

As
[TO BE INTRODUCED IN THE SENATE]

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 for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act may be called the Constitution (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of Article 213 of the Constitution. - In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 213, in clause (2A), in the existing proviso, for the full stop at the end a colon shall be substituted and thereafter the following second proviso shall be added, namely:-

"Provided further that in case the Parliamentary Committee is unable to confirm any one name, the matter shall stand referred to the Supreme Court whose decision shall be final."

3. Amendment of Article 215 of the Constitution. - In the Constitution, in Article 215, in clause (4), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the process to fill an anticipated vacancy to be caused by the retirement of the Commissioner or a member shall be completed prior to the occurrence of such vacancy."

STATEMENT OF OBJECTS AND REASONS

The Election Commission of Pakistan (ECP) is a key institution constitutionally charged with the responsibility of holding elections honestly, justly, fairly, and in accordance with law. The procedure for appointment of Chief Election Commissioner and members of the Commission is provided in Articles 213 and 218 of the Constitution. Article 213 says the Prime Minister shall, in consultation with the Opposition Leader, forward three names for appointment of the Commissioner or a member of the commission to a Parliamentary Committee for confirmation of any one. This is the first step. The second step arises when there is no consensus between the Premier and Opposition Leader and then each forwards separate lists to the Parliamentary Committee for consideration which may confirm any one name. In both cases, the names are to go to the Parliamentary Committee for confirmation. The constitutional provision doesn't say what will happen if the Committee is unable to confirm any names. Therefore, it would be appropriate to provide for referral of matter to the Supreme Court, in case there is an impasse in the committee. It has also been felt that this process of appointments in the commission is time taking and has potential to make the commission practically a dysfunctional body. To deal with such an undesirable situation, there is need to provide for completion of process for appointments prior to occurrence of actual vacancy so as to ensure continuity in the commission.

2. The Bill has been designed to achieve the aforesaid objectives.

LT. GENERAL ABDUL QAYYUM HI (M) RETD.
Member-in-Charge