

PRESIDENTIAL ELECTION ACT, 1991

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Act No.27 of 1991

An Act to provide for the conduct of elections to the office of President

Whereas it is expedient to provide for the conduct of elections to the office of President and for matters connected therewith;

Now, therefore, it is herewith enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Presidential Election Act, 1991.

(2) It shall come into force immediately after the commencement of the Constitution (Twelfth Amendment) Act, 1991.

2. Definitions.- Unless there is anything repugnant in the subject or context, in this Act-

- a) "Commission" means the Election Commission referred to in Article 118 of the Constitution;
- b) "Election Commissioner" means any person appointed to the office of the Chief Election Commissioner under Article 118 of the Constitution;
- c) "rule" means any rule made under this Act;
- d) "electoral register" means the register containing the names and division numbers of the Members of Parliament;
- e) "Parliament" means the Parliament established by Article 65 of the Constitution;
- f) "Member of Parliament" means any member of the Parliament.

3. Management and conduct of election.- (1) The Election Commissioner shall manage the conducting of every presidential election and shall act at such election as Election Officer.

(2) The Election Commissioner shall prepare an electoral register for the purpose of conducting elections and shall make it public by notification.

(3) The Election Commissioner shall preside over the meeting of the Members of Parliament convoked for the election of the President and shall, with the assistance of employees appointed by the Commission, conduct the election.

4. Place of election.- The meeting of the Members of Parliament for the election of the President shall be held in the House of Parliament.

5. Inviting nominations etc.- (1) The Commission shall issue a notification in the official Gazette calling upon the Members of Parliament to elect a President and for the purpose of an election specify in the notification-

- a) a day on which, the time within which and the place at which the nomination papers may be delivered to the Election Officer;
- b) a day for scrutiny of nomination papers;

c) a day on or before which a candidature may be withdrawn;

d) a day for the taking of the poll.

(2) If the presidential election is to be held at a time when the Parliament is in session, the Commission shall, after consultation with the Speaker, issue a notification under sub-section (1) no less than seven days before the day specified for the election of the President:

Provided that a notification under sub-section (1) for the first presidential election under this Act shall be issued within five days after the commencement of the Constitution (Twelfth Amendment) Act, 1991.

(3) If the election of a President is to be held at a time when the Parliament is not in session, the Commission shall, for the purpose of electing a President, after consultation with the Speaker, call upon a meeting of the Members of Parliament at the day specified under sub-section (1) for the taking of the poll by issuing, no less than seven days before the day specified by notification under sub-section (1) for the taking of the poll, a notification in the official Gazette.

(4) On the day specified for the election nothing but the election shall be conducted.

6. Delivery of nomination papers.- Every Member of the Parliament may, on the day and within the time specified for the delivery of nomination papers, nominate for the office of the President any person qualified for election as President by submitting to the Election Officer a nomination paper which he shall sign as the proposer and which another Member of Parliament shall sign as the seconder; and such nomination shall contain a declaration signed by the person nominated for the office of the President that he consents to the nomination: Provided that no Member of Parliament shall sign more than one nomination paper as a proposer or seconder.

7. Scrutiny of the nomination papers.- The Election Officer shall examine the nomination papers on the day, within the time and at the place specified by the notification under sub-section (1) of section 5, and the Election Commissioner shall, if after scrutiny only one person remains as validly nominated, declare such person to be elected; but he shall, if more than one person remains validly nominated, proclaim on the day of the scrutiny of the nomination papers the names of the validly nominated persons (hereinafter called candidates).

8. Withdrawal of candidature.- (1) Any candidate may by a notice signed by him and delivered, on the day and within the time specified for withdrawal of candidature, to the Election Officer, withdraw his candidature; but no candidate who has withdrawn his candidature in such way shall be allowed to cancel that notice.

(2) The Election Officer shall, if all but one candidate withdraw their candidature, declare the remaining one elected.

9. Proclamation of the names of candidates, proposers and seconders. The Election Commissioner shall, if no candidate withdraws his candidature or if after the withdrawal of candidature remains more than one candidate, on the day specified for the taking of the poll under sub-section (1) of section 5, at the beginning of the sitting of the Members of Parliament after midday (twelve o'clock midday), proclaim the names of the candidates and of their proposers and seconders.

10.- Taking of the poll.- (1) The President shall be elected by the Members of Parliament by open ballot.

(2) Every Member of the Parliament shall at any election under this Act have only one vote.

(3) The Election Commission shall prepare such number of ballot papers as may be necessary

for taking the poll. Every ballot paper shall consist of two parts. On the counter foil shall be set down in print the name and division number of every elector, and shall be reserved a place for the signature of the elector. On the outer foil of every ballot paper shall be separately printed the division number of every elector and in a straight line in alphabetical order the names of the candidates for the office of President, and shall be reserved against every name a place for the elector to give his vote by his signature.

(4) Every elector shall take his ballot paper after signing his name on the counter foil of the ballot assigned to him. Then, he shall give his vote by signing on the outer foil of the ballot paper his full name on the place against the name of the candidate he wants to elect and put it in the reserved ballot box.

(5) The Election Commission may, if necessary, install in the house of Parliament more than one vote counter.

Explanation.- In this section.-

(1) "division number" means the division number allotted to every Member of the Parliament in accordance with the procedure rules of the National Parliament of Bangladesh;

(2) "outer foil" means that part of the ballot paper which is not the counter foil.

11. Count of votes and declaration of result.- (1) After the close of the poll, the Election Commissioner shall, within the specified time, publicly count the votes.

(2) The Election Commissioner shall declare the candidate who has received the highest number of votes to be elected.

(3) If there is equality of votes between the candidates, the Election Commissioner shall determine the result of the election by lottery.

(4) The declaration of the Election Commissioner with respect to the result of the election of the President shall be final.

12. Power to make rules.- The Election Commissioner may, if necessary, after consultation with the Government, make rules for the purposes of this Act.

13. Repeals.- The Presidential Election Ordinance, 1978 (Ord.No. XIV of 1978) is herewith repealed.