



ELECTION LAWS

(Volume II)

ELECTION COMMISSION OF PAKISTAN

INDEX

Serial No.	Title of law	Pages
1.	The Senate (Election) Act, 1975 (No. LI of 1975)	7
2.	The Senate (Election) Rules, 1975	47
3.	The Senate (Election) Act, 1975 (No. LI of 1975) as made applicable to the Federally Administered Tribal Areas <i>vide</i> Notification No. S.R.O. 746(I)/75, dated 07-07-1975	101
4.	The Senate (Election) Rules, 1975, as made applicable to the Federally Administered Tribal Areas <i>vide</i> Notification No. S.R.O. 747(I)/75, dated 07-07-1975	107
5.	The Senate (Election of Members from the Federal Capital) Order, 1988 (P.O. No. 3 of 1988)	115
6.	The Senate (Election of Members from the Federally Administered Tribal Areas) Order, 2002	119
	(Chief Executive Order No. 40 of 2002)	119
7.	Procedure for Trial of Election petitions relating to Senate Election	123
8.	Procedure for drawl of losts of members of the Senate	125

THE SENATE (ELECTION) ACT, 1975
(ACT NO. LI OF 1975)

(1—2)

THE SENATE (ELECTION) ACT, 1975
(ACT No. LI OF 1975)

ARRANGEMENTS OF SECTIONS

Sections	<i>Page</i>
1. Short title and commencement	7
2. Definitions	7
3. Organisation and conduct of election	9
4. Delegation of powers	9
5. Returning Officers	9
6. Polling Stations	9
7. Polling Officers	9
8. Duties and powers of Returning Officer	9
9. Supply of list of voters	10
10. Notification for election	10
11. Nomination for election	10
12. Deposit	12
13. Scrutiny	12
14. Publication of the list of candidates	14
15. Withdrawals	14
16. Death of a candidate after nomination	15
17. Postponement, etc., under certain circumstances	15
18. Uncontested election	15
19. Contested election	15
20. Hours of poll	15
21. Absence of candidates, etc., not to invalidate acts, etc.	16
22. Adjourned poll	16
23. Voting procedure	16
24. Proceedings at the close of poll	16
25. Declaration of result of election	17
25A. Yearly submission of statements of assets and liabilities	17
26. Return or forfeiture of deposit	17
27. Election expenses	18
28. Restriction on election expenses	18
29. Return of election expenses	18
30. Inspection of returns, etc.	19
31. Election not to be questioned except by election petition or appeal	19
32. Appeal against count	19
33. Commissioner to have certain powers of a court	20
34. Election petition	20
35. Parties to the petition	20

Sections	<i>Page</i>
36. Contents of petition	21
37. Procedure on receipt of petition by the Commissioner	21
38. Appointment of Tribunal	21
39. Power to transfer petition	22
40. Place of trial	22
41. Advocate-General to Assist the tribunal	22
42. Appearance before Tribunal	22
43. Procedure before Tribunal	22
44. Dismissal of petition during trial	23
45. Powers of the Tribunal	23
46. Further provision relating to evidence and witnesses	23
47. Recrimination where seat is claimed	24
48. Decision of the Tribunal	24
49. Ground for declaring election of returned candidate void	25
50. Ground for declaring a person other than a returned candidate elected	25
51. Ground for declaring election as a whole void	26
52. Other provision relating to Tribunal	26
53. Withdrawal of petition	26
54. Abatement on death of petitioner	26
55. Death or withdrawal of respondent	26
56. Failure of petitioner to appear	27
56A. Additional powers of the Tribunal	27
57. Order as to costs	27
58. Corrupt practice	28
59. Eribery	29
60. Personation	30
61. Undue influence	30
62. Penalty for corrupt practice	30
63. Illegal practice	31
64. Prohibition of public meetings, etc., during certain period	31
65. Prohibition of canvassing in or near polling station	31
66. Disorderly conduct near polling station	32
67. Tampering with papers	32
68. Interference with the secrecy of voting	33
69. Failure to maintain secrecy	33
70. Officials not to influence voters	34
71. Breaches of official duty in connection with election	34
72. Assistance by Government servant	34
73. Certain powers of a police officer	34
74. Certain offences cognizable	34

Sections	<i>Page</i>
75. Prosecution for offences by public officers	35
75A. Court proceeding relating to election expenses	35
76. Limitation for prosecution for corrupt or illegal practices	36
77. Casual vacancies	36
78. Disqualifications	36
79. Disqualification on account of certain offences	39
80. Removal and remission of disqualification	39
81. Extension of time for completion of election	40
82. Term of office	40
82A. Drawing of lots for determining term of office of individual members	40
83. Vacancy in membership of Provincial Assemblies not to invalidate election	41
84. Commissioner to ensure fair election, etc.	41
85. Directions of Commissioner in certain matters	41
86. Jurisdiction of courts barred	41
87. Protection of action taken in good faith	41
88. Power to make rules	41

THE SENATE (ELECTION) ACT, 1975
(No. LI of 1975)

An Act to provide for the conduct of election to the Senate

WHEREAS it is expedient to provide for the conduct of election to the Senate and for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) This Act may be called the Senate (Election) Act, 1975.
- (2) It shall come into force at once.
2. **Definitions.**—(1) In this Act, unless there is anything repugnant in the subject or context,—
- (a) “bye-election” means an election to fill a casual vacancy referred to in section 77 ;
- (b) “candidate” means a person proposed as a candidate for election as a member ;
- (c) “Chairman” means Chairman of the Senate ;
- ¹[(cc) “Commission” means the Election Commission ;
- (ccc) “Commissioner” means the Chief Election Commissioner;].
- (d) “contesting candidate” means a candidate who has been validly nominated for election as a member and has not withdrawn his candidature ;
- (e) “election” means an election to the Senate other than a bye-election and includes an election to fill the seat of a member which falls vacant on the expiration of his term ;

¹Inserted *vide* Ordinance No. L of 2002, dt. 9-9-2002.

- (f) "election petition" means an election petition made under section 34;
- (g) "electoral roll" means an electoral roll prepared under the law relating to the preparation and revision of electoral rolls for the time being in force;
- (h) "Member" means member of the Senate ;
- (i) "nomination day" means the day appointed under section 10 for the nomination of candidates ;
- (j) "polling day" means the day on which poll is taken for an election ;
- (k) "Polling officer" means a Polling Officer appointed under section 7 ;
- (l) "prescribed" means prescribed by rules ;
- (m) "returned candidate" means a candidate who has been declared elected as a member under this Act :
- (n) "Returning Officer" means a Returning Officer appointed under section 5 and includes a Polling Officer acting as, or performing the functions of, Returning Officer ;
- (o) "rules" means rules made under this Act ;
- (p) "scrutiny day" means the day appointed under section 10 for the scrutiny of nomination papers ;
- (q) "voter" means in relation to a Province, a person who is a member of the Provincial Assembly of that Province ; and
- (r) "withdrawal day" means the day appointed under section 10 on or before which candidature may be withdrawn.

(2) Words and expressions used but not defined in this Act and also used in the Constitution shall, unless the context otherwise requires, have the meanings assigned to them in the Constitution.

CHAPTER II

**ADMINISTRATIVE MACHINERY FOR THE
CONDUCT OF ELECTIONS**

3. **Organisation and conduct of election.**—Subject to the provision of this Act and the rules, the Commissioner shall regulate the procedure for organizing, and conducting an election in such manner as he may deem fit.

4. **Delegation of powers.**—The Commissioner may authorise any of the officers subordinate to him to exercise and perform all or any of his powers and functions under this Act.

5. **Returning Officers.**—For the purposes of an election, the Commissioner shall appoint a Returning Officer for each Province.

6. **Polling Station.**—The Commissioner shall provide a polling station for the purpose of election of members by the members of a Provincial Assembly.

7. **Polling Officers.**—The Commissioner shall, for the purpose of conducting an election, also appoint such number of Polling Officers to assist the Returning Officer as he may consider necessary.

8. **Duties and powers of Returning Officer.**—(1) A Returning Officer shall conduct the poll in accordance with the provisions of this Act and the rules and shall exercise all necessary powers for maintaining order at the polling station and shall report to the Commissioner any fact or incident which may, in his opinion, affect the conduct or fairness of the poll.

(2) The Returning Officer may, during the course of the poll, entrust to any Polling Officer such of his functions as may be specified by him ; and it shall be the duty of the Polling Officer to perform the functions so entrusted.

(3) The Returning Officer shall authorise one of the Polling Officers to act in his place if he 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.

(4) The Returning Officer may, at any time during the poll, for reasons to be recorded in writing, suspend any Polling Officer and make such arrangements as he may consider necessary for the performance of the functions of the Officer so suspended.

(5) 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.

CHAPTER III

CONDUCT OF ELECTION

9. **Supply of list of voters.**—The Commissioner shall provide the Returning Officer with a list of voters of the Province.

10. **Notification for election.**—(1) For the purpose of an election, the Commissioner shall, by notification in the official Gazette, call upon the members of the Provincial Assembly of a Province to elect such number of members to the Senate from that Province as is specified in such notification.

- (2) The Commissioner shall in the same notification fix—
- (a) a day for the nomination of candidates ;
 - (b) a day for the scrutiny of nomination papers ;
 - (c) a day on or before which candidature may be withdrawn ; and
 - (d) a day for the taking of the poll and the place at which the poll shall be taken.

11. **Nomination for election.**—(1) A voter from a Province may propose or second the name of any person qualified for election to the Senate from that Province.

¹(2) Every nomination shall be made by a separate nomination paper in the prescribed form signed both by the proposer and the seconder and shall, on solemn affirmation made and signed by the candidate, accompany—

- (a) a declaration that he has consented to the nomination and that he fulfils the qualifications specified in Article 62 of the Constitution and is not subject to any of the disqualifications specified in Article 63 thereof or any other law for the time being in force for being elected as a member;
- (b) a declaration about his party affiliation, if any ;
- (c) a declaration that no loan for an amount of two million rupees or more, obtained from any bank, financial institution, cooperative society or corporate body in his own name or in the name of his spouse or any of

¹Substituted *vide* Ordinance No. L of 2002, dated 9-9-2002.

his dependents, or any business concern mainly owned by him or the aforesaid ; stands unpaid for more than one year from the due date, or has got such loan written off ;

- (d) a declaration that he, his spouse or any of his dependents or a business concern mainly owned by him or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filing of nomination papers ;
- (e) a statement specifying his educational qualifications, occupation, National Identity Card number and National Tax Number, if any, alongwith attested copies thereof ; and
- (f) a statement of his assets and liabilities and those of his spouse and dependents on the prescribed form as on the preceding thirtieth day of June ;

Explanation.—For the purpose of this section, the expression—

- (i) “loan” shall mean any loan, advance, credit or finance obtained or written off on or after the 31st day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court or tribunal, including the High Court and the Supreme Court.
- (ii) “mainly owned” shall mean holding or controlling a majority interest in a business concern ;
- (iii) “taxes” include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes that recovery of which has been stayed or suspended by any order of a court or tribunal ;
- (iv) “government dues and utility charges” shall, *inter alia*, include rent, charges of rest houses or lodges owned by the Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.]

¹[(3) Every nomination paper shall be delivered by the candidate in person to the Returning Officer who shall acknowledge receipt of the nomination paper specifying the date and time of receipt.]

(4) A person may be nominated by more than one nomination papers.

(5) Every proposal shall be accompanied by a certified copy of the relevant extract from the electoral roll in which the name of the person nominated is enrolled.

¹[(6) The nomination form and accompanying declarations and statements shall be open to inspection by the public, and copies thereof may be made available by the Commission in such manner and on payment of such fee as may be prescribed.]

12. **Deposit.**—(1) Subject to the provisions of sub-section (2), no nomination paper delivered under section 11 shall be accepted unless—

- (a) a sum of two thousand rupees 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 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 by more than one nomination papers.

13. **Scrutiny.**—(1) The candidates, their proposers and seconders and an agent authorised in writing in this behalf by each candidate, may attend the scrutiny of the nomination papers, and the Returning Officer shall give them reasonable opportunity for examining all nomination papers delivered to him under section 11.

(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 inquiry as he may think fit and reject any 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 11 or section 12 has not been complied with ²[or submits any false or incorrect declaration or statement in any material particular] ; or
- (d) the signature of the proposer or 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 ; and
- (iii) the Returning Officer shall not inquire into the correctness or validity of any entry in the electoral roll.

³[(3A) The Returning Officer may, for the purpose of scrutiny, require any agency or authority to produce any document or record.

(3B) Notwithstanding anything contained in sub-section (3), where a candidate deposits any amount of loan, tax or utility charges payable by him before rejection of his nomination paper on the ground of default in payment of such loan, taxes or utility charges, such nomination paper shall not be rejected for default thereof.]

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

¹[(5) Where the nomination of a candidate has been rejected under this section by a Returning Officer, an appeal shall lie, within two days of the scrutiny day, to the Commissioner ³[or a member of the Commission authorised by the Commissioner] ; and any order passed by the Commissioner ³[or such member, as the case may be,] on such appeal shall be final :].

¹Substituted *vide* Act No. V of 1986, dt. 28-12-86.

²Added *vide* Ordinance No. L of 2002 dt. 9-9-2002.

³Inserted *ibid*.

¹[Provided that where a nomination paper is rejected by the Returning Officer on the ground that the candidate is a defaulter of loan or taxes or government dues or utility charges or has had the loan written off and the candidate pays such loan or, as the case may be, taxes, government dues or utility charges or the written off loan on or before the last date fixed for disposal of appeals and satisfies the Member of the Election Commission that such payment has been made, his nomination shall be treated as having been accepted on that ground.]

¹(6) If the member of the Commission referred to in sub-section (5), is, on the basis of information or material coming to his knowledge from any source, satisfied that a candidate whose nomination paper has been accepted is—

- (a) a defaulter of loans, taxes, government dues or utility charges or has had any loan written off or is subject to any other disqualification from being elected as a member of Senate, he may, on his own motion, call upon such candidate to show cause why his nomination should not be rejected, and if he is satisfied that the candidate is defaulter as aforesaid or has had a loan written off or is subject to any disqualification, he may reject his nomination paper.]

14. **Publication of the list of candidates.**—The Returning Officer shall, after the scrutiny of nomination papers, prepare and publish in the prescribed manner a list of candidates who have been validly nominated.

(2) In case an appeal against rejection of a nomination paper is accepted by the Commissioner, the list of validly nominated candidates shall be revised accordingly.

15. **Withdrawals.**—(1) Any validly nominated candidate may, by notice in writing signed by him and delivered on or before the withdrawal day to the Returning Officer either by such candidate in person or by an agent authorised by him in writing in this behalf, 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 some conspicuous place in his office.

(4) The Returning Officer shall, on the day next following the withdrawal day, prepare and publish in the prescribed manner a list of contesting candidates and forward a copy thereof to each such candidate, giving public notice of the date, hour and place of the poll.

¹Added *vide* Ordinance No. L of 2002 dt. 9-9-2002.

16. **Death of a candidate after nomination.**—(1) If a validly nominated candidate who has not withdrawn his candidature dies before the completion of the proceedings relating to the election, the Returning Officer shall, by public notice, terminate such proceedings and make a report to the Commissioner.

(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.

17. **Postponement, etc., under certain circumstances.**—Where the proceedings relating to nomination, scrutiny or withdrawal cannot, for reasons beyond the control of the Returning Officer, take place on the day appointed therefor, he may postpone or adjourn such proceedings and shall, with the approval of the Commissioner, by public notice fix another day for the proceedings so postponed or adjourned and, if necessary, also the day or days for any subsequent proceedings.

18. **Uncontested election.**—(1) Where after scrutiny under section 13 or withdrawal under section 15, the number of validly nominated candidates or, as the case may be, the contesting candidates from a Province is less than or equal to the number of seats to be filled for that Province, the Returning Officer shall, by public notice declare such candidates to be elected to the seats and send a return of election to the Commissioner :

Provided that, if after scrutiny any candidate indicates that he intends to file an appeal under sub-section (5) of section 13 against the rejection of his nomination paper, no person shall be declared elected uncontested until the period 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 Commissioner shall publish in the official Gazette the names of the returned candidates.

(3) Where the number of candidates declared elected under sub-section (1) is less than the number of seats to be filled, fresh proceedings shall be commenced in accordance with the provisions of this Act as if for a new election, to fill the seat or, as the case may be, seats remaining vacant.

19. **Contested election.**—If after withdrawal, if any, the number of candidates exceeds the number of seats, the Returning Officer shall, on the appointed day, conduct the poll, after giving a notice thereof to the contesting candidates.

20. **Hours of poll.**—The Returning Officer shall, subject to any direction of the Commissioner, fix the hours during which the poll shall be taken and give public notice of the hours so fixed.

21. **Absence of candidates, etc., not to invalidate acts, etc.**—Where any act or thing is required or authorised by this Act to be done in the presence of a candidate or an agent authorised by him in writing in this behalf, 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.

22. **Adjourned poll.**—(1) If at any time the poll is interrupted or obstructed for reasons beyond the control of the Returning Officer, he may stop the poll and, when he so stops the poll, shall inform the Commissioner of his having done so.

(2) Where a poll is stopped under sub-section (1), the Returning Officer shall immediately report the circumstances to the Commissioner and as soon as may be, appoint with the approval of the Commissioner, a day for a fresh poll and fix the place at which, and the hours during which, such fresh poll shall be taken.

(3) All voters shall be allowed to vote at the fresh poll taken under sub-section (2) and no vote cast at the poll stopped under sub-section (1) shall be counted.

23. **Voting procedure.**—(1) All voters shall be entitled to vote at an election.

(2) No vote shall be given by proxy.

(3) Each voter shall have only one transferable vote irrespective of the number of seats to be filled.

(4) A voter shall cast his vote in the prescribed manner.

(5) The ballot papers shall be in such form as the Commissioner may specify.

(6) the polls shall be by secret ballot.

24. **Proceedings at the close of poll.**—(1) Immediately after the close of poll, the Returning Officer shall proceed with the counting of votes in the prescribed manner.

(2) On the completion of counting, the Returning Officer shall prepare and certify a return of the election and submit the same to the Commissioner in the prescribed manner.

¹[(3) Every returned candidate shall, within five days from the date of election, submit return of election expenses in accordance with the provisions of section 29.]

¹Added *vide* Ordinance No. L of 2002 dt. 9-9-2002.

¹[25. **Declaration of result of election.**—On receipt of the returns of the election under sub-section (3) of section 24, the Commission shall publish in the official Gazette the names of the returned candidates :

Provided that the name of a candidate shall not be published who fails to submit the return of election expenses as required by sub-section (3) of section 24.]

²[25A. **Yearly submission of statements of assets and liabilities.**—(1) Every member shall, in the prescribed form, submit a statement of assets and liabilities of his own, his spouse and dependents annually to the Commissioner by the thirtieth day of September each year.

(2) The statements of assets and liabilities submitted under sub-section (1) shall be published in the Official Gazette and copies thereof can be obtained on payment of prescribed fee.

(3) The Commission shall, by the fifteenth day of October each year, notify the names of the members who fail to file statements of assets and liabilities within the period specified in sub-section (1) and, by an order, direct that such member shall cease to function till such statement is submitted.

(4) Where a member submits the statement of assets and liabilities under sub-section (1) which is found to be false in material particulars, he may be proceeded under section 62 for committing the offence of corrupt practice.]

26. **Return or forfeiture of deposit.**—(1) After the termination of the proceedings relating to an election under section 16 where the proceedings have been so terminated, or after the declaration of result of an election under section 18 or section 25, the deposit made under section 12 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 for whom no voter has either voted or indicated any preference.

(2) A deposit which is not required to be returned under sub-section (1), shall be forfeited to the Federal Government.

¹Substituted vide Ordinance No. L of 2002, dated 9-9-2002.

²Inserted *ibid*.

CHAPTER IV

ELECTION EXPENSES

27. **Election expenses.**—In this Chapter, “election expenses” means any expenditure incurred 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 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 12.

28. **Restriction on election expenses.**—(1) No person shall, except to the extent 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 a candidate shall incur any election expenses of the 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 ¹[one million and five hundred] thousand rupees.

²[(4) A candidate shall, by a statement, explain the particulars of any election expense supported by receipts and voucher of payments made thereof, except where the amount is less than five hundred rupees.]

29. **Return of election expenses.**—(1) Every contesting candidate, ³[other than a returned candidate,] shall, within thirty days after the publication of the name of the returned candidates under section 18 or section 25, 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, if any, of which the contesting candidate is aware ;
- (c) a statement of all unpaid claims, if any, of which the contesting candidate is aware ; and

¹Substituted *vide* Ordinance No. L of 2002 dt. 9-9-2002.

²Added *ibid.*

³Inserted *ibid.*

(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 sworn by the contesting candidate.

30. **Inspection of returns, etc.**—(1) The return and documents submitted under section 29 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 on 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 V

ELECTION DISPUTES

31. **Election not to be questioned except by election petition or appeal.**—(1) Save as provided in section 32, no election shall be called in question except by an election petition under section 34.

(2) No question that can be settled in an appeal under section 32 shall be raised by an election petition or before any court or authority whatsoever, nor shall any question that can be raised by an election petition be raised before any court or authority other than an Election Tribunal.

32. **Appeal against count.**—(1) A contesting candidate who is aggrieved by any proceedings under section 24 relating to the count may prefer an appeal challenging the count to the Commissioner.

(2) An appeal under sub-section (1) may be made by the candidate in person, or through a person authorised in writing by the candidate in this behalf, within three days next following the date of the completion of the count under section 24.

(3) The appeal shall be addressed to the Commissioner and shall be filed with the Commissioner or with the Secretary, Election Commission.

(4) The appeal shall be in the form of a memorandum which shall state the grounds for such appeal and shall be accompanied by as many copies thereof as the number of contesting candidates at an election.

(5) The Commissioner may, after giving the parties concerned an opportunity of being heard,—

- (a) dismiss the appeal; or
- (b) if he does not dismiss the appeal, determine the result of the election on the count of valid votes as corrected, after adjudicating upon the invalid votes, if any, and make such consequential order as may be necessary.

(6) The decision of the Commissioner on appeal under sub-section (5) shall be final.

33. **Commissioner to have certain powers of a court.**—For the purpose of the disposal of an appeal under section 32, the Commissioner shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, that is to say,—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the discovery and production of documents, articles or things;
- (c) issuing commissions for the examination of witnesses;
- (d) requiring the deposit of diet and travelling expenses of witnesses;
- (e) receiving evidence on affidavits;
- (f) granting adjournments; and
- (g) summoning and examining *suo moto* any person whose evidence appears to be material

34. **Election petition.**—An election petition shall be presented to the Commissioner within forty-five days of the publication of the result of the election in the official Gazette and shall be accompanied by a receipt showing that the petitioner has deposited a sum of two thousand rupees at any branch of the National Bank of Pakistan or at a Government Treasury or sub-Treasury in favour of the Commissioner as security for the costs of the petition.

35. **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, if any, of any corrupt or illegal practice is made, and shall serve personally or by registered post on each such respondent a copy of his 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 VI.

36. **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; or
- (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.

37. **Procedure on receipt of petition by the Commissioner.**—(1) The Commissioner shall return an election petition to the petitioner if he finds that it has not been presented within the time specified in section 34 or is not accompanied by a receipt of the deposit required to be made under that section.

(2) If an election petition is not returned under sub-section (1), the Commissioner shall refer it for trial to a Tribunal.

38. **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) A Tribunal shall consist of a person who is a Judge of a High Court.

39. **Power to transfer petition.**—(1) 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 shall proceed with the trial of the petition from the stage at which it is transferred:

Provided that the Tribunal to which an election petition is so transferred may, if it thinks fit, recall and examine any of the witnesses already examined.

40. **Place of trial.**—The trial of an election petition shall be held at such place or places as the Tribunal may think fit.

41. **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.

42. **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 a 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.

43. **Procedure before Tribunal.**—¹[(1) Subject to the provisions of this Act and the rules, every election petition shall be tried in accordance with the procedure laid down by the ²[Commissioner].

(2) Subject to the provisions of this Act, ³[Qanun-e-Shahadat Order, 1984 (P. O. No. X of 1984)] 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 34, as it may think fit.

¹Substituted *vide* Ordinance No. XXV of 1985, dated 17-3-85

²Substituted *vide* Act No. V of 1986, dated 28-12-86.

³Substituted *vide* Ordinance No. L of 2002, dated 9-9-2002.

44. **Dismissal of petition during trial.**—The Tribunal shall dismiss an election petition, if —

- (a) the provisions of section 35 or section 36 have not been complied with; or
- (b) the petitioner fails to make the further deposit required under sub-section (4) of section 43.

45. **Powers of the Tribunal.**—(1) 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 section ¹[476,] 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) For the purpose of enforcing attendance of witnesses, the local limits of the jurisdiction of the Tribunal shall be the territories to which this Act extends.

46. **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 IX-A of the Pakistan Penal Code (Act XLV 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.

¹Inserted *vide* Ordinance No. XXV of 1985, dated 17-3-85.

(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.

47. **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 or its intention so to do and has also deposited the security referred to in section 34.

(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.

48. **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.

[(1A) The trial of the election petition shall proceed day to day and the decision thereof shall be taken by the Tribunal within four months from the date of its receipt from the Commissioner :

Provided that where the delay in the proceedings is occasioned by any act or omission of a returned candidate or any other person acting on his behalf, the Tribunal may refer to the Commission that such candidate may be declared to have ceased to perform the functions of his office either till the conclusion of the proceedings or for such period as the Commission may direct.]

(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 Supreme Court on any question, whether of law or fact, arising from the decision.

49. 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 by any other person with the consent or connivance of the candidate.

(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 and that the candidate took all reasonable precaution to prevent its commission; or
- (b) that any of the other contesting candidate was, on the nomination day, not qualified for, or was disqualified from, being elected as a member.

50. 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.

51. **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.

52. **Other provisions relating to Tribunal.**—(1) An order of a Tribunal under section 48 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.

53. **Withdrawal of petition.**—(1) An election petition may be withdrawn—

- (a) before a Tribunal has been appointed, by leave of the Commissioner; and
- (b) after a Tribunal has been appointed, by leave of 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.

54. **Abatement on death of petitioner.**—(1) An election petition shall abate on the death of the petitioner or 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.

55. **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*.

56. **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.

¹[56A. **Additional powers of the Tribunal.**—(1) If a Tribunal is, on the basis of any material coming to its knowledge from any source or an information laid before it, of the opinion that a returned candidate was a defaulter of loan, taxes, Government dues or utility charges, or has submitted a false or incorrect declaration regarding the payment of loans, taxes, Government dues or utility charges, or has submitted a false or incorrect statement of assets and liabilities of his own, spouse and dependents, under section 11, it may, on its own motion or otherwise, call upon any such candidate to show cause why his election should not be declared void and, if it is satisfied that such candidate is a defaulter or has submitted false or incorrect declaration as aforesaid, it may, without prejudice to any order that may be, or has been, made on an election petition, or any other punishment, penalty or liability which such candidate may have incurred under this Act or under any other law for the time being in force, make an order—

- (i) declaring the election of the returned candidate to be void; or
- (ii) declaring the election of the returned candidate to be void and any other contesting candidate to have been duly elected.

(2) If on examining the material or information referred to in sub-section (1), a Tribunal finds that there appear reasonable grounds for believing that a returned candidate is a defaulter or has submitted false or incorrect declaration referred to in sub-section (1), it may, pending decision of the motion under sub-section (1), direct that the result of the returned candidate shall not be published in the official Gazette.

(3) No order under sub-section (1) or sub-section (2) shall be made unless the returned candidate has been provided an opportunity of being heard.]

57. **Order as to costs.**—(1) The Tribunal shall, when making an order under section 48, 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 Commissioner 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.

¹Inserted *vide* Ordinance No. L of 2002, dated 9-9-2002.

(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 Commissioner 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, 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 VI

OFFENCES, PENALTY AND PROCEDURE

58. **Corrupt practice.**—A person is guilty of corrupt practice if he—
- (a) contravenes the provisions of section 28;
 - ¹[(aa) files a false or incorrect declaration or statement under sub-section (2) of section 11;]
 - (b) is guilty of bribery, personation or undue influence;
 - (c) makes or publishes a false statement—
 - (i) concerning the personal character of a candidate or any of his relations 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; or
 - (ii) regarding the withdrawal of candidate;

¹Inserted *vide* Ordinance No. L of 2002, dated 9-9-2002.

- (d) 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, community, race, caste, sect or tribe;
- (e) knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying to or from the polling station any voter except himself and members of his immediate family; or
- (f) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

59. **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) a voter 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) a voter 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 estimate in money and all forms of entertainment or employment.

60. **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.

61. **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 another 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 of any saint or *pir*;
 - (d) gives or threatens to give any religious sentence; or
 - (e) uses or threatens to use any official influence or governmental patronage; 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) by abduction, duress or any fraudulent device or contrivance,—
 - (a) impedes or prevents the free exercise of the franchise by a voter; or
 - (b) compels, induces or prevails upon any voter to vote or refrain from voting.

Explanation.—In this section, “harm” includes social ostracism or *ex-communication* or expulsion from any caste or community.

62. **Penalty for corrupt practice.**—Any person guilty of corrupt practice shall be punishable with imprisonment for a term which may extend to ¹[five] years, or with fine which may extend to ¹[one hundred thousand rupees] or with both.

¹Substituted *vide* Ordinance No. L of 2002, dated 9-9-2002.

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

- (a) fails to comply with the provisions of section 29;
- (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) removes a ballot paper from a polling station during the poll; or
- (f) knowingly induces or procures any person to do any of the aforesaid acts.

(2) A person guilty of illegal practice shall be punishable with ¹[imprisonment for a term which may extend to six months and fine which may extend to five thousand rupees.]

64. **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 a Province, during a period of forty-eight hours ending at midnight following the conclusion of the poll for any election in that Province.

(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.

65. **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,—

- (a) canvasses for votes ;
- (b) solicits the vote of any voter

¹Substituted *vide* Ordinance No. L of 2002, dated 9-9-2002.

- (c) persuades any voter not to vote at the election or for a particular candidate ; or
- (d) exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate beyond the radius of one hundred yards of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote, or discourage the voters from voting, for any contesting candidate.

66. **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,—

- (a) uses, in such manner as to be audible within the polling station, any gramophone, megaphone; loudspeaker or other apparatus for reproducing or amplifying sounds;
- (b) persistently shouts in such manner as to be audible within the polling station ;
- (c) does any act which—
 - (i) disturbs or causes annoyance to any voter visiting a polling station for the purpose of voting, or
 - (ii) interferes with the performance of the duty of a Returning Officer or a Polling Officer or any other person performing any duty at a polling station : or
- (d) abets the doing of any of the aforesaid acts.

67. **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 or the rules ;
- (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, Polling 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.

68. **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 one thousand rupees, or with both, if he—

- (a) interferes or attempts to interfere with a voter when he records his vote ;
- (b) in any manner obtains or attempts to obtain in a polling station information as to the candidate or candidates for whom a voter is about to vote or mark his preferences or has voted and marked his preferences ; or
- (c) communicates at any time any information obtained in a polling station as to the candidate or candidates for whom a voter is about to vote or mark his preferences or has voted and marked his preferences.

69. **Failure to maintain secrecy**—A Returning Officer or Polling Officer, or any candidate or agent of a candidate 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 fails to aid in maintaining the secrecy of voting ;

- (b) communicates to any person before the poll is closed, except for any purpose authorised by any law, any information as to the official mark ;
or
- (c) communicates any information obtained at the counting of votes as to the candidates for whom any vote is given or a preference is recorded on any particular ballot paper.

70. **Officials not to influence voters.**—A Returning Officer, Polling Officer or any other officer or clerk on 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 of 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.

71. **Breaches of official duty in connection with election.**—A Returning Officer, Polling Officer or any other person employed by any such officer in connection with his official duties imposed by or under this Act or the rules is guilty of an offence punishable with fine which may extend to one thousand rupees if he, wilfully and without reasonable cause, commits breach of any such official duty by act or omission.

72. **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.

73. **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 66 if the Returning Officer directs him to so arrest such person ;
 - (ii) who, being removed from the polling station by the Returning Officer, commits any offence at the polling station;

(b) remove any notice, sign, banner or flag used in contravention of section 65 ; and

(c) seize any instrument or apparatus used in contravention of section 66;

and take such steps, including use of force, as may be reasonably necessary for preventing such contravention.

74. **Certain offences cognizable.**—¹[(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence under section 58 or section 65 or sub-section (1) of section 67 shall be a cognizable offence.

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

(3) Where a proceeding against a person for being involved in corrupt practice is initiated on a complaint made by a private individual, and such person is convicted by the court and his conviction is maintained in final appeal, the complainant may be entitled to such reward payable out of the amount of fine as may be imposed by the court :

Provided that where such complaint proves to be false, mala-fide, or is made for any ulterior motive to provide benefit to another person, the complainant shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

75. **Prosecution for offences by public officers.**—(1) No court shall take cognizance of an offence under sub-section (2) of section 67, section 69, section 70, section 71 or section 72, except upon a complaint in writing made by order of, or under authority from, the Commissioner.

(2) The Commissioner shall, if he has reasons to believe that any offence specified in sub-section (1) has been committed, cause such inquiries to be made or prosecution to be instituted as he may think fit.

³[75A. **Court proceeding relating to election expenses.**—The Commissioner shall direct the Returning Officer to initiate proceeding in the appropriate

¹Renumbered *vide* Ordinance No. L of 2002, dated 9-9-2002.

²Added *ibid*.

³Inserted *vide* Ordinance No. L of 2002, dated 9-9-2002.

court against the person who contravenes the provisions of section 28 or fails to comply with the provisions of section 29.]

76. **Limitation for prosecution for corrupt or illegal practices.**—No prosecution for an offence under section 58 or section 65 shall be commenced except—

- (a) within six months of the commission of the offence; or
- (b) if the election at which the offence was committed is subject to an election petition and the Tribunal has made an order in respect of such offence, within three months of the date of such order.

CHAPTER VII

BYE-ELECTION

77. **Casual vacancies.**—¹[(1)] When, before the expiration of the term of office of a member elected to the Senate, his seat becomes vacant or is declared vacant or his election to the Senate is declared void, the Commissioner shall, by notification in the official Gazette, call upon the elected members of the Provincial Assembly by the members of which the member was elected to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification; and the provisions of this Act and of the rules shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

²[(2)] When the seats of two or more members who were elected to the Senate by the same Provincial Assembly and whose term of office was due to expire on the same day become vacant simultaneously, elections to fill such seats may be held together.]

CHAPTER VIII

DISQUALIFICATIONS

78. **Disqualification.**—A person shall be disqualified from being elected as, and from being, a member of the Senate, if—

- ³[(a) he is of unsound mind and has been so declared by a competent court; or

¹Renumbered *vide* Ordinance No. XVII of 1977, dated 15-4-77.

²Added *vide* Ordinance No. XVII of 1977, dated 15-4-77.

³Substituted *vide* Ordinance No. L of 2002, dated 9-9-2002.

- (b) he is an undischarged insolvent; or
- (c) he ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State; or
- (d) he holds an office of profit in the service of Pakistan other than an office declared by law not to disqualify its holder; or
- (e) he is in the service of any statutory body or anybody which is owned or controlled by the Government or in which the Government has a controlling share or interests; or
- (f) he 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
- (g) 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
- (h) he has been convicted by a court of competent jurisdiction on a charge of corrupt practice, moral turpitude or misuse of power or authority under any law for the time being in force; or
- (i) he has been dismissed from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a local government on the grounds of misconduct involving moral turpitude; or
- (j) he has been removed or compulsorily retired from the service of Pakistan or service of a corporation or office set up or controlled by the Federal Government, Provincial Government or a local government on the grounds of misconduct involving moral turpitude; or
- (k) 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 of interest, unless a period of two years has elapsed since he ceased to be in such service; or

- (l) 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 paragraph 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;
- (ii) where the contract has been entered into by or on 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
- (iii) 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 Article, “goods” does 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.

- (m) he holds any office of profit in the service of Pakistan other than the following offices namely:
- (i) an office which is not 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 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

- (n) he has been convicted and sentenced to imprisonment for having absconded by a competent court under any law for the time being in force; or
- (o) he has obtained a loan for an amount of two million rupees or more, from any bank, financial institution, cooperative society or cooperative body in his own name or in the name of his spouse or any of his dependents, which stands unpaid for more than one year from the due date or has had such loan written off; or
- (p) he or his spouse or any of his dependents has defaulted in payment of government dues and utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months; or
- (q) he is for the time being disqualified from being elected or chosen as a member of the Majlis-e-Shoora (Parliament) or of a Provincial Assembly under the Constitution or any law for the time being in force.]

79. **Disqualification on account of certain offences.**—¹[(1)] Where a person has been convicted for having exceeded the limit of election expenses laid down by section 28 or having failed to file the return of election expenses in accordance with section 29 or for any other offence under this Act, not being an offence for which he has been sentenced to imprisonment for a term of not less than two years, 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 the Senate.

²[(2)] Where a person has been convicted for an offence punishable under section 171J of the Pakistan Penal Code (Act XLV of 1860), he shall be disqualified for a period of seven years from being, or being elected as a member of Senate.]

80. **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.

¹Renumbered *vide* Ordinance No. LVI of 1984, dated 5-12-84.

²Added *ibid*.

CHAPTER IX

MISCELLANEOUS

81. **Extension of time for completion of election.**—It shall be competent for the Commissioner, for reasons which he considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued under section 10.

82. **Term of office.**—(1) The term of office of a member of the Senate shall commence on the date of the first meeting of the Senate held after the names of the persons elected to the Senate are notified by the Election Commission :

Provided that the term of office of a member elected in the year 1973 and having a term of four years shall expire after completion of four years from the date of making the oath under Article 65.

(2) If the election of a member is declared void and another candidate is declared to have been duly elected in his place, the term of such candidate shall be the unexpired term of such member.

(3) If the election of all the members declared elected under section 18 or section 25 is declared void, the term of the members elected in their places shall be the unexpired term of the members whose election is declared void.

¹[82A. **Drawing of lots for determining term of office of individual members.**—(1) For the purpose of dividing the members ²[into two groups], the Commissioner shall draw lots in the prescribed manner and in the presence of such members or persons authorised by them in writing as may be present, after notifying in the official Gazette the time and place of drawing of lots.

(2) The term of office of each member determined under sub-section (1) shall be notified by the Commissioner in the official Gazette.

(3) If the election of a member whose term of office is determined under sub-section (1) is declared void and another candidate is declared to have been duly elected in his place, the term of such candidate shall be the unexpired term of such member.

(4) If the election of all the members ³[* * * *] is declared void, the members elected in their place shall be divided into two groups and the term of

¹Inserted *rich*- Ordinance No. XVII of 1977, dated 15-4-77.

²Substituted *ride* Act No. V of 1986, dated 28-12-86.

³Omitted *ride* Act No. V of 1986, dated 28-12-86.

their office determined and notified in the manner specified in sub-sections (1) and (2):

Provided that the term of office of the members so elected shall be the unexpired term of the members of the respective groups].

83. Vacancy in membership of Provincial Assemblies not to invalidate election.—No election by the members of a Provincial Assembly shall be called in question on the ground merely of the existence of any vacancy in the membership of that Provincial Assembly.

84. Commissioner to ensure fair election, etc.—Save as otherwise provided, the Commissioner may issue such instructions and exercise such powers including the power to review an order passed by any officer under this Act or the rules, and make such consequential orders, as may, in his 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.

85. Directions of Commissioner in certain matters.—Anything required to be done to carry out the purposes of this Act for which no provision or no sufficient provision exists shall be done by such authority and in such manner as the Commissioner may direct.

86. Jurisdiction of courts barred.—No court shall question the legality of any action taken in good faith by, or under the authority of, the Commissioner, a Returning Officer or a Polling Officer or any decision given by any of them or by any other officer or authority appointed under this Act or the rules.

87. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against 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 any rule or order made, or direction given, thereunder.

88. Power to make rules.—(1) The Federal Government may, in consultation with the Commissioner, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the duties of Returning Officers and Polling Officers at polling stations;
- (b) the identification of voters ;

- (c) the manner in which votes are to be given both, generally and in the case of illiterate voters or voters under physical or other disability ;
 - (d) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of a single transferable vote ;
 - (e) the scrutiny and counting of votes, including cases in which a recounting of votes should be made before the declaration of the result of election;
 - (f) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers ;
 - (g) the appointment of agents of candidates ; and
 - (h) any other matter which is to be or may be prescribed under this Act.
-

THE SENATE (ELECTION) RULES, 1975

(43—44)

THE SENATE (ELECTION) RULES, 1975

ARRANGEMENT OF RULES

Rules	<i>Page</i>
1. Short title and commencement	47
2. Definitions	47
3. Nomination paper	48
4. Security deposits for nomination	48
5. Appeal against rejection of nomination by the Returning Officer	49
6. List of validly nominated candidates	49
7. List of contesting candidate	50
7A. Retirement of contesting candidate	50
8. Declaration of results after scrutiny	50
9. Form of ballot paper	50
10. Agent	51
11. Ballot Boxes	51
12. Admission to polling station	51
13. Arrangements at the polling station	51
14. Maintenance of order at the polling station	52
15. Issue of Identity cards	52
16. Voting procedure	52
17. Manner of recording vote	53
18. Manner of marking ballot paper if voter is incapacitated	53
19. Spoilt ballot papers	53
20. Stray ballot papers	53
21. Sealing of ballot box after poll	54
22. Opening of ballot boxes and counting of votes	54
23. Arrangement of valid ballot papers	55
24. Counting of votes where one seat is to be filled	55
25. Ascertaining the quota	56
26. General instructions	56
27. Transfer of surplus	56
28. Exclusion of candidates lowest on the poll	58
29. Order of transfer of sub-parcel	58
30. Filling the last vacancies	58
31. Equality of candidates lowest on the poll	59

Rules	<i>Page</i>
32. Provision for recounting	59
33. Illustration of procedure as to the count, etc.	59
34. Return by Returning Officer	59
35. Grant of certificate of election to returned candidate	59
36. Documents to be sent to, and retained by the Commissioner	60
37. Account of election expenses	60
38. Affidavit	61
39. Presentation of election petition	61
40. Withdrawal of respondent	61
41. Supply of copies of decisions on petition	61
42. Order of production of documents	61
43. Submission of statements of assets and liabilities	62
44. Inspection of documents, etc.	62

THE SENATE (ELECTION) RULES, 1975

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) These rules may be called the Senate (Election) Rules, 1975.

(2) They shall come into force at once.

2. **Definition.**—In these rules, unless there is anything repugnant in the subject or context,—

- (a) “Act” means the Senate (Election) Act, 1975 (LI of 1975);
- (b) “continuing candidate” means any candidate not elected and not excluded from the poll at any given time ;
- (c) “exhausted paper” means a ballot paper on which no further preference is recorded for a continuing candidate :

Provided that a ballot paper shall also be deemed to have become exhausted whenever—

- (a) the name of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference ; or
- (b) the name of the candidate next in order of preference, whether continuing or not is marked—
 - (i) by a figure not following consecutively after some other figure on the ballot paper ; or
 - (ii) by two or more figures ;
- (d) “first preference” means the figure 1 set opposite the name of a candidate, “second preference” means the figure 2 set opposite the name of a candidate, “third preference” means the figure 3 set opposite the name of a candidate, and so on ;
- (e) “Form” means a form appended to these rules and includes a translation thereof into any language ;

- (f) "original vote" in relation to any candidate, means a vote derived from a ballot paper on which a first preference is recorded for such candidate;
- (g) "publish" with its grammatical variations includes exhibition at a place accessible to the public ;
- (h) "section" means a section of the Act ;
- (i) "surplus" means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota ;
- (j) "transferred vote" in relation to any candidate, means a vote the value or the part of the value of which is credited to such candidate and which is derived from a ballot paper on which a second or a subsequent preference is recorded for such candidate ; and
- (k) "unexhausted ballot paper" means a ballot paper on which a further preference is recorded for a continuing candidate.

CHAPTER II

NOMINATIONS, SCRUTINY AND WITHDRAWALS

3. **Nomination paper.**—A nomination paper by which a proposal is made under sub-section (2) of section 11 shall be in Form I [:]

²[Provided that, in the case of a bye-election to fill two or more casual vacancies arising in any of the circumstances specified in section 77, this rule shall have effect as if it required the proposer and the seconder to specify in the said Form the name of the member of the Senate whose vacancy is to be filled.]

4. **Security deposits for nomination.**—(1) The Returning Officer shall maintain a register in Form II in which he shall enter the particulars of every cash deposit made with him under section 12.

(2) Receipt of a cash deposit by the Returning Officer shall be acknowledged in Form III and the amount shall be deposited by him at a Government Treasury or sub-Treasury.

(3) The head of account for the purpose of deposit at a branch of the State Bank of Pakistan or the National Bank of Pakistan or at a Government Treasury or sub-Treasury shall be "3000000—Deposits and Reserves B, Not Bearing Interest—3500000—Departmental and Judicial Deposits 3501000—Civil Deposits—3501010—Deposits in connection with Elections".

¹Substituted *vide* S. R. O. 330 (1) 77, dated 16-4-77.

²Added *vide* S. R. O. 330(I) 77, dated 16-4-77.

(4) The return of a deposit which is required to be refunded under sub-section (1) of section 26 shall be authorised under the seal and signature of the Returning Officer.

5. Appeal against rejection of nomination by the Returning Officer.—

(1) An appeal under sub-section (5) of section 13 may be filed by the candidate himself or by a person authorised in writing by the candidate in this behalf.

¹[(2) The appeal shall be addressed to, and filed with, the Commissioner or a Member of the Commission authorized by the Commissioner.]

(3) An appeal shall be in the form of a memorandum which shall state the date of rejection of the nomination and the grounds of appeal and shall be accompanied by a certified copy of the order rejecting the nomination.

(4) The memorandum of appeal shall be accompanied by as many copies thereof as there are candidates at an election.

²[(5) An appeal shall be disposed of either summarily or after such inquiry as the Commissioner or, as the case may be, the Member of the Commission authorized by the Commissioner may consider necessary.]

²[(6) If the appeal is allowed, the name of the appellant shall, by order of the Commissioner ³[or Member of the Commission authorised by the Commissioner] be entered by the Returning Officer in the list of validly nominated candidates.]

6. List of validly nominated candidates.—(1) The list of validly nominated candidates prepared under section 14 shall be drawn up in Form IV soon after the scrutiny.

(2) The Returning Officer shall publish a copy of the list of validly nominated candidates at some conspicuous place in his office.

(3) In the case of acceptance of an appeal filed under sub-section (5) of section 13, the Returning Officer shall revise the list of validly nominated candidates in accordance with the decision of the Commissioner and shall publish the list so revised at some conspicuous place in his office.

(4) A copy of the list referred to in sub-rule (1), and also a copy of the list as revised, if any, under sub-rule (3), shall be furnished to the Commissioner.

¹Substituted *vide* S. R. O. (1)/2002, dt. 17-10-2002.

²Substituted *vide* S. R. O. 318(1)/87, dt. 23-1-1987.

³Inserted *ibid*.

7. **List of contesting candidates.**—(1) The list of contesting candidates prepared under sub-section (4) of section 15 shall be drawn up in Form V.

(2) The names on the list shall be entered in Urdu in the alphabetical order.

(3) The Returning Officer shall, on the day next following the withdrawal day, publish the list of contesting candidates at some conspicuous place in his office and furnish a copy thereof to the Commissioner and also to each of the contesting candidates.

¹[7A. **Retirement of contesting candidate.**—(1) A contesting candidate may, by notice in writing signed by him and delivered to the Returning Officer by 12 noon on the day immediately preceding the polling day, either in person or by an agent authorised by him in writing in this behalf, retire from the election.

(2) A notice under sub-rule (1) shall, in no circumstances, be open to recall or cancellation.

(3) On receiving a notice of retirement under sub-rule (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 some conspicuous place in his office and thereupon such candidate shall cease to be a contesting candidate.]

8. **Declaration of result after scrutiny.**—The result of an uncontested election shall not be declared under sub-section (1) of section 18 unless the Returning Officer has ascertained in writing from the Commissioner that no appeal has been filed against the rejection of any nomination paper or that, if an appeal has been filed, no nomination rejected by the Returning Officer has been accepted on such appeal.

9. **Form of ballot paper.**—(1) Every ballot paper shall be in such form as may be specified by the Commissioner and the names of the contesting candidates shall be written on it in Urdu.

(2) The names of contesting candidates shall be arranged on the ballot paper in the same order as shown on the list of contesting candidates prepared under rule 7.

(3) If two or more candidates bear the same name, they shall be distinguished by adding the names of their father.

¹Inserted vide S.R.O. 155(1)88, dated 29-02-1988.

CHAPTER III

THE POLL

10. **Agent.**—(1) A contesting candidate may, before the commencement of the poll, appoint not more than one agent, and shall give notice thereof in writing to the Returning Officer.

(2) The appointment of an agent under sub-rule (1) may at any time be revoked by the candidate and when it is so revoked or the agent dies, another person may be appointed by the candidate to be an agent; and a notice of such appointment shall be given to the Returning Officer.

11. **Ballot boxes.**—(1) The ballot boxes shall be such as may be provided by the Commissioner.

(2) The Returning Officer shall ensure, in the presence of such of the contesting candidates or their agents as may be present, before the commencement of the poll that each box is empty and seal it in the balloting position and so place it within his sight as to be ready to receive the ballot papers.

12. **Admission to polling station.**—The Returning Officer shall, subject to such instructions as the Commissioner may give, so regulate the entry of voters to the polling station that only one voter is admitted at a time and exclude therefrom all other persons except—

- (a) any person on duty in connection with the election ;
- (b) the contesting candidates, or one agent of each contesting candidate; or
- (c) such other person as may specifically be permitted by the Returning Officer.

13. **Arrangements at the polling station.**—(1) There shall be displayed, outside the polling station, a copy of the list of contesting candidates.

(2) To enable the voters to mark their ballot papers in secret, the Returning Officer shall set up one or more voting booths screened from observation where voters shall record their votes.

(3) The Commissioner shall provide sufficient number of ballot boxes, copies of the lists of voters, ballot papers, stamps for marking the official mark, instruments for indicating preferences on the ballot papers and such other articles as may be necessary for facilitating the casting of votes.

14. **Maintenance of order at the polling station.**—(1) The Returning Officer shall keep order at the polling station and may remove or cause to be removed any person who misconducts himself at the polling station or fails to obey any lawful order of the Returning Officer.

(2) Any person removed under sub-rule (1) from the polling station shall not, without the permission of the Returning Officer, again enter the polling station during the day.

(3) The powers under this rule shall not be so exercised as to deprive a voter of an opportunity to cast his vote.

15. **Issue of identity cards.**—(1) Each voter shall carry with him an identity card issued to him by the Secretary of the Assembly of which he is a member and shall, if so required, show the same to the Returning Officer before a ballot paper is issued to him.

(2) The Returning Officer shall, after satisfying himself about the identity of the voter and after ensuring that he has not already voted, put a tick mark against the name of the voter in the list of voters, enter the name of the voter on the counterfoil of the ballot paper and, after stamping the ballot paper on its back with the official mark and initialling it, hand it over to the voter.

(3) No ballot paper shall be issued to a voter unless it has been stamped with an official mark and initialled.

(4) No ballot paper shall be delivered to a voter unless he has put his signature on the counterfoil of the ballot paper in token of the receipt of the ballot paper.

16. **Voting procedure.**—(1) A voter, on receiving the ballot paper, shall forthwith—

- (a) proceed to the voting booth ;
- (b) record his vote in accordance with rule 17 ;
- (c) fold the ballot paper so as to conceal his vote ; and
- (d) insert the ballot paper into the ballot box.

(2) No voter shall be allowed to enter the voting booth when another voter is inside it.

(3) A voter shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper into the ballot box.

17. **Manner of recording vote.**—In giving his vote, a voter—

- (a) shall place on his ballot paper the figure 1 opposite the name of the candidate for whom he wishes to vote in the first instance; and
- (b) may, in addition, place on his ballot paper the figures 2, 3 and 4 and so on, in the order of his preference, opposite the names of the other candidates.

Explanation.—The figures referred to in this sub-rule may be marked against different names either in English or in Urdu but not in both and shall not be marked in words.

18. **Manner of marking ballot paper if voter is incapacitated.**—(1) If a voter is blind or is physically or otherwise so incapacitated as to require the help of a companion, the Returning Officer may allow him to be accompanied by a companion of not less than twenty-one years of age; and, in case the disability is such that the voter cannot mark the ballot paper himself, the person accompanying the voter may mark the ballot paper as indicated by the voter :

Provided that the person allowed to accompany the voter shall not himself be a candidate.

(2) If the ballot paper is to be marked by the companion, the Returning Officer shall make it clear to him that he must mark the ballot paper for the candidate of the voter's choice and that he must not divulge to any one the voter's choice of candidate.

(3) the Returning Officer shall maintain a list of voters on whose behalf the ballot papers have been marked by their companions.

19. **Spoilt ballot papers.**—A voter who has inadvertently spoiled his ballot paper so that it cannot be used may, after satisfying the Returning Officer about the fact of inadvertence, return the ballot paper to the Returning Officer who shall issue another ballot paper after cancelling the spoilt ballot paper which shall be placed in a separate packet labelled spoilt ballot papers, noting the fact of cancellation on the counterfoil also.

20. **Stray ballot papers.**—If any ballot paper which has been issued to a voter has not been inserted by him into the ballot box but is found anywhere else, it shall be cancelled and accounted for as spoilt ballot paper.

21. **Sealing of ballot box after poll.**—After the close of the poll, the Returning Officer shall, in the presence of such of the contesting candidates and the agents of such candidates as may be present, close the slit for insertion of ballot paper of each ballot box :

Provided that it shall not be necessary to seal the slit if the counting of votes is to begin immediately after the close of the poll.

CHAPTER IV

COUNTING

22. **Opening of ballot boxes and counting of votes.**—(1) The Returning Officer shall, after notice to the contesting candidates as to the time and place of counting, open the ballot boxes in the presence of such of the contesting candidates, and their agents as may be present.

(2) The Returning Officer shall—

- (a) proceed to count the ballot papers taken out therefrom and record their number in a statement ;
- (b) scrutinise the ballot papers taken out of the ballot boxes;
- (c) separate the ballot papers which he deems valid from those which he rejects under sub-rule (3) endorsing on each ballot paper so rejected the word 'rejected' and the grounds of rejection.

(3) A ballot paper shall be invalid—

- (a) on which figure I is not marked ; or
- (b) on which figure I is set opposite the names of more than one candidates, or is so placed as to render it doubtful as to which candidate it is intended to apply ; or
- (c) on which figure I and some other figure are set opposite the name of the same candidate ; or
- (d) on which there is a mark or writing or to which some object is attached by which the voter can be identified ; or
- (e) which is unmarked or void on the ground of uncertainty ; or

(f) which does not bear the official mark or initials of the Returning Officer.

23. **Arrangement of valid ballot papers.**—After rejecting the ballot papers which are invalid, the Returning Officer shall—

- (a) arrange the ballot papers in parcels according to the first preference recorded for each candidate ;
- (b) count and record the number of the ballot papers in each parcel and check the total number thereof; and
- (c) credit to each candidate the value of the ballot papers on which preference for him has been recorded.

24. **Counting of votes where one seat is to be filled.**—(1) At any election, where only one seat is to be filled, every valid ballot paper shall be deemed to be of the value of 1 at each count, and the quota sufficient to secure the return of a candidate at the election shall be determined as follows :—

- (a) add the values credited to all the candidates ;
- (b) divide the total by 2 ; and
- (c) add 1 to the quotient ignoring the remainder, if any, and the resulting number is the quota.

(2) If, at the end of the first or any subsequent count, the total value of the ballot papers credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, that candidate shall be declared elected.

(3) If, at the end of any count, no candidate can be declared elected, the Returning Officer shall—

- (a) exclude from the poll the candidate who upto that stage has been credited with the lowest value ;
- (b) examine all the ballot papers in his parcel and sub-parcels, arrange the un-exhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of papers in each such sub-paragraph and credit it to the candidate for whom such preference is recorded, transfer the sub-paragraph to that candidate and make a separate sub-paragraph of all the exhausted papers; and

- (c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota.

(4) If, when a candidate has to be excluded under paragraph (a) of sub-rule (3), two or more candidates have been credited with the same value and stand lowest on the poll, the candidate for whom the lowest number of original votes is recorded shall be excluded and, if this number also is the same, the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(5) If two or more candidates are lowest on the poll and each has the same value of votes at all counts the Returning Officer shall decide by lot which of them shall be excluded.

25. **Ascertaining the quota.**—At any election, where more than one seat is to be filled, every ballot paper shall be deemed to be of the value of 100 and the quota sufficient to secure the return of a candidate at the election shall be determined as follows :—

- (a) add the value credited to all the candidates under paragraph (c) of rule 23 ;
- (b) divide the total by a number which exceeds by 1 the number of seats to be filled ; and
- (c) add 1 to the quotient ignoring the remainder, if any, and the resultant number is the quota.

26. **General instructions.**—(1) For the purpose of counting of votes, the Returning Officer shall disregard all fractions and ignore all preferences recorded for candidates already elected or excluded from the poll.

(2) A candidate shall be deemed to have been elected if, at the end of any count or at the transfer of any parcel or sub-parcel of an excluded candidate, the value of ballot papers credited to such candidate is equal to or greater than the quota, and no further ballot paper shall be transferred to him.

27. **Transfer of surplus.**—(1) If at the end of any count the value of the ballot papers credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provisions of this rule to the continuing candidates, according to the preferences indicated on the ballot papers of that candidate.

(2) If more candidates than one have a surplus, the largest surplus shall be dealt with first and the others in the order of magnitude :

Provided that every surplus arising on the first count shall be dealt with before those arising on the second count and so on.

(3) If more candidates than one have an equal surplus arising out of the same count, the surplus of the candidate credited with the greatest value at the earliest count at which the values credited to these candidates were, unequal, shall be dealt with first and, where the values credited to such candidates were equal at all counts, the Returning Officer shall determine by lot which surplus will be dealt with first.

(4) If the surplus of any candidate to be transferred arises from original votes only, the Returning Officer shall examine all the papers in the parcel of that elected candidate, sort out un-exhausted papers into sub-parcels according to the next available preference recorded thereon and shall make a separate sub-paragraph of the exhausted ballot papers.

(5) If the value credited to an elected candidate whose surplus is to be transferred arises from original and transferred votes, or from transferred votes only, the Returning Officer shall examine the ballot papers contained in the sub-paragraph last transferred to the elected candidate.

(6) If the total value of the unexhausted papers is equal to or less than the surplus the Returning Officer shall transfer each sub-paragraph of unexhausted papers to the contesting candidate indicated thereon as the voters' next preference, each being transferred at the value at which it was received by the candidate whose surplus is being transferred.

(7) When the total value of the unexhausted paper is less than the surplus, the exhausted papers shall be set aside at a value which is equal to the difference between the surplus and the total value of the unexhausted papers.

(8) If the total value of the unexhausted papers is greater than the surplus, the Returning Officer shall transfer each paper in each sub-paragraph of unexhausted papers to the continuing candidate indicating thereon as the voters' next preference and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of unexhausted papers (fractional remainders being disregarded), except that the consequential loss of the value shall be noted on the result sheet.

(9) The papers transferred to each candidate shall be added in the form of a sub-paragraph to the papers already belonging to such candidate.

(10) All papers in the parcel or sub-paragraph of an elected candidate not transferred under this rule shall be set apart as finally dealt with.

28. **Exclusion of candidates lowest on the poll.**—If, at the end of any count, no candidate has a surplus and one or more seats remain unfilled, the Returning Officer shall exclude from the count the candidate credited with the lowest value, shall sort the unexhausted papers into sub-parcels according to the next available preferences recorded thereon and shall transfer each sub-parcel to the contesting candidates for whom the next preference is recorded.

29. **Order of transfer of sub-parcel.**—(1) The parcel containing the original votes of excluded candidate shall be transferred first, the transfer value of each paper being 100.

(2) The sub-parcels containing transferred votes shall then be transferred in the order in which and at the value at which the excluded candidate obtained them.

(3) Each such transfer shall be deemed to be a separate transfer.

(4) When a candidate has been excluded and as a result of transfer of his votes another candidate has been elected with a surplus, in such a case his surplus votes shall be transferred before another exclusion is considered.

(5) In the transfer of each parcel of sub-parcel, a separate sub-parcel shall be made of the exhausted papers which shall be set aside at the value at which the excluded candidate obtained them.

30. **Filling the last vacancies.**—(1) If, at the end of any count as a result of transfer of papers, the number of continuing candidates is equal to the number of vacancies to be filled, no further transfer shall be made.

(2) When the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates shall thereupon be deemed to be elected.

(3) When, at the end of any count, only one vacancy remains unfilled and the value credited to some one continuing candidate exceeds the total of the value credited to the other continuing candidates together with any other surplus not transferred, that candidate shall thereupon be deemed to have been elected and no further transfer shall be made.

(4) When, at the end of any count, only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes at all counts and no surplus remains capable of transfer, the Returning Officer shall decide by lot which of them shall be excluded and, after excluding him in the manner aforesaid, declare the other candidate to be elected.

31. **Equality of candidates lowest on the poll.**—(1) If at any time it becomes necessary to exclude a candidate and two or more candidates have the same value of votes and are the lowest on the poll, regard shall be had to the original votes of each candidate and the candidate for whom fewest original votes are recorded shall be excluded and, if the value of their original votes is equal, the candidate with the smallest value at the earliest count at which these candidates had unequal values shall be excluded.

(2) If two or more candidates are lowest on the poll and each has the same value of votes at all counts, the Returning Officer shall decide by lot which candidate shall be excluded.

32. **Provision for recounting.**—(1) Any candidate or, in his absence, his agent may at any time during the counting of votes, either before commencement or after the completion of any transfer of votes, whether surplus or otherwise, request the Returning Officer to re-examine and recount the papers of all or any of the candidates, not being papers set aside at any previous transfer as finally dealt with, and the Returning Officer shall forthwith re-examine and recount the same accordingly:

Provided that nothing, in this sub-rule shall make it obligatory on the Returning Officer to recount the same votes more than once.

(2) The Returning Officer may, in his discretion, recount the votes either once or more than once in any case in which he is not satisfied as to the accuracy of any previous count.

[33. **Illustration of procedure as to the count, etc.**—For election to the general seats in the Senate an illustration of the procedure as to the counting of votes in accordance with these rules is given in Part 'A' of the Schedule and an illustration for election to the seats reserved for the ulema, technocrats and other professionals is given in Part 'B' thereof.]

CHAPTER V

ELECTION RETURN

34. **Return by Returning Officer.**—On the completion of counting, the Returning Officer shall prepare and certify a return of the election in Form VI and permit any candidate or his agent to take a copy or extract from such return.

35. **Grant of certificate of election to returned candidate.**—At the request of a candidate who has been declared to be elected, the Returning Officer

¹ Substituted *vide* S.R.O. 199(1) 85. dated 7-3-85.

may grant to such a candidate a certificate of election in Form VII and obtain from the candidate an acknowledgement of its receipt duly signed by him.

36. Documents to be sent to, and retained by, the Commissioner.—(1) The Returning Officer shall forward to the Commissioner—

- (a) separate packets containing the valid ballot papers and rejected ballot papers each of which shall be sealed 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 list of voters ;
- (d) the packets containing the result of the count ; and
- (e) such other papers as the Commissioner may direct.

(2) The Returning Officer shall endorse on each packet forwarded under sub-rule (1) the description of its contents, the date of the election to which the contents relate and the name of the Province for which the election was held.

(3) The Commissioner shall retain the documents contained in the packets received under sub-rule (1) for a period of one year from the date of their receipt, and thereafter shall, unless otherwise directed by the Tribunal, cause them to be destroyed.

(4) The documents retained by the Commissioner under sub-rule (3), except the ballot papers, shall be open to public inspection during office hours on payment of a fee at the rate of one rupee for each document.

(5) Copies of, or extracts from, the documents mentioned in sub-rule (4) shall be furnished upon an application made by any person on payment of a fee at the rate of one rupee for the first two hundred words or a fraction thereof and fifty paise for every additional hundred words or a fraction thereof.

(6) Every application for inspection of documents or supply of copies under sub-rule (4) and sub-rule (5) shall be accompanied by court fee stamps of the requisite value.

CHAPTER VI

ELECTION EXPENSES

37. Account of election expenses.—(1) Each candidate shall keep and maintain a register of receipts and expenditure in Form VIII.

(2) The return of election expenses required to be submitted under section 29 shall be in Form VIII.

(3) All vouchers shall be kept along with the account of election expenses arranged according to the date of payment and serially numbered and such serial number shall be entered in the appropriate column of the relevant account.

38. **Affidavit.**—The affidavit referred to in sub-section (2) of section 29 shall be sworn by a candidate in Form IX.

CHAPTER VII

ELECTION DISPUTES

39. **Presentation of election petition.**—(1) An election petition may be presented by any candidate in person or by a representative authorised by him in writing in this behalf or by registered post, but not otherwise.

(2) An election petition, if sent by registered post, shall be deemed to have been filed in time if it is posted within the period specified in section 34.

(3) An election petition not filed within the period specified in section 34 shall be returned to the petitioner.

40. **Withdrawal of respondents.**—A notice under section 55 by a respondent in an election petition shall be in Form X.

41. **Supply of copies of decisions on petition.**—(1) Copies of any interim or final orders passed by a Tribunal on any election petition may be furnished to the parties to the petition by the Tribunal on an application in writing.

(2) The fees for the supply of copies mentioned in sub-rule (1) shall be one rupee for the first two hundred words or a fraction thereof and fifty paise for every additional hundred words or a fraction thereof.

(3) Every application for the supply of copies under sub-rule (1) shall be accompanied by court-fee stamps of the requisite value.

42. **Order of production of documents.**—(1) The Tribunal may order the opening of packets of counterfoils and certificates or the inspection of any counted ballot papers.

(2) An order under sub-rule (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-rule (1) the production by the Commissioner 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 packet or ballot papers so produced shall be *prima facie* evidence that the ballot papers 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 counterfoil having a number, shall be *prima facie* evidence that the voter whose vote was given by the ballot paper was the voter who had on the list of voters the same number as was written on the counterfoil.

(5) Save as in this rule provided, no person shall be allowed to inspect any rejected or counted ballot paper in the possession of the Commissioner.

¹[CHAPTER-VIII

MISCELLANEOUS

43. **Submission of statement of assets and liabilities.**— The statement of assets and liabilities referred to in section 25A shall be submitted in Form-XI.

44. **Inspection of documents, etc.**— (1) The nomination form, accompanying declarations and statements, including the statements of assets and liabilities submitted under sub-section (2) of section 11 and/or section 25A shall be open to inspection by the public, during office hours on payment of fee or ten rupees per page in the shape of court fee stamps.

(2) The copies of documents referred to in sub-rule (1) may be supplied to a person, making application in that behalf, on payment of fee of ten rupees per page in the shape of court fee stamps.].

¹ Added *vide* S.R.O. (1)/2002, dated 17-10-2002.

FORM-I
(See rule 3)

NOMINATION FOR ELECTION TO THE SENATE

(To be filled in by the proposer)

(1) I.....
(Name of proposer)

a member of *National Assembly/Provincial Assembly from Constituency
No..... do hereby propose the name of
Mr./Mrs./Miss.....
(Name of candidate)

son/wife/daughter of.....
resident of
(address)

whose name is entered at serial No..... in the electoral roll
of
(name of electoral area, tehsil/taluka and district)

as a candidate for election from.....*Province/Federal
Capital against a *general seat or a seat reserved for *Ulema/*Technocrats or
*women.

Date.....

Signature of Proposer

(To be filled in by the seconder)

(2) I.....
(Name of seconder)

a number of *National Assembly/Provincial Assembly from Constituency
No. do hereby second the nomination
of the above mentioned candidate.

Date.....

Signature of Secunder

Note : Please fill in the Form in capital letters.

*Strike off the words not applicable.

DECLARATION AND OATH BY THE PERSON NOMINATED

1. I, the above mentioned candidate, hereby declare on oath that,—
- (i) I have consented to the above nomination and that I fulfill the qualifications specified in Article 62 of the Constitution and I am not subject to any of the disqualifications specified in Article 63 of the Constitution or any other law for the time being in force for being elected as a member of the Senate.

* (ii) I belong to
(Name of political party)

OR

I do not belong to any political party.

2. I, the above mentioned candidate, solemnly swear that,—

** (i) I believe in the absolute and unqualified finality of the Prophethood of Muhammad (Peace be upon him), the last of the prophets and that I am not the follower of any one who claims to be a Prophet in any sense of the word or of any description whatsoever after Prophet Muhammad (Peace be upon him), and that I do not recognize such a claimant to be prophet or a religious reformer, nor do I belong to the Qadiani group or the Lahori group or call myself an Ahmadi.

(ii) I will be faithful to the declaration made by the Founder of Pakistan Quaid-e-Azam Muhammad Ali Jinnah, that Pakistan would be a democratic state based on Islamic principles of social justice. I will bear true faith and allegiance to Pakistan and uphold the sovereignty and integrity of Pakistan and that I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan.

3. I hereby solemnly declare to the best of my knowledge and belief that,—

(i) no loan for an amount of two million rupees or more obtained from any bank, financial institution, cooperative society or corporate body in my own name or in the name of my spouse or any of my dependents, or any business concern mainly owned by me or the aforesaid, stands unpaid for more than one year from the due date, or has got such loan written off; and

*Strike off the words not applicable.

**For Mulsim candidates only

- (ii) I, my spouse or any of my dependents or a business concern mainly owned by me or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filing of nomination paper.

Explanation.— For the purpose of these declarations, the expression—

- (i) “loan” shall mean any loan, advance, credit or finance obtained or written off on or after the 31st day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court or tribunal, including the High Court and the Supreme Court ;
- (ii) “mainly owned” shall mean holding or controlling a majority interest in a business concern;
- (iii) “taxes” include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;
- (iv) “government dues and utility charges” shall, *inter-alia*, include rent, charges of rest houses or lodges owned by the Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

*4. I hereby declare on oath that following cases of criminal offences were pending against me, six months prior to filing of this nomination :

Number of case	Name of the Court

OR

I hereby declare on oath that no case of criminal offences was pending against me, six months prior to filing of this nomination.

5. My educational qualification is _____
 6. My present occupation is _____
 7. My National Identity Card No. is _____
 8. My National Tax Number, if any, is _____
- } Attested copies
to be Annexed

9. The statement of assets and liabilities of my own, spouse (s), dependents as on 30th June, _____ is enclosed.

10. The income tax paid by me during the last three assessment years/ financial years is given hereunder:—

Assessment year	Financial year	Total Income Tax paid

11. The land revenue paid by me during the following last three financial years :—

Financial year	Total Amount of Land Revenue Paid

Date.....

Signature of Candidate

Statement of Assets and liabilities

I,..... a candidate for election to the Senate from *Province/Federal Capital....., hereby declare on solemn affirmation that no immovable and moveable property, including bonds, shares, certificates, securities, insurance policies and jewellery, other than specified herein below, is held by me, my spouse(s) and dependents on the 30th day of June, _____.

*Strike off the words not applicable.

ASSETS

	Cost of Assets	Present value of property	Remarks
<p><u>I. IMMOVABLE PROPERTY</u></p> <p>Open plots, houses, apartments, commercial buildings, under construction properties, agricultural property, etc.</p> <p>(a) <u>Held within Pakistan*</u></p> <p>(i) _____</p> <p>(ii) _____</p> <p>(iii) _____</p> <p>(b) <u>Held outside Pakistan*</u></p> <p>(i) _____</p> <p>(ii) _____</p> <p>2. MOVEABLE ASSETS</p> <p>(a) <u>Business capital within Pakistan</u></p> <p>(i) Name of business</p> <p>(ii) Capital amount</p> <p>(b) <u>Business capital outside Pakistan</u></p> <p>(i) Name of business</p> <p>(ii) Capital amount</p> <p>(c) <u>Assets brought or remitted from outside Pakistan*</u></p> <p>(i) Bank drafts/Remittances</p> <p>(ii) Machinery</p> <p>(iii) Other</p>			

*Details to be annexed.

<p>(d) <u>Assets created out of remittances from abroad*</u></p> <p>(e) <u>Investments</u></p> <p>(i) Stock and Shares</p> <p>(ii) Debentures</p> <p>(iii) National Investment (Unit) Trust</p> <p>(iv) ICP Certificates</p> <p>(v) National Savings Schemes</p> <p style="padding-left: 20px;">- Defence Savings Certificate</p> <p style="padding-left: 20px;">- Special Savings Certificate</p> <p style="padding-left: 20px;">- Regular Income Certificate</p> <p>(vi) Unsecured loans</p> <p>(vii) Mortgages</p> <p>(viii) Any other</p> <p>(f) <u>Motor Vehicles **</u></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 25%;">Make</th> <th style="width: 25%;">Model</th> <th style="width: 40%;">Reg. No.</th> </tr> </thead> <tbody> <tr> <td>(i)</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>(ii)</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </tbody> </table> <p>(g) <u>Jewellery, etc.</u></p> <p style="padding-left: 20px;">Weight _____</p> <p style="padding-left: 20px;">Description _____</p> <p>(h) <u>Cash and Bank Accounts*</u></p> <p>(i) Cash in hand</p> <p>(ii) Cash at Bank</p> <p style="padding-left: 40px;">Account No. Bank & Branch</p> <p>Current _____</p> <p>Deposit _____</p> <p>Savings _____</p> <p>Other Deposits _____</p> <p>(i) <u>Furniture, Fittings & articles of personal use—</u></p> <p>(j) <u>Assets transferred to any person—</u></p> <p>(i) Without adequate consideration, or</p> <p>(ii) by revocable transfer</p> <p>(k) <u>Any other assets</u></p>		Make	Model	Reg. No.	(i)	_____	_____	_____	(ii)	_____	_____	_____			
	Make	Model	Reg. No.												
(i)	_____	_____	_____												
(ii)	_____	_____	_____												

* Details to be annexed.

** Use extra sheets if necessary.

LIABILITIES

	Amount	Remarks
(i) Mortgages secured on Property or land		
(ii) Unsecured Loans owing		
(iii) Bank Overdraft		
(iv) Bank Loans		
(v) Amounts due under Hire Purchase Agreement		
(vi) House Building Loans		
(vii) Advances from Provident Funds etc.		
(viii) Other debts due*		
(ix) Liabilities in the names of minor children (in respect of assets standing in their names)		
<u>Total</u>		

* Details to be annexed.

Date.....

Signature of candidate

(To be filled in by the Returning Officer)

Serial Number of nomination paper

This nomination paper along with Personal History Form (in triplicate) was delivered to me at my office atonby.....
(hours) (date) (person)

being candidate.

Date.....

Returning Officer

(Decision of Returning Officer accepting or rejecting the nomination paper on the day fixed for scrutiny)

I have examined this nomination paper and decide as follows :—

.....

(In case of rejection, state brief reasons)

Date.....

Returning Officer

RECEIPT**(To be filled in by the Returning Officer)**

Serial Number of nomination paper.....

The nomination paper of Mr./Miss/Mrs.....a candidate for election to the Senate of Pakistan was delivered to me at my office at..... (hours) on(date) by.....(person)

All nomination papers will be taken up for scrutiny at.....
(hours)on..... at.....
(date) (place)

Date.....

Returning Officer

**ORIGINAL
DUPLICATE
TRIPLICATE**

Instructions : 1. This form is to be filled by a candidate for _____ _____ in triplicate.	Election Commission of Pakistan _____ BIO DATA	PHOTO
2. Please answer each question clearly and completely. 3. Please type or write in ink in capital letters.		

1. Name

2. Father/Husband's Name

3. Date of birth	4. Place of birth	5. Marital status Single <input type="checkbox"/> Married <input type="checkbox"/> Widow(er) <input type="checkbox"/> Divorced <input type="checkbox"/>
6. Present address :		Present telephone No. Office : Home :

8. Education

Years attended		Name and location of Institution of learning	Academic degrees and certificates or diplomas obtained	Main field of study
From	To			

Please deliver complete form (in triplicate) with photographs along with your nomination form.

9. Professional experience

A. Title of present post and nature of duties

Employer (Name and address) and type of business.

From (the date since employed)

B. From

To (the date when the
previous employment
held)

Employer (Name and address) and type of business

Title of post and nature of duties.

C. From

To

Employer (Name and address) and type of business

From (the date since employed)

Please use additional sheets if required.

D. Form

Employer (Name and address) and type of business.

Title of post and nature of duties.

10. Please list your special qualifications and skills :

11. Please list any significant publications you have written
(Do not attach).

12. Have you previously been a Minister, Advisor, Senator, a Member of
Majlis-e-Shoora, Provincial Council, National Assembly or Provincial
Assembly or a local council?

Yes

No

If the answer is "Yes" please indicate when and where.

-
13. Please list your present and past memberships, if any, of political parties or/ and societies concerned with civic, or public affairs.

-
14. Have you ever been indicated in a criminal proceeding or convicted for the violation of any law (excluding minor traffic violations)?

Yes

No

If yes, please give full particulars of each case in an attached statement.

I certify that the statements made by me are true, complete and correct to the best of my knowledge and belief.

Date.....

Signature of the candidate.....]

FORM II

[See rule 4(1)]

FORM OF DEPOSIT REGISTER FOR ELECTION TO THE SENATE

Sl. No.	Candidate's name	Sl No. of nomination filed	Amount deposited	Particulars of the Bank or Treasury receipt, or, if received in cash of the receipt issued in Form-III	Signature of the Returning Officer	Disposal of the cash deposit/Bank draft (and remarks, if any)
1	2	3	4	5	6	7

FORM III

[See rule 4(2)]

RECEIPT

Sl. No. Sl. No.
Sum received..... Received a sum of Rs.
Deposited by..... (figure)..... (in
Sl. No. in the Deposit Register..... word) in cash from.....
....., a candidate for election as member
Candidate's Name..... of the Senate and entered in the Deposit
Register under Sl. No.
Date..... Date.....)

Date..... Signature of the Returning Officer. Date..... Signature and seal of the Returning Officer.

FORM IV

[See rule 6(1)]

LIST OF VALIDLY NOMINATED CANDIDATES

Election to the Senate

FromProvince

Serial No.	Name of candidate	Name of father/ husband	Address of Candidate
1	2	3	4

Place

Date

Returning Officer.

FORM V

[See rule 7(1)]

LIST OF CONTESTING CANDIDATES

Election to the Senate

From Province

Serial No.	Name of the contesting candidates in alphabetical order determined according to Urdu language	Name of the father/husband	Address of the contesting candidates
1	2	3	4

1.
2.
3.
4.
etc.

Notice is hereby given that the poll shall be taken between the hours of
.....on (date)

Place

Date

Returning Officer.

FORM VI

[See rule 34]

RETURN OF ELECTION

Election to the Senate

From Province.

The result of poll and of the transfer of votes is as follows :—

Number of valid votes.....

Number of members to be elected.....

Quota (number of votes sufficient to secure the election of a candidate)

.....

Name of Candidates	First Count	Second Count		Third Count		Fourth Count		Names of elected candidates and order of election
	Votes polled by each candidate	Trans-fer of	Result	Trans-fer of	Result	Trans-fer of	Result	
.....								
.....								

Value of exhausted papers,

Loss due to fractions,

Total

I declare that—

(1) (Name).....

(Address).....

(2) (Name).....

(Address).....

etc..... has/have been duly elected.

Date.....

Place.....

(Signature)
Returning Officer.

FORM VII

CERTIFICATE OF ELECTION

[See rule 35]

I, the Returning Officer for election to the Senate from the
..... Province hereby certify that I have on the
day of 19..... declared
Mr./Mrs./Miss
to have been duly elected to be a member of the Senate of Pakistan and that in
token thereof I have granted to him/her this certificate of election.

Place

Date.....

Returning Officer.

FORM VIII
 [See rule 37]
RETURN OF ELECTION EXPENSES
 Election to the Senate

From.....Province

Name of the candidate.....

Address of the candidate.....

PART A.— ACCOUNT OF ELECTION EXPENSES

The date on which expenditure was incurred or authorised	The nature of expenditure	The amount of expenditure			The date of payment	The name and address of the payee	The serial number of vouchers in the case of amount paid	The serial number of bills, if any in the case of amount outstanding	The name and address of the person to whom the amount outstanding is payable
		the amount paid (i)	the amount outstanding (ii)	total of (i) and (ii)					
(a)	(b)	(c)		(d)	(e)	(f)	(g)	(h)	

PART B.— ACCOUNT OF DISPUTED CLAIMS

The date on which the claim is alleged to have arisen	Name and address of the claimant	The nature of the claim	The amount of the claim	Ground on which the claim is disputed
(a)	(b)	(c)	(d)	(e)

PART C.— ACCOUNT OF UNPAID CLAIMS

The date on which the claim arose	The name and address of the claimant	The nature of the unpaid claim	The amount of the unpaid claim	The reasons for non-payment of the claim
(a)	(b)	(c)	(d)	(e)

FORM IX

[See rule 38]

**AFFIDAVIT TO BE SWORN BY A CANDIDATE AT THE SENATE
ELECTION**

I..... (name), having been a candidate in the election to the Senate from..... Province make oath and say (declare on solemn affirmation) that :

1. In the afore-mentioned election, all expenses incurred, all moneys, securities or things of value received, all payments made, all claims settled and all accounts maintained in the course of or in connection with the election were incurred, received, made, settled and maintained by me or within my knowledge and under my control and direction.

2. All information given and all entries made in the return of election expenses and all vouchers, bills and other documents lodged by me with that return are, within my knowledge and belief, true and genuine.

Signature of Candidate.

Sworn/declared on solemn affirmation before me.....this..... day ofby.....who is personally known to me/ who has been identified by who is personally known to me.

Signature.

FORM-X

[See rule 38]

**NOTICE UNDER SECTION 55 OF THE SENATE (ELECTION)
ACT, 1975**

Election to the Senate

FromProvince
Before the Election Tribunal (Place)

In the matter of Election Petition No.of 200.....
..... Petitioner.

Versus
.....Respondent.

I (name), respondent, do hereby give notice
under section 55 of the Senate (Election) Act, 1975, that I do not intend to
contest the aforesaid petition.

Place Signature

Date Respondent

FORM-XI
(See rule 43)

STATEMENT OF ASSETS AND LIABILITIES

I, Member of the Senate of Pakistan from..... Province/Federal Capital hereby declare on solemn affirmation that no immoveable and moveable property, including bonds, shares, certificates, securities, insurance policies and jewellery, other than specified herein below, is held by me, my spouse(s) and dependents on 30th day of June,

ASSETS

	Cost of Assets	Present value of Property	Remarks
<p>1. <u>IMMOVEABLE PROPERTY</u></p> <p>Open plots, houses, apartments, commercial buildings, under construction properties, agricultural property, etc.</p> <p>(a) <u>Held within Pakistan*</u></p> <p>(i) _____</p> <p>(ii) _____</p> <p>(iii) _____</p> <p>(b) <u>Held outside Pakistan*</u></p> <p>(i) _____</p> <p>(ii) _____</p> <p>1. <u>IMMOVEABLE ASSETS</u></p> <p>(a) <u>Business capital within Pakistan</u></p> <p>(i) Name of business</p> <p>(ii) Capital amount</p> <p>(b) <u>Business capital outside Pakistan</u></p> <p>(i) Name of business</p> <p>(ii) Capital amount</p> <p>(c) <u>Assets brought or remitted from outside Pakistan**</u></p> <p>(i) Bank drafts/Remittances</p> <p>(ii) Machinery</p> <p>(iii) Other</p>			

*Strike off the words not applicable.

**Details to be annexed.

¹ Added vide SRO (1)/2002, dated 17-10-2002.

<p>(d) <u>Assets created out of remittances from abroad*</u></p> <p>(e) <u>Investments</u></p> <p>(i) Stock and Shares</p> <p>(ii) Debentures</p> <p>(iii) National Investment (Unit) Trust</p> <p>(iv) ICP Certificates</p> <p>(v) National Savings Schemes</p> <p> – Defence Savings Certificate</p> <p> – Special Savings Certificate</p> <p> – Regular Income Certificate</p> <p>(vi) Unsecured loans</p> <p>(vii) Mortgages</p> <p>(viii) Any other</p> <p>(f) <u>Motor Vehicles**</u></p> <table border="0"> <thead> <tr> <th></th> <th>Make</th> <th>Model</th> <th>Reg. No.</th> </tr> </thead> <tbody> <tr> <td>(i)</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>(ii)</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </tbody> </table> <p>(g) <u>Jewellery, etc.</u></p> <p>(i) Weight _____</p> <p>(ii) Description _____</p> <p>(h) <u>Cash and Bank Accounts*</u></p> <p>(i) Cash in hand</p> <p>(ii) Cash at Bank</p> <p>Account No. Bank & Branch</p> <p>Current _____</p> <p>Deposit _____</p> <p>Savings _____</p> <p>Other Deposit _____</p> <p>(i) <u>Furniture, Fittings & articles of personal use-</u></p> <p>(j) <u>Assets transferred to any person-</u></p> <p>(i) Without adequate consideration, or</p> <p>(ii) by revocable transfer</p> <p>(k) <u>Any other assets.</u></p>		Make	Model	Reg. No.	(i)	_____	_____	_____	(ii)	_____	_____	_____			
	Make	Model	Reg. No.												
(i)	_____	_____	_____												
(ii)	_____	_____	_____												

*Details to be annexed.

**Use extra sheets if necessary.

LIABILITIES

	Amount	Remarks
(i) Mortgages secured on Property or land		
(ii) Unsecured Loans owing		
(iii) Bank Overdraft		
(iv) Bank Loans		
(v) Amounts due under Hire Purchase Agreement		
(vi) House Building Loans		
(vii) Advances from Provident Funds etc.		
(viii) Other debts due*		
(ix) Liabilities in the names of minor children (in respect of assets standing in their names)		
Total		

*Details to be annexed.

VERIFICATION

I, S/o, W/o, D/o do hereby declare solemnly that, to the best of my knowledge and belief, the above statement of the assets and liabilities of myself, my spouse(s), dependents as on 30th June, — is correct and complete and nothing has been concealed therefrom.

Date

Signature of the Member].

SCHEDULE
 [PART 'A']
ILLUSTRATION
 (See rule 33)

Let it be assumed that there are ten members to be elected and there are twenty candidates, A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S and T.

First Count

Arrangement and counting of voting papers.—The voting papers having been examined, the papers that are invalid being rejected, the valid papers are arranged in separate parcels under the names of the candidates marked with figure 1. Each separate parcel is counted, and the result of the count may be supposed to be as follows :—

	<i>Valid Paper</i>
A	6
B	4
C	3
D	3
E	3
F	2
G	2
H	2
I	2
J	2
K	2
L	1
M	1
N	1
O	1
P	1
Q	1
R	1
S	1
T	1
	40

Each valid voting paper is deemed to be of the value of 100 and the values of the votes obtained by the respective candidates are as shown in the first count in the Result Sheet.

¹Added *vide* Notification of even number dated 18-10-1992.

The Quota

Ascertainment of quota.—It is found that the full total values in all the parcels is 4000. This total is divided by 11 (*i.e.*, the number which exceeds by one, the number of vacancies to be filled), and 364 (the quotient 363-disregarding the fractional remainder increased by (1) is the “Quota”, the value sufficient to secure the return of a candidate.

Candidate with quota deemed to be elected.—A’s and B’s values each exceed the quota and they are thus deemed to be elected.

Second Count

Transfer of su.plus.—A and B both have surpluses which have to be transferred.

Largest surplus first.—A’s surplus of 236, being the largest is first transferred. This surplus arises from original votes, and therefore, the whole of A’s papers are divided into sub-parcels according to the next available preferences thereon, a separate parcel being made of the non-transferable papers (any papers showing a second surplus for B—who, having a surplus, is deemed to be elected—being placed in the sub-parcel of the candidate for whom a third preference is indicated, or in the sub-parcel of non-transferable papers if a third preference is not indicated).

The result is found to be as follows :—

A next available preference is indicated for C on	2 papers
A next available preference is indicated for D on	1 paper
A next available preference is indicated for F on	1 paper
A next available preference is indicated for L on	1 paper
	<hr/>
Total of transferable papers	5 papers
Total of non-transferable paper	1
	<hr/>
Total of papers	6
	<hr/>

The values of the papers in the sub-parcels are :—

to C	200
to D	100
to F	100
to L	100
	<hr/>
Total value of transferable papers	500
Total value of non-transferable papers	100
	<hr/>
Value Total	600
	<hr/>

Value at which paper is to be transferred.—The surplus is less than the total value of the transferable papers. The surplus is, therefore, transferred as follows :

All the transferable papers are transferred, but at a reduced value, which is ascertained by dividing the surplus by the number of transferable papers. The reduced value of all the papers, when added together, with the addition of any value lost as the result of fractions being disregarded, equals the surplus. In this case the new

value of each paper transferred is $\frac{236 \text{ (the surplus)}}{5 \text{ (the number of transferable papers)}} = 47$;

the residue of the value of the five transferable papers, namely, 264 together with the non-transferable paper at its original value of 100, being required by A to constitute his quota. The loss of value owing to fractions being disregarded, as shown in the Result Sheet, is 1.

The values of the sub-parcels transferred are :—

C-94 (*i.e.*, 2 papers at the value of 47).

D-47 (*i.e.*, 1 paper at the value of 47).

F-47 (*i.e.*, 1 paper at the value of 47).

L-47 (*i.e.*, 1 paper at the value of 47).

The operations involved are summarised in the following table :—

TRANSFER OF A's SURPLUS

Value of surplus	236
Number of transferable papers	5
Number of non-transferable papers	1
Original value of each paper in A's parcel	100
Value of transferable papers	500
Value of non-transferable papers	100

New value of each paper transferred :—

$$\frac{\text{Surplus}}{\text{Number of transferable papers.}} = \frac{236}{5} = 47$$

Names of candidates indicated as the next available preference	No. of papers to be transferred	Value of sub-parcel to be transferred
C	2	94
D	1	47
F	1	47
L	1	47
Total	5	235
Number of non-transferable papers	1	—
Loss of value owing to disregarding of fractions	—	1
Total	6	236

The result of this operation is as shown on the Result Sheet under the heading Second Count.

THIRD COUNT

Transfer of Surplus arising at a prior count.—C now has surplus, which it is necessary to transfer, but B's surplus, having arisen at a prior count, is first transferred.

B's surplus of 36 is transferred in a similar manner to A's but as there are no non-transferable papers, the value at which these papers are transferred is

$$\text{ferred is } \frac{36}{4} = 9$$

The surplus is distributed, according to next available preferences, as follows:—

D—(1 × 9)	=	9
G—(1 × 9)	=	9
L—(1 × 9)	=	9
M—(1 × 9)	=	9
Loss of value owing to disregard of fraction.		<i>Nil</i>

36
 ———

FOURTH COUNT

Transfer of surplus only sub-parcel last received examined.—C's surplus of 30 is next to be transferred. In this case only the last sub-parcel received by C is taken into account. This sub-parcel consists of two papers transferred from A at the value of 47 each.

Surplus less than total value of the transferable papers.—The details are as follows :—

Value of C's surplus	30
Number of papers in sub-parcel	2
Number of transferable papers	2
Value of each paper	47
Value of transferable papers	94
New value of each paper transferred	30
	— = 15
	2

A next available preference is shown for M
on 1 paper and

A next available preference is shown for N
on 1 paper.

The papers are transferred at the value of 15 and this value is credited to M and N respectively, as shown on the Result Sheet.

FIFTH COUNT

Exclusion of a candidate.—No candidate now has a surplus, and one candidate has to be excluded. At the end of the fourth count, the lowest value credited to any candidate is 100. There are, however, six candidates to whom this value is credited, viz., O, P, Q, R, S, T who are also credited with equal values at all counts. One of these candidates has to be excluded. Two alternatives can be followed to do so.

Alternative I.—The Returning Officer draws lots and O is excluded in this way.

Alternative II.—The Returning Officer accordingly arranges the papers of these six candidates according to the next available preference recorded thereon for continuing candidates (including candidates O, P, Q, R, S, T.)

The result of this arrangement is as follows :—

On O's paper the next available preference is indicated for T.
 On P's paper the next available preference is indicated for S.
 On Q's paper the next available preference is indicated for R.
 On R's paper the next available preference is indicated for Q.
 On S's paper the next available preference is indicated for P.
 On T's paper the next available preference is indicated for M.

The values are therefore :—

for M 100
 for O *Nil*
 for P 100
 for Q 100
 for R 100
 for S 100
 for T 100

Thus the smallest value of next available preference indicated for candidates O, P, Q, R, S, T, is that shown for O, *ie*, nil.

Transfer at original value.—O is accordingly excluded. O's parcel consists of one original paper which is transferred to T at its value of 100 (there are no sub-parcels).

SIXTH COUNT

Determination by lot.—No candidate has a surplus, and there are now four candidates equal and lowest. As a result of similar procedure it is found that the values of the next available preferences are in this case equal for each of the candidates in question; the Returning Officer therefore determines by lot which of the candidates P, Q, R, S, is to be excluded.

The slip of paper containing the name of S is drawn first, S is thus excluded and the value of this paper (100) is transferred to P.

SEVENTH COUNT

Similarly R is excluded, and the value of his original vote (100) is transferred to Q, the next available preference.

EIGHTH COUNT

No candidate has a surplus, N is lowest, and is excluded. N's parcel of original votes contains 1 paper on which a next available preference is indicated for H. The value of this paper is 100, its original value.

Transfer of sub-parcel containing transferred votes.— The sub-parcel first received contains 1 paper which N received at a value of 15, and on which the next available preference is indicated for M.

The papers are transferred as follows :—

To H 1 paper at the value of 100.

To M 1 paper at the value of 15.

Each of these transfers is carried out separately, but the combined result is shown on the Result Sheet under the heading Eighth Count.

NINTH COUNT

There is still no surplus, M being credited with the lowest value, has to be excluded.

His parcel contains 1 original paper, on which the next available preference is expressed for E; this paper is, therefore, transferred to E at the value of 100. The value of E's votes now exceeds the quota, and he is declared elected.

M has also three sub-parcels, as follows :—

- (a) Sub-parcel received first, containing 1 paper at the value of 9. This paper bears a next preference for E, but as E is now elected, this paper is not given to E but is transferred instead to the next available preference after E, which is I.
- (b) Sub-parcel received second, containing 1 paper at the value of 15. The next available preference on this paper is for P.
- (c) Sub-parcel received third, containing 1 paper at the value of 15. This paper bears a next available preference for T.

Thus, the transfers in this count are as follows :—

to E 1 paper at the value of 100.

to I 1 paper at the value of 9.

to P 1 paper at the value of 15.

to T 1 paper at the value of 15.

TENTH COUNT

E's surplus of 36 must now be transferred. This arises from the last sub-parcel E received which contains 1 paper at the value of 100. This paper is therefore, transferred at the value of 36; the next available preference expressed on it is for T.

ELEVENTH COUNT

L is now lowest.

His parcel of original votes contains one paper, on which F is indicated as next preference.

This paper is transferred to F at the value of 100.

The sub-parcel first received contains one paper received at the value of 47, indicating no further available preference.

This paper is non-transferable at its value of 47.

In the sub-parcel net received, the paper contained therein indicates J as the next available preference.

This paper is transferred to J at its value of 9.

TWELFTH COUNT

Two candidates equal and lowest. Regard had to total value of original votes.—There is still no surplus. Two candidates are lowest, and are equal, K and Q being each credited with the value of 200. Regard is therefore had to the total value of original votes credited to these candidates, K had 200 and Q 100. Q is therefore, excluded.

(a) On examination of Q's parcels, it is found that in the parcel of original votes there is one paper on which no preference is indicated for a continuing candidate. (This paper indicated a next preference for R who has been already excluded).

(b) The sub-parcel received by Q from R on exclusion at the value of 100 indicates K as next available preference.

The value of 100 is added to the value of the non-transferable papers not effective in respect of the parcel.

The value of 100 is credited to K in respect of sub-parcel.

THIRTEENTH COUNT

Regard had to first count at which values were unequal.—There are now three candidates lowest, viz, G, I, J, the value in each case being 209.

The values were equal at the first count, and regard is therefore had to the earliest count at which they had unequal values.

			<i>First count</i>	<i>Third count</i>	<i>Ninth count</i>
G	..	..	200	209	209
I	..	..	200	200	209
J	..	..	200	200	200

J is thus lowest and is excluded.

J's parcel of original votes is examined and found to contain 2 papers (original value of 100 each).

On one paper the next available preference is indicated for G and on the other paper no preference is indicated for a continuing candidate.

The paper is accordingly transferred to G at a value of 100 and the non-transferable paper set aside at the value of 100.

The sub-parcel contains one paper received at the value of 9, which indicates I as next available preference. This paper is transferred to I at the value of 9.

FOURTEENTH COUNT

G and I, having each received votes by transfer on the thirteenth count, are no longer lowest; each has more votes than P, who is lowest with 215.

P is therefore excluded.

His parcel and sub-parcels (two) are similarly examined, and it is found that the next available preference on the original vote was for I.

Note.—The next preference was for S, who at this count is not a continuing candidate, having been excluded.

(a) In the sub-parcel first received, containing one paper (at the sixth count at the value of 100), a next available preference is indicated for T.

(b) In the next sub-parcel, containing one paper received at the value of 15 (ninth count), no further available preference is indicated.

The paper at (a) is transferred to T at the value of 100. The paper at (b) is set aside as not effective at the value of 15.

There are now six vacancies remaining to be filled, and there are seven continuing candidates. Two of these candidates, H and K, are lowest, but are equal. Upon examination it is found that at the first count (*viz.* the eighth), at which the values credited to them were unequal, K was lowest, K is, therefore, formally excluded. Thus the number of continuing candidates is equal to the number of vacancies remaining unfilled.

Last vacancies.—These remaining vacancies being filled, no further transfer is required.

⁵[Part 'B']

ILLUSTRATION

(See rule 33)

Let it be assumed that there are 19 seats which include 5 reserved seats for Ulma, technocrats and other professionals.

23 candidates are seeking election to general seats and of them 11 candidates are for reserved seats.

The procedure for election is as under :

- (i) All the candidates are listed on one ballot paper but the candidates for general and special seats are listed under separate categories "G" and "S".
- (ii) Every voter has to record 19 preferences on one ballot paper. 5 preferences must be recorded in category "S".
- (iii) Counting of votes will be done together. 14 candidates scoring the highest votes in category "G" and 5 candidates scoring the highest votes in category "S" will be declared elected, regardless of whether there are some candidates in category "G" whose scores are higher than those declared elected in category "S" or *vice versa*.

The following is the practical example :—

Category "G"

<i>Candidate</i>	<i>Score</i>	<i>Remarks</i>
A	1100	
B	900	
C	1400	
D	400	
E	500	
F	1000	

⁵Inserted vide S. R. O. 199(I)/85, dated 7-3-85.

H	700
J	800
K	1300
L	1200
M	800
N	300
O	200
Q	1400
R	1300
S	700
T	600
U	700
V	800
W	900
X	1000
Y	1100
Z	1200

Category "S"

AA	1100
BB	700
CC	300
DD	700
EE	1400
FF	500
GG	700
HH	400
JJ	400
KK	500
LL	600

The following who have scored the highest votes will be declared elected:—

Category "G"

C	1400
Q	1400
R	1300
K	1300
L	1200
Z	1200

A	1100
Y	1100
F	1000
X	1000
B	900
W	900
J	800
M	800

Category "S"

EE	1400
AA	1100
DD	700
BB	700
GG	700]

RESULT SHEET

Number of valid votes 40

Number of candidates to be elected 10 Quota (sufficient to secure the election of a candidate)

$$\frac{4000}{10+1} = 363 + 1 = 364$$

Total value of valid votes 4,000

Names of candidates	1st Count		2nd Count		3rd Count		4th Count		5th Count		6th Count		7th Count		8th Count	
	Value of votes	Transfer of A's surplus	Result	Transfer of B's surplus	Result	Transfer of C's surplus	Result	Transfer of O's votes	Result	Transfer of S's votes	Result	Transfer of R's votes	Result	Transfer of N's votes	Result	
A	600	(-)236	364		364		364		364		364		364		364	
B	400		400	(-)36	354		364		364		364		364		364	
C	300	+94	394		394	(-)30	364		364		364		364		364	
D	300	+47	347	+9	356		356		356		356		356		356	
E	300		300		300		300		300		300		300		300	
F	200	+47	247		247		247		247		247		247		247	
G	200		200	+9	209		209		209		209		209		209	
H	200		200		200		200		200		200		200	+100	300	
I	200		200		200		200		200		200		200		200	
J	200		200		200		200		200		200		200		200	
K	200		200		200		200		200		200		200		200	
L	100	+47	147	+9	156		156		156		156		156		156	
M	100		100	+9	109	+15	124		124		124		124	+15	139	
N	100		100		100	+15	115		115		115		115	-115	—	
O	100		100		100		100	-100	—		—		—		—	
P	100		100		100		100		100	+100	200		200		200	
Q	100		100		100		100		100		100	+100	200		200	
R	100		100		100		100		100		100	-100	—		—	
S	100		100		100		100		100	-100	—		—		—	
T	100		100		100		100	+100	200		200		200		200	
Non-transferable loss due to disregard of fractions		+1	1		1		1		1		1		1		1	
Totals	4,000		4,000		4,000		4,000		4,000		4,000		4,000		4,000	

RESULT SHEET—contd.

Names of candidates	9th Count		10th Count		11th Count		12th Count		13th Count		14th Count		Names of candidates elected
	Transfer of M's votes	Result	Transfer of E's surplus	Result	Transfer of L's votes	Result	Transfer of Q's votes	Result	Transfer of J's votes	Result	Transfer of P's votes	Result	
A		364		364		364		364		364		364	A 1st
B		364		364		364		364		364		364	B 2nd
C		364		364		364		364		364		364	C 3rd
D		356		356		356		356		356		356	D 5th
E	+100	400	-36	364		364		364		364		364	E 4th
F		247		247	+100	347		347		347		347	F 7th
G		209		209		209		209	+100	309		309	G 9th
H		300		300		300		300		300		300	H 10th
I	+9	209		209		209		209	+9	218	+100	318	I 8th
J		200		200	+9	209		209	-209	—		—	
K		200		200		200	+100	300		300		300	
L		156		156	-156	—		—		—		—	
M	-139	—		—		—		—		—		—	
N		—		—		—		—		—		—	
O		—		—		—		—		—		—	
P	+15	215		215		215		215		215	-215	—	
Q		200		200		200	-200	—		—		—	
R		—		—		—		—		—		—	
S		—		—		—		—		—		—	
T	+15	215	+36	251		251		251		251	+100	351	T 6th
Non-transferable					+47	47	+100	147	+100	247	+15	262	
Loss due to disregard of fractions		1		1		1		1		1		1	
Totals		4,000		4,000		4,000		4,000		4,000		4,000	

THE SENATE (ELECTION) ACT, 1975
(No. LI OF 1975)
AS MADE APPLICABLE TO THE FEDERALLY
ADMINISTERED TRIBAL AREAS, *VIDE*
NOTIFICATION S.R.O. 746(I)/75, DATED 7-7-1975

(101—102)

MINISTRY OF INTERIOR, STATES AND FRONTIER REGIONS**(States and F. R. Division)****NOTIFICATION***Islamabad, the 7th July, 1975*

S. R. O. 746(I)/75.—In exercise of the powers conferred by clause (3) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to direct that the Senate (Election) Act, 1975 (No. LI of 1975), shall, with immediate effect, apply to the Federally Administered Tribal Areas, with the following modifications, namely :

- (a) a reference in the said Act to a Province shall be construed as a reference to the Federally Administered Tribal Areas;
- (b) a reference in the said Act to the members of a Provincial Assembly shall be construed as a reference to the members of the National Assembly from the Federally Administered Tribal Areas; and
- (c) sub-section (3) of section 23 of the said Act shall have effect as if the following proviso were added thereto, namely :—

“Provided that a voter who is a member of the National Assembly from the Federally Administered Tribal Areas shall have as many votes as the number of seats to be filled.”

[F. 1(8) Sec. III/75.]

CH. FAZL-E-HAQUE,
Secretary.

THE SENATE (ELECTION) RULES, 1975

**AS MADE APPLICABLE TO THE FEDERALLY
ADMINISTERED TRIBAL AREAS *VIDE*
NOTIFICATION S.R.O. 747(I)/75, DATED 7-7-1975**

(105—106)

PRIME MINISTER'S SECRETARIAT (PUBLIC)

Rawalpindi, the 7th July, 1975

S. R. O. 747(D)/75.—In exercise of the powers conferred by section 88 of the Senate (Election) Act, 1975 (LI of 1975), as in force in the Federally Administered Tribal Areas, the Federal Government, in consultation with the Chief Election Commissioner, is pleased to direct that the following amendments shall be made in the Senate (Election) Rules, 1975, as in force in the said Areas, namely:—

In the aforesaid Rules,—

(a) After Chapter IV the following new Chapter shall be inserted, namely:—

¹[CHAPTER IV-A)

**SPECIAL PROCEDURE FOR VOTING
AND COUNTING**

33A. Special procedure relating to election by certain voters.—Nothing contained in rule 16 or rule 17, the rules in Chapter IV, rule 34 or rule 35, shall apply to the election of members of the Senate by the members from the Federally Administered Tribal Areas in the National Assembly and the following rules in this Chapter shall apply to such election.

B. Voting Procedure.—(1) A voter on receipt of the ballot paper shall forthwith—

- (a) proceed to the voting booth;
- (b) record his vote in accordance with rule 33 C;
- (c) fold the ballot paper so as to conceal his vote; and
- (d) insert the ballot paper into the ballot box.

(2) No voter shall be allowed to enter into the voting booth when another voter is inside it.

(3) A voter shall vote without undue delay and shall leave the polling station immediately after he has inserted his ballot paper into the ballot box.

¹Inserted vide S. R. O. No. 747(1)/75, dated 7-7-75.

33C. Manner of recording vote.—(1) A voter shall vote by putting a mark on the ballot paper against the names and symbols of as many candidates as there are seats to be filled.

(2) The marks shall be put at any place within the space containing the names and symbols of the contesting candidates but so as to clearly indicate the contesting candidates for whom he wishes to vote.

(3) The marks against the names of the candidates of the voter's choice shall be put with the rubber stamp provided for the purpose by the Returning officer at the polling station.

(4) No marking aid or rubber stamp except the rubber stamp supplied by the Returning Officer for the purpose shall be used by the voter for marking his ballot paper.

(5) A voter shall not put marks against the names of more candidates than the number of seats to be filled.

33D. Procedure on the close of the poll.—(1) After the voters present have cast their votes within the hours fixed for the poll, the Returning Officer shall proceed to open the ballot box, take out the ballot papers and count the votes cast in favour of each candidate.

(2) A ballot paper shall be rejected if it bears—

- (a) no mark indicating the contesting candidate for whom the voter wishes to vote;
- (b) marks against the names and symbols of more candidates than the number of seats to be filled;
- (c) no official mark or initials of the Returning officer; or
- (d) any writing or mark other than the mark referred to in sub-rule (2) of rule 33C or if it has attached to it some piece of paper or any other object of any kind; or
- (e) any mark from which it is not clear for whom the voter has vote : provided that—
 - (i) a ballot paper shall not be invalid if more than one mark has been put against the name and symbol of any one candidate, but only one vote shall be counted for that candidate;

- (ii) a ballot paper shall be invalid in respect of those candidates only against whose names and symbols the mark is so placed as to render it doubtful for which candidate the voter has voted;
- (iii) 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 mark appears clearly within the space relating to the name and symbol of that candidate; and, where the mark is divided equally between two such spaces, the ballot paper shall be deemed not to show clearly for whom the voter has voted.

33E. **Declaration of result.**—(1) The Returning Officer shall prepare a statement of the count in Form VA showing therein the number of valid votes cast in favour of each contesting candidate.

(2) The Returning Officer shall by public notice declare to be elected such number of candidates, in the order of the number of valid votes obtained by them, as is equal to the number of seats to be filled.

33F. **Equality of votes.**—If after the counting, it is found that there is equality of votes between two or more candidates and that the addition of one vote for one such candidate would entitle him to be declared elected, the Returning Officer shall forthwith draw a lot and the candidate on whom the lot falls shall be deemed to have been elected :

Provided that it shall not be necessary to draw lots if, according to the number of seats to be filled, the two or more contesting candidates who have equal number of votes have already been declared elected by virtue of their having obtained the highest number of votes, :

(b) after Form V, the following new Form shall be inserted, namely :—

FORM VA

[See rule 33E]

**STATEMENT OF THE COUNT AND
DECLARATION OF RESULT**

Election to the Senate by the members from the Federally Administered Tribal Areas in the National Assembly.

Number of Voters..... Number of votes each voters has.....

Name of the contesting candidates	Valid votes polled	Remarks
1.		
2.		
3.		
4.		
5.		

Number of votes cast.
Number of valid votes.
Number of invalid votes.

I declare that—

(i) Name..... (ii) Name..... (iii) Name.....
Address..... Address..... Address.....

has/have been elected.

Date.....

Place.....

(Signature)
Returning Officer:

- (c) a reference to the Province, wherever occurring in the Rules and the Forms appended thereto, shall be construed as a reference to the Federally Administered Tribal Areas; and
 - (d) a reference to the Members of a Provincial Assembly, wherever occurring in the Rules or the Forms appended thereto, shall be construed as a reference to the Members of the National Assembly from the Federally Administered Tribal Areas.]
-

**THE SENATE (ELECTION OF MEMBERS FROM THE
FEDERAL CAPITAL) ORDER, 1988
(PRESIDENT'S ORDER NO. 3 OF 1988)**

(113—114)

THE SENATE (ELECTION OF MEMBERS FROM THE
FEDERAL CAPITAL) ORDER, 1988

PRESIDENT'S ORDER No 3 OF 1988

WHEREAS it is expedient to prescribe the manner in which members of the Senate from the Federal Capital shall be elected and to provide for matters connected therewith or incidental thereto ;

NOW, THEREFORE, in exercise of the powers conferred by paragraph (c) of clause (1) of Article 59 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Senate (Election of Members from the Federal Capital) Order, 1988.

(2) It shall come into force at once.

2. **Act LI of 1975 to apply.**—Members of the Senate from the Federal Capital shall be elected by the members of the National Assembly in the same manner as members to fill seats in the Senate allocated to a Province are elected by the members of the Provincial Assembly and the Senate (Election) Act, 1975 (LI of 1975), shall apply for the purpose subject to the modification that, in the said Act.—

- (a) a reference to a Province shall be read as a reference to the Federal Capital ;
- (b) a reference to a Provincial Assembly shall be read as a reference to the National Assembly ; and
- (c) a reference to voter shall be read as a reference to a person who is a member of the National Assembly.

3. **Repeal.**—The Senate (Members from the Federal Capital) Order, 1973 (P.O. No. 12 of 1973), is hereby repealed.

GENERAL
M. ZIA-UL-HAQ,
President.

MR JUSTICE
IRSHAD HASAN KHAN,
Secretary.

**THE SENATE (ELECTION OF MEMBERS FROM THE
FEDERALLY ADMINISTERED TRIBAL AREAS) ORDER, 2002
CHIEF EXECUTIVE ORDER NO. 40 OF 2002)**

(117—118)

THE SENATE (ELECTION OF MEMBERS FROM THE FEDERALLY
ADMINISTERED TRIBAL AREAS) ORDER, 2002
CHIEF EXECUTIVE'S ORDER NO. 40 OF 2002

AN
ORDER

*to prescribe the manner in which the members of the Senate from the
Federally Administered Tribal Areas shall be elected*

WHEREAS it is expedient to prescribe the manner in which the members of the Senate from the Federally Administered Tribal Areas shall be elected and to provide for matters connected therewith and ancillary thereto ;

NOW, THEREFORE, in exercise of the powers conferred by paragraph (b) of clause (1) of Article 8B of the Conduct of General Elections Order, 2002 (Chief Executive's Order No. 7 of 2002), and all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Senate (Election of Members from the Federally Administered Tribal Areas) Order, 2002.

(2) It shall come into force at once.

2. **Manner of election of the members of Senate from the Federally Administered Tribal Areas and application of Act LI of 1975 and the rules made thereunder.**—Members of the Senate from the Federally Administered Tribal Areas shall be elected by the members from the Federally Administered Tribal Areas in the National Assembly, in the same manner as members to fill seats in the Senate allocated to a Province are elected by the members of the Provincial Assembly and the Senate (Election) Act, 1975 (LI of 1975), and the Rules made thereunder, read with Notifications bearing S.R.O. No. 746(I)/75, dated the 7th July, 1975, and S.R.O. No. 747(I)/75, dated the 7th July, 1975, shall apply for the purpose subject to the modification that in the said Act,—

- (a) a reference to a Province shall be read as a reference to the Federal Administered Tribal Areas;
- (b) reference to a Provincial Assembly shall be read as a reference to the National Assembly;
- (c) a reference to the members of a Provincial Assembly shall be read as a reference to the members of the National Assembly from the Federally Administered Tribal Areas;
- (d) a reference to voter shall be read as a reference to a person who is a member from the Federally Administered Tribal Areas in the National Assembly; and
- (e) Sub-section (3) of section 23 shall have effect as if the following proviso were added thereto, namely :

“Provided that a voter who is a member of the National Assembly from the Federally Administered Tribal Areas shall have as many votes as the number of seats to be filled.”

**PROCEDURE FOR TRIAL OF
ELECTION PETITIONS**

(121—122)

PROCEDURE FOR TRIAL OF ELECTION PETITIONS**NOTIFICATION**

Islamabad, the 16th March, 1985

No. F. 1 (6) 85-Cord.—In pursuance of the powers conferred by section 43 of the Senate (Election) Act, 1975 (LI of 1975), the Election Commission is pleased to lay down the following procedure for trial of election petitions :—

- (1) Every election petition shall be filed with the Secretary, Election Commission of Pakistan, Islamabad, in triplicate and shall be accompanied by all such documents and affidavits of the witnesses as are desired to be produced by the petitioner alongwith the receipt indicating that the copies of the petition and the attached documents and the affidavits annexed to the petition have been supplied to the respondent.
- (2) Every election petition shall be processed by the Secretary, Election Commission. In case the petition is not in accordance with the procedure laid down herein it shall not be entertained and the petitioner shall be informed accordingly. If the petition is found to be in order, the Secretary shall fix the date of hearing.

Notice of the date published through the press, radio and television shall be deemed to be a valid notice and no personal notice shall be necessary unless the tribunal feels necessary to do so.

- (3) The respondent shall upon the receipt of notice of the petition from the petitioner within seven days file his written statement together with all documents relied upon by him and the affidavits of the witnesses as are desired to be produced in defence.
- (4) The petitioner shall make available for cross-examination all witnesses whose affidavits are filed with the petition for cross-examination on the first date of hearing before the tribunal.
- (5) Where any party desires to summon any official witness he shall file with the petition a list of such witnesses justifying his production and also mention the documents, if any, which are required to be proved through such witness.

- (6) No witness whose name is not mentioned in the petition shall be summoned or examined unless required by the tribunal.
- (7) 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, the tribunal may decide the question of such qualification or disqualification as a preliminary issue.
- (8) The tribunal may make a memorandum 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.
- (9) The tribunal may 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.
- (10) The tribunal may, pending the final disposal of the petition, grant such interim relief as it may deem fit.

**PROCEDURE FOR DRAWL OF LOTS OF
MEMBERS OF THE SENATE**

(125—126)

GOVERNMENT OF PAKISTAN

MINISTRY OF JUSTICE AND PARLIAMENTARY AFFAIRS
(JUSTICE DIVISION)

NOTIFICATION

Islamabad, the 19th January, 1988

S.R.O. 33(1)/88.— In pursuance of sub-section (1) of section 82A of the Senate (Election) Act, 1975 (LI of 1975) ¹[read with sub-sections (1) and (2) of section 88 thereof], the Federal Government in consultation with the Chief Election Commissioner, has prescribed the following procedure for the drawal of lots for constituting two groups of the Senators from the Federal Capital, the Federally Administered Tribal Areas and the Provinces of the Punjab, Sindh, North-West Frontier and Balochistan in terms of clause (3) of Article 59 of the Constitution:—

- (a) the proceedings shall be held in the presence of the Senators or their authorized representatives and such press and media representatives as may wish to attend;
- (b) identical slips containing the names of the Senators printed in English shall be used;
- (c) another set of identical slips containing the words "First Group—Three years' term" and the words "Second Group—Six years' Term" printed in English shall be used;
- ²[(d) the lots shall be drawn in the following alphabetical order of Urdu language:—
 - (i) *Balochistan:*
(general seats, seats reserved for women and the seats for technocrats including ulema);
 - (ii) *Punjab:*
(general seats, seats reserved for women and the seats for technocrats including ulema);
 - (iii) *Sindh:*
(general seats, seats reserved for women and the seats for technocrats including ulema);
 - (iv) *North-West Frontier Province:*
(general seats, seats reserved for women and the seats for technocrats including ulema);

¹ Inserted *vide* SRO 259(I)/2003, dated 15th March, 2003

² Substituted *ibid.*

- (v) *Federally Administered Tribal Areas*
- (vi) *Federal Capital:*
(general seats)];
- (e) the drawal of lots shall take place separately for the general seats and the ¹[seats reserved for women and technocrats including **ulema**];
- (f) two baskets or cartons, with lids, shall be placed in front of the Chief Election Commissioner, visible to the audience. One of the baskets, labeled as "Names", shall be utilized to contain the slips bearing names of the Senators and the other basket, labeled as "Term of office", shall be used for containing the slips indicating the term of office. Lots in respect of the Senators elected from the general seats of a Province shall be drawn first. One person from amongst the audience shall be invited at random by the Chief Election Commissioner to read out loudly the name printed on a slip and then fold that slip and put it in the basket meant for names. In this manner, the slips containing names of all the fourteen Senators elected to general seats from a Province shall be put in the concerned basket or carton and covered with lid. Thereafter, seven slips indicating "First Group—Three years' Term" and seven slips indicating "Second Group—Six years' Term" shall be picked up, read out loudly, folded and put in the basket labeled as the "Term of Office" and covered with lid. Both the baskets will be shaken well to reshuffle the slips placed therein in order to avoid any chance of identification;
- (g) another person from amongst the audience shall be asked by the Chief Election Commissioner to pick up one slip from each of two baskets turn by turn to make a pair *i.e.* the name of a Senator and his group and term of his office which shall be read out by that person and duly recorded by an officer of the Commission, signed and announced by the Chief Election Commissioner. The Senator concerned may also append his signatures against the entry of his name if he so desires. This process shall be repeated till all the slips in the baskets are exhausted;
- (h) thereafter, the slips containing the names of ¹[four] Senators elected from the ¹[seats reserved for women] of that Province shall be read out loudly, folded and put in one basket. In the other basket, two slips containing the words "First Group—Three years' Term" and two slips containing, the words "Second Group—Six years' Term" shall be read out, folded and put in

¹ Substituted *vide* SRO 259(1)/2003, dated 15th March, 2003.

the basket. The folded slips shall be reshuffled in the respective baskets to avoid identification and the process of drawing of lots, as in the case of the Senators from the general seats, shall be repeated:

- ¹[(ha) Similarly, the slips containing the names of four Senators elected from the seats reserved for technocrats including ulema of that Province shall be read out loudly, folded and put in one basket. In the other basket, two slips containing the words "First Group—Three years' Term" and two slips containing the words "Second Group—Six years' Term" shall be read out, folded and put in the basket. The folded slips shall be reshuffled in the respective baskets to avoid identification and the process of drawing of lots, as in the case of the Senators from the general seats, shall be repeated;]
- (i) in case of the Senators from the FATA, eight identical slips bearing names of the Senators shall be put in one basket and in other basket four slips containing the words "First Group—Three years' Term" and another four slips containing the words "Second Group—Six years' Term" shall be put in the same manner as in case of the Senators from a Province. The process of reshuffling, picking up of the slips and the announcement of the result of the lots by the Chief Election Commissioner shall be the same as laid down for the Province;
- ²[(j) in case of the Federal Capital, two identical slips containing the names of two Senators elected from general seats shall be put in one basket. In the other basket, one slip containing the words "First Group—Three years' Term" and one slip containing the words "Second Group—Six years' Term" shall be put. Each basket shall be covered with lid and reshuffled thoroughly to avoid identification. The rest of the process shall be the same as for the Provinces and the Federally Administered Tribal Areas;
- (k) there shall be no draw for the seats reserved for technocrat including aalim and woman for the Federal Capital, as their term already stands determined by paragraph (ii) of sub-clause (e) of clause (3) of Article 8B of the Conduct of General Election Order, 2002 (Chief Executive's Order No. 7 of 2002), as the first three years for the member elected on the seat reserved for technocrat or aalim and next three years for the seat reserved for woman].

Sd/-
Mr. Justice
Irshad Hasan Khan,
Secretary.

¹ Inserted *ibid.*

² Substituted *vide* SRO 259(I)/2003, dated 15th March, 2003.