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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 31st December, 2003

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 31st December, 2003, is hereby published for general information:

ACT No. III OF 2003

An Act 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 for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Constitution (Seventeenth Amendment) Act, 2003.

(2) It shall come into force at once.

(149)

2. **Amendment of Article 41 of the Constitution.**—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 41,—

- (1) in clause (7), in paragraph (b), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that paragraph (d) of clause (1) of Article 63 shall become operative on and from the 31st day of December, 2004."; and

- (2) after clause (7) amended as aforesaid, the following new clauses shall be added, namely:—

"(8) Without prejudice to the provisions of clause (7), any member or members of a House of Majlis-e-Shoora (Parliament) or of a Provincial Assembly, individually or jointly, may, not later than thirty days from the commencement of the Constitution (Seventeenth Amendment) Act, 2003, move a resolution for vote of confidence for further affirmation of the President in office by majority of the members present and voting, by division or any other method as prescribed in the rules made by the Federal Government under clause (9), of the electoral college consisting of members of both Houses of Majlis-e-Shoora (Parliament) and the Provincial Assemblies, in a special session of each House of Majlis-e-Shoora (Parliament) and of each Provincial Assembly summoned for the purpose, and the vote of confidence having been passed, the President, notwithstanding anything contained in the Constitution or judgment of any court, shall be deemed to be elected to hold office for a term of five years under the Constitution, and the same shall not be called in question in any court or forum on any ground whatsoever.

(9) Notwithstanding anything contained in the Constitution or any other law for the time being in force, the proceedings for the vote of confidence referred to in clause (8) shall be regulated and conducted by the Chief Election Commissioner in accordance with such procedure and the votes shall be counted in such manner as may be prescribed by the rules framed by the Federal Government:

Provided that clauses (8) and (9) shall be valid only for the forthcoming vote of confidence for the current term of the President in office."

3. **Amendment of Article 58 of the Constitution.**—In the Constitution, in Article 58, after clause (2), the following new clause shall be added, namely:—

"(3) The President in case of dissolution of the National Assembly under paragraph (b) of clause (2) shall, within fifteen days of the dissolution, refer the matter to the Supreme Court and the Supreme Court shall decide the reference within thirty days whose decision shall be final."

4. **Amendment of Article 112 of the Constitution.**—In the Constitution, in Article 112, after clause (2), the following new clause shall be added, namely:—

"(3) The Governor in case of dissolution of the Provincial Assembly under paragraph (b) of clause (2) shall, within fifteen days of the dissolution, refer the matter to the Supreme Court with the previous approval of the President and the Supreme Court shall decide the reference within thirty days whose decision shall be final."

5. **Omission of Article 152A of the Constitution.**—In the Constitution, Article 152A shall be omitted.

6. **Substitution of Article 179 of the Constitution.**—In the Constitution, for Article 179, the following shall be substituted, namely:—

"179. **Retiring age.**—A Judge of the Supreme Court shall hold office until he attains the age of sixty-five years, unless he sooner resigns or is removed from office in accordance with the Constitution."

7. **Substitution of Article 195 of the Constitution.**—In the Constitution, for Article 195, the following shall be substituted, namely:—

"195. **Retiring age.**— A Judge of a High Court shall hold office until he attains the age of sixty-two years, unless he sooner resigns or is removed from office in accordance with the Constitution."

8. **Amendment of Article 243 of the Constitution.**—In the Constitution, in Article 243, in clause (3), for the words "in his discretion" the words "in consultation with the Prime Minister" shall be substituted.

9. **Amendment of Article 268 of the Constitution.**—In the Constitution, in Article 268, in clause (2), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that the laws mentioned at entries 27 to 30 and entry 35 in the Sixth Schedule shall stand omitted after six years."

10. **Substitution of Article 270AA of the Constitution.**—In the Constitution, for Article 270AA, the following shall be substituted, namely:—

"270AA. Validation and affirmation of laws etc.—(1) The Proclamation of Emergency of the fourteenth day of October, 1999, all President's Orders, Ordinances, Chief Executive's Orders, including the Provisional Constitution Order No. 1 of 1999, the Oath of Office (Judges) Order, 2000 (No. 1 of 2000), Chief Executive's Order No. 12 of 2002, the amendments made in the Constitution through the Legal Framework Order, 2002 (Chief Executive's Order No. 24 of 2002), the Legal Framework (Amendment) Order, 2002 (Chief Executive's Order No. 29 of 2002), the Legal Framework (Second Amendment) Order, 2002 (Chief Executive's Order No. 32 of 2002) and all other laws made between the twelfth day of October, one thousand nine hundred and ninety-nine and the date on which this Article comes into force (both days inclusive), having been duly made 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, between the twelfth day of October, one thousand nine hundred and ninety-nine, and the date on which this Article comes into force (both days inclusive), in exercise of the powers derived from any Proclamation, President's Orders, Ordinances, Chief Executive's Orders, 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 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 Executive's Orders, laws, regulations, enactments, including amendments in the Constitution, notifications, rules, orders or bye-laws in force immediately before the date on which this Article comes into force shall continue in force until altered, repealed or amended by the competent authority.

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

- (a) in respect of Presidents' Orders, Ordinances, Chief Executive's 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 suit, prosecution or other legal proceedings, including writ petitions, shall lie in any court or forum against any authority or any person, for or on account of or in respect of any order made, proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

(5) For the purposes of clauses (1), (2) and (4), all orders made, proceedings taken, appointments made, including secondments and deputations, acts done or purporting to be made, taken or done by any authority or person shall be deemed to have been made, taken or done in good faith and for the purpose intended to be served thereby."

SHAHID IQBAL,
Secretary.