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Korea (Republic of)'s Constitution of 1948 with Amendments through 1987

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Table of contents

Preamble	3
CHAPTER I: GENERAL PROVISIONS	3
CHAPTER II: RIGHTS AND DUTIES OF CITIZENS	4
CHAPTER III: THE NATIONAL ASSEMBLY	9
CHAPTER IV: THE EXECUTIVE	14
PART 1: THE PRESIDENT	14
PART 2: THE EXECUTIVE BRANCH	17
Section 1: The Prime Minister and Members of the State Council	17
Section 2: The State Council	18
Section 3: The Executive Ministries	20
Section 4: The Board of Audit and Inspection	20
CHAPTER V: THE COURTS	21
CHAPTER VI: THE CONSTITUTION COURT	22
CHAPTER VII: ELECTION MANAGEMENT	23
CHAPTER VIII: LOCAL AUTONOMY	24
CHAPTER IX: THE ECONOMY	25
CHAPTER X: AMENDMENTS TO THE CONSTITUTION	26
SUPPLEMENTARY PROVISIONS	27

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, civic and cultural life by further strengthening the free democratic basic order conducive to private initiative and public harmony, and

To help each person 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.

The Day of October anno Domini Nineteen hundred and eighty-seven.

CHAPTER I: GENERAL PROVISIONS

Article 1

1. The Republic of Korea shall be a democratic republic.
2. The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

Article 2

1. Nationality in the Republic of Korea shall be prescribed by law.
2. It shall be the duty of the State to protect citizens residing abroad as prescribed by law.

Article 3

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

Article 4

The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the free democratic basic order.

Article 5

1. The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.
2. The Armed Forces shall be charged with the sacred mission of national security and the defense of the land and their political neutrality shall be maintained.

Article 6

1. Treaties duly concluded and promulgated in accordance with the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.
2. The status of aliens shall be guaranteed as prescribed by international law and treaties.

Article 7

1. All public officials shall be servants of the entire people and shall be responsible to the people.
2. The status and political impartiality of public officials shall be guaranteed as prescribed by law.

Article 8

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

Article 9

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

CHAPTER II: RIGHTS AND DUTIES OF CITIZENS

Article 10

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

Article 11

1. All citizens shall be equal before the law, and there shall be no discrimination in political, economic, societal or cultural life on account of sex, religion or social status.
2. No privileged caste shall be recognized or ever established in any form.
3. The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileges shall ensue therefrom.

Article 12

1. All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated except as provided by law. No person shall be punished, placed under preventive restrictions or subject to involuntary labor except as provided by law and through lawful procedures.
2. No citizen shall 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 shall be presented in case of arrest, detention, seizure or search: except that, in case where a criminal suspect is apprehended 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 shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as prescribed by law.
5. No person shall be arrested or detained without being informed of the reason therefor and of his right to assistance of counsel. The family, etc., as designated by law, of a 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 shall have 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 etc., or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession shall not be admitted as evidence of guilt nor shall a defendant be punished by reason of such a confession.

Article 13

1. No citizen shall be prosecuted for an act which does not constitute a crime under the law in force at the time it was committed, nor shall he be placed in double jeopardy.
2. No restrictions shall be imposed upon the political rights of any citizen, nor shall 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

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

Article 15

All citizens shall enjoy freedom of occupation.

Article 16

All citizens shall be 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 shall be presented.

Article 17

The privacy of no citizen shall be infringed.

Article 18

The privacy of correspondence of no citizen shall be infringed.

Article 19

All citizens shall enjoy freedom of conscience.

Article 20

1. All citizens shall enjoy freedom of religion.
2. No state religion shall be recognized, and church and state shall be separated.

Article 21

1. All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.
2. Licensing or censorship of speech and the press, and licensing of assembly and association shall not be recognized.
3. The standards of news service and broadcast facilities and matters necessary to ensure the functions of newspapers shall be determined by law.
4. Neither speech nor the press shall 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

1. All citizens shall enjoy freedom of learning and the arts.
2. The rights of authors, inventors, scientists, engineers and artists shall be protected by law.

Article 23

1. The right of property of all citizens shall be guaranteed. The contents and limitations thereof shall be determined by law.
2. The exercise of property rights shall conform to the public welfare.

- Protection from expropriation

3. Expropriation, use or restriction of private property from public necessity and compensation therefor shall be governed by law. However, in such a case, just compensation shall be paid.

Article 24

All citizens shall have the right to vote as prescribed by law.

- Restrictions on voting
- Claim of universal suffrage

Article 25

All citizens shall have the right to hold public office as prescribed by law.

Article 26

1. All citizens shall have the right to petition in writing to any governmental agency as prescribed by law.
2. The State shall be obligated to examine all such petitions.

- Right of petition

Article 27

1. All citizens shall 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 shall not be tried by a court martial within the territory of the Republic of Korea except in case of crimes 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 shall have the right to a speedy trial. The accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.
4. The accused shall be presumed innocent until a judgment of guilt has been pronounced.
5. A victim of a crime shall be entitled to make a statement during the proceedings of the trial of the case involved as prescribed by law.

- Emergency provisions
- Establishment of military courts

- Right to public trial
- Right to speedy trial

- Presumption of innocence in trials

- Protection of victim's rights

Article 28

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

Article 29

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 as prescribed by law. In this case, the public official concerned shall not be 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 shall not be 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 shall be entitled only to compensations as prescribed by law.

- Ultra-vires administrative actions

Article 30

Citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State as prescribed by law.

Article 31

1. All citizens shall have an equal right to receive an education corresponding to their abilities.
2. All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by law.
3. Compulsory education shall be free.
4. Independence, professionalism and political impartiality of education and the autonomy of institutions of higher learning shall be guaranteed as prescribed by law.
5. The State shall promote lifelong education.
6. Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by law.

Article 32

1. All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means and shall enforce a minimum wage system as prescribed by law.
2. All citizens shall have the duty to work. The State shall prescribe by law the extent and conditions of the duty to work in conformity with democratic principles.
3. Standards of working conditions shall be determined by law in such a way as to guarantee human dignity.
4. Special protection shall be accorded to working women and they shall not be subjected to unjust discrimination in terms of employment, wages and working conditions.
5. Special protection shall be accorded to working children.
6. The opportunity to work shall be accorded preferentially, 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

1. To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action.
2. Only those public officials who are designated by law shall 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 as prescribed by law.

Article 34

1. All citizens shall be entitled to a life worthy of human beings.
2. The State shall have the duty to endeavor to promote social security and welfare.

- 3. The State shall endeavor to promote the welfare and rights of women.
- 4. The State shall have the duty to implement policies for enhancing the welfare of senior citizens and the young.
- 5. Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age or other reasons shall be protected by the State as prescribed by law.
- 6. The State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

Article 35

- 1. All citizens shall 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 shall be determined by law.
- 3. The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

Article 36

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

Article 37

- 1. Freedoms and rights of citizens shall 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

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

Article 39

- 1. All citizens shall have the duty of national defense as prescribed by law.
- 2. No citizen shall be treated unfavorably on account of the fulfillment of his obligation of military service.

CHAPTER III: THE NATIONAL ASSEMBLY

Article 40

The legislative power shall be vested in the National Assembly.

Article 41

1. The National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens.
2. The number of members of the National Assembly shall be determined by law, but the number shall not be less than 200.
3. The constituencies of members of the National Assembly, proportional representation and other matters pertaining to National Assembly elections shall be determined by law.

Article 42

The term of office of members of the National Assembly shall be four years.

Article 43

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

Article 44

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

Article 45

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

Article 46

1. Members of the National Assembly shall have the duty to maintain high standards of integrity.
2. Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.
3. Members of the National Assembly shall 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

1. A regular session of the National Assembly shall be convened once every year as prescribed by law, and extraordinary sessions of the National Assembly shall be convened upon the request of the President or one fourth or more of the total members.
2. The period of regular sessions shall not exceed a hundred days and 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 shall be clearly specified.

Article 48

The National Assembly shall elect one Speaker and two Vice-Speakers.

Article 49

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

Article 50

1. Sessions of the National Assembly shall be open to the public: except that, when it is decided so by a majority of the members present, or 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 shall be determined by law.

Article 51

Bills and other matters submitted to the National Assembly for deliberation shall not 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

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

Article 53

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 shall 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 shall reconsider 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 shall become 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 shall become law.

6. The President shall 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 shall promulgate it.
7. Except as provided otherwise, a law shall take effect twenty days after the date of promulgation.

Article 54

1. The National Assembly shall deliberate and decide upon the national budget bill.
2. The Executive shall formulate the budget bill for each fiscal year and submit it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly shall decide 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

1. In a case where it is necessary to make continuing disbursements for a period longer than one fiscal year, the Executive shall obtain the approval of the National Assembly for a specified period of time.
2. A reserve fund shall 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

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

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

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

Article 59

Types and rates of taxes shall be determined by law.

Article 60

1. The National Assembly shall have 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; or treaties related to legislative matters.
2. The National Assembly shall also have the right to consent to the declaration of war, the dispatch of armed forces to foreign states, or the stationing of alien forces in the territory of the Republic of Korea.

Article 61

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 shall be determined by law.

Article 62

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 shall 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

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 shall be passed with the concurrent vote of a majority of the total members of the National Assembly.

Article 64

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 shall be required for the expulsion of any member.
4. No action shall be brought to court with regard to decisions taken under Paragraphs (2) and (3).

- International law
- International organizations
- Treaty ratification

- Power to declare/approve war

- Legislative oversight of the executive

- Legislative oversight of the executive

- Legislative committees

- Cabinet removal
- Head of government removal

- Removal of individual legislators

Article 65

1. In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, judges of the Constitution Court, judges, members of the Central Election Management Committee, 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 shall require a concurrent vote of a majority of the total members of the National Assembly for passage: except 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 shall be suspended from exercising his power until the impeachment has been adjudicated.
4. A decision on impeachment shall not extend further than removal from public office. However, it shall not exempt the person impeached from civil or criminal liability.

CHAPTER IV: THE EXECUTIVE

PART 1: THE PRESIDENT

Article 66

1. The President shall be the Head of State and represent the State vis-a-vis foreign states.
2. The President shall have the responsibility and duty to safeguard the independence, territorial integrity and continuity of the State and the Constitution.
3. The President shall have the duty to pursue sincerely the peaceful unification of the homeland.
4. Executive power shall be vested in the Executive Branch headed by the President.

Article 67

1. The President shall be 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 shall be 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, shall be eligible to be elected to the presidency.
5. Matters pertaining to presidential elections shall be determined by law.

Article 68

1. The successor to the incumbent President shall be elected seventy to thirty 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 shall be elected within sixty days.

Article 69

The President, at the time of his inauguration, shall take 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

The term of office of the President shall be five years, and the President shall not be reelected.

Article 71

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 shall act for him.

Article 72

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

The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys; and declare war and conclude peace.

Article 74

1. The President shall be Commander-in-Chief of the Armed Forces as prescribed by the Constitution and law.
2. The organization and formation of the Armed Forces shall be determined by law.

Article 75

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

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.
3. In case actions are taken or orders are issued under Paragraphs (1) and (2), the President shall promptly notify the National Assembly and obtain its approval.
4. In case no approval is obtained, the actions or orders shall lose effect forthwith. In such case, the laws which were amended or abolished by the orders in question shall automatically regain their original effect at the moment the orders fail to obtain approval.
5. The President shall, without delay, put on public notice developments under Paragraphs (3) and (4).

Article 77

1. When it is required to cope with a military necessity or to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law as prescribed by law.
2. Martial law shall be of two types, extraordinary martial law and precautionary martial law.
3. Under extraordinary martial law, special measures may be taken with respect to the necessity for warrants, freedom of speech, the press, assembly and association, or the powers of the Executive and the Judiciary as prescribed by law.
4. When the President has proclaimed martial law, he shall notify the National Assembly without delay.
5. When the National Assembly requests the lifting of martial law with the concurrent vote of a majority of the total members of the National Assembly, the President shall comply.

Article 78

The President shall appoint public officials as prescribed by the Constitution and law.

Article 79

1. The President may grant amnesty, commutation and restoration of rights as prescribed by law.
2. The President shall receive the consent of the National Assembly in granting a general amnesty.
3. Matters pertaining to amnesty, commutation and restoration of rights shall be determined by law.

Article 80

The President shall award decorations and other honors as prescribed by law.

Article 81

The President may attend and address the National Assembly or express his views by written message.

Article 82

The acts of the President under law shall be executed in writing, and such documents shall be countersigned by the Prime Minister and the members of the State Council concerned. The same shall apply to military affairs.

Article 83

The President shall not concurrently hold the office of Prime Minister, a member of the State Council, the head of any Executive Ministry, nor other public or private posts as prescribed by law.

Article 84

The President shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

Article 85

Matters pertaining to the status and courteous treatment of former Presidents shall be determined by law.

PART 2: THE EXECUTIVE BRANCH

Section 1: The Prime Minister and Members of the State Council

Article 86

1. The Prime Minister shall be appointed by the President with the consent of the National Assembly.
2. The Prime Minister shall assist the President and shall direct the Executive Ministries under order of the President.
3. No member of the military shall be appointed Prime Minister unless he is retired from active duty.

Article 87

1. The members of the State Council shall be appointed by the President on the recommendation of the Prime Minister.
2. The members of the State Council shall assist the President in the conduct of State affairs and, as constituents of the State Council, shall deliberate on State affairs.
3. The Prime Minister may recommend to the President the removal of a member of the State Council from office.

• Head of state immunity

• Name/structure of executive(s)

• Head of government selection

• Head of government powers

• Eligibility for head of government
• Restrictions on the armed forces

• Establishment of cabinet/ministers

• Cabinet selection

• Powers of cabinet

• Cabinet removal

- Eligibility for cabinet
4. No member of the military shall be appointed a member of the State Council unless he is retired from active duty.

Section 2: The State Council

Article 88

- Establishment of cabinet/ministers
 - Powers of cabinet
1. The State Council shall deliberate on important policies that fall within the power of the Executive.
 2. The State Council shall be composed of the President, the Prime Minister, and other members whose number shall be no more than thirty and no less than fifteen.
 3. The President shall be the chairman of the State Council, and the Prime Minister shall be the Vice-Chairman.

Article 89

The following matters shall be referred to the State Council for deliberation:

- Powers of cabinet
 - Power to declare/approve war
 - Constitution amendment procedure
 - Head of state decree power
 - International law
 - Referenda
 - Treaty ratification
 - Emergency provisions
 - Extraordinary legislative sessions
 - Power to pardon
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, closing 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

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 shall become the Chairman of the Advisory Council of Elder Statesmen: except that, if there is no immediate former President, the President shall appoint the Chairman.
3. The organization, function and other necessary matters pertaining to the Advisory Council of Elder Statesmen shall be determined by law.

Article 91

1. A National Security Council shall be 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 shall be presided over by the President.
3. The organization, function and other necessary matters pertaining to the National Security Council shall be determined by law.

Article 92

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 shall be determined by law.

Article 93

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 shall be determined by law.

Section 3: The Executive Ministries

Article 94

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

Article 95

The 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

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

Section 4: The Board of Audit and Inspection

Article 97

A Board of Audit and Inspection shall be 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

1. The Board of Audit and Inspection shall be composed of no less than five and no more than eleven members, including the Chairman.
2. The Chairman of the Board shall be appointed by the President with the consent of the National Assembly. The term of office of the Chairman shall be four years, and he may be reappointed only once.
3. The members of the Board shall be appointed by the President on the recommendation of the Chairman. The term of office of the members shall be four years, and they may be reappointed only once.

Article 99

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

Article 100

The organization and function of the Board of Audit and Inspection, the qualifications of its members, the range of the public officials subject to inspection and other necessary matters shall be determined by law.

CHAPTER V: THE COURTS

Article 101

1. Judicial power shall be vested in courts composed of judges.
2. The courts shall be composed of the Supreme Court, which is the highest court of the State, and other courts at specified levels.
3. Qualifications for judges shall be determined by law.

Article 102

1. Departments may be established in the Supreme Court.
2. There shall be Supreme Court Justices at the Supreme Court: except that, judges other than Supreme Court Justices may be assigned to the Supreme Court as prescribed by law.
3. The organization of the Supreme Court and lower courts shall be determined by law.

Article 103

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

Article 104

1. The Chief Justice of the Supreme Court shall be appointed by the President with the consent of the National Assembly.
2. The Supreme Court Justices shall be 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 shall be appointed by the Chief Justice with the consent of the Conference of Supreme Court Justices.

Article 105

1. The term of office of the Chief Justice shall be six years and he shall not be reappointed.
2. The term of office of the Justices of the Supreme Court shall be 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 shall be ten years, and they may be reappointed as prescribed by law.
4. The retirement age of judges shall be determined by law.

Article 106

1. No judge shall be removed from office except by impeachment or a sentence of imprisonment or heavier punishment, nor shall 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 as prescribed by law.

Article 107

1. When the constitutionality of a law is at issue in a trial, the court shall request a decision of the Constitution Court, and shall judge according to the decision thereof.
2. The Supreme Court shall have 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 shall be determined by law and shall be in conformity with the principles of judicial procedures.

Article 108

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

Trials and decisions of the courts shall be 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 shall have the final appellate jurisdiction over courts-martial.
3. The organization and authority of courts-martial, and the qualifications of their judges shall be 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 CONSTITUTION COURT

Article 111

1. The Constitution Court shall adjudicate the following matters:
 1. The constitutionality of a 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 Constitution Court shall be composed of nine adjudicators qualified to be court judges, and they shall be appointed by the President.
3. Among the adjudicators referred to in Paragraph (2), three shall be appointed from persons selected by the National Assembly, and three appointed from persons nominated by the Chief Justice.
4. The head of the Constitution Court shall be appointed by the President from among the adjudicators with the consent of the National Assembly.

Article 112

1. The term of office of the adjudicators of the Constitution Court shall be six years and they may be reappointed as prescribed by law.
2. The adjudicators of the Constitution Court shall not join any political party, nor shall they participate in political activities.
3. No adjudicator of the Constitution Court shall be expelled from office except by impeachment or a sentence of imprisonment or heavier punishment.

Article 113

1. When the Constitution 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 six adjudicators or more shall be required.
2. The Constitution Court may establish regulations related 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 Constitution Court shall be determined by law.

CHAPTER VII: ELECTION MANAGEMENT

Article 114

1. Election Management Committees shall be established for the purpose of fair management of elections and national referendums, and dealing with administrative affairs concerning political parties.
2. The Central Election Management Committee shall be 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 shall be elected from among the members.
3. The term of office of the members of the Committee shall be six years.
4. The members of the Committee shall not join political parties, nor shall they participate in political activities.

5. No members of the Committee shall be expelled from office except by impeachment or a sentence of imprisonment or heavier punishment.
6. The Central Election Management Committee may establish, within the limit of laws and decrees, regulations relating to the management of elections, national referendums, 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 shall be determined by law.

Article 115

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 referendums such as the preparation of the rosters of voters.
2. Administrative agencies concerned, upon receipt of such instructions, shall comply.

Article 116

1. Election campaigns shall be conducted under the management of the Election Management Committees at each level within the limit set by law. Equal opportunity shall be guaranteed.
2. Except as otherwise prescribed by law, expenditures for elections shall not be imposed on political parties or candidates.

CHAPTER VIII: LOCAL AUTONOMY

Article 117

1. Local governments shall 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 shall be determined by law.

Article 118

1. A local government shall have a council.
2. The organization and powers of local councils, and the election of members; election procedures for heads of local government bodies; and other matters pertaining to the organization and operation of local governments shall be determined by law.

CHAPTER IX: THE ECONOMY

Article 119

1. The economic order of the Republic of Korea shall be 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

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 as prescribed by law.
2. The land and natural resources shall be protected by the State, and the State shall establish a plan necessary for their balanced development and utilization.

Article 121

1. The State shall endeavor to realize the land-to-the-tillers principle with respect to agricultural land. Tenant farming shall be 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, shall be recognized as prescribed by law.

Article 122

The State may impose, as 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

1. The State shall establish and implement a plan to comprehensively develop and support the farm and fishing communities in order to protect and foster agriculture and fisheries.
2. The State shall have the duty to foster regional economies to ensure the balanced development of all regions.
3. The State shall protect and foster small and medium enterprises.
4. In order to protect the interests of farmers and fishermen, the State shall endeavor 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.
5. The State shall foster organizations founded on the spirit of self-help among farmers, fishermen and businessmen engaged in small and medium industry and shall guarantee their independent activities and development.

Article 124

The State shall, as prescribed by law, guarantee the consumer protection movement intended to encourage sound consumption activities and improvement in the quality of products.

Article 125

The state shall foster foreign trade, and may regulate and coordinate it.

Article 126

Private enterprises shall 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

1. The State shall strive to develop the national economy by developing science and technology, information and human resources and encouraging innovation.
2. The State shall establish 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

1. A proposal to amend the Constitution shall 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 reelection of the President shall not be effective for the President in office at the time of the proposal for such amendments to the Constitution.

Article 129

Proposed amendments to the Constitution shall be put before the public by the President for twenty days or more.

Article 130

1. The National Assembly shall decide upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly shall require the concurrent vote of two thirds of the total members of the National Assembly.

2. The proposed amendments to the Constitution shall be submitted to a national referendum not later than thirty days after passage by the National Assembly, and shall be determined 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 shall be finalized, and the President shall promulgate it without delay.

SUPPLEMENTARY PROVISIONS

Article 1

This Constitution shall enter into force as of the twenty-fifth day of February, anno Domini Nineteen hundred and eighty-eight: except 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

1. The first presidential election under this Constitution shall be held not later than forty days before this Constitution enters into force.
2. The term of office of the first President under this Constitution shall commence on the date of its enforcement.

Article 3

1. The first elections of the National Assembly under this Constitution shall be 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 shall commence on the date of the first convening of the National Assembly under this Constitution.
2. The term of office of the members of the National Assembly incumbent at the time this Constitution is promulgated shall terminate the day prior to the first convening of the National Assembly under Paragraph (1).

Article 4

1. Public officials and officers of enterprises appointed by the Government, who are in office at the time of the enforcement of this Constitution, shall be considered as having been appointed under this Constitution: except 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 shall remain in office until such time as their successors are chosen under this Constitution, and their terms of office shall 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 shall be considered as having been appointed under this Constitution notwithstanding the proviso 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 shall take effect upon the dates of the first elections or the first appointments of such public officials under this Constitution.

Article 5

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

Article 6

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 shall continue to exist and perform such functions until such time as the new organizations are created under this Constitution.

Topic index

A	
Access to higher education	8
Advisory bodies to the head of state	19
Approval of general legislation	11
Attorney general	19
B	
Budget bills	12
C	
Cabinet removal	13, 14, 17, 22, 23
Cabinet selection	17
Campaign financing	4
Claim of universal suffrage	7, 10, 14
Compulsory education	8
Constitution amendment procedure	18, 26
Constitutional court powers	4, 22
Constitutional court removal	14, 22, 23
Constitutional court selection	23
Constitutional court term length	23
Constitutional interpretation	22, 23
Constitutionality of legislation	22, 23
Customary international law	4
D	
Designation of commander in chief	15
Duty to pay taxes	9
Duty to serve in the military	9
Duty to work	8
E	
Electoral commission	23, 24
Eligibility for cabinet	18
Eligibility for const court judges	21, 23
Eligibility for head of government	17
Eligibility for head of state	14
Eligibility for ordinary court judges	21
Eligibility for supreme court judges	21
Emergency provisions	7, 16, 18
Equality regardless of gender	5
Equality regardless of religion	5
Equality regardless of social status	5

Establishment of cabinet/ministers	17, 18
Establishment of constitutional court	22
Establishment of military courts	7, 22
Extraordinary legislative sessions	10, 18
F	
First chamber selection	10
Foreign affairs representative	14, 15
Free education	8
Freedom of assembly	6
Freedom of association	6
Freedom of expression	6
Freedom of movement	5
Freedom of opinion/thought/conscience	6
Freedom of press	6
Freedom of religion	6
G	
General guarantee of equality	5
H	
Head of government decree power	20
Head of government powers	17
Head of government removal	13, 14, 22, 23
Head of government selection	17
Head of state decree power	15, 16, 18
Head of state immunity	17
Head of state powers	15, 16
Head of state removal	14, 22, 23
Head of state replacement	15
Head of state selection	14
Head of state term length	15
Head of state term limits	15
Human dignity	4, 8, 9
I	
Immunity of legislators	10
Inalienable rights	4
Initiation of general legislation	11
International law	4, 13, 15, 18, 28
International organizations	13
J	
Judicial independence	21

L

Leader of first chamber 11
 Legal status of treaties 4, 28
 Legislative committees 13
 Legislative oversight of the executive 13
 Length of legislative sessions 10
 Limits on employment of children 8

M

Mandatory retirement age for judges 21
 Mentions of social class 5
 Minimum age of head of state 14
 Motives for writing constitution 3
 Municipal government 22, 24

N

Name/structure of executive(s) 14, 17

O

Oaths to abide by constitution 15
 Official religion 6
 Ordinary court selection 21
 Ordinary court term length 21
 Ordinary court term limits 21
 Outside professions of legislators 10
 Ownership of natural resources 25

P

Power to declare/approve war 13, 15, 18
 Power to pardon 16, 18
 Powers of cabinet 17, 18
 Presumption of innocence in trials 7
 Principle of no punishment without law 5
 Prohibited political parties 4
 Prohibition of double jeopardy 5
 Prohibition of slavery 5
 Prohibition of torture 5
 Protection from ex post facto laws 5
 Protection from expropriation 7
 Protection from false imprisonment 7
 Protection from self-incrimination 5
 Protection from unjustified restraint 5
 Protection of consumers 26
 Protection of environment 9

Protection of judges' salaries	21
Protection of victim's rights	7
Provision for matrimonial equality	9
Provisions for intellectual property	6
Public or private sessions	11
Publication of deliberations	11
 Q	
Quorum for legislative sessions	11
 R	
Reference to art	6
Reference to country's history	3
Reference to science	6
Referenda	15, 18
Regulation of evidence collection	5, 6
Regulation of political parties	4
Removal of individual legislators	13
Restrictions on political parties	4
Restrictions on the armed forces	17
Restrictions on voting	7
Right of petition	7
Right to academic freedom	8
Right to choose occupation	6
Right to competitive marketplace	25
Right to counsel	5
Right to culture	4
Right to form political parties	4
Right to health care	9
Right to join trade unions	8
Right to own property	6
Right to privacy	6
Right to protect one's reputation	6
Right to public trial	7
Right to reasonable standard of living	8
Right to safe work environment	8
Right to speedy trial	7
Right to strike	8
Right to work	8
Rights of children	8
 S	
Secret ballot	10, 14
Selection of active-duty commanders	19

Separation of church and state 6

Size of first chamber 10

Source of constitutional authority 3

State operation of the media 6

State support for children 9

State support for the disabled 9

State support for the elderly 9

Structure of legislative chamber(s) 9

Structure of the courts 21

Supreme court selection 21

Supreme court term length 21

Supreme court term limits 21

Supreme/ordinary court judge removal 14, 21, 22, 23

T

Term length for first chamber 10

Treaty ratification 13, 15, 18

Type of government envisioned 3

U

Ultra-vires administrative actions 7

V

Veto override procedure 11