



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 | 103 |
| 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 | 127 |

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

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. Bribery | 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) RULES, 1975

(00—00)

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

(00—00)

**PROCEDURE FOR TRIAL OF ELECTION PETITIONS
RELATING TO SENATE ELECTIONS**

(00—00)

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

(00—00)

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.