

There may be added a Chapter 1A in Part VII of the Constitution in the following manner

Chapter 1A

The Federal Constitutional Court of Pakistan

175AA. There shall be a Federal Constitutional Court (FCC) of Pakistan.

175AB. The Federal Constitutional Court shall consist of a Chief Justice of FCC, _ more judges, for a total of _judges as may be prescribed by law. Each province will have an equal representation in FCC. The Chief Justice will be on rotation from each province to be appointed for three years.

175AC. The permanent seat of the Federal Constitutional Court shall be in Islamabad however the FCC may sit in any of the provincial capitals from time to time.

175AD. Article 184 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and read as Article 175AD, and any reference to the Supreme Court therein shall be read as Federal Constitutional Court. *(This section means that all original jurisdiction under Article 184 will now be that of Federal Constitutional Court).*

175E. Article 186 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and may be read as Article 175E, and any reference to the Supreme Court therein shall be read as Federal Constitutional Court. *(This section means that advisory jurisdiction under Article 186 will now be that of Federal Constitutional Court).*

175F. The decision of the Federal Constitutional Court in matters where it has jurisdictional competence shall be final and conclusive. There will not be any appeal against the decision of Federal Constitutional Court at any forum.

There may be added a Chapter 2A in Part VII of the Constitution in the following manner

□

Chapter 2A

The Provincial Constitutional Courts

191AA. There shall be four provincial constitutional courts, one for each province.

191AB. The Provincial Constitutional Courts for each province shall consist of a Chief Justice, and as many judges for each province as the government may determine, to be appointed in the manner prescribed by law.

191AC. The permanent seat of the Provincial Constitutional Court shall be in the provincial capital of the respective province, and there shall be registries of such PCC in such cities as the respective High Court of that province.

191AD. **Jurisdiction of Provincial Constitutional Court** - Article 199 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and be read as Article 191AD, and any reference to the High Court therein shall be read as Provincial Constitutional Court. *(This section means that the writ jurisdiction of High Court will now be that of Provincial Constitutional Court).*

191AE. Nothing in the above Article 191AD shall be construed as giving appellate jurisdiction to Provincial Constitutional Court against a decision of a lower court, and the remedy against a judgment of the lower court shall be by way of an appeal to the High Court of the respective province.

191AF. The decision of the Provincial Constitutional Court may be appealed before the Federal Constitutional Court, whose decision shall be final.

In addition, following Articles will also be added to the Constitution:

Article 189A. **Finality of judgments of Supreme Court** – The judgment of the Supreme Court in matters it has appellate jurisdiction under Article 185, shall be final and conclusive. There will not be any further appeal against the decision of Supreme Court at any forum.

Article 199A. **Appellate Jurisdiction of the High Courts** – The High Courts shall have jurisdiction to hear appeals against decisions of lower courts as provided by law.

210 Power of Council to enforce attendance of persons, etc.

- (1) For the purpose of inquiring into any matter, the Council shall have the same power as the Supreme Constitutional Court has to issue directions or orders for securing the attendance of any person or the discovery or production of any document; and any such direction or order shall be enforceable as if it had been issued by the Supreme Constitutional Court.
- (2) The provisions of Article 204 shall apply to the Council as they apply to the Supreme Constitutional Court and a Provincial Constitutional Court.

211 Bar of Jurisdiction.

The proceedings before the Council, its report to the President and the removal of a Judge under clause (6) of Article 209 shall not be called in question in any court.

- (3) If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then
- (a) if such member is a Judge of the Supreme Constitutional Court, the Judge of the Supreme Constitutional Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2), and
 - (b) if such member is the Chief Justice of a Provincial Constitutional Court; the Chief Justice of another Constitutional Court who is next in seniority amongst the Chief Justices of the remaining Constitutional Courts, shall act as a member of the Council in his place.
- (4) If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Council to the President shall be expressed in terms of the view of the majority.

550

- (5) If, on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Constitutional Court or of a Provincial Constitutional Court-
- (a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or
 - (b) may have been guilty of misconduct,
- the President shall direct the Council to, or the Council may, on its own motion, inquire into the matter.

550

- (6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion,
- (a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and
 - (b) that he should be removed from office, the President may remove the Judge from office.
- (7) A Judge of the Supreme Constitutional Court or of a Provincial Constitutional Court shall not be removed from office except as provided by this Article.
- (8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Constitutional Court and of the Provincial Constitutional Courts.

In Part VII, Chapter 1, of the Constitution after Article 175A, following shall be added

175B. Appointment of Judges to the Federal Constitutional Court and the Provincial Constitutional Court

1. There shall be a Constitutional Commission of Pakistan, hereinafter referred to as CCP, for appointment of judges of the Federal Constitutional Court (FCC) and the Provincial Constitutional Courts (PCC).
2. The CCP shall consist of:
 - a. Chief Justice of Supreme Constitutional Court
 - b. Two senior most Judges of the Federal Constitutional Court
 - c. One retired judge of the Supreme Court or the Federal Constitutional Court to be nominated by Chief Justice of the Federal Constitutional Court
 - d. Federal Minister for Law, Justice and Parliamentary Affairs
 - e. Attorney General for Pakistan
 - f. One Advocate of Supreme Court to be nominated by Pakistan Bar Council
 - g. Two members of the Senate, one each from the treasury and opposition nominated by the respective Leader of the House and Leader of the Opposition
 - h. Two members of the National Assembly, one each from the treasury and opposition nominated by the respective Leader of the House and Leader of the Opposition
3. Provided that, for purposes of nomination of a judge to the Provincial Constitutional Court, following shall also be members of CCP:
 - a. Chief Justice of the respective Provincial Constitutional Court
 - b. Provincial Law Minister
 - c. One member of the respective Provincial Bar Council
4. Any member of CCP may propose a name of an individual who fulfils the criteria of appointment as Judge of FCC or PCC, seconded by another member of the CCP. The CCP may deliberate upon such name and decide by way of majority vote. The CCP may then forward such name to the Prime Minister, who shall advise the President to make such appointment.
5. A person shall not be appointed a Judge of the FCC or PCC unless he is a citizen of Pakistan, and is at least 40 years of age, and:
 - a. Has for period of not less than three years been a judge of the Supreme Court or a High Court; or
 - b. Has for a period of, or for periods aggregating, not less than ten years been an advocate of a High Court, and is also enrolled as an Advocate of Supreme Court

209A. Removal of Judges of the Federal Constitutional Court and the Provincial Constitutional Court

☐ (There shall be a Supreme Constitutional Council of Pakistan, in this

1) Chapter referred to as the Council.

- (2) The Council shall consist of,
- (a) the Chief Justice of Supreme Constitutional Court;
 - (b) the two next most senior Judges of the Supreme Constitutional Court; and
 - (c) the two most senior Chief Justices of Provincial Constitutional Courts.

Explanation:- For the purpose of this clause, the inter se seniority of the Chief Justices of the Provincial Constitutional Courts shall be determined with reference to their dates of appointment as Chief Justice [otherwise than as acting Chief Justice], and in case the dates of such appointment

are the same, with reference to their dates of appointment as Judges of any of the High Courts or their date of birth.

There may be added a Chapter 1A in Part VII of the Constitution in the following manner

Chapter 1A

The Federal Constitutional Court of Pakistan

175AA. There shall be a Federal Constitutional Court (FCC) of Pakistan.

175AB. The Federal Constitutional Court shall consist of a Chief Justice of FCC, _ more judges, for a total of _judges as may be prescribed by law. Each province will have an equal representation in FCC. The Chief Justice will be on rotation from each province to be appointed for three years.

175AC. The permanent seat of the Federal Constitutional Court shall be in Islamabad however the FCC may sit in any of the provincial capitals from time to time.

175AD. Article 184 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and read as Article 175AD, and any reference to the Supreme Court therein shall be read as Federal Constitutional Court. *(This section means that all original jurisdiction under Article 184 will now be that of Federal Constitutional Court).*

175E. Article 186 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and may be read as Article 175E, and any reference to the Supreme Court therein shall be read as Federal Constitutional Court. *(This section means that advisory jurisdiction under Article 186 will now be that of Federal Constitutional Court).*

175F. The decision of the Federal Constitutional Court in matters where it has jurisdictional competence shall be final and conclusive. There will not be any appeal against the decision of Federal Constitutional Court at any forum.

There may be added a Chapter 2A in Part VII of the Constitution in the following manner

□

Chapter 2A

The Provincial Constitutional Courts

191AA. There shall be four provincial constitutional courts, one for each province.

191AB. The Provincial Constitutional Courts for each province shall consist of a Chief Justice, and as many judges for each province as the government may determine, to be appointed in the manner prescribed by law.

191AC. The permanent seat of the Provincial Constitutional Court shall be in the provincial capital of the respective province, and there shall be registries of such PCC in such cities as the respective High Court of that province.

191AD. **Jurisdiction of Provincial Constitutional Court** - Article 199 of the Constitution of Pakistan stands deleted, and the contents thereof may be reproduced hereof and be read as Article 191AD, and any reference to the High Court therein shall be read as Provincial Constitutional Court. *(This section means that the writ jurisdiction of High Court will now be that of Provincial Constitutional Court).*

191AE. Nothing in the above Article 191AD shall be construed as giving appellate jurisdiction to Provincial Constitutional Court against a decision of a lower court, and the remedy against a judgment of the lower court shall be by way of an appeal to the High Court of the respective province.

191AF. The decision of the Provincial Constitutional Court may be appealed before the Federal Constitutional Court, whose decision shall be final.

In addition, following Articles will also be added to the Constitution:

Article 189A. **Finality of judgments of Supreme Court** – The judgment of the Supreme Court in matters it has appellate jurisdiction under Article 185, shall be final and conclusive. There will not be any further appeal against the decision of Supreme Court at any forum.

Article 199A. **Appellate Jurisdiction of the High Courts** – The High Courts shall have jurisdiction to hear appeals against decisions of lower courts as provided by law.

210 Power of Council to enforce attendance of persons, etc.

- (1) For the purpose of inquiring into any matter, the Council shall have the same power as the Supreme Constitutional Court has to issue directions or orders for securing the attendance of any person or the discovery or production of any document; and any such direction or order shall be enforceable as if it had been issued by the Supreme Constitutional Court.
- (2) The provisions of Article 204 shall apply to the Council as they apply to the Supreme Constitutional Court and a Provincial Constitutional Court.

211 Bar of Jurisdiction.

The proceedings before the Council, its report to the President and the removal of a Judge under clause (6) of Article 209 shall not be called in question in any court.

- (3) If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then
- (a) if such member is a Judge of the Supreme Constitutional Court, the Judge of the Supreme Constitutional Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2), and
 - (b) if such member is the Chief Justice of a Provincial Constitutional Court; the Chief Justice of another Constitutional Court who is next in seniority amongst the Chief Justices of the remaining Constitutional Courts, shall act as a member of the Council in his place.
- (4) If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Council to the President shall be expressed in terms of the view of the majority.

550

- (5) If, on information from any source, the Council or the President is of the opinion that a Judge of the Supreme Constitutional Court or of a Provincial Constitutional Court-
- (a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or
 - (b) may have been guilty of misconduct,
- the President shall direct the Council to, or the Council may, on its own motion, inquire into the matter.

550

- (6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion,
- (a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and
 - (b) that he should be removed from office, the President may remove the Judge from office.
- (7) A Judge of the Supreme Constitutional Court or of a Provincial Constitutional Court shall not be removed from office except as provided by this Article.
- (8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Constitutional Court and of the Provincial Constitutional Courts.

In Part VII, Chapter 1, of the Constitution after Article 175A, following shall be added

175B. Appointment of Judges to the Federal Constitutional Court and the Provincial Constitutional Court

1. There shall be a Constitutional Commission of Pakistan, hereinafter referred to as CCP, for appointment of judges of the Federal Constitutional Court (FCC) and the Provincial Constitutional Courts (PCC).
2. The CCP shall consist of:
 - a. Chief Justice of Supreme Constitutional Court
 - b. Two senior most Judges of the Federal Constitutional Court
 - c. One retired judge of the Supreme Court or the Federal Constitutional Court to be nominated by Chief Justice of the Federal Constitutional Court
 - d. Federal Minister for Law, Justice and Parliamentary Affairs
 - e. Attorney General for Pakistan
 - f. One Advocate of Supreme Court to be nominated by Pakistan Bar Council
 - g. Two members of the Senate, one each from the treasury and opposition nominated by the respective Leader of the House and Leader of the Opposition
 - h. Two members of the National Assembly, one each from the treasury and opposition nominated by the respective Leader of the House and Leader of the Opposition
3. Provided that, for purposes of nomination of a judge to the Provincial Constitutional Court, following shall also be members of CCP:
 - a. Chief Justice of the respective Provincial Constitutional Court
 - b. Provincial Law Minister
 - c. One member of the respective Provincial Bar Council
4. Any member of CCP may propose a name of an individual who fulfils the criteria of appointment as Judge of FCC or PCC, seconded by another member of the CCP. The CCP may deliberate upon such name and decide by way of majority vote. The CCP may then forward such name to the Prime Minister, who shall advise the President to make such appointment.
5. A person shall not be appointed a Judge of the FCC or PCC unless he is a citizen of Pakistan, and is at least 40 years of age, and:
 - a. Has for period of not less than three years been a judge of the Supreme Court or a High Court; or
 - b. Has for a period of, or for periods aggregating, not less than ten years been an advocate of a High Court, and is also enrolled as an Advocate of Supreme Court

209A. Removal of Judges of the Federal Constitutional Court and the Provincial Constitutional Court

- ☐ (There shall be a Supreme Constitutional Council of Pakistan, in this
- 1) Chapter referred to as the Council.

- (2) The Council shall consist of,
 - (a) the Chief Justice of Supreme Constitutional Court;
 - (b) the two next most senior Judges of the Supreme Constitutional Court; and
 - (c) the two most senior Chief Justices of Provincial Constitutional Courts.

Explanation:- For the purpose of this clause, the inter se seniority of the Chief Justices of the Provincial Constitutional Courts shall be determined with reference to their dates of appointment as Chief Justice [otherwise than as acting Chief Justice], and in case the dates of such appointment

are the same, with reference to their dates of appointment as Judges of any of the High Courts or their date of birth.