

## [AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

Further to amend the Elections Act, 2017

WHEREAS, it is expedient further to amend the Elections Act, 2017 (XXXIII of 2017) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act shall be called the Elections (Amendment) Act, 2020.

(2) It shall come into force at once.

2. **Amendments in section 2, Act XXXIII of 2017.**-In the Elections Act, 2017 (XXXIII of 2017), hereinafter referred to as the said Act, in section 2,-

(a) after clause (i), the following new clause (ia) shall be inserted namely:-

"(ia) accredited, means authorized by the Commission":

(b) in clause (v), after the word "property" the words "including accounts receivable" shall be inserted;

(c) in clause (xvi), in sub-clause (b),-

(i) in paragraph I, after semicolon, the word "and" shall be added; and

(ii) in paragraph II, for the semicolon, a full stop shall be substituted and thereafter paragraph III along with proviso shall be omitted.

3. **Amendment in section 8, Act XXXIII of 2017.**- In the said Act, in section 8, in clause (b), after the word "paper", the words "before consolidation of results" shall be inserted.

4. **Amendment in section 9, Act XXXIII of 2017.**- In the said Act, in section 9, in sub-section (3), for the word "sixty", the word "thirty" shall be substituted.

5. **Amendment in section 11, Act XXXIII of 2017.**-In the said Act, in section 11, in sub-section (2), for the words "applicable laws and", the word "the" shall be substituted.
6. **Amendment in section 12, Act XXXIII of 2017.**-In the said Act, in section 12, in clause (c), after the words "women", the expression, "non-Muslims, disabled persons and transgender" shall be inserted;
7. **Amendments in section 13, Act XXXIII of 2017.**-In the said Act, in section 13,-
- (a) in sub-section (4), in clause (a), before the word "scanned", the expression "without loss of any time," shall be added;
  - (b) in sub-section (5), after the word "Commission", occurring for the first time, the expression ", within twenty-four hours after the consolidation proceedings," shall be inserted; and
  - (c) in sub-section (6), after the word "shall", the expression ", within the time specified in sub-section (10) of section 95," shall be inserted.
8. **Amendment in section 14, Act XXXIII of 2017.**-In the said Act, in section 14, in sub-section (1), for the word "prepare", the word "finalize" shall be substituted.
9. **Amendment in section 15, Act XXXIII of 2017.**-In the said Act, in section 15, in sub-section (1), after the word "action", occurring for the third time, the words "but before the day of the poll" shall be inserted.
10. **Amendment in section 17, Act XXXIII of 2017.**-In the said Act, in section 17, in sub-section (2), for the full stop at the end a colon

shall be substituted and thereafter the following provisos shall be added, namely:-

"Provided that the delimitation shall be on the basis of equal number of enrolled voters in every constituency of respective Provinces:

"Provided further that the delimitation exercise shall be finalized at least four months prior to the notification of election programme."

**11. Amendments in section 20, Act XXXIII of 2017.-** In the said Act, in section 20,-

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

"(3) As far as possible, variation in number of enrolled voters of constituencies of an Assembly or a local government shall not exceed five percent in any case.", and

(b) in sub-section (4), for the word "ten", the word "five" shall be substituted.

**12. Amendment in section 21, Act XXXIII of 2017.-** In the said Act, in section 21, after sub-section (4), the following new sub-section shall be added, namely:-

"(5) Any person aggrieved by the decision of the Commission under this section may, within thirty days of the decision, prefer an appeal to the Supreme Court of Pakistan."

**13. Amendment in section 23, Act XXXIII of 2017.-** In the said Act, in section 23, after sub-section (2) the following new sub-section shall be added, namely:-

"(3) The Commission may appoint as many Registration Officers for discharge of functions under sub-section (1) and sections 25(3), 35, 37, 38 and 41.

14. **Omission of Sections 24, 26, 28 to 34, 36 and 44, Act XXXIII of 2017.**- In the said Act, sections 24, 26, 28 to 34, 36 and 44 shall be omitted.

15. **Amendments in section 25, Act XXXIII of 2017.**-In the said Act, section 25,-

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

"(1) In such manner as may be prescribed, the National Database and Registration Authority shall transmit relevant data of every fresh national identity card issued by it to the Commission for registration of card-holder as a voter in the electoral roll of the electoral area of permanent or temporary address, which is located within the jurisdiction of the office or center of the National Data Base and Registration Authority from where the person obtained his fresh National Identity Card (NIC) and subsequent change shall be subject to application by the NIC holder through biometric verification."

(b) in sub-section (2), after the word "voters", the comma and words "any change in the option indicated by a voter regarding place of his voting" shall be inserted.

16. **Substitution of section 35, Act XXXIII of 2017.**-In the said Act, for section 35, the following shall be substituted, namely:-

"35. Final publication.- After every revision under section 23, the Registration Officer shall publish in the prescribed manner and form, the electoral roll for each electoral area after ensuring that all eligible citizens of eighteen years and above to whom have been issued NIC till date have been entered in the electoral roll of that area."

17. **Amendment in section 43, Act XXXIII of 2017.**-In the said Act, in section 43, for the words "to the Registration Officer

concerned," the expression "National Database and Registration Authority (NADRA) shall be substituted".

18. Amendments in section 53, Act XXXIII of 2017.-In the said Act, in section 53,-

- (a) in sub-section (3), for the full stop at the end a colon shall be substituted and thereafter the following provisos shall be added, namely;-

"Provided that a candidate may challenge before the Commission under section 15 the appointment of the officers, polling scheme or polling staff.

Provided further that the appointment orders of polling staff for election may immediately be uploaded on website of the Commission on the form as approved by the Commission."; and

- (b) after sub-section (4), the following new sub-section (5), shall be added namely;

"(5) No official working within the jurisdiction of respective constituency or tehsil shall be appointed as polling staff for that constituency and tehsil."

19. Amendments in section 59, Act XXXIII of 2017.-In the said Act, in section 59,-

- (a) in sub-section (5), after the full stop, the expression "A candidate from the constituency may file an objection on a particular polling station in his constituency on reasonable ground." shall be added;
- (b) in sub-section (8), after the word "candidates", the words "not later than seventy two hours before polling and a copy of such change shall be transmitted to the candidates immediately without loss of any time" shall be inserted;

- (c) in sub-section (9), after the expression (6), the expression "read with sub-section (8)" shall be inserted;
- (d) in sub-section (11), after the word "candidate", the expression ", a political party or its office bearers" shall be inserted; and
- (e) after sub-section (12), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that it shall be ensured that surveillance cameras so installed do not compromise the secrecy of voter while he is marking on the ballot paper."

**20. Amendments in section 61, Act XXXIII of 2017.-** In the said Act, in section 61,-

- (a) in sub-section (1),-
  - (i) for the word "thirty" the word "fifty" shall be substituted; and
  - (ii) for the word "twenty" the word "thirty" shall be substituted;
- (b) after sub-section (5), the following new sub-section shall be added, namely:-

"(6) The sum deposited by a candidate whose nomination papers are rejected or who withdraws or retires from election shall be refunded."

**21. Amendments in section 64, Act XXXIII of 2017.-** In the said Act, in section 64,-

- (a) in sub-section (1), after the word "candidates", the words "including uploading the same on the Commission's website as well" shall be inserted; and

(b) in sub-section (3), after the word "candidates", the words "including uploading the same on the Commission's website as well" shall be inserted.

22. **Amendment in section 66, Act XXXIII of 2017.**- In the said Act, in section 66, after the word "constituency", the words "and such certificate shall be duly signed by a designated office bearer of the party who is notified by the chairman of the party" shall be inserted.

23. **Amendment in section 68, Act XXXIII of 2017.**- In the said Act, in section 68, in sub-section (2), after the words "on the day of poll" the words "and on the Commission's website" shall be inserted.

24. **Amendment in section 71, Act XXXIII of 2017.**- In the said Act, in section 71, in sub-section (4), after the word "paper" the words "or paper with security features" shall be inserted.

25. **Amendment in section 72, Act XXXIII of 2017.**- In the Elections Act, 2017 (XXXIII of 2017), after section 72, the following section shall be inserted, namely:-

**"72A. Seat becoming vacant on not making oath within sixty days.**- the seat of a returned candidate shall become vacant, if he does not make an oath within sixty days from the date of the first sitting of the National assembly, Senate or the Local government, as the case may be."

26. **Amendment of section 76, Act XXXIII of 2017.**- In the said Act, in section 76, for sub-section (1), the following shall be substituted, namely:-

**"(1) A candidate may appoint five voters from the constituency as his election agents, for separate and designated polling stations in that constituency without any overlapping and shall send to the Returning Officer a notice in writing of the appointment containing the name, father's name, voter number and address of the election agent within twenty-four hours before start of polling."**

**27. Amendment in section 79, Act XXXIII of 2017.-** In the said Act, in section 79, for sub-section (1), the following shall be substituted, namely:-

"(1) The Commission shall thirty days before polling provide to the Returning Officer for each constituency printed copies of final electoral rolls duly attested and also saved in universal serial bus(USB) for all the electoral areas within that constituency".

**28. Amendment in section 84, Act XXXIII of 2017. --** In the said Act, in section 84, after sub-section (9), the following new sub-section shall be added, namely:-

"(10) In case a voter is physically impaired and cannot use stairs to cast his vote in the designated polling booth, the Presiding Officer shall extend him appropriate facilitation and thereupon such voter may, with such facilitation, do anything which a voter is required or permitted to do under this Act."

**29. Amendment in section 86, Act XXXIII of 2017.-**In the said Act, in section 86, in sub-section (1), after the expression, "candidate" the expression "election agent" shall be inserted.

**30. Amendments in section 90, Act XXXIII of 2017.-**In the said Act, in section 90,-

(a) in sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that presence of not more than one person, either a candidate or his agent, shall be allowed."

(b) after sub-section (18), the following new sub-section shall be added, namely:-

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“(19) A Presiding Officer who does not comply with the provisions of this Act and the rules made there under shall be liable to disciplinary proceedings under the relevant law applicable to him for imposition of penalty commensurate with his guilt by the concerned authority.”

31. **Amendment in section 92, Act XXXIII of 2017.**-In the said Act, in section 92, after the word “Commission”, the words “which shall immediately upload the same on its website” shall be inserted.

32. **Amendment in section 94, Act XXXIII of 2017.**- In the said Act, in section 94, for sub-section (1), the following shall be substituted namely, -

“(1) The Commission with technical assistance of NADRA shall have full mandate to facilitate or involve overseas Pakistanis for exercising their right of vote during elections in the country and such exercise shall be subject to technical efficacy, secrecy, security and financial feasibility.”

33. **Amendments in section 95, Act XXXIII of 2017.**- In the said Act, in section 95, -

(a) in sub-section (1), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely;-

“Provided that presence of not more than one agent of each candidate shall be allowed.”

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

“(5) Before commencement of the consolidation proceedings, the Returning Officer shall recount the ballot papers of one or more polling stations if a

request or challenge in writing is made by a contesting candidate or his election agent and the margin of victory between returned and runner up candidates is less than five percent of the total votes polled in the constituency.”;

- (c) in sub-section (6), after the word “proceedings” the words “and notifying the returned candidate,” shall be inserted; and
- (d) in sub-section (9), after the word “agents” the words “and accredited observers” shall be inserted.

**34. Amendment in section 99, Act XXXIII of 2017.-** In the said Act, in section 99, in sub-section (1), for clause (f), the following shall be substituted, namely :-

“(f) result of the count (Form 45) and such other papers as the Commission may direct.”.

**35. Amendments in section 104, Act XXXIII of 2017.-** In the said Act, in section 104,-

- (a) in sub-section (1), for the existing proviso, the following shall be substituted, namely:-  
“Provided that the parties shall submit final priority list of candidates within three days after declaration of general elections results.”.
- (b) for sub-sections (4), (5) and (6), the following shall be substituted, namely:-

“(4) If, at any time a vacancy is created, the political party may submit a fresh list and the provisions of sub-sections (1), (2) and (3) shall, as nearly as possible, apply to fill such vacancy.

(5) Where a seat reserved for women or non-Muslims in an Assembly falls vacant as a result of death, resignation or disqualification of a Member, it shall be filled in accordance with a fresh list as submitted to the Commission by the party.

(6) Before notifying the name of the person in order of priority from the party list as submitted under sub-section (4) or (5), such person shall submit a declaration on oath that since the filing of his nomination papers, he has not become subject to any disqualification contained in Article 63 of the Constitution."

36. **Amendment in section 122, Act XXXIII of 2017.-** In the said Act, in section 122, in sub-section (6), for the word "secret" the word "open" shall be substituted.

37. **Amendment in section 137, Act XXXIII of 2017.-** In the said Act, in section 137, in sub-section (1), after the word "his", occurring for the second time, the word "dependent" shall be inserted.

38. **Amendment in section 138, Act XXXIII of 2017.-** In the said Act, in section 138, after the word "Gazette" the words "and upload on its website" shall be inserted.

39. **Amendment in section 140, Act XXXIII of 2017.-** In the said Act, in section 140, in sub-section (2), in clause (a), the words "or has been" shall be omitted.

40. **Amendment in section 144, Act XXXIII of 2017.-** In the said Act, in section 144, in sub-section (2), in clause (b), for the expression "para (b)" the expression "clause (b) of sub-section (1)" shall be substituted.

41. **Amendment in section 158, Act XXXIII of 2017.-** In the said Act, in section 158, in clause (a), after the word "candidate", the

words" or any person on behalf of the returned candidate" shall be inserted.

**42. Amendment in section 167, Act XXXIII of 2017.-** In the said Act, in section 167, in clause (b), after the word "sect", the expression "gender" shall be inserted.

**43. Amendment in section 172, Act XXXIII of 2017.-** In the said Act, in section 172, in sub-section (2), for the words "six months" the words "three years" shall be substituted.

**44. Amendment in section 195, Act XXXIII of 2017.-** In the said Act, in section 195, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely;-

"Provided that the Commission shall publish its meeting decisions and details of voting where the Commission decides the matter through majority."

**45. Amendment in section 202, Act XXXIII of 2017.-** In the said Act, in section 202, in sub-section (2), for the words "two thousand members" the expression "ten thousand members, including at least twenty percent women" shall be substituted.

**46. Amendment in section 203, Act XXXIII of 2017.-** In the said Act, in section 203, in sub-section (4), after the words "women," the expression ", persons with disabilities and transgender persons" shall be inserted.

**47. Insertion of new section 213A, Act XXXIII of 2017.-** In the said Act, after section 213, the following new section shall be inserted, namely:-

**"213A. Political parties to hold annual conventions.-** Political parties may be bound to hold regular annual conventions and submit its report to the Commission mentioning therein at

least top ten problems of the country, reasons and solutions thereof, in view of the majority members of the party."

**48. Amendments in section 221, Act XXXIII of 2017.-** In the said Act, in section 221:-

(a) in sub-section (2), in clause (c), for the word "population", the word "voters" shall be substituted;

(b) in sub-section (4), in clause (c), for the word "population", the word "voters" shall be substituted;

(c) in sub-section (6), in clause (c), for the word "population", the word "voters" shall be substituted; and

(d) in sub-section (8), in clause (c), for the word "population", the word "voters" shall be substituted;

**49. Amendment in section 231, Act XXXIII of 2017.-** In the said Act, in section 231, after the full stop at the end, the following explanation shall be added, namely:-

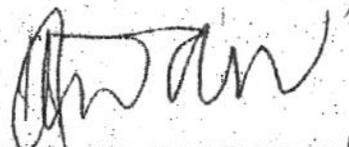
"Explanation.-It is clarified that the critical or cut-off date for the purposes of assessing the qualifications or disqualifications under this section shall be the date of scrutiny. However, this provision shall take effect from the 2<sup>nd</sup> October, 2017, when the Election Act, 2017 (XXXIII of 2017), was notified."

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## STATEMENT OF OBJECT AND REASONS

Transparent Senate elections without manipulations that have happened in the past and grant of voting rights to the Overseas Pakistanis are the long outstanding demands of almost all the political parties including PTI. Federal Cabinet, in its meeting held on 28<sup>th</sup> January, 2020 constituted a Cabinet Committee to formulate recommendations regarding electoral reforms in order to ensure transparent, free and fair elections in the country. Based on the recommendations of the Committee, the Cabinet approved electoral reforms package consisting of the Constitution (twenty-sixth Amendment) Bill, 2020 and the Elections (Amendment) Bill, 2020. These bills broadly cover the Senate elections, women and Minorities reserved seats, delimitation of constituencies on the basis of enrolled voters instead of population, voting rights to overseas Pakistanis and conditional participation of dual nationals in elections.

2. Accordingly, this bill is aimed to achieve the aforesaid objectives



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on Parliamentary Affairs