

PART IV
THE EXECUTIVE
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.*

The President.

(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.*

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.

Prerogative of mercy.

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:

Term of office of President.

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.

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.

President's immunity.

(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.

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

Impeachment of the President.

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.

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.

*Removal of
President on
ground of
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 (hereafter 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 from the date of the request 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.

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.

Speaker to act as President during absence, etc.

CHAPTER II—The Prime Minister And 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.

The Cabinet.

(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.

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.

Ministers.

(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.*

57. (1) *The office of the Prime Minister shall become vacant—*

*Tenure of office of
Prime Minister.*

(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.*

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

Tenure of office of other Ministers.

- (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 appointment 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.

CHAPTER III—Local Government

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

Local government.

(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.

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.

Powers of local government bodies.

CHAPTER IV—The Defence Services

61. The supreme command of the defence services of Bangladesh shall vest in the President and the exercise thereof shall be regulated by law.

Supreme command.

62. (1) Parliament shall by law provide for regulating—

Recruitment, etc., of defence services.

- (a) the raising and maintaining of the defence services of Bangladesh and of their reserves;
- (b) the grant of commissions therein;
- (c) the appointment of chiefs of staff of the defence services, and their salaries and allowances; and
- (d) the discipline and other matters relating to those services and reserves.

(2) Until Parliament by law provides for the matters specified in clause (1) the President may, by order, provide for such of them as are not already subject to existing law.

63. (1) War shall not be declared and the Republic shall not participate in any war except with the assent of Parliament.

War.

(2) In case of actual or imminent invasion of Bangladesh by land, sea or air, the President may

take whatever steps he considers necessary for the protection and defence of Bangladesh, and Parliament if not sitting shall be summoned forthwith.

(3) Nothing in this Constitution shall invalidate any law enacted by Parliament which is expressed to be for the purpose of securing the public safety and preservation of the State in time of war, invasion or armed rebellion.

CHAPTER V—The Attorney-General

64. (1) *The President shall appoint a person who is qualified to be appointed as a judge of the Supreme Court to be Attorney-General for Bangladesh.*

The Attorney-General.

(2) *The Attorney-General shall perform such duties as may be assigned to him by the President.*

(3) *In the performance of his duties, the Attorney-General shall have the right of audience in all courts of Bangladesh.*

(4) *The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.*

