

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND PARLIAMENTARY AFFAIRS ON “THE ELECTION LAWS (AMENDMENT) BILL, 2011”

I, Chairman of the Standing Committee on Law, Justice and Parliamentary Affairs, have the honour to submit, on behalf of the Committee, this Report on the Government Bill titled “The Election Laws (Amendment) Bill, 2011”, introduced by Senator Syed Nayyer Hussain Bokhari on behalf of Senator Dr. Zaheer-ud-Din Babar Awan, Minister for Law, Justice and Parliamentary Affairs, in the sitting of the Senate held on 28th January, 2011 which, upon introduction, stood referred to the Standing Committee in terms of rule 86 of the Rules of Procedure and Conduct of Business in the Senate, 1988, for consideration and report.

2. The composition of the Standing Committee on Law, Justice and Parliamentary Affairs is as under:-

1.	<i>Senator Muhammad Kazim Khan</i>	<i>Chairman</i>
2.	<i>Senator Muhammad Jehangir Bader</i>	<i>Member</i>
3.	<i>Senator Syed Nayyer Hussain Bokhari</i>	<i>Member</i>
4.	<i>Senator Mian Raza Rabbani</i>	<i>Member</i>
5.	<i>Senator Muhammad Azam Khan Swati</i>	<i>Member</i>
6.	<i>Senator Dr. Saeeda Iqbal</i>	<i>Member</i>
7.	<i>Senator Abdul Haseeb Khan</i>	<i>Member</i>
8.	<i>Senator Syed Zafar Ali Shah</i>	<i>Member</i>
9.	<i>Senator Wasim Sajjad</i>	<i>Member</i>
10.	<i>Senator S.M. Zafar</i>	<i>Member</i>
11.	<i>Senator Prof. Muhammad Ibrahim Khan</i>	<i>Member</i>
12.	<i>Senator Dr. Zaheer-ud-din Babar Awan, Minister for Law, Justice and Parliamentary Affairs.</i>	<i>Ex-Officio Member</i>

3. The Committee in two sittings held on 1st and 2nd February, 2011, considered the Bill. Following members attended the meetings:-

1.	Senator Muhammad Kazim Khan	Chairman
2.	Senator Muhammad Jehangir Bader	Member
3.	Senator Syed Nayyer Hussain Bokhari	Member
4.	Senator Mian Raza Rabbani	Member
5.	Senator Abdul Haseeb Khan	Member

4. The Committee at its sitting held on 1st February, 2011, decided to hear views of the Secretary, Election Commission of Pakistan, on the Bill.

5. At its sitting held on 2nd February, 2011, the Committee heard views of the Secretary, Election Commission of Pakistan, thereafter, took up clause-by-clause consideration of the Bill.

6. The Election Laws (Amendment) Bill, 2011, seeks to amend the Electoral Rolls Act, 1974 (Act XXI of 1974) and the Representation of the People Act, 1976 (Act LXXXV of 1976) so that to bring the provisions in conformity with the Constitution as amended by the Constitution (Eighteenth Amendment) Act, 2010, in order to hold free, fair and transparent elections, to ensure security and integrity of the database of electoral rolls. The amendments include production of National Identity Card by the voter issued by the National Database and Registration Authority (NADRA) as mandatory for casting vote, substitution of "Election Commission" in place of "Chief Election Commissioner" where required, disclosure of secret information or data by an employee of Commission to be punishable with imprisonment upto five years or fine upto five million rupees, or both, and adoption of local commission system for recording of evidence for speedy trial of election petitions by the Election Tribunals.

CLAUSE 2

7. Sub-clause (1) of clause 2 seeks to add new sub-sections (1A), (1B) and (1C) in section 2 of the Electoral Rolls Act, 1974. Senator Mian Raza Rabbani proposed that in the proposed sub-section (1B), the words "a piece of" may be omitted.

8. The Committee agreed to the omission of these words and recommends that the words "a piece of" be replaced with the word "any".

CLAUSE 3

9. Clause 3 proposes substitution of clause (b) of sub-section (2) of section 6 of the Act. This amendment makes mandatory production of National Identity Card by the voter issued by the National Database and Registration Authority, (NADRA), for casting vote.

10. Senator Mian Raza Rabbani said that clause (b) of sub-section (2) of section 6 of the Electoral Rolls Act, 1974, which is presently in force, mention the age of a

voter and said that this specification may also be included in the proposed amendment.

11. In order to make the proposed amendment clear and unambiguous, the Committee recommends that in the proposed clause (b), in the beginning, the words “is not less than eighteen years of age and” be inserted.

12. Senator Mian Raza Rabbani did not favour the inclusion of words “notwithstanding the expiry of its validity period” in the proviso to the proposed clause (b) and said that a voter not holding the valid national identity card should not be allowed to cast vote.

CLAUSE 5

13. Clause 5 relating to insertion of new sub-section 3 in section 24 of the Act pertains to the punishment and fine to an employee of Commission on the disclosure of secret information or data.

14. On the proposal made by Senator Mian Raza Rabbani, the Committee recommends that in clause 5, amendment proposed in section 24 for addition of new sub-section (3), be re-numbered as “section 30A” of the Act.

CLAUSE 7

15. Senator Mian Raza Rabbani said that clause 7 proposes substitution of sub-section (1) and clause (a) of sub-section (3) of section 33 of the Representation of the People Act, 1976, and proposed that instead of substitution of these clauses necessary amendments may be made in the section presently in force. **The Committee accepted this proposal and recommends the following amendments in section 33 of the Act,-**

- (a) in sub-section (1), for the words, figures, commas and brackets “for that purpose, require the elector to produce his identity card provided for in the National Registration Act, 1973 (LVI of 1973) or issued”, the words and comma “for the purpose, require the elector to produce his National Identity Card issued to him” be substituted; and**

- (b) in sub-section (3), in clause (a), for the words, figures and brackets “identity card provided for in the National Registration Act, 1973 (LVI of 1973) or issued”, the words “National Identity Card issued to him” be substituted.

CLAUSE 8

16. Clause 8 relating to amendment in section 64 of the Representation of People Act, 1976, pertains to addition of new sub-section (2) for adoption of local commission system for recording of evidence for speedy trial of election petitions by the Election Tribunals.

17. Senator Mian Raza Rabbani did not favour the appointment of a local commission for recording evidence of a person and said that it will lead to non-transparent mode of hearing by the commission due to local influence.

18. The Committee felt that the Election Commission of Pakistan should re-examine the necessity of adoption of local commission system for recording of evidence for speedy trial of election petitions by the Election Tribunals and recommends that clause 8 be omitted.

19. The Bill as recommended by the Standing Committee is at “Annex-A” and the Bill as introduced in the Senate is at “Annex-B”. Amendments recommended by the Committee are highlighted in bold characters.

20. The Committee unanimously recommends that the Bill “as recommended by the Standing Committee” may be passed by the Senate.

(MEHBOOB ALI)
JS/Secretary Committee

(SENATOR MUHAMMAD KAZIM KHAN)
Chairman

[TO BE INTRODUCED IN THE SENATE]**A****BILL**

further to amend certain election laws

WHEREAS it is expedient further to amend certain election laws for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Election Laws (Amendment) Act, 2011.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXI of 1974.- In the Electoral Rolls Act, 1974 (Act XXI of 1974), hereinafter referred to as the said Act, in section 2,-

(1) after sub-section (1), the following new sub-sections shall be added, namely:

“(1A) “Commission” means the Election Commission constituted under Article 218 of the Constitution.

(1B) “data” means, a piece of information in digital form contained in a database maintained by the Commission.”

(1C) “database” for the purpose of this Act, means the database of the Electoral Rolls maintained by the Commission.”

(2) in sub-section (2), in clause (c), for the word “Commissioner”, the word “Commission” shall be substituted.

3. Amendment of section 6, Act XXI of 1974.- In the said Act, in section 6, in sub-section (2), for clause (b), the following shall be substituted, namely:

“(b) possess National Identity Card issued by the National Database and Registration Authority constituted under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000), or comes in possession of such National Identity Card on the last date fixed for inviting claims, objections and applications for corrections, if any, for the purpose of preparing or revising the electoral rolls:

Provided that National Identity Card issued by National Database and Registration Authority shall be deemed to be valid for the purpose of registration as voter or casting vote at a poll, notwithstanding the expiry of its validity period.”

4. Amendment of section 18, Act XXI of 1974.- In the said Act, in section 18, in sub-section (1), the commas and words “,or deemed to have been issued,” shall be omitted.

5. Amendment of section 24, Act XXI of 1974.- In the said Act, in section 24, after sub-section (2), the following new sub-section shall be added namely:

“(3) Any person who-

(a) being an employee of the Commission publishes or communicates to any person, any information or data acquired by him in the course of such employment without being so authorized by the Commission;

(b) breaches, in any manner, the security or integrity of the information or data contained in the electoral rolls database;

(c) having possession of any information or data which to his knowledge has been obtained or disclosed in contravention of this Act or in breach of the security, secrecy or integrity thereof, publishes or communicates that information or data to any other person; or

(d) misuses or abuses, in any manner, the information or data contained in the electoral rolls database.

shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to five million rupees, or with both.”

6. Amendment of sections 3, 4, 5, 6, 9, 10, 18, 19, 22, 28, 29, 30 and 31, Act XXI of 1974.- In the said Act, in sections 3, 4, 5, 6, 9, 10, 18, 19, 22, 28, 29, 30 and 31,-

(a) for the words “Commissioner” and “Chief Election Commissioner”, wherever occurring, the word “Commission” shall be substituted; and

(b) except in clause (b) of sub-section (2) of section 5, sub-section (2) of section 6 and section 18, for the words “he” and “his”, wherever occurring, the words “it” and “its” shall be substituted, respectively.

7. Amendment of section 33, Act LXXXV of 1976.- In the Representation of the People Act, 1976 (Act LXXXV of 1976), hereinafter referred to as the said Act, in section 33,-

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

“(1) Where an elector presents himself at the polling station to vote, the Presiding Officer shall issue a ballot paper to the elector after satisfying himself about the identity of the elector and shall, for the purpose, require the elector to produce his National Identity Card issued to him under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).;”

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

“(a) fails or refuses to produce his National Identity Card issued to him under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000).;”

8. Amendment of Section 64, Act LXXXV of 1976.- In the said Act, in section 64,-

(a) the existing section 64 shall be renumbered as sub-section (1) of that section; and

(b) After sub-section (1) renumbered as aforesaid, the following new sub-section (2) shall be added, namely:

“(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Act V of 1908) or any other law for the time being in force, the Tribunal may, of its own motion or on the application supported by an affidavit or otherwise, appoint a local commission for recording evidence of a person where evidence is necessary for the determination of matter in controversy and the commission so appointed shall submit its report after recording evidence or otherwise within ten days, unless the period is extended by the Tribunal for cogent reasons.”

STATEMENT OF OBJECTS AND REASONS

In order to hold free, fair and transparent elections, to ensure security and integrity of the database of electoral rolls and to bring the provisions in conformity with the Constitution as amended by the Constitution (Eighteenth Amendment) Act, 2010, certain amendments are being proposed in the Electoral Rolls Act, 1974 (Act XXI of 1974) and the Representation of the People Act, 1976 (Act LXXXV of 1976). The amendments include production of National Identity Card by the voter issued by the National Database and Registration Authority (NADRA) as mandatory for casting vote, substitution of "Election Commission" in place of "Chief Election Commissioner" where required, disclosure of secret information or data by an employee of Commission to be punishable with imprisonment upto five years or fine upto five million rupees, or both and adoption of local commission system for recording of evidence for speedy trial of election petitions by the Election Tribunals.

2. The Bill is designed to achieve the aforesaid object.

Dr. Zaheer-ud-Din Babar Awan,
Minister for Law, Justice & Parliamentary Affairs