

A

BILL

to amend, consolidate and unify laws relating to the conduct of elections

WHEREAS it is expedient to amend, consolidate and unify laws relating to the conduct of elections and matters connected therewith or ancillary thereto;

It is hereby enacted as follows:—

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.— (1) This Act may be called the Elections Act, 2017.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(i) “*aalim*” means a Muslim scholar who—

(a) holds a degree or a *sanad* requiring *conclusion* of at least sixteen years of education recognized by the Higher Education Commission; and

(b) has at least twenty years’ experience as a teacher or researcher in fields relating to the principles and philosophy of Islam and Islamic law;

(ii) “applicable local government law” means an Act of Majlis-e-Shoora (Parliament) or of a Provincial Assembly for establishment of a local government and includes an Ordinance;

(iii) “Article” means Article of the Constitution;

(iv) “Assembly” means the National Assembly or a Provincial Assembly;

(v) “bye-election” means an election to fill a casual vacancy;

(vi) “candidate” means a person proposed as a candidate for, or seeking, election as a Member;

(vii) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

(viii) “Commission” means the Election Commission of Pakistan constituted under Article 218;

(ix) “Commissioner” means the Chief Election Commissioner appointed under Article 213 and includes an Acting Chief Election Commissioner appointed under Article 217;

(x) “constituency” means a constituency delimited under this Act;

(xi) “Constitution” means the Constitution of the Islamic Republic of Pakistan;

(xii) “contesting candidate” means a validly nominated candidate who has not withdrawn his candidature;

- (xiii) "election agent" means a person appointed by a candidate as election agent under this Act, and, where no such appointment is made, the candidate acting as his own election agent;
- (xiv) "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 voters the candidate or his views, aims or objects, but does not include the deposit made under section 61 or section 111;
- (xv) "electoral area" means—
 - (a) in rural areas, a village or a census block;
 - (b) in urban areas,—
 - I. where there is a municipal ward or census block, such ward or census block;
 - II. where there is no municipal ward or a census block, a well-defined *Mohallah* or a street;
 - III. where the ward or census block, *Mohallah* or street is too big, a well-defined part thereof:

Provided that a census block shall not be divided except in exceptional circumstances for reasons to be recorded;
 - (c) such other area as may be determined by the Commission;
- (xvi) "Election Programme" means an Election Programme notified by the Commission under this Act;
- (xvii) "election observer" means a person authorized by the Commission to observe the conduct of an election;
- (xviii) "election official" includes an officer or official of the Commission, a District Returning Officer, a Returning Officer, an Assistant Returning Officer, a Presiding Officer, an Assistant Presiding Officer, a Polling Officer or any officer or official of law enforcing agency or other agencies or any other official appointed or deputed to perform duties in connection with an election;
- (xix) "electoral roll" means an electoral roll prepared, revised or corrected under this Act and includes the electoral rolls prepared under the Electoral Rolls Act 1974 (XXI of 1974), existing immediately before the commencement of this Act;
- (xx) "Form" means the nomination Form appended to this Act;
- (xxi) "Government" means the Federal Government and 'any Government' means the Federal Government, a Provincial Government or a local government;
- (xxii) "government dues and utility expenses" for the purpose of section 60 and section 110 *inter alia*, include rent, charges of rest houses or lodges or other accommodation owned by any Government or a body owned or controlled by any Government but shall not include the government dues and utility

- expenses the recovery of which has been stayed by any order of a court; or tribunal;
- (xxiii) "loan", for the purpose of section 60 and section 110, means any loan, advance, credit or finance obtained or written off on or after 31st December, 1985 but shall not include the loan the recovery of which has been stayed by a court or tribunal;
- (xxiv) "local government" means a local government, by whatever name called, established by law;
- (xxv) "mainly owned", for the purpose of section 60 and section 110, means holding or controlling a majority interest in a business concern;
- (xxvi) "Member" means member of an Assembly, the Senate or a local government;
- (xxvii) "National Database and Registration Authority" means the National Database and Registration Authority constituted under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000);
- (xxviii) "political party" means an association of citizens or a combination or group of such associations formed with a view to propagating or influencing political opinion and participating in elections for any elective public office or for membership of a legislative body, including an Assembly, the Senate, or local government;
- (xxix) "population" means the population in accordance with the last preceding census officially published;
- (xxx) "prescribed" means prescribed by the Rules;
- (xxxi) "Presiding Officer" means a Presiding Officer appointed under this Act for a polling station and includes an Assistant Presiding Officer performing the functions of a Presiding Officer;
- (xxxii) "provisional" means unofficial and not final;
- (xxxiii) "Registration Officer" means a Registration Officer appointed under this Act and includes an Assistant Registration Officer performing the functions of a Registration Officer;
- (xxxiv) "returned candidate" means a candidate who has been declared elected as a Member under this Act;
- (xxxv) "Revising Authority" means a person appointed under this Act to hear and dispose of claims and objections and applications for corrections relating to the electoral rolls;
- (xxxvi) "Rules" means rules made under this Act;
- (xxxvii) "section" means a section of this Act;
- (xxxviii) "tax" includes a tax levied by any Government, but shall not include taxes the recovery of which has been stayed by a court or tribunal;
- (xxxix) "technocrat" means a person who—
- (a) holds a degree requiring conclusion of at least sixteen years of education recognized by the Higher Education Commission; and

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- (b) has at least twenty years of experience including a record of achievement at the national or international level;
 - (xl) "validly nominated candidate" means a candidate whose nomination has been accepted; and
 - (xli) "voter" means—
 - (a) in relation to an Assembly or a local government, a person who is enrolled as a voter on the electoral roll of any electoral area in a constituency; and
 - (b) in relation to the Senate, a person who—
 - I. for election to a seat from a Province, is a Member of the Provincial Assembly;
 - II. for election to seats from the Islamabad Capital Territory, is a Member of the National Assembly; and
 - III. for election to a seat from the Federally Administered Tribal Areas, is a Member of the National Assembly elected from the Federally Administered Tribal Areas.

CHAPTER II ELECTION COMMISSION OF PAKISTAN

3. Procedure of the Commission.— (1) In the performance of its functions, and duties and exercise of its powers, the Commission shall regulate its own procedure.

(2) The Commission may exercise its powers and perform its functions even if the office of any member of the Commission is vacant or any of the members is, for any reason, unable to attend the proceedings of the Commission, and the decision of the majority of the members shall have the effect of the decision of the Commission.

(3) If, upon any matter requiring a decision of the Commission, there is difference of opinion amongst 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:

Provided that—

- (a) where the members attending the proceedings of the Commission are four and they are equally divided in their opinion; or
- (b) where the members attending the proceedings of the Commission are three and there is difference of opinion amongst them;

the matter shall be placed for decision before the full Commission, comprising all its members.

(4) In this section and section 6, the term 'member of the Commission' includes the Commissioner.

4. Power to issue directions.— (1) The Commission shall have the power to issue such directions or orders as may be necessary for the performance of its functions and duties, including an order for doing complete justice in any matter pending before it and an order for the purpose of securing the attendance of any person or the discovery or production of any document.