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CHAPTER 2. – PROVINCIAL ASSEMBLIES

Constitution of Provincial Assemblies 4

[106. (1) Each Provincial Assembly shall consist of general seats and seats reserved for women and non-Muslims as specified herein below:-

General seats Women Non-Muslims Total

Balochistan 51 11 3 65 5 [Khyber Pakhtunkhwa 115 26 4 145]

The Punjab 297 66 8 371

Sindh 130 29 9 168

6 [(1A) The seats for the Province of Khyber Pakhtunkhwa, referred to in clause (1), include sixteen general seats, four seats for women and one seat for non-Muslims in respect of the Federally Administered Tribal Areas:

Provided that elections to the aforesaid seats shall be held within one year after the general elections, 2018.

(1B) After elections to seats referred to in clause (1A), both clause (1A) and this clause shall stand omitted.]

1 Subs. by Act No. 10 of 2010, s. 35, for “clause (3)”.

2 Clause (4) omitted, ibid.

3 Subs. by the Constitution (Eighth Amdt.) Act. 1985 (18 of 1985) s. 12 for "(3)".

4 Subs. by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s. 36, for “Article 106” and shall be deemed always to have been so, subs. with effect from 21st day of August, 2002.

5 Subs. by the Constitution (Twenty-fifth Amdt.) Act, 2018 (37 of 2018) s.

6. w.e.f. 31-05-2018. 6 Ins. by the Constitution (Twenty-fifth Amdt.) Act, 2018 (37 of 2018) s. 6. w.e.f. 31-05-2018

(2) A person shall be entitled to vote if—

(a) he is a citizen of Pakistan;

(b) he is not less than eighteen years of age;

(c) his name appears on the electoral roll for any area in the Province; and

(d) he is not declared by a competent court to be of unsound mind.

(3) For the purpose of election to a Provincial Assembly,—

(a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote;

(b) each Province shall be a single constituency for all seats reserved for women and non-Muslims allocated to the respective Provinces under clause (1);

(c) the members to fill seats reserved for women and nonMuslims allocated to a Province under clause (1) shall be elected in accordance with law through proportional representation system of political parties’ lists of candidates on the basis of the total number of general seats secured by each political party in the Provincial Assembly:

Provided that for the purpose of this sub-clause, the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates.] 107.

Duration of Provincial Assembly

107. A Provincial Assembly shall, unless sooner dissolved, continue for a term of five years from the day of its first meeting and shall stand dissolved at the expiration of its term.

Speaker and Deputy Speaker

108. After a general election, a Provincial Assembly shall, at its first meeting and to the exclusion of any other business, elect from amongst its members a Speaker and a Deputy Speaker and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall elect another member as Speaker or, as the case may be, Deputy Speaker

Summoning and prorogation of Provincial Assembly

109. The Governor may from time to time— (a) summon the Provincial Assembly to meet at such time and place as he thinks fit; and (b) prorogue the Provincial Assembly.

Right of Governor to address Provincial Assembly

110. The Governor may address the Provincial Assembly and may for that purpose require the attendance of the members.

Right to speak in Provincial Assembly

111. The Advocate-General shall have the right to speak and otherwise take part in the proceedings of the Provincial Assembly or any committee thereof of which he may be named a member, but shall not by virtue of this Article be entitled to vote

Dissolution of Provincial Assembly

1 [112. (1) The Governor shall dissolve the Provincial Assembly if so advised by the Chief Minister; and the Provincial Assembly shall, unless sooner dissolved, stand dissolved at the expiration of forty-eight hours after the Chief Minister has so advised.

Explanation.– Reference in this Article to ‘Chief Minister’ shall not be construed to include reference to a Chief Minister against whom a notice of a resolution for a vote of no-confidence has been given in the Provincial Assembly but has not been voted upon or against whom a resolution for a vote of no-confidence has been passed.

(2) The Governor may also dissolve the Provincial Assembly in his discretion, but subject to the previous approval of the President, where a vote of no-confidence having been passed against the Chief Minister, no other member of the Provincial Assembly commands the confidence of the majority of the members of the Provincial Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the Provincial Assembly summoned for the purpose.]

1 Subs. by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s. 37, for “Article 112”.

Qualifications and disqualifications for membership of Provincial Assembly

1 [113. The qualifications and disqualifications for membership of the National Assembly set out in Articles 62 and 63 shall also apply for membership of a Provincial Assembly as if reference therein to "National Assembly" were a reference to "Provincial Assembly" .]

Restriction on discussion in Provincial Assembly

114. No discussion shall take place in a Provincial Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Provincial Government’s consent required for financial measures

115. (1) A Money Bill, or a Bill or amendment which if enacted and brought into operation would involve expenditure from the Provincial Consolidated Fund or withdrawal from the Public Account of the Province shall not be introduced or moved in the Provincial Assembly except by or with the consent of the Provincial Government.

(2) For the purposes of this Article, a Bill or amendment shall be deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters, namely:

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the borrowing of money, or the giving of any guarantee, by the Provincial Government or the amendment of the law relating to the financial obligations of that Government;

(c) the custody of the Provincial Consolidated Fund, the payment of moneys into, or issue of moneys from, that fund;

(d) the imposition of a charge upon the Provincial Consolidated Fund, or the abolition or alteration of any such charge;

(e) the receipt of moneys on account of the Public Account of the Province, the custody or issue of such moneys; and

(f) any matter incidental to any of the matters specified in the preceding paragraphs.

1 Subs. by P. O. No. 14 of 1985, Art. 2 and Sch., for "Art. 113"

(3) A Bill shall not be deemed to be a Money Bill by reason only that it provides—

(a) for the imposition or alteration of any fine or other pecuniary penalty or for the demand or payment of a licence fee or a fee or charge for any service rendered; or

(b) for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(4) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the Provincial Assembly thereon shall be final.

(5) Every Money Bill presented to the Governor for assent shall bear a certificate under the hand of the Speaker of the Provincial Assembly that it is a Money Bill and such certificate shall be conclusive for all purposes and shall not be called in question.

Governor’s assent to Bills

1 [116. (1) When a Bill has been passed by the Provincial Assembly, it shall be presented to the Governor for assent.

(2) When a Bill is presented to the Governor for assent, the Governor shall, within 2 [ten] days,—

(a) assent to the Bill; or

(b) in the case of a Bill other than a Money Bill, return the Bill to the Provincial Assembly with a message requesting that the Bill, or any specified provision thereof, be reconsidered and that any amendment specified in the message be considered.

3 [(3) When the Governor has returned a Bill to the Provincial Assembly, it shall be reconsidered by the Provincial Assembly and, if it is again passed, with or without amendment, by the Provincial Assembly, by

1 Subs. by P. O. No. 14 of 1985, Art. 2 and Sch., for "Art. 116" 2 Subs. by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s. 38, for “thirty”. 3 Subs. by the Constitution (Eighth Amdt.) Act, 1985 (18 of 1985), s. 15, for "clause (3)"

the votes of the majority of the members of the Provincial Assembly present and voting, it shall be again presented to the Governor and the Governor shall 1 [give his assent within ten days, failing which such assent shall be deemed to have been given].

(4) When the Governor has assented 2 [or is deemed to have assented] to a Bill, it shall become law and be called an Act of Provincial Assembly.

(5) No Act of a Provincial Assembly, and no provision in any such Act, shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if that Act was assented to in accordance with the Constitution.

Bill not to lapse on prorogation, etc.

117. (1) A Bill pending in a Provincial Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill pending in a Provincial Assembly shall lapse on the dissolution of the Assembly. Financial Procedure.

Provincial Consolidated Fund and Public Account

118. (1) All revenues received by the Provincial Government, all loans raised by that Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Provincial Consolidated Fund.

(2) All other moneys—

(a) received by or on behalf of the Provincial Government; or

(b) received by or deposited with the High Court or any other court established under the authority of the Province;

shall be credited to the Public Account of the Province.

1 Subs. by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s. 38, for “not withhold his assent thereform”. 2 Ins. ibid.

Custody, etc., of Provincial Consolidated Fund and Public Account

119. The custody of the Provincial Consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Provincial Government, their payment into, and withdrawal from, the Public Account of the Province, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Provincial Assembly or, until provision in that behalf is so made, by rules made by the Governor.

Annual Budget Statement

120. (1) The Provincial Government shall, in respect of every financial year, cause to be laid before the Provincial Assembly statement of the estimated receipts and expenditure of the Provincial Government for that year, in this Chapter referred to as the Annual Budget Statement.

(2) The Annual Budget Statement shall show separately—

(a) the sums required to meet expenditure described by the constitution as expenditure charged upon the Provincial Consolidated Fund; and

(b) the sums required to meet other expenditure proposed to be made from the Provincial Consolidated Fund; and shall distinguish expenditure on revenue account from other expenditure.

Expenditure charged upon Provincial Consolidated Fund

121. The following expenditure shall be expenditure charged upon the Provincial Consolidated Fund:-

(a) the remuneration payable to the Governor and other expenditure relating to his office, and the remuneration payable to—

(i) the Judges of the High Court; and

(ii) the Speaker and Deputy Speaker of the Provincial Assembly;

(b) the administrative expenses,including the remuneration payable to officers and servants, of the High Court and the Secretariat of the Provincial Assembly;

(c) all debt charges for which the Provincial Government is liable, including interest, sinking fund charges, the repayment or amortisation of capital, and other expenditure in connection with the raising of loans, and the service and redemption of debt on the security of the Provincial Consolidated Fund;

(d) any sums required to satisfy any judgement, decree or award against the Province by any court or tribunal; and

(e) any other sums declared by the Constitution or by Act of the Provincial Assembly to be so charged.

Procedure relating to Annual Budget Statement

122. (1) So much of the Annual Budget Statement as relates to expenditure charged upon the Provincial Consolidated Fund may be discussed in, but shall not be submitted to the vote of the Provincial Assembly.

(2) So much of the Annual Budget Statement as relates to other expenditure shall be submitted to the Provincial Assembly in the form of demands for grants, and that Assembly shall have power to assent to, or to refuse to assent to, any demand, or to assent to any demand subject to a reduction of the amount specified therein: 1 \* \* \* \* \* \* \* \*

(3) No demand for a grant shall be made except on the recommendation of the Provincial Government

Authentication of schedule of authorized expenditure

123. (1) The Chief Minister shall authenticate by his signature a schedule specifying—

(a) the grants made or deemed to have been made by the Provincial Assembly under Article 122, and

(b) the several sums required to meet the expenditure charged upon the Provincial Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Assembly.

1 Proviso omitted by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s.39

(2) The schedule so authenticated shall be laid before the Provincial Assembly, but shall not be open to discussion or vote thereon.

(3) Subject to the Constitution, no expenditure from the Provincial Consolidated Fund shall be deemed to be duly authorized unless it is specified in the schedule so authenticated and such schedule is laid before the Provincial Assembly as required by clause (2).

Supplementary and excess grant

124. If in respect of any financial year it is found—

(a) that the amount authorized to be expended for a particular service for the current financial year is insufficient, or that a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that year; or

(b) that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year;

the Provincial Government shall have power to authorize expenditure from the Provincial Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the Provincial Assembly a Supplementary Budget Statement or, as the case may be, an Excess Budget Statement, setting out the amount of that expenditure, and the provisions of Articles 120 to 123 shall apply to those statements as they apply to the Annual Budget Statement.

Votes on account

125. Notwithstanding anything contained in the foregoing provisions relating to financial matters, the Provincial Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding three months, pending completion of the procedure prescribed in Article 122 for the voting of such grant and the authentication of the schedule of expenditure in accordance with the provisions of Article 123 in relation to the expenditure.

Power to authorize expenditure when Assembly stands dissolved

126. Notwithstanding anything contained in the foregoing provisions relating to financial matters, at any time when the Provincial Assemblyfrom the Provincial Consolidated Fund in respect of the estimated expenditure for a period not exceeding four months in any financial year, pending completion of the procedure prescribed in Article 122 for the voting of grants and the authentication of the schedule of authorized expenditure, in accordance with the provisions of Article 123 in relation to the expenditure.

Provisions relating to National Assembly, etc., to apply to Provincial Assembly, etc.

127. Subject to the Constitution, the provisions of clauses (2) to (8) of Article 53, clauses (2) and (3) of Article 54, Article 55, Articles 63 to 67, Article 69, Article 77, Article 87 and Article 88 shall apply to and in relation to a Provincial Assembly or a committee or members thereof or the Provincial Government but so that—

(a) any reference in those provisions to 1Majlis-e-Shoora (Parliament)], a House or the National Assembly shall be read as a reference to the Provincial Assembly ;

(b) any reference in those provisions to the President shall be read as a reference to the Governor of the Province;

(c) any reference in those provisions to the Federal Government shall be read as a reference to the Provincial Government;

(d) any reference in those provisions to the Prime Minister shall be read as a reference to the Chief Minister;

(e) any reference in those provisions to a Federal Minister shall be read as a reference to a Provincial Minister ; 2 \*

(f) any reference in those provisions to the National Assembly of Pakistan shall be read as a reference to the Provincial Assembly in existence immediately before the commencing day 3 [; and] 4

[(g) the said clause (2) of Article 54 shall have effect as if, in the proviso thereto, for the words "one hundred and thirty" the word “ 5 [one hundred]” were substituted.]

1 See footnote 6 on page 3, supra.

2 The word "and" omitted by the Constitution (First Amdt.) Act. 1974 (33 of 1974), s.7 (w.e.f the 4th May. 1974).

3 Subs. ibid., s. 7 for full stop.

4 Paragraph (g) added ibid.,

5 Subs. by the Constitution (Eighteenth Amdt.) Act, 2010 (10 of 2010), s. 40, for “seventy”

Power of Governor to promulgate Ordinances

128. (1) The Governor may, except when the Provincial Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Provincial Assembly and shall be subject to like restrictions as the power of the Provincial Assembly to make laws, but every such Ordinance—

(a) shall be laid before the Provincial Assembly and shall stand repealed at the expiration of 1 [ninety days] from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution 2 [:] 3 [Provided that the Provincial Assembly may by a resolution extend the Ordinance for a further period of ninety days and it shall stand repealed at the expiration of the extended period, or if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution: Provided further that extension for a further period may be made only once.]

(b) may be withdrawn at any time by the Governor.

(3) Without prejudice to the provisions of clause (2), an Ordinance laid before the Provincial Assembly shall be deemed to be a Bill introduced in the Provincial Assembly.