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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**CHILE**

**LAW NO. 21.200**  
**OF 24 DECEMBER 2019**  
**AMENDING CHAPTER XV OF THE POLITICAL CONSTITUTION**  
**OF THE REPUBLIC\***

(\*) unofficial translation

LAW NO. 21.200

## AMENDING CHAPTER XV OF THE POLITICAL CONSTITUTION OF THE REPUBLIC

Bearing in mind that the H. National Congress has given its approval to the following constitutional reform project, originating in motions and message, merged; the first, corresponding to bulletin No. 7.769-07, by deputies Marcelo Schilling Rodríguez, Tucapel Jiménez Fuentes, Pedro Velásquez Seguel and Guillermo Teillier Del Valle, deputies Cristina Girardi Lavín and Alejandra Sepúlveda Orbenes, former deputies Sergio Aguiló Melo, Felipe Harboe Bascuñán and Roberto León Ramírez, and former deputy Karla Rubilar Barahona; the second, corresponding to bulletin no. 7.792-07, by deputies Marcelo Díaz Díaz, Pepe Auth Stewart, Marcelo Schilling Rodríguez and Guillermo Teillier Del Valle, deputy Alejandra Sepúlveda Orbenes, and former deputies Sergio Aguiló Melo, Osvaldo Andrade Lara, Aldo Cornejo González, Alfonso De Urresti Longton and Marcos Espinosa Monardes; the third, corresponding to bulletin No. 10.014-07, by Karol Cariola Oliva, Maya Fernández Allende, Cristina Girardi Lavín, Marcela Hernando Pérez and Camila Vallejo Dowling, Giorgio Jackson Drago and Leonardo Soto Ferrada, former deputies Iván Fuentes Castillo and Gaspar Rivas Sánchez, and former deputy Yasna Provoste Campillay; the fourth, corresponding to bulletin No. 10.193-07, by Deputy Marcelo Schilling Rodríguez, and former deputies Osvaldo Andrade Lara and Guillermo Ceroni Fuentes; the fifth, corresponding to bulletin No. 11.173-07, by former President of the Republic Michelle Bachelet Jeria; the sixth, corresponding to bulletin No. 12.630-07, by deputies Marcelo Díaz Díaz, Gabriel Boric Font, Tomás Hirsch Goldschmidt, Giorgio Jackson Drago, Vlado Mirosevic Verdugo, Jaime Mulet Martínez, Alexis Sepúlveda Soto and Raúl Soto Mardones, and deputies Andrea Parra Sauterel and Camila Vallejo Dowling; and the seventh, corresponding to bulletin no. 13.024-07, by deputies Loreto Carvajal Ambiado, Carolina Marzán Pinto and Andrea Parra Sauterel, and deputies Ricardo Celis Araya, Rodrigo González Torres, Tucapel Jiménez Fuentes and Raúl Soto Mardones:

Constitutional reform project:

Unique Article. - "The following amendments shall be made to the Political Constitution of the Republic, the consolidated, coordinated and systematised text of which is contained in the [decreto supremo N° 100, de 2005, del Ministerio Secretaría General de la Presidencia](#):

(1) Replace the title of the [Chapter XV](#) by the following:

"REFORM OF THE CONSTITUTION AND THE PROCEDURE FOR DRAFTING A NEW CONSTITUTION OF THE REPUBLIC".

2. before Article 127, insert the following new heading:

["Reforma de la Constitución"](#).

3. after Article 129, insert the following new heading, together with Articles 130 to 143 thereof, after Article 129:

["Del procedimiento para elaborar una Nueva Constitución Política de la República"](#)

[Article 130](#). National Plebiscite.

Three days after the entry into force of this article, the President of the Republic shall call a national plebiscite for 26 April 2020 by means of an exempt supreme decree.

In the aforementioned plebiscite, citizens will have two ballot papers at their disposal. The first will contain the following question: "Do you want a new constitution? Under the question posed there will be two horizontal lines, one next to the other. The first line will have on its lower part the expression "I approve" and the second, the expression "I reject", so that the voter can mark his or her preference on one of the alternatives.

The second ballot will contain the question: "What kind of body should draft the new constitution? Under the question posed there shall be two horizontal stripes, one next to the other. The first of these shall have at the bottom the words "Mixed Constitutional Convention" and the second the words "Constitutional Convention". Under the expression "Joint Constitutional Convention" the following sentence shall be inserted: "Composed in equal parts of popularly elected members and sitting Members of Parliament". Under the expression "Constitutional Convention" the sentence: "Composed exclusively of popularly elected members" shall be inserted, so that the voter may mark his or her preference for one of the alternatives.

For the purposes of this plebiscite, the relevant provisions contained in the following bodies of law, as in force on 1 January 2020, shall apply:

a) [Decreto con fuerza de ley Nº 2, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.700, Constitutional Organic Law on Popular Votes and Polls, in the following passages: Paragraph V, Paragraph VI, with the exception of the sixth clause of the [article 32](#) and the second to fourth subparagraphs of [article 33](#) Paragraph VII, VIII, IX, X and XI of Title I; Title II to X inclusive; Title XII and XIII;

b) [Decreto con fuerza de ley Nº 5, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.556, Constitutional Organic Law on the Electoral Registration System and Electoral Service;

c) [Decreto con fuerza de ley Nº 4, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.603, Constitutional Organic Law on Political Parties, in the following passages: Title I, V, VI, IX and X.

Free-to-air television channels shall devote thirty minutes of their daily broadcasts free of charge to electoral propaganda on this plebiscite, and shall give expression to the two options contemplated in each ballot, in accordance with an agreement to be adopted by the National Television Council and to be published in the Official Gazette, within thirty days of the publication of the call for the national plebiscite, respecting strict equality in the promotion of the plebiscite options. This agreement may be challenged before the Tribunal Calificador de Elecciones within three days of its publication. The Tribunal Calificador de Elecciones shall resolve the complaint summarily within five days from the date on which it was lodged.

The Tribunal Calificador de Elecciones shall be responsible for the general scrutiny and shall proclaim approved those questions that have obtained more than half of the votes validly cast. For these purposes, invalid and blank votes shall be considered as not having been cast. The qualification process of the national plebiscite shall be completed within thirty days of the date of the plebiscite. The sentence proclaiming the plebiscite shall be communicated to the President of the Republic and to the National Congress within three days of its pronouncement.

If the citizens have approved the drafting of a New Constitution, the President of the Republic shall call, by means of an exempt supreme decree, within five days following the communication referred to in the preceding paragraph, for the election of the members of the Joint Constitutional Convention or Constitutional Convention, as the case may be. This election shall be held on the same day as the elections of mayors, councillors and regional governors for the year 2020.

#### [Article 131](#). The Convention.

For all the purposes of this section, the term "Convention" shall be understood as referring to the Joint Constitutional Convention and the Constitutional Convention, without distinction of any kind.

The members of the Convention shall be called Constituent Convention members.

In addition to the provisions of Articles 139, 140 and 141 of the Constitution, the election of Constituent Convention members referred to in the final paragraph of Article 130 shall be subject to the relevant provisions for the election of deputies, contained in the following legal bodies, in the text in force on 25 June 2020:

- a) [Decreto con fuerza de ley N° 2, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.700, Constitutional Organic Law on Popular Voting and Polling;
- b) [Decreto con fuerza de ley N° 5, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.556, Constitutional Organic Law on the Electoral Registration System and Electoral Service;
- c) [Decreto con fuerza de ley N° 4, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18.603, Constitutional Organic Law on Political Parties;
- d) [Decreto con fuerza de ley N° 3, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 19.884, on Transparency, Limits and Control of Electoral Expenditure.

The process of qualifying the election of Constituent Convention members shall be completed within thirty days of the date of the election. The sentence of proclamation shall be communicated to the President of the Republic and to the National Congress within three days of its pronouncement.

[Article 132.](#) Requirements and incompatibilities of candidates.

Candidates for election to the Convention shall be citizens who fulfil the conditions laid down in Article 13 of the Constitution.

No other requirement, disqualification or prohibition shall be applicable to candidates in this election, except for those established in this section and with the exception of the rules on affiliation and independence of candidacies established in article 5, fourth and sixth paragraphs, of the [decreto con fuerza de ley N° 2, del año 2017](#). The Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law No. 18,700, Constitutional Organic Law on Popular Voting and Polling.

Ministers of State, mayors, governors, mayors, regional councillors, councillors, undersecretaries, ministerial regional secretaries, heads of service, members of the Council of the Central Bank, members of the Council of the Electoral Service, members and officials of the different ranks of the Judiciary, the Public Prosecutor's Office, the Office of the Comptroller General of the Republic, as well as those of the Constitutional Court, members and officials of the different ranks of the Judiciary, the Public Prosecutor's Office, the Office of the Comptroller General of the Republic, as well as those of the Constitutional Court, the Court for the Defence of Free Competition, the Public Procurement Court, the Election Qualifying Court and the regional electoral tribunals; the members of the Council for Transparency, and the active members of the Armed Forces and the Armed Forces of Order and Public Security, who declare their candidacy as members of the Convention, shall cease to hold office by the sole authority of the Constitution, as soon as their candidacies are registered in the Special Register referred to in the first paragraph of [article 21](#) of [decreto con fuerza de ley N° 2, del año 2017](#) of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of Law N° 18,700. The above provisions shall be applicable to senators and deputies only with respect to the Constitutional Convention.

Persons holding an executive position of a trade union or neighbourhood nature shall suspend such functions as soon as their candidacies are entered in the Special Register mentioned in the previous paragraph.

[Article 133.](#) The functioning of the Convention.

Within three days following receipt of the communication referred to in the final paragraph of article 131, the President of the Republic shall convene, by means of an exempt supreme decree, the first session for the installation of the Convention, indicating, furthermore, the place of the convocation. In the event that this is not indicated, it shall be installed at the seat of the National Congress. Said installation shall take place within fifteen days of the date of publication of the decree.

At its first session, the Convention shall elect a Chairman and a Vice-Chairman by an absolute majority of its members in office.

The Convention shall adopt the rules and voting rules by a quorum of two-thirds of its members in office.

The Convention may not alter the quorums or procedures for its functioning and for the adoption of resolutions.

The Convention shall establish a technical secretariat, which shall be composed of persons of proven academic or professional competence.

The President of the Republic, or such bodies as he may determine, shall be responsible for providing the technical, administrative and financial support necessary for the installation and operation of the Convention.

Article 134. Status of Constituent Convention Members.

The provisions of Articles 51, with the exception of the first and second paragraphs, 58, 59, 60 and 61, shall apply to the members of the Convention.

As from the proclamation of the Tribunal Calificador de Elecciones, civil servants, with the exception of those mentioned in the third paragraph of Article 132, as well as the workers of State enterprises, may take leave without pay while serving the Convention, in which case the provisions of the first paragraph of Article 58 of the Constitution shall not be applicable to them.

The Constituent Convention Members shall be subject to the rules of the [ley N° 20.880](#) on probity in public office and the prevention of conflicts of interest, applicable to deputies, and to the [ley N° 20.730](#) which regulates lobbying and representations of private interests to authorities and civil servants.

The offices of Parliamentarian and member of the Joint Constitutional Convention shall be compatible. The deputies and senators who are members of this convention shall be exempted from their obligation to attend the chamber and committee sessions of the Congress during the period in which it is in operation. The National Congress may incorporate organisational measures for adequate legislative work while the Joint Constitutional Convention is in operation.

The members of the Convention, with the exception of the Members of Parliament who are members of the Convention, shall receive a monthly remuneration of 50 tax units per month, in addition to the allowances established in the Convention's Rules of Procedure. These allowances shall be administered by an external committee to be determined by the same Regulations.

Article 135. Special provisions.

The Convention may not intervene in or exercise any other functions or powers of other bodies or authorities established by this Constitution or by law.

Until such time as the New Constitution enters into force in the manner set forth in this section, this Constitution shall remain in full force and effect, and the Convention shall not be able to deny it authority or modify it.

Pursuant to article 5, paragraph one, of the Constitution, while the Convention is in office, sovereignty resides essentially in the Nation and is exercised by the people through the plebiscites and periodic elections determined by the Constitution and the laws, and also by the authorities established by this Constitution. The Convention, or any of its members, or a fraction thereof, shall be prohibited from assuming the exercise of sovereignty by assuming powers other than those expressly recognised by this Constitution.

The text of the New Constitution to be submitted to a plebiscite shall respect the republican nature of the State of Chile, its democratic regime, final and enforceable court rulings and international treaties ratified by Chile and which are in force.

Article 136. Complaints.

A complaint may be lodged in respect of a breach of the rules of procedure applicable to the Convention contained in this section and of those rules of procedure arising from the general agreements of the Convention itself. In no case may a complaint be made about the content of the texts being drafted.

This complaint shall be heard by five justices of the Supreme Court, chosen by lot by the Court itself for each question raised.

The complaint must be signed by at least one quarter of the members in office of the Convention and shall be lodged with the Supreme Court within five days of the alleged defect becoming known.

The complaint must state the defect complained of, which must be essential, and the damage it causes.

The procedure for hearing and resolving complaints shall be established in an Agreed Order to be adopted by the Supreme Court, which may not be subject to the control established in Article 93 number 2 of the Constitution.

A judgment upholding the complaint may only annul the act. In any event, it must be decided within ten days of the matter being brought before the court. No action or appeal shall lie against the decisions referred to in this Article.

No authority or court may hear any action, claim or appeal relating to the tasks assigned to the Convention by the Constitution, except as provided for in this Article.

The complaint referred to in this Article may not be lodged in respect of the final paragraph of  
ARTICLE 135 OF THE CONSTITUTION.

Article 137. Extension of the period of operation of the Convention.

The Convention shall draft and approve a proposed text of the New Constitution within nine months of its installation, which may be extended, once only, for three months.

The aforementioned extension may be requested by the person holding the Presidency of the Convention or by one third of its members, no more than fifteen days and no later than five days before the expiry of the nine-month period. Once the request has been submitted, a special session shall be convened immediately, at which the Presidency shall give a public account of the progress made in drawing up the proposed text of the New Constitution, whereupon the deadline shall be deemed to have been extended without further formality. All these circumstances shall be recorded in the relevant minutes. The extension period shall begin to run on the day following the day on which the original period expires.

Once the proposed text of the New Constitution has been drawn up and approved by the Convention, or once the deadline or its extension has expired, the Convention shall be dissolved as of right.

Article 138. Transitional rules.

The Convention may lay down special provisions for the entry into force of any of the rules or Chapters of the New Constitution.

The New Constitution may not bring the term of office of the authorities elected by popular vote to an early end, unless the institutions of which they are members are abolished or substantially modified.

The New Constitution shall provide for the manner in which the other authorities provided for in this Constitution shall cease or continue in office.

Article 139. On the composition of the Joint Constitutional Convention.

The Joint Constitutional Convention shall be composed of 172 members, of which 86 shall correspond to citizens specially elected for these purposes and 86 parliamentarians who shall be elected by the Full Congress, made up of all senators and deputies in office, who may present lists or electoral pacts, and shall be elected in accordance with the system established in article 121 of Decree with force of law No. 2, of 2017, of the General Secretariat of the Presidency Ministry, which establishes the consolidated, coordinated and systematised text of Law No. 18.700, Constitutional Organic Law on Popular Voting and Scrutinies, with regard to the election of deputies.

Article 140. Electoral system of the Joint Constitutional Convention.

In the case of non-parliamentary Constituent Convention members, they shall be elected in accordance with the rules set out in article 121 of Decree with force of law No. 2, of 2017, of the Ministry General Secretariat of the Presidency, which establishes the rewritten, coordinated and systematised text of Law No. 18,700, Constitutional Organic Law on Popular Voting and Polling,

in its text in force on 25 June 2020, and articles 187 and 188 of the same legal body shall be applicable, with the following modifications:

1st District, which will elect 2 Constitutional Convention members;  
2nd District, which will elect 2 Constitutional Convention members;  
District 3, which will elect 3 Constitutional Convention members;  
District 4, which will elect 3 Constitutional Convention members;  
District 5, which will elect 4 Constitutional Convention members;  
District 6, which will elect 4 Constitutional Convention members;  
District 7, which will elect 4 Constitutional Convention members;  
District 8, which will elect 4 Constitutional Convention members;  
District 9, which will elect 4 Constitutional Convention members;  
10th District, which will elect 4 Constitutional Convention members;  
11th District which will elect 3 Constitutional Convention members;  
12th District which will elect 4 Constitutional Convention members;  
13th District, which will elect 3 Constitutional Convention members;  
14th District which will elect 3 Constitutional Convention members;  
15th District, which will elect 3 Constitutional Convention members;  
16th District, which will elect 2 Constitutional Convention members;  
17th District, which will elect 4 Constitutional Convention members;  
18th District, which will elect 2 Constitutional Convention members;  
19th District, which will elect 3 Constitutional Convention members;  
20th District, which will elect 4 Constitutional Convention members;  
21st District, which will elect 3 Constitutional Convention members;  
22nd District, which will elect 2 Constitutional Convention members;  
23rd District, which will elect 4 Constitutional Convention members;  
24th District, which will elect 3 Constitutional Convention members;  
25th District, which will elect 2 Constitutional Convention members;  
26th District, which will elect 3 Constitutional Convention members;  
27th District, which will elect 2 Constitutional Convention members  
28th District, which will elect 2 Constitutional Convention members.

Article 141. On the composition of the Constitutional Convention.

The Constitutional Convention shall be composed of 155 citizens elected especially for this purpose. For this purpose, the electoral districts established in articles 187 and 188, and the electoral system described in article 121, all of the decree with force of law No. 2, of 2017, of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of law No. 18,700, constitutional organic law on Popular Votes and Scrutinies, with regard to the election of deputies, in its text in force on 25 June 2020, shall be considered.

Members of the Constitutional Convention shall not be eligible to stand for elected office during their term of office and until one year after they cease to hold office in the Convention.

Article 142. Constitutional Plebiscite.

Once the President of the Republic has been notified of the proposed constitutional text approved by the Convention, he shall call a national constitutional plebiscite for the approval or rejection of the proposal by the citizens within three days of said notification, by means of an exempt supreme decree.

Voting in this plebiscite will be compulsory for those with an electoral domicile in Chile.

Any citizen who fails to pay shall be liable to a fine of 0.5 to 3 tax units per month for the benefit of the municipality.

This sanction shall not be incurred by citizens who have failed to fulfil their obligation due to illness, absence from the country, being in a place more than two hundred kilometres away from their registered electoral domicile on the day of the plebiscite, or due to any other serious impediment, duly proven before the competent judge, who shall assess the evidence in accordance with the rules of sound judgment.

Persons who, during the national constitutional plebiscite, carry out functions assigned by [decree with force of law No. 2, of 2017](#), of the Ministry General Secretariat of the Presidency, which establishes the consolidated, coordinated and systematised text of law No. 18.700, constitutional organic law on Popular Voting and Scrutinies, shall be exempted from the sanction established in this article by submitting to the competent judge a certificate attesting to this circumstance.

The knowledge of the aforementioned infringement shall correspond to the local police judge of the commune where such infringements were committed, in accordance with the procedure established in [Law N° 18.287](#).

In the aforementioned plebiscite, the citizenry shall be provided with a ballot paper containing the following question, depending on which Convention has proposed the text: "Do you approve the text of the New Constitution proposed by the Joint Constitutional Convention?" or "Do you approve the text of the New Constitution proposed by the Constitutional Convention?". Under the question posed there will be two horizontal lines, one next to the other. The first of these will have at the bottom the expression "I approve" and the second the word "I reject", so that the voter can mark his or her preference on one of the alternatives.

This plebiscite shall be held sixty days after the publication in the Official Gazette of the supreme decree referred to in the first paragraph, if that day is a Sunday, or on the Sunday immediately following. However, if in accordance with the above rules the date of the plebiscite falls within the period between sixty days before or after a popular vote referred to in articles 26, 47 and 49 of the Constitution, the day of the plebiscite shall be postponed until the Sunday immediately following. If, as a result of the application of the preceding rule, the plebiscite falls in the month of January or February, the plebiscite shall be held on the first Sunday in March.

The qualification process of the national plebiscite shall be concluded within thirty days of the date of the plebiscite. The sentence proclaiming the plebiscite shall be communicated to the President of the Republic and to the National Congress within three days of its pronouncement.

If the question put to the citizens in the national constitutional plebiscite is approved, the President of the Republic shall, within five days following the communication of the ruling referred to in the preceding paragraph, convene the Plenary Congress to promulgate and swear or promise to respect and abide by the New Political Constitution of the Republic in a public and solemn act. This text shall be published in the Official Gazette within ten days of its promulgation and shall enter into force on that date. As of this date, the present Political Constitution of the Republic, the consolidated, coordinated and systematised text of which is established in Supreme Decree No. 100 of 17 September 2005, shall be repealed.

The Constitution shall be printed and distributed free of charge to all educational establishments, public or private, municipal libraries, universities and State bodies. Judges and magistrates of the High Courts of Justice shall receive a copy of the Constitution.

If the question put to the people in the ratification plebiscite is rejected, this Constitution shall remain in force.

#### Article 143. Referral.

The provisions of the fourth to sixth paragraphs of Article 130 shall be applicable to the constitutional plebiscite.

And forasmuch as I have been pleased to approve and sanction it; therefore, be it enacted and carried into effect as a Law of the Republic.

SEBASTIÁN PIÑERA ECHENIQUE, President of the Republic - Felipe Ward Edwards, Minister Secretary General of the Presidency - Gonzalo Blumel Mac-Iver, Minister of the Interior and Public Security.

I transmit to you for your information, Juan Francisco Galli Basili, Undersecretary General of the Presidency.

The original text: [Ley-21200 24-DEC-2019 MINISTERIO SECRETARÍA GENERAL DE LA PRESIDENCIA - Ley Chile - Biblioteca del Congreso Nacional \(bcn.cl\)](#)