INTRODUCED ON 17-01-2022

AS

[~~TO BE~~ INTRODUCED IN THE SENATE]

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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, 2022.

(2) It shall come into force at once.

2. Amendment of Article 175A of the Constitution.- In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as "the Constitution", in Article 175A, in clause (3), after the words "Chief Justice of Pakistan" the words "and other Judges of the Supreme Court in accordance with their seniority which shall be determined with reference to their dates of appointment as a Judge of the High Court and in case the dates of appointment are the same with reference to their age." shall be inserted.

3. Amendment of Article 181 of the Constitution.- In the Constitution, in Article 181, after the words "clause (1) of Article 177" the words "and subject to confirmation by the Parliamentary Committee" shall be inserted.

4. Amendment of Article 182 of the Constitution.- In the Constitution, in Article 182;

(a) in paragraph (a) after the words "the President," the words "and subject to confirmation by the Parliamentary Committee" be inserted; and

(b) in paragraph (b) after the words "require a Judge" the words "or Chief Justice" be inserted.

5. Amendment of Article 183 of the Constitution.- In the Constitution, in Article 183;

(a) in clause (1), the words, commas, figure and brackets ", subject to clause (3)," shall be omitted; and
(b) clause (3) shall be omitted.

6. Amendment of Article 184 of the Constitution.- In the Constitution, in Article 184, in clause (3), for the full-stop "." at the end, a colon ":" shall be substituted and thereafter the following provisos shall be inserted, namely:-

"Provided that such an order shall be made by a bench of three judges of the Supreme Court and an appeal therefrom, filed within thirty days, shall be heard by a bench of five Judges of the Supreme Court to be decided within sixty days:

Provided further that if an appeal against an order under this Article has been made, the order appealed against shall not be implemented pending decision of the appeal."

7. Amendment of Article 195 of the Constitution.- In the Constitution, in Article 195, for the words "sixty-two years", the words "sixty-five years" shall be substituted.

8. Amendment of Article 196 of the Constitution.- In the Constitution, in Article 196, for the words and comma "one of the other judges of the High Court, or may request one of the Judges of the Supreme Court", the words "the senior most Judge of the High Court" shall be substituted.

9. Amendment of Article 197 of the Constitution.- In the Constitution, in Article 197, in paragraph (c), after the words "the President may", the words and comma "subject to confirmation by the Parliamentary Committee," shall be inserted.

10. Amendment of Article 209 of the Constitution.- In the Constitution, in Article 209, in clause (3), for the full-stop at the end "." a colon ":" shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that the Council shall inquire into the capacity or conduct of a Judge to remain as such within a period of ninety days from the receipt of information from any source or the President of Pakistan and thereafter forward its report to the President in accordance with clause (6)."

STATEMENT OF OBJECT AND REASONS

The amendment in Article 175A pertains to the appointment of Judges to the Supreme Court which is purposed to be done in according with their seniority calculated from their date of appointment as a Judge of the High Court. Articles 181 and 182 have also been amended to ensure that the input of the Parliamentary Committee is present during the appointment of Acting and Ad-hoc Judges. The amendment in Article 183(1) updates the transitory provision and Article 183(3) has been omitted being now redundant. The amendment in Article 184(3) provides a mechanism for an appeal against an order passed under the said Article. The amendment in Article 195 further removes the discrimination between the ages of retirement of a Supreme Court and High Court Judge. The amendments in Articles 196 and 197 provide for clarity in appointment of an acting Chief Justice and additional Judges and include the role of the Parliamentary Committee. The amendment in Article 209 provides for a time limit for the decision of the Supreme Judicial Council. All of the above is in furtherance of principles of policy to ensure a fair and organized system of Judicial Appointments and in turn to improve the Justice system in Pakistan.

SENATOR FAROOQ HAMID NAEK
MEMBER-IN-CHARGE