

# MPs to elect President, says AL Constitutional Amendment Bill

■ Full text of Constitutional Amendment Bill of Awami League submitted by Abdus Samad Azad to Parliament Secretariat

(Bill to be introduced into Parliament)  
**A BILL TO AMEND ARTICLES 11, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 66, 72, 73A, 88, 92A, 119, 122, 123, 124, 125, 141A, 142, 145A, 147, 148, 152 AND CERTAIN PROVISIONS OF SECOND, THIRD AND FOURTH SCHEDULE TO THE CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH.**

Whereas it is expedient further to amend certain Provisions of the Constitution of the People's Republic of Bangladesh for the purposes hereinafter appearing:

It is hereby enacted as follows:

1. Short title and commencement.

(1) This Act may be called the Constitution (Eleventh Amendment) Act, 1991  
 (2) It shall come into force at once.

2. Amendment of Article 11 of the Constitution. — In the Constitution of the People's Republic of Bangladesh, hereinafter referred to as the Constitution, in Article 11 after the word "guaranteed" the comma and the words "and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured" shall be added.

3. Amendment of PART IV of the Constitution. — In the Constitution in Part IV for Chapters I and II the following shall be substituted, namely:—

**"CHAPTER I THE PRESIDENT**

48 (1) There shall be a President of Bangladesh who shall be elected by Members of Parliament in accordance with the Provisions contained in the Second Schedule.

(2) The President shall, as Head of State, take precedence over all other persons in the State, and shall exercise the powers and perform the duties conferred and imposed on him by this Constitution and by any other law.

(3) In the exercise of all his functions, save only that of appointing the Prime Minister pursuant to Clause (3) of Article 56, the President shall act in accordance with the advice of the Prime Minister.

Provided that the question whether any, and if so what, advice has been tendered by the Prime Minister to the President shall not be enquired into in any court.

(4) A person shall not be qualified for election as President if he:— (a) is less than thirty five years of age; or (b) is not qualified for election as a Member of Parliament; or

(c) has been removed from the office of President by impeachment under this Constitution.

(5) The Prime Minister shall keep the President informed on matters of domestic and foreign policy, and submit for the consideration of the Cabinet any matter which the President may request him to refer to it.

**Article 49 Prerogative of mercy**

49. The President shall have power to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.

**Article 50 Term of Office of President**

50 (1) Subject to the Provisions of this Constitution the President shall hold Office for a term of five years from the date on which he enters upon his office;

Provided that notwithstanding the expiration of his term the President shall continue to hold Office until his successor enters upon office.

(2) No person shall hold Office as President for more than two terms, whether or not the terms are consecutive.

(3) The President may resign his Office by writing under his hand addressed to the Speaker.

(4) The President during his term of Office shall not be qualified for election as a Member of Parliament, and if a member of Parliament is elected as President he shall vacate his seat in Parliament on the day on which he enters upon his Office as President.

**Article 51 President's immunity**

51. (1) Without prejudice to the provisions of Article 52, the President shall not be answerable in any court for anything done or omitted by him in the exercise or purported exercise of the functions of his office, but this clause shall not prejudice the right of any person to take proceedings against the Government.

(2) During his term of Office no Criminal Proceedings whatsoever shall be instituted or continued against the President in, and no process for his arrest or imprisonment shall issue from, any court.

**Article 52 Impeachment of the President**

52(1) The President may be impeached on a charge of violating this Constitution or of grave misconduct, preferred by a notice of motion signed by a majority of the total number of Members of Parliament and delivered to the Speaker, setting out the particulars of the charge, and the motion shall not be debated earlier than fourteen nor later than thirty days after the notice is so delivered; and the Speaker shall forthwith summon Parliament if it is not in session.

(2) The conduct of the President may be referred by Parliament to any court, tribunal or body appointed or designated by Parliament for the investigation of a charge under this article.

(3) The President shall have the right to appear and to be represented during the consideration of the charge.

(4) If after the consideration of the Charge a resolution is passed by Parliament by the votes of not less than two-thirds of the total number of members declaring that the charge has been substantiated, the President shall vacate his office on the date on which the resolution is passed.

(5) Where the Speaker is exercising the functions of the President under Article 54 the provisions of this article shall apply subject to the modifications that the reference to the Speaker in Clause (1) shall be construed as a reference to the Deputy Speaker, and that the reference in Clause (4) to the vacation by the President of his office shall be construed as a reference to the vacation by the Speaker of his Office as Speaker; and on the passing of a resolution such as is referred to in Clause (4) the Speaker shall cease to exercise the functions of President.

**Article 53 Removal of President on ground of incapacity**

53 (1) The President may be removed from Office on the ground of physical or mental incapacity on a motion of which notice, signed by a majority of the total number of Members of Parliament, is delivered to the Speaker, setting out Particulars of the alleged incapacity.

(2) On receipt of the notice the Speaker shall forthwith summon Parliament if it is not in session and shall call for a resolution constituting a medical board (hereinafter in this article called "the Board"), and upon the necessary motion being made and carried shall forthwith cause a copy of the notice to be transmitted to the President together with a request signed by the Speaker that the President submit himself within a period of ten days to an examination by the Board.

(3) The motion for removal shall not be put to the vote earlier than fourteen nor later than thirty days after notice of the motion is delivered to the Speaker, and if it is again necessary to summon Parliament in order to enable the motion to be made within that period, the Speaker shall summon Parliament.

(4) The President shall have the right to appear and to be represented during the consideration of the motion.

(5) If the President has not submitted himself to an examination by the Board before the motion is made in Parliament, the motion may be put to the vote, and if it is passed by the votes of not less than two-thirds of the total number of Members of Parliament, the President shall vacate his office on the date on which the motion is passed.

(6) If before the motion for removal is made in Parliament the President has submitted himself to an examination by the Board, the motion shall not be put to the vote until the Board has been given an opportunity of reporting its opinion to Parliament.

(7) If after consideration by Parliament of the motion and of the report of the Board (which shall be submitted within seven days of the examination held pursuant to Clause (2) and if not so submitted shall be dispensed with) the motion is passed by the votes of not less than two-thirds of the total number of Members of Parliament, the President, shall vacate his Office on the date on which the resolution is passed.

**Article 54 Speaker to act as President during absence, etc.**

54. If a vacancy occurs in the Office of President or if the President is unable to discharge the functions of his Office on account of absence, illness or any other cause, the Speaker shall discharge those functions until a President is elected or until the President resumes the functions of his office, as the case may be.

**Article 55 The Cabinet**

55. (1) There shall be a Cabinet for Bangladesh having the Prime Minister at its head and comprising also such other Ministers as the Prime Minister may from time to time designate.

(2) The executive power of the Republic shall, in accordance with this Constitution, be exercised by or on the authority of the Prime Minister.

(3) The Cabinet shall be collectively responsible to Parliament.

(4) All executive actions of the Government shall be expressed to be taken in the name of the President.

(5) The President shall by rules specify the manner in which orders and other instruments made in his name shall be attested or authenticated, and the validity of any order or instrument so attested or authenticated shall not be questioned in any court on the ground that it was not duly made or executed.

(6) The President shall make rules for the allocation and transaction of the business of the Government.

**Article 56 Ministers**

56 (1) There shall be a Prime Minister, and such other Ministers, Ministers of State and Deputy Ministers as may be determined by the Prime Minister.

(2) The appointments of the Prime Minister and other Ministers, and of the Ministers of State and Deputy Ministers, shall be made by the President. Provided that, subject to Clause (4) no person shall be eligible to be so appointed unless he is a Member of Parliament.

(3) The President shall appoint as Prime Minister the Member of Parliament who appears to him to command the support of the majority of the Members of Parliament.

(4) A Minister who at the time of his appointment is not a Member of Parliament shall, unless elected as a Member of Parliament within a period of six months from the date of such appointment, cease to be a Minister.

(5) If occasion arises for making any appointment under clause (2) or clause (3) between a dissolution of Parliament and the next following general election of members of Parliament, the persons who were such members immediately before the dissolution shall be regarded for the purposes of this clause as continuing to be such members.

**Article 57 Tenure of Office of Prime Minister.**

57(1) The Office of the Prime Minister shall become vacant— (a) if he resigns from office at any time by placing his resignation in the hands of the President; or

(b) if he ceases to be a member of Parliament.

(2) If the Prime Minister ceases to retain the support of a majority of the members of Parliament he shall either resign his office or advise the President to dissolve Parliament, and if he so advises the President shall dissolve Parliament accordingly.

(3) Nothing in this article shall disqualify the Prime Minister for holding office until his successor has entered upon office.

**Article 58 Tenure of Office of other Ministers.**

58(1) The office of a Minister other than the Prime Minister shall become vacant—

(a) if he resigns from office by placing his resignation in the hands of the Prime Minister for submission to the President;

(b) if he ceases to be a member of Parliament;

(c) if the President pursuant to the provisions of clause (2), so directs; or

(d) as provided in clause (4). (2) The Prime Minister may at any time request a Minister to resign, and if such Minister fails to comply with the request may advise the President to terminate the ap-

pointment of such Minister.

(3) Nothing in sub-clauses (a), (b) and (d) of clause (1) shall disqualify a Minister for holding office during any period in which Parliament stands dissolved.

(4) If the Prime Minister resigns from or ceases to hold office each of the other Ministers shall be deemed also to have resigned from office but shall, subject to the provisions of this Chapter, continue to hold office until his successor has entered upon office.

(5) In this article "Minister" includes Minister of State and Deputy Minister.

**Article 59 The Cabinet**

59(1) Local Government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law.

(2) Every body such as is referred to in clause (1) shall, subject to this Constitution and any other law, perform within the appropriate administrative unit such functions as shall be prescribed by Act of Parliament, which may include functions relating to—

(a) Administration and the work of public officers;

(b) the maintenance of public order;

(c) the preparation and implementation of plans relating to public services and economic development.

**Article 60 Powers of Local Government bodies.**

60. For the purpose of giving full effect to the provisions of article 59 Parliament shall by law, confer powers on the Local Government bodies referred to in that article, including power to impose taxes for local purposes, "to prepare their budgets and to maintain funds."

**Article 66 Qualification and disqualification for election to Parliament.**

66. Amendment of article 66 of the Constitution:— In the Constitution, in article 66 for clause (2A), the following shall be substituted, namely:— (3) For the purpose of this article a person shall not be deemed to hold an office of profit in the service of the Republic by reason only that he is a Minister, Minister of State or Deputy Minister.

**Article 72 Sessions of Parliament.**

6. Amendment of article 72 of the Constitution:— In the Constitution, in article 72 clause (4A) shall be omitted.

**Article 73A Right of Ministers as respects Parliament.**

7. Amendment of article 73A of the Constitution:— In the Constitution, article 73A, shall be omitted.

**Article 88 Amendment of article 88 of the Constitution:—** In the Constitution, in article 88 clause (AA) shall be omitted.

**Article 92A Amendment of article 92A of the Constitution:—** In the Constitution article 92A shall be omitted.

**Article 119(1) The superintendence, direction and control of the preparation of the electoral rolls for all elections to Parliament, the conduct of such elections and of elections to the office of President, shall vest in the Election Commission which shall, in accordance with this Constitution and any other law—**

(a) hold elections to the office of President;

(b) hold elections of members of Parliament; and

(c) delimit the constituencies and prepare electoral rolls for the purpose of elections to Parliament.

(2) The Election Commission shall perform such functions, in addition to those specified in the foregoing clauses, as may be prescribed by this Constitution or by any other law."

**Article 122 Qualifications for registration as voter.**

11. Amendment of article 122 of the Constitution:— In the Constitution, (a) in article 122 the words "to the offices of President and Vice-President" shall be omitted, and (b) in article 122, clause (3) shall be omitted.

**Article 123 Time of holding elections**

123(1) In the case of vacancy in the office of

President occurring by reason of the expiration of his term of office an election to fill the vacancy shall be held within the period of ninety days prior to the date of expiration of the term:

Provided that if the term expires before the dissolution of the Parliament by the members of which he was elected the election to fill the vacancy shall not be held until after the next general election of members of Parliament, but shall be held within thirty days after the first sitting of Parliament following such general election.

(2) In the case of a vacancy in the office of President occurring by reason of the death, resignation or removal of the President, an election to fill the vacancy shall be held within the period of ninety days after the occurrence of the vacancy.

(3) A general election of members of Parliament shall be held—

(a) in the case of a dissolution by reason of the expiration of its term, within the period of ninety days preceding such dissolution; and

(b) in the case of dissolution otherwise than by reason of such expiration, within ninety days after such dissolution:

Provided that the persons elected at a general election under sub-clause (a) shall not assume office as members of Parliament except after the expiration of the term referred to there in.

(4) An election to fill the seat of a member of Parliament which falls vacant otherwise than by reason of the dissolution of Parliament shall be held within ninety days of the occurrence of the vacancy."

**Article 124 Parliament may make Provision as to election.**

13. Amendment of article 124 of the Constitution, — In the Constitution, for article 124 the following shall be substituted, namely:—

"124. Subject to the Provisions of this Constitution, Parliament may by law make provision with respect to all matters relating to or in connection with elections to Parliament including the delimitation of Constituencies, the preparation of electoral rolls, the holding of elections, and all other matters necessary for securing the due Constitutions of Parliament."

**Article 125 Validity of election law and elections.**

14. Amendment of article 125 of the Constitution, — In the Constitution, in article 125, in clause (b), for the words "Offices of President and Vice-President" the words "Office of President," shall be substituted.

**Article 141A Proclamation of emergency**

15. Amendment of article 141A of the Constitution, — In the Constitution, in article 141A, at the end of clause (1) the following new paragraph shall be added, namely:— "Provided that such Proclamation shall require for its validity the counter signature of the Prime Minister."

**Article 142 Power to amend any Provision of the Constitution.**

16. Amendment of article 142 of the Constitution, — In the Constitution, in article 142, the clauses (1A), (1B) and (1C) shall be omitted.

17. Amendment of article 145A of the Constitution, — In the Constitution, in article 145A, the words "Provided that no such treaty shall be so laid if the President considers it to be against the national interest so to do" shall be omitted.

18. Amendment of article 147 of the Constitution, — In the Constitution, in article 147 for clause (4) the following shall be substituted, namely:— "(4) This article applies to the offices of— (a) Prime Minister; (b) Speaker or Deputy Speaker; (c) Minister, Minister of State or Deputy Minister; (d) Judge of the Supreme Court; (e) Comptroller and Auditor General; (f) Election Commissioner; (g) Member of a Public Service Commission."

19. Amendment of article 148 of the Constitution, — In the Constitution, in article 148, clause (1A) shall be omitted.

20. Amendment of article

**Article 72 Sessions of Parliament.**

6. Amendment of article 72 of the Constitution:— In the Constitution, in article 72 clause (4A) shall be omitted.

**Article 73A Right of Ministers as respects Parliament.**

7. Amendment of article 73A of the Constitution:— In the Constitution, article 73A, shall be omitted.

**Article 88 Amendment of article 88 of the Constitution:—** In the Constitution, in article 88 clause (AA) shall be omitted.

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(a) hold elections to the office of President;

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123(1) In the case of vacancy in the office of

President occurring by reason of the expiration of his term of office an election to fill the vacancy shall be held within the period of ninety days prior to the date of expiration of the term:

Provided that if the term expires before the dissolution of the Parliament by the members of which he was elected the election to fill the vacancy shall not be held until after the next general election of members of Parliament, but shall be held within thirty days after the first sitting of Parliament following such general election.

(2) In the case of a vacancy in the office of President occurring by reason of the death, resignation or removal of the President, an election to fill the vacancy shall be held within the period of ninety days after the occurrence of the vacancy.

(3) A general election of members of Parliament shall be held—

(a) in the case of a dissolution by reason of the expiration of its term, within the period of ninety days preceding such dissolution; and

(b) in the case of dissolution otherwise than by reason of such expiration, within ninety days after such dissolution:

Provided that the persons elected at a general election under sub-clause (a) shall not assume office as members of Parliament except after the expiration of the term referred to there in.

(4) An election to fill the seat of a member of Parliament which falls vacant otherwise than by reason of the dissolution of Parliament shall be held within ninety days of the occurrence of the vacancy."

**Article 124 Parliament may make Provision as to election.**

13. Amendment of article 124 of the Constitution, — In the Constitution, for article 124 the following shall be substituted, namely:—

"124. Subject to the Provisions of this Constitution, Parliament may by law make provision with respect to all matters relating to or in connection with elections to Parliament including the delimitation of Constituencies, the preparation of electoral rolls, the holding of elections, and all other matters necessary for securing the due Constitutions of Parliament."

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14. Amendment of article 125 of the Constitution, — In the Constitution, in article 125, in clause (b), for the words "Offices of President and Vice-President" the words "Office of President," shall be substituted.

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17. Amendment of article 145A of the Constitution, — In the Constitution, in article 145A, the words "Provided that no such treaty shall be so laid if the President considers it to be against the national interest so to do" shall be omitted.

18. Amendment of article 147 of the Constitution, — In the Constitution, in article 147 for clause (4) the following shall be substituted, namely:— "(4) This article applies to the offices of— (a) Prime Minister; (b) Speaker or Deputy Speaker; (c) Minister, Minister of State or Deputy Minister; (d) Judge of the Supreme Court; (e) Comptroller and Auditor General; (f) Election Commissioner; (g) Member of a Public Service Commission."

19. Amendment of article 148 of the Constitution, — In the Constitution, in article 148, clause (1A) shall be omitted.

20. Amendment of article

119(1) The superintendence, direction and control of the preparation of the electoral rolls for all elections to Parliament, the conduct of such elections and of elections to the office of President, shall vest in the Election Commission which shall, in accordance with this Constitution and any other law—

(a) hold elections to the office of President;

(b) hold elections of members of Parliament; and

(c) delimit the constituencies and prepare electoral rolls for the purpose of elections to Parliament.

(2) The Election Commission shall perform such functions, in addition to those specified in the foregoing clauses, as may be prescribed by this Constitution or by any other law."

**Article 122 Qualifications for registration as voter.**

11. Amendment of article 122 of the Constitution:— In the Constitution, (a) in article 122 the words "to the offices of President and Vice-President" shall be omitted, and (b) in article 122, clause (3) shall be omitted.

**Article 123 Time of holding elections**

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President occurring by reason of the expiration of his term of office an election to fill the vacancy shall be held within the period of ninety days prior to the date of expiration of the term:

Provided that if the term expires before the dissolution of the Parliament by the members of which he was elected the election to fill the vacancy shall not be held until after the next general election of members of Parliament, but shall be held within thirty days after the first sitting of Parliament following such general election.

(2) In the case of a vacancy in the office of President occurring by reason of the death, resignation or removal of the President, an election to fill the vacancy shall be held within the period of ninety days after the occurrence of the vacancy.

(3) A general election of members of Parliament shall be held—

(a) in the case of a dissolution by reason of the expiration of its term, within the period of ninety days preceding such dissolution; and

(b) in the case of dissolution otherwise than by reason of such expiration, within ninety days after such dissolution:

Provided that the persons elected at a general election under sub-clause (a) shall not assume office as members of Parliament except after the expiration of the term referred to there in.

(4) An election to fill the seat of a member of Parliament which falls vacant otherwise than by reason of the dissolution of Parliament shall be held within ninety days of the occurrence of the vacancy."

**Article 124 Parliament may make Provision as to election.**

13. Amendment of article 124 of the Constitution, — In the Constitution, for article 124 the following shall be substituted, namely:—