

DRAFT OF AMENDMENTS TO BE MADE TO THE CONSTITUTION OF MONGOLIA

(UNOFFICIAL TRANSLATION)

- ACCOUNTABILITY
- CHECKS AND-BALANCES
- STABILITY

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DRAFT OF AMENDMENTS TO BE MADE TO THE CONSTITUTION OF MONGOLIA

I. PROVISIONS RELATED TO THE AMENDMENTS MADE TO THE CONSTITUTION OF MONGOLIAN IN 2000

One. To provide the conditions for the State Great Hural to be a permanent legislative institution:

27.2 The State Great Hural's regular session shall convene once in a half-year term lasting for not less than 75 days on each on each occasion.

Two. To ensure the democratic principle of taking decision by majority votes:

27.6 The plenary sessions of the State Great Hural and meetings of the standing committees shall be considered valid with the attendance of an overwhelming majority of the members and take decisions by majority votes, unless otherwise provided for by the Constitution. Any law shall be approved by majority votes, unless otherwise provided for by the Constitution.

27.7 The members of the State Great Hural shall take any decision by open ballot. A secret ballot shall be applied, if it is provided for by the Constitution or other laws or if it is approved by a majority of attending members.

Three. To prohibit the State Great Hural members to hold another job or post

29.1 The member of the State Great Hural shall be paid a salary from the state budget for the duration of the term of office. The member of the State Great Hural shall not hold another job or post, unless otherwise provided for by the Constitution.

Four. To limit the Government members to assume the post of a member of the State Great Hural

39.1 The Government shall comprise the Prime minister and the members. Not more than 4 members, including the Prime minister, may hold the post of a member of the State Great Hural.

Five. To terminate the power of the State Great Hural before the expiry of its mandate term

22.2 The State Great Hural may decide on its dissolution if not less than two thirds of its members consider that the State Great Hural is unable to carry out its mandate.

22.3 The President shall take a decision to dissolve the State Great Hural in case the State Great Hural fails to appoint the Prime minister in 45 days from the commencement of the constituent session or in 30 days from the date when the conditions for appointing the Prime minister were provided.

22.4 The State Great Hural election shall be announced in ten days and be held in 60 days from the date when a decision was take in accordance with paragraph 2 or 3 of this clause. The State Great Hural shall retain its power until the newly elected members take oath.

Six. Formation of the Government

39.2 The President shall present a proposal to the State Great Hural to appoint a candidate nominated by the party or coalition that has won the majority of seats in the election, or, in case no party or coalition has obtained the majority of seats, a candidate nominated by a majority formed by the party or coalition that has won the majority of seats in the election by consensus with other parties or coalitions,

or, in other cases, a candidate nominated by a majority formed by the parties or coalitions that have won seats as the Prime minister to the State Great Hural within five days.

39.3 The Prime minister shall, in consultation with the President, present to the State Great Hural a draft law for the structure and composition of the Government or for making an amendment to the law. In case the Prime minister fails to consult with the President over this issue in seven days, the Prime minister shall present the draft to the State Great Hural on his/her own.

II. To establish the parliamentary democracy and ensure the governance right of the people

One. Equal and fair distribution of natural resources

6.2 The land except that in citizen's private ownership, as well as the subsoil with its mineral wealth, forests, water resources, and game is the property of the State. The State shall adhere to the principles of equality, justice, national economic security, and sustainable development.

Two. The State Great Hural's waiver to appoint ministers

25.1.6 To remove "members of the Government".

Three. To limit the powers of the State Great Hural over the budget issues and establish independent controlling /audit/

25.1.7 To define the State's financial, credit, tax, and monetary policies, to lay down the guidelines for the country's economic and social development, to approve the Government's program of action, the State budget, and the report on its execution. The State Great Hural shall not add new types of expenses without the permission of the Government when discussing and approving the state budget. The powers, organization and the procedure for its activities shall be defined by the law.

Four. To improve the controlling activities and accountability of the State Great Hural

28.2 The State Great Hural shall form a temporary committee involving the representatives of the minorities, if not less than one fourth of the State Great Hural members put forward a proposal to form a temporary controlling committee over certain issues affecting the interests of the public with regard to ensuring the enforcement of the law.

28.3 The temporary controlling committee shall be authorized to appoint independent, professional experts, summon witnesses, get explanations or testimony, and obtain evidences. The committee may draw a conclusion and delegate the issue to a competent authority for examination. The committee shall not assume any obligation for its conclusion. The court shall take a decision as to the acceptance of the conclusion of the committee as an evidence.

28.4 The competence, organization, and procedure for the standing and other committees shall be determined by the law.

Five. Clause with respect to the election of the State Great Hural

21.4 The State Great Hural's election system and procedure shall be defined by the law. Passage or amendment of the Law on State Great Hural (Parliament) of Mongolia Election within one year before a regular election of the State Great Hural (Parliament) is prohibited.

Six. Amendment for the definition of the functions and the principles of financing and activities of a political party

19.1 A political party shall express the political will and carry out its activities on a national scale.

19.2 The internal organization of a political party shall comply with the principle of democracy and the sources and spending of its capital and income shall be open to the public. The stipulations for the organization, activities, financing, openness, and financial assistance by the state shall be determined by the law.

III. Amendments for increasing the accountability of the executive power and ensuring the stability

One. Procedure for appointing, relieving or removal of ministers

39.4 The Prime minister shall appoint, relieve or remove a member of the Government upon the presentation to the State Great Hural and the President.

Two. Procedure for removal of the Prime minister

43.1. In case not less than one fourth of the members of the State Great Hural formally proposes to remove the Prime minister, the State Great Hural shall discuss the proposal and take a decision in ten days. If the proposal was approved by a majority of the members of the State Great Hural, the resolution of the State Great Hural shall be considered to be approved.

43.2 In case the Prime minister is removed, the Government shall be dissolved in its entirety.

Three. The Prime minister's request for a vote of confidence

44.1 If the Prime minister submits a draft resolution requesting a vote of confidence over a certain issue with regard to state budget or policy, the State Great Hural shall discuss the issue in three days and take a decision by majority votes of the members of the State Great Hural.

44.2 If the State Great Hural approves the resolution, it shall be considered that the Prime minister is given a vote of confidence and the issue is approved. If the State Great Hural approves the resolution, it shall be considered that the Prime minister is removed and a new Prime minister shall be appointed in thirty days.

Four. To define the principle of state service, to prohibit to dismiss or relieve for political reasons, and establish responsible appointment based on stepwise promotion and merits

46.4 The state service shall be based on the principles of qualification, stability, responsibility and stepwise promotion. It is prohibited to discriminate a state servant for political reasons and relieve or dismiss him/her in view of election results or any other grounds other than stipulated in the law. The control on the merit principle of the state service shall be independent.

Five. To raise the criteria for the candidacy for the post of President and extension of the term of office.

30.2 An indigenous citizen who has attained the age of fifty years and has permanently resided as a minimum for the last five years in Mongolia, is eligible for election to the post of President for a term of six years.

33.4 Specific powers may be vested in the President by law only within the limits defined by this

clause.

IV. AMENDMENTS TO BE MADE FOR THE IMPROVEMENT OF ACCOUNTABILITY OF THE JUDICIAL POWER

One. To improve the expertise and accountability of judges, to make their appointment transparent, and to elect the Chief judges of all instances by judges themselves.

51.1 The Supreme Court shall comprise the Chief Justice and 21 judges.

51.2 The General council of courts shall present its decision to appoint judges of all instances to the President. The President shall ratify its decision in 21 days from the receipt of the decision. If the President considers a judge to be unqualified for the requirements stipulated in the Constitution, the President shall refuse to ratify the appointment of the judge and shall make the grounds public. The appointment a judge of the Supreme court shall be subjected to an appointment hearing and the decision to appoint a judge shall be submitted to the President after its presentation to the State Great Hural.

51.3 A citizen of Mongolia aged over 30, with a higher degree in law and a working experience of, at least, over 5 years as a lawyer shall be appointed as a judge of the court of first instance. A judge of the appellate court shall have a working experience at the court of first instance for, at least, six years exclusively engaged in trying cases. A citizen of Mongolia aged over 40, with a higher degree in law and a working experience of, at least, 15 years as lawyer shall be appointed as a judge of the supreme court for a period of 12 years.

51.5 The chief judges of courts of all instances shall be elected from among the judges of the court by majority vote. The chief judges may be re-elected once.

Two. The appointment of Judicial General Council and Judicial Accountability Council

49.5 The Judicial General Council shall be formed according to the following procedure:

1/ The Judicial general Council shall consist of ten members. The member of the Judicial General Council shall be appointed for a term of four years only once.

2/ Five of the members of the Judicial General Council shall be nominated by the relevant standing committee of the State Great Hural and appointed by not less than two thirds of votes of the members of the State Great Hural attending the meeting after an appointment hearing. They shall be citizens of Mongolia highly qualified in law and having a working experience of over 10 years in their professional field.

3/ One of the members of the Judicial General Council shall be selected from among the judges of the supreme court, one from among the judges of the appellate court, and three of them shall be elected by the judges of the court of first instance from among them.

4/ The Chairman of the Judicial General Council shall be nominated from among the members and elect by majority vote.

49.6 The Judicial Accountability Council shall take decision to suspend, dismiss, relieve or impose other sanctions.

49.7 The Judicial Accountability Council shall 9 members. Three of them shall be lawyers with adequate experience of trying cases; three of them shall scholars working in the field law and remaining three

shall be delegates of the citizens. The members of the Council shall be appointed only for one term of six years.

49.8 The organization, procedures and the other requirements for their composition of the Judicial General Council and the Judicial Accountability Council shall be defined by the law.

Three. Amendments to raise the requirements for the members of the Constitutional Court and ensure their independence and accountability:

65.1 The Constitutional Court shall consist of nine members. Three of them shall be nominated by the relevant standing committee of the State Great Hural, three by the President, and three by the Supreme court and be appointed by a majority vote of the members of the State Great Hural for a term of six years after an appointment hearing. The members of the Constitutional Court shall be prohibited to be re-appointed.

V. AMENDMENTS FOR THE IMPROVEMENT OF THE LOCAL ADMINISTRATION SYSTEM

One. To define the legal status of towns:

57.2 The legal status of towns and villages and the principles of their local self-governance and administrative organization shall be defined by the law.

Two. To define the legal status of local self-governing bodies

59.2 The primary local self-governing bodies of Mongolia are the meetings of the representatives of citizens of soums and districts. The meetings of the representatives of citizens of soums and districts are entitled to proprietary and taxation rights within the limits set by the law. The number of representatives the meetings of the representatives of citizens of soums and districts and the procedure for their election by citizens are defined by the law.

59.3 The meetings of the representatives of citizens of provinces and the capital city shall be consist of representatives elected by the meetings of the representatives of citizens of soums and districts.

59.4 The general meetings of citizens of bags and khoroos shall take decisions as to the issues related to their particular territories within the limits set by the law or power granted by the meetings of the representatives of citizens of soums and districts.

Three. To define the procedure for appointing and dismissing governors of all levels

60.2 The provincial and capital city governors shall be nominated by the meetings of the representatives of citizens of provinces and the capital city and be appointed by the Prime minister and the governors of bags and khoroos shall be appointed by the governors of soums and districts respectively for a term of four years. In case the prime minister refuses to appoint the candidates for the provincial and the capital city governors posts, they shall be nominated once again and the Prime minister shall appoint them.

60.3 The soums and districts governors shall be elected by the local citizens for a term of four years and the provincial and the capital city governors shall ratify them. The procedure for the election of soums and districts governors shall be defined by the law.

60.4 The governors of the provinces, the capital city, soums, districts, bags and khoroos shall be relieved

or dismissed according to the grounds and procedures specified in the law. In case soums and districts governors are dismissed the governors to hold the posts for the remaining terms shall be appointed by the governors of aimags and the capital city.

Effective term:

The amendments to be made to the Constitution of Mongolia shall become effective starting from 12 am, 01 July 2020.

**LAW ON THE PROCEDURE FOR THE TRANSFER TO ADOPTION OF THE
AMENDMENTS TO THE CONSTITUTION OF MONGOLIA**

Article 1. The relevant laws that have been regulating the corresponding relations shall remain effective until they are amended in compliance with the amendments to be made to the Constitution. The amendments to be made to the relevant laws in compliance with the amendments to be made to the Constitution shall be made in accordance with the schedule to be approved by the State Great Hural.

Article 2. The amendment to be made to Article 30.2 of the Constitution of Mongolia shall become effective starting from the Presidential election to be held in 2025.

Article 3. The amendments to be made to Article 51.3 of the Constitution of Mongolia shall not apply to the judges of the court of first instance and the appellate court appointed before 01 July 2020.

Article 4. The term of office of the judges of the Supreme court appointed before 01 July 2020 shall be 12 years starting from the date of effectiveness of the amendments to be made to the Constitution.

Article 5. The term of office of the judges of the Constitutional court appointed before 01 July 2020 shall be 6 years.

Article 6. This law shall have the same effectiveness as the amendments to be made to the Constitution of Mongolia.

Article 7. This law shall become effective on2019.

