

REGISTERED No. M - 302
L.-7646

The Gazette  **of Pakistan**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, THURSDAY, JUNE 10, 2021

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 9th June, 2021

No. F. 9(2)/2021-Legis.—The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on 4th June, 2021 and is hereby published for general information:—

ACT No. XXI of 2021

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A Bill

To counter the growing concerns and hence, effectively legislate upon the matters of the aftermath of the 18th amendment and the electoral reforms in Pakistan.

It is hereby enacted as follows: -

PART I - PRELIMINARY

(1) Short title, commencement, and lapse --

- a. This Act may be called the **Pakistan Constitutional Reforms Council Act, 2021**, herein referred to as the **PCRC Act 2021**.
- b. It shall be extended to the whole of Pakistan
- c. It shall come into force at once and shall lapse on 9th January 2022.

(2) Definitions -- In this Act, unless there is anything repugnant in the subject or context,

- a. "Council" shall mean the Pakistan Constitutional Reforms Council
- b. "Constitution" shall mean the Constitution Of Islamic Republic of Pakistan, 1973 with its 24 Amendments
- c. "Majlis-e-Shoora" shall mean the National Assembly of Pakistan, both upper and lower houses.
- d. "legislation" refers to legislating upon matters provided within Schedule I of this Act.

PART II - POWERS & COMPOSITION

(3) Powers of PCRC --

- a. The Council shall enjoy the powers granted to the National Assembly of Pakistan and the Senate of Pakistan under the Constitution.
- b. The Council has hereby the power to amend the constitution and enact legislation which it may think necessary upon matters conferred in Schedule I of this Act.
- c. All the rules and responsibilities conferred upon or liable on the Senators and members of the Majlis-e-Shoora shall be the same for the members of the Council, until the act is repealed.

- d. Any breach in powers or responsibilities, shall lead to the member of the Council being dealt in the same manner as conferred upon a member of Majlis-e-Shoora by Part 2, Chapter 3 of the Constitution.

(4) Composition of the PCRC --

- a. The following members shall be the members of the Council:
 - (i) The Prime Minister of Pakistan
 - (ii) The leader of the Opposition Party
 - (iii) 21 Members of allegiance to the ruling party, i.e., Pakistan Tehreek Insaf from the Majlis-e-Shoora.
 - (iv) 12 Members of allegiance to the opposition party, i.e., Pakistan Muslim League -N (PMLN) from the Majlis-e-Shoora
 - (v) 9 Members of allegiance to the Pakistan Peoples Party (PPPP) from the Majlis-e-Shoora.
 - (vi) 2 Members of allegiance to the Balochistan National Party (BNP) from the Majlis-e-Shoora.
 - (vii) 2 Members of allegiance to the Balochistan Awami Party (BAP) from the Majlis-e-Shoora.
 - (viii) 1 Member of allegiance to the Pakistan Muslim League - Q (PMLQ) from the Majlis-e-Shoora.
 - (ix) 3 Members of allegiance to the territory of Gilgit-Baltistan (GB)
 - (x) 3 Members of allegiance to the territory of Azad-Jammu and Kashmir (AJK)
 - (xi) 2 Members of independent seats selected in the Majlis-e-Shoora.
 - (xii) 2 Members of allegiance to the Non-Muslim community of Pakistan selected in the Majlis-e-Shoora.
 - (xiii) 2 Members of allegiance to the female gender, selected in the Majlis-e-Shoora by women reserved seats or otherwise.
- b. The total composition of the council shall be 62 Members.
- c. The composition of the Council has been mandated to make sure equal representation in decision-making.
- d. In any event if the total composition of the Council is to be altered, the powers of such lie within the Speakers of the Council.

Explanation: “Member” in this clause refers to a member of the majlis-e-Shoora and hence, a member of the council. “Allegiance” in this clause refers to a member who belongs from a certain community, party, gender etc.,

PART III - SPEAKERS & MANDATE OF THE COUNCIL

(5) Speakers of the Council --

- a. The Speakers of the Council hereby selected by the National Assembly shall be:
 - (i) Retd. (J) Muhamamd Rafeh, a senior retired judge of the the Supreme Court of Pakistan
 - (ii) (CJ) Amna Naqvi, the first female chief-justice of the Supreme Court of Pakistan.
- b. The Sub-speakers of the Council hereby selected by the National Assembly shall be:
 - (i) (J) Rayan Farooq Butt, a senior judge of the Lahore High Court Bench.
 - (ii) Retd. (CJ) Fatima Sarfaraz, a retired female chief-justice of the Karachi High Court Bench.
- c. The amicus-curiae for the Speakers and Sub-speakers hereby selected by the National Assembly shall be (CJ) Hamza Saeed, the chief Justice of the Supreme Court of Azad, Jammu and Kashmir (AJK).

(6) Mandate of the Council --

- a. Functions and rules of procedure
 - I. The Council shall formulate and regulate policies in relation to matters enumerated in Schedule I.
 - II. The Council hereby functions to propose amendments to the Constitution that pertain to the identified subject matters.
 - III. The Council can entertain motions for amendments when accompanied by bills that specify implementation procedures for the said amendment.
 - IV. The Council is empowered to discuss, debate on, and contest legislation ancillary to the subject matters.
- b. Implementation

- I. The Council is empowered to direct implementation procedures enumerated in Bills.
- II. All implementation procedures are effective immediately when passed.
- III. The Council can direct other legislative bodies to propose specific legislation for implementation of amendments.

(7) Limitations of the Council --

- a. The Council has been empowered by the National Assembly to make amendments to the constitution and effectively legislate upon matters provided within Schedule I of the Act.
- b. However, the Council cannot do the following:
 - I. Eradicate or change the basic structure of the constitution i.e., any amendment or legislation made by the Council shall only be beneficial legislation and not otherwise.
 - II. If the council makes any legislation not beneficial per se, but the council agrees, **only in 2/3rd majority** that such legislation or amendment is necessary given the current sphere, the council shall convince the speakers for the same.
 - III. The Council is not permitted to subvert, abrogate, suspend or hold in abeyance the constitution, in consonance with Article 6 of the Constitution. Any member who wishes to do so, shall be guilty of treason under the same Article.
 - IV. The Council is barred from legislating upon matters not provided in Schedule I of the Act

Provided that if a matter is slightly linked to the matters provided in Schedule I of the Act, the power lies within the speakers to allow or disallow any such matter in discussion.

Explanation: "Beneficial Legislation" is a legislation which purports to confer a benefit on individuals or a class of persons.

PART IV - UNDER PROCEDURE & AMENDMENT

(8) National Assembly procedures while PCRC is under continuation -- Under the time frame that PCRC is in practice and continuation, the National Assembly is barred from discussing matters provided in Schedule I of the Act.

(9) The rules of procedure given separately for PCRC shall govern procedure in the council -- the rules of procedure may be found within the study guide provided to the members under lumun.lums.edu.pk>committees>PCRC.

(10) Amendments -- Any amendment to the Act shall be constituted by the Speakers of the Council, enumerated in Section 5 of the Act, by simple majority. Any amendment therein passed, shall be published and members of the council shall be notified.

Schedule I of the Act

1. Providing a valid provincial status to Gilgit-Baltistan, Azad Jammu and Kashmir [AJ&K] and FATA.

2. Bridging disparity among new provinces, *if any*, as well as old ones e.g. Balochistan, FATA, Sindh in terms of power, electricity and other basic infrastructural requirements.
3. Devolution of Powers
 - a. Center-province dynamics.
 - b. Role Of Local Governments/mechanisms to empower local government.
 - c. Formation of policies that truly devolve powers
4. Local governments- LGO Ordinance 2001
 - a. Models for Local Government.
 - b. Balance of powers between provincial and local government.
 - c. Streamlining the Local Governments powers through all provinces.
5. Funding of the The National Financial Commission Award [NFC]
6. NFC is the main tool through which the Center distributes financial resources to the Provinces. This funding helps provinces administer their functions. Funding for provinces is an important precursor to the conception of Federalism. Delegates will be expected to resolve the controversies that surround the NFC Award and will have to come up with alternative funding pools.
 - a. What are the respective funding pools of the Center vs. the province.
 - b. Tapping into funding pools- how could funding be devolved as well.
 - c. Economic effect of the Amendment Provinces.
7. Are the fundamental rights enshrined in the constitution supra- to the provincial divide? How are the fundamental rights to be implemented fairly in all provinces equally when the subjects of those rights are not in the Federal Legislative list, i.e., Education or Religion.
8. Education
 - a. Implementation of Article 25-A or removal of 25-A altogether.
 - b. The Single National Curriculum and rising provincial tension.
 - c. Primary education w.r.t higher education (increasing enrollment, role of local boards etc.).
9. Revisiting the 19th Amendment.
10. EMVs [Electronic Voting Machines] - Given the exponentially growing population of Pakistan, and the waste of paper every year, the idea of EVMs has been floating around for a while. This will be under discussion in the topic.

11. Right to vote for Overseas Pakistanis - Foreign Pakistanis, are affected by every incoming government and elections, as much as a local Pakistani is. The idea for them to have a right to vote and say in the Country's democracy has been introduced by PTI. This will also be under discussion in the topic.
12. Voting rights to NADRA registered Citizens Only - Pakistan has been under target of illicit voting by non-registered citizens, which leads to unfair polling and seat distribution. This topic will discuss only allowing voting rights to those citizens which have a NADRA registration [CNIC, B-form] etc.,
13. Open-ballot in the Senate of Pakistan - The 18th Amendment made the senate voting a secret affair but the current government has been in the hopes to make it an open-ballot vote for the world to see. Open-ballot Senate elections would make for an interesting watch from home, but would it be safe for the political landscape of the country?
14. Implementing Article 17 and 25 of Constitution - w.r.t political participation of women, trans persons and ethnicities in elections to ensure fair grounds.
15. Right to contest elections for overseas Pakistani.