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## CONSTITUTION OF THE REPUBLIC OF KOREA

[Enforcement Date 25. Feb, 1988.] [Constitution No.10, 29. Oct, 1987., Whole Amendment]

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법제처 국가법령정보센터

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## CONSTITUTION OF THE REPUBLIC OF KOREA

[Enforcement Date 25. Feb, 1988.] [Constitution No.10, 29. Oct, 1987., Whole Amendment]

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Amended by Jul. 7, 1952

Nov. 29, 1954

Jun. 15, 1960

Nov. 29, 1960

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Oct. 21, 1969

Dec. 27, 1972

Oct. 27, 1980

Oct. 29, 1987

### PREAMBLE

We, the people of Korea, proud of a resplendent history and traditions dating from time immemorial, upholding the cause of the Provisional Republic of Korea Government born of the March First Independence Movement of 1919 and the democratic ideals of the April Nineteenth Uprising of 1960 against injustice, having assumed the mission of democratic reform and peaceful unification of our homeland and having determined to consolidate national unity with justice, humanitarianism and brotherly love, and To destroy all social vices and injustice, and To afford equal opportunities to every person and provide for the fullest development of individual capabilities in all fields, including political, economic, social and cultural life by further strengthening the basic free and democratic order conducive to private initiative and public harmony, and To help each person discharge those duties and responsibilities concomitant to freedoms and rights, and To elevate the quality of life for all citizens and contribute to lasting world peace and the common prosperity of mankind and thereby to ensure security, liberty and happiness for ourselves and our posterity forever, Do hereby amend, through national referendum following a resolution by the National Assembly, the Constitution, ordained and established on the Twelfth Day of July anno Domini Nineteen hundred and forty-eight, and amended eight times subsequently.

Oct. 29, 1987

**CHAPTER I GENERAL PROVISIONS**

**Article 1 (1)** The Republic of Korea shall be a democratic republic.

(2) The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

**Article 2 (1)** Nationality in the Republic of Korea shall be prescribed by Act.

(2) It shall be the duty of the State to protect citizens residing abroad as prescribed by Act.

**Article 3** The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

**Article 4** The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the basic free and democratic order.

**Article 5 (1)** The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.

(2) The Armed Forces shall be charged with the sacred mission of national security and the defense of the land and their political neutrality shall be maintained.

**Article 6 (1)** Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.

(2) The status of aliens shall be guaranteed as prescribed by international law and treaties.

**Article 7 (1)** All public officials shall be servants of the entire people and shall be responsible to the people.

(2) The status and political impartiality of public officials shall be guaranteed as prescribed by Act.

**Article 8 (1)** The establishment of political parties shall be free, and the plural party system shall be guaranteed.

(2) Political parties shall be democratic in their objectives, organization and activities, and shall have the necessary organizational arrangements for the people to participate in the formation of the political will.

(3) Political parties shall enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by Act.

(4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring an action against it in the Constitutional Court for its dissolution, and the political party shall be dissolved in accordance with the decision of the Constitutional Court.

**Article 9** The State shall strive to sustain and develop the cultural heritage and to enhance national culture.

## CHAPTER II RIGHTS AND DUTIES OF CITIZENS

**Article 10** All citizens shall be assured of human worth and dignity and have the right to pursuit of happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

**Article 11 (1)** All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status.

(2) No privileged caste shall be recognized or ever established in any form.

(3) The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileges shall ensue therefrom.

**Article 12 (1)** All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated except as provided by Act. No person shall be punished, placed under preventive order or subject to involuntary labor except as provided by Act and through lawful procedures.

(2) No citizen shall be tortured or be compelled to testify against himself/herself in criminal cases.

(3) Warrants issued by a judge through due procedures upon the request of a prosecutor shall be presented in case of arrest, detention, seizure or search: Provided, That in a case where a criminal suspect is an apprehended flagrante delicto, or where there is danger that a person suspected of committing a crime punishable by imprisonment of three years or more may escape or destroy evidence, investigative authorities may request an ex post facto warrant.

(4) Any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his/her own efforts, the State shall assign counsel for the defendant as prescribed by Act.

(5) No person shall be arrested or detained without being informed of the reason therefor and of his/her right to assistance of counsel. The family, etc., as designated by Act, of a person arrested or detained shall be notified without delay of the reason for and the time and place of the arrest or detention.

(6) Any person who is arrested or detained, shall have the right to request the court to review the legality of the arrest or detention.

(7) In a case where a confession is deemed to have been made against a defendant's will due to torture, violence, intimidation, unduly prolonged arrest, deceit or etc., or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession shall not be admitted as evidence of guilt, nor shall a defendant be punished by reason of such a confession.

**Article 13 (1)** No citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed, nor shall he/she be placed in double jeopardy.

(2) No restriction shall be imposed upon the political rights of any citizen, nor shall any person be deprived of property rights by means of retroactive legislation.

(3) No citizen shall suffer unfavorable treatment on account of an act not of his/her own doing but committed by a relative.

**Article 14** All citizens shall enjoy freedom of residence and the right to move at will.

**Article 15** All citizens shall enjoy freedom of occupation.

**Article 16** All citizens shall be free from intrusion into their place of residence. In case of search or seizure in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

**Article 17** The privacy of no citizen shall be infringed.

**Article 18** The privacy of correspondence of no citizen shall be infringed.

**Article 19** All citizens shall enjoy freedom of conscience.

**Article 20 (1)** All citizens shall enjoy freedom of religion.

(2) No state religion shall be recognized, and religion and state shall be separated.

**Article 21 (1)** All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.

(2) Licensing or censorship of speech and the press, and licensing of assembly and association shall not be recognized.

(3) The standards of news service and broadcast facilities and matters necessary to ensure the functions of newspapers shall be determined by Act.

(4) Neither speech nor the press shall violate the honor or rights of other persons nor undermine public morals or social ethics. Should speech or the press violate the honor or rights of other persons, claims may be made for the damage resulting therefrom.

**Article 22 (1)** All citizens shall enjoy freedom of learning and the arts.

(2) The rights of authors, inventors, scientists, engineers and artists shall be protected by Act.

**Article 23 (1)** The right of property of all citizens shall be guaranteed. The contents and limitations thereof shall be determined by Act.

(2) The exercise of property rights shall conform to the public welfare.

(3) Expropriation, use or restriction of private property from public necessity and compensation therefor shall be governed by Act: Provided, That in such a case, just compensation shall be paid.

**Article 24** All citizens shall have the right to vote under the conditions as prescribed by Act.

**Article 25** All citizens shall have the right to hold public office under the conditions as prescribed by Act.

**Article 26 (1)** All citizens shall have the right to petition in writing to any governmental agency under the conditions as prescribed by Act.

(2) The State shall be obligated to examine all such petitions.

**Article 27 (1)** All citizens shall have the right to be tried in conformity with the Act by judges qualified under the Constitution and the Act.

(2) Citizens who are not on active military service or employees of the military forces shall not be tried by a court martial within the territory of the Republic of Korea, except in case of crimes as prescribed by Act involving important classified military information, sentinels, sentry posts, the supply of harmful food and beverages, prisoners of war and military articles and facilities and in the case of the proclamation of extraordinary martial law.

(3) All citizens shall have the right to a speedy trial. The accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.

(4) The accused shall be presumed innocent until a judgment of guilt has been pronounced.

(5) A victim of a crime shall be entitled to make a statement during the proceedings of the trial of the case involved as under the conditions prescribed by Act.

**Article 28** In a case where a criminal suspect or an accused person who has been placed under detention is not indicted as provided by Act or is acquitted by a court, he/she shall be entitled to claim just compensation from the State under the conditions as prescribed by Act.

**Article 29 (1)** In case a person has sustained damages by an unlawful act committed by a public official in the course of official duties, he/she may claim just compensation from the State or public organization under the conditions as prescribed by Act. In this case, the public official concerned shall not be immune from liabilities.

(2) In case a person on active military service or an employee of the military forces, a police official or others as prescribed by Act sustains damages in connection with the performance of official duties such as combat action, drill and so forth, he/she shall not be entitled to a claim against the State or public organization on the grounds of unlawful acts committed by public officials in the course of official duties, but shall be entitled only to compensations as prescribed by Act.

**Article 30** Citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State under the conditions as prescribed by Act.

**Article 31 (1)** All citizens shall have an equal right to receive an education corresponding to their abilities.

(2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by Act.

(3) Compulsory education shall be free of charge.

(4) Independence, professionalism and political impartiality of education and the autonomy of institutions of higher learning shall be guaranteed under the conditions as prescribed by Act.

(5) The State shall promote lifelong education.

(6) Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by Act.

**Article 32 (1)** All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means and shall enforce a minimum wage system under the conditions as prescribed by Act.

(2) All citizens shall have the duty to work. The State shall prescribe by Act the extent and conditions of the duty to work in conformity with democratic principles.

(3) Standards of working conditions shall be determined by Act in such a way as to guarantee human dignity.

(4) Special protection shall be accorded to working women, and they shall not be subject to unjust discrimination in terms of employment, wages and working conditions.

(5) Special protection shall be accorded to working children.

(6) The opportunity to work shall be accorded preferentially, under the conditions as prescribed by Act, to those who have given distinguished service to the State, wounded veterans and police officers, and members of the bereaved families of military service members and police officers killed in action.

**Article 33 (1)** To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action.

(2) Only those public officials who are designated by Act, shall have the right to association, collective bargaining and collective action.

(3) The right to collective action of workers employed by important defense industries may be either restricted or denied under the conditions as prescribed by Act.

**Article 34 (1)** All citizens shall be entitled to a life worthy of human beings.

- (2) The State shall have the duty to endeavor to promote social security and welfare.
- (3) The State shall endeavor to promote the welfare and rights of women.
- (4) The State shall have the duty to implement policies for enhancing the welfare of senior citizens and the young.
- (5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age or other reasons shall be protected by the State under the conditions as prescribed by Act.
- (6) The State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

**Article 35 (1)** All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.

- (2) The substance of the environmental right shall be determined by Act.
- (3) The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

**Article 36 (1)** Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal.

- (2) The State shall endeavor to protect mothers.
- (3) The health of all citizens shall be protected by the State.

**Article 37 (1)** Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.

- (2) The freedoms and rights of citizens may be restricted by Act only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated.

**Article 38** All citizens shall have the duty to pay taxes under the conditions as prescribed by Act.

**Article 39 (1)** All citizens shall have the duty of national defense under the conditions as prescribed by Act.

- (2) No citizen shall be treated unfavorably on account of the fulfillment of his obligation of military service.

### CHAPTER III THE NATIONAL ASSEMBLY

**Article 40** The legislative power shall be vested in the National Assembly.

**Article 41 (1)** The National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens.

(2) The number of members of the National Assembly shall be determined by Act, but the number shall not be less than 200.

(3) The constituencies of members of the National Assembly, proportional representation and other matters pertaining to National Assembly elections shall be determined by Act.

**Article 42** The term of office of members of the National Assembly shall be four years.

**Article 43** Members of the National Assembly shall not concurrently hold any other office prescribed by Act.

**Article 44 (1)** During the sessions of the National Assembly, no member of the National Assembly shall be arrested or detained without the consent of the National Assembly except in case of flagrante delicto.

(2) In case of apprehension or detention of a member of the National Assembly prior to the opening of a session, such member shall be released during the session upon the request of the National Assembly, except in case of flagrante delicto.

**Article 45** No member of the National Assembly shall be held responsible outside the National Assembly for opinions officially expressed or votes cast in the Assembly.

**Article 46 (1)** Members of the National Assembly shall have the duty to maintain high standards of integrity.

(2) Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.

(3) Members of the National Assembly shall not acquire, through abuse of their positions, rights and interests in property or positions, or assist other persons to acquire the same, by means of contracts with or dispositions by the State, public organizations or industries.

**Article 47 (1)** A regular session of the National Assembly shall be convened once every year under the conditions as prescribed by Act, and extraordinary sessions of the National Assembly shall be convened upon the request of the President or one fourth or more of the total members.

(2) The period of regular sessions shall not exceed a hundred days, and that of extraordinary sessions, thirty days.

(3) If the President requests the convening of an extraordinary session, the period of the session and the reasons for the request shall be clearly specified.

**Article 48** The National Assembly shall elect one Speaker and two Vice-Speakers.

**Article 49** Except as otherwise provided for in the Constitution or in Act, the attendance of a majority of the total members, and the concurrent vote of a majority of the members present, shall be necessary for decisions of the National Assembly. In case of a tie vote, the matter shall be regarded as rejected.

**Article 50 (1)** Sessions of the National Assembly shall be open to the public: Provided, That when it is decided so by a majority of the members present, or when the Speaker deems it necessary to do so for the sake of national security, they may be closed to the public.

(2) The public disclosure of the proceedings of sessions which were not open to the public shall be determined by Act.

**Article 51** Bills and other matters submitted to the National Assembly for deliberation shall not be abandoned on the ground that they were not acted upon during the session in which they were introduced, except in a case where the term of the members of the National Assembly has expired.

**Article 52** Bills may be introduced by members of the National Assembly or by the Executive.

**Article 53 (1)** Each bill passed by the National Assembly shall be sent to the Executive, and the President shall promulgate it within fifteen days.

(2) In case of objection to the bill, the President may, within the period referred to in paragraph (1), return it to the National Assembly with written explanation of his objection, and request it be reconsidered. The President may do the same during adjournment of the National Assembly.

(3) The President shall not request the National Assembly to reconsider the bill in part, or with proposed amendments.

(4) In case there is a request for reconsideration of a bill, the National Assembly shall reconsider it, and if the National Assembly repasses the bill in the original form with the attendance of more than one half of the total members, and with a concurrent vote of two thirds or more of the members present, it shall become Act.

(5) If the President does not promulgate the bill, or does not request the National Assembly to reconsider it within the period referred to in paragraph (1), it shall become Act.

(6) The President shall promulgate without delay the Act as finalized under paragraphs (4) and (5). If the President does not promulgate an Act within five days after it has become Act under paragraph (5), or after it has been returned to the Executive under paragraph (4), the Speaker shall promulgate it.

(7) Except as provided otherwise, an Act shall take effect twenty days after the date of promulgation.

**Article 54 (1)** The National Assembly shall deliberate and decide upon the national budget bill.

(2) The Executive shall formulate the budget bill for each fiscal year and submit it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly shall decide upon it within thirty days before the beginning of the fiscal year.

(3) If the budget bill is not passed by the beginning of the fiscal year, the Executive may, in conformity with the budget of the previous fiscal year, disburse funds for the following purposes until the budget bill is passed by the National Assembly:

1. The maintenance and operation of agencies and facilities established by the Constitution or Act;
2. Execution of the obligatory expenditures as prescribed by Act; and
3. Continuation of projects previously approved in the budget.

**Article 55 (1)** In a case where it is necessary to make continuing disbursements for a period longer than one fiscal year, the Executive shall obtain the approval of the National Assembly for a specified period of time.

(2) A reserve fund shall be approved by the National Assembly in total. The disbursement of the reserve fund shall be approved during the next session of the National Assembly.

**Article 56** When it is necessary to amend the budget, the Executive may formulate a supplementary revised budget bill and submit it to the National Assembly.

**Article 57** The National Assembly shall, without the consent of the Executive, neither increase the sum of any item of expenditure nor create any new items of expenditure in the budget submitted by the Executive.

**Article 58** When the Executive plans to issue national bonds or to conclude contracts which may incur financial obligations on the State outside the budget, it shall have the prior concurrence of the National Assembly.

**Article 59** Types and rates of taxes shall be determined by Act.

**Article 60 (1)** The National Assembly shall have the right to consent to the conclusion and ratification of treaties pertaining to mutual assistance or mutual security; treaties concerning important international organizations; treaties of friendship, trade and navigation; treaties pertaining to any restriction in sovereignty; peace treaties; treaties which will burden the State or people with an important financial obligation; or treaties related to legislative matters.

(2) The National Assembly shall also have the right to consent to the declaration of war, the dispatch of armed forces to foreign states, or the stationing of alien forces in the territory of the Republic of Korea.

**Article 61 (1)** The National Assembly may inspect affairs of state or investigate specific matters of state affairs, and may demand the production of documents directly related thereto, the appearance of a witness in person and the furnishing of testimony or statements of opinion.

(2) The procedures and other necessary matters concerning the inspection and investigation of state administration shall be determined by Act.

**Article 62 (1)** The Prime Minister, members of the State Council or government delegates may attend meetings of the National Assembly or its committees and report on the state administration or deliver opinions and answer questions.

(2) When requested by the National Assembly or its committees, the Prime Minister, members of the State Council or government delegates shall attend any meeting of the National Assembly and answer questions. If the Prime Minister or State Council members are requested to attend, the Prime Minister or State Council members may have State Council members or government delegates attend any meeting of the National Assembly and answer questions.

**Article 63 (1)** The National Assembly may pass a recommendation for the removal of the Prime Minister or a State Council member from office.

(2) A recommendation for removal as referred to in paragraph (1) may be introduced by one third or more of the total members of the National Assembly, and shall be passed with the concurrent vote of a majority of the total members of the National Assembly.

**Article 64 (1)** The National Assembly may establish the rules of its proceedings and internal regulations: Provided, That they are not in conflict with Act.

(2) The National Assembly may review the qualifications of its members and may take disciplinary actions against its members.

(3) The concurrent vote of two thirds or more of the total members of the National Assembly shall be required for the expulsion of any member.

(4) No action shall be brought to court with regard to decisions taken under paragraphs (2) and (3).

**Article 65 (1)** In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, Justices of the Constitutional Court, judges, members of the National Election Commission, the Chairperson and members of the Board of Audit and Inspection, and other public officials designated by Act have violated the Constitution or other Acts in the performance of official duties, the National Assembly may pass motions for their impeachment.

(2) A motion for impeachment prescribed in paragraph (1) may be proposed by one third or more of the total members of the National Assembly, and shall require a concurrent vote of a majority of the total members of the National Assembly for passage: Provided, That a motion for the impeachment of the President shall be proposed by a majority of the total members of the National Assembly and approved by two thirds or more of the total members of the National Assembly.

- (3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his/her power until the impeachment has been adjudicated.
- (4) A decision on impeachment shall not extend further than removal from public office: Provided, That it shall not exempt the person impeached from civil or criminal liability.

## CHAPTER IV THE EXECUTIVE

### SECTION 1 The President

**Article 66 (1)** The President shall be the Head of State and represent the State vis-a-vis foreign states.

(2) The President shall have the responsibility and duty to safeguard the independence, territorial integrity and continuity of the State and the Constitution.

(3) The President shall have the duty to pursue sincerely the peaceful unification of the homeland.

(4) Executive power shall be vested in the Executive Branch headed by the President.

**Article 67 (1)** The President shall be elected by universal, equal, direct and secret ballot by the people.

(2) In case two or more persons receive the same largest number of votes in the election as referred to in paragraph (1), the person who receives the largest number of votes in an open session of the National Assembly attended by a majority of the total members of the National Assembly shall be elected.

(3) If and when there is only one presidential candidate, he/she shall not be elected President unless he/she receives at least one third of the total eligible votes.

(4) Citizens who are eligible for election to the National Assembly, and who have reached the age of forty years or more on the date of the presidential election, shall be eligible to be elected to the presidency.

(5) Matters pertaining to presidential elections shall be determined by Act.

**Article 68 (1)** The successor to the incumbent President shall be elected seventy to forty days before his/her term expires.

(2) In case a vacancy occurs in the office of the President or the President-elect dies, or is disqualified by a court ruling or for any other reason, a successor shall be elected within

sixty days.

**Article 69** The President, at the time of his/her inauguration, shall take the following oath: "I do solemnly swear before the people that I will faithfully execute the duties of the President by observing the Constitution, defending the State, pursuing the peaceful unification of the homeland, promoting the freedom and welfare of the people and endeavoring to develop national culture."

**Article 70** The term of office of the President shall be five years, and the President shall not be reelected.

**Article 71** If the office of the presidency is vacant or the President is unable to perform his/her duties for any reason, the Prime Minister or the members of the State Council in the order of priority as determined by Act shall act for him/her.

**Article 72** The President may submit important policies relating to diplomacy, national defense, unification and other matters relating to the national destiny to a national referendum if he deems it necessary.

**Article 73** The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys; and declare war and conclude peace.

**Article 74 (1)** The President shall be Commander-in-Chief of the Armed Forces under the conditions as prescribed by the Constitution and Act.

(2) The organization and formation of the Armed Forces shall be determined by Act.

**Article 75** The President may issue presidential decrees concerning matters delegated to him/her by Act with the scope specifically defined and also matters necessary to enforce Acts.

**Article 76 (1)** In time of internal turmoil, external menace, natural calamity or a grave financial or economic crisis, the President may take in respect to them the minimum necessary financial and economic actions or issue orders having the effect of Act, only when it is required to take urgent measures for the maintenance of national security or public peace and order, and there is no time to await the convocation of the National Assembly.

(2) In case of major hostilities affecting national security, the President may issue orders having the effect of Act, only when it is required to preserve the integrity of the nation, and it is impossible to convene the National Assembly.

(3) In case actions are taken or orders are issued under paragraphs (1) and (2), the President shall promptly notify it to the National Assembly and obtain its approval.

(4) In case no approval is obtained, the actions or orders shall lose effect forthwith. In such case, the Acts which were amended or abolished by the orders in question shall automatically regain their original effect at the moment the orders fail to obtain approval.

(5) The President shall, without delay, put on public notice developments under paragraphs (3) and (4).

**Article 77 (1)** When it is required to cope with a military necessity or to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law under the conditions as prescribed by Act.

(2) Martial law shall be of two types: extraordinary martial law and precautionary martial law.

(3) Under extraordinary martial law, special measures may be taken with respect to the necessity for warrants, freedom of speech, the press, assembly and association, or the powers of the Executive and the Judiciary under the conditions as prescribed by Act.

(4) When the President has proclaimed martial law, he shall notify it to the National Assembly without delay.

(5) When the National Assembly requests the lifting of martial law with the concurrent vote of a majority of the total members of the National Assembly, the President shall comply.

**Article 78** The President shall appoint and dismiss public officials under the conditions as prescribed by the Constitution and Act.

**Article 79 (1)** The President may grant amnesty, commutation and restoration of rights under the conditions as prescribed by Act.

(2) The President shall receive the consent of the National Assembly in granting a general amnesty.

(3) Matters pertaining to amnesty, commutation and restoration of rights shall be determined by Act.

**Article 80** The President shall award decorations and other honors under the conditions as prescribed by Act.

**Article 81** The President may attend and address the National Assembly or express his/her views by written message.

**Article 82** The acts of the President under law shall be executed in writing, and such documents shall be countersigned by the Prime Minister and the members of the State Council concerned. The same shall apply to military affairs.

**Article 83** The President shall not concurrently hold the office of Prime Minister, a member of the State Council, the head of any Executive Ministry, nor other public or private posts as prescribed by Act.

**Article 84** The President shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

**Article 85** Matters pertaining to the status and courteous treatment of former Presidents shall be determined by Act.

## SECTION 2 The Executive Branch

### Sub-Section 1 The Prime Minister and Members of the State Council

**Article 86 (1)** The Prime Minister shall be appointed by the President with the consent of the National Assembly.

(2) The Prime Minister shall assist the President and shall direct the Executive Ministries under order of the President.

(3) No member of the military shall be appointed Prime Minister unless he/she is retired from active duty.

**Article 87 (1)** The members of the State Council shall be appointed by the President on the recommendation of the Prime Minister.

(2) The members of the State Council shall assist the President in the conduct of State affairs and, as constituents of the State Council, shall deliberate on State affairs.

(3) The Prime Minister may recommend to the President the removal of a member of the State Council from office.

(4) No member of the military shall be appointed a member of the State Council unless he/she is retired from active duty.

### Sub-Section 2 The State Council

**Article 88 (1)** The State Council shall deliberate on important policies that fall within the power of the Executive.

(2) The State Council shall be composed of the President, the Prime Minister, and other members whose number shall be no more than thirty and no less than fifteen.

(3) The President shall be the Chairperson of the State Council, and the Prime Minister shall be the Vice-Chairperson.

**Article 89** The following matters shall be referred to the State Council for deliberation:

1. Basic plans for state affairs, and general policies of the Executive;
2. Declaration of war, conclusion of peace and other important matters pertaining to foreign policy;
3. Draft amendments to the Constitution, proposals for national referendums, proposed treaties, legislative bills, and proposed presidential decrees;
4. Budgets, settlement of accounts, basic plans for disposal of state properties, contracts incurring financial obligation on the State, and other important financial matters;
5. Emergency orders and emergency financial and economic actions or orders by the President, and declaration and termination of martial law;
6. Important military affairs;
7. Requests for convening an extraordinary session of the National Assembly;
8. Awarding of honors;
9. Granting of amnesty, commutation and restoration of rights;
10. Demarcation of jurisdiction between Executive Ministries;
11. Basic plans concerning delegation or allocation of powers within the Executive;
12. Evaluation and analysis of the administration of State affairs;
13. Formulation and coordination of important policies of each Executive Ministry;

14. Action for the dissolution of a political party;
15. Examination of petitions pertaining to executive policies submitted or referred to the Executive;
16. Appointment of the Prosecutor General, the Chairperson of the Joint Chiefs of Staff, the Chief of Staff of each armed service, the presidents of national universities, ambassadors, and such other public officials and managers of important State-run enterprises as designated by Act; and
17. Other matters presented by the President, the Prime Minister or a member of the State Council.

**Article 90 (1)** An Advisory Council of Elder Statesman, composed of elder statespersons, may be established to advise the President on important affairs of State.

(2) The immediate former President shall become the Chairperson of the Advisory Council of Elder Statesman: Provided, That if there is no immediate former President, the President shall appoint the Chairperson.

(3) The organization, function and other necessary matters pertaining to the Advisory Council of Elder Statesman shall be determined by Act.

**Article 91 (1)** A National Security Council shall be established to advise the President on the formulation of foreign, military and domestic policies related to national security prior to their deliberation by the State Council.

(2) The meetings of the National Security Council shall be presided over by the President.

(3) The organization, function and other necessary matters pertaining to the National Security Council shall be determined by Act.

**Article 92 (1)** A National Unification Advisory Council may be established to advise the President on the formulation of peaceful unification policy.

(2) The organization, function and other necessary matters pertaining to the National Unification Advisory Council shall be determined by Act.

**Article 93 (1)** A National Economic Advisory Council may be established to advise the President on the formulation of important policies for developing the national economy.

(2) The organization, function and other necessary matters pertaining to the National Economic Advisory Council shall be determined by Act.

### Sub-Section 3 The Executive Ministries

**Article 94** Heads of Executive Ministries shall be appointed by the President from among members of the State Council on the recommendation of the Prime Minister.

**Article 95** The Prime Minister or the head of each Executive Ministry may, under the powers delegated by Act or Presidential Decree, or ex officio, issue ordinances of the Prime Minister or the Executive Ministry concerning matters that are within their jurisdiction.

**Article 96** The establishment, organization and function of each Executive Ministry shall be determined by Act.

### Sub-Section 4 The Board of Audit and Inspection

**Article 97** The Board of Audit and Inspection shall be established under the direct jurisdiction of the President to inspect and examine the settlement of the revenues and expenditures of the State, the accounts of the State and other organizations specified by Act and the job performances of the executive agencies and public officials.

**Article 98 (1)** The Board of Audit and Inspection shall be composed of no less than five and no more than eleven members, including the Chairperson.

(2) The Chairperson of the Board shall be appointed by the President with the consent of the National Assembly. The term of office of the Chairperson shall be four years, and he/she may be reappointed only once.

(3) The members of the Board shall be appointed by the President on the recommendation of the Chairperson. The term of office of the members shall be four years, and they may be reappointed only once.

**Article 99** The Board of Audit and Inspection shall inspect the closing of accounts of revenues and expenditures each year, and report the results to the President and the National Assembly in the following year.

**Article 100** The organization and function of the Board of Audit and Inspection, the qualifications of its members, the range of the public officials subject to inspection and

other necessary matters shall be determined by Act.

## CHAPTER V THE COURTS

**Article 101 (1)** Judicial power shall be vested in courts composed of judges.

(2) The courts shall be composed of the Supreme Court, which is the highest court of the State, and other courts at specified levels.

(3) Qualifications for judges shall be determined by Act.

**Article 102 (1)** Departments may be established in the Supreme Court.

(2) There shall be Supreme Court Justices at the Supreme Court: Provided, That judges other than Supreme Court Justices may be assigned to the Supreme Court under the conditions as prescribed by Act.

(3) The organization of the Supreme Court and lower courts shall be determined by Act.

**Article 103** Judges shall rule independently according to their conscience and in conformity with the Constitution and laws.

**Article 104 (1)** The Chief Justice of the Supreme Court shall be appointed by the President with the consent of the National Assembly.

(2) The Supreme Court Justices shall be appointed by the President on the recommendation of the Chief Justice and with the consent of the National Assembly.

(3) Judges other than the Chief Justice and the Supreme Court Justices shall be appointed by the Chief Justice with the consent of the Conference of Supreme Court Justices.

**Article 105 (1)** The term of office of the Chief Justice shall be six years and he shall not be reappointed.

(2) The term of office of the Justices of the Supreme Court shall be six years and they may be reappointed as prescribed by Act.

(3) The term of office of judges other than the Chief Justice and Justices of the Supreme Court shall be ten years, and they may be reappointed under the conditions as prescribed by Act.

(4) The retirement age of judges shall be determined by Act.

**Article 106 (1)** No judge shall be removed from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment, nor shall he/she be suspended from office, have his/her salary reduced or suffer any other unfavorable treatment except by disciplinary action.

(2) In the event a judge is unable to discharge his/her official duties because of serious mental or physical impairment, he/she may be retired from office under the conditions as prescribed by Act.

**Article 107 (1)** When the constitutionality of a law is at issue in a trial, the court shall request a decision of the Constitutional Court, and shall judge according to the decision thereof.

(2) The Supreme Court shall have the power to make a final review of the constitutionality or legality of administrative decrees, regulations or actions, when their constitutionality or legality is at issue in a trial.

(3) Administrative appeals may be conducted as a procedure prior to a judicial trial. The procedure of administrative appeals shall be determined by Act and shall be in conformity with the principles of judicial procedures.

**Article 108** The Supreme Court may establish, within the scope of Act, regulations pertaining to judicial proceedings and internal discipline and regulations on administrative matters of the court.

**Article 109** Trials and decisions of the courts shall be open to the public: Provided, That when there is a danger that such trials may undermine the national security or disturb public safety and order, or be harmful to public morals, trials may be closed to the public by court decision.

**Article 110 (1)** Courts-martial may be established as special courts to exercise jurisdiction over military trials.

(2) The Supreme Court shall have the final appellate jurisdiction over courts-martial.

(3) The organization and authority of courts-martial, and the qualifications of their judges shall be determined by Act.

(4) Military trials under an extraordinary martial law may not be appealed in case of crimes of soldiers and employees of the military; military espionage; and crimes as defined by Act in regard to sentinels, sentry posts, supply of harmful foods and beverages, and prisoners

of war, except in the case of a death sentence.

## CHAPTER VI THE CONSTITUTIONAL COURT

**Article 111 (1)** The Constitutional Court shall have jurisdiction over the following matters:

1. The constitutionality of a law upon the request of the courts;
2. Impeachment;
3. Dissolution of a political party;
4. Competence disputes between State agencies, between State agencies and local governments, and between local governments; and
5. Constitutional complaint as prescribed by Act.

(2) The Constitutional Court shall be composed of nine Justices qualified to be court judges, and they shall be appointed by the President.

(3) Among the Justices referred to in paragraph (2), three shall be appointed from persons selected by the National Assembly, and three appointed from persons nominated by the Chief Justice of the Supreme Court.

(4) The president of the Constitutional Court shall be appointed by the President from among the Justices with the consent of the National Assembly.

**Article 112 (1)** The term of office of the Justices of the Constitutional Court shall be six years and they may be reappointed under the conditions as prescribed by Act.

(2) The Justices of the Constitutional Court shall not join any political party, nor shall they participate in political activities.

(3) No Justice of the Constitutional Court shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.

**Article 113 (1)** When the Constitutional Court makes a decision of the constitutionality of a law, a decision of impeachment, a decision of dissolution of a political party or an affirmative decision regarding the constitutional complaint, the concurrence of six Justices or more shall be required.

(2) The Constitutional Court may establish regulations relating to its proceedings and internal discipline and regulations on administrative matters within the limits of Act.

(3) The organization, function and other necessary matters of the Constitutional Court shall be determined by Act.

## CHAPTER VII ELECTION MANAGEMENT

**Article 114 (1)** Election commissions shall be established for the purpose of fair management of elections and national referenda, and dealing with administrative affairs concerning political parties.

(2) The National Election Commission shall be composed of three members appointed by the President, three members selected by the National Assembly, and three members designated by the Chief Justice of the Supreme Court. The Chairperson of the Commission shall be elected from among the members.

(3) The term of office of the members of the Commission shall be six years.

(4) The members of the Commission shall not join political parties, nor shall they participate in political activities.

(5) No member of the Commission shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.

(6) The National Election Commission may establish, within the limit of Acts and decrees, regulations relating to the management of elections, national referenda, and administrative affairs concerning political parties and may also establish regulations relating to internal discipline that are compatible with Act.

(7) The organization, function and other necessary matters of the election commissions at each level shall be determined by Act.

**Article 115 (1)** Election commissions at each level may issue necessary instructions to administrative agencies concerned with respect to administrative affairs pertaining to elections and national referenda such as the preparation of the pollbooks.

(2) Administrative agencies concerned, upon receipt of such instructions, shall comply.

**Article 116 (1)** Election campaigns shall be conducted under the management of the election commissions at each level within the limit set by Act. Equal opportunity shall be guaranteed.

(2) Except as otherwise prescribed by Act, expenditures for elections shall not be imposed on political parties or candidates.

## CHAPTER VIII LOCAL AUTONOMY

**Article 117 (1)** Local governments shall deal with administrative matters pertaining to the welfare of local residents, manage properties, and may enact provisions relating to local autonomy, within the limit of Acts and subordinate statutes.

(2) The types of local governments shall be determined by Act.

**Article 118 (1)** A local government shall have a council.

(2) The organization and powers of local councils, and the election of members; election procedures for heads of local governments; and other matters pertaining to the organization and operation of local governments shall be determined by Act.

## CHAPTER IX THE ECONOMY

**Article 119 (1)** The economic order of the Republic of Korea shall be based on a respect for the freedom and creative initiative of enterprises and individuals in economic affairs.

(2) The State may regulate and coordinate economic affairs in order to maintain the balanced growth and stability of the national economy, to ensure proper distribution of income, to prevent the domination of the market and the abuse of economic power and to democratize the economy through harmony among the economic agents.

**Article 120 (1)** Licenses to exploit, develop or utilize minerals and all other important underground resources, marine resources, water power, and natural powers available for economic use may be granted for a period of time under the conditions as prescribed by Act.

(2) The land and natural resources shall be protected by the State, and the State shall establish a plan necessary for their balanced development and utilization.

**Article 121 (1)** The State shall endeavor to realize the land-to-the-tillers principle with respect to agricultural land. Tenant farming shall be prohibited.

(2) The leasing of agricultural land and the consignment management of agricultural land to increase agricultural productivity and to ensure the rational utilization of agricultural land or due to unavoidable circumstances, shall be recognized under the conditions as prescribed by Act.

**Article 122** The State may impose, under the conditions as prescribed by Act, restrictions or obligations necessary for the efficient and balanced utilization, development and preservation of the land of the nation that is the basis for the productive activities and daily lives of all citizens.

**Article 123 (1)** The State shall establish and implement a plan to comprehensively develop and support the farm and fishing communities in order to protect and foster agriculture and fisheries.

(2) The State shall have the duty to foster regional economies to ensure the balanced development of all regions.

(3) The State shall protect and foster small and medium enterprises.

(4) In order to protect the interests of farmers and fishermen, the State shall endeavor to stabilize the prices of agricultural and fishery products by maintaining an equilibrium between the demand and supply of such products and improving their marketing and distribution systems.

(5) The State shall foster organizations founded on the spirit of self-help among farmers, fishers and business persons engaged in small and medium industry and shall guarantee their independent activities and development.

**Article 124** The State shall guarantee the consumer protection movement intended to encourage sound consumption activities and improvement in the quality of products under the conditions as prescribed by Act.

**Article 125** The State shall foster foreign trade, and may regulate and coordinate it.

**Article 126** Private enterprises shall not be nationalized nor transferred to ownership by a local government, nor shall their management be controlled or administered by the State, except in cases as prescribed by Act to meet urgent necessities of national defense or the national economy.

**Article 127 (1)** The State shall strive to develop the national economy by developing science and technology, information and human resources and encouraging innovation.

(2) The State shall establish a system of national standards.

(3) The President may establish advisory organizations necessary to achieve the purpose referred to in paragraph (1).

## CHAPTER X AMENDMENTS TO THE CONSTITUTION

**Article 128 (1)** A proposal to amend the Constitution shall be introduced either by a majority of the total members of the National Assembly or by the President.

(2) Amendments to the Constitution for the extension of the term of office of the President or for a change allowing for the reelection of the President shall not be effective for the President in office at the time of the proposal for such amendments to the Constitution.

**Article 129** Proposed amendments to the Constitution shall be put before the public by the President for twenty days or more.

**Article 130 (1)** The National Assembly shall decide upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly shall require the concurrent vote of two thirds or more of the total members of the National Assembly.

(2) The proposed amendments to the Constitution shall be submitted to a national referendum not later than thirty days after passage by the National Assembly, and shall be determined by more than one half of all votes cast by more than one half of voters eligible to vote in elections for members of the National Assembly.

(3) When the proposed amendments to the Constitution receive the concurrence prescribed in paragraph (2), the amendments to the Constitution shall be finalized, and the President shall promulgate it without delay.