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EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 13th December, 1966/Agrahayana 22, 1888 (Saka)

The following Act of Parliament received the assent of the President on the 13th December, 1966, and is hereby published for general information:—

**THE REPRESENTATION OF THE PEOPLE
(AMENDMENT) ACT, 1966**

No. 47 of 1966

[13th December, 1966]

An Act further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1966.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Substitution of new sections for sections 3 and 4.
Allocation of seats in the House of the People.
Filling of seats in the House of the People and parliamentary constituencies.

2. For sections 3 and 4 of the Representation of the People Act, 1950 (hereafter in this Chapter referred to as the 1950-Act), the following sections shall be substituted, namely:—

43 of 1950.

"3. The allocation of seats to the States in the House of the People and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of each State shall be as shown in the First Schedule.

4. (1) The seat allotted in the House of the People under section 3 to the Part B tribal areas shall be the seat to be filled by a person nominated by the President.

(2) Save as aforesaid, all the other seats in the House of the People allotted to the States under that section shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.

(3) Every parliamentary constituency referred to in sub-section (2) shall be a single-member constituency.

(4) Every State to which only one seat is allotted under section 3 shall form one parliamentary constituency.

(5) Save as provided in sub-section (4), the extent of all parliamentary constituencies in each of the States of Haryana, Punjab and Himachal Pradesh shall be as determined by the order of the Delimitation Commission made under the provisions of the Punjab Reorganisation Act, 1966, and the extent of all other parliamentary constituencies shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Commission Act, 1962, or, as the case may be, under the provisions of the Government of Union Territories Act, 1963."

31 of 1956.

61 of 1962.

20 of 1963.

Provision as to sitting members in certain cases.

3. Notwithstanding anything contained in section 2 the members representing immediately before the commencement of this Act each of the States of Jammu and Kashmir and Nagaland and each of the Union territories of the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli in the present House of the People shall continue to represent each such State or each such Union territory until the dissolution of the present

House of the People and so often as before such dissolution any seat allotted to each such State or to each such Union territory in the present House of the People becomes vacant, it shall be filled by a person nominated by the President and that person shall represent that State or that territory in the present House of the People until its dissolution.

4. For section 7 of the 1950-Act, the following shall be substituted, namely:—

Substitution of new sections for section 7.

"7. (1) The total number of seats in the Legislative Assembly of each State specified in the Second Schedule, to be filled by persons chosen by direct election from assembly constituencies, and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State, shall be as shown in that Schedule:

Total number of seats in Legislative Assemblies and assembly constituencies.

Provided that for the period referred to in clause (2) of article 371A, the total number of seats allotted to the Legislative Assembly of the State of Nagaland shall be forty-six, of which—

(a) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council, referred to in that article, from amongst themselves in such manner as the Governor, after consulting that council may, by notification in the Official Gazette, specify, and

(b) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State.

(2) Every assembly constituency referred to in sub-section (1) shall be a single-member constituency.

(3) The extent of each assembly constituency in the State of Nagaland shall be as determined by the order of the Election Commission made under the provisions of the State of Nagaland Act, 1962; and the extent of each assembly constituency in each of the States of Haryana, Punjab and Himachal Pradesh shall be as determined by the order of the Delimitation Commission made under the provisions of the Punjab Reorganisation Act, 1966, and the extent of each assembly constituency in any other State shall be as determined by the order of the Delimitation Commission made under the provisions of the Delimitation Commission Act, 1962, or, as the case may be, under the provisions of the Government of Union Territories Act, 1963.

27 of 1962.

31 of 1966.

61 of 1962.
20 of 1963.

**THE DELIMITATION OF PARLIAMENTARY AND ASSEMBLY
CONSTITUENCIES ORDER**

Consolidation of delimitation orders.

8. (1) As soon as may be, after all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies have been made by the Delimitation Commission or, as the case may be, the Election Commission and published in the Official Gazette, the Election Commission shall, after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 1966 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 or in sub-section (3) of section 7 and shall have the force of law and shall not be called in question in any court.

(2) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State.

Power of Election Commission to maintain Delimitation Order up-to-date.

9. (1) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.”

Insertion of new section 13AA. District election officers.

5. After section 13A of the 1950-Act, the following section shall be inserted, namely:—

“13AA. (1) For each district in a State, other than a Union territory, the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

(2) Where more than one district election officer are designated or nominated for a district under the proviso to sub-section (1), the Election Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(4) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer."

6. In section 13B of the 1950-Act, in sub-section (1), for the words "for a parliamentary constituency in each of the Union territories of Delhi, the Andaman and Nicobar Islands, the Laccadive, Minicoy and Amindivi Islands and Dadra and Nagar Haveli", the words "for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly" shall be substituted. Amendment of section 13B.

7. For section 13D of the 1950-Act, the following section shall be substituted, namely:— Substitution of new section for section 13D.

"13D. (1) The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, shall consist of the electoral rolls for all the assembly constituencies comprised within that parliamentary constituency; and it shall not be necessary to prepare or revise separately the electoral roll for any such parliamentary constituency. Electoral rolls for parliamentary encies.

Provided that for the period referred to in clause (2) of article 371A, it shall be necessary to prepare and revise separately the electoral roll for that part of the parliamentary constituency of Nagaland which comprises the Tuensang district and the

provisions of Part III shall apply in relation to the preparation and revision of the electoral roll of the said part as they apply in relation to an assembly constituency.

(2) The provisions of Part III shall apply in relation to every parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly as they apply in relation to an assembly constituency."

Amend-
ment of
section 20.

8. In section 20 of the 1950—Act,—

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

"(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.";

(b) in sub-section (4), the words "or any person who is employed under the Government of India in a post outside India," and the words "or employment" shall be omitted;

(c) in sub-section (5),—

(i) for the words "but for his service in the armed forces or, as the case may be, the armed police force", the words "but for his having the service qualification" shall be substituted;

(ii) the words "or being employed in any such post" shall be omitted; and

(iii) for the words "conclusive evidence of that fact", the words "accepted as correct" shall be substituted;

(d) after sub-section (6), the following sub-sections shall be inserted, namely:—

'(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.

(8) In sub-sections (3) and (5) "service qualification" means—

(a) being a member of the armed forces of the Union; or

(b) being a member of a force to which the provisions of the Army Act, 1950, have been made applicable whether with or without modifications; or

(c) being a member of an armed police force of a State, who is serving outside that State; or

(d) being a person who is employed under the Government of India, in a post outside India.’

9. In section 21 of the 1950-Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 21.

“(2) The said electoral roll—

(a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each general election to the House of the People or to the Legislative Assembly of a State; and

(ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.”.

10. For section 23 of the 1950-Act, the following section shall be substituted, namely:—

Substitution of new section for section 23.

“23. (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Inclusion of names in electoral rolls.

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary consti-

tuency within which that constituency is comprised and before the completion of that election.”.

Amend-
ment of
section 24.

11. In section 24 of the 1950-Act, the word “and” occurring at the end of clause (a) shall be omitted and clause (b) shall be omitted.

Amend-
ment of
section 28.

12. In section 28 of the 1950-Act, in sub-section (2), for clause (a), the following clauses shall be substituted, namely:—

“(a) the determination of ordinary residence under sub-section (7) of section 20;

(aa) the particulars to be entered in the electoral rolls;”.

Substitu-
tion of
new
Schedule
for First
Schedule

13. For the First Schedule to the 1950-Act, the following Schedule shall be substituted, namely:—

“THE FIRST SCHEDULE

(See section 3)

Allocation of seats in the House of the People

Name of State, Union territory or area	Number of seats in the House as constituted on the 1st November, 1966			Number of seats in the House as subsequently constituted		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
I	2	3	4	5	6	7
I. STATES:						
1. Andhra Pradesh	43	6	2	41	6	2
2. Assam . . .	12	1	2	14	1	2
3. Bihar . . .	53	7	5	53	7	5
4. Gujarat . . .	22	1	3	24	2	3
5. Haryana . . .	8	2	..	9	2	..
6. Jammu and Kash- mir . . .	6	..	..	6	..	..
7. Kerala . . .	18	2	..	19	2	..
8. Madhya Pradesh	36	5	7	37	5	8
9. Madras . . .	41	7	..	39	7	..
10. Maharashtra . .	44	5	2	45	3	3
11. Mysore . . .	26	3	..	27	4	..
12. Nagaland . . .	1	..	..	1	..	..
13. Orissa . . .	20	4	4	20	3	5
14. Punjab . . .	13	3	..	13	3	..
15. Rajasthan . . .	22	3	2	23	4	3
16. Uttar Pradesh . .	86	18	..	85	18	..
17. West Bengal . .	36	6	2	40	8	2

	1	2	3	4	5	6	7
II. UNION TERRITORIES:							
1. Andaman and Nicobar Islands		1	..	..	1	..	..
2. Chandigarh		..	..	..	1	..	..
3. Dadra and Nagar Haveli		1	..	..	1	..	1
4. Delhi		5	1	..	7	1	..
5. Goa, Daman and Diu		2	..	..	2	..	..
6. Himachal Pradesh		5	1	..	6	1	..
7. Laccadive, Minicoy and Amindivi Islands		1	..	..	1	..	1
8. Manipur		2	..	1	2	..	1
9. Pondicherry		1	..	..	1	..	..
10. Tripura		2	..	1	2	..	1
III.—AREA :							
North East Frontier Tract		1	..	..	1	..	..
TOTAL		508	76	31	521	77	37."

14. For the Second Schedule to the 1950-Act, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for second Schedule.

"THE SECOND SCHEDULE

(See section 7)

Total number of seats in the Legislative Assemblies

Name of the State/ Union territory	Number of seats in the Legislative Assembly as constituted on the 1st November, 1966			Number of seats in the Legislative Assembly as subsequently constituted		
	Total	Reserved for the Schedu- led Castes	Reserved for the Schedu- led Tribes	Total	Reserved for the Schedu- led Castes	Reserved for the Schedu- led Tribes
1	2	3	4	5	6	7

I. STATES :

1. Andhra Pradesh	300	43	11	287	40	11
2. Assam	105	5	23	126	8	10

	1	2	3	4	5	6	7
3. Bihar . . .	318	40	32	318	45	29	
4. Gujarat . . .	154	11	21	168	11	22	
5. Haryana . . .	54	10	..	81	15	..	
6. Kerala . . .	133	11	2	133	11	2	
7. Madhya Pradesh	288	43	54	296	39	61	
8. Madras . . .	206	37	1	234	42	2	
9. Maharashtra . .	264	33	14	270	15	16	
10. Mysore . . .	208	28	1	216	29	2	
11. Nagaland . . .	46	..	..	46	..	..	
12. Orissa . . .	140	25	29	140	22	34	
13. Punjab . . .	87	20	..	104	23	..	
14. Rajasthan . . .	176	28	20	184	31	21	
15. Uttar Pradesh .	430	89	..	425	89	..	
16. West Bengal . .	252	45	15	280	56	17	

II. UNION TERRITORIES :

1. Goa, Daman and Diu . . .	30	..	..	30	..	..	
2. Himachal Pradesh	54	14	2	60	14	3	
3. Manipur . . .	30	..	..	30	..	9	
4. Pondicherry . .	30	5	..	30	5	..	
5. Tripura . . .	30	..	..	30	3	9."	

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amend-
ment of
section 2.

15. In section 2 of the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the 1951-Act),—

43 of 1951.

(a) in sub-section (1),—

(i) after clause (c), the following clause shall be inserted, namely:—

‘(cc) “district election officer” means the officer designated or nominated under section 13AA of the Representation of the People Act, 1950;’;

43 of 1951.

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(h) “public holiday” means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881;’;

26 of 1881.

(iii) clause (k) shall be omitted;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.”.

16. In Part II of the 1951-Act, for the heading “QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP”, the heading “QUALIFICATIONS AND DISQUALIFICATIONS” shall be substituted.

Substitution of new heading for heading of Part II.

17. In section 3 of the 1951-Act, the brackets and words “(other than the State of Jammu and Kashmir)” shall be omitted.

Amendment of section 3.

18. In section 4 of the 1951-Act,—

Amendment of section 4.

(a) the words “to the State of Jammu and Kashmir, or” shall be omitted;

(b) in clause (c), the word “and” occurring at the end shall be omitted;

(c) after clause (c), the following clause shall be inserted, namely:—

“(cc) in the case of the seat reserved for the Scheduled Tribes in the Union territory of the Laccadive, Minicoy and Amindivi Islands, he is a member of any of those Scheduled Tribes and is an elector for the parliamentary constituency of that Union territory; and”.

19. In section 5 of the 1951-Act, in clause (b), for the words “Scheduled Tribe of that district”, the words “Scheduled Tribe of any autonomous district” shall be substituted.

Amendment of section 5

20. In Part II of the 1951-Act, for Chapter III, the following Chapters shall be substituted, namely:—

Substitution of new Chapters for Chapter III of Part II.

‘CHAPTER III

DISQUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT AND STATE LEGISLATURES

7. In this Chapter,—

(a) “appropriate Government” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;

Definitions

(b) "disqualified" means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

Disqualifi-
cation on
conviction
for certain
offences.

8. (1) A person convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act shall be disqualified for a period of six years from the date of such conviction.

45 of 1880

(2) A person convicted by a court in India for any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release:

Provided that a person convicted by a court in India for the contravention of any law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs and sentenced to imprisonment for not less than six months shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release.

(3) Notwithstanding anything in sub-section (1) and sub-section (2), a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Explanation.—In this section,—

(a) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—

(i) the regulation of production or manufacture of any essential commodity;

(ii) the control of price at which any essential commodity may be bought or sold;

(iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;

(iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale.

23 of 1940.

(b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940;

10 of 1955

(c) "essential commodity" has the meaning assigned to it in the Essential Commodities Act, 1955;

(d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954.

8A. A person found guilty of a corrupt practice, by an order under section 99, shall be disqualified for a period of six years from the date on which that order takes effect.

Disqualifi-
cation for
corrupt
practice.

9. (1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

Disqualifi-
cation for
dismissal
for corrup-
tion or
disloyalty.

(2) For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact:

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

Disquali-
fication for
Govern-
ment
contracts,
etc.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

Disqualifi-
cation for
office
under
Govern-
ment com-
pany.

Disqualifi-
cation
for failure
to lodge
account
of elec-
tion ex-
penses.

Removal
or reduc-
tion of
period of
disquali-
fication.

10. A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent. share.

10A. If the Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(b) has no good reason or justification for the failure, the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

11. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

CHAPTER IV

DISQUALIFICATIONS FOR VOTING

Disquali-
fication
arising
out of
conviction
and
corrupt
prac-
tices.

11A. If any person, after the commencement of this Act,—

(a) is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act, or

(b) is found guilty of a corrupt practice by an order under section 99,

he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be disqualified for voting at any election.

Removal
of disqua-
lifications.

11B. The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter.

Insertion
of new
section
19A.

21. After section 19 of the 1951-Act, the following section shall be inserted, namely:—

45 of 1860.

43 of 1950.

"19A. The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission."

Delegation of functions of Election Commission.

22. After section 20 of the 1951-Act, the following section shall be inserted, namely:—

Insertion of new section 20A.

"20A. (1) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall co-ordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

General duties of district election officer.

(2) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer."

23. In section 21 of the 1951-Act, for the words "an officer of Government", the words "an officer of Government or of a local authority" shall be substituted.

Amendment of section 21.

24. In section 22 of the 1951-Act, in the proviso to sub-section (1), for the words "an officer of Government", the words "an officer of Government or of a local authority" shall be substituted.

Amendment of section 22.

25. For section 25 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for section 25.

"25. The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency, the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided."

Provision of polling stations for constituencies.

26. In section 26 of the 1951-Act,—

(c) for the words "returning officer", wherever they occur, the words "district election officer" shall be substituted;

Amendment of section 26.

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Any reference to a district election officer in section 25 and in this section shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency.”.

Amend-
ment of
section
30.

27. In section 30 of the 1951-Act,—

(a) in clause (b), for the words “the second day after”, the words “the day immediately following” shall be substituted;

(b) in clause (c), for the words “the third day”, the words “the second day” shall be substituted;

(c) the *Explanation* shall be omitted.

Amend-
ment of
section
31.

28. In section 31 of the 1951-Act, the words “for the constituency” shall be omitted.

Amend-
ment of
section
33.

29. In section 33 of the 1951-Act,—

(a) to sub-section (1), the following proviso shall be added, namely:—

“Provided that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.”;

(b) in sub-section (4), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer

shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked."

30. In section 39 of the 1951-Act,—

Amend-
ment of
section
39.

(a) in sub-section (1),—

(i) in clause (b), for the words "the second day after", the words "the day immediately following" shall be substituted;

(ii) in clause (c), for the words "the third day", the words "the second day" shall be substituted;

(iii) the *Explanation* shall be omitted;

(b) in sub-section (2), after clause (a) of the proviso, the following clause shall be inserted, namely:—

"(aa) in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (a) of sub-section (2) of section 36 shall be construed as including a reference to sub-clause (d) of clause (3) of article 171;"

31. For section 41 of the 1951-Act, the following section shall be substituted, namely:—

Substi-
tution of
new sec-
tion for
section 41.

"41. Any person who is for the time being disqualified under the Constitution or under this Act for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election."

Disquali-
fication
for being
an elec-
tion
agent.

32. In section 52 of the 1951-Act, for the words "If a contesting candidate dies", the words and figures "If a candidate whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies and a report of his death is received before the publication of the list of contesting candidates under section 38, or if a contesting candidate dies shall be substituted.

Amend-
ment of
section
52.

Amend-
ment of
section 60.

33. In section 60 of the 1951-Act, in clause (a), for sub-clauses (i), (iii) and (iv), the following sub-clauses shall be substituted, namely:—

“(i) any person to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 apply;

43 of 1950.

(ii) the wife of any such person as is referred to in sub-clause (i) to whom the provisions of sub-section (6) of the said section 20 apply;”.

Insertion
of new
section
64A.

34. After section 64 of the 1951-Act, the following section shall be inserted, namely:—

Destruc-
tion, loss,
etc., of
ballot
papers
at the
time of
counting.

“64A. (1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the Election Commission.

(2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.”.

Amend-
ment of
section
66.

35. In section 66 of the 1951-Act, for the words “shall forthwith declare”, the words “shall, in the absence of any direction by the Election Commission to the contrary, forthwith declare” shall be substituted.

36. Section 78 of the 1951-Act shall be re-numbered as sub-section (1) thereof and— Amendment of section 78.

(a) in sub-section (1) as so re-numbered, for the words "returning officer" the words "district election officer" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) The reference to the district election officer in sub-section (1) shall, in relation to a constituency in a Union territory, be construed as a reference to the returning officer for that constituency."

37. In section 79 of the 1951-Act,—

(a) for the words and figures "Parts VII and VIII", the word and figures "Part VII" shall be substituted; Amendment of section 79.

(b) before clause (b), the following clause shall be inserted, namely:—

"(a) any reference to a High Court or to the Chief Justice or Judge of a High Court shall, in relation to a Union territory having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be;"

(c) in clause (d), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted;

(d) for clause (e), the following clause shall be substituted, namely:—

'(e) "High Court" means the High Court within the local limits of whose jurisdiction the election to which the election petition relates has been held;'

38. After section 80 of the 1951-Act, the following section shall be inserted, namely:— Insertion of new section 80A.

"80A. (1) The Court having jurisdiction to try an election petition shall be the High Court. High Court to try election petitions.

(2) Such jurisdiction shall be exercised ordinarily by a single Judge of the High Court and the Chief Justice shall, from time to time, assign one or more Judges for that purpose:

Provided that where the High Court consists only of one Judge, he shall try all election petitions presented to that Court.

(3) The High Court in its discretion may, in the interests of justice or convenience, try an election petition, wholly or partly, at a place other than the place of seat of the High Court."

Amend-
ment of
section
81.

39. In section 81 of the 1951-Act,—

(a) in sub-section (1), for the words "Election Commission", the words "High Court" shall be substituted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), the words "and one more copy for the use of the Election Commission" shall be omitted.

Omission
of section
85.

40. Section 85 of the 1951-Act shall be omitted.

Substitu-
tion of
new sec-
tions for
sections
86 to 92.

41. For sections 86 to 92 of the 1951-Act, the following sections shall be substituted, namely:—

Trial of
election
petitions.

"86. (1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not

allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

87. (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits:

Procedure before the High Court.

8 of 1908.

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

1 of 1872.

(2) The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition."

42. In sections 95, 96, 97, 98, 99, 100, 101 and 102 of the 1951-Act, for the words "the Tribunal", wherever they occur, the words "the High Court" shall be substituted.

Amendment of sections 95, 96, 97, 98, 99, 100, 101 and 102.

43. For section 103 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for section 103.

"103. The High Court shall, as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and, as soon as may be thereafter, shall send to the Election Commission an authenticated copy of the decision."

Communication of orders of the High Court.

Amend-
ment of
sections
106 and
107.

44. (a) In section 106 of the 1951-Act, for the words "the Tribunal", the words "the High Court" shall be substituted;

(b) in section 107 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions contained in Chapter IVA relating to the stay of operation of an order of the High Court under section 98 or section 99, every such order shall take effect as soon as it is pronounced by the High Court."

Omission
of section
108.

45. Section 108 of the 1951-Act shall be omitted.

Substitu-
tion of
new sec-
tions for
sections
109 and
110.

46. For section 109 and 110 of the 1951-Act, the following sections shall be substituted, namely:—

Withdrawal
of election
petitions.

"109. (1) An election petition may be withdrawn only by leave of the High Court.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

Procedure
for with-
drawal of
election
petitions.

110. (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted—

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the High Court may think fit;

(b) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing,

and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”.

47. In section 111 of the 1951-Act, for the words “the Tribunal”, wherever they occur, the words “the High Court” shall be substituted.

Amendment of section 111.

48. For sections 112, 113, 114 and 115 of the 1951-Act, the following section shall be substituted, namely:—

Substitution of new section for sections 112 to 115.

“112. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

Abatement of election petitions.

(2) Where an election petition abates under sub-section (1), the High Court shall cause the fact to be published in such manner as it may deem fit.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”.

49. In section 116 of the 1951-Act, for the words “the Tribunal”, in both the places where they occur, the words “the High Court” shall be substituted.

Amendment of section 116.

50. For sections 116A and 116B, the following sections shall be substituted, namely:—

Substitution of new sections for sections 116A and 116B.

“116A. (1) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the Supreme Court on any question (whether of law or fact) from every order made by a High Court under section 98 or section 99.

Appeals to Supreme Court.

(2) Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the High Court under section 98 or section 99:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

Stay of
operation
of order
of High
Court.

116B. (1) An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.

(2) Where an appeal has been preferred against an order made under section 98 or section 99, the Supreme Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.

(3) When the operation of an order is stayed by the High Court or, as the case may be, the Supreme Court, the order shall be deemed never to have taken effect under sub-section (1) of section 107; and a copy of the stay order shall immediately be sent by the High Court or, as the case may be, the Supreme Court, to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned.

Procedure
in appeal.

116C. (1) Subject to the provisions of this Act and of the rules, if any, made thereunder, every appeal shall be heard and determined by the Supreme Court as nearly as may be in accordance with the procedure applicable to the hearing and determination of an appeal from any final order passed by a High Court in the exercise of its original civil jurisdiction; and all the provisions of the Code of Civil Procedure, 1908 and the Rules of the Court (including provisions as to the furnishing of security and the execution of any order of the Court) shall so far as may be, apply in relation to such appeal.

5 of 1908.

(2) As soon as an appeal is decided, the Supreme Court shall intimate the substance of the decision to the Election Commission and the Speaker or Chairman, as the case may be, of the House of Parliament or of the State Legislature concerned and as soon as may be thereafter shall send to the Election Commission an authenticated copy of the decision; and upon its receipt, the Election Commission shall—

(a) forward copies thereof to the authorities to which copies of the order of the High Court were forwarded under section 106; and

(b) cause the decision to be published in the Gazette or Gazettes in which that order was published under the said section."

51. For sections 117, 118, 119, 119A and 120 of the 1951-Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 117, 118, 119, 119A and 120.

"117. (1) At the time of presenting an election petition, the petitioner shall deposit in the High Court in accordance with the rules of the High Court a sum of two thousand rupees as security for the costs of the petition.

Security for costs.

(2) During the course of the trial of an election petition, the High Court may, at any time, call upon the petitioner to give such further security for costs as it may direct.

118. No person shall be entitled to be joined as a respondent under sub-section (4) of section 86 unless he has given such security for costs as the High Court may direct.

Security for costs from a respondent.

119. Costs shall be in the discretion of the High Court:

Costs.

Provided that where a petition is dismissed under clause (a) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the High Court shall make an order for costs in favour of the returned candidate."

52. In section 121 of the 1951-Act, for the words "the Election Commission", wherever they occur, the words "the High Court" shall be substituted.

Amendment of section 121.

53. In section 123 of the 1951-Act,—

(a) in clause (1) (A),—

Amendment of section 123.

(i) in sub-clause (a), for the words "to withdraw"; the words "to withdraw or not to withdraw" shall be substituted;

(ii) in sub-clause (i), for the words "having withdrawn", the words "having withdrawn or not having withdrawn" shall be substituted;

(b) in clause (I) (B),—

(i) in sub-clause (a), for the word "withdrawing", the words "withdrawing or not withdrawing" shall be substituted;

(ii) in sub-clause (b), for the words "to withdraw", the words "to withdraw or not to withdraw" shall be substituted;

(c) in clause (5), for the words "for the conveyance", the words "or the use of such vehicle or vessel for the free conveyance" shall be substituted;

(d) in clause (2) of the *Explanation* at the end of the section, the words " , or a polling agent or a counting agent" shall be omitted.

Amend-
ment of
section
126.

54. In section 126 of the 1951-Act, for sub-section (I), the following sub-section shall be substituted, namely:—

"(I) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area."

Amend-
ment of
section
129.

55. In section 129 of the 1951-Act,—

(a) in sub-section (I), for the words "a returning officer", the words "a district election officer or a returning officer" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) An offence punishable under sub-section (3) shall be cognizable."

Amend-
ment of
section
130.

56. In section 130 of the 1951-Act, in sub-section (I), for the words "one hundred yards", the words "one hundred metres" shall be substituted.

Amend-
ment of
section
133.

57. In section 133 of the 1951-Act, for the words "two hundred and fifty rupees", the words "one thousand rupees" shall be substituted.

58. In section 134 of the 1951-Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) An offence punishable under sub-section (1) shall be cognizable.”;

(b) in sub-section (3), for the words “returning officers”, the words “district election officers, returning officers” shall be substituted.

Amendment of section 134

59. After section 134 of the 1951-Act, the following section shall be inserted, namely:—

“134A. If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.”.

Insertion of new section 134A.

Penalty for Government servants for acting as election agent, polling agent or counting agent.

60. In section 136 of the 1951-Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) An offence punishable under sub-section (2) shall be cognizable.”.

Amendment of section 136.

61. Section 137 of the 1951-Act shall be omitted:

Provided that such omission shall not affect any inquiry or other proceeding under the said section pending immediately before such omission and any such inquiry or other proceeding may be continued and any prosecution may be instituted as a result of such inquiry or other proceeding and any penalty or punishment may be imposed under and in accordance with the said section as if that section had not been omitted.

Omission of section 137 and saving.

62. In Part VIII of the 1951-Act, Chapters I, II and III shall be omitted.

Omission of Chapters I, II and III of Part VIII.

Act not
to apply
to pending
elections,
etc.

63. Save as otherwise provided in this Act, nothing herein shall apply to any election which has been called before the commencement of this Act or to any election petition arising out of such election, whether such petition is pending at such commencement or is presented afterwards, and all such elections shall be held and petitions tried, and all matters in connection with such elections or petitions (including the constitution of Election Tribunals) shall be regulated, in accordance with the provisions of the law in force immediately before such commencement.

S. P. SEN-VARMA,
Secy. to the Govt. of India.