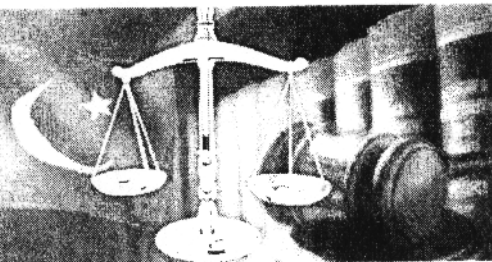


REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS



**Senate Standing Committee
on Law, Justice and
Human Rights**



“THE ELECTORAL LAWS (AMENDMENT) BILL, 2013”

**Report No. 06
(Thirteenth Parliamentary Year)**

PRESENTED BY

**SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN**

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW, JUSTICE AND HUMAN RIGHTS ON "THE ELECTORAL LAWS (AMENDMENT) BILL, 2013"

I, Chairman of the Standing Committee on Law, Justice and Human Rights, have the honour to present report on "The Electoral Laws (Amendment) Bill, 2013" introduced on 29th August, 2013. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

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

1. Senator Muhammad Javed Abbasi	Chairman
2. Senator Raja Muhammad Zafarul Haq	Member
3. Senator Aitzaz Ahsan	Member
4. Senator Mrs. Zahida Khan	Member
5. Senator Dr. Muhammad Farogh Naseem	Member
6. Senator Syed Muzafar Hussain Shah	Member
7. Senator Ms. Ayesha Raza Farooq	Member
8. Senator Nawabzada Saifullah Magsi	Member
9. Senator Saeed Ghani	Member
10. Senator Zaheerud Din Babar Awan	Member
11. Senator Farooq Hamid Naek	Member
12. Senator Saleem Zia	Member
13. Minister for Law, Justice and Human Rights	Ex-officio Member

3. The Committee considered the Bill in its meetings held on 3rd December, 2013, 7th January, 2014, 13th February, 2014, 3rd March, 2015, 12th June, 2015, 1st September, 2015 and 8th September, 2015, respectively.

4. The proposed amendments in the Representation of the people Act, 1976 and the electoral Rolls Act, 1974 are required to facilitate the overseas Pakistanis to exercise their right of franchise from abroad, pursuant to the directions of the Supreme Court of



Pakistan contained in its order dated 29.04.2013 passed in Constitution Petitions No. 39 and 90/2011. The proposed amendments direct that the Election Commission, at least fourteen days before the day fixed for poll abroad, shall establish polling stations with as many polling booths as may be necessary in the premises of an Embassy, a Mission or a Consulate provided that the M/o Foreign Affairs have obtained consent of the host countries for establishment of the polling stations. Section 47D of the proposed Bill provides that an overseas Pakistani, not later than ten day before the day fixed for poll abroad, register himself as an elector in the Embassy, Mission or Consulate where he intends to cast his vote.

5. During the course of meetings, the Committee was informed that the Election Commission of Pakistan had constituted a Working Group to study different options that can be considered for facilitating voting rights to overseas Pakistanis through various options including personal voting, internet voting or voting by postal ballot. The Working Group presented its report wherein it was submitted that direct as well internet voting do not appear to be feasible in view of the intricacies involved in the processes that are undertaken during implementation of procedures under these voting systems. According to the aforesaid report, voting through postal ballot appears to be practical for which the Working Group has also proposed a mechanism through which voting through postal ballot can be carried out subject to legal amendments required to be enacted for providing legal cover to this mechanism.

6. The Committee was also apprised by the Parliamentary Affairs and Election Commission of Pakistan that proposed mechanism under the instant Bill is difficult to implement. Ministry of Parliamentary Affairs was initially of the view that the instant Ordinance (which is now a Bill) was promulgated on the directions of the Supreme Court and was also made part of its Order, therefore, same cannot be withdrawn. However, according to the opinion provided by Ministry of Law, Justice and Human Rights, the Bill can be withdrawn by the Government on the following grounds:-

- a. The Ordinance has completed its Constitutional age and now the proposal before the Senate is in the form of a Bill which can be withdrawn by the Government at any time:



- b. The Bill will be withdrawn to introduce a better, refined and implementable legislative proposal.

7. In view of the position explained above, the Committee recommends that the Government shall withdraw "The Electoral Laws (Amendment) Bill, 2013" introduced on 29th August, 2013, in order to introduce a better and implementable mechanism, through a legislative proposal, to facilitate the overseas Pakistanis in exercising their right of franchise from abroad. (Copy of Bill annexed)



(RABEEA ANWAR)
D.S / Secretary Committee



(SENATOR MUHAMMAD JAVED ABBASI)
Chairman

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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND JUSTICE

Islamabad, the 9th May, 2013

No. F. 2(1)/2013-Pub.—The following Ordinance promulgated by the President is hereby published for general information:—

ORDINANCE NO. IV OF 2013

further to amend the Representation of the People Act, 1976 and the Electoral Rolls Act, 1974

WHEREAS, it is expedient further to amend the Representation of the People Act, 1976 (LXXXV of 1976) and the Electoral Rolls Act, 1974 (XXI of 1974);

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

(299)

[788(2013)Ex. Gaz.]

Price : Rs. 5.00

✓ 1. **Short title and commencement.**—(1) This Ordinance may be called the Electoral Laws (Amendment) Ordinance, 2013.

(2) It shall come into force at once but shall take effect on the date or dates to be notified by the Election Commission in the official Gazette in this behalf.

2. **Insertion of New Chapter, Act LXXXV of 1976.**—In the Representation of the People Act, 1976 (LXXXV of 1976), after Chapter V-A, the following new Chapter shall be inserted, namely:

“CHAPTER V-B

Out of Country Voting

47-B. **Polling Station.**—(1) The Commission, at least fourteen days before the day fixed for poll abroad, shall establish polling stations with as many polling booths as may be necessary in the premises of an Embassy, a Mission or a Consulate or any other public place notified by the Embassy, Mission or Consulate, in the countries as may be determined by it:

Provided that the Ministry of Foreign Affairs have obtained consent of such host country for establishment of the polling stations.

47-C. **Appointment of Presiding Officers, etc.**—The Commission from amongst the officers of the Federal Government or Autonomous Bodies under the Federal Government, preferably posted abroad, shall appoint as many Presiding Officers as the number of polling stations and as many Assistant Presiding Officers as the number of polling booths established in an Embassy, Mission, Consulate or public place notified for the purpose.

47-D. **Registration of Pakistani citizens living abroad.**—(1) A Pakistani who lives abroad and is in possession of National Identity Card for Overseas Pakistanis issued under the National Database and Registration Authority Ordinance 2000 (VIII of 2000) may, not later than ten days before the day fixed for poll abroad, register himself as an elector in the Embassy, Mission or Consulate, as the case may be, where he intends to cast his vote;

(2) For the purpose of registration, a Pakistani living abroad may make an application through courier or in person, in the format provided by the Commission on its website, to the authorized officer who shall issue a receipt to the elector containing the information of the constituency in which he is registered in Pakistan if the applicant applies in person.

(3) The application through courier must be received at the Embassy or Mission at least ten days before polling day and the authorized officer shall send a receipt to the applicant at his address given in the application:

Provided that any Pakistani living abroad shall not be entitled to be registered as elector if he:

- (i) is not registered as voter in any constituency in Pakistan;
- (ii) is in possession of National Identity Card for Overseas Pakistanis issued to him for one country and he applies for registration from another country;
- (iii) does not produce the original National Identity Card for Overseas Pakistanis or such card has expired;
- (iv) seeks registration on the basis of Pakistan Origin Card.

(4) The authorized officer shall electronically mark the elector in the voters' list whereupon the elector shall become entitled to vote and such list shall be made available to the Presiding Officer at the Polling Station established abroad.

Explanation: The authorized officer means any officer authorized by the Commission for the purpose of this section.

47-E. Voting procedure.—(1) Where an elector presents himself at a polling station abroad, the Presiding Officer shall issue him a ballot paper, after satisfying himself about the identity of the elector and for that purpose may require him to produce his National Identity Card for Overseas Pakistanis;

(2) Before a ballot paper is issued to an elector, the Assistant Presiding Officer shall:

- (i) verify the number and name of the National and Provincial Assembly constituency in Pakistan of the elector where his name appears in the electoral rolls database, with the help of his National Identity Card for Overseas Pakistanis;
- (ii) call out the name of the elector and his constituency number;
- (iii) mark the entry relating to the elector on the electoral roll to indicate that the elector has cast his vote;

- (iv) print a ballot paper with counterfoil containing the particulars of the elector and obtain the thumb impression of the elector on the counterfoil;
- (v) stamp the ballot paper on its back with the official mark and sign it;

(3) After receiving the ballot paper, the elector shall mark the ballot paper with Marking Aid Stamp at any place within the space containing the name and symbol of the contesting candidate for whom he wishes to vote and insert it in the ballot box.

47-F. Election Monitors.—The Commission shall appoint as many independent monitors as may be necessary at a polling station abroad to ensure the conduct of free, fair and transparent poll.

47-G. Poll Day.—(1) For the purpose of out of country voting, the poll day or days shall be the day or days fixed for polling abroad by the Commission.

(2) The Commission shall fix the day or days and hours which shall not be less than eight hours, during which the poll shall be held and the Presiding Officer shall give the public notice for the day or days and hours so fixed and hold the poll accordingly.

47-H. Supply of election material.—The Commission shall provide well in advance, the election material as may be required for the purpose at the relevant polling stations established abroad.

47-I. Close of poll.—(1) At the close of poll, the Presiding Officer shall open the ballot boxes and take out all the ballot papers and segregate them National and Provincial Assembly constituency-wise; count the ballot papers and prepare statement of count in respect of each candidate in the presence of the monitors and the Assistant Presiding Officers.

(2) The Presiding Officer shall put the ballot papers in separate temper-evident bags constituency-wise and shall place a copy of the statement of count in each bag duly signed by the Presiding Officer and the monitors.

(3) The Presiding Officer shall send through diplomatic bag, all the temper-evident bags containing the marked ballot papers, statement of the count and ballot paper account to the Commission.

(4) The Commission on receipt of the diplomatic bag from the Presiding Officer shall take out all the temper-evident bags and send to the Returning Officer concerned the respective temper-evident bags so as to reach him before the consolidation of results.

47-J. **Application of Laws.**—(1) Subject to the Provisions of this Chapter, the Provisions of this Act and the provisions of the Representation of the People (Conduct of Election) Rules, 1977 shall *mutatis mutandis* apply to out of country voting.

(2) The provisions of this Ordinance shall not apply to fill a casual vacancy in the Assembly which has fallen vacant for any reason after general elections, 2013.

47-K. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Commission may make such provision or pass such order not inconsistent with the provisions of this Act for the removal of the difficulty as the Commission may deem fit”.

3. **Amendment of section 103A, Act LXXXV of 1976.**—In the Representation of the People Act, 1976 (LXXXV of 1976), in section 103A, for the words, comma, figures and brackets “the Contempt of Court Act, 1976 (XLIV of 1976)”, the words, comma, figures and brackets “the Contempt of Court Ordinance, 2003 (V of 2003)” shall be substituted.

4. **Amendment of section 7, Act XXI of 1974.**—In the Electoral Rolls Act, 1974 (XXI of 1974), in section 7, after sub-section (5) the following sub-section shall be added, namely;

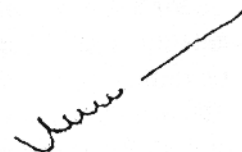
“(6) Any person holding National Identity Card for Overseas Pakistani and living abroad for any purpose shall be deemed to be resident in the electoral area in which he would have been resident if he had not been abroad.”

ASIF ALI ZARDARI,
President.

JUSTICE (R)
MUHAMMAD RAZA KHAN,
Secretary.

The proposed amendments in the Representation of the People Act, 1976 and the Electoral Rolls Act, 1974 are inter alia required to facilitate the Overseas Pakistanis to exercise their right of franchise from abroad, pursuant to the directions of the Hon'ble Supreme Court of Pakistan contained in its order, dated 29-04-2013 passed in Constitution Petitions No. 39 and 90/2011.

The Bill achieves the aforesaid objectives".



(Sheikh Aftab Ahmed)
Minister of State
for Parliamentary Affairs