

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:-

- Short Title** 1. This Act may be cited as the Twenty First Amendment to the Constitution
- Amendment of Article 4 of the Constitution** 2. Article 4 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as “the Constitution”) is hereby amended by:
- (a) the deletion of the words ‘elected by the People’ in paragraph (b) of Article 4 and the substitution therefor of the words ‘and the Cabinet of Ministers as provided for in the Constitution’
 - (b) the deletion of the words ‘the President of the Republic and of’ in paragraph (e) of Article 4
- Amendment of Article 30 of the Constitution.** 3. Article 30 of the Constitution is hereby amended by:
- (a) the deletion of the words “and of the Government” in paragraph (1) of Article 30, and the addition of the words ‘who shall act in accordance with the Constitution’ at the end of paragraph (1) of Article 30;
 - (b) the deletion of the words “the People” in paragraph (2) of Article 30, and the substitution therefor of the words “Parliament, in the manner provided in paragraph (3) of this Article”
 - (c) the insertion of the word “ordinarily” immediately before the words “hold office” in paragraph (2) of Article 30;
 - (d) the insertion immediately after paragraph (2) of Article 30, of the following provisos:
“Provided that, notwithstanding anything to the contrary in the Constitution, the person so elected as President shall, unless he ceases to hold office in accordance with the provisions of

the Constitution, continue to hold office until a President is elected by the next Parliament.

Provided further that such person shall cease to hold office upon the election of a President by the next Parliament, notwithstanding the fact that a period of five years has not lapsed from the date of his appointment.”

- (e) the insertion immediately after paragraph (2) of Article 30, of the following new paragraphs, which shall have effect as paragraphs (3), (4), (5) and (6) of Article 30:

“(3) A citizen qualified under Article 88 and not disqualified under Articles 89 or 92 shall be elected by a simple majority of the Members of Parliament, within four weeks of its first sitting, by secret ballot, in accordance with such procedure as Parliament may by law provide.

Provided that until such time as Parliament shall enact such law, the provisions of Presidential Elections (Special Provisions) Act, No. 2 of 1981 shall *mutatis mutandis* apply.

(4) If the office of President shall become vacant by death, resignation or removal, an election shall be held not later than four weeks from the occurrence of the vacancy, in terms of paragraph (3) of this Article, to fill such vacancy. The person elected to fill such vacancy shall hold office for the remainder of the term of office.

Provided that if the office of President shall become vacant as aforesaid, the Speaker shall act in the office of President until Parliament shall elect a person to fill such vacancy.

Provided further that if the office of President shall become vacant after the dissolution of Parliament, the new Parliament shall elect a President at the earliest opportunity, and the person who held office of Speaker shall, notwithstanding the election of a new Speaker of Parliament, continue to act in the office of President until a new President is elected.

Provided that if the Speaker is unable to act, the Deputy Speaker shall act in the office of the President during such period.

(5) A person elected as President shall not, as long as he holds office as President, hold office in, or be a member of, any political party.

(6) A person who has been twice elected to the office of President by the People and / or Parliament, the duration of each term notwithstanding, shall be disqualified from being elected to such office by Parliament.”

Repeal of Article 31 of the Constitution. 4. Article 31 of the Constitution is hereby repealed.

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

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; and
- (c) ensure and facilitate the proper functioning of the Constitutional Council and the institutions referred to in Chapter VIIA;

(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 preside at ceremonial sittings of Parliament;
- (b) to receive and recognize, and to appoint and accredit, Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents. Provided that in appointing and accrediting Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents, the President shall act on the advice of the Prime Minister;
- (c) 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;
- (d) 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;
- (e) to declare war and peace; and
 - (f) 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.”

Inclusion of Articles 33A and 33B of the Constitution 6. The following new Articles are hereby inserted immediately after Article 33 and shall have effect as Article 33A and 33B 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.

President to act on the advice of the Prime Minister 33B. The President shall always, except as otherwise provided by the Constitution, act on the advice of the Prime Minister.”

Amendment of Article 34 of the Constitution. 7. Article 34 of the Constitution is amended by the addition of the following new paragraph which shall take effect as paragraph (4) of Article 34:

“Notwithstanding anything to the contrary in this Article, the President shall not exercise any of the powers specified in paragraphs (1), (2) and (3) of this Article, save and except with the concurrence of both the Prime Minister and the Leader of the Opposition.”

Amendment of Article 35 of the Constitution.

8. Article 35 of the Constitution is hereby amended by:

- (a) the deletion in the second proviso to paragraph (1) of the words ‘paragraph (g)’ and substitution therefor of the words ‘sub-paragraph (e) of paragraph (2);
- (b) the deletion of the words “proceedings in any court in relation to the exercise of any power pertaining to any subject or function assigned to the President or remaining in his charge under paragraph (2) of Article 44 or to” in paragraph (3) of that Article;
- (c) by the deletion of the proviso to paragraph (3)

Amendment of Article 37 of the Constitution.

9. Article 37 of the Constitution is hereby amended by:

- (a) the deletion of paragraph (1), and the substitution of the following new paragraph which shall take effect as paragraph (1):

“(1) If the President by reason of illness, absence from Sri Lanka or any other cause will be unable to exercise, perform and discharge the powers, duties and functions of his office, he shall appoint the Speaker to act in the office of President and to exercise, perform and discharge the powers, duties and functions of the office of President during such period.

Provided that if the Speaker is unable to act, the President shall, appoint the Deputy Speaker to exercise, perform and discharge the powers, duties and functions of the office of President during such period.”

- (b) the deletion in paragraph (2) of the words ‘in consultation with the Speaker’ and substitution therefor of the words ‘in consultation with the Prime Minister’;
- (c) the deletion in paragraph (2) of the words ‘his opinion to the Speaker and thereupon the Prime Minister’ and substitution therefor of the words ‘his opinion to the Prime Minister and thereupon the Speaker’

- (d) the deletion in paragraph (2) of the words ‘and shall also appoint one of the other Ministers of the Cabinet to act in the office of Prime Minister during such period, notwithstanding the absence of such appointment as is provided for in paragraph (1) of this Article’;
- (e) the deletion of the proviso to paragraph (2) and the substitution therefor of the following new proviso.
 “Provided that if the Speaker is unable to act, the Deputy Speaker shall exercise, perform and discharge the powers, duties and functions of the office of President during such period.”

Amendment of Article 38 of the Constitution. 10. Article 38 is hereby amended by the repeal and replacement of paragraph (2) of that Article as follows:-
 “(2) The office of President shall become vacant upon Parliament passing, by not less than one half of the whole number of Members of Parliament (including those not present), voting in its favour, a resolution of no-confidence against the President, which resolution may be introduced by a written notice addressed to the Speaker, signed by not less than one third of the whole number of Members of Parliament.”

Amendment of Article 39 of the Constitution. 11. Article 39 of the Constitution is hereby amended as follows:
 (a) By the deletion of the words “Prime Minister” and the substitution therefor of the words “Speaker” in paragraph (2) thereof;
 (b) By the deletion of the words “and shall appoint one of the other Ministers of the Cabinet to act in the office of the Prime Minister” in paragraph (2) thereof;
 (c) By the deletion of the proviso to paragraph (2), and the substitution therefor of the following new proviso:
 “Provided that if the Speaker is unable to act, the Deputy Speaker shall exercise, perform and discharge the powers, duties and functions of the office of President during such period.”

Repeal of Article 40 of the Constitution. 12. Article 40 of the Constitution is hereby repealed.

Amendment of Article 41 of the Constitution. 13. Article 41 of the Constitution is hereby amended by the addition of the following paragraph which shall have effect as the proviso to paragraph (1) of Article 41:

“Provided that the Cabinet of Ministers shall determine the maximum number of secretaries, officers and staff which may be so appointed.”

Replacement of Chapter VIIA of the Constitution 14. Chapter VIIA of the Constitution is hereby repealed and the following Chapter substituted therefor:-

“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 Speaker;
- (b) the Prime Minister;
- (c) the Leader of the Opposition in Parliament;
- (d) five persons appointed by the President, on the nomination of both the Prime Minister and the Leader of the Opposition; and
- (e) one person 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 (d) or sub-paragraph (e) of paragraph (1) are made, whenever an occasion for such nominations arises.

(4) In nominating the five persons referred to in sub-paragraph (d) 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 to be appointed under subparagraph (d) 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, and 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 subparagraphs (d) and (e) 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) Notwithstanding the dissolution of Parliament, the Speaker, 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 Speaker, Prime Minister or recognized as the Leader of the Opposition.

(8) Every member of the Council appointed under sub-paragraphs (d) and (e) 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 subparagraphs (d) or (e) of paragraph (1), the President shall, within fourteen days of the occurrence of such vacancy and having regard to the provisions of the aforementioned subparagraphs, 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 subparagraphs (d) and (e) of paragraph (1), shall not be eligible for re-appointment for a successive term.

(11) The appointments made by the President under sub-paragraphs (d) and (e) 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.
- (j) The Right to Information Commission.
- (k) The Colombo Port City Economic 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 which cumulatively exceed 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.
- (f) The Governor of the Central Bank of Sri Lanka
- (l) Members of the Monetary Board of the Central Bank of Sri Lanka, other than the chairperson and the Secretary to the Ministry of the Minister in charge of the subject of Finance

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 a 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) or (e) 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 functions, including procedures to be followed in regard to the recommendation or approval of persons suitable for any appointment under Article 41B or Article 41C. 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.”.

Replacement of the Chapter VIII of the Constitution

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

“CHAPTER VIII
THE EXECUTIVE
THE CABINET OF MINISTERS

Prime Minister and 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 Prime Minister shall be the Head of the Cabinet of Ministers.

(4) The President shall appoint as Prime Minister, the Member of Parliament, who commands the confidence of Parliament.

(5) A vote of confidence in the Member appointed as Prime Minister shall be moved in Parliament, at its first sitting, immediately after the election of the Speaker, in accordance with such procedure as Parliament may by law or Standing Orders provide.

Provided that, if the vote of confidence shall not be passed by a majority of the Members of Parliament present and voting, the Member already appointed as Prime Minister shall cease to hold office, and Parliament shall elect one of its Members to be Prime Minister, in accordance with such procedure as Parliament may by law or Standing Orders provide.

(6) In the event of a Member being elected as Prime Minister in terms of the proviso to paragraph (5) of this Article, such Member shall be sworn in by the President forthwith, and in the event of his not been sworn in within two days of such election, shall be deemed to have been sworn in as Prime Minister, at the end of such period of two days.

(7) The Prime Minister appointed by the President or deemed to have been sworn in as Prime Minister, shall, unless he ceases to hold office in accordance with the provisions of the

Constitution, hold office until a Prime Minister is appointed after the conclusion of the next Parliamentary General Election.

Ministers and their subjects and functions.

43. (1) The President shall, on the advice of the Prime Minister, specify 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 shall, on the advice of the Prime Minister, change the assignment of subjects and functions of the Ministers 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 shall, 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 shall, on the advice of the Prime Minister, 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 shall, on the advice of the Prime Minister, 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 shall, 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.

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 twenty five; and

(b) Ministers who are not members of the Cabinet of Ministers and Deputy Ministers shall not, in the aggregate, exceed twenty five.

(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

—

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

(b) he 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;

(c) ceases to be a Member of Parliament; or

(d) is removed in terms of paragraph (4) of this Article.

(4) If Parliament passes a vote of no-confidence against any Minister of the Cabinet of Ministers, a Minister who is not a member of the Cabinet of Ministers, or a Deputy Minister, such Minister shall stand removed from such office upon the passing of such vote of no-confidence.

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, 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 due to the dissolution of the Cabinet of Ministers, except during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall 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.

Provided further that in the event of such dissolution, the President shall forthwith summon Parliament, notwithstanding such dissolution, to enable the provisions of paragraphs (4)-(7) of Article 42 of the Constitution to be given effect.

(2) If Parliament rejects the Appropriation Bill or passes a vote of no-confidence in the Government, the Prime Minister shall be deemed to have resigned and 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.

Provided that for the purpose of this Article, during the first two years from the first sitting of Parliament, the Appropriation Bill shall only be deemed to be rejected if it is defeated in Parliament on two occasions.”

Provided further that if the President has in the exercise of his powers under Article 70, dissolved Parliament, he shall forthwith summon Parliament, notwithstanding such dissolution, to enable the provisions of paragraphs (4)-(7) of Article 42 of the Constitution to be given effect, and shall accordingly 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 member 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, on the advice of the Prime Minister.

(2) The Secretary shall, subject to the direction of the Prime Minister, 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 Prime Minister 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 on the advice the Prime Minister.

(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, on the advice of the Prime Minister.

(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.

16. 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.”.

Amendment of Article 61E of the Constitution. 17. Article 61E of the Constitution is hereby amended by the deletion of the words “Article 41A”, and the substitution therefor of the words ‘Article 41C” in paragraph (b) thereof.

Amendment of Article 65 of the Constitution. 18. Article 65 of the Constitution is hereby amended as follows:

- (a) By the deletion of the words “Article 41A”, and the substitution therefor of the words ‘Article 41C” in paragraph 1 thereof;
- (b) by the addition of the words ‘on the recommendation of the Constitutional Council,’ immediately after the word ‘President’ in item (d) of paragraph (5);
- (c) by the addition of the words ‘subject to the approval of the Constitutional Council,’ immediately after the words ‘President may’ in paragraph (6) thereof.

Amendment of Article 70 of the Constitution. 19. Article 70 of the Constitution is hereby amended as follows:

- (a) by the repeal of paragraph (a) to the proviso to paragraph (1) of that Article, and the substitution therefor of the following paragraph:
“Provided that the President shall not dissolve Parliament unless Parliament by resolution, passed by not less than one half of the whole number of Members of Parliament (including those not present) voting in its favour, requests the President to do so.”
- (b) by the deletion of paragraph (c) of the proviso to paragraph (1) of that Article.

Amendment of Article 78 of the Constitution. 20. 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 80 of the Constitution. 21. Article 80 of the Constitution is hereby amended by the addition of the following words, immediately after paragraph (2) thereof:

“Provided that, where the President fails to certify the Bill within fourteen days of the expiry of the period specified in subparagraph (a), or in the event a Petition is filed challenging the validity of the Referendum, within fourteen days of the Supreme Court determining the Referendum to be valid, the Bill shall be deemed to be certified upon the expiry of the aforesaid period of fourteen days.”

Amendment of Article 85 of the Constitution. 22. Article 85 of the Constitution is hereby amended as follows:
(a) by the addition of the following words, immediately after paragraph (1) thereof:

“Provided that, where the President fails to submit to the People by Referendum, any such Bill or provision, within 28 days of the two-thirds of the whole number of Members of Parliament (including those not present) casting their votes in favour of such Bill, such Bill or provisions thereof, shall be deemed to have been submitted to the People by Referendum, and the Elections Commission shall act accordingly.”

(b) by the repeal of paragraph (2) of that Article.

Amendment of Article 88 of the Constitution. 23. Article 88 of the Constitution is hereby amended by the deletion of the words “of the President and”.

Amendment of Article 89 of the Constitution. 24. Article 89 of Constitution is hereby amended as follows:-
(a) by the deletion of the words “at an election of the President”;
(b) in paragraph (e) of that Article, by the deletion of the words “or to the election of the President “, wherever those words occur in that paragraph;

(c) in paragraph (g) of that Article, by the deletion of the words “or to the election of the President “, wherever those words occur in that paragraph;

Amendment of Article 91 of the Constitution. 25. Article 91 of the Constitution is hereby amended in sub-paragraph (d) of paragraph (1) of that Article as follows:-

(a) by the deletion of item (iv) of that sub-paragraph, and the substitution thereof of the following items:-

“(iv) a member of the Constitutional Council, referred to in Article 41A other than any Member of Parliament;

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

(b) 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;”.

Amendment of Article 92 of the Constitution. 26. Article 92 of the Constitution is hereby amended by the addition of the words ‘and / or by Parliament,’ at the end of sub-paragraph (c) thereof.

Amendment of Article 93 of the Constitution. 27. Article 93 of the Constitution is hereby amended by the deletion of the words “of the President of the Republic and”.

Repeal of Article 94 of the Constitution. 28. Article 94 of the Constitution is hereby repealed.

Amendment of Article 95 of the Constitution. 29. Article 95 of the Constitution is hereby amended in paragraph (2) of that Article, by the substitution for the words “Article 41A” of the words “Article 41B”.

Amendment of Article 99 of the Constitution.

30. Article 99 of the Constitution is hereby amended as follows:

(a) By the repeal of the proviso to sub-paragraph (a) of paragraph (13) of Article 99, and the substitution therefor of the following new proviso:

“Provided that:

- (i) in the case of the expulsion of a Member of Parliament such vacancy shall be suspended if, prior to the expiration of the said period of one month, he applies to the Supreme Court by Petition in writing, and the Supreme Court, within two weeks of the filing of such Petition, after an *inter partes* hearing, grants leave to proceed with such Application in the first instance;
- (ii) such seat shall not become vacant if the Supreme Court, upon finally hearing the Application determines that such expulsion was invalid;
- (iii) the Supreme Court shall limit its inquiry to the legality of the expulsion on the merits, and shall exercise no jurisdiction with regard to matters of procedure adopted by the political party or independent group;
- (iv) such Petition shall be inquired into by no less than three judges of the Supreme Court, and that the Application shall be disposed of within two months of the filing of such Petition;
- (v) Where the Supreme Court determines that the expulsion was valid the vacancy shall occur from the date of such determination;
- (vi) Notwithstanding a determination of the Supreme Court that an expulsion was invalid, such Member of Parliament shall be disqualified from accepting appointment as a Minister in terms of Articles 43, 44, or 45, during the duration of such Parliament, in a government formed by any political party other than the political party from which he was elected to Parliament.”

(b) By the addition of the following new paragraph which shall take effect as paragraph (14) of Article 99:

“(14) Except as provided for in paragraph (13) of this Article, no court shall have jurisdiction to hear and determine any matter

relating to disciplinary action taken or proposed to be taken by any recognized political party or independent group against a member thereof, who is a Member of Parliament, and accordingly no court shall have the power to grant a writ, injunction, an enjoining order or any other relief, preventing, restraining or prohibiting any such action or proposed action.”.

Amendment of Article 103 of the Constitution.

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

- (a) in paragraph (1) of that Article, by the substitution for the words “Article 41A” of the words “Article 41B”;
- (b) by the addition of the words ‘subject to the provisions of Article 41B,’ immediately after the words “The President shall’ in paragraph (1) thereof;
- (c) in paragraph (7) of that Article, by the substitution for the words “Article 41A” of the words “Article 41B”;

Amendment of Article 104B of the Constitution.

32. Article 104B of the Constitution is hereby amended by the repeal of paragraph (4a) thereof.

Amendment of Article 104E of the Constitution.

33. Article 104E of the Constitution is hereby amended as follows:

- (a) by the addition of the words ‘subject to the approval of the Constitutional Council,’ immediately after the words ‘who shall’ in paragraph (1) thereof;
- (b) in sub-paragraph (c) of paragraph (7) of that Article, by the substitution for the words “sixty” of the words “sixty five”

Amendment of Article 107 of the Constitution.

34. Article 107 of the Constitution is hereby amended by the substitution for the words “Article 41A” of the words “Article 41C”.

Amendment of Article 109 of the Constitution.

35. Article 109 of the Constitution is hereby amended as follows:

- (a) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (1) thereof;

(b) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (2) thereof.

Amendment of Article 111C of the Constitution. 36. Article 111C of the Constitution is hereby amended, by the deletion of the words “or at any election of the President of the Republic” in paragraph 2 thereof.

Amendment of Article 111D of the Constitution. 37. Article 111D of the Constitution is hereby amended, by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (1) thereof.

Amendment of Article 111E of the Constitution. 38. Article 111E of the Constitution is hereby amended as follows:
(a) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (5) thereof;
(b) by the addition of the words “with the approval of the Constitutional Council,” immediately after the words “The President may,” in paragraph (6) thereof.

Amendment of Article 129 of the Constitution. 39. Article 129 of the Constitution is hereby amended by the repeal of paragraphs (1) and (4) thereof.

Amendment of Article 153 of the Constitution. 40. Article 153 of the Constitution is hereby amended as follows:
(a) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (1) thereof;
(b) by the deletion of the words ‘The Auditor General shall hold office during good behaviour’ in paragraph (1) thereof;
(c) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (4) thereof;
(d) by the addition of the words ‘on the recommendation of the Constitutional Council,’ immediately after the word ‘President’ in item (d) of paragraph (3) thereof.

Insertion of Articles 153A - H of the Constitution. 41. 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:-

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 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.

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 154P 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. 42. Article 154 of the Constitution is hereby amended 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, and Ministers and Deputy Ministers appointed under Articles 44 and 45 of the Constitution, 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.”;

Amendment of Article 154F of the Constitution. 43. Article 154F of the Constitution is hereby amended by the deletion of paragraphs (2) and (3) thereof.

Amendment of Article 154R of the Constitution. 44. Article 154R of the Constitution is hereby amended by the substitution for the words “Article 41A” of the words “Article 41B” in sub-paragraph (c) of paragraph (1) thereof.

Amendment of Article 155A of the Constitution. 45. Article 155A of the Constitution is hereby amended as follows:
(a) by the deletion of the words “not less than five members and not more than” in paragraph (1) thereof;
(b) by the substitution for the words “Article 41A” of the words “Article 41B” in paragraph (1) thereof.

(c) by the addition of the words ‘on the recommendation of the Constitutional Council,’ immediately after the words ‘The President shall’ in paragraph (1) thereof.

(d) by the addition of the words “for reasons assigned and with the approval of the Constitutional Council” immediately after the words “removed from office by the President” in paragraph (4) thereof.

Amendment of Article 155C of the Constitution. 46. Article 155C of the Constitution is hereby amended 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,”

Repeal of Article 155FF of the Constitution. 47. Article 155FF of the Constitution is hereby repealed.

Insertion of Articles 155G - L of the Constitution. 48. The following Articles are hereby inserted immediately after Article 155FFF and shall have the effect as Articles, 155G, 155H, 155J, 155K and 155L respectively, of the Constitution:-

Powers of the Commission.

“155G. (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 XVIIIA 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.

Rights 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.”

**Replacement of
Article 155M
of the
Constitution.**

49. Article 155M is hereby repealed and the following Article substituted therefor:-

Saving of
existing rules
and regulations.

“155M. 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.”

**Amendment of
Article 156 of
the
Constitution.**

50. Article 156 of the Constitution is hereby amended as follows:

- (a) by the substitution for the words “Article 41A” of the words “Article 41C” in paragraph (2) thereof.
- (b) by the deletion of the words ‘and shall hold office during good behaviour’ in paragraph (2) thereof;
- (c) by the addition of the words ‘on the recommendation of the Constitutional Council,’ immediately after the word ‘President’ in item (d) of paragraph (4).

Insertion of Chapter XIX-A, XIX-B, XIX-C and XIX-D in the Constitution. 51. The following new Chapters are hereby inserted immediately after Chapter XIX and shall have effect as Chapters XIX-A, XIX-B, XIX-C and XIX-D respectively, of the Constitution:-

“CHAPTER XIX-A
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 meetings 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 to the Consolidated Fund.
Interpretation.

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

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.”.

CHAPTER XIX-C

NATIONAL SECURITY COUNCIL

National Security Council.

- 156J. (1) There shall be a National Security Council which shall comprise:
- (a) the Prime Minister
 - (b) the Minister of Defence
 - (c) the Chair of the Oversight Committee of Parliament in charge of the subject of national security
 - (d) the Inspector General of Police
 - (e) the Chief of Defence Staff
 - (f) the Attorney General, and
 - (g) any other public officers or persons as may be determined by law.

(2) The Prime Minister shall be the Chairperson of the National Security Council. In the absence of the Prime Minister the Minister of Defence shall chair meetings of the National Security Council.

(3) Parliament shall by law provide for the powers and functions of the National Security Council and for other matters connected therewith.

(4) Until the enactment of a law as provided in paragraph (3) hereof, the National Security Council shall adopt such procedures as it shall think fit, with regard to its meetings.

CHAPTER XIX-D COUNCIL OF STATE

Council of State.

156K (1) There shall be a Council of State to discuss matters of national importance.

(2) The Council of State shall be a forum by which the public may provide non-binding advice to the Government.

(3) The Council, which shall be chaired by the Prime Minister, shall consist of:

- (i) the Minister of Finance;
- (ii) the Minister of Foreign Affairs;
- (iii) the Minister of Defence;

- (iv) the Speaker;
- (v) the Leader of the Opposition;
- (vi) one Member of Parliament to represent parties in Parliament other than the parties represented by the Prime Minister and the Leader of the Opposition;
- (vii) the Attorney General; and
- (viii) twelve other members who are not Members of Parliament chosen to represent fields of expertise in business, economics, political science, law, international relations, and science and technology. In the appointment of such members, due consideration shall be given to the pluralistic nature of Sri Lanka, including ensuring gender diversity and the inclusion of youth.

(4) Parliament shall by law make further provision for the functions and procedures of the Council of State.

Amendment of Article 170 of the Constitution

52. Article 170 of the Constitution is hereby amended as follows:

- (a) by the substitution for the words “Parliamentary Council” of the words “Constitutional Council” in paragraph (g) of the definition of “public officer” therein;
- (b) by the substitution for the words “Article 41A” of the words “Article 41B” in paragraph (i) of the definition of “public officer” therein

Sinhala text to prevail in the case of inconsistency

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

Transitional Provisions

54. For the avoidance of doubt it is hereby declared that,-

(1) 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;
- (xii) a judicial officer, a scheduled public officer, public officer or a police officer, or
- (xiii) the Governor of the Central Bank of Sri Lanka

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) Election Commission;
- (c) Public Service Commission;

- (d) National Police Commission;
- (e) Human Rights Commission of Sri Lanka;
- (f) Commission to Investigate Allegations of Bribery or Corruption;
- (g) Finance Commission,
- (h) Right to Information Commission,
- (i) Colombo Port City Economic Commission, and
- (j) Members of the Monetary Board of the Central Bank of Sri Lanka (other than the chairperson and the Secretary to the Ministry of the Minister in charge of the subject of Finance)

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) 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.

(4) 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.

(5) The Ninth Parliament in existence on the day preceding the date on which this Act comes into operation, shall be deemed to have had its first sitting on 20th August 2020 and continue to function for a period of five years from such date, unless sooner dissolved;

(6) The person holding office as the President on the date on which this Act comes into operation shall be deemed to have been declared elected on 17th November 2019 and continue to hold such office for a period of five years from such date, subject to the provisions of the Constitution;

(7) For the avoidance of doubt, it is hereby declared that where there is a requirement in any written law to obtain the recommendation or approval of the Parliamentary Council, the reference to the Parliamentary Council shall be read and construed as a reference to the Constitutional Council.