

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".

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.

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.