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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 9th January, 1977

The following Acts of Parliament received the assent of the President on the 9th January, 1977, and are hereby published for general information:—



An Act to provide for the disqualification of certain persons from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly

WHEREAS it is expedient to provide for the disqualification of certain persons from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly :

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Parliament and Provincial Assemblies (Disqualification for Membership) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “misconduct” means corruption or bribery :

Explanation.—A person shall be deemed to be guilty of corruption if he,—

(i) is convicted under the Prevention of Anti-national Activities Act, 1974 (VII of 1974), and sentenced to imprisonment for a term which is not less than two years ; or

(ii) by corrupt, dishonest or illegal means obtains for himself or for any other person any valuable thing or pecuniary advantage ; and

(b) “respondent” means the person in respect of whom a reference is made under sub-section (2) of section 3.

(1) A Bench of the High Court composed of not less than two judges shall enquire into and decide cases relating to the misconduct of a person who is holding, or has held, the office of Federal Minister, Minister of State, Attorney-General, Provincial Minister, Parliamentary Secretary, Advocate-General or member of Parliament or of a Provincial Assembly.

Explanation.—In this section,

- (i) a person who is holding the office of "Federal Minister", "member of Parliament", "Provincial Minister" or "member of a Provincial Assembly" does not include a person who is holding the office of Prime Minister or Chief Minister; and
- (ii) "High Court" means the High Court within the jurisdiction of which the place from which the respondent was elected as a member of Parliament or of a Provincial Assembly is situated or, if such place is situated in the Federally Administered Tribal Areas, the Peshawar High Court or, in the case of the Attorney-General or an Advocate-General, the High Court within the jurisdiction of which the respondent normally resides.

(2) The High Court shall not proceed to enquire into any charge of misconduct except on a reference in writing made to it—

- (a) in the case of a Federal Minister, Minister of State, Attorney-General, Federal Parliamentary Secretary, member of Parliament or Provincial Minister, by the Prime Minister; and
- (b) in the case of a Provincial Parliamentary Secretary or an Advocate-General, or a member of a Provincial Assembly other than a Provincial Minister, by the Prime Minister or, if the Prime Minister so requires, by the Chief Minister.

(3) On receiving a reference under sub-section (2), the High Court shall scrutinize the necessary records relating to the charge mentioned in the reference, and—

- (a) if, as a result of such scrutiny, it is of the opinion that no charge can be established, return the reference to the authority making it together with its opinion thereon; and
- (b) in other cases, issue notice to the respondent requiring him to show cause why it should not further proceed against him under this Act.

(4) Nothing in clause (a) of sub-section (3) shall bar any subsequent reference to the High Court, except in so far as it relates to a charge in respect of which an opinion has previously been given by the High Court under that clause.

4. Offer to retire from public life, etc.—(1) A notice under clause (b) of sub-section (3) of section 3 shall, among other things, contain an offer that the respondent may, if he so chooses, retire from public life until the holding of the next general elections to the National Assembly.

(2) If the respondent accepts the offer made to him under sub-section (1) the enquiry in respect of the charge against him shall not be proceeded with and he shall stand disqualified until the holding of the next general elections to the National Assembly from being elected or chosen as, and from being, a member of Parliament or of a Provincial Assembly.

5. **Enquiry by High Court, etc.**—If the respondent does not accept the offer made to him under sub-section (1) of section 4, the High Court shall, after such further scrutiny of records and such enquiry as it thinks fit and after giving the respondent an opportunity of being heard, record its findings and, in case the respondent is found guilty, he shall stand disqualified until the holding of the next general elections to the National Assembly from being elected or chosen as, and from being, a member of Parliament or of a Provincial Assembly.

6. **Procedure.**—(1) An enquiry under this Act shall be held as nearly as may be in accordance with the procedure provided in the Code of Criminal Procedure, 1898 (Act V of 1898), for trial before a High Court, as if reference in that Code to the accused were a reference to the respondent and reference to conviction were omitted.

(2) Notwithstanding anything in sub-section (1), the respondent shall be a competent witness in his own behalf and may make a statement on oath at any stage of the enquiry, and the High Court may, for the purpose of enabling him to explain any circumstances appearing against him, question him accordingly at any stage of the enquiry, and he shall make reply, on oath or otherwise as he may elect, but it shall not be incumbent upon him to make such reply forthwith:

Provided that where he fails when making statement on oath, to answer any questions so put to him or to explain any facts appearing against him, in regard to which he is shown to have personal knowledge, the High Court shall be entitled to draw an adverse presumption, in relation to such question put or such fact appearing against him

(3) **The High Court**—

- (a) may order at any stage of the enquiry that the public generally or any portion of the public, or any particular person, shall not have access to, or be or remain, in the room or building in which the enquiry is being held; and
- (b) may disallow any question asked of a witness if, in its opinion the object of the question is merely to intimidate, harass, insult or annoy the witness.

7. **Bar of jurisdiction.**—No court other than the High Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the High Court extends under this Act.

8. **Act not to derogate from other laws.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force and nothing in this Act shall prevent or prejudice the trial punishment of any person under any other such law:

Provided that a person proceeded against under this Act shall not be liable to be tried for an offence punishable under section 3 of the Holders of Representative Offices (Prevention of Misconduct) Act, 1976.

9. **Saving.**—No proceeding under this Act shall lie against any person who holds or has held an office mentioned in section 3 for anything which has been in good faith done or intended to be done in pursuance of or in exercise of powers vested, or in good faith believed to be vested in him, at the material time by virtue of that office.

10. **Power to make rules.** The Federal Government may make rules for carrying out the purposes of this Act.