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**Explanatory note for amendments of the Constitution of the Kingdom of Bahrain promulgated in 2012**

**Introduction:**

The constitution stipulated in Paragraph (a) of Article (35) that the king has the right to propose amendments to the constitution, and he also gave this right to fifteen members of the Shura Council or the Council of Representatives, provided that the amendment proposal includes specifying the articles to be deleted, added or changed in their provisions with justifying the reasons for this. The approval of the amendment requires the approval of two-thirds of the members of both the Shura Council and the Council of Representatives, and the ratification of the King, which is considered a decisive ratification and a necessary condition for its approval that the National Council cannot bypass. Clause (C) of Article (120) prohibited the proposal to amend Article Two of the Constitution, the monarchy, the principle of hereditary rule, the Councils system and the principles of freedom and equality established in the Constitution.

As a result of the political developments that the state went through at this stage, and faced with the royal desire to achieve its progress and ascension and develop its political system in order to achieve more sound democracy that is consistent with the democratic foundations towards which the world is heading at the present time, an invitation was sent for a dialogue for the national consensus to study the developments that the Society go through and propose the general principles that record the origins of its development from the political, social and economic aspects.

The National Consensus Dialogue resulted in the visions it deems necessary to achieve its goals, and the issue of constitutional reform occupied a high priority in these opinions that were put forward to amend the constitution, based on the existing constitution that lays down a clear framework for a political system based on the separation of powers, and guarantees the freedom of belief, expression and election, and takes great care of human rights, and is based on the multiplicity of the political associations and the right to form unions and associations and guarantee freedom of the press and the media. All of this is within the framework of what is stated in the National Action Charter of binding principles that include a number of national constants that may not be compromised or modified, so that the modification is limited to other than these constants, whether they are related to the executive authority or the legislative authority without violating or deviating from the clear controls decided by the Charter.

The national constants emphasized in the Charter are summarized in: Confirming the doctrinal character in which the constitution was drawn up, so that it may not be amended except by a joint will of the people and the king, which gives the right to the king and the legislative authority to propose making the necessary amendments in accordance with the procedures stipulated in the constitution. And also in adopting the two-Councils system, so that the amendment may not include the introduction of the one-Council system, even if it is permissible - in a way that does not include a departure or violation of the clear controls included in the Charter - to reconsider the powers of the Council of Representatives and the possibility of increasing its oversight powers, and reorganizing the relationship between the legislative authority with its two Councils and the executive authority, in a way that achieves more balance between them and enlarges the role of the Council of Representatives in oversight and accountability, and introduces more parliamentary aspects that were previously supported by the existing constitution alongside the presidential aspects that it stipulated.

This explanatory memorandum presents the objectives upon which the constitutional amendments were based, and the articles that were amended to achieve these objectives. The objectives and clarifications of the amended articles contained in this memorandum are considered an amendment to what was stated in the explanatory memorandum of the existing constitution.

**Section One**

**The objectives on which the constitutional amendments were based**

In view of the royal desire to achieve progress and advancement in the Kingdom of Bahrain and to develop its political system in order to achieve more democracy and within the framework of the conclusions of the National Consensus Dialogue, the King has requested, in accordance with the provisions of Article (35/a), an amendment to the existing constitution. The objectives of these amendments were as follows:

**First: Increasing the manifestations of the parliamentary system in the system of governing:**

In accordance with what is stated in the existing constitution and its explanatory memorandum, and in accordance with the principles contained in the Charter, the system adopted by the Kingdom of Bahrain is a mixed system that stands in the middle between the parliamentary and presidential systems, in which legitimacy is based on the political will that is expressed by the universal suffrage through parliamentary elections and referendums that the King resort to for the laws and important issues related to the supreme interests of the country, and that the constitutional amendments do not aim at adopting an absolute parliamentary system, but rather at adopting more parliamentary aspects, within the framework of what was stated in the Charter under the title of the system of government that "... (The King) is the head of the state, his person is inviolable, and he is the supreme commander of the armed forces. He is the symbol of the country's independence, and the main pillar on which the system of government in the State of Bahrain rests. (The king) exercises his powers through his ministers, and the ministers are accountable to (the king) and he appoints the prime minister and the ministers, and relieves them of their posts, according to his powers stipulated in the constitution."

In this context, which was mentioned in the Charter, the existing constitution has given the king an important position, as it devoted an entire chapter to him in which he stipulated this status, as he is the supreme representative of the state, the symbol of national unity, the protector of religion and homeland, the protector of the legitimacy of the system of the government, the supremacy of the constitution and the law, and cares for the rights and freedoms of individuals and organizations, and he is the head of the executive authority in which he exercises his powers either directly by himself through royal orders or through his ministers by the Decrees.

These amendments to the existing constitution were keen to preserve this status that the charter had established for the king, and strengthened within its framework the parliamentary aspects of the system of the government.

**Second: Reorganizing the relationship between the executive and legislative authorities in order to achieve more balance between them:**

Within the framework of what the National Consensus Dialogue has settled upon, the constitutional amendments have been keen to reorganize the relationship between the executive and legislative authorities in order to achieve more balance between them.

The amendments to the Constitution in this regard included: Adding new guarantees to be applied when the King uses his right to dissolve the Council of Representatives and appoint members of the Shura Council, strengthening the role of the legislative authority in granting confidence to the government chosen by the King, adding new guarantees to achieve the participation of the Council of Representatives as a whole when discussing the interpellations directed to the ministers, and activating the role of the Council of Representatives in Determining the inability to cooperate with the Prime Minister, specifying a time period for the government to show the reasons why the wishes expressed by the Council of Representatives could not be taken into account, granting the Council of Representatives the right to request the public discussion, setting a time limit for referring draft laws to the Council from which the proposal was received, and setting special rules for preparing the budget from the two Councils to enable the work on the new budget at the beginning of the fiscal year and not to allow the issuance of the budget for more than two fiscal years.

**Third: Reorganizing both the Shura Council and the Council of Representatives to give a greater role to the Council of Representatives and achieve the optimal selection of their members:**

The amendments made to the constitution to achieve this goal were keen to reorganize the Shura Council and the Council of Representatives in a way that would lead to the Council of Representatives having sole oversight over the executive authority, and the President of the Council of Representatives is given the presidency of the National Council and refer draft laws that were approved by the two Councils to the government to take action to issue them, and achieve the optimal choice for members of both the Shura Council and the Council of Representatives.

The two-councils system is considered one of the most important constants approved by the Charter, so that the constitution may not reconsider it and restore the one-council system, otherwise it would be contrary to what was stated in Chapter Five of the Charter on the parliamentary life. And if the Charter had expressly stipulated the necessity of adopting the two-Councils system in a manner that is compatible with democratic and constitutional developments in the world, and the organization of the existing constitution for these two Councils was compatible with these developments that prevailed at the time of its drafting, then this does not prevent a review of what the constitution established in terms of organization of these two Councils, in accordance with the changes that have taken place in the political, economic and social conditions, and within the framework of the controls established by the Charter for their organization, the most important of which is the need for the number of members of each of the two Councils to be equal to the other, and for the Council of Representatives to be formed through free, direct election, while the Shura Council is formed by appointment by a royal order.

The International constitutional thought required for the establishment of the bicameral system that the two Councils participate in legislation at least in terms of their right to propose draft laws and approve or not approve them, and this does not mean the necessity of absolute equality between them in political oversight. However, if the competence of one of the two Councils is limited to merely expressing an advisory opinion, then the constitution would have adopted the one-Council system, even if the two-councils system appears formally.

In agreement with the conclusion of the National Consensus Dialogue, these constitutional amendments tended to strengthen the oversight role of the Council of Representatives, leading to the Council playing this role solely.

If the Council of Representatives, under the existing constitution, is the one that has the jurisdiction over the vast majority of means of oversight over the executive authority, such as interpellation, the withdrawal of confidence from the ministers and the formation of investigation committees, then the constitutional amendments have tended to unilaterally grant this Council also the right to decide that it is not possible to cooperate with the Prime Minister, ]the right to direct questions to the ministers and the right to discuss the program submitted by the government to the Council of Representatives after taking the constitutional oath and approving or not approving this program. In the event that it is approved, the government will have won the confidence of the Council, and the right to raise a general issue for discussion, which is consistent with the orientation of some international constitutions that adopt the bicameral system, as they pertain to the elected Council to exercise control over the executive authority.

And if the constitution gave the President of Shura Council the competence to refer draft laws that are approved by both Councils to the Prime Minister to take action to issue them, and he was also granted the priority of chairing the meetings of the National Council, then the constitutional amendments have granted the President of the Council of Representatives these competencies and this priority, given that the Council of Representatives is the most representative of the people's will, and that this does not contradict the adoption of the bicameral system stipulated in the Charter.

In addition to the conditions that should be met by the members of the Shura Council and the Council of Representative , the constitutional amendments stipulated two new conditions for citizens to enjoy this membership. It requires that ten years pass after those who wish to run for the Council of Representatives or who will be appointed to the Shura Council acquire the Bahraini nationality, and that they do not hold the nationality of another country, without the requirement that no dual nationality apply to a citizen who enjoys the nationality of one of the member states of the Gulf Cooperation Council. Provided that his Bahraini nationality is an original nationality.

The charter stipulated that the members of the Shura Council be chosen by appointment, but it did not specify a specific method for the king to select them. And if the existing constitution made the appointment of members of the Shura Council one of the competences of the king by a royal order, then the constitutional amendment stipulated that the king issues a royal order prior to the appointment order specifying the procedures, controls and method that govern the process of selecting members, which achieves complete transparency when choosing members of the Shura Council, which guarantees a broad representation of the society's groups in this council.

**Section Two**

**Texts included in the constitutional amendments**

Within the framework of the conclusion of the people's will in the National Consensus Dialogue regarding the amendments it considers to be introduced to the existing constitution, these amendments included two main issues: Reorganizing the relationship between the executive and legislative authorities, and reorganizing both the Shura Council and the Council of Representatives. From each of these two issues, other rulings came out that are consistent with it and complement the implementation of the principles contained therein.

**First: The texts that have been amended to reorganize the relationship between the executive and legislative authorities:**

The amendments made to the constitution to enhance the role of the National Council with its two branches, Shura and Representatives, in its relationship with the executive authority were represented in Articles (42/c, 46, 52, 65, 67/b, c, d, 68, 88, 91/first paragraph, 92/a, and 109/b, c).

**Article (42) clause (C):**

The text of this article in the constitution gave the king the right to dissolve the Council of Representatives by a Decree stating the reasons for the dissolution and preventing the dissolution of the Council again for the same reasons. The amendment of this article came to add new guarantees to the guarantees that were present in it. After the right of dissolution was limited to what the King agreed with the Prime Minister, it is not permissible to resort to it except after taking the opinion of the President of the Shura Council, the President the Council of Representatives and the President of the Constitutional Court as the protector of the integrity of the application of the Constitution and non-deviation of its provisions, which is consistent with the orientations of the contemporary constitutionalism. And if the opinion of these parties is not binding to the king, except that the request to resort to it leads to the image being fully clear before the king before issuing the Decree of dissolution, and is considered as an application of what is aimed at the principle of the shura imposed by the Islamic law as a major source of legislation in accordance with Article Two of the constitution.

**Article (46) new paragraph, and article (88):**

If the King is the one with competence to choose the government according to Clause (d) of Article (33) of the Constitution, then this is derived from what was stated in the Charter under the title of the system of government that “... (The king) is the one who appoints the prime minister and the ministers, and relieves them of their positions. The charter did not oblige the king to appoint ministers according to the outcome of the parliamentary elections in terms of the number of seats for each faction or each political association, but rather gave him the complete freedom in choosing whom he deems appropriate to form the government in a way that achieves the public interest of the kingdom.

Unless they are in line with what the constitutional amendments aimed for with strengthening the role of the legislative authority, Article (46) was amended by adding a second paragraph to it that gives the Council of Representatives the right to approve or not approve the program presented by the new government chosen by the King, provided that the Prime Minister, within thirty days from taking the constitutional oath, shall present the program of his ministry to the Council of Representatives, so that if the Council does not approve of this program, the government will resubmit it to the Council after making all the amendments it deems appropriate. If the Council insisted on rejecting the program, the King accepts the ministry's resignation and forms a new ministry that would present its program to the Council. If the Council did not approve the program of this ministry, the King could dissolve the Council or accept the resignation of the ministry.

This amendment does not prevent the Council of Representatives from proposing - when the ministry's program is presented to it - to request, after consultation with the government, to introduce an amendment to the program before voting to accept or reject it, whether this is with regard to the first or second government.

And if the king accepts the Ministry’s resignation for the second time and does not dissolve the Council, this does not forfeit his right to dissolve the Council if it repeatedly rejects the ministry’s program for other times.

The amended text was keen to specify specific periods for the Council of Representatives to issue its decision regarding the ministry’s program, so that if these periods elapse without the Council taking an explicit decision to approve or disapprove it, this is considered an acceptance of it, and thus the government has gained the confidence of the Council. The text also differentiated between the majority required to reject the ministry’s program the first time and to reject this program the second time or the following, requiring the approval of the majority of the council members to reject the first program and two-thirds of its members to reject the second program for each new ministry that is formed.

The phrase “and if the Council does not approve the program of the new ministry with the same previous procedures and terms” mentioned in the text means that the Council’s failure to approve the program of the second government and subsequent governments – if the king decides to accept the government’s resignation again – should follow the same procedures that were followed regarding The first government, which is represented by the second government presenting the ministry’s program again to the Council if it rejected it for the first time, before the king decides to dissolve the Council or accept the resignation of the ministry, and that this is done in compliance with the same periods specified by the text for the council to take its decision regarding the program.

If the text of Article (42/c) requires for the dissolution of the Council to issue a Decree after consulting the President of the Shura Council, the President of the Council of Representatives and the President of the Constitutional Court, this does not apply to the King's dissolution of the Council as a result of his disagreement with the Ministry's program for the second time. So the king here is the one who owns the dissolution by a royal order and not by a Decree, because the matter is related to the government that the king chose, and the dissolution is not because of a dispute that arose between a government that had the approval of the council for its program and then disagreed with it after that, so the king is the arbiter between them, and the issuance of the royal order to dissolve the council is not require in implementation of the second paragraph of the added Article (46) to take the opinion of the President of the Shura Council, the President of the Council of Representatives, and the President of the Constitutional Court, but it is subject to the personal discretion of the King.

The addition of the second paragraph to Article (46) entailed the need to amend Article (88), which obligated the Ministry, upon its formation, to present its program to the National Council, and the role of the Council in this case was limited to expressing whatever observations it deems appropriate in its regard. However, it did not require the approval of the Council on the ministry's program for the ministry to remain in power. The second added paragraph has arranged legal effects on the new government's progress with its program to the Council of Representatives, represented in the possibility of dismissing the ministry if the Council does not approve this program. Thus, the implementation of Article (88) became contradictory and inconsistent with the new paragraph added to Article (46), which necessitates the coordination between them so that each of them can be implemented within the scope specified for it.

As a result, Article (88) was amended to allow the Prime Minister to deliver a statement before the Council of Representatives or the Shura Council or one of their committees on a subject within his competence, and he may authorize one of the ministers to do so. This amendment requires that making this statement is permissible and left to the will of the Prime Minister alone, without being bound by the issuance of a new formation of the government, a specific date or one of the two Councils or one of their committees, and that the role of the council or committee before which the statement is delivered is limited to discussing it and making observations that will be under the sight of The Council of Ministers to take from it what it deems to achieve the public interest.

**Article (52):**

The charter required that the number of members of the Shura Council be equal to the number of members of the Council of Representatives, and made the selection of the Council of Representatives by election and the selection of the Shura Council by appointment. Article (52) made the appointment of the members of the Shura Council by a royal Decree, and the law of the Shura Council and the Council of Representatives sufficed with a requirement that they be among those who have experience or who have performed great services to the country from among certain categories that he specified, which gives the king the complete freedom to choose the fittest among those who fall under these categories with no restrictions on this selection.

And from the desire to achieve full transparency when selecting the members of the Shura Council and to ensure the broad representation of the spectrum of society in this council, Article (52) was amended to stipulate the need to set general rules that regulate the procedures and controls for this selection and determine the method that will be resorted to, to be presented before the King before he issues his order to appoint the Council members. These regulating rules, which will be issued by a royal order, are binding and applicable when selecting the members of the Shura Council, and they are subject to modification and change with the same tool with which they were issued, which is the royal order, and any amendments in their regard shall have immediate effect on the appointments made after their issuance.

**Article (65):**

Article (65) of the constitution states the right of the members of the Council of Representatives to direct interpellations to any of the ministers on matters within his competence, and this article set conditions for accepting the interpellation and dates for its discussion, and permitted that the interpellation lead to raising the issue of confidence in the minister to the Council of Representatives. This text is devoid of specifying the manner in which the interpellation is discussed, leaving that to the internal regulations of the Council, as is the case in all other constitutions that decide interpellation as a means of monitoring the executive authority. Pursuant to this, the internal regulations of the Council of Representatives stipulated the manner in which the interpellation is discussed and the procedures for this discussion.

In order not to prolong the constitutional text in many details and parts, the substantive condition contained in the current text regarding the interpellation not being related to a private interest of the interrogator or his relatives up to the fourth degree or one of his clients has been deleted, only stipulating it, along with other conditions in the internal regulations of the Council. And regarding the third paragraph of the current text, it has been amended to explicitly stipulate that the discussion of the interpellation takes place in the council itself, whether publicly or in a secret session, in accordance with the procedures prescribed for that in the regulations, unless the majority of its members, not just those present, decide to discuss the interpellation in the committee concerned with the subject of the interpellation as an exception, in addition to the condition that the discussion may not take place until after at least eight days from the date of its submission, unless a request to expedite this discussion is made by the interrogated minister himself and not merely his approval of a request by a member of the Council to do so.

**Article (67) clauses (B, C, D):**

In line with the aim of achieving more balance between the executive and legislative authorities, Article (67) was amended to give the Council of Representatives a unique role in deciding whether it is impossible to cooperate with the Prime Minister, and to reduce the restrictions that governed this decision and make it difficult to access it.

After the request for the inability to cooperate with the Prime Minister in accordance with clause (b) of this article required the approval of two-thirds of the members of the Council of Representatives, ten of the members of the Council have the right to submit the request, provided that the decision is based on the approval of presenting this request to the Council in order to proceed with its procedures for the majority of the twenty-one members of the Council, then the application is presented to the Bureau of the Council, which must include it in the agenda of the Council within a period not exceeding two weeks from the date of its submission for consideration.

And after the issuance of a decision not to cooperate with the Prime Minister required the approval of the Shura Council and the Council of Representatives in a meeting of the National Council by a two-thirds majority of the members, this decision became, according to the amended clause (d), limited to the approval of the Council of Representatives by a two-thirds majority of its members without interference from the Shura Council in this matter, and without the need for the National Council to convene to issue a decision that it is not possible to cooperate with the Prime Minister.

The effect of the Council of Representatives' decision not to cooperate with the Prime Minister differs from its decision of no confidence in a minister. Article (66) of the constitution considered the minister to have resigned from his position from the date of the issuance of the decision of no confidence in him, and he was required to submit his resignation immediately in fulfilment of the constitutional form, which requires that any action issued by the aforementioned minister after the issuance of the decision of no confidence in him is considered null and void, as if it did not exist. In this case, the provision of Article (49) of the Constitution does not apply, which stipulates that the minister continues to conduct the urgent affairs of his position until his successor is appointed, which necessitates the appointment of another minister in his place or to entrust his ministry to another minister until the appointment of the new minister. As for the Prime Minister, with whom it was decided not to cooperate in accordance with Article (67) and the King accepts the resignation of his cabinet, there is no objection to the application of the provision of Article (49) in his regard so that the government continues to deal with urgent matters until the formation of the new government, so it does not cause a Ministerial vacuum.

The King’s use of his right to dissolve the Council of Representatives in the event of a decision not to cooperate with the Prime Minister does not apply to what was stipulated in the amended Article (42/C) of the importance of issuing the dissolution by a Decree after taking the opinion of the President of the Shura Council, the President of the Council of Representatives and the President of the Constitutional Court, because In this case, the king will be an arbiter between the executive and legislative authorities, which requires that the dissolution decision be issued by a royal order, and not by a Decree signed by the Prime Minister considering him as a party to the dispute, and therefore there is no room in this case for the implementation of the guarantees stipulated in the constitution in Article (42/ c) for the King to use right to dissolve the Council of Representatives.

**Article (68):**

Article (68) was amended to achieve a new guarantee to activate the role of the written wishes that the Council of Representatives expresses to the government, and to determine the right of the Council of Representatives to present a general topic for discussion in order to clarify the government’s policy in regarding it, and to exchange opinions in this regard.

Article (68) was sufficient for the government to indicate in writing the reasons for the impossibility of implementing the wishes expressed by the Council of Representatives, and it did not specify a specific period in which it is obligated to clarify these reasons, so the amendment of paragraph (a) of this article obliges the government to respond to the Council of Representatives within six months, which leads to the government studying the Council's wishes in a reasonable time and taking its decision regarding the possibility of achieving them or the impossibility of this investigation, provided that the government states the reasons in the event that the desire cannot be taken into account. and if the government does not abide by the deadline set for the response, the Council may resort to one of the oversight means that the constitution has assigned to it.

In addition, Article (68) did not give the Council of Representatives the right to present a general topic for discussion, so Clause (b) was added to establish this right for the Council in accordance with the controls specified by its internal regulations. In order not to waste the Council's time in discussions that do not benefit the community, this Clause decided that the request for discussion should be presented to the Council as a whole to decide the validity of the subject for discussion. Either by raising the subject for discussion, excluding it from the agenda or by referring the request to the competent committee to submit a report on it before taking an opinion on it, and all of this is in accordance with the procedures that will be stipulated in the internal regulations of the Council, especially determining the number of participants in the discussion.

**Article (91) first paragraph:**

If the existing constitution granted the right to each member of the Shura Council and the Council of Representatives to ask questions to the ministers, then there is nothing in the charter that would prevent the constitution from including an amendment that limits directing questions to ministers to members of the Council of Representatives excluding members of the Shura Council, so the first paragraph was amended From Article (91) to give only members of the Council of Representatives the right to direct questions to ministers.

It is recognized that the question does not go beyond the meaning of the interrogation to the meaning of defamation or criticism, otherwise it becomes an interpellations as stipulated in Article (65) of the Constitution, which necessitates the application of the conditions of this article.

**Article (92) clause (A):**

The constitution stipulates in Article (92, Clause A) that the proposals to amend the constitution submitted by the Shura Council or the Council of Representatives and draft laws proposed by members of either of them are referred to the government for drafting and to the Council of Representatives during the same parliamentary session or in the session that follows it. There are no principles in the Charter that govern this subject or establish controls for it, and therefore this article was amended so that the period of putting these proposals in the form of a draft amendment to the constitution or a draft law takes place within six months at most from the date of its referral, either with regard to the laws or with regard to amending the constitution.

This amended text does not prejudice the right of the government to attach any observations it deems appropriate to the draft amendment of the constitution or the draft law referred to it by one of the two Councils, so that these observations are in the sight of the two Councils when discussing the draft so that they can consider them if they find a reason for that.

The dates set by this article are considered regulatory dates, and failure to adhere to them does not affect the legitimacy of the constitutional amendments or the laws that are issued.

**Article (109) Clauses (B, C):**

In view of the special nature of the budget, and the accompanying accuracy and complexities in preparing it within the framework of the technological and knowledge progress witnessed at the present time, and in line with contemporary constitutional orientations, the Constitution stipulates in Article (109) the rules governing its preparation and issuance procedures. It has appeared during the last ten years that some of what was mentioned in this article needs to be amended to enable the two councils to discuss the budget in a serious and effective manner that allows each of them to participate in it effectively, and at the same time they are able to work on the new budget on time without the need to apply Clause (e) of this article, which stipulates the continuation of work with the previous budget until the issuance of the new budget law. The amendment also prohibits the issuance of the budget for more than two fiscal years.

In order to achieve these goals, Clauses (B and C) of Article (109) were amended. The amendment of Clause (B) included the government submitting the draft budget to the Shura Council and the Council of Representatives at the same time, at least two months before the end of the fiscal year, after it used to submit this draft to the Council of Representatives to discuss it and refer it to the Shura Council after its completion for consideration, which would have diminished the role of the Shura Council in the serious discussion of the project due to the short period between its referral to it and the date specified for the start of the fiscal year.

This Clause was also amended to stand up to the accuracy and complexities that characterize the contemporary budgets that require cooperation and effort from the two councils in discussing them within the framework of the clarifications that the government puts before their eyes. Therefore, this Clause requires presenting the draft budget after its submission by the government to the two committees specialized in the financial affairs in each of the two Councils in a joint meeting to discuss it with the government, which gives a greater opportunity to enrich the discussion and reach better solutions to the observations raised regarding the budget, and the time allocated for these discussions shall be shortened, and it is forbidden to repeat the observations made in each of the two committees if they met far from the other. And from the desire of each committee to be independent with its point of view after hearing all the opinions of the members of the two committees, the text did not require a joint decision by them to approve or disapprove the draft budget presented to them, and it allowed each of the two committees to submit an independent report explaining its opinion to the council to which it belongs, provided that the Council of Representatives discusses the draft first, and after the Council issues its decision in this regard, it refers it to the Shura Council - which has prior knowledge of what happened in the joint meeting of the two committees - to consider it in accordance with the provisions of the constitution that regulate the procedures for considering draft laws. The amended text retained the principle of authorizing any amendment to the draft budget by an agreement with the government.

As for Clause (C) of this article, it eliminated all fears that were raised that the government would prepare the budget for more than two fiscal years - which was permitted by the text before the amendment - so it used the phrase “and the budget may be prepared for a maximum of two fiscal years” instead of The phrase “The budget may be prepared for more than one fiscal year.”

**Second: The texts that have been amended to reorganize both the Shura Council and the Council of Representatives:**

The amendments that were made to the constitution to reorganize both the Shura Council and the Council of Representatives were represented in granting a greater role to the Council of Representatives in oversight, and achieving the best selection of members of both the Shura Council and the Council of Representatives, in Articles (53, 57/A, 59, 83, 85, 86, 102 103, 115, 120/a).

**Articles (53, 57/a):**

Articles (53 and 57) stipulate the conditions that must be met by the members of the Shura Council and the Council of Representatives . The explanatory memorandum regarding Article (57/a) states that this article allowed every Bahraini to run for membership in the Council of Representatives, and the text allows those who have acquired Bahraini citizenship to exercise the right to run for membership in the Council of Representatives as soon as he receives the nationality. Also, the text of Article (53) does not mention the condition of acquired nationality for those appointed to the Shura Council, and the explanatory memorandum clarified the concept of this article as it included stipulating special conditions for a member of the Shura Council in addition to the general conditions that must be met by both members of the Shura Council and the Council of Representatives, It is understood from it that it is permissible to appoint any citizen who has the Bahraini nationality, whether he acquired this nationality by origin or through naturalization.

These two articles have been amended in a manner that lead to a distinction between the citizen who enjoys the original nationality and the citizen who acquired the nationality by naturalization in accordance with the conditions established by the Nationality Law for each of them. Each of the two articles stipulated for the membership of the Shura Council and membership of the Council of Representatives that ten years have elapsed since the member acquired the Bahraini nationality.

It is noted that this distinction, which was included in Articles (53 and 57/a) after their amendment, is included in constitutions in general regarding the exercise of political rights, and does not prejudice what is decided by the principles of human rights. The majority of the constitutions have set a specific period in which it is not permissible for a person who has acquired the Bahraini nationality to exercise the right to represent the people in the Council of Representatives, and consider it a period of training in loyalty to the new nationality, and it also provides guarantees for the state which has been proven by global experiences to be necessary.

As for the conditions for the voter, these two articles or other articles of the constitution did not address them. Rather, they are stated by the Law on the Exercise of Political Rights. Thus, this law may allow those who have acquired the Bahraini nationality to exercise the right to vote without a time restriction, as it is less dangerous than the right to elections and membership in Council of Representatives.

In order to achieve the same goals that called for differentiating between a citizen by origin and a citizen who has acquired Bahraini citizenship in connection with candidacy for the Council of Representatives or membership of the Shura Council, Articles (57 and 53/a) added another new condition to the conditions that existed previously, which is that the member does not hold another nationality besides the Bahraini nationality, whether or not he has obtained a permission from the competent authorities to combine the two nationalities, because the combination of two nationalities disperses the person’s loyalty between them and calls into questioning this loyalty.

Under this amendment, anyone who wishes to enjoy the membership in one of the two Councils must renounce the other nationality he holds, before applying for nomination to the Council of Representatives or being appointed in the Shura Council.

The condition of non-duality of nationality does not apply to a person who originally holds the Bahraini nationality and then acquired the nationality of one of the member states of the Gulf Cooperation Council due to the lack of need to to make him deicide in this case, based on the belief in the unity of purpose, destiny and common interest of the peoples of the Gulf Cooperation Council countries.

**Article (59):**

This article stipulates that if a position of a member of the Council of Representatives becomes vacant before the end of his term, his replacement shall be elected within two months from the date the Council announces this vacancy, unless the vacancy occurred during the six months preceding the end of the legislative term of the Council, in which case a replacement member shall not be elected.

In order to face the possibility that the vacancy occurs by the resignation of one of the members, and then he renominates himself again in the same legislative term, the text expressly stipulate that he may not nominate himself in this term based on the text of paragraph (d) of Article (57) of the constitution, which does not allow those whose membership has been forfeited due to loss of confidence and esteem or breach of the duties of membership, to nominate himself during the legislative term unless the Council decides otherwise, bearing in mind that the resignation is an expression of the will of the resigning representative, in contrast to the case of revocation of the membership in which the decision is considered an expression of the will of the Council, the Council may not interfere in amending the will of the resigning representative in the manner stipulated in the case of revocing the membership.

**Articles (83, 85, 86 and 102):**

These articles have been amended to give priority to the President of the Council of Representatives in referring bills that have been approved by both Councils to the government to take the necessary measures to issue them, and to give the priority to the President of the Council of Representatives in the presidency of the National Council. This is in addition to the other aforementioned amended articles, which made resorting to the political oversight methods over the actions of the executive authority as the exclusive competence of the Council of Representatives (Articles 46 and 67, Clauses b, c, d, 68/b and 91, the first paragraph).

Articles (83 and 86) stipulate that the President of the Council of Representatives shall refer the draft law that has been approved by both Councils to the Prime Minister to submit it to the King for promulgation, after the referral before the amendment of these two articles was from the authority of the President of the Shura Council, provided that this is done within a period not exceeding more than two weeks. The amended Article (85) stipulates that if the two Councils differ on a draft law twice, the National Council shall convene by virtue of the constitution under the chairmanship of the President of the Council of Representatives, when the text before the amendment made the presidency for the President of the Shura Council, and the meeting takes place in the same session in which the dispute occurred.

Article (102) also stipulates that the President of the Council of Representatives shall preside over the meeting of the National Council, and in his absence, the President of the Shura Council, then the first deputy president of the Council of Representatives then the first deputy president of the Shura Council. Thus, this article changed the determination of who shall preside over the meetings of the National Council when it convenes, and who shall replace him in his absence, according to the order contained in the text.

**Article (103):**

Opinions differed on the interpretation of Article (103) of the Constitution with regard to the quorum for the meeting of the National Council, as this article stated that “the sessions of the National Council are not considered legal unless attended by the majority of the members of each of the two Councils separately,” which led to some requiring the attendance of this majority, otherwise the meeting of the Council would be considered invalid, while another opinion measured based on Article (80) of the Constitution, which determines the quorum for the meeting of both the Shura Council and the Council of Representatives; It states that “for the validity of the meeting of both the Shura Council and the Council of Representatives, the presence of more than half of its members is required... If the quorum for the council meeting is not completed twice in a row, the meeting of the council is considered valid, provided that the number of attendees is not less than a quarter of the council members.

And the amended Article (103) considered the point of view that made measured based on Article (80), and decided that “if the quorum for the council meeting is not completed twice in a row, the meeting of the council is considered valid, provided that the number of attendees from each council is not less than a quarter of its members.”

**Article (115):**

In line with what Article (109, Clauses B and C) decided regarding referring the draft budget to a joint committee of the two committees concerned with financial affairs in each of the two Councils to study it before presenting it to each council, Article (115) was amended to require the government to submit a statement to the Shura Council and the Council of Representatives for the financial and economic situation of the state, and for the measures taken to implement the applicable budget appropriations, and the implications of that on the new draft budget. Before it was amended, this article would have made submitting this statement to the Council of Representatives only. The amendment came in this way so that this statement would be in the sight of the joint committee of the Shura Council and the Council of Representatives committees when they discussed the draft of the new budget, which helps each of the two committees to submit its report to the council to which each committee belongs in a complete manner.

**Article (120):**

This article used to stipulate in Clause (a) that “to amend any provision of the constitution, the amendment must be approved by a two-thirds majority of the members of both the Shura Council and the Council of Representatives.” Although the article does not require the presentation to the National Council in the event of a dispute between the two Councils, the question has been raised about the necessity of presenting the constitutional amendments to the Shura Council or the National Council if the Council of Representatives does not approve them, and the amendment of this article came to put a clear provision in this regard.

And since Article (120) required the approval of both the Shura Council and the Council of Representatives to amend the constitution, the implication of this is that the lack of approval of one of them means that it cannot be amended. Therefore, this article has been amended to achieve the purpose of the amendment, whereby the National Council meets in this case by virtue of the constitution and in the same session in which the dispute occurred, in the presence of two-thirds of its members without specifying any percentage for either of the two Councils, provided that the draft amendment is approved with the approval of two-thirds of the members of the National Council as well.

The clarifications stipulated in this explanatory memorandum are considered the reference in interpreting the amended texts and the provisions contained therein, and they take on the same mandatory character of the constitution.

In implementation of the provisions of Article (125) of the Constitution, these amendments and their explanatory memorandum shall be published in the Official Gazette, and shall come into effect from the date of their publication.