h) **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
 - (iii) 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 before 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

- (i) 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 before 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 ; or.
- (j) he holds any office of profit in the service of Pakistan other than the following offices, namely :—
- (i) an office which is not a whole time office remunerated either by salary or by fee ;
 - (ii) the office of Lumbardar, whether called by this or any other title;
 - (iii) the Qaumi Razakars ;
 - (iv) any office the holder whereof, by virtue of holding such office, is liable to be called up for military training or military service under any law providing the constitution or raising of a force.

Explanation I.—In clauses (d) and (j), “service of Pakistan” has the same meaning as in Article 260.

Explanation II.—In clause (f), “office-bearer of a political party” means an office-bearer at the National or Provincial set up of the party otherwise than as a mere member of the Working, Central, Provincial or other Committee of the party.

Explanation III.—In clause (h), “supply of goods” does not include the supply of agricultural produce or commodities grown or produced by him or the supply of such goods as he is, under any directive of Government or any law for the time being in force, under a duty or legal obligation to supply.

(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 has been re-elected at a bye-election held after his disqualification.

100. **Disqualification on account of certain offences.**—Where a person has been convicted for having exceeded the limit of election expenses laid down by section 49 or having failed to file the return of election expenses in accordance with section 50 or for any other 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.

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.

1. Add by ord. LV of 1984.

102. **Removal and remission of disqualification.**—The Commissioner may, on an application made in this behalf, remit any disqualification for failure to submit the return of election expenses or for any error or incorrect statement in such return, if he is satisfied that such failure or error occurred or incorrect statement was made due to circumstances beyond the control of the applicant.

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.

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 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 thereunder.

107. **Power to make rules.**—The Commission may with the approval of the 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 Commission 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 sub-section (2) of section 11, the days for the several stages of an election shall be such as may be specified in the aforesaid notification.

1. Ins. by Act-XVI of 1977.

(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 (Election) 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.

M. A. HAQ,
Secretary.

