

**Bill No. LVIII of 2010**

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)  
BILL, 2010

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*further to amend the Representation of the People Act, 1950.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2010. Short title and commencement.

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

43 of 1950. 2. In the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), after section 20, the following section shall be inserted, namely:—

Insertion of new section 20A.  
Special provisions for citizens of India residing outside India.

“20A. (1) Notwithstanding anything contained in this Act, every citizen of India,—

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(a) whose name is not included in the electoral roll;

(b) who has not acquired the citizenship of any other country; and

(c) who is absenting from his place of ordinary residence in India owing to his employment, education, or otherwise outside India (whether temporarily or not),

shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located. 5

(2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency.”. 10

Amendment of section 22.

**3.** In section 22 of the principal Act,—

(a) after the words “amend, transpose or delete the entry”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted;

(b) in the proviso, after the words “proposed to be taken in relation to him”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted. 15

Amendment of section 23.

**4.** In section 23 of the principal Act, in sub-section (2),—

(a) after the words “direct his name to be included therein”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted;

(b) in the proviso, after the words “strike off the applicant’s name in that roll”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted. 20

Amendment of section 28.

**5.** In section 28 of the principal Act, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:—

“(hh) the procedure for proper verification of facts for amending, transposing or deleting any entry in the electoral rolls, under section 22; 25

(hhh) the procedure for proper verification of facts for inclusion of or striking off, names in the electoral rolls, under sub-section (2) of section 23;”.

## STATEMENT OF OBJECTS AND REASONS

Section 19 of the Representation of the People Act, 1950 provides that every person who is not less than eighteen years of age on the qualifying date and is ordinarily resident in a constituency shall be entitled to be registered in the electoral rolls for that constituency. The meaning of “ordinarily resident” is laid down in section 20 of the said Act. It has been specified under Chapter-III in the Hand Book for Electoral Registration Officers that a person who has gone out of the country for business or employment should be treated as having moved out of that place. Mere ownership or possession of a building or other immovable property will not bestow on the owner, the residential qualification.

2. There are a large number of citizens of India residing outside India due to various reasons. They have been persistently demanding for conferring them voting rights. Though the issue had been receiving the attention of the Government for quite some time, yet the demand could not be acceded to owing to certain practical difficulties in enrolling them in the electoral rolls of the concerned constituency and allowing them to cast their votes from outside India within a short span of time available in the election process.

3. It is noted that the right to vote as demanded by the citizens of India living abroad is their legitimate right. Conferring such right will enable them to participate in the democratic process of elections in their motherland and will also boost their involvement in the nation building.

4. The Government considered all aspects of the demand and accordingly introduced the Representation of the People (Amendment) Bill, 2006 in Rajya Sabha on the 27th February, 2006 to enable the Indian citizens absenting from their place of ordinary residence in India owing to their employment, education or otherwise outside India to get their names registered in the electoral rolls of the concerned constituency of their place of ordinary residence in India as mentioned in their passport so that they would be in a position to cast their votes in elections to the Lok Sabha and to the State Legislatures in case they happen to be in their constituency at the time of polls. The Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which examined the Bill in their Sixteenth report presented to Rajya Saha on the 4th August, 2006 has accepted the aforesaid Bill in letter and spirit and recommended for bringing a comprehensive Bill on the subject containing the details regarding the manner of enrollment of non-resident Indians, the mode of voting and the conditionalities for contesting elections.

5. In pursuance of the recommendations of the Hon'ble Standing Committee, the Government have decided to withdraw, with the leave of the Rajya Sabha, the earlier Bill, namely, the Representation of the People (Amendment) Bill, 2006 introduced on the 27th February, 2006 in the Rajya Sabha and to introduce a fresh Bill, *inter alia*, to amend the Representation of the People Act, 1950 to,—

(a) provide that every citizen of India, whose name is not included in the electoral roll and who has not acquired the citizenship of any other country and who is absenting from his place of ordinary residence in India owing to his employment, education, or otherwise outside India, (whether temporarily or not), shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located;

(b) provide that the Electoral Registration Officer shall make corrections of entries in electoral rolls and inclusion of names in electoral rolls after proper verification;

(c) confer power upon the Central Government to specify, after consulting the Election Commission of India, by rules, the time within which the name of persons referred to in sub-paragraph (a) above shall be registered in the electoral roll and the manner and procedure for registering of such persons in the electoral roll.

6. The present Bill seeks to achieve the above objects.

NEW DELHI;  
The 16th August, 2010.

M. VEERAPPA MOILY.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend section 22 of the Representation of the People Act, 1950 relating to correction of entries in electoral rolls. The said section confers powers upon the Electoral Registration Officer for a constituency to correct the erroneous or defective entry in respect of any particular aspect, transpose the name of a person from one place to another place in the roll or to delete the name of a person if he is dead or ceases to be ordinarily resident in a constituency or is otherwise not entitled to be in that roll, subject to general or special directions as may be given by the Election Commission. It is proposed to lay down that such amendment, transposition or deletion of any entry or name in the electoral roll shall be done after proper verification of the facts in the manner as may be laid down by the rules. It is also proposed to provide that such amendment, transposition or deletion of any entry in the electoral rolls will be done by the Electoral Registration Officer only after giving the person concerned a reasonable opportunity of being heard in respect of the proposed action and after proper verification of the facts in the manner as may be laid down by the rules.

Clause 4 of the Bill seeks to amend section 23 of the aforesaid Act relating to inclusion of names in electoral rolls. It is proposed to lay down that any deletion of name in the electoral roll should be done only after proper verification of the facts in the manner as may be specified by rules.

Clause 5 of the Bill seeks to amend section 28 of the aforesaid Act relating to power of the Central Government to make rules. Under the said section 28, the Central Government is empowered to make rules for carrying out the purposes of the Act after consulting the Election Commission of India. It is proposed to amend sub-section (2) of the said section 28 so as to specify the matters in respect of which rules may be made, as provided in sections 22 and 23 of the aforesaid Act.

The matters in respect of which rules may be made by the Central Government under the aforesaid provisions are matters of detail or of procedural in nature and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

(43 OF 1950)

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**22.** If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

Correction of entries in electoral rolls.

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

**23. (1)** \* \* \* \* \*

Inclusion of names in electoral rolls.

(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:

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.

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# RAJYA SABHA

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further to amend the Representation of the People Act, 1950.

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*(Shri M. Veerappa Moily, Minister of Law and Justice)*