

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan;

It is hereby enacted as follows:-

1. **Short title and commencement.** - (1) This Act may be called the Constitution (Nineteenth Amendment) Act, 2010.

(2) It shall come into force at once.

2. **Amendment of Article 81 of the Constitution.** - In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 81,-

(i) in paragraph (a), in sub-paragraph (i), after the word "Court" occurring at the end, the words "and the Islamabad High Court" shall be added; and

(ii) for paragraph (b), the following shall be substituted, namely:-

“(b) the administrative expenses, including the remuneration payable to officers and servants, of the Supreme Court, the Islamabad High Court, the department of the Auditor-General, the Office of the Chief Election Commissioner and of the Election Commission and the Secretariats of the Senate and the National Assembly;”.

3. **Amendment of Article 175 of the Constitution.** - In the Constitution, in Article 175, for the Explanation the following shall be substituted, namely:-

“Explanation.- Unless the context otherwise requires, the words “High Court” wherever occurring in the Constitution shall include “Islamabad High Court.”

4. **Amendment of Article 175A of the Constitution.** - In the Constitution, in Article 175A,-

(a) in clause (2),-

(i) in paragraph (ii), for the word “two” the word “four” shall be substituted; and

(ii) in paragraph (iii), for the word “two” occurring for the first time, the word “four” shall be substituted;

(b) in clause (5),-

(i) for paragraph (iv), the following shall be substituted, namely:-

“(iv) an advocate having not less than fifteen years practice in the High Court to be nominated by the concerned Bar Council for a term of two years.”; and

(ii) for the provisos the following shall be substituted, namely:-

“Provided that for appointment of the Chief Justice of a High Court the most Senior Judge mentioned in paragraph (ii) shall not be member of the Commission:

Provided further that if for any reason the Chief Justice of a High Court is not available, he shall be

substituted by a former Chief Justice or former Judge of that Court, to be nominated by the Chief Justice of Pakistan in consultation with the four member Judges of the Commission mentioned in paragraph (ii) of clause (2)."

- (c) in clause (6), in the first proviso, after the word "the" occurring for the first time, the words "Chief Justice and the" shall be inserted;
- (d) in clause (9), for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall consist of the members from the Senate only mentioned in paragraph (i) and the provisions of this Article shall, *mutatis mutandis*, apply.";

- (e) in clause (12),-

- (i) for the proviso the following shall be substituted, namely:-

"Provided that the Committee, for reasons to be recorded, may not confirm the nomination by three-fourth majority of its total membership within the said period."

- (ii) after the proviso substituted as aforesaid, the following new provisos shall be inserted, namely:-

“Provided further that if a nomination is not confirmed by the Committee it shall forward its decision with reasons so recorded to the Commission through the Prime Minister:

Provided further that if a nomination is not confirmed, the Commission shall send another nomination.”;

(f) for clause (13), the following shall be substituted, namely:-

“(13) The Committee shall send the name of the nominee confirmed by it or deemed to have been confirmed to the Prime Minister who shall forward the same to the President for appointment.”;

(g) clause (15) shall be renumbered as clause (17) and after the existing clause (14), the following new clauses shall be inserted, namely:-

“(15) The meetings of the Committee shall be held in camera and the record of its proceedings shall be maintained.

(16) The provisions of Article 68 shall not apply to the proceedings of the Committee.”;

5. Amendment of Article 182 of the Constitution. - In the Constitution, in Article 182, after the word “Pakistan” the commas, words, figure and letter “, in consultation with the Judicial Commission as provided in clause (2) of Article 175A,” shall be inserted.

6. Amendment of Article 213 of the Constitution. - In the Constitution, in Article 213, in clause (2B),-

(i) for the second proviso, the following shall be substituted, namely:-

“Provided further that the total strength of the Parliamentary Committee shall be twelve members out of which one-third shall be from the Senate.”; and

(ii) in the third proviso, for the words “Parliamentary Committee shall comprise” the words “total membership of the Parliamentary Committee shall consist of” shall be substituted.

7. Amendment of Article 246 of the Constitution. - In the Constitution, in Article 246,-

(i) in paragraph (a), sub-paragraphs (iii) and (iv) shall be omitted.

(ii) in paragraph (c) ,-

(a) after sub-paragraph (iii), the following new sub-paragraph shall be inserted, namely:-

“(iiia) Tribal Areas adjoining Lakki Marwat district;” and

(b) after sub-paragraph (iv) the following new sub-paragraph shall be inserted, namely:-

“(iva) Tribal Areas adjoining Tank district;”.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court of Pakistan passed an Order dated 21st October, 2010, in various Constitution Petitions challenging certain amendments, including Article 175A, made in the Constitution through the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010).

The Supreme Court vide paras 7 and 13 of the said Order made a reference to the Parliament for re-consideration of the provisions of Article 175A in the light of the observations made in the said Order. This Bill gives effect to certain amendments in the Constitution after giving consideration to the observations of the Supreme Court and matters incidental or ancillary thereto or otherwise deemed necessary.

MIAN RAZA RABBANI
Member-in-Charge