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ISLAMABAD, TUESDAY, JUNE 18, 1991

PART |

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 9th June, 1991

The following Acts of Majlis-e-Shoora (Parliament) received the assent

of the President on the 8th June, 1991, and are hereby published for general information:—

Act No. IX oF 1991

An Act further to amend the Representation of the People Act, 1976

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

It is hereby enacted as follows:

1. Short title and commencement.—(1) This Act may be called the Representation of the People (Amendment) Act, 1991.

(2) It shall come into force at once.

(175)

Price: Rs, 02.10

[3135 Ex. Gaz]

2.48 Amendment of section 7, Act LXXXV of 1976.—In the Representation of the People Act, 1976 (LXXXV of 1976), hereinafter referred to as the said Act, in section 7, after sub-section (5), the following new sub-sections shall

be added, namely:—

“(6) The Commission or the Commissioner* may, at any time, for reasons to be recorded in writing, suspend any officer performing any duty in connection with an election, or any other public functionary, or any member of the police force or any other law-enforcing agency, who obstructs or prevents or attempts to obstruct or prevent the conduct of fair and impartial poll or interferes or attempts to interfere with an elector when he records

“his vote, or influences in any manner the polling staff or an elector or does any other act calculated to influence the result of election, and make such arrangements as it or he may consider necessary for the performance of the functions of the officer so suspended,

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

3. Amendment of section 11, Act LXXXV of 1976.—In the said Act, in section 11, in sub-section (1),—

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

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

(b) clause (c) shall be omitted;

(c) in clause (d)—

(i) after the words “which shall be the”, the words “fourth” shall be inserted; and _

(ii) for the word “second” the word “last” shall be substituted;

(d) in clause (e), for the word “second” the word “sixth” shall be substituted; and

(e) after clause (e), amended as aforesaid, the following new clause

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shall be inserted, namely:—

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

4. Amendment of section 12, Act LXXXV of 1976.—In the said Act, in section 12— |

(a) for sub-section (1) the following shall be substituted, namely:—

“(1) Any elector of a constituency may propose or second the name of any duly qualified person to be a member for that constituency.”;

(b) in sub-section (2), for the words “all the fifty proposers” the words “both the proposer and the seconder” shall be substituted; and

(c) for sub-section (3) the following shall be substituted, namely:—

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

5. Amendment of section 13, Act LXXXV of 1976.—In the said Act, in section 13. in sub-section (1), in clause (a),—

(a) in sub-clause (i), for the words “one thousand” the words “four thousand” shall be substituted; and r-

(b) in sub-clause (ii), for the words “five hundred” the words “two thousand” shall be substituted. ;

6. Amendment of section 14, Act LXXXV of 1976.—In the said Act, in section 14:—

(a). in sub-section (1), for the words and comma “and proposers, and one other person authorised in this behalf by each candidate” the words “the proposers and seconds and one other person authorised in this behalf by each candidate’ Shall be substituted :

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in sub-section (3),—

(i) after the words and comma “upon any objection,”, the words, brackets, figure and comma “by any person referred to in sub-section (1),” shall be inserted;

(ii) after clause (a), the following new clause shall be inserted, namely ;—

“(b) the proposer or the seconder is not qualified to subscribe to the nomination paper;”s

(iii) after clause (c), the following new clause shall be inserted, namely:—

“(d) the signature of the proposer or the seconder is not genuine;”; and

(iv) in the second proviso, for the words ‘any of his proposers’ the words “his proposer or seconder™ shall be substituted;

for sub-section: (5) the following shall be substituted, namely:—

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

7. Amendment of section 15, Act LXXXV of 1976.—In the said Act, in

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section 15,—

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in sub-section (2), for the word “Commission” the words,

brackets and figures “Tribunal referred to in sub-section (5) of section 14” shall be substituted; and

in sub-section (3), for the words “day following the day on or before which an appeal is to be decided” the words “second day following the last date for decision of appeal” shall be substituted.

8. Amendment of section 21, Act LXXXV of 1976.—In the said Act, in

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section 21, for sub-section (1) the following shall be substituted, namely: —

“(1) If there are more contesting candidates than one in respect of any constituency, the Returning Officer shall—

(a)

(b)

(c)

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;

publish in such manner as the Commission may direct the name of the contesting candidates arranged in the Urdu alphabetical order’ specifying against each the symbol allocated to him; and

given public notice of the poll:

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

9. Amendment of section 23, Act LXXXV of 1976.—In the said Act, in section 23, in sub-section (1), the proviso shall be omitted.

10. Amendment of section 33, Act LXXXV of 1976.—In the said Act,

in section 33,—

(a) in sub-section (1), for the words and comma “on production of such documents, material or evidence about the identity of the elector as may be deemed fit” the words, commas, figures and brackets “and shall, for that purpose, require the elector to produce his identity card provided for in the National

Registration Act, 1973 (LVI of 1973)” shall be substituted;

in sub-section (2), clause (4) shall be omitted; and

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

“(3) A ballot paper shall not be issued to a person who:>—

(a). fails or refuses to produce his identity card provided for in the National Registration Act, 1973 (LVI of 1973):

(b) refuses to have his identity card punched by the Presiding Officer or polling officer to indicate the issue of a ballot paper to him;

(c) refuses to put his thumb impression on the counterfoil

or whose thumb bears traces of its having already been used for putting an impression: or

(d) refuses to receive the personal mark with indelible ink or who already bears such a mark or traces of such a mark.”.

11. Amendment of section 38, Act LXXXV of 1976.—In the said Act, in section 38, in sub-section (4), in clause (c), in sub-clause (ii), the words and comma “the mark of his thumb,” shall be omitted.

12. Amendment of section 43, Act LXXXV of 1976.—In the said Act, in section 43, in sub-section (1), for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

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

13. Omission of section 47, Act LXXXV of 1976.—In the said Act, section 47 shall be omitted.

14. Omission of section 48, Act LXXXV of 1976.—In the said Act, section 48 shall be omitted.

15. Omission of section 49, Act LXXXV of 1976.—In the said Act, section 49 shall be omitted,

16. Omission of section 50, Act LXXXV of 1976.—In the said Act, section 50 shall be omitted.

17. Omission of section 51, Act LXXXV of 1976.—In the said Act, section 51 shall be omitted.

18. Amendment of section 67, Act LXXXV of 1976.—In the said Act, in section 67, in sub-section (3), in the Explanation, for the words, figures: brackets and comma “Article 13 of the Houses of Parliament and Provincial

Assemblies (Elections) Order, 1977" the word, figure and letters "section [03AA" shall be substituted.

19. Amendment of section 78, Act LXXXV of 1976.—In the said Act, in section 78, clause (1) shall be omitted,

20. Amendment of section 83, Act LXXXV of 1976.—In the said Act, in section 83, in sub-section (1), clause (a) shall be omitted,

21. Amendment of section 95, Act LXXXV of 1976.—In the said Act, in section 95, after sub-section (3), the following new sub-section shall be added, namely:—

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

22. Amendment of section 99, Act LXXXV of 1976.—In the said Act, in section 99, for the marginal heading and sub-section (1) the following shall be substituted. namely ;—

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

(a) he is a citizen of Pakistan;

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

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

(d) he is of good character and is not commonly known as one who violates Islamic Injunctions;

(e) he has adequate knowledge of Islamic teachings and practises obligatory duties prescribed by Islam as well as abstains from major sins;

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he has not been convicted for a crime involving moral turpitude or for giving false evidence; and

he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the Ideology of Pakistan:

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

A person shall be disqualified from being elected as, and from being, a member of an Assembly, if—

(a)

(b)

(c)

(d)

(e)

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he is of unsound mind and has been so declared by a competent court; or

he is an undischarged insolvent; or

he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or

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he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or

he is in the service of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest; or

being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as a member of the Legislative Assembly of Azad Jammu and Kashmir; or

he is propagating any opinion, or acting in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan; or

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he has been, on conviction for any offence which in the opinion of the Chief Election Commissioner involves moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release; or

he has been dismissed from the service of Pakistan on the ground of misconduct, unless a period of five years has elapsed since the dismissal; or

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

he has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest, unless a period of two years has elapsed since he ceased to be in such service; or

he is found guilty of a corrupt or illegal practice under any law for the time being in force, unless a period of five years has elapsed from the date on which that order takes effect: or

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

he, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account or as a member of a Hindu undivided family, has any share or interest in a contract, not being a contract between a cooperative society and Government, for the supply of goods to, or for the execution of any contract or for the performance of any service undertaken by, Government:

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

(i) where the share or interest in the contract devolves on
him by inheritance or succession or as a. legatee,
executor or administrator, until the expiration of six
months after it has so devolved on him;

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(ii) where the contract has been entered into by or on

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behalf of a public company as defined in the
Companies Ordinance, 1984 (XLVII of 1984), of which
he is a shareholder but is not a director holding an
office of profit under the company; or

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

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

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

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

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

the Qaumi Razakars;

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

having, whether by himself or by any person in trust for him
or for his benefit or on his account, any share or mterest in a
contract for—

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the supply of goods to; or

the execution of any work, or the performance of any service, undertaken by, the Government, or a local authority or an autonomous body in which the Government has a controlling share or interest, he does not, after his election as a member but within thirty days of his making oath as such, make a declaration in

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writing to the Commissioner that he has such share or interest, unless a period of five years has elapsed since his failure to do so; or

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

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

23. Amendment of section 100, Act LXXXV of 1976.—In the said Act, section 100, in sub-section (1), for the words and figures “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” the word “any” shall be substituted.

24. Omission of section 102, Act LXXXV of 1976.—In the said Act, section 102 shall be omitted.

25. Insertion of new section 103AA, Act LXXXV of 1976.—In the said Act, after section 103A, the following new section shall be inserted, namely :—

“10344 Power of Commission ta declare a poll void.—(1) Notwithstanding anything contained in this Act, if, from facts apparent on the face of the record and after such summary inquiry as it may deem necessary, the Commission is satisfied that, by reason of grave illegalities or violation of the provisions of this Act or the rules, the poll in any constituency ought to be declared void, the Commission may make a declaration accordingly and, by notification in the official Gazette, call upon that constituency to elect a member in the manner provided for in section 108.

(2) Notwithstanding the publication of the name of a returned candidate under sub-section (4) of section 42, the

section (1) before the expiration of sixty days after such publication; and, where the Commission does not finally dispose of a case within the said period. the election of the returned candidate shall be deemed to have become final. subject to a decision of a Tribunal.

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

26. Amendment of section 108, Act LKXXV of 1976.—In the said Act, in section 108, in sub-section (1),—

(a) for the word "Commission" the word "Commissioner™ shall be substituted; and

(b) in the proviso, for the brackets and figure "(2)" the brackets and figure "(1)" shall be substituted,

27, Repeal—The Representation of the People (Amendment Ordinance, 1990 (XVIII of 1990) is hereby repealed,

Act No. X OF 1991

An Act for the enforcement of the Shari'ah

WHEREAS sovereignty over the entire Universe belongs to Almighty Allah alone. and the authority to be exercised by the people of Pakistan through their chosen representatives within the limits prescribed by Him is a sacred trust:

AND WHEREAS Islam has been declared to be the State religion of Pakistan and it is obligatory for all Muslims to follow the Injunctions of the Holy Quran and Sunnah to regulate and order their lives in complete submission to the Divine law:

AND WHEREAS the Objectives Resolution has been incorporated in the Constitution of the Islamic Republic of Pakistan as a substantive part thereof

AND WHEREAS it is one of the fundamental obligations of the Islamic State to protect the honour, life, liberty and the fundamental rights of the citizens as guaranteed under the Constitution and to ensure peace and provide inexpensive and speedy justice to people through an independent Islamic system of justice without any discrimination.