

### Background

At the time of its creation on 14 August 1947, Pakistan had the status of a dominion, which continued until 23 March 1956 when the first Constitution of the Islamic Republic of Pakistan was promulgated. Quaid-i-Azam Muhammad Ali Jinnah was the first Governor General of Pakistan. The fourth and last Governor General, Iskandar Mirza, became the first President of the Republic. Since then, Pakistan has had 11 Presidents, including four Army Chiefs. The five-year term of the current President, Asif Ali Zardari, will expire on 8 September 2013.

### Introduction

The 1973 Constitution envisages a parliamentary form of government. The Parliament of Pakistan consists of the President, the Senate and the National Assembly. The President of Pakistan is the ceremonial head of the country, with the role of representing the unity of the Republic.

### Qualifications

The Constitution provides that a candidate for election to the office of the President should be:

- A Muslim;
- Not less than 45 years of age; and
- Qualified to be elected as a member of National Assembly.<sup>1</sup>

The President holds office for a term of five years from the date he/she enters office<sup>2</sup>. The President shall remain in office until his/her successor takes over. The President may be re-elected but cannot serve for more than two consecutive terms<sup>3</sup>. While he/she is in office, the President cannot compete for a seat in the Senate, National Assembly or a Provincial Assembly. If a member of the Senate, National Assembly or a Provincial Assembly is elected President, he/she must resign that post before assuming his/her responsibilities as President.

### Role and responsibilities

The passage of the 18<sup>th</sup> Amendment to the Constitution restored the true spirit of the parliamentary system by curtailing the powers of the President and transferring significant authority to the Prime Minister as Chief Executive and Head of Government. This amendment has ensured relative political stability. Earlier, military dictators had restricted the powers of the Prime Minister, transferring most of the authority to the President through controversial constitutional amendments and provisional constitutional orders.

Now, the President must act on the advice of the Prime Minister to hold a referendum, appoint services chiefs and superior constitutional posts. The President has the power to grant pardons, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority<sup>4</sup>. If, on the advice of the Prime Minister, the National Assembly is dissolved before

<sup>1</sup> The Constitution of Islamic Republic of Pakistan, Article 41(2)

<sup>2</sup> The constitution of Islamic Republic of Pakistan, Article 43 and 44

<sup>3</sup> The Constitution of Islamic Republic of Pakistan, Article 44(2)

<sup>4</sup> The constitution of Islamic Republic of Pakistan, Article 45

expiration of its term, the President must appoint a date, no later than 90 days from the date of dissolution of the Assembly, to hold general elections, and appoint a caretaker cabinet.<sup>5</sup>

## Presidential election

According to the Constitution of Pakistan, the indirect election to the office of the President is held no earlier than 60 days and no later than 30 days before the expiration of the term of the incumbent President. In case a vacancy occurs for any reason, the presidential election shall be held within 30 days<sup>6</sup>. If the presidential election cannot be held because the National Assembly has been dissolved, it will be held within 30 days of the general election to the National Assembly. Presidential election is conducted through secret ballot.<sup>7</sup>

Incumbent President Asif Ali Zardari will complete his term on 8 September 2013, and the presidential election is scheduled for 30 July. This will be the first time that a duly elected President will be replacing the incumbent President after he has completed his five-year term. At present, 44 seats of the electoral college for the presidential election vacant (two seats in the Senate and 42 seats in the National and Provincial assemblies); by-elections for the National and Provincial Assembly seats are scheduled for the second half of August. Nevertheless, the presidential election can be held irrespective of any vacancy in any House or Provincial Assembly.

The mechanism to elect the President is provided in the Second Schedule to the Constitution and the Presidential Election Rules, 1988. The President is elected by the Electoral College comprised of members of the Senate, the National Assembly and all four Provincial Assemblies, including those elected to reserved seats. The Election Commission of Pakistan (ECP)<sup>8</sup> is responsible for conducting the presidential election and the Chief Election Commissioner (CEC) acts as the Returning Officer (RO)<sup>9</sup>. The Parliament House is the designated polling station for Parliamentarians and the respective Provincial Assembly buildings serve as the polling stations for members of Provincial Assemblies. The election is held simultaneously in all locations. The ECP appoints a Presiding Officer and the required number of Polling Officers for each location. In the past, Chief Justices of the respective High Courts or Members of the Election Commission have acted as Presiding Officers. The schedule of the 2013 Presidential Elections is detailed in the table below.

Since the number of seats in the provincial assemblies vary based on the population of the provinces, it would be unfair for smaller provinces if the “one member, one vote” formula was adopted for the presidential election. Therefore, the Constitution has devised a system whereby the votes of each Provincial Assembly have equal value. After polling is over, the CEC will determine the result in the following manner:

- Count the number of votes cast in the Parliament (Senate and National Assembly) in favour of each candidate;
- Count the number of votes cast in a Provincial Assembly in favour of each candidate, multiply it by the total number of seats in the provincial assembly with the smallest number of seats and divide that number by the total number of seats in the provincial assembly in which votes have been cast; and
- Add both figures to determine the final result.<sup>10</sup>

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<sup>5</sup> The Constitution of Islamic Republic of Pakistan, Article 48(5)

<sup>6</sup> The constitution of Islamic Republic of Pakistan, Article 41(4)

<sup>7</sup> The Constitution of Islamic Republic of Pakistan, Article 41

<sup>8</sup> The Constitution of Islamic Republic of Pakistan, 20<sup>th</sup> Amendment

<sup>9</sup> The Second Schedule to the Constitution

<sup>10</sup> The Second Schedule to the Constitution, Paragraph 18

The Balochistan Assembly has the smallest number of seats with 65. When the above formula is applied, the votes cast in each of the other three provincial assemblies will have a value equal to the votes of the Balochistan Assembly.

The following table illustrates the calculation of the votes for the Parliament and each Provincial Assembly.

**Table 1: Vote allocation in the Electoral College**

Legislative Body Included in the Electoral College	Number of Seats/Votes	Value of Each Member Vote	Net Value of Total Votes Cast
Senate of Pakistan	104	1	104
National Assembly	342	1	342
Punjab Assembly	371	65/371	65
Sindh Assembly	168	65/168	65
KPK Assembly	124	65/124	65
Balochistan Assembly	65	1	65
<b>Total</b>	<b>1,174</b>		<b>706</b>

The candidate who obtains the highest number of votes - a simple majority - is elected to the office of President. If two or more candidates obtain an equal number of votes, the selection of the winner is carried out by drawing lots.

Before entering the office, the President-elect must take an oath before the Chief Justice of Pakistan.

## 2013 presidential election schedule

**Table 2 Presidential Election Schedule as of 26 July 2013**

Action	Deadline
Filing of nomination papers with the Presiding Officers	24 July 2013
Scrutiny of nomination papers by the RO in Islamabad	26 July 2013
Withdrawal of candidature before the RO in Islamabad	27 July 2013
Publication of the list of validly nominated candidates	27 July 2013
Election Day	30 July 2013 from 10:00 to 15:00

## Removal, impeachment and resignation of the President

Under the Constitution, the President may be removed from office due to physical or mental incapacity or may be impeached on charges of violating the Constitution or gross misconduct. The process for removal of the President will be initiated if at least one-half of the members of either house of Parliament give written notice to the Speaker of the National Assembly or the Chairman of the Senate, calling for the President's removal or impeachment. Within three days of receiving the notice, the Speaker transmits a copy of the notice to the President and summons a joint session of both houses within seven to 14 days after receipt of the notice.

The President has a right to appear or to be represented in any investigations, and in the joint sitting of the Parliament. If after due consideration the joint sitting passes a resolution for removal or impeachment with at least a 2/3 majority of the total number of members of both houses, the President immediately ceases to hold office.

The President may resign by submitting a written note to the Speaker of the National Assembly.

If the office of the President becomes vacant due to death, resignation or removal of the President, the Chairman of the Senate - or Speaker of National Assembly if the Chairman is not available - acts as the President until a new President is elected. Similarly if the President is absent from the country, or is for any other reason unable to function as President, the Chairman of the Senate - or if he/she is not available the Speaker of National Assembly - becomes the acting President.

**Table 3: List of Pakistani Presidents, 1955-Present**

President	Term
Major General Iskander Mirza	March 1956 - 27 October 1959 <sup>11</sup>
Field Marshal Muhammad Ayub Khan	27 October 1958 - 25 March 1969
General Agha Muhammad Yahya Khan	25 March 1969 - 20 December 1971
Mr. Zulfikar Ali Bhutto	20 December 1971 - 14 August 1973
Mr. Fazal Ilahi Chaudhry	14 August 1973 - 16 September 1978
General Muhammad Zia-ul Haq	16 September 1978 - 17 August 1988
Mr. Ghulam Ishaq Khan	17 August 1988 - 18 July 1993
Mr. Farooq Ahmad Khan Leghari	14 November 1993 - 2 December 1997
Mr. Muhammad Rafiq Tarar	1 January 1998 - 20 June 2001
General (R) Pervez Musharraf	20 June 2001 - 18 August 2008
Mr. Asif Ali Zardari	9 September 2008 - Present

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<sup>11</sup> Major General Iskander Mirza served as the last Governor-General from September 1955- March 1956. When Pakistan established its first constitution, replacing the Governor-General post with the President, he became the first President of Pakistan in March 1956.