

Some Important Sections of the Myanmar Constitution

18. (a) The judicial power of the Union is shared among the Supreme Court of the Union, High Courts of the Regions, High Courts of the States and Courts of different levels including Courts of Self-Administered Areas.

(b) There shall be one Supreme Court of the Union. The Supreme Court of the Union is the highest Court of the Republic.

(c) The Supreme Court of the Union has powers to issue writs.

(d) A High Court of the Region or State is constituted in each Region or State.

59. Qualifications of the President and Vice-Presidents are as follows :

(a) shall be loyal to the Union and its citizens;

(b) shall be a citizen of Myanmar who was born of both parents who were born in the territory under the jurisdiction of the Union and being Myanmar Nationals;

(c) shall be an elected person who has attained at least the age of 45;

(d) shall be well acquainted with the affairs of the Union such as political, administrative, economic and military;

(e) shall be a person who has resided continuously in the Union for at least 20 years up to the time of his election as President;

Proviso: An official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union;

(f) shall be himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country;

(g) shall possess prescribed qualifications of the President, in addition to qualifications prescribed to stand for election to the Hluttaw.

60. (a) The President shall be elected by the Presidential Electoral College.

(b) The Presidential Electoral College shall be formed with three groups of the Pyidaungsu Hluttaw representatives as follows :

(i) group formed with elected Hluttaw representatives in the Hluttaw with an equal number of representatives elected from Regions and States;

(ii) group formed with elected Hluttaw representatives in the Hluttaw elected on the basis of township and population;

(iii) group formed with the Defence Services personnel Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services for the said two Hluttaws.

(c) Each group shall elect a Vice-President from among the Hluttaw representatives or from among persons who are not Hluttaw representatives.

89. The proceedings and the records of the Pyidaungsu Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Pyidaungsu Hluttaw shall not be published.

Submission of the Union Budget Bill

103. (a) The President or the person assigned by him, on behalf of the Union Government, shall submit the Union Budget Bill to the Pyidaungsu Hluttaw.

(b) The following matters included in the Union Budget Bill shall be discussed at the Pyidaungsu Hluttaw but not refused or curtailed :

(i) salary and allowance of Heads and Members of the Union level organizations formed under the Constitution and expenditures of those organizations;

(ii) debts for which the Union is liable and expenses relating to the debts, and other expenses relating to the loans taken out by the Union;

(iii) expenditures required to satisfy judgment, order, decree of any Court or Tribunal;

(iv) other expenditures which are to be charged by any existing law or any international treaty.

(c) Approval, refusal and curtailing of other expenditures except the expenditures specified in Sub-Section (b) shall be passed by the majority consent of the Pyidaungsu Hluttaw.

(d) The Union Government shall perform as necessary in accord with the Union Budget Law enacted by the Pyidaungsu Hluttaw.

(e) If in respect of the relevant financial year a need has arisen to authorize the estimated receipts and authorized expenditures in the Union Budget Law enacted by the Pyidaungsu Hluttaw and in addition to estimate receipts and to authorize expenditures, the Supplementary Appropriation law shall be enacted in the above manner.

(f) The Union Government shall perform as necessary in accord with the Supplementary Appropriation Law enacted by the Pyidaungsu Hluttaw.

Qualification of the Pyithu Hluttaw representatives

120. Persons who possess the following qualifications shall be entitled to be elected as the Pyithu Hluttaw representatives :

(a) person who has attained the age of 25 years;

(b) citizen who was born of both parents who are citizens;

(c) person who has resided in the Union of Myanmar for at least ten consecutive years up to the time of his election as Pyithu Hluttaw representative;

Proviso: The official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union,

(d) person who possesses qualifications prescribed by the Election Law.

Qualifications of the Amyotha Hluttaw representatives

152. The Amyotha Hluttaw representatives shall be :

(a) persons who have attained the age of 30 years;

(b) persons who have qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed under Section 120;

(c) persons whose qualifications does not breach the provisions under Section

121 which disqualified a person from standing for election as the Pyithu Hluttaw representatives.

Appointment of the Chief Minister of the Region or State

261. (a) *...[sets out qualifications for post]*

(b) In order to appoint the Chief Minister of the Region or State concerned, the President shall :

(i) select a suitable Hluttaw representative who has the prescribed qualifications from among the Region or State Hluttaw representatives concerned;

(ii) submit the list of the elected Hluttaw representatives to the Region or State Hluttaw concerned for its approval.

(c) The President shall appoint the Hluttaw representative approved by the Region or State Hluttaw as the Chief Minister of the Region or State concerned.

(d) The appointment of a person as a Chief Minister of the Region or State nominated by the President shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Chief Minister of the Region or State.

(e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Chief Minister.

Appointment of the Chief Justice of the Union and the Judges of the Supreme Court of the Union

299. (a) The Head of the Supreme Court of the Union shall be called the Chief Justice of the Union.

(b) Judges of the Supreme Court of the Union including the Chief Justice of the Union may be appointed in the Supreme Court from a minimum of seven and a maximum of 11 in number.

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(c) (i) The President shall submit the nomination of the person suitable to be appointed as the Chief Justice of the Union to the Pyidaungsu Hluttaw and seek its approval.

(ii) The Pyidaungsu Hluttaw shall have no right to refuse the person nominated by the President for the appointment of Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved that the persons do not meet the qualifications for the post prescribed in Section 301.

(iii) The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Chief Justice of the Union.

(iv) The President shall appoint the person who has been approved by the Pyidaungsu Hluttaw as the Chief Justice of the Union.

(d) (i) The President, in co-ordination with the Chief Justice of the Union, shall submit the nomination of the persons suitable to be appointed as the Judges of the Supreme Court of the Union to the Pyidaungsu Hluttaw and seek its approval.

(ii) The Pyidaungsu Hluttaw has no right to refuse the persons nominated by the President for the appointment of the Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved the persons concerned do not possess the qualifications prescribed for Judges of Supreme Court of the Union, in Section 301.

(iii) The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by Pyidaungsu Hluttaw for the appointment of a Judge of the Supreme Court of the Union.

(iv) The President shall appoint the persons approved by Pyidaungsu Hluttaw as Judges of the Supreme Court of the Union.

347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.

348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.

354. Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality:

- (a) to express and publish freely their convictions and opinions;
- (b) to assemble peacefully without arms and holding procession;
- (c) to form associations and organizations;
- (d) to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.

359. The Union prohibits forced labor except hard labor as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public.

411. In the matter concerning the declaration of a state of emergency in accord with Section 410, the President :

(a) may exercise the executive power of a Region or a State or a Self-Administered Area concerned. Moreover, he may form an appropriate body or a suitable person and entrust the said executive power;

(b) in doing so, if necessary, has the right to exercise the legislative power only for executive matters from among the matters that may be legislated by the respective Region, State or Self-Administered Areas. However, the legislative power shall not be empowered on any body or any person.

412. (a) If the President, learns that or if the respective local administrative body submits that there arises or is sufficient reason to arise a state of emergency endangering the lives, shelter and property of the public in a Region or a state or a Union Territory or a Self-Administered Area, after co-ordinating with

the National Defence and Security Council, may promulgate an ordinance and declare a state of emergency.

(b) If all the members are unable to attend the meeting held by the President to co-ordinate with the National Defence and Security Council under Sub-

Section (a), the President may declare in time a state of emergency after co-ordinating with the Commander-in-Chief of the Defence Services, the Deputy Commander-in-Chief of the Defence Services, the Minister for Defence, and the Minister for Home Affairs who are members. The said declaration shall be submitted to the National Defence and Security Council for approval as soon as possible.

413. According to Section 412, concerning the declaration of a state of emergency:

(a) the local administrative bodies and their members and the Civil Services organizations and their members may obtain the assistance of the Defence Services to effectively carry out their duties in accord with the existing laws in order to quickly restore to its original situation in an area where the declaration of a state of emergency has been in operation;

(b) the President may, if necessary, declare a military administrative order. In the said order, the executive powers and duties and the judicial powers and duties concerning community peace and tranquillity and prevalence of law and order shall be conferred on the Commander-in-Chief of the Defence Services. The Commander-in-Chief of the Defence Services may exercise the said powers and duties himself or empower on any suitable military authority to exercise thereof.

414. The President, in promulgating an ordinance and declaring a state of emergency :

(a) shall specify in the said ordinance the areas and the duration that the state of emergency is in operation;

(b) may, if necessary, restrict or suspend as required, one or more fundamental rights of the citizens residing in the areas where the state of emergency is in operation.

420. The Commander-in-Chief of the Defence Services may, during the duration of the declaration of a state of emergency, restrict or suspend as required, one or more fundamental rights of the citizens in the required area.

421. The President:

(a) shall submit the matter of transferring the sovereign power to the Commander-in-Chief of the Defence Services, after declaring a state of emergency under Sections 417 and 418, to a regular session of the Pyidaungsu Hluttaw if it is in session, or to an emergency session of the Pyidaungsu Hluttaw by summoning it, if it is not in regular session;

(b) may, if the Commander-in-Chief of the Defence Services submits the extension of the prescribed duration by giving reasons why he has not yet been able to accomplish the duties assigned to him, and after co-ordinating with the National Defence and Security Council, normally permit two extensions of the prescribed duration for a term of six months for each extension. The matter relating to the extension shall be reported to the emergency session of the Pyidaungsu Hluttaw by summoning it.

436. (a) If it is necessary to amend the provisions of Sections 1 to 48 in Chapter I, Sections 49 to 56 in Chapter II, Sections 59 and 60 in Chapter III, Sections 74, 109, 141 and 161 in Chapter IV, Sections 200, 201, 248 and 276 in Chapter V, Sections 293, 294, 305, 314 and 320 in Chapter VI, Sections 410 to 432 in Chapter XI and Sections 436 in Chapter XII of this Constitution, it shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nation-wide referendum only with the votes of more than half of those who are eligible to vote.

(b) Provisions other than those mentioned in Sub-Section (a) shall be amended only by a vote of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw.