

*Rep: by Act 52 of 1964, s. 2 + Sec. I (w.e.f 29.12.64)*

**THE REPRESENTATION OF THE PEOPLE  
(AMENDMENT) ACT, 1961**

No. 40 of 1961

[12th September, 1961]

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 Twelfth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title  
and com-  
mencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1961.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Amendment  
of section 23.

2. In section 23 of the Representation of the People Act, 1950<sup>43</sup> of 1950 (hereinafter referred to as the 1950-Act), sub-sections (4) and (5) shall be omitted.

Insertion of  
new sections  
after section  
23.

3. After section 23 of the 1950-Act, the following sections shall be inserted, namely:—

Appeals.

“24. An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the Chief Electoral Officer, from any order of the Electoral Registration Officer under section 22 or section 23, and

(b) to the Election Commission, from any order of the Chief Electoral Officer under section 23.

<sup>1</sup>20-9-1961, vide Notification No. G. S. R. 1142, dated 16-9-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3 (i), p. 429.

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25. Every application under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded.

Fee for applications and appeals.

4. In section 27 of the 1950-Act,—

Amendment of section 27.

(a) in sub-section (5)—

(i) in clause (a), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(ii) in clause (b), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) For the purposes of sub-sections (4) and (5), the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced."

5. In section 28 of the 1950-Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 28.

"(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

6. In the Fourth Schedule to the 1950-Act,—

Amendment of the Fourth Schedule.

(a) the heading "BOMBAY" and the entries under that heading shall be omitted;

(b) under the heading "MADRAS", for the entry "2. District Boards.", the entry "2. Panchayat Union Councils." shall be substituted;

(c) after the heading "MADRAS" and the entries thereunder, the following heading and entries shall be inserted, namely:—

"MAHARASHTRA

1. Municipal Committees.
2. District Local Boards.
3. Cantonment Boards.
4. District Boards.
5. Town Committees.
6. Janapada Sabhas (Rural Circle);

(d) under the heading "MYSORE"—

(1) for the entry "2. District Boards and District Local Boards.", the entry "2. Taluk Development Boards." shall be substituted;

(2) the entry "5. Village Panchayats with a population of not less than five thousand." shall be omitted;

(e) under the heading "PUNJAB", for the entry "2. District Boards.", the entry "2. Panchayat Samitis." shall be substituted.

### CHAPTER III

#### AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment  
of section 30.

7. In section 30 of the Representation of the People Act, 1951 43 of 1951 (hereinafter referred to as the 1951-Act),—

(a) in clause (a), for the words "tenth day", the words "seventh day" shall be substituted;

(b) in clause (b), for the words "third day", the words "second day" shall be substituted.

Amendment  
of section 33.

8. In section 33 of the 1951-Act, for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency."

Amendment  
of section 36.

9. In section 36 of the 1951-Act,—

(a) in sub-section (2), in clause (a), for the words "that the candidate", the words "that on the date fixed for the scrutiny of nominations the candidate" shall be substituted;

(b) in sub-section (5), in the proviso, for the words "an objection is made", the words "an objection is raised by the

returning officer or is made by any other person" shall be substituted.

10. In section 37 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 37.

"(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office."

11. In section 39 of the 1951-Act, in sub-section (1), in clause (a), for the words "tenth day", the words "seventh day" shall be substituted. Amendment of section 39.

12. Section 54 of the 1951-Act shall be omitted. Omission of section 54.

13. For section 58 of the 1951-Act, the following section shall be substituted, namely:— Substitution of new section for section 58.

"58. (1) If at any election,—

(a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained, or

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

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) 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 day so appointed and the 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 or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(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."

Omission of section 63.

14. Section 63 of the 1951-Act shall be omitted.

Amendment of section 67A.

15. In section 67A of the 1951-Act, the word and figures "section 54" shall be omitted.

Amendment of section 73.

16. In section 73 of the 1951-Act,—

(a) for the words "the appropriate authority", the words "the Election Commission" shall be substituted;

(b) the words "together with the names of the persons, if any, nominated by the President or Governor to that House or Assembly, as the case may be;" shall be omitted.

Amendment of section 81.

17. In section 81 of the 1951-Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one more copy for the use of the Election Commission, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition."

Amendment of section 83.

18. In section 83 of the 1951-Act, in sub-section (1), the following proviso shall be added at the end, namely:—

"Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof."

Amendment of section 90.

19. In section 90 of the 1951-Act, in sub-section (3), for the words and figures "section 82 or section 117", the words and figures "or section 82" shall be substituted.

Amendment of section 116A.

20. In section 116A of the 1951-Act, in sub-section (4), after the word and figures "section 98", the words and figures "or section 99" shall be inserted.

Amendment of section 117.

21. In section 117 of the 1951-Act, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted.

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22. In section 120 of the 1951-Act, in sub-section (1), the following proviso shall be added at the end, namely:—

Amendment  
of section  
120.

“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 Tribunal shall make an order for costs in favour of the returned candidate.”.

23. In section 123 of the 1951-Act, for clause (3), the following clauses shall be substituted, namely:—

Amendment  
of section  
123.

“(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.”.

24. In Chapter III of Part VII of the 1951-Act, before section 126, the following section shall be inserted, namely:—

Insertion of  
new section  
125 in  
Chapter III  
of Part VII.

“125. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.”.

Promoting  
enmity between  
classes in  
connection with  
election.

25. In section 126 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment  
of section  
126.

“(1) No person shall convene, hold or attend any public meeting within any polling area within twenty-four hours before  
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the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that polling area.”.

Insertion of new section after section 127.

Restrictions on the printing of pamphlets, posters, etc.

26. After section 127 of the 1951-Act, the following section shall be inserted, namely:—

“127A. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster—

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section,—

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression ‘printer’ shall be construed accordingly; and

(b) ‘election pamphlet or poster’ means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.”.

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27. In section 139 of the 1951-Act, in sub-section (1), in clause (b), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment  
of section  
139.

28. In section 141 of the 1951-Act, in clause (a), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment  
of section  
141.

29. In section 169 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment  
of section  
169.

"(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."