

Constitution (Amendment) Order, 2007

President's Order No. 5 of 2007

November 21, 2007

An order further to amend the Constitution.

Whereas pursuant to the Proclamation of Emergency of 3rd Day of November, 2007, the Chief of Army Staff has promulgated the Provisional Constitution order No.1 of 2007, by virtue of which the Constitution of the Islamic Republic of Pakistan has been placed in abeyance;

And whereas the said provisional Constitution order provides that the President may from time to time amend the Constitution, as is deemed expedient;

And whereas it is expedient to amend the Constitution for the purposes hereinafter appearing;

NOW, THEREFORE, the President is pleased to make and promulgate the following Order:-

1. Short title and commencement:-

(1) This Order may be called the Constitution (Amendment) Order, 2007.

(2) It shall come into force at once.

2. Amendment of Article 175 of the Constitution:-

In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 175, in clause (1), after the word "Province" the words "and a High Court for the Islamabad Capital Territory" shall be inserted.

Explanation: The words "High Court" wherever occurring in the Constitution shall include the High Court for Islamabad Capital Territory".

Ed. note: Possibly misplaced text? Corrections welcome.

3. Amendment of Article 186A of the Constitution:-

(1) In the Constitution, Article 186A shall be renumbered as clause (1) thereof and in clause (1) renumbered as aforesaid, after the word "High Court" occurring at the end the words "or withdraw any case, appeal or other proceedings pending before a High Court to it and dispose of the same" shall be added.

Ed. note: Possibly missing clause (2). Corrections welcome.

4. Amendment of Article 198 of the Constitution:-

In the Constitution, in Article 198, after clause (1), the following new clause shall be inserted, namely:-

"(1A) The High Court for Islamabad Capital Territory shall have its Principal seat at Islamabad."

5. Amendment of Article 218 of the Constitution:-

In the Constitution, in Article 218, in clause (2), in sub-clause (b), for the word "Four" the word "Five" shall be substituted and after the word "Province" the words "and Islamabad Capital Territory" shall be inserted.

6. Addition of Article 270AAA to the Constitution.-

In the Constitution, after Article 270AA, the following new Article shall be added, namely:-
"270AAA. Validation and affirmation of laws etc.-

(1) The proclamation of Emergency of 3rd November, 2007, all President's Orders, Ordinances, Chief of Army Staff Orders, including the Provisional Constitution order No.1 2007, the Oath of Office (Judges) Order, 2007, the amendments made in the constitution through the Constitution (Amendment) Order, 2007 and all other laws made between the 3rd day of November, 2007 and the date on which the Proclamation of Emergency of the 3rd Day of November, 2007, is revoked (both days inclusive), are accordingly affirmed, adopted and declared to have been validly made by the competent authority and notwithstanding anything contained in the Constitution shall not be called in question in any court or forum on any ground whatsoever.

(2) All orders made, proceedings taken, appointments made, including secondments and deputations, and acts done by any authority, or by any person, which were made, taken or done, or purported to have been made, taken or done, on or after the 3rd day of November, 2007 in exercise of the powers derived from any Proclamation, Provisional Constitution Order No. 1 of 2007, President's orders, ordinances, enactments, including amendments in the Constitution, notifications, rules, orders, bye-laws, or in execution of or in compliance with any orders made or sentences passed by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding anything contained in the Constitution or any judgment of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court or forum on any ground whatsoever.

(3) All proclamations, President's orders, ordinances, Chief of Army Staff Orders, laws, regulations, enactments, including amendments in the Constitution, notifications, rules, orders or bye-laws in force immediately before the date on which the Proclamation of Emergency of the 3rd day of November, 2007 is revoked, shall continue in force until altered, repealed or amended by the competent authority.

Explanation.- In this clause, "competent authority" means,-

- (a) in respect of President's orders, ordinances, Chief of Army Staff Orders and enactments, including amendments in the Constitution, the appropriate Legislature; and
- (b) in respect of notifications, rules, orders and bye-laws, the authority in which the power to make, alter, repeal or amend the same vests under the law.

(4) No prosecution or any other legal proceedings, including but not limited to suits, constitutional petitions or complaints, shall, notwithstanding anything contained in the Constitution or any other law for the time being in force, lie in any court, forum or authority against any person or authority on account of or in respect of issuance of the legal instruments referred to in clause (1) and on account of or in respect of any action taken by the Chief of Army Staff, the President or any other in exercise or purported exercise of the powers referred to in clause (2).

(5) For purpose of clauses (1), (2) and (4) all orders made, proceeding taken, appointments made, including secondments and deputation, acts done or purporting to be made, taken or done

by any authority or person shall be deemed to have been made, taken in good faith and for the purpose intended to be served thereby.

7. Amendment of Article 270B of the Constitution:-

In the Constitution, in Article 270B after the word "Assemblies" occurring for the second time, the comma, words and figure ", and the General Elections 2008 to the National Assembly and Provincial Assemblies" shall be inserted.

8. Amendment of Article 270C of the Constitution:-

In the Constitution, in Article 270C after the brackets, figures and word "(1 of 2000) the words, brackets, figure and comma "or the Oath of Office (Judges) Order, 2007" shall be inserted and for the words "that Order" the words "the said Orders" shall be substituted.

Constitution (Second Amendment) Order, 2007

President's Order No. 6 of 2007

December 14, 2007

AN Order further to amend the Constitution

WHEREAS pursuant to the Proclamation of emergency of 3rd day of November, 2007 and the Provisional Constitution Order No. 1 of 2007, the constitution of the Islamic Republic of Pakistan has been held in abeyance;

AND WHEREAS the Provisional Constitution Order provides that the President may from time to time amend the Constitution, as is deemed expedient;

AND WHEREAS it is expedient to amend the Constitution for the purposes hereinafter appearing;

NOW, THEREFORE, the President is pleased to make and promulgate the following Order:-

1. Short title and commencement.

(1) This Order may be called the Constitution (Second Amendment) Order, 2007.

(2) It shall come into force on and with effect from the 14th day of December, 2007.

2. Amendment of the Constitution and removal of difficulties.

(1) The constitution of the Islamic Republic of Pakistan is hereby amended to the extent and in the manner specified in column 3 of the Schedule annexed to this Order.

(2) If any difficulty arises in giving effect to any of the provisions of this Order, the President may make such provisions and pass such orders as he may deem fit.

(3) The validity of any provision made or orders passed under clause (1) and (2), shall not be called in question by or before any Court, including Supreme Court, Federal Shariat Court, a High Court, any forum or authority, on any ground whatsoever.

THE SCHEDULE

(See Article 2(1))

Serial No. (1) Article / Chapter (2) Amendments made (3)

1. 41. In clause (3); the words, brackets and figure "to be elected after the expiration of the term specified in clause (7)" shall be omitted and shall be deemed to have been omitted with effect from the 17th day of August, 1988.

2. 44. In clause (2), for the words "Subject to the constitution" the words "Notwithstanding anything contained in the constitution" shall be substituted.

3. 193. (i) In clause (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

Provided that in case of appointment of a Judge of the High Court for Islamabad Capital Territory, consultation with the Governor shall not be required.

(ii) In clause (2), for the words "forty-five years" the words "forty years" shall be substituted.

4. 194. In Article 194, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

Provided that in the case of the Chief Justice of the High Court for Islamabad Capital Territory, the oath shall be made before the President or a person nominated by him.

5. 208. In Article 208, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

Provided that in case of the High Court for Islamabad Capital Territory the rules may be made with the approval of the President.

6. 270C. Article 270C shall be re-numbered as clause (1) thereof and after clause (1) re-numbered as aforesaid, the following new clause shall be inserted, namely:-

(2) Notwithstanding anything contained in the Constitution or any other law for the time being in force,-

(i) a Judge including the Chief Justice, of the Supreme Court, a High Court or Federal Shariat Court who had, not been given or taken oath under the Oath of Office (Judges) Order, 2007, had ceased to hold office on and with effect from the 3rd day of November, 2007; and

(ii) a Judge including the Chief Justice, of the Supreme Court, a High Court and Federal Shariat Court appointed and/or continued as such Judge or Chief Justice by virtue of the Oath of Office (Judges) Order, 2007, shall, on revival of the Constitution, take oath as set out in the Third Schedule and shall be deemed to have been appointed, and/or shall continue to hold office, under the Constitution.

Pervez Musharraf
President.