



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**NINETEENTH AMENDMENT TO THE
CONSTITUTION**

[Certified on 15th May, 2015]

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Nineteenth Amendment to the Constitution

[Certified on 15th May, 2015]

L.D.—O. 20/2015.

AN ACT TO AMEND THE CONSTITUTION OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA

Be it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:-

1. (1) This Act may be cited as the Nineteenth
Amendment to the Constitution.

Short title and
date of
operation.

(2) The provisions of this Act other than the provisions of
section 9 (in so far it relates to paragraph (1) of Article 46 of
the Constitution of the Democratic Socialist Republic of Sri
Lanka) and the provisions of section 15 shall come into
force on the date on which this Act comes into operation.

(3) The provisions of section 9 (in so far it relates to
paragraph (1) of Article 46 of the Constitution of the
Democratic Socialist Republic of Sri Lanka) and the
provisions of sections 15, 28, 29 30 and 31 shall come into
force upon the conclusion of the General Election held
immediately after the date on which this Act comes into
operation.

2. The Constitution of the Democratic Socialist Republic
of Sri Lanka (hereinafter in this Act referred to as the
“Constitution”) is hereby amended by the insertion
immediately after Article 14 thereof of the following new
Article :-

Insertion of new
Article 14A in
the Constitution
of the
Democratic
Socialist
Republic of Sri
Lanka.

“Right of
access to
information.

14A. (1) Every citizen shall have the right of
access to any information as provided for by
law, being information that is required for the
exercise or protection of a citizen’s right held
by:-

(a) the State, a Ministry or any Government
Department or any statutory body

established or created by or under any law;

- (b) any Ministry of a Minister of the Board of Ministers of a Province or any Department or any statutory body established or created by a statute of a Provincial Council;
- (c) any local authority; and
- (d) any other person, who is in possession of such information relating to any institution referred to in sub-paragraphs (a) (b) or (c) of this paragraph.”

(2) No restrictions shall be placed on the right declared and recognized by this Article, other than such restrictions prescribed by law as are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals and of the reputation or the rights of others, privacy, prevention of contempt of court, protection of parliamentary privilege, for preventing the disclosure of information communicated in confidence, or for maintaining the authority and impartiality of the judiciary.

(3) In this Article, “citizen” includes a body whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.”.

Replacement of Article 30 of the Constitution.

3. Article 30 of the Constitution is hereby repealed and the following Article substituted therefor:-

“The President of the Republic.

30. (1) There shall be a President of the Republic of Sri Lanka, who is the Head of the State, the Head of the Executive and of the Government and the Commander-in-Chief of the Armed Forces.

(2) The President of the Republic shall be elected by the People and shall hold office for a term of five years.”.

4. Article 31 of the Constitution is hereby amended as follows:-

Amendment of Article 31 of the Constitution.

(1) by the insertion immediately after paragraph (1) of that Article, of the following new paragraph:-

“(2) No person who has been twice elected to the office of President by the People, shall be qualified thereafter to be elected to such office by the People.”;

(2) in paragraph (3A) of that Article:-

(a) (i) by the substitution in sub-paragraph (a)(i) of that paragraph, for the words “commencement of his current term of office, by Proclamation, declare his intention”, of the words “commencement of his first term of office, by Proclamation, declare his intention”; and

(ii) by the repeal of the proviso to sub-paragraph (a)(i);

(b) in sub-paragraph (d) of that paragraph, by the substitution for the words “for a term of six years” wherever those words appear in that sub-paragraph, of the words “ for a term of five years”.

5. Article 33 of the Constitution is hereby repealed and the following Article is substituted therefor:-

Replacement of Article 33 of the Constitution.

“Duties,
powers and
functions of
the President.

33. (1) It shall be the duty of the President to—

- (a) ensure that the Constitution is respected and upheld;
- (b) promote national reconciliation and integration;
- (c) ensure and facilitate the proper functioning of the Constitutional Council and the institutions referred to in Chapter VIIA; and
- (d) on the advice of the Election Commission, ensure the creation of proper conditions for the conduct of free and fair elections and referenda.

(2) In addition to the powers, duties and functions expressly conferred or imposed on, or assigned to the President by the Constitution or other written law, the President shall have the power—

- (a) to make the Statement of Government Policy in Parliament at the commencement of each session of Parliament;
- (b) to preside at ceremonial sittings of Parliament;
- (c) to summon, prorogue and dissolve Parliament;
- (d) to receive and recognize, and to appoint and accredit, Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents;

- (e) to appoint as President's Counsel, attorneys-at-law who have reached eminence in the profession and have maintained high standards of conduct and professional rectitude. Every President's Counsel appointed under this paragraph shall be entitled to all such privileges as were hitherto enjoyed by Queen's Counsel;
- (f) to keep the Public Seal of the Republic, and to make and execute under the Public Seal, the acts of appointment of the Prime Minister and other Ministers of the Cabinet of Ministers, the Chief Justice and other judges of the Supreme Court, the President of the Court of Appeal and other judges of the Court of Appeal, and such grants and dispositions of lands and other immovable property vested in the Republic as the President is by law required or empowered to do, and to use the Public Seal for sealing all things whatsoever that shall pass that Seal;
- (g) to declare war and peace; and
- (h) to do all such acts and things, not inconsistent with the provisions of the Constitution or written law, as by international law, custom or usage the President is authorized or required to do.”.

Insertion of new Article 33A in the Constitution.

6. The following Article is hereby inserted immediately after Article 33, and shall have effect as Article 33A of the Constitution:-

“President to be responsible to Parliament. 33A. The President shall be responsible to Parliament for the due exercise, performance and discharge of his powers, duties and functions under the Constitution and any written law, including the law for the time being relating to public security.”.

Replacement of Article 35 of the Constitution.

7. Article 35 of the Constitution is hereby repealed and the following Article is substituted therefor:-

“Immunity of President from suit. 35. (1) While any person holds office as President of the Republic of Sri Lanka, no civil or criminal proceedings shall be instituted or continued against the President in respect of anything done or omitted to be done by the President, either in his official or private capacity:

Provided that nothing in this paragraph shall be read and construed as restricting the right of any person to make an application under Article 126 against the Attorney-General, in respect of anything done or omitted to be done by the President, in his official capacity:

Provided further that the Supreme Court shall have no jurisdiction to pronounce upon the exercise of the powers of the President under Article 33(2)(g).

(2) Where provision is made by law limiting the time within which proceedings of any description may be instituted against any person, a period of time during which such

person holds the office of President of the Republic of Sri Lanka shall not be taken into account in calculating any period of time prescribed by that law.

(3) The immunity conferred by the provisions of paragraph (1) shall not apply to proceedings in the Supreme Court under paragraph (2) of Article 129 and to proceedings under Article 130 (a) relating to the election of the President or the validity of a referendum.”.

8. Chapter VIIA of the Constitution is hereby repealed and the following Chapter substituted therefor:-

Replacement of Chapter VIIA of the Constitution.

“CHAPTER VIIA

THE CONSTITUTIONAL COUNCIL

Constitution of the Constitutional Council.

41A. (1) There shall be a Constitutional Council (in this Chapter referred to as the “Council”) which shall consist of the following members:-

- (a) the Prime Minister;
- (b) the Speaker;
- (c) the Leader of the Opposition in Parliament;
- (d) one Member of Parliament appointed by the President;
- (e) five persons appointed by the President, on the nomination of both the Prime Minister and the Leader of the Opposition of whom two persons shall be Members of Parliament; and

- (f) one Member of Parliament nominated by agreement of the majority of the Members of Parliament belonging to political parties or independent groups, other than the respective political parties or independent groups to which the Prime Minister and the Leader of the Opposition belong, and appointed by the President.

(2) The Speaker shall be the Chairman of the Council.

(3) It shall be the duty of the Speaker to ensure that nominations for appointments under sub-paragraph (e) or sub-paragraph (f) of paragraph (1) are made, whenever an occasion for such nominations arises.

(4) In nominating the five persons referred to in sub-paragraph (e) of paragraph (1), the Prime Minister and the Leader of the Opposition shall consult the leaders of political parties and independent groups represented in Parliament so as to ensure that the Constitutional Council reflects the pluralistic character of Sri Lankan society, including professional and social diversity.

(5) The persons who are not Members of Parliament to be appointed under sub-paragraph (e) of paragraph (1) shall be persons of eminence and integrity who have distinguished themselves in public or professional life and who are not members of any political party whose nomination shall be approved by Parliament.

(6) The President shall, within fourteen days of the receipt of a written communication specifying the nominations made under sub-paragraphs (e) and (f) of paragraph (1), make the necessary appointments. In the event of the President failing to make the necessary appointments within such period of fourteen days, the persons nominated shall be deemed to have been appointed as members of the Council, with effect from the date of expiry of such period.

(7) (a) On the dissolution of Parliament, notwithstanding the provisions of paragraph (2) of Article 64, the Speaker shall continue to hold office as a member of the Council, until a Member of Parliament is elected to be the Speaker under paragraph (1) of the aforesaid Article;

(b) Notwithstanding the dissolution of Parliament, the Prime Minister, the Leader of the Opposition and the Members of Parliament who are members of the Constitutional Council, shall continue to hold office as Members of such Council, until such time after a General Election following such dissolution, a Member of Parliament is appointed as the Prime Minister or recognized as the Leader of the Opposition or such number of Members of Parliament are appointed as Members of the Constitutional Council under sub-paragraphs (d), (e) and (f) of paragraph (1), as the case may be.

(8) Every member of the Council appointed under sub-paragraphs (d), (e) and (f) of paragraph (1), shall hold office for a period of three years from the date of appointment unless the member earlier resigns his office by writing addressed to the President, is removed from office by the President on both the Prime Minister and the Leader of the Opposition

forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office or is convicted by a court of law for any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 of the Constitution or is deemed to have vacated his office under paragraph (7) of Article 41E.

(9) In the event of there being a vacancy among the members appointed under sub-paragraphs (d), (e) or (f) of paragraph (1), the President shall, within fourteen days of the occurrence of such vacancy and having regard to the provisions of the aforementioned sub-paragraphs, appoint another person to succeed such member. Any person so appointed, shall hold office during the unexpired part of the period of office of the member whom he succeeds.

(10) A member appointed under sub-paragraphs (d), (e) or (f) of paragraph (1), shall not be eligible for re-appointment.

(11) The appointments made by the President under sub-paragraphs (d), (e) and (f) of paragraph (1), shall be communicated to the Speaker.

Council to
recommend
appointments.

41B. (1) No person shall be appointed by the President as the Chairman or a member of any of the Commissions specified in the Schedule to this Article, except on a recommendation of the Council.

(2) The provisions of paragraph (1) of this Article shall apply in respect of any person appointed to act as the Chairman or as a member of any such Commission.

(3) It shall be the duty of the Council to recommend to the President fit and proper persons for appointment as Chairmen or members of the Commissions specified in the Schedule to this Article, whenever the occasion for such appointments arises, and such recommendations shall endeavour to ensure that such recommendations reflect the pluralistic character of Sri Lankan society, including gender. In the case of the Chairmen of such Commissions, the Council shall recommend three persons for appointment, and the President shall appoint one of the persons recommended as Chairman.

(4) The President shall appoint the Chairman and the members of the Commissions specified in the Schedule to this Article, within fourteen days of receiving the recommendations of the Council for such appointments. In the event of the President failing to make the necessary appointments within such period of fourteen days—

- (a) the persons recommended under paragraph (3), to be appointed as members of a Commission, shall be deemed to have been appointed as the members of the Commissions; and
- (b) the person whose name appears first in the list of names recommended under paragraph (3), to be appointed as the Chairman of a Commission, shall be deemed to have been appointed the Chairman of the respective Commission,

with effect from the date of expiry of such period.

(5) No person appointed under paragraph (1) or a person appointed to act as the Chairman or a member of any such Commission, shall be removed except as provided for in the Constitution or in any written law, and where there is no such provision, such person shall be removed by the President only with the prior approval of the Council.

(6) All the Commissions referred to in the Schedule to this Article, other than the Election Commission, shall be responsible and answerable to Parliament.

SCHEDULE

- (a) The Election Commission.
- (b) The Public Service Commission.
- (c) The National Police Commission.
- (d) The Audit Service Commission.
- (e) The Human Rights Commission of Sri Lanka.
- (f) The Commission to Investigate Allegations of Bribery or Corruption.
- (g) The Finance Commission.
- (h) The Delimitation Commission.
- (i) The National Procurement Commission.

Council to
approve
appointments.

41c. (1) No person shall be appointed by the President to any of the Offices specified in the Schedule to this Article, unless such appointment has been approved by the Council upon a recommendation made to the Council by the President.

(2) The provisions of paragraph (1) of this Article shall apply in respect of any person appointed to act for a period exceeding fourteen days, in any Office specified in the Schedule to this Article:

Provided that no person shall be appointed to act in any such office for successive periods not exceeding fourteen days, unless such acting appointment has been approved by the Council on a recommendation by the President.

(3) No person appointed to any Office specified in the Schedule to this Article or to act in any such Office, shall be removed from such Office except as provided for in the Constitution or in any law.

(4) In the discharge of its function relating to the appointment of Judges of the Supreme Court and the President and Judges of the Court of Appeal, the Council shall obtain the views of the Chief Justice.

SCHEDULE

PART I

- (a) The Chief Justice and the Judges of the Supreme Court.
- (b) The President and the Judges of the Court of Appeal.
- (c) The Members of the Judicial Service Commission, other than the Chairman.

PART II

- (a) The Attorney-General.
- (b) The Auditor-General.
- (c) The Inspector-General of Police.
- (d) The Parliamentary Commissioner for Administration (Ombudsman).
- (e) The Secretary-General of Parliament.

Secretary-General and other officers of the Council.

41D. (1) There shall be a Secretary-General to the Council who shall be appointed by the Council for a term of five years. Upon the expiration of his term of office, the Secretary-General shall be eligible for reappointment.

(2) The Council may appoint such officers as it considers necessary for the discharge of its functions, on such terms and conditions as shall be determined by the Council.

Meetings of the Council.

41E. (1) The Council shall meet at least twice every month, and as often as may be necessary to discharge the functions assigned to the Council by the provisions of this Chapter or by any law, and such meetings shall be summoned by the Secretary-General to the Council on the direction of the Chairman of the Council.

(2) The Chairman shall preside at all meetings of the Council and in the absence of the Chairman, the Prime Minister, and in the absence of the Prime Minister, the Leader of the Opposition shall preside at the meetings of the Council.

(3) The quorum for any meeting of the Council shall be five members.

(4) The Council shall endeavour to make every recommendation, approval or decision it is required to make by unanimous decision and in the absence of an unanimous decision, no recommendation, approval or decision made by the Council shall be valid, unless supported by not less than five members of the Council present at such meeting.

(5) The Chairman or the other member presiding shall not have an original vote, but in the event of an equality of votes on any question for decision at any meeting of the Council, the Chairman or other member presiding at such meeting, shall have a casting vote.

(6) The procedure in regard to meetings of the Council and the transaction of business at such meetings shall be determined by the Council, including procedures to be followed in regard to the recommendation or approval of persons suitable for any appointment under Article 41B or Article 41C.

(7) Any member of the Council appointed under sub-paragraphs (d), (e), or (f) of paragraph (1) of Article 41A, who without obtaining prior leave of the Council absents himself from three consecutive meetings of the Council, shall be deemed to have vacated office with effect from the date of the third of such meetings.

(8) The Council shall have the power to act notwithstanding the fact that it has not been fully constituted or that there is a vacancy in its membership, and no act, proceeding or decision of the Council shall be or deemed to be invalid by reason only of the fact that the

Council has not been fully constituted or that there has been a vacancy in its membership or that there has been any defect in the appointment of a member.

Continuation in office of the members of the Council. 41F. Notwithstanding the expiration of the term of office of the members of the Council or of the members of any Commission specified in the Schedule to Article 41B, the members of the Council or of such other Commission shall continue in office until the assumption of office by the new members of the Council or of such other Commission.

Powers and duties of the Council. 41G. (1) The Council shall, once in every three months, submit to the President a report of its activities during the preceding three months.

(2) The Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other written law.

(3) The Council shall have the power to make rules relating to the performance and discharge of its duties and function. All such rules shall be published in the *Gazette* and be placed before Parliament within three months of such publication.

Expenses to be charged on the Consolidated Fund. 41H. The expenses incurred by the Council shall be charged on the Consolidated Fund.

Finality of decisions of the Council. 41I. Subject to the provisions of Article 126, no court shall have the power or jurisdiction to entertain, hear or decide or call in question, on any ground whatsoever, or in any manner

whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, approval or recommendation shall be final and conclusive for all purposes.”.

9. Chapter VIII of the Constitution is hereby repealed and the following Chapter substituted therefor:-

Replacement of Chapter VIII of the Constitution.

“CHAPTER VIII

THE EXECUTIVE

THE CABINET OF MINISTERS

Prime Minister and the Cabinet of Ministers.

42. (1) There shall be a Cabinet of Ministers charged with the direction and control of the Government of the Republic.

(2) The Cabinet of Ministers shall be collectively responsible and answerable to Parliament.

(3) The President shall be a member of the Cabinet of Ministers and shall be the Head of the Cabinet of Ministers.

(4) The President shall appoint as Prime Minister the Member of Parliament, who, in the President’s opinion, is most likely to command the confidence of Parliament.

Ministers and their subjects and functions.

43. (1) The President shall, in consultation with the Prime Minister, where he considers such consultation to be necessary, determine the number of Ministers of the Cabinet of Ministers and the Ministries and the assignment of subjects and functions to such Ministers.

(2) The President shall, on the advice of the Prime Minister, appoint from among Members of Parliament, Ministers, to be in charge of the Ministries so determined.

(3) The President may at any time change the assignment of subjects and functions and the composition of the Cabinet of Ministers. Such changes shall not affect the continuity of the Cabinet of Ministers and the continuity of its responsibility to Parliament.

Ministers
who are not
members of
the Cabinet
of Ministers.

44. (1) The President may, on the advice of the Prime Minister, appoint from among Members of Parliament, Ministers who shall not be members of the Cabinet of Ministers.

(2) The President may, in consultation with the Prime Minister where he considers such consultation to be necessary, determine the assignment of subjects and functions to Ministers appointed under paragraph (1) of this Article and the Ministries, if any, which are to be in charge of, such Ministers.

(3) The President may at any time change any assignment made under paragraph (2).

(4) Every Minister appointed under paragraph (1) shall be responsible to the Cabinet of Ministers and to Parliament.

(5) Any Minister of the Cabinet of Ministers may, by Notification published in the *Gazette*, delegate to any Minister who is not a member of the Cabinet of Ministers, any power or duty pertaining to any subject or function assigned to such cabinet Minister, or any power or duty conferred or imposed on him by any written law, and it shall be lawful for such other Minister to exercise and perform any power or

duty delegated notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed on such Minister of the Cabinet of Ministers.

Deputy
Ministers.

45. (1) The President may, on the advice of the Prime Minister, appoint from among Members of Parliament, Deputy Ministers to assist Ministers of the Cabinet of Ministers in the performance of their duties.

(2) Any Minister of the Cabinet of Ministers may by Notification published in the *Gazette*, delegate to his Deputy Minister, any power or duty pertaining to any subject or function assigned to him or any power or duty conferred or imposed on him by any written law, and it shall be lawful for such Deputy Minister to exercise and perform any power or duty delegated notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed on such Minister.

Tenure of
office of the
Prime
Minister, and
the limitation
of numbers
and tenure of
office of
Ministers and
Deputy
Ministers.

46. (1) The total number of—

- (a) Ministers of the Cabinet of Ministers shall not exceed thirty; and
- (b) Ministers who are not members of the Cabinet of Ministers and Deputy Ministers shall not, in the aggregate, exceed forty.

(2) The Prime Minister shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he—

- (a) resigns his office by a writing under his hand addressed to the President; or

(b) ceases to be a Member of Parliament.

(3) A Minister of the Cabinet of Ministers, a Minister who is not a member of the Cabinet of Ministers and a Deputy Minister, shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he—

(a) is removed from office under the hand of the President on the advice of the Prime Minister;

(b) resigns from office by a writing under his hand addressed to the President; or

(c) ceases to be a Member of Parliament.

(4) Notwithstanding anything contained in paragraph (1) of this Article, where the recognized political party or the independent group which obtains highest number of seats in Parliament forms a National Government, the number of Ministers in the Cabinet of Ministers, the number of Ministers who are not Cabinet of Ministers and the number of Deputy Ministers shall be determined by Parliament.

(5) For the purpose of paragraph (4), National Government means, a Government formed by the recognized political party or the independent group which obtains the highest number of seats in Parliament together with the other recognized political parties or the independent groups.

Cabinet of
Ministers
after
dissolution of
Parliament.

47. (1) The Cabinet of Ministers functioning immediately prior to the dissolution of Parliament shall, notwithstanding such dissolution, continue to function and shall

cease to function upon the conclusion of the General Election and accordingly, the Prime Minister and the Ministers of the Cabinet of Ministers, shall continue to function unless they cease to hold office as provided in sub paragraph (a) of paragraph (2) or sub paragraph (a) or (b) of paragraph (3) of Article 46 and shall comply with the criteria set out by the Commissioner of Elections and shall not cause any undue influence on the General Election.

(2) Notwithstanding the death, removal from office or resignation of the Prime Minister, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet of Ministers as its members, until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge the powers, duties and functions of the Prime Minister.

(3) On the death, removal from office or resignation, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, of a Minister of the Cabinet of Ministers, the President may, on the advice of the Prime Minister, appoint any other Minister to be the Minister in charge of the Ministry of such Minister or to exercise, perform and discharge the powers, duties and functions of such Minister.

Dissolution
of the
Cabinet of
Ministers.

48. (1) On the Prime Minister ceasing to hold office by death, resignation or otherwise, except during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall, unless the President has in

the exercise of his powers under Article 70, dissolved Parliament, stand dissolved and the President shall appoint a Prime Minister, Ministers of the Cabinet of Ministers, Ministers who are not members of the Cabinet of Ministers and Deputy Ministers in terms of Articles 42, 43, 44 and 45:

Provided that if after the Prime Minister so ceases to hold office, Parliament is dissolved, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members, until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge the powers, duties and functions of the Prime Minister, and the provisions of Article 47 shall, *mutatis mutandis*, apply.

(2) If Parliament rejects the Statement of Government Policy or the Appropriation Bill or passes a vote of no-confidence in the Government, the Cabinet of Ministers shall stand dissolved, and the President shall, unless he has in the exercise of his powers under Article 70, dissolved Parliament, appoint a Prime Minister, Ministers of the Cabinet of Ministers, Ministers who are not members of the Cabinet of Ministers and Deputy Ministers in terms of Articles 42, 43, 44 and 45.

Acting
Ministers and
Deputy
Ministers.

49. Whenever a Minister of the Cabinet of Ministers, a Minister who is not a members of the Cabinet of Ministers or a Deputy Minister is unable to discharge the functions of his office, the President may, on the advice of the Prime Minister, appoint any Member of Parliament to act in the place of such Minister of the Cabinet of Ministers, Minister who is not a member of the Cabinet of Ministers or a Deputy Minister.

Secretary to
the Cabinet
of Ministers.

50. (1) There shall be a Secretary to the Cabinet of Ministers who shall be appointed by the President.

(2) The Secretary shall, subject to the direction of the President, have charge of the office of the Cabinet of Ministers, and shall discharge and perform such other functions and duties as may be assigned to him by the President or the Cabinet of Ministers.

Secretary to
the Prime
Minister.

51.(1) There shall be a Secretary to the Prime Minister who shall be appointed by the President.

(2) The Secretary shall have charge of the office of the Prime Minister and shall perform and discharge the duties and functions of his office, subject to the directions of the Prime Minister.

Secretaries to
Ministries.

52. (1) There shall be a Secretary for every Ministry of a Minister of the Cabinet of Ministers, who shall be appointed by the President.

(2) The Secretary to a Ministry shall, subject to the direction and control of his Minister, exercise supervision over the departments of government and other institutions in charge of the Minister.

(3) The Secretary to a Ministry shall cease to hold office upon the dissolution of the Cabinet of Ministers under the provisions of the Constitution or upon a determination by the President under Article 43 or 44 which results in the Ministry ceasing to exist.

(4) For the purposes of this Article, the office of the Secretary to the President, the office of the Secretary to the Cabinet of

Ministers, the office of the Auditor-General, the office of the Parliamentary Commissioner for Administration (Ombudsman), the office of the Secretary-General of Parliament, the Constitutional Council, and the Commissions referred to in the Schedule to Article 41B shall be deemed not to be departments of Government.

Official oath and affirmation. 53. Every person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and subscribes the oath, or makes and subscribes the affirmation, set out in the Fourth Schedule and Seventh Schedule.”.

Amendment of Article 54 of the Constitution.

10. Article 54 of the Constitution is hereby amended as follows:-

- (1) by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph:-

“(1) There shall be a Public Service Commission (in this Chapter referred to as the “Commission”) which shall consist of nine members appointed by the President on the recommendation of the Constitutional Council, of whom not less than three members shall be persons who have had over fifteen years experience as a public officer. The President on the recommendation of the Constitutional Council shall appoint one member as its Chairman.”;

- (2) by the repeal of paragraph (4) of that Article, and the substitution therefor of the following paragraph:-

“(4) Every member of the Commission shall hold office for a period of three years from the

date of appointment, unless the member becomes subject to any disqualification under paragraph (2) or earlier resigns from his office by writing addressed to the President or is removed from office by the President with the approval of the Constitutional Council or is convicted by a court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon the member has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6).”; and

- (3) by the repeal of paragraph (7) of that Article, and the substitution therefor of the following paragraph:-

“(7) The President may grant a member leave from the performance of his duties relating to the Commission for a period not exceeding two months and shall, for the duration of such period, on the recommendation of the Constitutional Council, appoint a person qualified to be a member of the Commission, to be a temporary member for the period of such leave.”.

11. Article 56 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words “as are specified by the Cabinet of Ministers”, of the words “as are specified by the Commission”.

Amendment of Article 56 of the Constitution.

12. Article 57 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words “as are specified by the Cabinet of Ministers”, of the words “as are specified by the Commission”.

Amendment of Article 57 of the Constitution.

13. Article 61A of the Constitution is hereby amended by the substitution for the words “Subject to the provisions of paragraphs (1), (2), (3), (4), and (5) of Article 126”, of the words “Subject to the provisions of Article 59 and of Article 126,”.

Amendment of Article 61A of the Constitution.

Replacement of Article 61E and 61F of the Constitution.

14. Articles 61E and 61F of the Constitution are hereby repealed and the following Articles substituted therefor:-

“Appointments by the President.

61E. (1) The President shall appoint:-

- (a) the Heads of the Army, the Navy and the Air Force;
- (b) subject to the approval of the Constitutional Council, the Attorney-General and the Inspector-General of Police,

(2) The holders of the Offices of Attorney-General and the Inspector-General of Police shall retire from their respective Office, upon their attaining the age of sixty years.

Interpretation.

61F. For the purposes of this Chapter “public officer” does not include a member of the Army, Navy, or Air Force, an officer of the Election Commission appointed by such Commission, a police officer appointed by the National Police Commission, a scheduled public officer appointed by the Judicial Service Commission or a member of the Sri Lanka State Audit Service appointed by the Audit Service Commission.”.

Amendment of Article 62 of the Constitution.

15. Article 62 of the Constitution is hereby amended by the repeal of paragraph (2) of that Article, and the substitution therefor of the following paragraph:-

“(2) Unless Parliament is sooner dissolved, every Parliament shall continue for five years from the date appointed for its first meeting and no longer, and the expiry of the said period of five years shall operate as a dissolution of Parliament.”.

16. Article 65 of the Constitution is hereby amended as follows:-

Amendment of Article 65 of the Constitution.

- (1) by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph:-

“(1) There shall be a Secretary-General of Parliament who shall, subject to the approval of the Constitutional Council, be appointed by the President and who shall hold office during good behaviour.”; and

- (2) by the repeal of paragraph (6) of that Article, and the substitution therefor of the following paragraph:-

“(6) Whenever the Secretary-General is unable to discharge the functions of his office, the President may, subject to the approval of the Constitutional Council, appoint a person to act in the place of the Secretary-General.”.

17. Article 70 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph:-

Amendment of Article 70 of the Constitution.

“(1) The President may by Proclamation, summon, prorogue and dissolve Parliament:

Provided that the President shall not dissolve Parliament until the expiration of a period of not less than four years and six months from the date appointed for its first meeting, unless Parliament requests the President to do so by a resolution passed by not less than two-thirds of the whole number of Members (including those not present), voting in its favour .”.

Amendment of
Article 78 of the
Constitution.

18. Article 78 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph:-

“(1) Every Bill shall be published in the *Gazette* at least fourteen days before it is placed on the Order Paper of Parliament.”.

Amendment of
Article 85 of the
Constitution.

19. Article 85 of the Constitution is hereby amended by the repeal of paragraph (2) of that Article.

Amendment of
Article 91 of the
Constitution.

20. Article 91 of the Constitution is hereby amended in sub-paragraph (d) of paragraph (1) of that Article as follows:-

(1) by the substitution for items (v), (va) and (vc) of that sub-paragraph, of the following items:-

“(v) a member of the Constitutional Council, referred to in sub-paragraph(e) of paragraph (1) of Article 41A other than any Member of Parliament;

(va) a member of any Commission specified in the Schedule to Article 41B;

(vb) the Commissioner General of Elections;”;

(2) by the substitution in item (vii) of that sub-paragraph, for the words “a public officer holding any office”, of the words “a public officer or a member of the Sri Lanka State Audit Service holding any office”.

(3) by the substitution in item (viii) of that sub-paragraph, for the words “a public officer holding any office”, of the words “a public officer or a member of the Sri Lanka State Audit Service holding any office”; and

(4) by the addition immediately after item (xii) of that sub-paragraph, of the following new item:-

“(xiii) a citizen of Sri Lanka who is also a citizen of any other country;”.

21. Article 92 of the Constitution is hereby amended as follows:-

Amendment of Article 92 of the Constitution.

- (1) in paragraph (a) of that Article, by the substitution, for the words “thirty”, of the words “thirty five”;
- (2) by the addition immediately after paragraph (b) of that Article, of the following new paragraph:-

“(c) if he has been twice elected to the office of President by the People.”; and

22. Article 103 of the Constitution is hereby amended as follows:-

Amendment of Article 103 of the Constitution.

- (1) by the repeal of paragraph (1) of that Article, and the substitution of the following paragraph therefor:-

“(1) There shall be an Election Commission (in this Chapter referred to as the “Commission”) consisting of three members appointed by the President on the recommendation of the Constitutional Council, from amongst persons who have distinguished themselves in any profession or in the fields of administration or education. One of the members so appointed shall be a retired officer of the Department of Elections, who has held office as a Deputy Commissioner of Elections or above. The President shall on the recommendation of the Constitutional Council, appoint one member as its Chairman.”; and

- (2) by the repeal of paragraph (7) of that Article and the substitution of the following paragraph therefor:-

“(7) The President may grant a member leave from the performance of his duties relating to the

Commission for a period not exceeding two months, and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave. Every such appointment shall be made on the recommendation of the Constitutional Council.”.

Amendment of
Article 104B of
the Constitution.

23. Article 104B of the Constitution is hereby amended by the repeal of paragraphs (4), (4a) and (5) of that Article and the substitution of the following paragraphs therefor:-

“(4) (a) The Commission shall have the power during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation—

- (i) for the purpose of promoting or preventing the election or any candidate of any political party or independent group contesting at such election;
- (ii) by any candidate or any political party or any independent group contesting at such election,

by a direction in writing by the Chairman of the Commission or of the Commissioner General of Elections on the instructions of the Commission.

(b) It shall be the duty of every person or officer in whose custody or under whose control such property is for the time being, to comply with, and give effect to, such direction.

(5) (a) The Commission shall have the power to issue from time to time, in respect of the holding of any election or the conduct of a Referendum, such guidelines as the Commission may consider appropriate, to any broadcasting or telecasting operator or any proprietor or publisher of a newspaper, as the case may be, as the Commission may consider necessary to ensure a free and fair election.

(b) It shall be the duty of the Chairman of the Sri Lanka Broadcasting Corporation, the Chairman of the Sri Lanka Rupavahini Corporation and the Chairman of the Independent Television Network and the Chief Executive Officer of every other broadcasting or telecasting enterprise owned or controlled by the State to take all necessary steps to ensure compliance with such guidelines as are issued to them under sub-paragraph (a).

- (c) (i) The Commission shall cause the directions and guidelines referred to in paragraphs 4(a) and paragraph 5(a) to be published in at least one newspaper widely circulated, in the Sinhala, Tamil and English languages.
- (ii) Every direction and guideline shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in such direction and guideline.
- (iii) Every such direction and guideline shall, within three months from the date of publication in the *Gazette*, be brought before Parliament for approval. Any direction or guideline which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

24. Article 104E of the Constitution is hereby amended by the repeal of paragraph (1) of that Article and the substitution of the following paragraph therefor:-

Amendment of
Article 104E of
the Constitution.

“(1) There shall be a Commissioner General of Elections who shall, subject to the approval of the Constitutional Council, be appointed by the

Commission on such terms and conditions as may be determined by the Commission.”.

Insertion of new Article 104GG in the Constitution.

25. The following new Article is hereby inserted immediately after Article 104G and shall have effect as Article 104GG of the Constitution:-

“Failure to comply with directions to be an offence.

104GG. (1) Any public officer, any employee of any public corporation, business or other undertaking vested in the Government under any other written law and any company registered or deemed to be registered under the Companies Act, No. 7 of 2007, in which the Government or any public corporation or local authority holds fifty *per centum* or more of the shares of that company, who—

- (a) refuses or fails without a reasonable cause to co-operate with the Commission, to secure the enforcement of any law relating to the holding of an election or the conduct of a Referendum; or
- (b) fails without a reasonable cause to comply with any directions or guidelines issued by the Commission under sub-paragraph (a) of paragraph (4) or sub-paragraph (a) of paragraph (5), respectively, of Article 104B,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Every High Court established under Article 154P of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1).”.

26. Article 107 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article and the substitution of the following paragraph therefor:-

Amendment of Article 107 of the Constitution.

“(1) The Chief Justice, the President of the Court of Appeal and every other judge of the Supreme Court and of the Court of Appeal shall, subject to the approval of the Constitutional Council, be appointed by the President by warrant under his hand.”.

27. Article 109 of the Constitution is hereby repealed and the following Article substituted therefor:-

Replacement of Article 109 of the Constitution.

“Acting appointments. 109. (1) If the Chief Justice or the President of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause, the President shall, subject to the approval of the Constitutional Council, appoint another Judge of the Supreme Court, or of the Court of Appeal, as the case may be, to act in the office of Chief Justice, or President of the Court of Appeal, during such period.

(2) If any Judge of the Supreme Court or of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause, the President may, subject to the approval of the Constitutional Council, appoint another Judge to act as a Judge of the Supreme Court or Court of Appeal, during such period.”.

28. Article 111D of the Constitution is hereby repealed and the following Article substituted therefor:-

Amendment of Article 111D of the Constitution.

”Constitution of the Judicial Service Commission. 111D. (1) There shall be a Judicial Service Commission (in this Chapter referred to as the “Commission”) consisting of the Chief Justice and the two most senior Judges of the Supreme

Court appointed by the President, subject to the approval of the Constitutional Council.

(2) Where the Chief Justice and the two most Senior Judges of the Supreme Court are Judges who have not had any judicial experience serving as a Judge of a Court of First Instance, the Commission shall consist of the Chief Justice, the senior most Judge of the Supreme Court and the next most senior Judge of such Court, who has had experience as a Judge of a Court of First Instance.

(3) The Chief Justice shall be the Chairman of the Commission.”.

Amendment of Article 111E of the Constitution.

29. Article 111E of the Constitution is hereby amended by the repeal of paragraphs (5) and (6) of that Article and the substitution of the following paragraphs therefor:-

(5) The President may grant to any member of the Commission leave from duties and may appoint subject to the approval of the Constitutional Council, a person qualified to be a member of the Commission to be a temporary member for the period of such leave.

(6) The President may, with the approval of the Constitutional Council, and for cause assigned, remove from office any member of the Commission.”.

Repeal of Article 122 of the Constitution.

30. Article 122 of the Constitution is hereby repealed.

Amendment of Article 123 of the Constitution.

31. Article 123 of the Constitution is hereby amended by the repeal of paragraph (3) of that Article.

Amendment of Article 124 of the Constitution

32. Article 124 of the Constitution is hereby amended by the substitution for the words and figures “provided in Articles 120, 121 and 122,”, of the words and figures “provided in Articles 120 and 121”.

33. Article 134 of the Constitution is hereby amended by the substitution for the figures “121, 122, 125,” of the figures “121, 125,”.

Amendment of Article 134 of the Constitution.

34. Article 153 of the Constitution is hereby amended as follows:-

Amendment of Article 153 of the Constitution.

- (1) by the repeal of paragraph (1) of that Article and the substitution of the following paragraph therefor:-

“(1) There shall be an Auditor-General who shall be a qualified Auditor, and subject to the approval of the Constitutional Council, be appointed by the President and shall hold office during good behaviour.”; and

- (2) by the repeal of paragraph (4) of that Article, and the substitution of the following paragraph therefor:-

“(4) Whenever the Auditor-General is unable to discharge functions of his office, the President may, subject to the approval of the Constitutional Council, appoint a person to act in the place of the Auditor-General.”

35. The following new Articles are hereby inserted immediately after Article 153, and shall have effect as Article 153A, 153B, 153C, 153D, 153E, 153F, 153G and 153H of the Constitution:-

Insertion of new Articles 153A, 153B, 153C, 153D, 153E, 153F, 153G and 153H in the Constitution.

“Constitution of the Audit Service Commission.

153A. (1) There shall be an Audit Service Commission (in this Chapter referred to as “Commission”), which shall consist of the Auditor-General who shall be the Chairman of the Commission, and the following members appointed by the President on the recommendation of the Constitutional Council:-

- (a) two retired officers of the Auditor-General’s Department, who have

held office as a Deputy Auditor-General or above;

- (b) a retired judge of the Supreme Court, Court of Appeal or the High Court of Sri Lanka; and
- (c) a retired Class I officer of the Sri Lanka Administrative Service.

(2) (a) A person appointed as a member of the Commission shall hold office for three years, unless he,—

- (i) earlier resigns from his office, by letter addressed to the President;
- (ii) is removed from office as hereinafter provided; or
- (iii) becomes a Member of Parliament or a member of a Provincial Council or any local authority.

(b) A person appointed as a member of the Commission shall be eligible to be appointed for a further term of office, on the recommendation of the Constitutional Council.

(3) The President may for cause assigned and with the approval of the Constitutional Council, remove from office any person appointed as a member of the Commission under paragraph (1).

(4) The Chairman and the members of the Commission shall be paid such allowances as are determined by Parliament. Such allowances shall be charged on the Consolidated Fund and

shall not be diminished during the term of office of the Chairman or members.

(5) The Chairman and the members of the Commission shall be deemed to be public servants within the meaning and for the purposes of Chapter IX of the Penal Code.

(6) There shall be a Secretary to the Commission who shall be appointed by the Commission.

Meeting of the Commission. 153B. (1) The quorum for any meeting of the Commission shall be three members of the Commission.

(2) Parliament shall, subject to paragraph (1), provide by law for meetings of the Commission, the establishment of the Sri Lanka State Audit Service and such other matters connected with and incidental thereto.

Powers and Functions of the Commission. 153C. (1) The power of appointment, promotion, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, shall be vested in the Commission.

(2) The Commission shall also exercise, perform and discharge the following powers, duties and functions:-

- (a) make rules pertaining to schemes of recruitment, the appointment, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, subject to any policy determined by the Cabinet of Ministers pertaining to the same;

(b) prepare annual estimates of the National Audit Office established by law; and

(c) exercise, perform and discharge such other powers, duties and functions as may be provided for by law.

(3) The Commission shall cause the rules made under paragraph (2) to be published in the *Gazette*.

(4) Every such rule shall come into operation on the date of such publication or on such later date as may be specified in such rules.

(5) Every such rule shall, within three months of such publication in the *Gazette* be brought before Parliament for approval. Any rule which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Influencing or attempting to influence decision of the Commission or any officer of the Sri Lanka State Audit Service, to be an offence.

153D. (1) A person who otherwise than in the course of his duty, directly or indirectly, by himself or through any other person, in any manner whatsoever, influences or attempts to influence any decision of the Commission, any member thereof or any officer of the Sri Lanka State Audit Service, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Every High Court established under Article 154^r of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (1).

Immunity
from legal
proceedings.

153E. Subject to the jurisdiction conferred on the Supreme Court under Article 126 and to the powers granted to the Administrative Appeals Tribunal under Article 153G, no court or tribunal shall have the power or jurisdiction to inquire into, pronounce upon or in any manner whatsoever call in question any order or decision made by the Commission, in pursuance of any function assigned on such Commission under this Chapter or under any law.

Costs and
expenses.

153F. The costs and expenses of the Commission shall be a charge on the Consolidated Fund.

Appeals to
the
Administrative
Appeals
Tribunal.

153G. Any officer of the Sri Lanka State Audit Service who is aggrieved by any order relating to the appointment, promotion or transfer of such officer or any order on a disciplinary matter or dismissal made by the Commission, in respect of such officer, may appeal therefrom to the Administrative Appeals Tribunal established under Article 59, which shall have the power to alter, vary, rescind or confirm any order or decision made by the Commission.

Commission
to be
answerable to
Parliament.

153H. The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the discharge of its functions and shall forward to Parliament in each calendar year a report of its activities in such year.”.

Amendment of
Article 154 of
the
Constitution.

36. Article 154 of the Constitution is hereby amended as follows:-

- (1) by the repeal of paragraph (1) of that Article and the substitution of the following paragraph therefor:-

“(1) The Auditor-General shall audit all Departments of the Government, the Office of the Secretary to the President, the Office of the Secretary to the Prime Minister, the Offices of the Cabinet of Ministers, the Judicial Services Commission, the Constitutional Council, the Commissions referred to in the Schedule to Article 41B, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, local authorities, public corporations, business and other undertakings vested in the Government under any written law and companies registered or deemed to be registered under the Companies Act, No. 7 of 2007 in which the Government or a public corporation or local authority holds fifty *per centum* or more of the shares of that company including the accounts thereof.”;

- (2) in paragraph (2) of that Article, by the substitution for the words “such public corporation or business or other undertaking”, wherever those words appear in that paragraph, of the words “such public corporation, business or other undertaking or a company referred to in paragraph (1)”;
- (3) in sub-paragraph (b) of paragraph (5) of that Article, by the substitution for the words “any public corporation, or business or other undertaking”, wherever those words appear in that paragraph, of the words “any public corporation, business or other undertaking or a company referred to in paragraph (1)”;

- (4) by the insertion immediately after paragraph (8) of that Article, of the following new paragraph:—

“(9) The provisions of sub-paragraph (a) of paragraph (8) shall apply to the Auditor-General appointed under Article 153(1).”.

37. Article 154~~R~~ of the Constitution is hereby amended in paragraph (1) of that Article, by the repeal of sub-paragraph (c) of that paragraph, and the substitution of the following paragraph therefor:—

Amendment of Article 154~~R~~ of the Constitution.

“(c) three other members appointed by the President on the recommendation of the Constitutional Council, to represent the three major communities, each of whom shall be a person who has distinguished himself or held high office, in the field of finance, law, administration, business or learning”.

38. Article 155^A of the Constitution is hereby amended as follows:—

Amendment of Article 155^A of the Constitution.

- (1) by the repeal of paragraph (1) of that Article and the substitution of the following paragraph therefor:—

“(1) There shall be a National Police Commission (in this Chapter referred to as the “Commission”) consisting of seven members appointed by the President on the recommendation of the Constitutional Council, of whom at least one member shall be a retired police officer who has held office as a Deputy Inspector-General of Police or above. The Constitutional Council may in making its recommendation, consult the Public Service Commission. The President shall on the recommendation of the Constitutional Council appoint one member as the Chairman.”: and

- (2) by the repeal of paragraph (4) of that Article and the substitution of the following paragraph therefor:-

“(4) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless such member becomes subject to any disqualification under paragraph (2) or earlier resigns from office by writing addressed to the President or is removed from office by the President for reasons assigned and with the approval of the Constitutional Council or is convicted by a Court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon such member has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6) of this Article.”.

Amendment of Article 155B of the Constitution.

- 39.** Article 155B of the Constitution is hereby amended by the addition at the end of that Article, of the following new paragraph:-

“(5) The Inspector-General of Police shall be entitled to be present at meetings of the Commission, except where any matter relating to him is being considered. He shall have no right to vote at such meetings.”.

Amendment of Article 155C of the Constitution.

- 40.** Article 155C of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words “under paragraph (1) of Article 126,”, of the words “under Article 126 and the powers granted to the Administrative Appeals Tribunal under Article 155L,”.

Amendment of Article 155F of the Constitution.

- 41.** Article 155F of the Constitution is hereby amended in paragraph (1) of that Article by the substitution for the words “any decision of the Commission or a Committee, or to so influence any member of the Commission or Committee,”, of the words “any decision of the Commission or a Committee or any police officer to whom the Commission

has delegated any power under this Chapter or to so influence any member of the Commission or a Committee or any police officer to whom any power has been delegated”.

42. Article 155^{FF} of the Constitution is hereby repealed.

Repeal of Article 155^{FF} of the Constitution.

43. The following Articles are hereby inserted immediately after Article 155^{FFF} and shall have the effect as Articles, 155^G, 155^H, 155^J, 155^K and 155^L respectively, of the Constitution:-

Insertion of new Articles 155^G, 155^H, 155^J, 155^K and 155^L of the Constitution.

“Powers of the Commission.

155^G. (1) (a) The appointment, promotion transfer, disciplinary control and dismissal of police officers other than the Inspector-General of Police, shall be vested in the Commission. The Commission shall exercise its powers of promotion, transfer, disciplinary control and dismissal in consultation with the Inspector-General of Police.

(b) The Commission shall not in the exercise of its powers under this Article, derogate from the powers and functions assigned to the Provincial Police Service Commissions as and when such Commissions are established under Chapter XVIIA of the Constitution.

(2) The Commission shall establish procedures to entertain and investigate public complaints and complaints of any aggrieved person made against a police officer or the police service, and provide redress as provided by law. In the event of the Commission providing redress, the Commission shall forthwith inform the Inspector-General of Police.

(3) The Commission shall, in consultation with the Inspector-General of Police, provide for and determine all matters regarding police officers, including:-

- (a) the formulation of schemes of recruitment, promotion and transfers, subject to any policy determined by the Cabinet of Ministers pertaining to the same;
- (b) training and the improvement of the efficiency and independence of the police service;
- (c) the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions; and
- (d) codes of conduct and disciplinary procedures.

(4) The Commission shall exercise all such powers and discharge and perform all such functions and duties as are vested in it under Appendix I of List I contained in the Ninth Schedule to the Constitution.

Delegation of certain powers of the Commission to a Committee.

155H. (1) The Commission may delegate to a Committee of the Commission (not consisting of members of the Commission) as shall be nominated by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of police officers as are specified by the Commission.

(2) The Commission shall cause to be published in the *Gazette*, the appointment of any such Committee.

(3) The procedure and quorum for meetings of a Committee nominated under paragraph (1) shall be according to rules made by the Commission. The Commission shall cause such rules to be published in the *Gazette*.

Delegation of certain functions by the Commission.

155J. (1) The Commission may, subject to such conditions and procedures as may be prescribed by the Commission, delegate to the Inspector-General of Police or in consultation with the Inspector-General of Police to any Police Officer, its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officers.

(2) The Commission shall cause any such delegation to be published in the *Gazette*.

Right of Appeal.

155K. (1) Where the Commission has delegated under Article 155J to any police officer its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officers, the Inspector-General of Police shall have a right of appeal to the Commission against any order made by such Police officer in the exercise of his delegated powers.

(2) A police officer aggrieved by any order relating to promotion, transfer or any order on a disciplinary matter or dismissal made by the Inspector-General of Police or a Committee or a Police Officer referred to in Article 155H and 155J in respect of such officer may, appeal to the Commission against such order in

accordance with rules made by the Commission from time to time regulating the procedure and the period fixed for the making and hearing of an appeal by the Commission.

(3) The Commission shall have the power to alter, vary, rescind or confirm such order upon an appeal made under paragraph (1) or paragraph (2), or to give directions in relation thereto or to order such further or other inquiry, as to the Commission shall deem fit.

(4) The Commission shall from time to time cause to be published in the *Gazette*, rules made by it under paragraph (2) of this Article.

(5) Upon any delegation of its powers to the Inspector-General of Police or a Committee or police officer under Article 155H and 155J, the Commission shall not, whilst such delegation is in force, exercise, perform or discharge its powers, duties or functions in respect of the categories of police officers in respect of which such delegation is made, subject to the right of appeal hereinbefore provided.

Appeals to
Administrative
Appeals
Tribunal.

155L. Any police officer aggrieved by any order relating to promotion, transfer, or any order on a disciplinary matter or dismissal made by the Commission, in respect of such officer, may appeal therefrom to the Administrative Appeals Tribunal established under Article 59, which shall have the power to alter, vary, rescind or confirm any order or decision made by the Commission.”.

- 44.** Article 155^M is hereby repealed and the following Article substituted therefor:-
- “Saving of existing rules and regulations. 155^M. Until the Commission otherwise provides, all rules, regulations and procedures relating to the Police Force as are in force on the date of the coming into operation of this Article, shall continue to be operative and in force.”.
- Replacement of Article 155^M of the Constitution.
- 45.** Article 156 of the Constitution is hereby amended as follows:-
- (1) by the repeal of paragraph (2) of that Article and the substitution of the following paragraph therefor:-
- “(2) The Parliamentary Commissioner for Administration (Ombudsman) shall, subject to the approval of the Constitutional Council, be appointed by the President and shall hold office during good behaviour.”; and
- (2) by the repeal of paragraph (5) of that Article and the substitution of the following paragraph therefor:-
- “(5) Whenever the Parliamentary Commissioner for Administration is unable to perform or discharge the duties and functions of his office, the President shall, subject to the approval of the Constitutional Council, appoint a person to act in his place.”.
- Amendment of Article 156 of the Constitution.
- 46.** The following new Chapters are hereby inserted immediately after Chapter XIX and shall have effect as Chapters XIXA and XIXB respectively, of the Constitution:-
- Insertion of new Chapter XIXA and XIXB in the Constitution.

“CHAPTER XIXA

**COMMISSION TO INVESTIGATE ALLEGATIONS
OF BRIBERY OR CORRUPTION**

Commission
to
Investigate
Bribery or
Corruption. 156A. (1) Parliament shall by law
provide for the establishment of a Commission
to investigate allegations of bribery or
corruption. Such law shall provide for–

- (a) the appointment of the members of the Commission by the President on the recommendation of the Constitutional Council;
- (b) the powers of the Commission, including the power to direct the holding of a preliminary inquiry or the making of an investigation into an allegation of bribery or corruption, whether of its own motion or on a complaint made to it, and the power to institute prosecutions for offences under the law in force relating to bribery or corruption;
- (c) measures to implement the United Nations Convention Against Corruption and any other international Convention relating to the prevention of corruption, to which Sri Lanka is a party.

(2) Until Parliament so provides, the Commission to investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 shall apply, subject to the modification that it

shall be lawful for the Commission appointed under that Act, to inquire into, or investigate, an allegation of bribery or corruption, whether on its own motion or on a written complaint made to it.

CHAPTER XIX B

NATIONAL PROCUREMENT COMMISSION

National
Procurement
Commission.

156B. (1) There shall be a National Procurement Commission (in this Chapter referred to as the “Commission”) consisting of five members appointed by the President on the recommendation of the Constitutional Council, of whom at least three members shall be persons who have had proven experience in procurement, accountancy, law or public administration. The President shall, on the recommendation of the Constitutional Council, appoint one member as the Chairman of the Commission.

(2) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless such member earlier resigns from office by a writing addressed to the President or is removed from office by the President for causes assigned with the approval of the Constitutional Council or is convicted by a court of law for an offence involving moral turpitude or is elected as a member of Parliament or as a member of a Provincial Council or of a local authority or if a resolution for the imposition of a civic disability on him is passed in terms of Article 81.

(3) The Chairman and every member of the Commission shall be paid such allowances as may be determined by a resolution of Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of such Chairman or the member.

Functions of
the
Commission.

156c. (1) It shall be the function of the Commission to formulate fair, equitable, transparent, competitive and cost effective procedures and guidelines, for the procurement of goods and services, works, consultancy services and information systems by government institutions and cause such guidelines to be published in the *Gazette* and within three months of such publication, to be placed before Parliament.

(2) Without prejudice to the generality of paragraph (1), it shall be the function of the Commission to,—

- (a) monitor and report to the appropriate authorities, on whether all procurement of goods and services, works, consultancy services and information systems by government institutions are based on procurement plans prepared in accordance with previously approved action plans;
- (b) monitor and report to the appropriate authorities on whether all qualified bidders for the provision of goods and services, works, consultancy services and information systems by government institutions are afforded an equal opportunity to participate in

the bidding process for the provision of those goods and services, works, consultancy services and information systems;

- (c) monitor and report to the appropriate authorities on whether the procedures for the selection of contractors, and the awarding of contracts for the provision of goods and services, works, consultancy services and information systems to government institutions, are fair and transparent;
- (d) report on whether members of procurement Committees and Technical Evaluation Committees relating to the procurements, appointed by government institutions are suitably qualified; and
- (e) investigate reports of procurements made by government institutions outside established procedures and guidelines, and to report the officers responsible for such procurements to the relevant authorities for necessary action.

Powers of
the
Commission.

156D. (1) The Commission may, by Notice in writing, require any person to,—

- (a) attend before the Commission, to be questioned by the Commission;
- (b) produce to the Commission, any document or thing in the possession or control of that person and specified in such Notice.

(2) Every person who—

- (a) fails, without reasonable cause to appear before the Commission when required to do so by a Notice sent to him under paragraph (1);
- (b) appears before the Commission in compliance with such a Notice, but refuses without reasonable cause, to answer any questions put to him by the Commission; or
- (c) fails or refuses, without reasonable cause, to produce any document or thing which he was required to produce by a Notice sent to him under paragraph (1),

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

(3) Every High Court established under Article 154P of the Constitution shall have jurisdiction to hear and determine any matter referred to in paragraph (2).

Meetings of the Commission. 156E. (1) The Commission shall meet as often as may be necessary for the discharge of its functions.

(2) The Chairman shall preside at all meetings of the Commission. In the absence of the Chairman from any meeting of the Commission, the members present shall elect a Chairman for that meeting, from among themselves.

(3) The quorum for any meeting of the Commission shall be three.

(4) Decisions of the Commission shall be by the majority vote of the members present and voting at the meeting at which the decision is taken, and in the event of an equality of votes, the Chairman or member presiding at the meeting shall have a casting vote.

(5) Subject to the preceding provisions of this Article, the Commission may determine the procedure with regard to its meetings and the transaction of business at such meetings.

(6) The Commission shall have the power to act notwithstanding any vacancy in the membership of the Commission, and no act, proceeding or decision of the Commission shall be invalid or deemed to be invalid, by reason only of such vacancy or defect in the appointment of a member.

Staff of the
Commission.

156F. (1) the Commission shall appoint a Secretary-General and such other officers as it may consider necessary for the proper discharge of its functions, on such terms and conditions as may be determined by the Commission.

(2) All members and officers of the Commission shall be deemed to be public servants within the meaning, and for the purposes of, Chapter IX of the Penal Code.

(3) No suit, prosecution or other proceeding shall lie against any member or officer of the Commission for any act or thing which in good faith is done or purported to be done by him in the performance of his duties or the discharge of his functions, under the Constitution.

Expenses of the Commission to be charged on the Consolidation Fund. 156G. The expenses of the Commission shall be charged on the Consolidated Fund.

Interpretation. 156H. In this Chapter, “government institution” includes a Ministry, a government department, a public corporation, a local authority, any business or other undertaking vested in the Government and a Company registered or deemed to be registered under the Companies Act, No 7 of 2007, in which the Government, a public corporation or any local authority holds more than fifty *per centum* of the shares.”.

Amendment of Article 170 of the Constitution.

47. Article 170 of the Constitution is hereby amended by the repeal of the definition of “public officer” and the substitution of the following definition therefor:-

“public officer” means a person who holds any paid office under the Republic other than a judicial officer, but does not include –

- (a) the President;
- (b) the Prime Minister;
- (c) the Speaker;
- (d) a Minister;
- (e) a Deputy Minister;
- (f) a Member of Parliament;
- (g) a member of the Constitutional Council;
- (h) a member of the Judicial Service Commission;

- (i) a member of the Public Service Commission;
- (j) a member of the Election Commission;
- (k) a member of the National Police Commission;
- (l) a member of the Audit Service Commission;
- (m) a member of the Human Rights Commission of Sri Lanka;
- (n) a member of the Commission to Investigate Allegations of Bribery or Corruption;
- (o) a member of the Finance Commission;
- (p) a member of the Delimitation Commission;
- (q) a member of the National Procurement Commission;
- (r) the Secretary-General of Parliament;
- (s) a member of the staff of the Secretary-General of Parliament;
- (t) a member of the University Grants Commission;
- (u) a member of the Official Languages Commission; and
- (v) the Auditor-General.

48. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in the event of an inconsistency.

Transitional
Provisions.

49. (1) For the avoidance of doubt it is hereby declared that,—

- (a) the Seventh Parliament in existence on the day preceding the date on which this Act comes into operation, shall, unless dissolved earlier, continue to function until April 21, 2016 and shall thereafter stand dissolved;
- (b) the persons holding office respectively, as the President and Prime Minister on the day preceding April 22, 2015 shall continue to hold such office after such date, subject to the provisions of the Constitution as amended by this Act; and
- (c) every person holding office on the day preceding the date on which this Act comes into operation, as,—
 - (i) the Chief Justice;
 - (ii) Judges of the Supreme Court;
 - (iii) the members of the Judicial Service Commission;
 - (iv) the President of the Court of Appeal;
 - (v) Judges of the Court of Appeal;
 - (vi) the Attorney-General;
 - (vii) the Auditor-General;
 - (viii) the Inspector-General of Police;
 - (ix) the Parliamentary Commissioner for Administration (Ombudsman);
 - (x) the Secretary-General of Parliament;

- (xi) a judge of the High Court; or
- (xii) a judicial officer, a scheduled public officer, public officer or a police officer,

shall continue to hold such office and shall, subject to paragraph (3) of Article 41C, continue to exercise, perform and discharge the powers, duties and functions of that office, under the same terms and conditions.

(2) Every person holding office on the day preceding the date on which this Act comes into operation, as the Chairman or a member of the,—

- (a) Parliamentary Council;
- (b) Public Service Commission;
- (c) National Police Commission;
- (d) Human Rights Commission of Sri Lanka;
- (e) Commission to Investigate Allegations of Bribery or Corruption; or
- (f) Finance Commission,

shall cease to hold such office with effect from the date on which this Act comes into operation:

Provided that a person holding office on the day preceding the date on which this Act comes into operation as a Chairman or a member of any such Commission referred to above may continue to exercise and discharge powers and functions of their respective offices until such date on which the respective Commissions are constituted in accordance with Chapter VIIA of the Constitution.

(3) (a) The person holding office as the Commissioner of Elections on the day preceding the date on which this Act comes into operation, shall continue to exercise and discharge the powers and functions of the office of the Commissioner of Elections as were vested in him on such date and of the Election Commission, until an Election Commission is constituted in terms of Article 103, and shall from and after the date on which the Election Commission is so constituted, cease to hold office as the Commissioner of Elections.

(b) All suits, actions and other legal proceedings instituted by or against the Commissioner of Elections and pending on the day preceding the date on which the Election Commission is constituted under Article 103, shall be deemed with effect from the date on which the Election Commission is constituted, to be suits, actions and other legal proceedings instituted by or against the Election Commission, and shall be continued and completed in the name of the Election Commission.

(c) Any decision or order made or any ruling given by the Commissioner of Elections under any written law prior to the date on which the Election Commission is constituted under Article 103, shall be deemed, with effect from the date on which the Election Commission is constituted, to be a decision or order made or a ruling given, by the Election Commission, and may be enforcement accordingly.

(d) Upon the constitution of the Election Commission under Article 103, unless the context otherwise requires, there shall be substituted for the expressions “Commissioner of Elections” and “Department of the Commissioner Elections” wherever those expressions occur in the Constitution and in any written law or in any contract, agreement or other document, of the expression “Election Commission”.

(4) All matters relating to,—

- (a) the appointment, promotion, transfer, disciplinary control and dismissal of police officers; and
- (b) appeals by police officers to the Public Service Commission,

pending before the Public Service Commission on the day preceding the date of on which this Act comes into operation shall, with effect from that date, stand transferred to the National Police Commission established by Article 155A and shall be determined by the National Police Commission accordingly.

(5) All matters relating to the appointment, promotion, transfer, disciplinary control and dismissal of members of the Sri Lanka State Audit Service and pending before the Public Service Commission on the day preceding the date of on which this Act comes into operation shall, with effect from that date, stand transferred to the Audit Service Commission established by Article 153A and shall be determined by the Audit Service Commission accordingly.

50. During the period commencing on the date on which this Act comes into operation (other than the provisions of section 9, in so far as it relates to paragraph (1) of Article 46 and the provisions of sections 15, 28, 29, 30 and 31) and ending on the date on which the next General Election of the Members of Parliament is concluded,:-

Special provisions relating to the period commencing on the date on which certain Articles comes into force.

- (a) the President may, with the concurrence of the Prime Minister, assign to himself any subject or function and may, with like concurrence, determine the Ministries to be in his charge.

- (b) the Cabinet of Ministers functioning immediately prior to the dissolution of the Seventh Parliament shall, notwithstanding such dissolution, continue to function and shall cease to function upon the conclusion of the General Election and accordingly, the Prime Minister, Ministers of the Cabinet of Ministers, Ministers who are not members of the Cabinet of Ministers and Deputy Ministers shall continue to function until the conclusion of the General Election unless they cease to hold office as provided in sub-paragraph (a) of paragraph (2) of Article 46 or sub-paragraph (a) or (b) of paragraph (3) of Article 46.

President in office to be in charge of certain subjects and functions.

51. Notwithstanding anything to the contrary in the Constitution, the person holding office as President on the date of commencement of this Act, so long as he holds the Office of President may assign to himself the subjects and functions of Defence, Mahaweli Development and Environment and determine the Ministries to be in his charge for that purpose and accordingly, any reference in any written law to the Minister to whom such subject or function is assigned, shall be read and construed as a reference to the President.

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