[AS PASSED BY THE MAJLIS-E-SHOORA (PARLIAMENT)]

An

Act

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 (Second Amendment) Act, 2023.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXXIII of 2017.– In the Elections Act, 2017 (XXXIII of 2017), hereinafter called as the said Act, in section 2,–

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

"(ia) "accredited" means authorized by the Commission;";

(ii) in clause (v), after the word "Member", the expression ", his spouse and dependent children" shall be inserted;

(iii) in clause (xxxix), in sub-clause (b), after the words "years of ", the words "post-qualification" shall be inserted;

(iv) in clause (xli), in sub-clause (b),–

(a) in paragraph (I), after the semi colon, occurring at the end, the word "and" shall be added; and

(b) in paragraph (II), for the semi colon and the word "and", a full stop shall be substituted and thereafter sub-paragraph (III) shall be omitted.".

3. Amendment in section 12, Act XXXIII of 2017.- In the said Act, in section 12, in clause (c), after the word "women", the expression, "non-Muslims, disabled person and transgender" shall be inserted.

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4. Amendment of section 13, Act XXXIII of 2017.– In the said Act, in section 13,–

(i) for sub-sections (2) and (3), the following shall be substituted, namely:–

"(2) The Presiding Officer shall immediately take snapshot of the result of the count and, as soon as connectivity is available and it is practicable, send it electronically or through other appropriate technologies to the Commission and the Returning Officer before sending the original documents under section 90:

Provided that in case connectivity is not available and it is not practicable to send the results electronically or through other appropriate technologies, the Presiding Officer shall immediately proceed physically with the results to the Returning Officer as provided in sub-section (18) of section 90.

(3) The Returning Officer shall compile the complete provisional results as early as possible and shall communicate these results electronically to the Commission:

Provided that if, for any reason, the results are incomplete by 02:00 a.m. on the day immediately following the polling day, the Returning Officer shall communicate to the Commission provisional results as consolidated till that time along with reasons for the delay, in writing, while listing the polling stations from which results are awaited and thereafter shall send the complete provisional results as soon as compiled but not later than 10:00 a.m."; and

(ii) in sub-section (6), after the word "website", the words "as early as possible" shall be inserted.

5. Amendment of section 15, Act XXXIII of 2017.– In the said Act, in section 15,–

(i) in sub-section (1), for the word "fifteen", the word "seven" shall be substituted; and

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(ii) in sub-section (3), 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, before the day of polling, make every effort to decide a complaint received prior to that day.

6. Amendment of section 18, Act XXXIII of 2017.– In the said Act, in section 18, in sub-section (1), the expression "and the Federally Administered Tribal Areas" shall be omitted.

7. Amendment of section 19, Act XXXIII of 2017.- In the said Act, in section 19, in sub-section (1), for clause (b), the following shall be substituted, namely:–

"(b) Islamabad Capital Territory into as many separate territorial constituencies as the number of general seats allocated thereto in Article 51.".

8. Amendment of section 20, Act XXXIII of 2017.- In the said Act, in section 20,–

(i) sub-section (2) shall be omitted; and

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

"Provided that for this purpose, it shall not be necessary to strictly adhere to the existing district boundaries in exceptional cases.".

9. Amendment of section 55, Act XXXIII of 2017.- In the said Act, in section 55,–

(i) for sub-section (4), the following shall be substituted, namely:–

"(4) The Commission may appoint Enquiry Officers or Enquiry Committee to initiate and finalize proceedings under the efficiency and discipline rules applicable to the election officials concerned against whom action has been taken by the Commission under sub-section (3) or other provisions of this Act or by the

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Returning Officer under sub-section (6) of section 54."; and

(ii) after sub-section (8), the following new sub-section (9) shall be added, namely:–

"(9) Apart from disciplinary proceedings, the Commission may also initiate criminal proceedings under section 188 read with section 184 against the concerned election officials, public servants or other persons in service of Pakistan mentioned in sub-section (3).

10. Amendment of section 57, Act XXXIII of 2017.- In the said Act, in section 57, in sub-section (3), the expression ", within three days after the publication of a notification under sub-section (2)," shall be omitted.".

11. Amendment of section 59, Act XXXIII of 2017.- In the said Act, in section 59,–

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

"(5) Objections and suggestions may be filed with the District Returning Officer-
(a) by a candidate, with regard to any polling station in his constituency; and
(b) by a voter, with regard only to the polling station to which he has been assigned.";

(ii) in sub-section (8), after the word "Commission", the words "not later than five days before polling and a copy of such change shall be transmitted to the candidates immediately without loss of any time" shall be inserted; and

(iii) in sub-section (11), after the word "candidate", the words "or a political party" shall be inserted.

12. Amendment of section 60, Act XXXIII of 2017.- In the said Act, in section 60, in sub-section (2), for clause (b), the following shall be substituted, namely:–

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"(b) a declaration that before the date fixed for scrutiny of nomination papers he will open an exclusive account, or dedicate an existing account, with a scheduled bank for the purpose of election expenses, and has attached statement of the said bank account with the nomination paper, starting with entries of seven days prior to the election schedule;".

13. Amendment of section 61, Act XXXIII of 2017.- In the said Act, in section 61, for sub-section (3), the following shall be substituted and thereafter sub-sections (4) and (5) shall be omitted, namely:–

"(3) The sum deposited shall be non-refundable.".

14. Amendment of section 68, Act XXXIII of 2017.- In the said Act, in section 68, after sub-section (2), the following new sub-section (3) shall be added, namely:–

"(3) The Returning Officer shall send a copy of the list of contesting candidates with their respective symbols to the Commission which shall upload it for display on its website.".

15. 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 three voters in the constituency as his election agents and shall send to the Returning Officer a notice in writing of the appointment containing the names, fathers' names and addresses of the election agents. However, at the time of consolidation of results, only one agent shall be present as authorized by a candidate.".

16. Amendment of section 79, Act XXXIII of 2017.- In the said Act, in section 79, after sub-section (2), the following new sub-section (2A) shall be inserted, namely:–

"(2A) On the day of polling, the Presiding Officer shall post outside the polling station list showing numbers of the voters assigned to each polling booth.".

17. Amendment of section 83, Act XXXIII of 2017.- In the said Act, in section 83, in sub-section (4), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:–

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"Provided that officials of the law enforcement agencies shall be posted for security duties outside the polling station but in an emergency may be called inside by the Presiding Officer to restore order and peaceful polling.".

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

19. Amendment of section 90, Act XXXIII of 2017.- In the said Act, in section 90, for sub-section (18), the following shall be substituted, namely:–

"(18) Immediately after the close of proceedings under this section, the Presiding Officer shall, in compliance with such instructions as may be given by the Commission in this behalf, personally deliver without delay the result of the count and the ballot paper account prepared by him to the Returning Officer and to such other officer as may be authorized by the Commission, together with such other records as the Commission may direct:

Provided that if the Returning Officer is of the view that delivery has been inexcusably delayed, he shall refer the defaulting Presiding Officer to the Commission for initiation of disciplinary proceedings under section 54 and pending final decision in these proceedings, remuneration due to the Presiding Officer in connection with the election shall be withheld.".

20. Amendment of section 93, Act XXXIII of 2017.- In the said Act, in section 93,–

(i) in sub-section (2), in clause (a), for the expression, " and clause (c)", the expression ", clause (c) and clause (d)" shall be substituted;

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

"Provided that the date of receipt of the application shall be entered thereon by the Returning Officer and application received after the date mentioned in sub-section (2) shall not be entertained.";

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(iii) after sub-section (3), amended as aforesaid, the following new sub-section (3A) shall be inserted, namely:–

"(3A) After sending ballot papers to all the entitled applicants, the Returning Officer shall place all the counterfoils of the said ballot papers in one or more packets and sign and seal the same, noting on each packet the number contained therein."; and

(IV) in sub-section (4), for the words "consolidation of results by him", the words "polling day" shall be substituted.".

"21. Amendment of section 95, Act XXXIII of 2017.- In the said Act, in section 95,–

(i) 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.";

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

"(5) Before commencement of the proceedings, the Returning Officer shall recount the ballot papers of one or more polling stations if a request or challenge in writing is made to that effect by a contesting candidate or his election agent and–

(a) the margin of victory between returned and runner up candidates is less than five percent of the total votes polled in the constituency or eight thousand votes in case of National Assembly constituency and four thousand votes in case of a Provincial Assembly constituency, as the case may be, whichever is less; or

(b) the number of votes excluded from the count by the Presiding Officer are equal to or more than the margin of victory:

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Provided that the Returning Officer shall recount only once.";

(iii) in sub-section (6), after the word "proceedings", the words "and after notice to the contesting candidates" shall be inserted;

(iv) in sub-section (7), in the proviso, for the expression "within five days after the polling day.", the following shall be substituted, namely:–

"within–

(a) seven days after the polling day in the case of elections to the National Assembly; and

(b) five days after the polling day in the case of elections to a Provincial Assembly."; and

(v) in sub-section (9), after the word "agents", the words "and accredited observers" shall be inserted.

22. Amendment of section 96, Act XXXIII of 2017.- In the said Act, for section 96, the following shall be substituted, namely:–

"**96. Resealing of packets and supply of copies.–** The Returning Officer shall immediately after preparing the Consolidated Statement of the Results of the Count and the Final Consolidated Result, reseal in the prescribed manner the packets and statements opened by him for the purpose of consolidation, permitting such of the candidates and their election agents as may be present to sign the packets and affix their seals to such packets.".

23. Amendment of section 99, Act XXXIII of 2017.- In the said Act, in section 99, in sub-section (1), after clause (d), the following new clause (da) shall be inserted, namely:–

"(da) the packets containing results of the count, provisional and final consolidated statement of results of the count and final consolidated results;".

"24. Amendment of section 105, Act XXXIII of 2017.- In the said Act, in section 105, for the expression ", the Islamabad Capital

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Territory or the Federally Administered Tribal Areas", the words "and the Islamabad Capital Territory" shall be substituted.

25. Amendment of section 107, Act XXXIII of 2017.– In the said Act, in section 107,–

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

"(1) The Commission shall, by notification in the official Gazette, call upon the Members of the Assembly of a Province or, as the case may be, the National Assembly to elect such number of Members to the Senate from that Province or the Islamabad Capital Territory, as the case may be, as is specified in the notification."; and

(ii) in sub-section (3), for the expression ", Islamabad Capital Territory or the Federally Administered Tribal Areas", the expression "or the Islamabad Capital Territory" shall be substituted.

26. Amendment of section 108, Act XXXIII of 2017.– In the said Act, in section 108, for the expression ", Islamabad Capital Territory or the Federally Administered Tribal Areas", the words "or the Islamabad Capital Territory" shall be substituted.

27. Amendment of section 109, Act XXXIII of 2017.– In the said Act, in section 109, for the expression ", the National Assembly or Members of the National Assembly from the Federally Administered Tribal Areas", the words "or the National Assembly" shall be substituted.

28. Amendment of section 110, Act XXXIII of 2017.– In the said Act, in section 110,–

(i) in sub-section (1), for the expression ", Islamabad Capital Territory or the Federally Administered Tribal Areas", the words "or the Islamabad Capital Territory" shall be substituted; and

(ii) sub-section (2), in clause (c), after the words "exclusive account", the words "or dedicated an existing account" shall be inserted.".

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29. Amendment of section 118, Act XXXIII of 2017.– In the said Act, in section 118, for sub-section (1), the following shall be substituted, namely:–

"(1) Where, after scrutiny of nomination papers or withdrawal under section 115, the number of validly nominated candidates or, as the case may be, the contesting candidates from a Province or Islamabad Capital Territory is less than or equal to the number of seats to be filled for that Province or Islamabad Capital Territory, as the case may be, the Returning Officer shall, by public notice, declare such candidates to be elected to the seats and send a return of election to the Commission.".

30. Amendments of section 122, Act XXXIII of 2017.– In the said Act, in section 122,–

(i) in sub-section (3), for the colon, a full stop shall be substituted and thereafter the proviso shall be omitted;

(ii) for sub-section (4), the following shall be substituted, namely:–

"(4) A voter shall cast his vote in the prescribed manner.".

31. Amendments of section 127, Act XXXIII of 2017.– In the said Act, in section 127,–

(i) in sub-section (1), for the expression ", the National Assembly or the Members of the National Assembly elected from the Federally Administered Tribal Areas", the words "or the National Assembly" shall be substituted;

(ii) in sub-section (2), for the expression ", the National Assembly or, by the Members of the National Assembly elected from the Federally Administered Tribal Areas", the words "or the National Assembly" shall be substituted; and

(iii) in sub-section (3), for the expression ", the National Assembly or by the Members of the National Assembly elected from the Federally Administered Tribal Areas", the words "or the National Assembly" shall be substituted.

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32. Amendment of section 130, Act XXXIII of 2017.– In the said Act, for section 130, the following shall be substituted, namely:–

"**130. Vacancy in electoral college not to invalidate election.—** An election of a Member of the Senate by the Members of a Provincial Assembly or Members of the National Assembly, as the case may be, shall not be called in question on the ground merely of the existence of any vacancy in the membership of the Assembly.".

33. Amendment of section 132, Act XXXIII of 2017.– In the said Act, in section 132,–

(i) in sub-section (1), after the word "candidate", occurring at the end, the expression "from the date of filing of his nomination papers till the date of issue of the final consolidated result under section 95" shall be inserted;

(ii) in sub-section (3),–

(A) in clause (b), for the word "four", the word "ten" shall be substituted; and
(B) in clause (c), for the word "two", the word "four" shall be substituted.

34. Amendment of section 133, Act XXXIII of 2017.– In the said Act, in section 133,–

(i) in sub-section (1), after the word "exclusive", the words "account or dedicate his existing" shall be inserted;

(ii) in sub-section (2), after the word "opened", the expression "or dedicated under sub-section (1)" shall be inserted; and

(iii) in sub-section (3),–

(A) after the word "open", the words "or dedicate" shall be inserted; and
(B) for full stop at the end, a colon shall be substituted and thereafter the following two provisos shall be added, namely:–

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"Provided that if a candidate intends to use his existing account for the purpose, he shall submit statement of account to the Returning Officer at the time of filing of nomination papers:

Provided further that any transaction other than the election expenses shall not be made through the exclusively opened or dedicated existing account from filing of nomination papers till filing of return of election expenses.".

35. Amendment of 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."

36. Amendment of 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.

37. Amendment of section 148, Act XXXIII of 2017.– In the said Act, in section 148,–

(i) in sub-section (1), for the expression ", shall be", the expression "shall be," shall be substituted;

(ii) sub-section (3) shall be omitted;

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

"(5) If the parties do not consent to specific dates under sub-section (4), the Election Tribunal shall proceed with the trial of the election petition on day-to-day basis and no adjournment shall be granted to any party for more than seven days and that too on payment of one hundred thousand rupees and the election petition shall be decided within one hundred and eighty days of its filing."; and

(iv) in sub-section (6),–

(A) in the rider provision, for the word "twenty", the word "eighty" shall be substituted; and

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(B) in clause (a), for the words "of ten", the words "ranging from ten thousand to fifty" shall be substituted.

38. Amendment of section 155, Act XXXIII of 2017.– In the said Act, in section 155, after sub-section (2), the following new sub-section (3) shall be added, namely:–

"(3) An appeal under sub-sections (1) and (2) shall be decided within one hundred and eighty days:

Provided that an injunctive order if passed shall stand vacated automatically if the appeal is not decided by the High Court or the Supreme Court, as the case may be, within one hundred and eighty days.".

"39. Amendment of section 158, Act XXXIII of 2017.– In the said Act, in section 158,–

(i) the existing provision thereof shall be numbered as sub-section (1) of that section; and

(ii) after sub-section (1), numbered as aforesaid, the following new sub-section shall be added, namely:–

"(2) If the Election Tribunal finds that the failure to comply with this Act or the rules mentioned in clause (a) of sub-section (1) is due to negligence of one or more Presiding Officers or the Returning Officers and not in connivance with the returned candidate, it shall direct the Commission to initiate criminal proceedings against the negligent Presiding Officers or Returning Officers under section 184 read with section 188, as well as disciplinary proceedings against them under section 55 and pending final decision in these proceedings, remuneration due to them in connection with the election shall be withheld.".

40. Amendment of section 167, Act XXXIII of 2017.– In the said Act, in section 167, in clause (b), after the word "tribe", the words "or is of a particular gender or is a transgender person" shall be inserted.

41. Amendment of section 170, Act XXXIII of 2017.– In the said Act, in section 170, in clause (a), for sub-clause(vii), the following shall be substituted, namely:–

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"(vii) prevents any woman or a transgender person from contesting an election or exercising the right to vote.".

42. Amendment of section 171, Act XXXIII of 2017.– In the said Act, in section 171, in clause (a),–

(i) for the words "polling authorities", the words "election officials" shall be substituted; and

(ii) for the word "and", the word "or" shall be substituted.

"43. Amendment of section 172, Act XXXIII of 2017.– In the said Act, in section 172, in sub-section (2), after the word "both", the expression "in addition to such penalty as may be imposed as a result of disciplinary action initiated by the Commission under section 55" shall be inserted.

44. Amendment of section 184, Act XXXIII of 2017.– In the said Act, in section 184, clause (a) shall be omitted.

45. Insertion of section 190A, Act XXXIII of 2017.– In the said Act, after section 190, the following new section 190A shall be inserted, namely:–

"**190A. Certain offences cognizable.—** Notwithstanding anything contained in the Code, offences punishable under sections 174, 176, 177 and 179 shall be cognizable.".

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

48. Amendment of section 208, Act XXXIII of 2017.– In the said Act, in section 208, after sub-section (4), the following new sub-section shall be added, namely:–

"(5) Where a political party fails to conduct intra-party elections as per given time frame in their constitution, a show cause notice shall be issued to such political party and if the party fails to comply with, then the Commission shall impose fine which may extend to two hundred thousand rupees but shall not be less than one hundred thousand rupees.".

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49. Amendment of section 211, Act XXXIII of 2017.– In the said Act, in section 211,–

(i) in sub-section (1), for the words "one hundred thousand", the words "one million" shall be substituted; and

(ii) in sub-section (2), after the word "election", occurring at the end, the expression ", bye-election and Senate election." shall be inserted.

50. Amendment of section 219, Act XXXIII of 2017.– In the said Act, in section 219,–

(i) in sub-section (1), for the expression ", Islamabad Capital Territory or Federally Administrated Tribal Areas", the words "or Islamabad Capital Territory" shall be substituted.

(ii) in sub-section (2), for the expression ", Islamabad Capital Territory or Federally Administrated Tribal Areas", the words "or Islamabad Capital Territory" shall be substituted.

(iii) in sub-section (3), the expression ", Federally Administrated Tribal Areas" shall be omitted; and

(iv) in sub-section (4), for the expression ", Islamabad Capital Territory or Federally Administrated Tribal Areas", the words "or Islamabad Capital Territory" shall be substituted.

51. Amendment of section 230, Act XXXIII of 2017.– In the said Act, in section 230, in sub-section (2), for full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that sub-sections (1) and (2) shall not apply where the caretaker Government has to take actions or decisions regarding existing bilateral or multilateral agreements or the projects already initiated under the Public Private Partnership Authority Act, 2017 (VIII of 2017), the Inter-Governmental Commercial Transactions Act, 2022 (XXX of 2022) and the Privatization Commission Ordinance, 2000 (LII of 2000).".

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52. Amendment of section 231, Act XXXIII of 2017.– In the said Act, in section 231, for full stop at the end, a colon shall be substituted and the following two provisos shall be added, namely:–

"Provided that nomination on honorary basis or being a member of any board of any statutory body or any entity that is owned or controlled by the Government or in which the Government has a controlling share or interest or authority, by whatsoever name called, shall not be a disqualification from being a candidate of the *Majlis-e-Shoora* (Parliament), a Provincial Assembly or a local government, as the case may be, under Articles 62 and 63, the State-Owned Enterprises (Governance and Operation) Act, 2023 (VII of 2023), the Companies Act, 2017 (XIX of 2017) or any other applicable law or rules made thereunder:

Provided further that payment of remuneration for any business including meeting fee and other perquisites on honorary basis to him being a member shall not tantamount to disqualification from being a candidate.".

53. Amendment of section 233, Act XXXIII of 2017.– In the said Act, in section 233, in sub-section (4) after the word "website", the expression "and no change shall be made except in the manner provided in sub-section (1)", shall be inserted.

54. Amendment in Form A, Act XXXIII of 2017.– In the said Act, in Form A, under the heading "Declaration and Oath by the person nominated", for clause 3, the following shall be substituted, namely:–

"I, the above-mentioned candidate, declare that I have opened an exclusive Account No. _____ with _____ (Name and Branch of Scheduled Bank).

OR

I will use my existing Account No. _____ with _____ (Name and Branch of Scheduled Bank for the purpose of Election expenses) (Please enclose statement of the Bank Account).".

55. Amendment in Form C, Act XXXIII of 2017.– In the said Act, in Form C, under the heading "RETURN OF ELECTION EXPENSES", after the item "Address of the candidate ————————", the following new items shall be added, namely:–

"CNIC number ————————————————————
Name of Bank and Address ————————————————
Account number or IBAN ————————————————————".

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