

## **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 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 [Democracy]**

(1) The Republic of Korea is a democratic republic.

(2) The sovereignty of the Republic of Korea resides in the people, and all state authority emanates from the people.

#### **Article 2 [Nationality]**

(1) Nationality in the Republic of Korea is prescribed by law.

(2) It is the duty of the State to protect citizens residing abroad as prescribed by law.

#### **Article 3 [Territory]**

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

#### **Article 4 [Unification, Peace]**

The Republic of Korea seeks unification and formulates and carries out a policy of peaceful unification based on the principles of freedom and democracy.

#### **Article 5 [War, Armed Forces]**

(1) The Republic of Korea endeavors to maintain international peace and renounces all aggressive wars

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

#### **Article 6 [Treaties, Foreigners]**

(1) Treaties duly concluded and promulgated under the Constitution and the generally recognized rule of international law have the same effect as the domestic laws of the Republic of Korea

(2) The status of foreigners is guaranteed as prescribed by international law and treaties

#### **Article 7 [Public Officials]**

(1) All public officials are servants of the entire people and responsible to the people.

(2) The status and political impartiality of public officials is guaranteed as prescribed by law.

#### **Article 8 [Political Parties]**

- (1) The establishment of political parties is free, and the plural party system is guaranteed.
- (2) Political parties must be democratic in their objectives, organization, and activities, and have the necessary organizational arrangements for the people to participate in the formation of the political will.
- (3) Political parties enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by law.
- (4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring action against it in the Constitutional Court for its dissolution, and, the political party is dissolved in accordance with the decision of the Constitutional Court.

#### **Article 9 [Culture]**

The State tries to sustain and develop the cultural heritage and to enhance national culture.

### **CHAPTER II Rights and Duties of the Citizens**

#### **Article 10 [Dignity, Pursuit of Happiness]**

All citizens are assured of human worth and dignity and have the right to pursue happiness. It is the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

#### **Article 11 [Equality]**

- (1) All citizens are equal before the law, and there may be no discrimination in political, economic, social, or cultural life on account of sex, religion, or social status.
- (2) No privileged caste is recognized or ever established in any form.

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

## **Article 12 [Personal Liberty, Personal Integrity]**

(1) All citizens enjoy personal liberty. No person may be arrested, detained, searched, seized, or interrogated except as provided by law. No person may be punished, placed under preventive restrictions, or subject to involuntary labor except as provided by law and through lawful procedures.

(2) No citizens may be tortured or be compelled to testify against himself in criminal cases.

(3) Warrants issued by a judge through due procedures upon the request of a prosecutor have to be presented in case of arrest, detention, seizure, or search: Provided, that in a case where a criminal suspect is apprehended in 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 has the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State assigns counsel for the defendant as prescribed by law.

(5) No person may be arrested or detained without being informed of the reason therefore and of his right to assistance of counsel. The family and other related persons, as designated by law, of 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, has 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 similar action, or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession may not be admitted as evidence of guilt, nor may a defendant be punished by reason of such a confession.

**Article 13 [nulla poena sine lege, double jeopardy, retroactive law, family liability]**

(1) No citizen may be prosecuted for an act which does not constitute a crime under the law in force at the time it was committed, nor may he be placed in double jeopardy.

(2) No restrictions may be imposed upon the political rights of any citizen, nor may 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 own doing but committed by a relative.

**Article 14 [Residence, Move]**

All citizens enjoy the freedom of residence and the right to move at will.

**Article 15 [Occupation]**

All citizens enjoy freedom of occupation.

**Article 16 [Home, Search, Seizure]**

All citizens are 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 has to be presented.

**Article 17 [Privacy]**

The privacy of no citizen may be infringed.

**Article 18 [Secrecy of Correspondence]**

The secrecy of correspondence of no citizen may be infringed.

**Article 19 [Conscience]**

All citizens enjoy the freedom of conscience.

**Article 20 [Religion, Church]**

- (1) All citizens enjoy the freedom of religion.
- (2) No state religion may be recognized, and church and state are to be separated.

**Article 21 [Speech, Press, Assembly, Association, Honor, Public Morals]**

- (1) All citizens enjoy the freedom of speech and the press, and of assembly and association.
- (2) Licensing or censorship of speech and the press, and licensing of assembly and association may not be recognized.
- (3) The standard of news service and broadcast facilities and matters necessary to ensure the functions of newspapers is determined by law.
- (4) Neither speech nor the press may 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 [Learning, Intellectual Rights]**

- (1) All citizens enjoy the freedom of learning and the arts.
- (2) The rights of authors, inventors, scientists, engineers, and artists are protected by law.

**Article 23 [Property, Public Welfare, Expropriation]**

- (1) The right to property of all citizens is guaranteed. Its contents and limitations are determined by law.
- (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 therefore are governed by law. However, in such a case, just compensation must be paid.

**Article 24 [Right to Vote]**

All citizens have the right to vote under the conditions prescribed by law.

**Article 25 [Right to Public Office]**

All citizens have the right to hold public office under the conditions prescribed by law.

**Article 26 [Petition]**

- (1) All citizens have the right to petition in writing to any governmental agency under the conditions prescribed by law.
- (2) The State is obligated to examine all such petitions.

**Article 27 [Right to Trial]**

(1) All citizens have the right to be tried in conformity with the law by judges qualified under the Constitution and the law.

(2) Citizens who are not on active military service or employees of the military forces may not be tried by a court martial within the territory of the Republic of Korea, except in case of crimes as prescribed by law 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 have the right to a speedy trial. The accused have the right to a public trial without delay in the absence of justifiable reasons to the contrary.

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

(5) A victim of a crime is entitled to make a statement during the proceedings of the trial of the case involved under the conditions prescribed by law.

**Article 28 [False Imprisonment]**

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

**Article 29 [State and Official's Liability]**

(1) In case a person has sustained damages by an unlawful act committed by a public official in the course of official duties, he may claim just compensation from the State or public



organization under the conditions as prescribed by law. In this case, the public official concerned is not 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 law sustains damages in connection with the performance of official duties such as combat action, drill, and so forth, he is not 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 only to compensations as prescribed by law.

### **Article 30 [Victims]**

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 law.

### **Article 31 [Education]**

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

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

(3) Compulsory education is free of charge.

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

(5) The State promotes lifelong education.

(6) Fundamental matters pertaining to the educational system, including schools and lifelong education, administration, finance, and the status of teachers are determined by law.

**Article 32 [Work]**

(1) All citizens have the right to work. The State endeavors to promote the employment of workers and to guarantee optimum wages through social and economic means and enforces a minimum wage system under the conditions as prescribed by law.

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

(3) Standards of working conditions are determined by law in such a way as to guarantee human dignity.

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

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

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

**Article 33 [Unions]**

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

(2) Only those public officials who are designated by law, 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 law.

**Article 34 [Welfare]**

- (1) All citizens are entitled to a life worthy of human beings.
- (2) The State has the duty to endeavor to promote social security and welfare.
- (3) The State endeavors to promote the welfare and rights of women.
- (4) The State has the duty to implement policies for enhancing the welfare of senior citizen and the young.
- (5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age, or other reasons are protected by the State under the conditions as prescribed by law.
- (6) The State endeavors to prevent disasters and to protect citizens from harm therefrom.

**Article 35 [Environment, Housing]**

- (1) All citizens 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 is determined by law.
- (3) The State endeavors to ensure comfortable housing for all citizens through housing development policies and the like.

**Article 36 [Marriage, Family, Mothers, Health]**

- (1) Marriage and family life are entered into and sustained on the basis of individual dignity and equality of the sexes, and the State must do everything in its power to achieve that goal.
- (2) The State endeavors to protect mothers.
- (3) The health of all citizens is protected by the State

**Article 37 [Restriction, No Infringement of Essentials]**

(1) Freedoms and rights of citizens may 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 law 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 [Duty to Pay Taxes]**

All citizens have the duty to pay taxes under the conditions as prescribed by law.

**Article 39 [Duty to Military Service]**

(1) All citizens have the duty of national defense under the conditions as prescribed by law.

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

**CHAPTER III The National Assembly****Article 40 [Parliament]**

The legislative power is vested in the National Assembly.

**Article 41 [Election]**

(1) The National Assembly is composed of members elected by universal, equal, direct, and secret ballot by the citizens.

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

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

#### **Article 42 [Term]**

The term of office of members of the National Assembly is four years.

#### **Article 43 [Incompatibility]**

Members of the National Assembly may not concurrently hold any other office prescribed by law.

#### **Article 44 [Immunity]**

(1) During the sessions of the National Assembly, no member of the National Assembly may 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 must be released during the session upon the request of the National Assembly, except in case of flagrante delicto.

#### **Article 45 [Indemnity]**

No member of the National Assembly can be held responsible outside the National Assembly for opinions officially expressed or votes cast in the Assembly.

#### **Article 46 [Duties of Members]**

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

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

(3) Members of the National Assembly may 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 [Sessions]**

(1) A regular session of the National Assembly is convened once every year under the conditions prescribed by law, and extraordinary sessions of the National Assembly can be convened upon the request of the President or at least one-fourth of the members.

(2) The period of regular sessions cannot 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 must be clearly specified.

#### **Article 48 [Speakers]**

The National Assembly elects one Speaker and two Vice-Speakers.

#### **Article 49 [Quorum, Majority]**

Except as otherwise provided in the Constitution or by law, the attendance of a majority of the total members, and the concurrent vote of a majority of the members present, are necessary for decisions of the National Assembly. In case of a tie vote, the matter is regarded as rejected.

#### **Article 50 [Publicity]**

(1) Sessions of the National Assembly are open to the public: Provided, that when it is decided so by a majority of the members present, 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 is determined by law.

#### **Article 51 [Pending Bills]**

Bills and other matters submitted to the National Assembly for deliberation cannot 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 [Initiative]**

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

#### **Article 53 [Passing Bills]**

(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 may 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 reconsiders 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 becomes law.

(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 becomes law.

(6) The President promulgate without delay the law as finalized under Paragraphs (4) and (5). If the President does not promulgate a law within five days after it has become law under Paragraph (5), or after it has been returned to the Executive under Paragraph (4), the Speaker promulgates it.

(7) Except as provided otherwise, a law takes effect twenty days after the date of promulgation.

#### **Article 54 [Budget]**

(1) The National Assembly deliberates and decides upon the national budget bill.

(2) The Executive formulates the budget bill for each fiscal year and submits it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly decides 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 law; 2) Execution of the obligatory expenditures as prescribed by law; and 3) Continuation of projects previously approved in the budget.

#### **Article 55 [Reserve Fund]**

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

(2) A reserve fund is to 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 [Budget Amendment]**

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 [Changes of Budget Bill]**

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 [Issuing National Bonds]**

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

#### **Article 59 [Taxes]**

Types and rates of taxes are determined by law.

#### **Article 60 [Consent to Treaties]**

(1) The National Assembly has 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; and treaties related to legislative matters.

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

#### **Article 61 [Investigations]**

(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 are determined by law.

#### **Article 62 [Government in Parliament]**

(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 have to 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 [Recommendation for Removal]**

- (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 passed with the concurrent vote of a majority of the total members of the National Assembly.

**Article 64 [Proceedings, Disciplinary Actions]**

- (1) The National Assembly may establish the rules of its proceedings and internal regulations, provided that they are not in conflict with law.
- (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 are required for the expulsion of any member.
- (4) No action may be brought to court with regard to decisions taken under paragraphs (2) and (3).

**Article 65 [Impeachment]**

- (1) In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, judges of the Constitutional Court, judges, members of the National Election Commission, members of the Board of Audit and Inspection, and other public officials designated by law have violated the Constitution or other laws 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 requires 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 is suspended from exercising his power until the impeachment has been adjudicated.
- (4) A decision on impeachment does not extend further than removal from public office. However, it does not exempt the person impeached from civil or criminal liability.

## **CHAPTER IV The Executive**

### **SECTION 1. The President**

#### **Article 66 [Head of State]**

- (1) The President is the Head of State and represents the State vis-à-vis foreign states.
- (2) The President has the responsibility and duty to safeguard the independence, territorial integrity, and continuity of the State and the Constitution.
- (3) The President has the duty to pursue sincerely the peaceful unification of the homeland.
- (4) Executive power is vested in the Executive Branch headed by the President.

#### **Article 67 [Election]**

- (1) The President is 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 is elected.
- (3) If and when there is only one presidential candidate, he shall not be elected President unless he 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, are eligible to be elected to the presidency.
- (5) Matters pertaining to presidential elections are determined by law.

#### **Article 68 [Succession]**

- (1) The successor to the incumbent President is elected seventy to forty days before his 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 is to be elected within sixty days.

#### **Article 69 [Oath]**

The President, at the time of his inauguration, takes 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 [Term]**

The term of office of the President is five years, and the President cannot be reelected.

**Article 71 [Vacancy]**

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

**Article 72 [Referendum on Policy]**

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 [Treaties, Foreign Affairs]**

The President concludes and ratifies treaties; accredits, receives, or dispatches diplomatic envoys; and declares war and concludes peace.

**Article 74 [Armed Forces]**

(1) The President is Commander-in-Chief of the Armed Forces under the conditions as prescribed by the Constitution and law.

(2) The organization and formation of the Armed Forces is determined by law.

**Article 75 [Decrees]**

The President may issue presidential decrees concerning matters delegated to him by law with the scope specifically defined and also matters necessary to enforce laws.

**Article 76 [Emergency Powers]**

(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 law, 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 law, only when it is required to preserve the integrity of the nation, and it is impossible to convene the National Assembly.

## **SECTION 2. The Executive Branch**

### **Subsection 1 - The Prime Minister and Members of the State Council**

#### **Article 86 [Prime Minister]**

- (1) The Prime Minister is appointed by the President with the consent of the National Assembly.
- (2) The Prime Minister assists the President and directs the Executive Ministries from active duty.
- (3) No Member of the Military can be appointed Prime Minister unless he is retired from active duty.

#### **Article 87 [Members of State Council]**

- (1) The members of the State Council are appointed by the President on the recommendation of the Prime Minister.
- (2) The Members of the State Council assist the President until the removal of a member of the State Council from office.
- (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 can be appointed a member of the State Council unless he is retired from active duty.

### **Subsection 2 - The State Council**

#### **Article 88 [State Council]**

- (1) The State Council deliberates on important policies that fall within the Power of the Executive.
- (2) The State Council is composed of the President, the Prime Minister, and other members numbering no more than thirty and no less than fifteen.
- (3) The President is the chairman of the State Council, and the Prime Minister is the Vice-Chairman.

#### **Article 89 [Competences]**

The following matters are 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 Chairman 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 law; and
- 17) Other matters presented by the President, the Prime Minister, or a member of the State Council.

#### **Article 90 [Advisory Council of Elder Statesmen]**

- (1) An Advisory Council of Elder Statesmen, composed of elder statesmen, may be established to advise the President on important affairs of State.
- (2) The immediate former President becomes the Chairman of the Advisory Council of Elder Statesmen: Provided, that if there is no immediate former President, the President appoints the Chairman.

#### **Article 91 [National Security Council]**

- (1) A National Security Council is 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 are presided over by the President.
- (3) The organization, function, and other necessary matters pertaining to the National Security

Council are determined by law.

#### **Article 92 [Advisory Council on Democracy and Peaceful Unification]**

(1) An Advisory Council on Democratic and Peaceful Unification 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 Advisory Council on Democratic and Peaceful Unification are determined by law.

#### **Article 93 [National Economic Advisory Council]**

(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 are determined by law.

### **Subsection 3 The Executive Ministries**

#### **Article 94 [Heads of Ministries]**

The Heads of Executive Ministries are appointed by the President from among members of the State Council on the recommendation of the Prime Minister.

#### **Article 95 [Ordinances]**

Prime Minister or the head of each Executive Ministry may, under the powers delegated by law 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 [Ministry Organization]**

The establishment, organization, and function of each Executive Ministry are determined by law.

### **Subsection 4 The Board of Audit and Inspection**

#### **Article 97 [Board of Audit and Inspection]**

The Board of Audit and Inspection is 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 law and the job performances of the executive agencies and public officials.

**Article 98 [Membership, Term]**

(1) The Board of Audit and Inspection is composed of no less than five and no more than eleven members, including the Chairman.

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

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

**Article 99 [Inspection, Report]**

The Board of Audit and Inspection inspects the closing of accounts of revenues and expenditures each year, and reports the results to the President and the National Assembly in the following year.

**Article 100 [Organization]**

The organization and function of the Board of Audit and Inspection, the qualifications of its members, the range of the public official's subject to inspection, and other necessary matters are determined by law.

## **CHAPTER V The Courts**

**Article 101 [Courts]**

(1) Judicial power is vested in courts composed of judges.

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

(3) Qualifications for judges are determined by law.

**Article 102 [Court Organization]**

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

(2) There are 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 law.

(3) The organization of the Supreme Court and lower courts is determined by law.

**Article 103 [Independence of Judges]**

Judges rule independently according to their conscience and in conformity with the Constitution and the law.

**Article 104 [Appointment of Judges]**

(1) The Chief Justice of the Supreme Court is appointed by the President with the consent of the National Assembly.

(2) The Supreme Court Justices are 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 are appointed by the Chief Justice with the consent of the Conference of Supreme Court Justices.

**Article 105 [Term of Judges]**

(1) The term of office of the Chief Justice is six years and he cannot be reappointed.

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

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

(4) The retirement age of judges is determined by law.

**Article 106 [Sanctions, Early Retirement]**

(1) No judge may be removed from office except by impeachment or a sentence of imprisonment or heavier punishment, nor may he be suspended from office, have his salary reduced, or suffer any other unfavorable treatment except by disciplinary action.

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

**Article 107 [Constitutional Review]**

(1) When the constitutionality of a law is at issue in trial, the court requests a decision of the Constitutional Court, and judges according to the decision thereof.

(2) The Supreme Court has 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 are determined by law and are in conformity with the principles of judicial procedures.



**Article 108 [Court Administration]**

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

**Article 109 [Publicity]**

Trials and decisions of the courts are 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 has the final appellate jurisdiction over courts martial.
- (3) The organization and authority of courts martial, and the qualifications of their judges are determined by law.
- (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 law 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 [Competence, Appointment]**

- (1) The Constitutional Court is competent to adjudicate the following matters:
  - 1) The unconstitutionality of law upon the request of the courts;
  - 2) Impeachment;
  - 3) Dissolution of a political party;
  - 4) Disputes about the jurisdictions between State agencies, between State agencies and local governments, and between local governments, and
  - 5) Petitions relating to the Constitution as prescribed by law.
- (2) The Constitutional Court is composed of nine adjudicators qualified to be court judges, and they are appointed by the President.
- (3) Among the adjudicators referred to in Paragraph (2), three are appointed from persons selected by the National Assembly, and three appointed from persons nominated by the Chief Justice.

(4) The head of the Constitutional Court is appointed by the President from among the adjudicators with the consent of the National Assembly.

**Article 112 [Term, Incompatibility]**

(1) The term of office of the adjudicators of the Constitutional Court is six years, and they may be reappointed under the conditions as prescribed by law.

(2) The adjudicators of the Constitutional Court may not join any political party nor participate in political activities.

(3) No adjudicator of the Constitutional Court can be expelled from office except by impeachment or a sentence of imprisonment or heavier punishment.

**Article 113 [Majority, Internal Regulations]**

(1) When the Constitutional Court makes a decision on the unconstitutionality of a law, impeachment, dissolution of a political party, or a petition relating to the Constitution, the concurrence of at least six adjudicators is required.

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

(3) The organization, function, and other necessary matters of the Constitutional Court are determined by law.

## **CHAPTER VII Election Management**

**Article 114 [Establishment]**

(1) Election Management Committees are 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 is 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 Chairman of the Committee is elected from among the members.

(3) The term of office of the members of the Committee is six years.

(4) The members of the Committee may not join political parties, nor participate in political activities.

(5) No member of the Committee can be expelled from office except by impeachment or a sentence of imprisonment or heavier punishment.

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

(7) The organization, function, and other necessary matters of the Election Management Committees at each level are determined by law.

#### **Article 115 [Instructions]**

(1) Election Management Committees at each level may issue necessary instructions to administrative agencies concerned with respect to administrative matters pertaining to elections and national referenda such as the preparation of the pollbooks.

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

#### **Article 116 [Campaigns]**

(1) Election campaigns are conducted under the management of the Election Management Committees at each level within the limit set by law. Equal opportunity has to be guaranteed.

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

## **CHAPTER VIII Local Autonomy**

#### **Article 117 [Local Governments]**

(1) Local governments 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 laws and regulations.

(2) The types of local governments are determined by law.

#### **Article 118 [Local Councils]**

(1) A local government has 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 are determined by law.

## **CHAPTER IX The Economy**

**Article 119 [Regulation and Coordination]**

- (1) The economic order of the Republic of Korea is 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 [Natural Resources]**

- (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 law.
- (2) The land and natural resources are protected by the State, and the State establishes a plan necessary for their balanced development and utilization.

**Article 121 [Agriculture]**

- (1) The State endeavors to realize the land-to-the-tillers principle with respect to agricultural land. Tenant farming is 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, is recognized under the conditions as prescribed by law.

**Article 122 [Land Laws]**

The State may impose, as under the conditions prescribed by law, 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 [Farming and Fishing]**

- (1) The State establishes and implements a plan to comprehensively develop and support the farm and fishing communities in order to protect and foster agriculture and fisheries.
- (2) The State has the duty to foster regional economies to ensure the balanced development of all regions.
- (3) In order to protect the interests of farmers and fishermen, the State endeavors 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.

(4) The State fosters organizations founded on the spirit of self-help among farmers, fishermen, and businessmen engaged in small and medium industry and guarantees their independent activities and development

#### **Article 124 [Consumer Protection]**

The State guarantees a consumer protection movement intended to encourage sound consumption activities and improvement in the quality of products under the conditions as prescribed by law.

#### **Article 125 [Foreign Trade]**

The State fosters foreign trade, and may regulate and coordinate it.

#### **Article 126 [No Socialization]**

Private enterprises may 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 law to meet urgent necessities of national defense or the national economy.

#### **Article 127 [Innovation, Standardization]**

(1) The State strives to improve the national economy by developing science and technology, information and human resources, and encouraging innovation.

(2) The State establishes 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 [Initiative]**

(1) A proposal to amend the Constitution can 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 re-election of the President are not effective for the President in office at the time of the proposal for such amendments to the Constitution.

#### **Article 129 [Publication]**

Proposed amendments to the Constitution are presented to the public by the President for

twenty days or more.

#### **Article 130 [Majority, Referendum]**

(1) The National Assembly decides upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly requires the concurrent vote of two-thirds or more of the total members of the National Assembly.

(2) The proposed amendments to the Constitution are submitted to a national referendum not later than thirty days after passage by the National Assembly, and are confirmed 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 is finalized, and the President promulgates it without delay

### **ADDENDA**

#### **Article 1 [Enforcement]**

This Constitution enters into force on 25 Feb 1988: Provided, that the enactment or amendment of laws necessary to implement this Constitution, the elections of the President and the National Assembly under this Constitution, and other preparations to implement this constitution may be carried out prior to the entry into force of this constitution.

#### **Article 2 [First Presidential Election]**

(1) The first presidential election under this constitution is held not later than forty days before this Constitution enters into force.

(2) The term of office of the First President under this Constitution commences on the date of its enforcement.

#### **Article 3 [First Parliamentary Elections]**

(1) The first elections of the National Assembly under this Constitution are held within six months from the promulgation of this Constitution. The term of office of the members of the first National Assembly elected under this Constitution commences on the date of the first convening of the national Assembly under Constitution.

(2) The term of office of the members of the National Assembly incumbent at the time this Constitution is promulgated terminates the day prior to the first convening of the National

Assembly under Paragraph (1).

#### **Article 4 [Public Officials]**

(1) Public officials and officers of enterprises appointed by the Government, who are in office at the time of the enforcement of this Constitution, are considered as having been appointed under this Constitution: Provided, that public officials whose election procedures or appointing authorities are changed under this Constitution, the Chief Justice of the Supreme Court, and the Chairman of the Board of Audit and Inspection remain in office until such time as their successors are chosen under this constitution, and their terms of office terminate the day before the installation of their successors.

(2) Judges attached to the Supreme Court who are not the Chief Justice or Justices of the Supreme Court and who are in office at the time of the enforcement of this Constitution are considered as having been appointed under this Constitution notwithstanding the provision of Paragraph (1).

(3) Those provisions of this Constitution which prescribe the terms of office of public officials or which restrict the number of terms that public officials may serve, take effect upon the dates of the first elections or the first appointments of such public officials under this Constitution.

#### **Article 5 [Old Law]**

Laws, decrees, ordinances, and treaties in force at the time this Constitution enters into force, remain valid unless they are contrary to this Constitution.

#### **Article 6 [Old Organizations]**

Those organizations existing at the time of the enforcement of this Constitution which have been performing the functions falling within the authority of new organizations to be created under this Constitution, continue to exist and perform such functions until such time as the new organizations are created under this Constitution.