

## **PREAMBLE**

### **THE CONSTITUTION OF THE REPUBLIC OF SRI LANKA**

Svasti

WHEREAS it is the will of the People of Sri Lanka to establish a stable legal order based on a Supreme Law in the form of a Constitution which –

Strengthens institutions of governance;  
assures a wider sharing of power;  
enshrines democratic values, social justice and human rights;  
facilitates economic, social and cultural advancement; and  
promotes peace, ethnic harmony and good governance;

NOW THEREFORE, WE THE PEOPLE OF SRI LANKA

In the exercise of our sovereign legislative power, do hereby give unto ourselves this CONSTITUTION;

NOW, THEREFORE, Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

## **CHAPTER I THE PEOPLE, THE STATE AND SOVEREIGNTY**

### **The State.**

1. (1) The Republic of Sri Lanka is one, free, sovereign and independent State consisting of the institutions of the Centre and of the Regions which shall exercise power as laid down in the Constitution.

(2) The State shall safeguard the independence, sovereignty, unity and the territorial integrity of the Republic and shall preserve and advance a Sri Lankan identity, recognizing the multi-ethnic, multi-lingual and multi-religious character of Sri Lankan society.

### **Sovereignty of the People.**

2. (1) In the Republic, Sovereignty is in the People and is inalienable.

(2) Sovereignty includes powers of government, fundamental rights and the franchise and shall be exercised in the following manner :-

(a) the legislative power of the People shall be exercised, by the-People at a Referendum, by Parliament and by Regional Councils to the respective extents and in the manner hereinafter provided;

(b) the executive power of the People shall be exercised by the President of the Republic acting on the advice of the Prime Minister and the Cabinet of Ministers, and by the Governors acting on the advice of the respective Chief Ministers and Regional Boards of Ministers to the extent hereinafter provided;

(c) the judicial power of the People shall be exercised through courts, tribunals and institutions created and established, or recognized by the Constitution, or created, ordained and established by law, except in regard to matters relating to the privileges, immunities, and powers of Parliament and of its Members, wherein the judicial power of the People may also be exercised directly by Parliament to the extent provided by law ;

(d) the fundamental rights which are by the Constitution declared and recognized shall be exercised and enjoyed by the People individually and collectively, and shall be respected, secured and advanced by all institutions of the State and shall not be abridged, restricted or denied, save in the manner and to the extent hereinafter provided ; and

(e) the franchise shall be exercisable at the election of Members of Parliament and of Members of Regional Councils and local 'authorities and at every Referendum by every citizen who has attained the age of eighteen years, and who, being qualified to be an elector as hereinafter provided, has the citizen's name entered in the register of electors.

### **Territory and Rights of the Republic.**

3. (1) The territory of the Republic shall consist of the Regions as set out in the First Schedule, its territorial waters and airspace and the Republic shall have all rights recognized by law, custom and usage, pertaining to such territory.

(2) Any Regional Council or Regional Administration shall not, by direct or indirect means, promote or otherwise advocate or attempt to promote or otherwise advocate an initiative towards-

(a) the separation or secession of any Region or part thereof, from the Republic;

(b) the alteration of the area or boundaries of a Region;

(c) the alteration of the name of a Region;

(d) the formation of a new Region by separation of territory from any Region or by uniting two or more Regions or parts of Regions or by uniting any territory with a part of any Region.

(3) Anything in paragraph (2) of this Article shall not be read and construed as prohibiting a Regional Council or Regional Administration from making representations to the Central Government regarding the matters referred to in sub-paragraph (b), (c) or (d) of that paragraph.

### **National Flag.**

4. The National Flag of the Republic shall be the Lion Flag depicted in the Third Schedule.

### **National Anthem.**

5. (1) The National Anthem of the Republic shall be "Sri Lanka Matha", the words and music of which are set out in Part I of the Fourth Schedule.

(2) The Tamil language translation of the National Anthem shall be as set out in Part II of the Fourth Schedule

### **National Day.**

6. The National Day of the Republic shall be the fourth day of February.

## **CHAPTER II**

### **BUDDHISM**

#### **Buddhism.**

7. (1) The Republic of Sri Lanka shall give to Buddhism the foremost place and, accordingly, it shall be the duty of the State to protect and foster the Buddha Sasunu while giving adequate protection to all religions and guaranteeing to every person the rights and freedoms granted by paragraphs (1) and (3) of Article 15.

(2) The State shall, where necessary, consult the Supreme Council, recognized by the Minister of the Cabinet of Ministers in charge of the subject of Buddha Sasana, on measures taken for the protection and fostering of the Buddha Sasana.

#### **Inherent right to life.**

8. (1) Every person has an inherent right to life and a person shall not be arbitrarily deprived of life,

(2) Any restriction shall not be placed on the rights declared and recognized by this Article.

#### **Freedom from torture or cruel, inhuman or degrading treatment.**

9. (1) A person shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(2) Any restriction shall not be placed on the rights declared and recognized by this Article.

#### **Freedom from arbitrary arrest, detention and punishment and prohibition of retroactive penal legislation, &c.**

10. (1) A person shall not be arrested, imprisoned or otherwise physically restrained except in accordance with procedure prescribed by law.

(2) Save as otherwise provided by law, a person shall not be arrested except under a warrant issued by a judicial officer causing such person to be apprehended and brought before a competent court in accordance with procedure prescribed by law.

(3) Any person arrested shall be informed, in a language which the person appears to understand, of the reason for the arrest and of the person's rights under paragraphs (4) and (5) of this Article.

(4) Any person arrested shall have the right to communicate with any relative or friend of the person's choice, and, if the person so requests, such person shall be afforded means of communicating with such relative or friend.

(5) Any person arrested shall have the right to consult and retain an attorney-at-law and such attorney-at-law shall be afforded all reasonable facilities by the State.

(6) Any person arrested shall not be detained in custody or confined for a longer period than under all the circumstances of the case is reasonable and shall, in any case, be brought before the judge of a competent court within twenty-four hours of the arrest, exclusive of the time necessary-for the journey from the place of arrest to such judge, and a person shall not be detained in custody beyond such period except upon, and in terms of, the order of such judge made in accordance with

procedure established by law.

(7) Any person detained in custody or confined who is entitled, under the provisions' of any law, to be released on bail or on the person executing a bond, shall be so released.

(8) Any person suspected of committing an offence shall be charged or indicted or released without unreasonable delay, having regard to the facts and circumstances of the case.

(9) Any person charged with or indicted for an offence shall be entitled to be heard in person or by an attorney-at-law of the person's own choosing and shall be so informed by the judge.

(10)(a) Any person charged with or indicted for an offence shall be entitled to be tried –

(i) without undue delay ;

(ii) at a fair trial ;

(iii) by a competent court ; and

(iv) subject to sub-paragraph(b) of this paragraph, at a public hearing.

(b) A judge may, in the judge's discretion, whenever the judge considers it necessary, in proceedings relating to sexual matters or where the interests of juveniles so require or in the interests of national security or public order necessary in a democratic society or 'in the interests of order and security within the precincts of such court, exclude therefrom, persons who are not necessary for the purposes of those proceedings.

(11) (a) Every person shall be presumed innocent until the person is proved guilty.

(b) Anything contained in any law shall not be held to be inconsistent with sub-paragraph (a) of this paragraph to the extent that such law imposes upon an accused the burden of proving particular facts.

(12) A person shall not be compelled to testify against himself or herself or to confess guilt.

(13) (a) A person shall not be held guilty of, or punished for, an offence on account of any act or omission which did not, at the time of such act or omission, constitute an offence, except for any act or omission which, at the time it was committed, was criminal according to the principles of public international law.

(b) Any penalty more severe than the penalty in force at the time when an offence was committed shall not be imposed for such offence.

(14) Any person who has been convicted or acquitted of an offence in accordance with law by a competent court shall not be liable to be tried for the same offence save on the order of a 'court exercising appellate or revisionary jurisdiction.

(15)(a) A person shall not be punished with death or imprisonment except by order of a competent court made in accordance with procedure established by law.

(b) The arrest, holding in custody, detention or other deprivation of personal liberty of a person -

(i) pending investigation or trial shall, if not unreasonable having regard to the circumstances, not constitute punishment;

(ii) by reason of a removal order or a deportation order made under the provisions of the Immigrants and Emigrants Act or other such law as may be enacted in substitution therefor, shall not be a contravention of this paragraph.

(16) (a) Any restrictions shall not be placed on the rights declared and recognized by paragraph (9), items (ii) and (iii) of sub-paragraph (a) of paragraph (10), paragraph (13) and paragraph (15) of this Article.

(b) Any restrictions shall not be placed on the rights declared and recognized by paragraphs (1), (2), (3), (4), (5), (6), (7), (8), items (i) and (iv) of sub-paragraph (a) of paragraph (10) and paragraphs (11), (12) and (14) of this Article other than such restrictions prescribed by law as are necessary in a democratic society in the interests of national security, public order or for the purpose of securing due recognition and respect for the rights and freedoms of others.

### **Right to equality.**

11. (1) All persons are equal before the law and are entitled to the equal protection of the law.

(2) (a) Subject to sub-paragraphs (b) and (c) of this paragraph, a citizen shall not be discriminated against on the grounds of ethnicity, religion, language, caste, gender, sex, political or other opinion, national or social origin, place of birth, mode of acquisition of citizenship, marital status, maternity, parental status or any one of such grounds.

(b) It shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any national language as a qualification for employment or office in the service of the State or in the service of any public corporation, where such knowledge is reasonably necessary for the discharge of such employment or office.

(c) It shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of that employment or office can be discharged otherwise than with a knowledge of that language.

(3) A person shall not, on the grounds of ethnicity, religion, language, caste, gender, sex, political or other opinion, national or social origin, place of birth, or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of such person's own religion.

(4) Anything in this Article shall not prevent special measures being taken by law, subordinate legislation or executive action where necessary for the sole purpose of the protection or advancement of disadvantaged or underprivileged individuals or groups including those that are disadvantaged or underprivileged because of ethnicity, gender, sex, age or mental or physical disability.

(5) Any restrictions shall not be placed on the 'exercise of the rights 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, public order or the protection of public health or for the purpose of securing due recognition and respect for the rights and freedoms of others.

### **Freedom of movement.**

12. (1) Every person lawfully resident within the Republic is entitled to the freedom of movement within the Republic and of choosing such person's residence within the Republic.

(2) Every person shall be free to leave the Republic.

(3) Any restrictions shall not be placed on the exercise of the rights 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 or public order or national economy or the protection of public health or morality or for the purpose of securing due recognition and respect for the rights and freedoms of others or for the extradition of persons from the Republic.

**Freedom to return to Sri Lanka.**

13. Every citizen shall be entitled to return to the Republic.

**Right to private and family life.**

14. (1) Every person has the right to respect for such person's private and family life, home, correspondence and communications and shall not be subjected to unlawful attacks on such person's honour and reputation.

(2) Any restrictions shall not be placed on the exercise of the rights 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, public order or national economy or the protection of public health or morality or for the purpose of securing due recognition and respect for the rights and freedoms of others or for the enforcement of a judgment or order of a competent court.

**Freedom of thought, conscience and religion.**

15. (1) Every person is entitled to freedom of thought, conscience and religion including the freedom to hold opinions and to have or to adopt a religion or belief of the person's choice.

(2) Any restriction shall not be placed on the rights declared and recognized by paragraph (1) of this Article.

(3) Every person is entitled to the freedom, either alone or in association with others, and either in public or in private, to manifest the person's religion or belief in worship, observance, practice and teaching.

(4) Any restrictions shall not be placed on the rights declared and recognized by paragraph (3) of this Article other than such restrictions prescribed by law as are necessary in a democratic society in the interests of national security, public order, or for the purpose of securing due recognition and respect for the rights and freedoms of others.

**Freedom of speech and expression including publication and freedom of information.**

16. (1) Every person is entitled to the freedom of speech and expression including publication and this right shall include the freedom to express opinions and to seek, receive and impart information and ideas either orally, in writing, in print, in the form of art, or through any other medium.

(2) Any restrictions shall not 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, public order, the protection of public health or morality, racial and religious

harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement of an offence or for the purpose of securing due recognition and respect for the rights and freedoms of others.

**Freedom of Peaceful assembly.**

17. (1) Every person is entitled to the freedom of peaceful assembly.

(2) Any restrictions shall not be placed on the exercise of the right declared and recognised by this Article other than such restrictions prescribed by any law as are necessary in a democratic society in the interests of national security, public order, racial or religious harmony, the protection of public health or for the purpose of securing the due recognition and respect for the rights and freedoms of others.

**Freedom of association.**

18, (1) Every person is entitled to the freedom of association.

(2) Every citizen is entitled to the freedom to form and join a trade union.

(3) Any restrictions shall not be placed on the exercise of the rights 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, public order, racial or religious harmony, national economy or for the purpose of securing due recognition and respect for the rights and freedoms of others.

**Right to enjoy and promote culture and use of language.**

19. (1) Every citizen is entitled alone or in association with others to enjoy and promote such citizen's own culture and to use such citizen's own language.

(2) Any restrictions shall not be placed on the exercise of 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, public order, racial or religious harmony or the protection of public health or morality or for the purpose of securing due recognition and respect for the rights and freedoms of others.

**Freedom to engage in any lawful trade, occupation, profession, business or enterprise.**

20. (1) Every citizen is entitled to the freedom to engage alone or in association with others in any lawful occupation, profession, trade, business or enterprise.

(2) Any restrictions shall not be placed on the exercise of the rights declared and recognized by this Article other than such restrictions prescribed by law as are necessary in a democratic society in the interests of the national economy, national security, public order, protection of public health or morality, the environment or for the purpose of securing due recognition and respect for the rights and freedoms of others or in relation to -

(a) the professional, technical, academic, financial and other qualifications necessary for practising any profession or carrying on any occupation, trade, business or enterprise, and the licensing and disciplinary control of the person entitled to such fundamental right ; and

(b) the carrying on by the State, a State agency or a public corporation of any trade, business, industry, service or enterprise, whether to the exclusion, complete or partial, of citizens or

otherwise.

### **Right to ownership of property.**

21. (1) Every citizen is entitled to own property alone or in association with others subject to the preservation and protection of the environment and the rights of the community.

(2) Any person shall not be deprived of the person's property except as permitted by law.

(3) Any property shall not be compulsorily acquired or requisitioned save for a clearly described public purpose or for reasons of public utility or public order and save by authority of law which provides for the payment of fair compensation.

### **Special rights of children.**

22. (1) Every child has the right -

(a) to a name from birth;

(b) to be protected from maltreatment, neglect, abuse or degradation; and

(c) to have an attorney-at-law assigned to the child by the State, and at State expense, in criminal proceedings affecting the child, if substantial injustice would otherwise result.

(2) Every child has the right -

(a) to family care or parental care or to appropriate alternative care when removed from the family environment; and

(b) to basic nutrition, shelter, basic health care services and social services.

(3) The State shall take reasonable legislative and other measures within its available resources with a view to achieving the progressive realization of the rights guaranteed by paragraph (2).

(4) In all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interest of the child shall be of paramount importance.

(5) Every child shall have the right to grow up in an environment protected from the negative consequences of the consumption of addictive substances harmful to the health of the child and, to the extent possible, from the promotion of such substances.

(6) Every child between the ages of five and fourteen years shall have access to free education provided by the State.

(7) A child shall not be employed in any hazardous activity.

(8) The rights recognized by this Article shall be in addition-to any other right to which a child is entitled as a citizen or person under this Chapter.

(9) For the purposes of this Article "child" means a person under the age of eighteen years.

### **Freedom from forced labour.**

23. (1) A person shall not be required to perform forced labour.

(2) For the purposes of this Article, forced labour does not include -



- (a) any labour required as a result of a lawful sentence or order of a competent court;
- (b) any services of a military character, or in the case of a person who has conscientious objections to service as a member of the armed forces, any labour which that person is required by law to perform in place of such service;
- (c) any service that may be reasonably required in the event of an emergency or calamity that threatens the life and well-being of the community; or
- (d) any labour reasonably required as a part of normal civil obligations.

**Right to safe conditions of work.**

24. (1) Every person has the right to safe conditions of work.

(2) The State shall take reasonable legislative and other measures within its available resources with a view to achieving the progressive realization of the rights guaranteed by paragraph (1).

**Social rights.**

25. (1) Every citizen has the right to have access to -

- (a) health-care services including emergency medical treatment;
- (b) sufficient food and water; and
- (c) appropriate social assistance.

(2) The State shall take reasonable legislative and other measures within its available resources with a view to achieving the progressive realization of the rights guaranteed by paragraph (1).

(3) A person shall not be evicted from the person's home or have the home demolished, except as permitted by law.

**Operation of certain Fundamental rights in their application to the armed forces to be subjected to restrictions prescribed by law.**

26. The exercise and operation of the fundamental rights declared and recognized by Articles 10, 11 (1), 12, 14, 15(3), 16, 17 and 18 shall in their application to the armed forces, the police force and other forces charged with the maintenance of public order be subject to such restrictions as may be prescribed by or under any law in the interests of the proper discharge of their duties and the maintenance of discipline among them.

**Derogation in times of public emergency.**

27. (1) Where a Proclamation has been duly made pursuant to the provisions of Chapter XXIII, and subject to paragraph (2) of this Article, measures may be prescribed by law derogating from the exercise and operation of the fundamental rights declared and recognized in this Chapter to the extent strictly required by the exigencies of the situation and necessary in a democratic society, provided that such measures do not involve discrimination solely on the grounds of ethnicity, class, religion, gender, sex, language, caste, national or social origin and for the purpose of this Article "law" includes regulations made under the law for the time being in force relating to public security.

(2) In prescribing measures under paragraph (1) of this Article, there shall be no derogation -

(a) from any of the rights declared and recognized by Articles 8, 9, 10(1), 10(2), 10(9), 10(10)(a)(ii), 10(10)(a)(iii), 10(13), 10(15), 13 and 15;

(b) from the right declared and recognized by Article 10(6) unless at the same time legal provision is made requiring –

(i) the Magistrate of the area in which such arrest was made to be notified of the arrest ; and

(ii) the person arrested to be produced before any Magistrate, within such time as is reasonable in 811 the circumstances of the case.

### **Existing written law and unwritten law.**

28. (1) All existing written law and unwritten law shall be valid and operative notwithstanding any inconsistency with the provisions of this Chapter.

(2) (a) Within three months of the commencement of the Constitution, the President shall establish a Commission consisting of not more than five persons, appointed under the hand of the President, who have distinguished themselves in the fields of law or human rights, of whom one shall be appointed Chairperson, to examine all existing written or unwritten law and report to the President as to whether any such law is inconsistent with the provisions of this Chapter.

(b) In appointing the members of such Commission, the President shall have due regard to the necessity of ensuring the representation of the three major communities on the Commission.

(c) The Commission shall submit its report to the President within a period of three years from the date of its establishment and the President shall, as soon as practicable, cause such report to be placed before Parliament.

(3) The subjection of any person on the order of a court to any form of punishment recognized by any existing written law shall not be a contravention of the provisions of this Chapter.

### **Interpretation of law.**

29. In this Chapter “law” includes a Statute of a Regional Council.

### **Remedy for the infringement of fundamental rights by State action.**

30. (1) Subject to paragraphs (2) and (3) of this Article, every person shall be entitled to apply to the Supreme Court as provided by Article 171 or to the Court of Appeal as provided by Article 182, in respect of the infringement or imminent infringement, by State action, including executive or administrative action, of a fundamental right to which such person is entitled under the provisions of this Chapter.

(2) Where the person aggrieved is unable/or incapable of making an application under Article 17 1 or Article 182 by reason of physical, social or economic disability or other reasonable cause, an application may be made on behalf of such a person, by any relative or friend of such person, if the person aggrieved raises no objection to such application.

(3) An application under this Article may be made in respect of any group or class of persons affected, in the public interest, by any person in that group or class or by any incorporated or

unincorporated body of persons, acting bona fide.

(4) -For the purposes of this Article and Articles 171 and 182, “State action” does not include legislative or judicial action.

### **Rights of non- citizens permanently and legally resident.**

31. A person who, not being a citizen of any country, has been permanently and legally resident in the Republic at the commencement of the Constitution and continues to be so resident, shall be entitled to all the rights declared and recognized by this Chapter, to which a citizen of Sri Lanka is entitled.

## **CHAPTER IV LANGUAGE**

### **Official languages.**

32. The official languages of the Republic shall be Sinhala and Tamil.

### **National languages.**

33. The national languages of the Republic shall be Sinhala, Tamil and English.

### **Use of languages in Parliament &c.**

34. A Member of Parliament or a Member of a Regional Council or a member of a local authority shall be entitled to perform the duties and discharge the functions of such Member in Parliament or in such Regional Council or local authority in any of the national languages.

### **Languages of administration.**

35. (1) Sinhala and Tamil shall be the languages of administration throughout the Republic.

(2) Sinhala shall be the language used for the maintenance of public records by national and regional public institutions and local authorities in the Capital Territory and all the Regions other than the Regions specified in Parts B and C of the First Schedule, wherein Tamil shall be used.

(3) Sinhala and Tamil shall be used as the languages for the maintenance of public records by national and regional public institutions or local authorities in any area comprising a division of a Divisional Secretary where the Sinhala or Tamil linguistic minority, as the case may be, in such area exceeds one eighth of the total population of that area.

### **Rights relating to communication &c.**

36. (1) In any area where Sinhala is used as a language for the maintenance of public records, a person shall be entitled –

(a) to receive communication from and to communicate and transact business with, any official in his or her official capacity, in either Tamil or English and to receive a response to such communication from such official in the language in which the person communicated;

(b) if the law recognizes the person’s right to inspect or to obtain copies of or extracts from any official register, record, publication or other document, to obtain a copy of, or an extract from, such register, record, publication or other document, or a translation thereof, as the case may be, in either Tamil or English;

- (c) where a document is executed by an official for the purpose of being issued to the person, to obtain such document or a translation thereof, in either Tamil or English;
- (d) to give information as regards any birth, death or marriage in either Tamil or English and to receive the-original certificate of such birth, death or marriage in such language ;
- (e) to give information with regard to the commission of an offence to a police or peace officer in either Tamil or English.

(2). In any area where Tamil is used as a language for the maintenance of public records, a person shall be entitled to exercise the rights and to obtain the services referred to in sub-paragraphs (a), (b), (c), (d) and (e) of paragraph (1) of this Article in Sinhala or English.

### **Rights of Regional Administrations**

37. (1) Subject to paragraph (2) of this Article, a Regional Administration or local authority which maintains its public records in Sinhala. shall be entitled to receive communications from and to communicate and transact business with, any official, in his or her official capacity, in Sinhala and a Regional Administration or a local authority which maintains its public records in Tamil shall be entitled to receive communications from and to communicate and transact business with, any official in his or her official capacity, in Tamil.

(2) A Regional Administration, local authority or public institution or any official functioning in an area in which one of the national languages is used for the maintenance of public records shall be entitled to receive communications from and to communicate and transact business in English with, any other Regional Administration, local authority or public institution or any official functioning in an area in which a different national language is used for the maintenance of public records.

### **Language of examinations for admission to services of the State &c.**

38. (1) A person shall be entitled to be examined through the medium of either Sinhala or Tamil or English at any examination for the admission of persons to any national or regional service or any public institution, subject to the condition that the person may be required to acquire a sufficient knowledge of Tamil or Sinhala, as the case may be, within a reasonable time after admission to such service or public institution where such knowledge is reasonably necessary for the discharge of duties of the person.

(2) A person may be required to have a sufficient knowledge of Sinhala or Tamil or English as a condition for admission to any service or public institution where no function of the office or employment referred to in paragraph (1) of this Article for which the person is recruited can be discharged otherwise than with a sufficient knowledge of such language.

### **Language of legislation.**

39. (1) All Acts of Parliament, Statutes of Regional Councils and subordinate legislation shall be enacted or made in Sinhala, Tamil and English.

(2) In the event of any inconsistency between any two such texts of any Act, Statute or provision of subordinate legislation, each such text shall be regarded as equally authoritative unless the authority enacting or making such written law shall otherwise provide.

### **Publication of written laws in force in Sinhala and Tamil.**

40. All written law in force immediately prior to the commencement of the Constitution, save those enacted or made in Sinhala and Tamil, shall be published in the Gazette in Sinhala and Tamil as expeditiously as possible.

### **Language of the Courts.**

41. Sinhala and Tamil shall be the languages of the courts throughout the Republic.

### **Language of record and proceedings in Courts.**

42. (1) Subject to paragraph (3) of this Article, Sinhala shall be used as the language of the record and proceedings in the courts situated in all the areas of the Republic except in the Regions specified in Parts B and C of the First Schedule for which Regional Councils are established, wherein Tamil shall be used.

(2) In the event of any appeal from any court, the record shall also be prepared in the language of the court hearing the appeal, if the language of such court is other than the language used by the court from which the appeal is preferred.

(3) The Minister of the Cabinet of Ministers in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers, direct that the record of any court shall also be maintained and the proceedings conducted in a national language other than the language of the court.

### **Initiating proceedings in Courts.**

43. Any party or applicant or any person legally entitled to represent such party or applicant may initiate proceedings and submit to court pleadings and other documents, and participate in the proceedings in court, in Sinhala, Tamil or English.

### **Providing interpretations and translations in proceedings.**

44. Any judge, juror, party or applicant or any person legally entitled to represent such party or applicant who is not conversant with the language of the court shall be entitled to be provided by the State with interpretation and to translation into Sinhala, Tamil or English, to enable the judge, juror, party or applicant or other person to understand and participate in the proceedings before such court, and in the case of a party, applicant or person, shall also be entitled to obtain in such language any such part of the record or a translation thereof, as the case may be, as the party, applicant or other person, may be entitled to obtain according to law.

### **Permitting the use of English.**

45. (1) The Minister of the Cabinet of Ministers in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers, issue directions permitting the use of English in or in relation to the records and proceedings in any court for all purposes or for such purposes as may be specified therein and every judge shall be bound to implement such directions.

(2) A judge may at the request of the parties to any proceedings use English in relation to the records and proceedings where the use of such language would facilitate, in the opinion of the judge, the expeditious conclusion of such proceedings.

### **Medium of instruction.**

46. A person shall be entitled to be educated through the medium of either Sinhala or Tamil and if facilities are available, through the medium of English.

### **Language of instruction in Universities.**

47. (1) A person shall be entitled to be instructed in any course, department or faculty of any University in any national language of the person's choice if instruction in such language at such University is reasonably practicable.

(2) Subject to paragraph (3) of this Article, where one national language is a medium of instruction for or in any course, department or faculty of any University directly or indirectly financed by the State, the other national languages shall also be made the media of instruction for or in such course, department or faculty for students who prior to their admission to such University, were educated through the medium of any such other national language.

(3) Compliance with the preceding paragraph of this Article shall not be obligatory if such other relevant national language is the medium of instruction for or in any like course, department or faculty either at any other campus or branch of such University or of any other like University.

### **Facilities for the use of languages.**

48. The State shall provide adequate facilities for the use of the languages provided for in this Chapter.

### **This Chapter to prevail in the event of inconsistency.**

49. In the event of any inconsistency between the provisions of any law and the provisions of this Chapter, the provisions of this Chapter shall prevail.

### **Interpretation.**

50. In this Chapter –

“court” means any court or tribunal created, ordained and established for the administration of justice including the adjudication and settlement of industrial and other disputes or any other tribunal or institution exercising judicial or quasi-judicial functions or any tribunal or institution created, ordained and established for the conciliation and settlement of disputes ;

“judge” includes the President, Chairperson, presiding officer and a member, of any court ;

“official” means the President, any Minister of the Cabinet of Ministers, Deputy Minister, Governor, Chief Minister or a Minister of the Board of Ministers of a Region, or any officer of a public institution, local authority or Regional Administration;

“public institution\*” means a department or institution of the State, a public corporation or a statutory institution;

“record” includes pleadings, judgments, orders and other judicial and ministerial acts ; and

“University” includes any institution of higher education. .

## **Citizenship of Sri Lanka.**

51. (1) There shall be one status of citizenship known as “the status of a citizen of Sri Lanka”.
- (2) A citizen of Sri Lanka shall for all purposes be described only as a “citizen of Sri Lanka”, whether such person became entitled to citizenship by descent or by virtue of registration in accordance with the law relating to citizenship or by the operation of any law or by the operation of paragraph (6) of this Article.
- (3) No distinction shall be drawn between citizens of Sri Lanka for any purpose by reference to the mode of acquisition of such status, as to whether acquired by descent or by virtue of registration or by the operation of any law or by the operation of paragraph (6) of this Article.
- (4) No citizen of Sri Lanka shall be deprived of or cease to hold the status of a citizen of Sri Lanka, except under and by virtue of the provisions of sections 19,20,21,22,23 and 24 of the Citizenship Act.
- (5) Every person who at the commencement of the Constitution was a citizen of Sri Lanka, whether by descent, or by virtue of registration in accordance with any law relating to citizenship or by the operation of any law or by the operation of paragraph (6) of this Article, shall be entitled to the status and to the rights of a citizen of Sri Lanka as provided in the preceding provisions of this Article.
- (6) Every person who -
- (a) at the commencement of the Constitution, has been a permanent and lawful resident of the Republic from October 30,1964 and who was not a citizen of any country on that date ; or
- (b) being a permanent and lawful resident of the Republic at the commencement of the Constitution, is a descendant of any person who was a permanent and lawful resident of the Republic on October 30, 1964 and who was not a citizen of any country on that date,
- shall have the status of citizen of Sri Lanka with effect from the date of the commencement of the Constitution and the provisions of sections 3, 4, 5 and 6 of, and Schedules A and B to, the Grant of Citizenship to Stateless Persons (Special Provisions) Act, No. 39 of 1988 shall, mutatis mutandis, apply to, and in relation to, any such persons.
- (7) The provisions of all existing written law relating to citizenship and all other existing written laws wherein reference is made to citizenship shall be read subject to the preceding provisions of this Article.

## **CHAPTER VI**

### **PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES**

#### **Principles of State Policy.**

52. The following principles shall guide the State in making laws and in the governance of Sri Lanka -

- (1) The State shall recognize the pluralistic character of Sri Lankan society and strengthen national unity by ensuring that the composition of the institutions of State reflects such character and shall

promote co-operation and mutual trust, confidence and understanding among all sections of the People of Sri Lanka.

(2). The State shall assist the development of the cultures and languages of the People.

(3) The State shall safeguard and strengthen the democratic structure of government and the democratic rights of the People.

(4) The State shall establish a just, equitable and moral social order, the objectives of which include

–

(a) the full realization of the fundamental rights and freedoms of all persons;

(b) securing and protecting effectively a social order in which social, economic and political justice shall inform all institutions of national life;

(c) the elimination of economic and social privilege, disparity and exploitation;

(d) the equitable distribution of the material resources of the community and the social product;

(e) the realization of an adequate standard of living for all citizens and their families including adequate food, clothing, housing and medical care;

(f) ensuring social security and welfare;

(g) raising the moral, cultural and educational standards of the People and facilitating the full development of the human personality;

(h) the creation of the necessary environment to enable adherents of all religions to make a living reality of their religious principles.

(5) The State shall develop the whole country by means of appropriate public and private economic activity.

(6) The State shall protect and preserve and improve the environment and safeguard the reefs, shores, forests, lakes, watercourses and wildlife of Sri Lanka.

(7) The State shall protect and preserve every monument or place or object of artistic or historic interest declared by or under any law to be of national importance.

(8) The State shall promote international peace, security and co-operation, and the establishment of a just and equitable international economic and social order, and shall respect, and foster respect for, international law and treaty obligations in dealings with and among nations.

(9) The State shall strengthen, respect and foster respect for, international instruments relating to human rights and humanitarian law to which Sri Lanka is a signatory.

(10) The State shall secure the operation of a legal system that promotes justice on the basis of equal and unrestrained access to all who seek redress of the law and provide, within its available resources, free legal aid to ensure that no person is deprived of such access due to lack of resources or disability.

### **Fundamental duties.**

53. It shall be the duty of every citizen to –



- (1) uphold and protect the independence, sovereignty, unity and territorial integrity of Sri Lanka;
- (2) uphold and defend the Constitution and its ideals and institutions;
- (3) foster national unity and promote harmony amongst all the People of Sri Lanka; , .
- (4) respect the rights and freedoms of others ;
- (5) value and preserve the rich heritage of our composite culture ;
- (6) protect and improve the environment, conserve its riches, and value all forms of life;
- .
- (7) safeguard and preserve artistic or historical objects and places of national importance ;
- (8) safeguard and protect public property and combat its waste or misuse ;
- (9) refrain from directly or indirectly participating in bribery or corruption ;
- (10) uphold the rule of law and renounce all forms of violence ;
- (11) work conscientiously in that citizen's chosen occupation.

### **Principles of State Policy and Fundamental Duties not justifiable.**

54. (1) The provisions of this Chapter do not confer or impose legal rights or obligations, and are not enforceable in any court or tribunal.

(2) Any question of inconsistency with such provisions shall not be raised in any court or tribunal.

## **CHAPTER VII**

### **THE CENTRAL EXECUTIVE**

#### **The President of the Republic**

### **President of the Republic.**

55. (1) There shall be a President of the Republic of Sri Lanka, who is the Head of State and the Commander-in-Chief of the Armed Forces and who shall act on the advice of the Prime Minister as hereinafter provided.

(2) The President shall be responsible to Parliament for the due execution and performance of the powers and functions of the office of President under the Constitution and under any other law, including the law for the time being relating to public security.

### **Election of President.**

56. (1) Any citizen who is qualified to be an elector under the Constitution shall be qualified for election by Parliament as the Resident.

(2) A citizen qualified under paragraph (1) of this Article shall be elected by Parliament as the President if not less than one-half of the whole number of Members of Parliament (including those not present) vote in favour of the citizen, in accordance with such procedure as may be provided for by law or Standing Orders, and, in the absence of such law or Standing Orders, in accordance with such procedure as may be determined by the Speaker.

(3) The person elected as President shall assume office, as the President upon making and

subscribing the following affirmation or taking and subscribing the following oath before the Chief Justice or; in the absence of the Chief Justice, any other Judge of the Supreme Court:-

“I, ..... do solemnly declare and affirm/swear that I will be faithful and bear true allegiance to the Republic of Sri Lanka, that I will uphold the Constitution of Sri Lanka and that I shall faithfully perform the duties and functions of the office of President of the Republic of Sri Lanka in accordance with the Constitution and with the law.”

(4) Upon the assumption of office, the President shall cease to hold any other office created or recognized by the Constitution and if the President is a Member of Parliament or a Regional Council, shall vacate the seat in, Parliament or Regional Council, as the case may be, and shall not hold any other office or place of profit whatsoever.

### **Vice-Presidents of the Republic.**

57. (1) There shall be two Vice-Presidents of the Republic of Sri Lanka.

(2) Every Vice-President shall be responsible to Parliament for the due execution and performance of the powers and functions of the office of Vice-President under the Constitution or other written law.

(3) The two Vice-Presidents shall be from different communities, each such community being different to the community of which the President is a member.

(4) Any citizen who is qualified to be an elector under the Constitution shall be qualified to be elected by Parliament as Vice-President.

(5) A citizen qualified under paragraph (4) of this Article shall be elected by Parliament as Vice-President if –

(a) a majority of the Members of Parliament sitting and voting; and

(b) a majority of the Members of Parliament of the community of which such citizen is a member, sitting and voting, vote in favour of the citizen, in accordance with such procedure as may be provided for by law or Standing Orders, or in the absence of such law or Standing Orders, in accordance with such procedure as may be determined by the Speaker.

(6) The provisions of Articles 56 (3) 56(4), 60, 62(1), 62(3) and 62(4) relating to the President shall, mutatis mutandis, apply to every Vice-President.

### **Powers of President.**

58. In addition to the powers and functions expressly conferred on or assigned to the President by the Constitution or by any 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 appoint the Prime Minister, the other Ministers of the Cabinet of Ministers, Deputy Ministers

and Governors of Regions ;

(e) to receive and recognize, appoint and accredit, Ambassadors, High Commissioners.

Plenipotentiaries and other diplomatic agents;

(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 Deputy Ministers, the Governors of Regions, the Chief Justice and the President of the Court of Appeal, the other Judges of the Supreme Court and the Court of Appeal and the Judges of the Regional High Courts, such grants and dispositions of lands and 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 ;

(h) to appoint as President's Counsel, attorneys-at-law who have achieved eminence in the profession and have maintained high standards of conduct and professional rectitude;

(i) to declare a state of emergency within a Region and to dissolve a Regional Council, in accordance with the provisions of the Constitution ; and

(j) to do all such acts and things, not being inconsistent with the provisions of the Constitution or written law as by international law, custom or usage a Head of State is required or authorized to do.

### **Grant of Pardon.**

59. (1) The President may, in the case of any offender convicted of any offence in any court within the Republic-

(a) grant a pardon either free or subject to lawful conditions ;

(b) grant any respite either indefinite or for such period as the President may think fit, of the execution of any sentence passed on such offender;

(c) substitute, a less severe form of punishment, for any punishment imposed on any such offender ;

(d) remit the whole or any part of any punishment imposed, or of any penalty or forfeiture otherwise due to the Republic, on account of such offence.

(2) The President shall exercise power under paragraph (1) of this Article in consultation with a committee consisting of the Chief Justice or a Judge of the Supreme Court nominated by the Chief Justice, the Minister of the Cabinet of Ministers in charge of the subject of Justice or an official nominated by the Minister and the Attorney-General or an officer of the Attorney-General's Department nominated by the Attorney-General.

(3) Where any offender shall have been condemned to suffer death by the sentence of any court, the President shall, before the exercise of the power conferred under paragraph (1) of this Article, cause a report to be made to the President by the Judge who tried the case.

(4) The President may in the case of any person who is or has become subject to any

disqualification specified in any law relating to the election of Members of Parliament and Members of Regional Councils-

- (a) grant a pardon, either free or subject to lawful conditions; or
- (b) reduce the period of such disqualification.

**Immunity of President from suit.**

60. Any proceedings of whatever nature shall not be instituted on any grounds whatsoever or continued against the President in any court, tribunal or institution in respect of anything done or omitted to be done by the President in the official capacity of the President.

**Salary, Allowances and Pension of the President.**

61. (1) (a) Parliament shall by resolution determine the salary, allowances and pension entitlements, respectively, of the holders of the offices of President and Vice-President.

(b) The pension entitlement determined under sub-paragraph (a) of this paragraph shall be in addition to any other pension to which such person is entitled by virtue of any prior service.

(2) The salary, allowances and pension of the President and the two Vice-Presidents shall be charged on the Consolidated Fund of Sri Lanka.

(3) Parliament may by resolution increase, but shall not reduce, the salary, allowances or pension entitlement respectively, of the holders of the offices of President and Vice-President.

**Term of office and vacation of office by President.**

62. (1) Subject to the provisions of paragraph (2) of this Article, the President shall hold office for a period of five years commencing with the date on which the President assumes office, but notwithstanding the expiration of this period, the President shall remain in office until the next President assumes office.

(2) Any person who has been twice elected to the office of President in accordance with the provisions of this Chapter shall not be qualified thereafter to be elected to such office by Parliament.

(3) The office of President of the Republic of Sri Lanka shall become vacant –

(a) upon the death of the President ; or

(b) on the President resigning from the office of President by writing addressed to the Speaker; or

(c) on a unanimous decision by a committee consisting of the Speaker, Prime Minister and Leader of the Opposition that the President is permanently incapable of discharging the functions of the office of President by reason of mental or physical infirmity ; or

(d) on Parliament passing, by at least two-thirds of the whole number of members of Parliament (including those not present) voting in its favour, a resolution of no-confidence against the President, introduced by any Member by a written notice addressed to the Speaker and signed by such Member and by at least half the total number of Members of Parliament.

(4) If the office of President becomes vacant prior to the expiration of the term of office of the President, Parliament shall elect a successor to the President vacating office, within one month of

the occurrence of the vacancy, and the person so succeeding to the office of President shall hold office only for the unexpired period of the term of office of the President vacating office.

### **President to act on advice.**

63. (1) The President shall always, except in the case of the appointment of the Prime Minister or as otherwise required by the Constitution, act on the advice of the Prime Minister, or of such other Minister of the Cabinet of Ministers to whom the Prime Minister may have given authority to advise the President on any particular function assigned to that Minister.

(2) Any, court, tribunal or institution shall not have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any act or omission on the part of the President on the ground that the provisions of paragraph (1) of this Article have not been complied with.

### **Temporary vacation of office of President**

64. (1) (a) Whenever the President is prevented by illness or any other cause from performing the duties of the office of President, or is absent from the Republic, or during any period in which the office of President is otherwise vacant, the two Vice-Presidents shall act in the office of President of the Republic of Sri Lanka, in rotation, the Vice-President belonging to the community which is numerically the greater acting in such office on the first occasion and so on.

(b) Such person shall, before assuming office, make and subscribe the affirmation or take and subscribe the oath in the form and manner prescribed in Article 56.

(2) Any person acting in the office of the President of the Republic of Sri Lanka shall not continue to act after the President or some other person having prior right to act in such office has notified that the President or other person, as the case may be, has resumed or assumed or is about to resume or assume such office.

(3) The provisions of the Constitution relating to the President shall apply, in so far as they can be applied, to an acting President.

## **CHAPTER VIII THE CENTRAL EXECUTIVE**

### **The President and the Cabinet of Ministers**

#### **The Cabinet of Ministers.**

65. (1) There shall be a Cabinet of Ministers charged with the direction and control of the matters for which they are responsible, including the exercise of –

(a) the executive power of the Republic ;

(b) the executive power vested in the Central Government by the Constitution ;

(c) the executive power in relation to the subjects and functions enumerated in List 1 of the Second Schedule, and who shall be collectively responsible to Parliament therefor.

(2) (a) Of the Ministers, one who shall be the Head of the Government and of the Cabinet of Ministers, shall be the Prime Minister.

(b) The President shall appoint as Prime Minister, the Member of Parliament who is most likely to

command the confidence of Parliament.

(c) The Prime Minister shall assume office upon making and subscribing the following affirmation or taking and subscribing the following oath :-

“I, . . . . . , do solemnly declare and affirm/swear that I will be faithful and bear true allegiance to the Republic of Sri Lanka, that I will uphold the Constitution of Sri Lanka and that I shall faithfully perform the duties and functions of the office of Prime Minister in accordance with the Constitution and with the law.”

**Appointment of a Prime Minister on the death or resignation of a Prime Minister.**

66. Upon the death or the resignation of the Prime Minister or where the Prime Minister is deemed to have resigned, the President shall appoint a Prime Minister in terms of Article 65, and the provisions of that Article shall apply to such appointment.

**Ministers and their subjects and functions.**

67. (1) The Prime Minister shall determine the number of Ministers and Ministries and the assignment of subjects and functions to Ministers.

(2) The President shall, on the advice of the Prime Minister, appoint from among the Members of Parliament, Ministers to be in charge of the Ministries so determined, and the Prime Minister shall, in tendering such advice, have regard to the need to ensure the representation of all the major communities in the Cabinet of Ministers.

(3) The Prime Minister may, at any time, change the assignment of subjects and functions and recommend to the President changes in the composition of the Cabinet of Ministers and such changes shall not affect the continuity of the Cabinet of Ministers, including the continuity of its responsibility to Parliament.

**Deputy Ministers**

68. (1) The President shall, on the advice of the Prime Minister, appoint from among the Members of Parliament, Deputy Ministers to assist the Ministers in the performance of their duties pertaining to Parliament and to their departments and to exercise and perform such powers and duties of the Ministers under written law as may be delegated to such Deputy Ministers under paragraph (2) of this Article.

(2) A Minister of the Cabinet of Ministers may, by Notification published in the Gazette, delegate to a Deputy Minister of the Minister, any of the powers or duties conferred or imposed on the Minister by any written law, and it shall be lawful for the Deputy Minister to exercise or perform any power or duty so delegated, notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed on the Minister.

**Tenure of the office of the Ministers and Deputy Ministers.**

69. A Minister or 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 the Minister or Deputy Minister –

(a) is removed by a writing under the hand of the President ; or

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

(c) save as in the circumstances set out in Article 70, ceases to be a Member of Parliament.

### **Cabinet of Ministers after dissolution of Parliament.**

70. The Cabinet of Ministers functioning immediately prior to the dissolution of Parliament shall, notwithstanding such dissolution, continue to function during the period intervening between such dissolution and the conclusion of the General Election.

### **Dissolution of the Cabinet of Ministers.**

71. (1) On the death or resignation of the Prime Minister or when the Prime Minister is deemed to have resigned, the Cabinet of Ministers shall stand dissolved and the other Ministers shall cease to hold office.

(2) The provisions of paragraph (1) of this Article shall not operate, if the death or resignation of the Prime Minister occurs in the period referred to in Article 70 and in that event, the Cabinet of Ministers shall continue to function with the other Ministers as its members until the expiration of that period and the President shall appoint one from among such Ministers to be the Prime Minister.

(3) If on the death or resignation of the Prime Minister in the period referred to in Article 70 there is no other Minister, the President shall exercise and perform the powers and functions of the Cabinet of Ministers functioning under Article 70 until the conclusion of the General Election.

### **Resignation of the Prime Minister.**

72. (1) The Prime Minister may resign from the office of Prime Minister by a writing addressed to the President.

(2) The Prime Minister shall be deemed to have resigned –

(a) at the conclusion of a General Election ; or

(b) if Parliament rejects the Appropriation Bill or the Statement of Government Policy or Parliament passes a vote of no-confidence in the Government.

### **Acting Ministers and Acting Deputy Ministers.**

73. Whenever a Minister or a Deputy Minister is unable to perform the functions of the office of Minister or Deputy Minister, the President may appoint any Member of Parliament to act in place of such Minister or Deputy Minister.

### **Secretary to the Cabinet of Ministers.**

74. (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 directions of the Prime Minister, have charge of the office of the Cabinet of Ministers, and shall discharge and perform such other duties and functions as may be assigned to the Secretary by the Prime Minister or the Cabinet of Ministers.

### **Secretaries to Ministries.**

75. (1) There shall be for each Ministry, a Secretary who shall be appointed by the President.

(2) The Secretary to a Ministry shall, subject to the direction and control of the Minister, exercise supervision over the Departments of Government or other institutions in the charge of the Minister of the Cabinet of Ministers.

(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 Prime Minister under Article 67 which results in such Ministry ceasing to exist.

(4) Where the Secretary to a Ministry ceases to hold office under paragraph (3) of this Article, the Cabinet of Ministers may, subject to paragraphs (5), (6) and (7) of this Article, appoint such Secretary to any other post in the Public Service.

(5) A person who immediately prior to appointment as Secretary to a Ministry was in the service of the State or in the service of any public corporation shall be deemed to have been temporarily released from such service and shall be entitled to revert to such service without loss of seniority upon the person ceasing to hold office under paragraph (3) of this Article.

(6) Paragraph (5) of this Article shall, mututis mutundis, apply to a Secretary to a Ministry upon –

(a) the President terminating the services of the Secretary, otherwise than by dismissal or on disciplinary grounds ; or

(b) the resignation of the Secretary from office, unless disciplinary proceedings are pending or contemplated against the Secretary on the date of the resignation.

(7) For the purposes of paragraphs (4). (5) and (6) of this Article any person who has continuously held the office of Secretary to the President, Secretary to the Prime Minister, Secretary to a Ministry or any other office in the President's or Prime Minister's staff or any one or more of such offices shall be deemed to have continuously held the office which such person last held prior to such appointment.

(8) For the purpose of this Article, the Office of the Secretary-General of Parliament, the Office of the Elections Commission, the Department of the Auditor-General, the Office of the Secretary to the Cabinet of Ministers, the Office of the Parliamentary Commissioner for Administration (Ombudsman) and the Office of the Commission to Investigate Allegations of Bribery or Corruption shall be deemed not to be departments of Government.

### **Official Oath.**

76. Any person appointed to any office referred to in this Chapter shall not enter upon the duties of that office unless the person makes and subscribes the affirmation or takes and subscribes the oath set out in the Fifth Schedule.

## **CHAPTER IX THE CENTRAL LEGISLATURE**

### **Parliament**

### **Parliament.**

77. (1) There shall be a Parliament, which shall consist of two hundred and twenty-five members



elected in accordance with the provisions of the Constitution.

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

**Official oath.**

78. Except for the purpose of electing the Speaker, a Member shall not sit or vote in Parliament until the Member has made and subscribed the following affirmation or taken and subscribed the following oath before Parliament: -

“ I, . . . . . do solemnly declare and affirm/swear that I will uphold and defend the Constitution of the Republic of Sri Lanka.”

**Speaker, Deputy Speaker and Deputy Chairman of Committees.**

79. (1) Parliament shall, at its first meeting after a General Election, elect three Members to be respectively the Speaker, the Deputy Speaker and Chairman of Committees (hereinafter referred to as the “Deputy Speaker”) and the Deputy Chairman of Committees thereof.

(2) A Member holding office as the Speaker or the Deputy Speaker or the Deputy Chairman of Committees shall vacate such office –

- (a) if the Member ceases, save upon a dissolution of Parliament, to be a Member of Parliament; or
- (b) if the Member resigns from such office by a writing addressed to the President.

(3) Whenever the office of Speaker, Deputy Speaker or Deputy Chairman of Committees becomes vacant, Parliament shall at its first meeting after the occurrence of the vacancy; elect another Member to be the Speaker, the Deputy Speaker or the Deputy Chairman of Committees, as the case may be.

(4) The Members holding office respectively as Speaker, Deputy Speaker and Deputy Chairman of Committees immediately prior to the dissolution of Parliament shall, unless they vacate office earlier and notwithstanding such dissolution, continue to hold such office until the conclusion of the General Election.

(5) The Speaker, or in the Speaker’s absence the Deputy Speaker, or in their absence the Deputy Chairman of Committees, shall preside at sittings of Parliament and if none of them is present, a Member elected by Parliament for the sitting shall preside at that sitting of Parliament.

**Deputy Speaker to act for Speaker.**

80. Where the Speaker is unable to discharge the functions of the Speaker’s office, the powers, duties and functions conferred on or assigned to the Speaker by any provision of the Constitution may be exercised, performed or discharged by the Deputy Speaker.

**Secretary-General of Parliament.**

81. (1) There shall be a Secretary-General of Parliament who shall be appointed by the President and who shall hold office during good behaviour.

(2) The salary of the Secretary-General shall be determined by Parliament by resolution, shall be

charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office of the Secretary-General.

(3) The members of the staff of the Secretary-General shall be appointed by the Secretary-General with the approval of the Speaker on such terms and conditions as may be determined by the Secretary-General.

(4) The salaries of the members of the staff of the Secretary-General shall be charged on the Consolidated Fund of Sri Lanka.

(5) The office of the Secretary-General shall become vacant –

(a) upon death;

(b) on resignation in writing addressed to the President;

(c) on attaining the age of sixty years, unless Parliament otherwise provides by law;

(d) on removal by the President on account of ill health or physical or mental infirmity; or .

(e) on removal by the President upon an address of Parliament.

(6) Whenever the Secretary-General is unable to discharge the functions of the office of Secretary-General, the President may appoint a person to act in the place of the Secretary-General.

#### **Vacation of seats.**

82. The seat of a Member shall become vacant –

(a) upon the death of the Member;

(b) if, by a writing addressed to the Secretary-General of Parliament, the Member resigns such Member's seat ;

(c) upon the Member assuming the office of President or Vice-President consequent to the Member's election to such office by Parliament ;

(d) if the member becomes subject to any disqualification specified in Articles 107 and 108 ;

(e) if the Member becomes a member of any service of the State or an employee of a public corporation or, being a member of any service of the State or an employee of a public corporation, does not cease to be a member of such service or an employee of such corporation, before the Member sits in Parliament;

(f) if, without the leave of Parliament first obtained, the Member is absent from the sittings of Parliament during a continuous period of three months ;

(g) if the Member's election as a Member is declared void under the law in force for the time being; or

(h) upon the dissolution of Parliament.

#### **Privileges and Powers of Parliament and its Members.**

83. The privileges, immunities and powers of Parliament and of its members may be determined and regulated by Parliament by law, and until so determined and regulated, the provisions of the Parliament (Powers and Privileges) Act, shall, mututis mutandis, apply.

### **Remuneration and allowances of Members.**

84. (1) The Ministers of the Cabinet of Ministers, Deputy Ministers and Members of Parliament, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees; shall be paid such remuneration or allowance as may be provided by Parliament, by law or by resolution, and the receipt thereof shall not disqualify the recipient from sitting or voting in Parliament.

(2) Until Parliament so provides, the remuneration or allowance payable to Ministers of the Cabinet of Ministers, Deputy Ministers and Members of Parliament, including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees, shall be the same as the remuneration or allowance paid to Ministers of the Cabinet of Ministers, Deputy Ministers and Members of Parliament including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees of Parliament immediately prior to the commencement of the Constitution.

### **Power to act notwithstanding vacancies.**

85. Parliament shall have power to act notwithstanding any vacancy in its membership, and its proceedings shall be valid notwithstanding that it is discovered subsequently that a person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

## **CHAPTER X**

### **THE CENTRAL LEGISLATURE**

#### **Parliament - Procedure and Powers**

### **Sessions of Parliament.**

86. (1) The President may, from time to time, by Proclamation summon, prorogue and dissolve Parliament.

(2) (a) A Proclamation proroguing Parliament shall fix a date for the next session, not being more than two months after the date of the Proclamation.

(b) At any time while Parliament stands prorogued, the President may by Proclamation –

(i) summon Parliament for a date earlier than the date fixed under sub-paragraph (a) of this paragraph, not being less than three days from the date of the Proclamation under sub-paragraph (a) of this paragraph; or

(ii) subject to the provisions of this Article, dissolve Parliament.

(3) All matters which, having been duly brought before Parliament, and have not been disposed of at the time of the prorogation of Parliament, may be proceeded with during the next session.

(4) (a) A Proclamation dissolving Parliament shall fix a date or dates for the election of Members of Parliament, and shall summon the new Parliament to meet on a date not later than three months after the date of such Proclamation.

(b) Upon the dissolution of Parliament by virtue of the provisions of paragraph (2) of Article 77 the President shall forthwith by Proclamation fix a date or dates for the election of Members of Parliament, and shall summon the new Parliament to meet on a date not later than three months

after the date of such Proclamation.

(c) The date fixed for the first meeting of Parliament by a Proclamation under sub-paragraph (a) or sub-paragraph (b) of this paragraph may be varied by a subsequent Proclamation, provided that the date so fixed by the subsequent Proclamation shall be a date not later than three months after the date of the original Proclamation.

(5) If at any time after the dissolution of Parliament, the President is satisfied that an emergency has arisen of such a nature that an earlier meeting of Parliament is necessary, the President may by Proclamation summon the Parliament which has been dissolved to meet on a date not less than three days from the date of such Proclamation and such Parliament shall stand dissolved upon the termination of the emergency or the conclusion of the General Election, whichever is earlier.

### **Adjournment.**

87. Parliament may adjourn from time to time as it may determine by resolution or Standing Order, until it is prorogued or dissolved.

### **Voting.**

88. (1) Save as otherwise provided in the Constitution, any question proposed for decision by Parliament shall be decided by the majority of votes of the Members present and voting.

(2) The person presiding shall not vote in the first instance but shall have and exercise a casting vote in the event of an equality of votes.

### **Quorum.**

89. Where at any time during a meeting of Parliament the attention of the person presiding is drawn to the fact that there are fewer than twenty Members present, the person presiding shall, subject to any Standing Order, adjourn the sitting without question put.

### **Standing Orders.**

90. (1) Subject to the provisions of the Constitution, Parliament may by resolution or Standing Order provide for –

- (a) the election of the Speaker, the Deputy Speaker and the Deputy Chairman of Committees; and
- (b) the regulation of its business, the preservation of order at its sittings and any other matter for which provision is required or authorized to be so made by the Constitution.

(2) Until Parliament otherwise provides by law or by resolution, the Standing Orders of Parliament, in force immediately prior to the commencement of the Constitution, shall, mutatis mutandis, be the Standing Orders of Parliament.

### **Legislative power.**

91. (1) Parliament has exclusive power to make laws, for the whole or any part of the territory of the Republic, including laws having retrospective effect, with respect to any of the matters enumerated in List I of the Second Schedule (referred to as the “Reserved List”).)

(2) The power to make laws vested in Parliament by paragraph (1) of this Article and Article 99, shall be exercised by Bills passed by Parliament and certified by the Speaker or the President as

hereinafter provided.

### **Delegation of legislative power.**

92. (1) Parliament shall not abdicate or in any manner alienate its legislative power and shall not set up any authority with any such legislative power.

(2) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make, in any law relating to public security, provision empowering the President to make emergency regulations in accordance with such law.

(3) It shall not be a contravention of the provisions of paragraph (1) of this Article for Parliament to make any law containing any provision empowering any person or body to make subordinate legislation for prescribed purposes, including the power –

(a) to appoint a date on which any law or any part thereof shall come into effect or cease to have effect ;

(b) to make by order any law or any part thereof applicable to any locality or, to any class of persons ; and

(c) to create a legal person, by an order or an act,

and for the purposes of sub-paragraphs (a) and (b) of this paragraph, “law” includes existing law.

(4) Subject to the provisions of the Constitution, any existing law containing any such provision as aforesaid shall be valid and operative.

### **Duties of Attorney-General in regard to published Bills.**

93. (1) It shall be the duty of the Attorney-General to examine every Bill for any contravention of the requirements of paragraphs (1) and (2) Article 100 and for any provision which cannot be validly passed except by the special majority prescribed by the Constitution , and the Attorney-General or any officer assisting the Attorney-General in the performance of the duties under this Article, shall be afforded all facilities necessary for the performance of such duties.

(2) Where the Attorney-General is of the opinion that a Bill contravenes any of the requirements of paragraphs (1) and (2) of Article 100 or that any provision in a Bill cannot be validly passed except by the special majority prescribed by the Constitution, the Attorney-General shall communicate such opinion to the President.

(3) Where an amendment is proposed to a Bill in Parliament, the Attorney-General shall communicate the opinion of the Attorney-General on the matter specified in paragraph (2) of this Article to the Speaker at the stage when the Bill is ready to be put to Parliament for its acceptance.

### **Publication and passing Of Bills.**

94. (1) Subject to Article 166, every Bill shall be published in the Gazette at least fourteen days before it is placed on the Order Paper of Parliament.

(2) The passing of a Bill or a resolution by Parliament shall be in accordance with the Constitution and the Standing Orders of Parliament.

(3) Parliament may suspend any one or more of the Standing Orders in the circumstances and in the manner prescribed by the Standing Orders.

### **Certificate of Speaker.**

95. (1) Subject to paragraphs (2) and (3) of this Article, the Speaker shall endorse on every Bill passed by Parliament a certificate in the following form:

“ This Bill (here state the short title of the Bill) has been duly passed by Parliament.\*

and such certificate may also state the majority by which such Bill was passed.

(2) Where by virtue of the provisions of Article 100 or Article 101 or Article 102 or Article 167(2) a special majority is required for the passing of a Bill, the Speaker shall certify such Bill only if such Bill has been passed with such special majority.

(3) Where by virtue of Article 101, the Bill or any provision thereof requires the approval of the People at a Referendum, the certificate of the Speaker shall further state that the Bill or such provision shall not become law until approved by the People at a Referendum.

(4) The certificate of the Speaker under this Article shall be final and conclusive, and shall not be called in question in any court.

### **When Bill becomes law.**

96. (1) Subject to the provisions of paragraph (2) of this Article, a Bill passed by Parliament Shall become law when the certificate of the Speaker is endorsed thereon.

(2) Where the Cabinet of Ministers has certified that any Bill or any provision thereof is intended to be submitted for approval by the People at a Referendum or where the Supreme Court has determined that a Bill or any provision thereof requires the approval of the People at a Referendum such Bill or such provision shall become law upon being approved by the People at a Referendum in accordance with paragraph (2) of Article 103 only when the President certifies in the manner specified in paragraph (3) of this Article that the Bill or provision thereof has been so approved.

(3) The President shall, subject to paragraph (4) of this Article, endorse on every Bill approved at a Referendum a certificate in the following form:-

“This Bill/provision has been duly approved by the People at a Referendum.”

and every such certificate shall be final and conclusive, and shall not be called in question in any court.

(4) A certificate as provided in paragraph (3) shall not be endorsed by the President on a Bill –

(a) in any case where a petition is -not filed challenging the validity of -the Referendum at which such Bill was approved by the People, until after the expiration of the period within which a petition may be filed, under the law applicable in that behalf, challenging the validity of such Referendum;

(b) in any case where a petition is filed challenging the validity of the Referendum at which such Bill was approved by the People, until after the Supreme Court has determined that such

Referendum was valid.

### **Validity of Acts not to be questioned.**

97. Where Bill becomes law upon the certificate of the President or the Speaker, as the case may be, being endorsed thereon, any court or tribunal shall not inquire into, pronounce upon or in any manner call in question, the validity of such Act or of any provision contained therein on any grounds whatsoever.

### **Reservation of the power of the Supreme Court to review certain Acts.**

98. The provisions of Article 97 shall not affect the power of the Supreme Court under Article 168 to determine, whether or not any Act of Parliament passed after the commencement of the Constitution or any provision thereof is inconsistent with any provision of the Constitution, and where it so determines, to declare such Act or provision void to the extent of such inconsistency, where the jurisdiction of the Court has been invoked within the period specified in that Article.

## **CHAPTER XI THE CENTRAL LEGISLATURE**

### **Amendment of the Constitution**

#### **Amendment or repeal of the Constitution.**

99. (1) Notwithstanding anything in this Constitution but subject to paragraph (2) of this Article, Parliament shall have exclusive power to make law repealing or amending any provision of the Constitution, or adding any provision to the Constitution.

(2) Parliament shall not make any law –

(a) suspending the operation of the Constitution or any part thereof; or

(b) repealing the Constitution as a whole unless such law also enacts a new Constitution to replace it.

#### **Amendment or repeal of the Constitution to be express.**

100. (1) Any Bill for the amendment of any provision of the Constitution shall not be placed on the Order Paper of Parliament unless the provision to be repealed, altered or -added, and consequential amendments, if any, are expressly specified in the Bill and is described in the long title thereto as being an Act for the amendment of the Constitution.

(2) Any Bill for the repeal of the Constitution shall not be placed on the Order Paper of Parliament unless the Bill contains provisions replacing the Constitution and is described in the long title thereof as being an Act for the repeal and replacement of the Constitution.

(3) If in the opinion of the Speaker, a Bill does not comply with the requirements of paragraph (1) or paragraph (2) of this Article, the Speaker shall direct that such Bill be not proceeded with, unless it is amended so as to comply with those requirements.

(4) Notwithstanding anything in the preceding provisions of this Article, it shall be lawful for a Bill which complies with the requirements of paragraph (1) or paragraph (2) of this Article to be amended by Parliament provided that the Bill as so amended shall comply with those requirements.

(5) A Bill for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution shall become law if the number of votes cast in favour thereof amounts to not less than two thirds of the whole number of Members (including those not present) and upon a certificate by the President or Speaker, as the case may be, being endorsed thereon in accordance with the provisions of Article 95 or 96.

(6) Any provision in any law shall not, or shall not be deemed to, amend, repeal or replace the Constitution or any provision thereof, or be so interpreted or construed, unless enacted in accordance with the requirement of the preceding provisions of this Article.

(7) In this Chapter, “amendment” includes repeal, alteration and addition.

### **Special procedure relating to certain Bills.**

101. (1) Notwithstanding anything to the contrary in the provisions of Article 100 a Bill –

(a) for the amendment or for the repeal and replacement of or which is inconsistent with any of the provisions of Articles 1,2,3,4,5,6,7, 8,9,15 and 127 or this Article ; and

(b) for the amendment or for the repeal and replacement of or which is inconsistent with the provisions of paragraph (2) of Article 77 which would extend the duration of Parliament to over six years, shall become law if the number of votes cast in favour thereof, amount to not less than two-thirds of the whole number of Members (including those not present), is approved by the People at a Referendum and a certificate endorsed thereon by the President in accordance with Article 96.

(2) Notwithstanding anything to the contrary in this Chapter, but subject to the provisions of paragraph (1) of this Article, any Act or any provision thereof amending or repealing and replacing which is inconsistent with any of the provisions of Chapter XV, the First Schedule, the Second Schedule or this paragraph shall not come into operation in respect of a Region until and unless such Act or provision has been approved by a resolution of the Regional Council established for that Region.

(3) Where a resolution referred to in paragraph (2) of this Article has been approved by a Regional Council, the Speaker of such Regional Council shall cause a Notification of such approval to be published in the Gazette and, accordingly, the Act or provision to which such approval relates shall come into operation with respect to that Region from the date of such Notification.

### **Bills inconsistent with the Constitution.**

102. (1) A Bill which is not for the amendment of any provision of the Bills Constitution or for the repeal and replacement of the Constitution, but which is inconsistent with any provision of the Constitution may be placed on the Order Paper of Parliament without complying with the requirements of paragraph (1) or paragraph (2) of Article 100.

(2) Where the Cabinet of Ministers has certified that a Bill referred to in paragraph (1) is intended to be passed by the special majority required by this Article or where the Supreme Court has determined that a Bill requires to be passed by such special majority, or by such special majority and approved by the People at a Referendum, such Bill shall become law only if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of members



(including those not present) and a certificate by the Speaker or the President and the Speaker, as the case may be, is endorsed thereon in accordance with the provisions of Article 95 or Article 96.

(3) Such a Bill when enacted into law shall not, and shall not be deemed to, amend, repeal or replace the Constitution or any provision thereof, and shall not be so interpreted or construed, and may thereafter be repealed by a majority of the votes of the Members present and voting.

## **CHAPTER XII THE REFERENDUM**

### **Submission of Bills to People by Referendum.**

103. (1) The President shall submit to the People by Referendum every Bill or any provision in any Bill referred to in Article 101 or which the Cabinet of Ministers has certified as being intended to be submitted to the People at a Referendum, or which the Supreme Court has determined as requiring the approval of the People at a Referendum, if the number of votes cast in favour of such Bill amounts to not less than two-thirds of the whole number of Members (including those not present).

(2) Subject to paragraph (3) of this Article, any Bill or any provision in any Bill submitted to the People at a Referendum shall be deemed to be approved by the People if approved by a majority of the valid votes cast at such Referendum.

(3) Where the total number of valid votes cast at a Referendum conducted under this Article does not exceed two-thirds of the whole number of electors entered in the register of electors, such Bill shall be deemed to be approved by the People only if approved by not less than one third of the whole number of such electors.

### **Submission of matters of national importance to People by Referendum.**

104. The President may, subject to the provisions of paragraph (3) of Article 103, submit to the People at a Referendum any matter, which in the opinion of the President is of national importance.

### **Parliament to provide for procedure.**

105. (1) Every Referendum shall be conducted by the Elections Commission and the Commissioner-General of Elections shall communicate the result thereof to the President.

(2) Parliament shall by law provide for all matters relating to the procedure for the submission of Bills and of matters of national importance to the People by Referenda, the register of electors to be used at a Referendum, the creation of offences relating thereto and the punishment therefor, and all other matters necessary or incidental thereto, and until Parliament so provides, the provisions of the Referendum Act, No. 7 of 1981 shall, mutatis mutandis, apply. .

## **CHAPTER XIII THE FRANCHISE AND ELECTIONS**

### **Right to be an elector.**

106. Every person shall, unless disqualified as hereinafter provided, be qualified to be an elector at the election of Members of Parliament and of Members of a Regional Council, and to vote at any

Referendum but shall not be entitled to vote at such election or Referendum unless the name of the person is entered in the appropriate register of electors.

**Disqualification to be an elector.**

107. (1) A person shall not be qualified to be an elector at an election of Members of Parliament or Members of a Regional Council or to vote at any Referendum if the person is subject to any of the following disqualifications, namely –

- (a) if the person is not a citizen of Sri Lanka;
- (b) if the person has not attained the age of eighteen years on the qualifying date specified by law under the provisions of Article 120;
- (c) if the person is under any law in force in Sri Lanka found or declared to be of unsound mind;
- (d) subject to paragraph (2), if the person is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment (by whatever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years, or is under sentence of death, or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of such sentence;
- (e) if a period of seven years has not elapsed since –
  - (i) the last of the dates, if any, of the person being convicted of any offence under sections 66 or 76 of the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda or to the election of, the President, or of Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to an offence under either of the said two sections;
  - (ii) the last of the dates, if any, of the person being convicted of a corrupt practice under the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda or the election of, the President, or of Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to the said corrupt practice;
  - (iii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding the person guilty of any corrupt practice under the Parliamentary Elections Act, No. 1 of 1981, or under any law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils; or
  - (iv) the last of the dates, if any, of the person being convicted or being found guilty of bribery under the provisions of the Bribery Act or of any future Act, as would correspond to the Bribery Act;
- (f) if a period of five years has not elapsed since –
  - (i) the last of the dates, if any, of the person being convicted of an offence under the provisions of sections 77 to 82 (both inclusive) of the Local Authorities Elections Ordinance or for such offence under any future law, as would correspond to any offence under the said sections; or (ii) the last of

the dates, if any, of the person being convicted of an offence under the provisions of sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance or of such offence under any future law, as would correspond to the said offence;

(g) if a period of three years has not elapsed since –

(i) the last of the dates, if any, of the person being convicted of an illegal practice under the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to the said illegal practice;

(ii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding the person guilty of any illegal practice under the Parliamentary Elections Act, No. 1 of 1981, or under any law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils;

(h) if a period of seven years has not elapsed since –

(i) the date of the person being convicted of any offence under the provisions of sections 188 to 201 (both inclusive) of the Penal Code or for such other offence under any future law, as would correspond to any offence under the said sections; or (ii) the date of the person being convicted of an offence of contempt against, or in disrespect of, the authority of any Special Presidential Commission of Inquiry by reason of -

(1) the failure of such person without cause which in the opinion of such Commission is reasonable, to appear before such Commission at the time and place mentioned in any summons which such Commission is empowered by law to issue;

(2) the refusal of such person to be sworn or affirmed, or the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to answer any question put to such person touching the matters directed to be inquired into by such Commission; or

(3) the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to produce and show to such Commission any document or thing which is in the possession or power of such person and which in the opinion of such Commission is necessary for arriving at the truth of the matters to be inquired into by such Commission; or

(i) if the period of the person's disqualification imposed under Article 161 has not elapsed.

(2) Where any person disqualified to be an elector under sub-paragraph (d) of paragraph (1) of this Article is granted a free pardon by the President under sub-paragraph (a) of paragraph (1) of Article 59, such disqualification shall cease from the date on which the pardon is granted.

### **Qualification for election as Member of Parliament.**

108. (1) Every person who is qualified to be an elector shall be qualified to be elected as a Member of Parliament unless the person is disqualified under the provisions of paragraph (2).

(2) A person shall not be qualified to be elected as a Member of Parliament or to sit and vote in Parliament –

- (a) if the person is or becomes subject to any of the disqualifications specified in Article 107 ;
- (b) if the person-
  - (i) stands nominated as a candidate for election for more than one electoral district at a General Election;
  - (ii) stands nominated as a candidate for election by more than one recognised political party or independent group in respect of any electoral district;
  - (iii) stands nominated as a candidate for election for an electoral district and before the conclusion of the election for that electoral district, stands nominated as a candidate for election for any other electoral district ; or
  - (iv) being a Member of Parliament except in the circumstances referred to in paragraph (5) of Article 86 or sub-paragraph (a) of paragraph (1) of Article 222 stands nominated as a candidate for election for any electoral district ;
- (c) if the person is the President or a Vice-President of the Republic;
- (d) if the person is the Governor of a Region;
- (e) if the person is
  - (i) a judicial officer;
  - (ii) the Parliamentary Commissioner for Administration (Ombudsman);
  - (iii) the Secretary-General of Parliament or a member of the staff of the Secretary-General;
  - (iv) a member of the National Public Service Commission or the Finance Commission or the Judicial Service Commission or a Regional Public Service Commission or a Regional Police Commission;
  - (v) a member of the Election Commission or a member of the staff of the Election Commission;
  - (vi) the Auditor-General;
  - (vii) a public officer holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 6,720 per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial;
  - (viii) a public officer holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (vii) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first mentioned initial;
  - (ix) an officer in any public corporation holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 7,200 per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial;
  - (x) an officer in any public corporation or of any Regional Public Service, holding any office

created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable on that date to an office referred to in item (ix) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first mentioned initial;

(xi) a member of the Regular Force of the Army, Navy or Air Force; or a police officer or a public officer exercising police functions;

(f) if the person has any such interest in any such contract made by or on behalf of the State or a public corporation as Parliament shall by law prescribe;

(g) if the person is an undischarged bankrupt or insolvent, having been declared bankrupt or insolvent; or

(h) if during the preceding seven years the person has been adjudged by a competent court or by a Special Presidential Commission of Inquiry to have accepted a bribe or gratification offered with a view to influencing the person's judgement as a Member of Parliament or as a Member of the legislature prior to the commencement of the Constitution.

(3) For the purposes of sub-paragraph (h) of paragraph (2) of this Article, the acceptance by a Member of Parliament of any allowance or other payment made to the Member by any trade union or other organisation solely for the purpose of the maintenance of the Member shall be deemed not to be an acceptance of a bribe or gratification.

### **Election to be free, fair and secret**

109. The voting for the election of the Members of Parliament and of Members of Regional Councils and at any Referendum shall be free, fair and by secret ballot.

### **Election Commission**

110. (1) (a) Subject to sub-paragraph (b) of this paragraph, there shall be an Election Commission consisting of five persons appointed by the President, on the recommendation of the Constitutional Council, from amongst persons who have distinguished themselves in the professions or in the fields of administration or higher education.

(b) Until the Constitutional Council is constituted, the members of the Election Commission shall be appointed by the President, and two of the members so appointed shall be nominees of the Leader of the Opposition in Parliament.

(c) The President shall nominate one of the members of the Election Commission to be the Chairperson of the Commission.

(2) A person shall not be appointed or continue as a member of the Election Commission if he or she is a Member of Parliament or of a Regional Council or of a local authority.

(3) The provisions of this Constitution and other law relating to the removal of Judges of the Supreme Court and the Court of Appeal from office shall apply to the removal of members of the Election Commission from office, subject to the modification that the committees referred to in sub-paragraphs (i) and (ii) of paragraph (4) of Article 151 shall, in their application to both the Chairperson and a member of the Commission, consist of three persons who hold or have held

office as a Judge of the Supreme Court or the Court of Appeal created and established by this Constitution, the 1978 Constitution or other law.

(4) A member of the Election Commission who without leave of the President first obtained is absent from three consecutive meetings of the Commission shall be deemed to have vacated office with effect from the date of the third of such meetings.

(5) Every member of the Election Commission shall hold office for a period of five years from the date of appointment, unless the member resigns from office by writing addressed to the President or is removed from office under paragraph (33 of this Article or is deemed to have vacated office under paragraph (4) of this Article but shall be eligible for reappointment

(6) (a) The President may grant leave from his duties to a member of the Election Commission and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave.

(b) Every such appointment shall be on the recommendation of the Constitutional Council, and where such temporary vacancy occurs at any time prior to the constitution of the Constitutional Council, such appointment shall be made by the President, so however that where the vacancy is in respect of a member nominated by the Leader of the Opposition, the President shall make such appointment with the concurrence of the Leader of the Opposition.

(7) A member of the Election Commission shall be paid such salary as may be determined by Parliament. The salary payable to a member of the Commission shall be charged on the Consolidated Fund of Sri Lanka and shall not be diminished during the term of office of the member.

(8) The quorum for any meeting of the Election Commission shall ordinarily be three members but the quorum for any meeting at which a decision relating to the appointment or removal of the Commissioner-General of Elections is taken shall be four members, and in the event of an equality of votes, the Chairperson shall have a casting vote.

(9) (a) The Chairperson of the Election Commission shall preside at meetings of the Commission and, in the absence of the Chairperson from any meeting of the Commission, a member elected from among the members present shall preside at such meeting.

(b) Decisions of the Election Commission shall be by a majority of the members present and voting at the meeting at which the decision is taken.

(10) The Election Commission shall have power to act notwithstanding any vacancy in the membership of the Commission and any act or proceedings of the Commission shall not be, or shall not be deemed to be, invalid by reason only of such vacancy or any defect in the appointment of a member.

(11) No suit, prosecution or other proceedings shall lie against the Election Commission or any member or officer of the Election Commission for any act or thing in good faith done, in pursuance, or supposed pursuance, of any power conferred on such Commission, officer or member under the Constitution or other law.

## **Powers and function of the Election Commission**

111. (1) The Election Commission shall exercise, perform and discharge, all powers, duties and functions conferred or imposed on, or assigned to—

- (i) the Election Commission; or
- (ii) the Commissioner of Elections,

by the Constitution, by law for the time being in force relating to the election of Members of Parliament, election of members of Regional Councils and Referenda or by other written law, including but not limited to all powers, duties and functions relating to the preparation and revision of registers of electors for the purposes of such elections and referenda and the conduct of such elections and referenda.

(2) The Election Commission shall be responsible and answerable to Parliament, for the exercise, performance and discharge, of the powers duties and functions referred to in paragraph (1) of this Article.

(3) Upon the making of a Proclamation or Order requiring the holding or conduct of an election or referendum, as the case may be, the Election Commission shall notify the National Police Commissioner of the facilities and the number of the police officers required by the Commission for the holding or conduct of such election or referendum, as the case may be.

(4) The National Police Commissioner shall make available to the Election Commission, the facilities and police officers specified in any notification made under paragraph (3) of this Article.

(5) The Election Commission may deploy the police officers made available to the Commission under paragraph (4) of this Article in such manner as is calculated to promote the conduct of a free and fair election or referendum, as the case may be.

(6) During the period commencing on the date of the Proclamation or Order requiring the holding or conduct of the election or referendum, as the case may be, and ending on the date on which the result of the poll taken at such election or referendum, as the case may be, is declared, every police officer made available to the Commission under paragraph (4) of this Article shall, notwithstanding anything in the Constitution or other law, be responsible to, and act under the direction and control of, the Election Commission.

(7) No suit or prosecution or other proceeding, civil or criminal, shall lie against any police officer made available to the Election Commission under paragraph (4) of this Article for any act or thing in good faith done by such police officer during the period referred to in paragraph (6) of this Article, in pursuance, or supposed pursuance, of a direction of the Election Commission.

(8) It shall be lawful for the Election Commission to make recommendations to the President, during the period commencing on the date of the Proclamation or Order requiring the holding or conduct of an election or referendum, as the case may be, and ending on the date on which the result of the poll taken at such election or referendum, as the case may be, is declared, regarding the deployment of the armed forces of the Republic for the prevention or control of any incidents which may be prejudicial to the holding or conduct of a free and fair election or referendum, as the

case may be.

### **Commissioner-General of Elections**

112. (1) The Election Commission shall appoint the Commissioner General of Elections and other officers of the Commission on such terms and conditions as may be determined by the Commission, and shall exercise disciplinary control over the officers appointed under this paragraph.

(2) The salaries of the Commissioner-General of Elections and other officers of the Election Commission shall be charged on the Consolidated Fund of Sri Lanka.

(3) The Commissioner-General of Elections shall, subject to the direction and control of the Election Commission, execute the decisions of the Commission and exercise supervision over the other officers of the Commission.

(4) The Election Commission may delegate to the Commissioner-General of Elections or other officer of the Commission, any power, duty or function of the Commission and the Commissioner-General of Elections or such officer shall exercise, perform or discharge such power, duty or function, subject to the direction and control of the Commission.

(5) Notwithstanding anything in any law, the Election Commission shall not appoint any person other than a Commissioner, Deputy Commissioner or Assistant Commissioner, of Elections to be a returning officer at any election or referendum conducted by the Election Commission.

### **Establishment of Delimitation Commission**

113. (1) Within three months of the commencement of the Constitution, the President shall for the delimitation of electoral districts for the election of Members of Parliament, establish a Delimitation Commission consisting of three persons appointed by the President, who the President is satisfied, are not actively engaged in politics.

(2) The President shall appoint one of such persons to be the Chairperson.

(3) If any member of the Delimitation Commission shall die or resign or if the President is satisfied that any such member has become incapable of discharging the functions of a member as such, the President shall, in accordance with the provisions of paragraph (1) of this Article, appoint another person in place of such member.

### **Electoral districts**

114. (1) The Delimitation Commission shall divide Sri Lanka into not less than twenty and not more than twenty-five electoral districts and shall assign names thereto.

(2) Each Region of Sri Lanka may itself constitute an electoral district or may be divided into two or more electoral districts.

(3) Where a Region is divided into a number of electoral districts, the Delimitation Commission shall have regard to the existing administrative districts so as to ensure as far as is practicable that each electoral district shall be an administrative district or a combination of two or more administrative districts or two or more electoral districts together constitute an administrative district.



(4) The electoral districts of each Region shall together be entitled to return four members, (independently of the number of members which they are entitled to return by reference to the number of electors whose names appear in the registers of electors of such electoral districts), and the Delimitation Commission shall apportion such entitlement equitably among such electoral districts.

(5) (a) In the event of a difference of opinion among the members of the Delimitation Commission, the opinion of the majority thereof shall prevail and shall be deemed to be the decision of the Commission.

(b) Where each member of the Commission is of a different opinion, the opinion of the Chairperson shall be deemed to be the decision of the Commission.

(c) Any dissentient member may state the reasons for such dissent.

(6) The Chairperson of the Delimitation Commission shall communicate the decisions of the Commission, together with the reasons, if any, stated by a dissentient member, to the President.

### **Proclamation of names &c. of electoral districts.**

115. The President shall, by Proclamation, publish the names and boundaries of the electoral districts and the number of members, which each such electoral district is entitled to return by virtue of the provisions of paragraph (4) of Article 114 in accordance with the decision of the Delimitation Commission, and the electoral districts specified in the Proclamation shall come into operation at the next ensuing General Election of Members of Parliament and shall thereafter be the electoral districts of Sri Lanka for all the purpose of the Constitution and of any law for the time being in force relating to the election of Members of Parliament.

### **Number of members to be returned by the several electoral districts and their apportionment among such electoral districts**

116. (1) The several electoral districts shall together be entitled to return one hundred and ninety-six members.

(2) The apportionment of the number of members that each electoral district shall be entitled to return shall, in the case of thirty-six members, be determined in accordance with the provisions of paragraph (4) of Article 114.

(3) The apportionment of the number of members that each electoral district shall be entitled to return out of the balance number of one hundred and sixty members shall be determined in accordance with the succeeding provisions of this Article.

(4) The total number of electors whose names appear in the registers of electors of all the electoral districts shall be divided by one hundred and sixty and the whole number, resulting from such division (any fraction not being taken into account) is hereinafter referred to as the "qualifying number."

(5) The total number of electors whose names appear in the register of electors of each electoral district shall be entitled to return such number of members as is equivalent to the whole number resulting from the division of the total number of such electors in that electoral district by the

qualifying number and the balance number of such electors, if any, after such division shall be dealt with, if necessary, in accordance with paragraph (6) of this Article.

(6) Where the total number of members to be returned by all the electoral districts ascertained by reference to the qualifying number in accordance with paragraph (5) of this Article is less than one hundred and sixty members, the apportionment of the entitlement among the electoral districts of the balance number of members shall be by reference to the balance number of such electors and in the case of any electoral district not entitled to return a single member according to the determination made under paragraph (5), the total number of electors whose names appear in the register of electors, of such electoral district, the electoral district having the highest of such balance number of such electors or such total number of such electors, being entitled to return one more member and so on until the total number of members to be returned number one hundred and sixty.

(7) Where in making an apportionment under paragraph (6) of this Article an equality is found to exist between two or more balance number of such electors, or two or more total number of such electors, or any combination of them and the addition of one such elector would entitle one electoral district to return an additional member, the determination of the electoral district to which one such elector shall be deemed to be added, shall be made by lot.

(8) The Commissioner-General of Elections, as soon as possible after the certification of the registers of electors for all the electoral districts shall, by Order published in the Gazette certify the number of members which each electoral district is entitled to return by virtue of the Proclamation under article 115 and this Article.

(9) For the purposes of this Article "the register of electors" means the register of electors for the time being in operation on the basis of which an election is being held.

### **Proportional representation**

117. (1) At any election of Members of Parliament the total number of members which an electoral district is entitled to return shall be the number specified by the Commissioner-General of Elections in the Order published in accordance with the provisions of paragraph (8) of Article 116.

(2) Every elector at an election of Members of Parliament shall, in addition to the elector's vote, be entitled to indicate such elector's preferences for not more than three candidates nominated by the same recognised political party or independent group.

(3) Any recognised political party or any group of persons contesting as independent candidates (hereinafter referred to as an "independent group") may, for the purpose of any election of Members of Parliament for any electoral district, submit one nomination paper setting out the names of such number of candidates as is equivalent to the number of members to be elected for that electoral district, increased by three.

(4) Each elector whose name appears in the register of electors shall be entitled to only one vote notwithstanding that the name of the elector appears in the electoral register in more than one electoral district.

(5) The recognised political party or independent group which polls the highest number of votes in any electoral district shall be entitled to have the candidate nominated by it, who has secured the highest number of preferences, declared elected.

(6) (a) Every recognised political party and independent group polling less than one twentieth of the total votes polled at any election in any electoral district shall be disqualified from having any candidates of such party or group being elected for that electoral district.

(b) The votes polled by the disqualified parties and independent groups, if any, shall be deducted from the total votes polled at the election in that electoral district and the number of votes resulting from such deduction is hereinafter referred to as the "relevant numbers of votes".

(7) The relevant number of votes shall be divided by the number of members to be elected for that electoral district reduced by one, if the number resulting from such division is an integer, that integer, or if that number is an integer and fraction, the integer immediately higher to that integer and fraction is hereinafter referred to as the "resulting number".

(8) The number of votes polled by each recognised political party and independent group (other than those parties or groups disqualified under paragraph (6) of this Article) beginning with the party or group which polled the highest number of votes shall then be divided by the resulting number and the returning officer shall declare elected from each such party or group, in accordance with the preferences secured by each of the candidates nominated by such party or group (the candidate securing the highest number of preferences being declared elected first, the candidate securing the next highest number of preferences being declared elected next and so on) such number of candidates (excluding the candidate declared elected under paragraph (5) of this Article) as is equivalent to the whole number resulting from the division by the resulting number of the votes polled by such party or group. The remainder of the votes, if any after such division, shall be dealt with, if necessary, under paragraph (9) of this Article.

(9) Where after the declaration of the election of members as provided in paragraph (8) of this Article there are one or more members yet to be declared elected, such member or members shall be declared elected by reference to the remainder of the votes referred to in paragraph (8) to the credit of each party or group after the declaration made under that paragraph and the votes polled by any party or group not having any of its candidates declared elected under paragraph (8), the candidate nominated by the party or group having the highest of such votes, who has secured the highest or next highest number of preferences being declared elected a member and so on until all the members to be elected are declared elected.

(10) (a) Where the number of votes polled by each recognised political party or independent group is less than the resulting number referred to in paragraph (7) of this Article the party or group which has polled the highest number of votes shall be entitled to have the candidate, nominated by that party or group (excluding the candidate declared elected under paragraph (5) of this Article) who has secured the highest number of preferences, declared elected and if there are one or more members yet to be declared elected, the party or group having the next highest number of votes polled shall be entitled to have the candidate nominated by that party or group who has secured the

highest number of preferences declared elected and so on, until all the members to be elected for that electoral district are declared elected under the provisions of this paragraph.

(b) After the determination under paragraph (a) if there are one or more members yet to be declared elected in respect of that electoral district, the provisions of that paragraph shall, mutatis mutandis, apply to the election of such members.

(11) Where under paragraph (5), (9) or (10) of this Article an equality is found to exist between the votes polled by two or more recognised political parties or two or more independent groups or any combination of them and the addition of a vote would entitle the candidate of one such party or group to be elected, the determination of the party or group to which such additional vote shall be deemed to have been given, shall be made by lot.

(12) For the purposes of this Article the number of votes polled shall be deemed to be the number of votes counted other than rejected votes.

(13) (a) Where a Member of Parliament ceases by resignation, expulsion or otherwise, to be a member of the recognized political party or independent group on whose nomination paper (hereinafter referred to as the "relevant nomination paper") the name of the Member appeared at the time of becoming a Member of Parliament, the seat held by the Member shall, subject to paragraph (b), become vacant upon the expiration of a period of one month from the date of the Member ceasing to be a member of the recognised political party or independent group.

(b) Where a Member who would otherwise cease to be a Member under sub-paragraph (a) of this paragraph by reason of expulsion from a recognised political party or independent group applies to the Supreme Court by petition in writing before the expiration of the period of one month specified in that sub-paragraph, and the Supreme Court upon such petition -

(i) determines that such expulsion was invalid, the seat of that Member shall not become vacant; or -

(ii) determines that the expulsion was valid, the seat held by that Member shall become vacant from the date of such determination.

(c) A petition under sub-paragraph (b) of this paragraph shall be inquired into by three Judges of the Supreme Court who shall make their determination within two months of the filing of such petition.

(d) In sub-paragraph (a) of this paragraph, "nomination paper" when used in relation to a recognised political party or independent group, includes a list submitted by that recognised political party or independent group under paragraph (2) of Article 118.

(14) Where the seat of a Member of Parliament (other than a Member declared elected under Article 118) becomes vacant as provided in Article 82 (other than paragraph (g) of that Article) or by virtue of the provisions of paragraph (13) of this Article, the candidate from the, relevant recognised political party or independent group who has secured the next highest number of preferences shall be declared elected to fill such vacancy.

**Election of Members of Parliament on the basis of the total number of votes polled at**

## **General Election.**

118. (1) After the one hundred and ninety six members referred to in Article 116 have been declared elected at a General Election of Members of Parliament, the Commissioner-General of Elections shall forthwith apportion the balance twenty nine seats among the recognised political parties and independent groups contesting such General Election in the same proportion as the proportion which the number of votes polled by each such party or group at such General Election bears to the total number of votes polled at such General Election and for the purposes of such apportionment, the provisions of paragraphs (4), (5), (6) and (7) of Article 116 shall, mutatis mutandis, apply.

(2) Every recognised political party or independent group contesting a General Election shall submit to the Commissioner-General of Elections within the nomination period specified for such election, a list of persons qualified to be elected as Members of Parliament, from which it may nominate persons to fill the seats, if any, which such party or group will be entitled to, on such apportionment. The Commissioner-General of Elections shall cause every list submitted to the Commissioner-General under this Article to be published forthwith in the Gazette and in one Sinhala, Tamil and English newspaper upon the expiry of the nomination period.

(3) Where a recognised political party or independent group is entitled to a seat under the apportionment referred to in paragraph (2), the Commissioner-General of Elections shall by a notice, require the secretary of such recognised political party or group leader of such independent group to nominate within one week of such notice, persons qualified to be elected as Members of Parliament (being persons whose names are included in the list submitted to the Commissioner-General of Elections under this Article or in any nomination paper submitted in respect of any electoral district by such party or group at that election) to fill such seats and shall declare elected as Members of Parliament, the persons so nominated.

(4) The Commissioner-General of Elections shall before issuing the aforesaid notice, determine whether the number of members belonging to any community, ethnic or otherwise, elected to Parliament under Article 117 is commensurate with the national population ratio and request the secretary of such recognised political party or group leader of such independent group in so nominating persons to be elected as Members of Parliament to ensure as far as practicable, that the representation of all communities is commensurate with their national population ratios.

(5) Where the seat of a Member of Parliament elected under this Article becomes vacant, as provided for in Article 82 or sub-paragraph (a) of paragraph (13) of Article 117, the provisions of paragraphs (3) and (4) of this Article shall, mutates mutandis, apply to the filling of such vacancy.

(6) For the purposes of this Article the number of votes polled at a General Election shall be deemed to be the number of votes actually counted and shall not include any votes rejected as void.

### **Penalty for sitting and voting in Parliament or Regional Council when disqualified.**

119. Any person who -

(a) having been elected a Member of Parliament or a Member of a Regional Council but not having been at the time of such election qualified to be so elected, shall sit or vote in Parliament or

such Regional Council; or

(b) shall sit or vote in Parliament or a Regional Council after the person's seat therein has become vacant or the person has become disqualified from sitting or voting therein,

knowing or having reasonable grounds for knowing that the person was so disqualified or that the person's seat has become vacant, as the case may be, shall be liable to a penalty of five hundred rupees for every day upon which the person so sits or votes, to be recovered as a debt due to the Republic by an action instituted by the Attorney-General in the District Court of Colombo.

**Parliament may make provision in respect of elections.**

120. (1) Subject to paragraph (2) of this Article, Parliament may by law make provision for

(a) the registration of electors;

(b) the prescribing of a qualifying date on which a person should be resident in any electoral district to be entered in the register of electors of that electoral district;

(c) the prescribing of a qualifying date on which a person should have attained the age of eighteen years to qualify for the purposes of registration as an elector;

(d) the preparation and revision of registers of electors;

(e) the procedure for the election of Members of Parliament and of Members of Regional Councils;

(f) the creation of offences relating to such elections and the punishment therefore;

(g) the grounds for avoiding such elections, and where an election has been held void, the manner of holding fresh elections,

(h) the form and manner in which vacancies shall be filled when all the candidates whose names appearing in the nomination paper of a recognised political party or independent group have been exhausted by election or otherwise; or

(i) the manner of determination of disputed elections and such other matters as are necessary or incidental to the election of Members of Parliament and of Members of Regional Councils.

(2) Any law referred to in paragraph (1) of this Article shall not add to the disqualifications specified in Articles 107 and 108.

(3) Until Parliament by law makes provision for such matters, the Parliamentary Elections Act, No. I of 1981 and the Provincial Councils Elections Act, No. 2 of 1988, as amended from time to time, shall, subject to the provisions of the Constitution, mutates mutandis, apply to the election of Members of Parliament and to the election of Members of Regional Councils.

**Public officer or an officer of a public corporation not to function during period of election.**

121. When a public officer or an officer of a public corporation is a candidate at any election of Members of Parliament or of Members of a Regional Council, the officer shall be deemed to be on leave from the date on which the officer stands nominated as a candidate until the conclusion of the election and such public officer or officer of a public corporation shall not during such period

exercise, perform or discharge any of the powers, duties or functions of the office of that officer.

## **CHAPTER XIV**

### **THE CONSTITUTIONAL COUNCIL**

#### **Constitutional Council.**

122. (1) There shall be a Constitutional Council, which shall consist of the following members

- (a) the two Vice-Presidents;
- (b) the Prime Minister;
- (c) the Leader of the Opposition in Parliament;
- (d) the Leader of the House in Parliament;
- (e) the Minister of the Cabinet of Ministers in charge of the subject of Constitutional Affairs;
- (f) the Chairman of the Chief Ministers' Conference;
- (g) two retired Judges of the Supreme Court or of the Court of Appeal established by this Constitution, the 1978 Constitution or any other law, appointed by the President after ascertaining the views of the Chief Justice, and who shall serve for a period of three years.

(2) The Chair of the Constitutional Council shall be held, in rotation, by the two Vice-Presidents, so however, that each Vice-President shall hold office as Chairperson for a period of six months at a time.

#### **Appointment of members of certain Commissions to be on the recommendation of the Constitutional Council.**

123. (1) Save as provided in paragraph (2) of this Article, a person shall not be appointed as a member of any of the Commissions specified in the Schedule to this Article, except on the recommendation of the Constitutional Council.

(2) The provisions of paragraph (1) of this Article shall not apply to the appointment for a period not exceeding three months of a person to act as a member of a Commission referred to in the Schedule to this Article.

(3) It shall be the duty of the Constitutional Council to recommend to the President, persons for appointment as members of the Commissions referred to in the Schedule to this Article, whenever the occasion for such appointment arises, and such recommendations shall reflect, as far as practicable, the different ethnic and interest groups.

## **SCHEDULE**

- (a) The National Public Service Commission.
- (b) The Permanent Commission to Investigate Allegations of Bribery or Corruption.
- (c) The Official Languages Commission.
- (d) The University Grants Commission.

- (e) The Election Commission.
- (f) The Finance Commission.
- (g) The National Police Commission.
- (h) The Human Rights Commission of Sri Lanka.

**Appointment to certain offices to be with the approval of the Constitutional Council.**

124. (1) Save as provided in paragraph (2) of this Article, a person shall not be appointed to any of the offices specified in the Schedule to this Article, except with the approval of the Constitutional Council.

(2) The provisions of paragraph (1) of this Article shall not apply to the appointment for a period not exceeding three months of a person to act in any office referred to in the Schedule to this Article.

(3) It shall be the duty of the President to submit for approval to the Constitutional Council, names of persons for appointment to any of the offices referred to in the Schedule to this Article, whenever the occasion for such appointment arises.

## **SCHEDULE**

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

**Secretary to the Constitutional Council and procedure at meetings of the Council.**

125. (1) There shall be a Secretary to the Constitutional Council appointed by the Council.

(2) The Constitutional Council shall meet as often as may be necessary to perform the duties imposed on such Council by the provisions of this Chapter and such meetings shall be summoned by the Secretary to the Constitutional Council.

(3) The Chairperson for the time being of the Council shall preside at all meetings of the Constitutional Council and in the absence of the Chairperson from any meeting of the Constitutional Council, the other Vice-President shall preside at such meeting and in the absence of both the Vice-Presidents from any meeting of the Constitutional Council, the Prime Minister shall preside at such meeting.

(4) The quorum for any meeting of the Constitutional Council shall be five.

(5) The Constitutional Council shall endeavour to make every recommendation or approval it is required to make, by unanimous decision and in the absence of a unanimous decision, the decision of the majority shall prevail.

(6) In the event of an equality of votes on any question for decision at any meeting of the Constitutional Council, the member presiding at such meeting shall have a casting vote.



(7) The procedure in regard to the meetings of the Constitutional Council and the transaction of business at such meetings shall be as provided by law.

### **Other duties and functions of the Constitutional Council.**

126. The Constitutional Council shall also perform and discharge such other duties and functions as are prescribed by Constitution.

## **CHAPTER XV THE DEVOLUTION OF POWER TO REGIONS**

### **Establishment of Regional Council**

127. (1) (a) There shall be a Regional Council for every Region specified in Part A of the First Schedule.

(b) The Capital Territory shall form part of the Western Region.

(c) Parliament may, from time to time, by resolution, determine the limits of the Capital Territory, so however, that the limits so determined do not result in the alteration of the boundaries of the Western Province.

(2) (a) The President shall, by Order published in the Gazette, require a Referendum to be held in the Administrative Districts of Trincomalee, Batticaloa and Amparai, and fix a date or dates therefore being a date or dates not earlier than the expiration of a period of nine years from the commencement of the Constitution and not later than three months prior to the expiration of a period of ten years from the commencement of the Constitution to enable the electors of such Districts to decide on the question whether or not such Districts and the Administrative Districts of Jaffna, Kilinochchi, Vavuniya, Mannar and Mullaitivu should form one Region to be designated the North-Eastern Region.

(b) Where at such Referendum the question

(i) is answered in the affirmative by a majority of the valid votes cast, a Regional Council shall be established for the North-Eastern Region specified in Part B of the First Schedule with effect from such date as the President shall appoint by Order published in the Gazette;

(ii) is not answered in the affirmative, two separate Regional Councils shall be established for the Northern Region and the Eastern Region as specified respectively in Part C of the First Schedule with effect from such date as the President shall appoint by Order published in the Gazette.

(3) (a) For the purposes of Article 3 and this Article, the Administrative Districts specified therein and in the First Schedule and the areas and boundaries of such districts shall be those specified by or under any written law and in force at the commencement of the Constitution.

(b) It shall be lawful for Parliament, by resolution under the applicable law, to abolish any Administrative District referred to in the First Schedule, establish a new Administrative District, or to alter the limits of any such Administrative District, so however that such abolition, establishment or alteration does not result in the alteration of the area or boundaries of any Region.

(4) (a) The holding of the Referendum provided for in this Article shall be deemed to be valid notwithstanding any inconsistency with the provisions of Chapter XII.

(b) Parliament shall, by law, provide for all matters relating to such Referendum and, until Parliament so provides, the provisions of the Referendum Act. No. 7 of 1981 shall, mutatis mutandis apply

### **Election of Members.**

128. Every Regional Council established under Article 127 shall be constituted upon the members of such Council being elected in accordance with the law relating to Regional Council elections.

### **Governor.**

129. (1) There shall be a Governor for each Region for which a Regional Council has been established under with Article 127.

(2) (a) Subject to sub-paragraph (b) of this paragraph, the Governor shall be appointed by the President in consultation with the Prime Minister and with the concurrence of the Chief Minister of the Region.

(b) Where an agreement cannot be arrived at under sub-paragraph (a) this paragraph as to the person to be appointed as Governor, the President shall refer the matter to the Constitutional Council, which shall after ascertaining the views of the Prime Minister and the Chief Minister recommend to the President, a suitable person for appointment as Governor and the President shall appoint the person so recommended as Governor.

(c) The appointment of the Governor under this Article shall be made by warrant under the hand of the President.

(a) The office of Governor shall become vacant upon

(i) the expiry of the term of office of the Governor;

(ii) the death of the Governor;

(iii) the resignation from office by the Governor by writing addressed to the President;

(iv) the making of a decision of a Committee consisting of the Chairman of the Regional Council of the Region, the Chief Minister of the Region, the Leader of the largest political party or independent group in the Regional Council other than the party or group to which the Chief Minister belongs and the Advocate-General of the Region, that the Governor is permanently incapable of discharging the functions of the office of Governor by reason of mental or physical infirmity; or

(v) the removal of the Governor from office by the President on an address made by the Regional Council under paragraph (3) of this Article.

(3)(a) A Regional Council may, subject to sub-paragraph (b) of this paragraph, present an address to the President advising the removal of the Governor on the ground that the Governor;

(i) has intentionally violated the provisions of the Constitution;

(ii) is guilty of misconduct or corruption involving the abuse of power of the office of Governor;  
or

(iii) is guilty of bribery or an offence involving moral turpitude,

if a resolution for the presentation of such address is passed by an absolute majority of the whole number of members of the Council (including those not present) voting in its favour.

(b) A resolution for the presentation of an address to the President advising the removal of the Governor on the grounds referred to in sub-paragraph (a) of this paragraph shall not be entertained by the Speaker of the Regional Council or discussed at the Council, unless notice of such resolution is signed by not less than one-third of the whole number of members of the Council.

(4) Whenever the Governor is prevented by illness or any other cause from performing the duties of the office of Governor, or is temporarily absent from Sri Lanka, the President shall appoint the Governor of an adjoining Region to act in the office of Governor.

(5) Subject to the provisions of this Article, the Governor shall hold office for a period of five years from the date the Governor assumes office.

(6) Every person appointed as Governor shall assume office upon making and subscribing the affirmation or taking and subscribing the oath, set out in the Fifth Schedule, before the President.

(7) Upon the assumption of office, a Governor shall cease to hold any other office created or recognised by the Constitution and if the Governor is a Member of Parliament or a Member of a Regional Council, shall vacate the seat in Parliament or in the Regional Council, as the case may be, and shall not hold any other office or place of profit.

(8) (a) The Governor may from time to time summon a Regional Council to meet for the first sitting of any session at such time and place as the Governor thinks fit, but two months shall not intervene between the last sitting in one session and the date appointed for the first sitting of the next session.

(b) The Governor may, from time to time, prorogue the Regional Council.

(c) The Governor may dissolve the Regional Council.

(d) Subject to the provisions of the Constitution, the Governor shall exercise the powers under sub-paragraphs (b) and (c) of this paragraph in accordance with the advice of the Chief Minister, as long as the Chief Minister commands the support of the majority of the Regional Council.

(9) (a) The Governor of a Region shall have the power to grant pardon to any person convicted of an offence under a Statute made by the Regional Council of that Region or a law made by Parliament on a matter in respect of which the Regional Council has power to make Statutes, or to grant a respite or remission of punishment imposed by court on any such person.

(b) The Governor shall exercise the power under this paragraph in consultation with a committee consisting of the senior-most Judge of the Regional High Court or any other Judge of the Regional High Court nominated by such Judge, a nominee of the Chief Minister and the Advocate-General of the Region.

(c) The Governor shall not exercise the powers under this paragraph where power has been exercised by the President under Article 59 in respect of the same person and in respect of the same offence.

(10) The Governor may address the Regional Council and may for that purpose require the attendance of members.

(11) It shall be the duty of the Chief Minister of every Region to communicate to the Governor of the Region all decisions of the Board of Ministers relating to the administration of the affairs of the Region and the proposals for legislation.

(12) Parliament shall, by law or resolution, make provision for the salary and allowances payable to holders of the office of Governor.

### **Executive powers of the Region.**

130. (1) (a) The executive power of the Region is vested in the Governor, and, insofar as such power relates to matters with respect to which a Regional Council has power to make Statutes, the Governor shall act on the advice of the Chief Minister and the Board of Ministers.

(b) The exercise of executive power relating to specific subjects and functions shall be through Ministers acting directly or through subordinate officers, in accordance with this Chapter.

(2) (a) All contracts made in the exercise of the executive power of a Region shall be expressly made in the name of the Governor of the Region, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the Governor by such persons and in such manner as the Governor may direct or authorize.

(b) The Governor shall not be personally liable in respect of any contract or assurance made or executed for the purposes of this Article, nor shall any person making any such contract or assurance on behalf of the Governor, be personally liable in respect thereof.

### **Interpretation of written law on matters enumerated in the Regional List**

131. (1) Where any power or function including the power to make any Order, Proclamation, Notification, regulation or rule, is conferred on, or assigned to a Minister of the Cabinet of Ministers or to a public officer, as the case may be, by any written law made prior to the commencement of the Constitution on any matter enumerated in List II of the Second Schedule (hereinafter referred to as the "Regional List"), such power or function may -

(a) if such power or function is conferred on, or assigned to, any such Minister, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the Minister of the Board of Ministers of that Region to whom the subject has been assigned; and accordingly, references in every such written law to a Minister of the Cabinet of Ministers shall be deemed to include references to the Minister of the Board of Ministers of such Region to whom the function has been assigned; and

(b) if such power or function is conferred on, or assigned to, a public officer, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the officer of the Regional Public Service holding an office corresponding to the office held by such public officer;

and accordingly, references in every such written law to a public officer shall be deemed to include a reference to the officer of the Regional Public Service who holds an office corresponding to the office held by such public officer.

(2) Where any such written law referred to in paragraph (1) of this Article makes provision

(a) for any Order, Proclamation, Notification, regulation or rule made under that written law to be laid before Parliament; or

(b) for the annulment or approval of any such Order, Proclamation, Notification, regulation or rule, by Parliament, such provision shall have effect in relation to a Region as if reference in it to Parliament were a reference to the Regional Council established for that Region.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply, mutatis mutandis, to Statutes of the corresponding Provincial Councils established by the 1978 Constitution and in force immediately prior to the commencement of the Constitution.

### **Membership of a Regional Council.**

132. A Regional Council shall consist of such number of members as may be determined by or under law, who shall be elected in such manner as may be determined by Parliament by law.

### **Term of office**

133. A Regional Council shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting, and the expiry of the said period of five years shall operate as the dissolution of the Council.

### **Board of Ministers.**

134. (1) There shall be a Board of Ministers with the Chief Minister as the Head of the Board and such number of Ministers in respect of each Region as is specified in Column III of the First Schedule, to aid and advise the Governor of the Region in the discharge of the functions of the Governor and the Governor shall, in the discharge of those functions, act in accordance with such advice except in so far as the Governor is by or under the Constitution required to discharge the functions or any of them in the Governor's discretion or in consultation with a person or body of persons.

(2) (a) The Governor shall, subject to sub-paragraph (b) of this paragraph, appoint as Chief Minister, the member of the Regional Council established for that Region who is best able to command the support of a majority of the members of that Council.

(b) Where more than one half of the members elected to a Regional Council are members of one political party or independent group, the Governor shall appoint the leader of that party or group in the Council as Chief Minister.

(3) After the conclusion of an election of members of a Regional Council, the Commissioner-General of Elections shall forthwith apportion the number of Ministers among the recognised political parties and independent groups contesting the election and which have informed the Commissioner-General of Elections that they wish to participate in the Board of Ministers, in the same proportion as the proportion which the number of valid votes polled by each such party or

group at the election held on the basis of proportional representation bears to the total number of valid votes polled by all such parties and groups at such election and for the purposes of such apportionment, the provisions of paragraphs (4), (5) and (6) and of Article 116 shall, mutatis mutandis, apply.

(4) (a) The Commissioner-General of Elections shall forthwith inform the Governor, of the number of Ministers each such recognised political party or independent group is entitled to appoint by virtue of the apportionment made under paragraph (3) and the Governor shall, within three days of the receipt of such information, summon the Chief Minister and the secretaries and group leaders of such parties and groups and shall on the recommendations of such secretaries and group leaders and after consultation with the Chief Minister, appoint the Ministers of the Board of Ministers.

(b) Any vacancy arising as a result of a Minister ceasing to hold office shall be filled in accordance with the provisions of this paragraph.

(5) Where the secretary of a recognised political party or the group leader of an independent group does not make any recommendation upon being summoned by the Governor under subparagraph (a) of paragraph (4) of this Article, it shall be presumed that such recognised political party or independent group does not wish to participate in the Board of Ministers and the Commissioner-General of Elections shall thereupon re-apportion the number of Ministers, and the provisions of paragraph (3) and (4) of this Article shall apply.

(6) Every Regional Council established for a Region shall by Statute, specify the principal subjects and functions in respect of which Ministers of the Board of Ministers of that Region shall be appointed, and until such Statute is passed, the Chief Minister shall determine such principal subjects and functions.

(7) (a) The Chief Minister of a Region shall in consultation with the Ministers appointed under paragraphs (4) and (5) of this Article, assign subjects and functions to such Ministers in accordance with the Statute made by the Regional Council established for that Region or the determination referred to in paragraph (6) of this Article.

(b) The Chief Minister of a Region together with the Ministers appointed under paragraphs (4) and (5) of this Article shall constitute the Board of Ministers of that Region, and the Board of Ministers shall be collectively responsible and answerable to the Regional Council established for that Region.

(c) The quorum for any meeting of the Board of Ministers shall be not less than one half of the total number of Ministers constituting the Board of Ministers.

(8) A person appointed to the office of Chief Minister or member of the Board of Ministers shall not enter upon the duties of the office of Chief Minister or Minister of the Board of Ministers until such person makes and subscribes the affirmation or takes and subscribes the oath set out in the Fifth Schedule.

(9) (a) Upon the death or resignation of the Chief Minister or where the Chief Minister is

deemed to have resigned, the Board of Ministers shall stand dissolved, and the Governor shall, subject to sub-paragraph (b) of this paragraph, appoint a Chief Minister and a Board of Ministers in accordance with the provisions of this Article.

(b) Where it is not possible to make an appointment in accordance with the provisions of paragraph (2) of this Article, the Governor shall, subject to sub paragraph (c) of this paragraph, dissolve the Regional Council .

(c) The Governor shall, prior to such dissolution, endeavour to ascertain whether any member of the Regional Council is able to command the support of a majority of the members of that Council.

(10) If the Regional Council rejects the statement of policy of the Regional Administration or the draft Appropriation Statute or passes a vote of no-confidence in the Regional Administration, the Chief Minister shall be deemed to have resigned.

(11) There shall be for each Ministry in charge of a Minister of the Board of Ministers, a Secretary and the Secretary shall, subject to the direction and control of the Minister, exercise supervision over the departments and institutions in charge of such Minister of the Board of Ministers.

(12) The Secretary shall also function as the Secretary to the Executive Committee appointed for that Ministry.

### **Executive Committees.**

135. (1) There shall be an Executive Committee for each Ministry of which the Minister in charge of such Ministry shall be the Chairperson.

(2) The Minister shall exercise power in relation to the subjects and functions assigned to the Minister in consultation with the Executive Committee.

(3) (a) The Executive Committee may make proposals in relation to policy to the Board of Ministers through the Minister and the Board of Ministers shall consider such proposals.

(b) Where the Board of Ministers does not agree to a proposal made by an Executive Committee under sub- paragraph (a) of this paragraph, the Board shall notify its decision to such Executive Committee and any member of such Executive Committee may place such proposal before the Regional Council.

(c) The Executive Committee may delegate any of its powers to the Minister.

(4) (a) Every Regional Council shall proceed to the election of the aforesaid Committees as soon as may be after the election of a Speaker and before proceeding to the despatch of any other business.

(b) Each Committee shall consist of, as nearly as possible, an equal number of members and every member of the Council, except the Speaker shall be elected to one such Committee.

(c) Any member of the Council shall not be elected to more than one Committee.

(d) Where a member of a Committee is elected to fill any vacancy in the office of the Speaker, that member shall, upon such election, cease to be a member of such Committee.

(5) Subject to the provisions of this Article, the procedure for the election of Executive Committees and for the assignment to an Executive Committee of any member-elected to the Council after the first meeting thereof following a general election and for transfer of members from one Committee to another shall be as prescribed by the Standing Orders of the Council and in the absence of such Standing Orders, the procedure shall be as determined by the Speaker.

(6) Whenever a Minister of the Board of Ministers is unable to discharge the functions of the Minister's office, the Governor, acting on the advice of the Chief Minister tendered in consultation with the Secretary of the recognised political party or the group leader of the independent group as the case may be, of which such Minister is a member, may appoint any member of the Executive Committee, of which such Minister is Chairperson to act in place of such Minister.

### **The Advocate-General of the Region**

136. (1) The Governor of each Region shall appoint an attorney-at-law from the Region who has achieved eminence in the profession and has maintained high standards of conduct and professional rectitude to be the Advocate-General of the Region.

(2) It shall be the duty of the Advocate-General to give advice to the Governor, the Chief Minister and the Board of Ministers upon such legal matters and perform such other duties in relation thereto, as may be from time to time referred or assigned to the Advocate-General by the Governor and to discharge the functions conferred on the Advocate-General by or under this Chapter or other law.

(3) The Advocate-General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine.

### **Legislative power, delegation and procedure.**

137. (1) Subject to the provisions of the Constitution, the Regional Council of a Region shall have exclusive power to make Statutes, including Statutes having retrospective effect, for such Region or any part thereof with respect to any of the matters enumerated in the "Regional List".

(2) A Statute of a Regional Council shall not contravene or be inconsistent with the Constitution and any Statute, insofar as it is in contravention or inconsistent with the Constitution, shall, to the extent of such contravention or inconsistency be void.

(3) (a) A Regional Council shall not abdicate or in any manner alienate its legislative power.

(b) The provisions of paragraphs (2), (3) and (4) of Article 92 shall, mutatis mutandis, apply to the exercise of legislative power by Regional Councils.

(4) (a) Sittings of a Regional Council and the procedure for the transaction of-business by a Regional Council shall be regulated by Standing Orders made by such Council.

(b) Parliament may by resolution provide for model Standing Orders for Regional Councils.

### **Review of constitutionality of draft Statute**

138. (1) Every draft Statute proposed to be presented in a Regional Council shall be submitted to the Governor at least fourteen days prior to presentation, and every such draft Statute shall be published in the Gazette at least seven days prior to presentation.



(2) It shall be the duty of the Advocate-General of the Region to examine every draft Statute before it is published in the Gazette, for any contravention or inconsistency with the Constitution and the Advocate General or any officer assisting the Advocate-General in the performance of the duties under this Article shall be afforded all facilities necessary for the performance of such duties.

(3) If the Advocate-General is of the opinion that a draft Statute or any provision thereof, contravenes, or is inconsistent with, the Constitution, the Advocate-General shall, subject to the provisions of paragraph (4) of this Article, communicate such opinion to the Governor, the Chief Minister and the Board of Ministers, and may, after publication of the draft Statute in the Gazette, invoke the jurisdiction of the Supreme Court under sub-paragraph (a) of paragraph (10) of Article 169(1)(a) to determine the constitutionality of the draft Statute or any provisions thereof.

(4) Where an amendment is proposed to a draft Statute in the Regional Council, the Advocate-General of the Region shall communicate the opinion on matters specified in paragraph (2) of this Article to the Speaker at the stage when the draft Statute is ready to be put to the Regional Council for its acceptance.

(5) Where a draft Statute is passed, despite the opinion of the Advocate-General that it contravenes or is inconsistent with the Constitution, it shall be the duty of the Advocate-General to invoke the jurisdiction of the Supreme Court under sub-paragraph (b) of paragraph (1) of Article 169 to determine the constitutionality of such Statute or any provision thereof.

### **Statutes inconsistent with laws and Statutes of Provincial Councils.**

139. (1) Where there is a law with respect to any matter in the Regional List in force in any Region on the date on which a Regional Council is established for that Region and the Regional Council established for that Region subsequently makes a Statute on the same matter and which is described in its long title as being inconsistent with that law, then, the provisions of that law shall, with effect from the date on which that Statute is certified by the Speaker of the Regional Council, remain suspended and be inoperative within that Region, to the extent of such inconsistency.

(2) Where there is a Statute of a Provincial Council established by the 1978 Constitution in force in any area of a Region on the date on which a Regional Council is established for that Region, such statute shall continue to be in force in relation to the area to which it was applicable unless the Regional Council provides otherwise.

### **When a draft Statute becomes law**

140. (1) Every draft Statute passed by a Regional Council shall come into force upon the certificate of the Speaker of that Council being endorsed thereon.

(2) The Speaker shall endorse on every draft Statute passed by the Regional Council a certificate in the following form: -

"This draft Statute (state the short title of the draft Statute), has been duly passed by the Regional Council".

(3) Where a certificate is endorsed on a draft Statute as provided for in paragraph (2) of this

Article a court or tribunal shall not inquire into, pronounce upon or in any manner call in question, the validity of such Statute save as provided in Article 169.

**Chief Ministers' Conference.**

141. (1) (a) There shall be established a Chief Ministers' Conference which shall consist of the Chief Ministers of all the Regions.

(b) Where there is no Chief Minister in office in any Region, the Governor of that Region, or any person authorized by the Governor, may represent the Region at the Conference.

(2) (a) The Chairperson of the Chief Ministers' Conference shall be elected by the Chief Ministers from among themselves in rotation, so however, that each Chief Minister shall hold office as Chairperson for a period of up to three months.

(b) The Chairperson of the Chief Ministers' Conference shall represent the Conference on the Constitutional Council.

(3) The Conference shall have the power

(a) to take all such steps as may be necessary to ensure full compliance with the provisions of this Constitution relating to Regional Councils and Regional Administrations, in accordance with the spirit and intention of the Constitution;

(b) to inquire into and to settle by mediation or conciliation any dispute which may arise between or among two or more Regional Administrations;

(c) to inquire into and discuss subjects in which all or more than one of the Regions have a common interest, and to make recommendations for the better co-ordination of policy and action in respect of such subjects; and

(d) to discuss matters, policy and procedure relating to finance, the financial administration and accountability of the Regional Administrations and to make representations thereon to the Finance Commission and the Central Government.

(4) (a) Where efforts at mediation and conciliation as provided for in sub-paragraph (b) of paragraph (3) of this Article fail, such dispute may be referred for adjudication to a tribunal established, in accordance with this Article.

(b) The tribunal referred to in sub-paragraph (a) of this paragraph shall consist of a member appointed by each of the Regional Administrations which is a party to the dispute and a Chairperson nominated by the members so appointed.

(c) Where there is no agreement on the nomination of the Chairperson, the Chairperson shall be nominated by the Constitutional Council.

(d) The practices and procedures of the tribunal shall be regulated by rules framed by the Conference, and until such rules are framed, by rules determined by the Chairperson of the tribunal.

(e) Any award or determination made by such tribunal shall be binding on the parties to the dispute.

(5) Anything in this paragraph shall not be read and construed as empowering the tribunal to determine any question relating to the interpretation of the Constitution.

(6) The Conference shall regulate its own procedures and shall meet every month, unless otherwise determined by the Conference.

(7) The Prime Minister shall meet with the Conference regularly, so however that a period of three months shall not elapse between two consecutive meetings.

## **CHAPTER XVI**

### **STATE LAND, WATERS AND MINERALS**

#### **Foreshore, lands underlying the ocean, mines and minerals &c.**

142. (1) The foreshore, all lands, mines, minerals and other things of value underlying the ocean within the territorial waters, rights pertaining to the continental shelf and rights pertaining to the exclusive economic zone of Sri Lanka, shall continue to vest in the Republic and shall be held by the Central Government.

(2) The limits of the territorial waters, the continental shelf, the exclusive economic zone and other maritime zones of Sri Lanka shall be such as are specified, from time to time, by law.

(3) The regulation of the development and exploitation of mines and minerals including oil fields, petroleum and petroleum products and the collection of royalties thereon shall be a subject and function of the Central Government.

#### **State land**

143. (1) For the purposes of paragraphs (2), (3), (4) and (5) of this Article State land means all land in Sri Lanka vested in the Democratic Socialist Republic of Sri Lanka immediately prior to the commencement of the Constitution.

(2) The Centre and the Regions shall succeed to such State land at the commencement of the Constitution in the manner hereinafter provided and shall hold such State land in the name of the Republic.

(3) (a) The Centre shall succeed to State land controlled or used, in relation to subjects and functions enumerated in the Reserved List, by the Central Government, its institutions or any public corporation at the commencement of the Constitution.

(b) A Regional Administration may negotiate with the Central Government for the release of any State land referred to in sub-paragraph (a) of this paragraph to be used for the purposes of any subject or function in the Regional List.

(4) The Centre shall succeed to State land, situated within the Capital Territory, alienated before the commencement of the Constitution and the title to which continues to be with the Republic at the commencement of the Constitution.

(5) Every Region shall succeed to all other State land within the Region and such State land shall, subject to —

(a) the rights enjoyed, immediately prior to the commencement of the Constitution, by any

person in lawful possession or occupation, immediately prior to the commencement of the Constitution, of any such land; and

(b) the provisions of this Chapter,

be at the disposal of the Regional Administration of that Region for the purposes set out in the Regional List, and the Regional Administration shall be entitled to exercise rights in or over such land, including land tenure, transfer and alienation of land, land use, land settlement and land improvement, in accordance with applicable written law.

(6) (a) Where the Central Government is satisfied that State land in a Region is required for the purpose of a subject in the Reserve List, the Central Government may, after consultation with the relevant Regional Administration, require the Regional Administration to make available to the Central Government or to such public authority as the Central Government may specify, such land as may reasonably be required for such purpose and the Regional Administration shall comply with such requirement.

(b) Where a Regional Administration does not comply with a requirement made under sub-paragraph (a) of this paragraph, the President shall refer the matter for arbitration to a tribunal consisting of one member appointed by the Prime Minister, one member appointed by the Chief Minister of the relevant Region and a Chairman nominated by the members so appointed and, where there is no agreement on the nomination of a Chairman, the Chairman shall be nominated by the Constitutional Council.

(c) A decision of a tribunal referred to in sub-paragraph (b) of this paragraph shall be binding on the Central Government and the relevant Regional Administration, and a court or tribunal shall not have the power or jurisdiction to inquire into, pronounce upon, or in any manner call in question, such decision.

(7) Alienation of any State land shall be made on behalf of, and in the name of, the Republic and shall be subject to national land use policy as determined by the National Land Use Council.

(8) Priority in land settlement schemes after the commencement of the Constitution shall be accorded first to landless persons of any sub-division, recognized by law, of a District, then to landless persons of the District and then to persons of the Region.

(9) All State land, whether under the control of the Centre or Regions, shall be used with due regard to national land use policy as laid down by the National Land Use Council.

### **Inter-regional irrigation.**

144. (1) Inter-regional irrigation projects are schemes where the command area falls within two or more Regions.

(2) Projects referred to in paragraph (1) of this Article and the relocation of persons displaced as a result of their implementation, shall be a subject and function of the Central Government and such relocation shall be undertaken in consultation with the Chief Ministers of the Regions which benefit from such projects, and the provisions of paragraph (6) of Article 143 shall apply.

(3) The distribution of allotments of land in land development schemes begun prior to the

commencement of the Constitution and which have not been completed shall be according to the criteria that applied to such schemes prior to the commencement of the Constitution.

### **National Land Use Council.**

145. (1) Parliament shall by law provide for the establishment of National Land Use Council, the constitution of which shall ensure the equal representation of the Central Government on the one hand and the Regions on the other and the equitable representation of all the major communities.

(2) The Council shall be charged with —

(a) the formulation of national land use policy, taking into account international standards relating to the appropriate amount of forest cover, exploitation of natural resources, the quality of the environment and other relevant matters;

(b) the making of recommendations to the Central Government and the Regional Administrations with regard to the protection of watersheds, the appropriate amount of forest cover in each Region, conservation of fauna and flora and the protection of the environment; and

(c) monitoring and keeping under review, land use and compliance with policy and recommendations formulated or made in accordance with sub-paragraphs (a) and (b) of this paragraph.

(3) Where in the opinion of the Council there is deliberate noncompliance with such policies or recommendations formulated or made by the Council or by a Regional Administration, the Council shall, with prior written notice to the Governor of the relevant Region and after giving the Regional Administration such hearing, as the Council may consider fit, recommend to the Central Government that the Central Government shall assume control over the land in question so as to ensure compliance with such policies or recommendations of the Council and the Central Government shall act in accordance with such recommendation.

(4) It shall be the duty of every Regional Administration to comply with such policies and recommendations and to hand over land referred to in paragraph (3) of this Article to the Central Government when required to do so.

(5) Every recommendation made under paragraph (3) of this Article shall be final and conclusive and shall not be questioned in any court or tribunal and a court or tribunal shall not have jurisdiction to inquire into, or pronounce upon, or in any manner call in question, the validity of such recommendation on any ground whatsoever.

## **CHAPTER XVII THE JUDICIARY**

### **INSTITUTIONS FOR THE ADMINISTRATION OF JUSTICE**

#### **Establishment of Courts &c.**

146. (1) Subject to the provisions of the Constitution, the institutions for the administration of justice which protect, vindicate and enforce the rights of the People shall be —

(a) the Supreme Court of the Republic, which shall be the highest and final Superior Court of

record in the Republic;

(b) the Court of Appeal of the Republic, which shall also exercise its jurisdiction in its several Divisions;

(c) the High Courts established for each Region and such other courts of first instance, tribunals or institutions as Parliament may by law, from time to time, ordain and establish.

(2) Subject to the provisions of the Constitution, all courts, tribunals and institutions created and established by existing written law for the administration of justice and for the adjudication and settlement of industrial and other disputes, shall be deemed to be courts, tribunals and institutions created and established by Parliament.

(3) Parliament may replace or abolish or amend the powers, duties, jurisdiction and procedure of the courts, tribunals and institutions referred to in paragraph (2) of this Article.

(4) The Supreme Court, the Court of Appeal, the Regional High Courts and the courts, tribunals and institutions referred to in this Chapter shall have and exercise such powers and jurisdiction conferred on such courts, tribunals and institutions by the Constitution or, subject to the provisions of the Constitution, by existing law as well as any such powers and jurisdiction, appellate or original, as Parliament may by law vest and ordain.

(5) (a) The Supreme Court and the Court of Appeal shall each be a superior court of record and shall have all the powers of such court including the power to punish for contempt of itself, whether committed in the court itself or elsewhere, with imprisonment or fine or both as the court may deem fit.

(b) The power of the Court of Appeal shall include the power to punish for contempt of any other court, tribunal or institution referred to in sub-paragraph (c) of paragraph (1) of this Article, whether committed in the presence of such court or elsewhere.

(c) A Regional High Court shall have the power to punish for contempt of itself, whether committed in the presence of such court or elsewhere.

(d) The provisions of sub-paragraphs (a), (b) and (c) of this paragraph shall not prejudice or affect the rights now or hereafter vested by any law in such other court, tribunal or institution to punish for contempt of itself.

(6) Parliament may by law provide for the creation and establishment of courts, tribunals or institutions for the adjudication and settlement of matters relating to the discipline of bhikkus or any dispute between Bhikkus or any other dispute relating to the performance of services in, or in relation to, temples and such law may, notwithstanding anything to the contrary in the Constitution, make provision —

(a) for the appointment, transfer, dismissal and disciplinary control of the member or members of such courts, tribunals or institutions, by the President or by such other person or body of persons as may be provided for in such law; and

(b) for the exclusion of the jurisdiction of any other institution referred to in paragraph (1) of this Article in relation to such matters and disputes.

(7) In paragraph (6), the expressions "bhikku" and "temple" shall have the same meanings as in the Buddhist Temporalities Ordinance, as at the commencement of the Constitution.

## **THE SUPREME COURT, THE COURT OF APPEAL AND THE REGIONAL HIGH COURTS**

### **Constitution of the Supreme Court**

147. (1) The Supreme Court shall consist of the Chief Justice and not less than ten and not more than fourteen other Judges who shall be appointed as provided for in Article 151.

(2) The Supreme Court shall have power to act notwithstanding any vacancy in its membership and any act or proceeding of the court shall not be, or shall be deemed not to be, invalid by reason only of any such vacancy or any defect in appointment of a Judge.

(3) The several jurisdictions of the Supreme Court shall be ordinarily exercised at Colombo, unless the Chief Justice otherwise directs.

(4) Subject to paragraph (5) of this Article, the jurisdiction of the Supreme Court may be exercised in different matters at the same time by the several Judges of that Court sitting apart, as nominated by the Chief Justice.

(5) The jurisdiction of the Supreme Court shall, subject to the provisions of the Constitution, ordinarily be exercised at all times by not less than three Judges of the court sitting together as the Supreme Court.

(6) Where the question involved is, in the opinion of the Chief Justice, one of general and public importance, the Chief Justice may —

(a) ex mero motu;

(b) at the request of two or more Judges hearing any appeal, proceeding or matter; or

(c) on the application by a party to any such appeal, proceeding or matter,

direct that such appeal, proceeding or matter be heard by a Bench comprising of five or more Judges of the Supreme Court.

(7) The judgment of the Supreme Court shall, when it is not a unanimous decision, be the decision of the majority.

(8) Any party to any proceedings in the Supreme Court in the exercise of its jurisdiction shall have the right to be heard in such proceedings either in person or by representation by an attorney-at-law.

(9) The Supreme Court may, in its discretion, grant to any other person or the legal representative of the person, such hearing as may appear to the Court to be necessary in the exercise of its jurisdiction.

(10) The Registry of the Supreme Court shall be in the charge of an officer designated the Registrar of the Supreme Court who shall be subject to the supervision, direction and control of the Chief Justice.

(11) Parliament may by law confer any additional jurisdiction and powers on the Supreme Court.

### **Rules of Court.**

148. (1) Subject to the provisions of the Constitution and of any law, the Chief Justice with any three Judges of the Supreme Court nominated by the Chief Justice, may, from time to time, make rules regulating generally the practice and procedure of courts including —

(a) rules as to the exercise of the several jurisdictions conferred on the Supreme Court, the Court of Appeal, and Regional High Courts by the Constitution or by any law, including the time within which appeals and other matters may be instituted or brought before such courts, the terms under which they may be entertained, proceedings including the hearing of such appeals and matters and provisions for the dismissal of appeals and other matters for non-compliance with such rules;

(b) rules as to the stay of proceedings;

(c) rules providing for the summary determination of any appeal or any other matter before such court by petition or otherwise, which appears to the court to be frivolous and vexatious or brought for the purpose of delay;

(d) the preparation of copies of records for the purpose of appeal or other proceedings in the Supreme Court, the Court of Appeal, and the Regional High Courts;

(e) the admission, enrolment, suspension and removal of attorneys-at-law and the rules of conduct and etiquette for such attorneys-at-law;

(f) the attire of judges, attorneys-at-law, officers of court and persons attending courts in the Republic;

(g) the manner in which panels of jurors may be prepared, and the mode of summoning, empanelling and challenging of jurors;

(h) proceedings of the Fiscal and other ministerial officers of courts and the process of such courts and the mode of executing the same;

(i) the binding effect of the decisions of the Supreme Court; and

(j) all matters of practice and procedure including the nature and extent of costs that may be awarded, the manner in which such costs may be taxed and the stamping of documents in the Supreme Court, Court of Appeal, Regional High Courts, and courts of first instance not specially provided by or under any law.

(2) Every rule made under this Article 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 rule.

(3) All rules made under this Article shall as soon as convenient after their publication in the Gazette be brought before Parliament for approval and any such rule which is not so approved shall



be deemed to be rescinded as from the date it was not so approved, but without prejudice to anything previously done thereunder.

(4) The Chief Justice and any three Judges of the Supreme Court nominated by the Chief Justice may amend, alter or revoke any such rules of Court and such amendment, alteration or revocation of the rules shall operate in the like manner as set out in paragraphs (2) and (3) of this Article with reference to the making of the rules of Court.

(5) All rules made under Article 136 of the 1978 Constitution and in force immediately prior to the commencement of the Constitution shall, mutatis mutandis, be deemed to be rules made and approved under this Article.

(6) For the avoidance of doubt it is hereby declared that in the event of any inconsistency between a rule made under this Article and the provision of any law, the provision of such law shall prevail.

### **Constitution of the Court of Appeal.**

149. (1) The Court of Appeal shall consist of the President of the Court of Appeal and not less than fourteen and not more than twenty-four Judges who shall be appointed as provided in Article 151.

(2) The Court of Appeal shall exercise its jurisdiction in Colombo and in its several Divisions as hereinafter provided —

(a) the Western Division comprising of the Western and Sabaragamuwa Regions;

(b) the Midland Division comprising of the Central and Uva Regions;

(c) the Ruhuna Division comprising of the Southern Region;

(d) the Rajarata Division comprising of the North Western and North Central Regions; and

(e) the North-Eastern Division comprising of either

(i) the North-Eastern Region specified in Part B of the First Schedule; or

(ii) the Northern and Eastern Regions specified in Part C of the First Schedule.

(3) Each Division of the Court of Appeal shall —

(a) consist of not less than two Judges of the Court of Appeal designated by the President of the Court of Appeal to exercise the jurisdiction of the Court within such Division and the senior-most of the Judges so designated shall be the Chief Judge of such Division; and

(b) hold its sittings in the principal city of each Region comprising the Division and at any other place as may be directed by the Chief Justice acting in consultation with the President of the Court of Appeal.

(4) The Court of Appeal sitting in Colombo shall also exercise its jurisdiction in respect of the Western Division and shall, in the exercise of such jurisdiction, also hold its sittings in the principal city of the Sabaragamuwa Region and at any other place as may be directed by the Chief Justice acting in consultation with the President of the Court of Appeal.

(5) Subject to paragraphs (2) and (6) of this Article, the jurisdiction of the Court of Appeal may be exercised in different matters at the same time by several judges of the Court sitting apart as nominated by the President of the Court of Appeal.

(6) The jurisdiction of the Court of Appeal in respect of —

(a) applications under Article 182 shall be exercised by not less than two Judges of the Court;

(b) judgments and orders of a Regional High Court pronounced at a trial-at-bar, shall be exercised by not less than three Judges of the Court;

(c) other judgments and orders of a Regional High Court, shall be exercised by not less than two Judges of the Court;

(d) petitions relating to election to membership of Parliament or a Regional Council, shall be exercised by not less than two Judges of the Court; and

(e) other matters, shall be exercised by not less than two Judges of the Court.

(7) In the event of any difference of opinion between two Judges constituting the Bench, the matter shall be considered by a Bench of three Judges.

(8) The judgment of the Court of Appeal shall, when it is not unanimous decision, be the decision of the majority.

(9) The Registry of the Court of Appeal shall be in the charge of an officer designated the Registrar of the Court of Appeal who shall be subject to the supervision, direction and control of the President of the Court of Appeal.

(10) Parliament may by law confer any additional jurisdiction and powers on the Court of Appeal.

### **Regional High Courts**

150. Subject to the provisions of the Constitution, there shall be a High Court for every Region which shall be designated the High Court of the relevant Region.

## **CHAPTER XVIII THE JUDICIARY**

### **THE INDEPENDENCE OF THE JUDICIARY**

#### **Appointment &c. of Judges of the Supreme Court and the Court of Appeal**

151. (1) The Chief Justice shall be appointed by the President of the Republic by warrant under the hand of the President.

(2) Every other Judge of the Supreme Court, the President of the Court of Appeal and every other Judge of the Court of Appeal shall be appointed by the President of the Republic by warrant under the hand of the President after ascertaining the views of the Chief Justice.

(3) The Chief Justice and every Judge referred to in paragraph (2) of this Article —

(a) shall be an attorney-at-law who is a citizen of Sri Lanka and who, in the opinion of the President, has reached eminence in the legal profession, the judiciary or the academic field of law

and has maintained high standards of conduct and professional rectitude; and

(b) shall hold office during good behaviour, and shall not be removed except by an order of the President made after an address of Parliament supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehaviour or incapacity.

(4) A resolution for the presentation of such an address shall not be entertained by the Speaker or placed on the Order Paper of Parliament — unless

(a) notice of such resolution is signed by not less than one-third of the total number of Members of Parliament and sets out full particulars of the alleged misbehaviour or incapacity; and

(b) an inquiry has been held -

(i) in the case of the Chief Justice by a committee consisting of three persons each of whom hold, or have held, office as a judge in the highest court of any Commonwealth country;

(ii) in the case of any other judge referred to in paragraph (2) of this Article, by a committee consisting of three persons who hold, or have held, office as a Judge of the Supreme Court or the Court of Appeal created and established by the Constitution, the 1978 Constitution or any other law,

and appointed by the Speaker to inquire into allegations of misbehaviour or incapacity made against the Chief Justice or such Judge, as the case may be, and such committee has found that the allegation of misbehaviour or incapacity has been established against such Judge.

(5) Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address including the procedure for the passing of such resolution, the holding of inquiries by a committee appointed as provided for in sub-paragraph (b) of paragraph (4) of this Article for the investigation and proof of the alleged misbehaviour and incapacity and the right of the Chief Justice or such Judge to appear before and be heard by such committee in person or by representative.

(6) Every person appointed to be or to act as Chief Justice, President of the Court of Appeal or a Judge of the Supreme Court or Court of Appeal shall not enter upon the duties of office as Chief Justice, President of the Court of Appeal or Judge until the person makes and subscribes, or takes and subscribes, the affirmation or oath set out in the Fifth Schedule, before the President.

(7) Subject to paragraph (8) of this Article, a Judge of the Supreme Court shall be entitled to hold office until the Judge reaches the age of sixty five years and a Judge of the Court of Appeal shall be entitled to hold office until the Judge reaches the age of sixty three years.

(8) Any such Judge may opt to retire on completion of such period of service as would entitle the judge to the grant of a pension under the Minute on Pensions or resign from office by a writing addressed to the President, prior to reaching the age of retirement.

### **Salaries of Judges of the Supreme Court and the Court of Appeal**

152. (1) The salaries of the Judges of the Supreme Court and of the Court of Appeal shall be determined by Parliament and shall be charged on the Consolidated Fund of Sri Lanka.

(2) The salary payable to, and the pension entitlement of, a Judge of the Supreme Court and a Judge of the Court of Appeal shall not be reduced after appointment, and the pension entitlement of a Judge of the Supreme Court and the Court of Appeal shall not be less than the salary drawn by the Judge at the time of retirement.

### **Acting appointments**

153. (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 the office for any period by reason of illness, absence from Sri Lanka or any other cause, the President of the Republic shall 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, as the case may be, 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 the office for any period by reason of illness, absence from Sri Lanka or any other cause, the President of the Republic may appoint another person to act as a Judge of the Supreme Court or Court of Appeal, as the case may be, during such period.

### **Performance or discharge of other duties or functions by Judges.**

154. (1) A Judge of the Supreme Court or Court of Appeal may be required by the President of the Republic to perform or discharge any other appropriate duties or functions under any written law.

(2) A Judge of the Supreme Court or Court of Appeal shall not perform any other office (whether paid or not) or accept any place of profit or emolument, except as authorized by the Constitution or by written law or with the written consent of the President.

(3) Any person who had held office as a permanent Judge of the Supreme Court or of the Court of Appeal created and established by the Constitution, the 1978 Constitution or any other law may not appear, plead, act or practice in any court, tribunal or institution as an attorney-at-law at any time after retirement or resignation, without the written consent of the President of the Republic, or accept any place of profit in the service of the State.

### **Regional High Court Judges**

155. (1) Every Judge of a Regional High Court shall be appointed by the President of the Republic by warrant under the hand of the President after ascertaining the views of the Chief Justice, and shall be removable, and be subject to disciplinary control, by the President on the recommendation of the Judicial Service Commission.

(2) Every person appointed as a Judge of a Regional High Court shall not enter upon the duties of the office until the person makes and subscribes or takes and subscribes the affirmation or oath set out in the Fifth Schedule before the Chief Justice.

(3) Subject to paragraph (4) of this Article, a Judge of a Regional High Court shall be entitled to hold office until the Judge reaches the age of sixty one years.

(4) Any Judge of a Regional High Court may opt to retire on completion of such period of service as would entitle the Judge to the grant of a pension under the Minute on Pensions, or resign from the office by a writing addressed to the President, prior to reaching the age of sixty one years.

(5) A Regional High Court Judge may be transferred from one Regional High Court to another by the Chief Justice.

(6) The Chief Justice shall, from time to time, determine the place of sitting of each Judge of a Regional High Court.

### **Judicial Service Commission.**

156. (1) There shall be a Judicial Service Commission (in this Chapter referred to as the "Commission") which shall consist of the Chief Justice who shall be the Chairperson and two other judges of the Supreme Court appointed by the President of the Republic, after ascertaining the views of the Chief Justice, and one of whom shall have performed duties as a judicial officer of a court of first instance.

(2) The quorum for a meeting of the Commission shall be two members.

(3) The Commission shall have power to act notwithstanding any vacancy in its membership, and any act or proceeding of such Commission shall not be, or shall not be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

(4) A Judge of the Supreme Court appointed as a member of the Commission shall, unless the Judge earlier resigns from office or is removed therefrom as hereinafter provided or ceases to be a Judge of the Supreme Court, hold office for a period of five years from the date of appointment but shall be eligible for reappointment.

(5) The President may, for cause assigned, remove from office, an member of the Commission.

(6) The President may grant to any member of the Commission leave from the duties of the member and may appoint another Judge of the Supreme Court to be a temporary member of the Commission for the period of such leave.

(7) A member of the Commission may be paid such salary or allowance as may be determined by Parliament and any salary or allowance so payable to a member shall be charged on the Consolidated Fund and shall not be reduced during the term of office of the member.

(8) The salary or allowance payable under paragraph (7) of this Article to a member of the Commission shall be in addition to the salary or other emoluments attached to, and received from, the substantive appointment of the member.

(9) The Commission may make -

(a) rules regarding schemes for recruitment and procedure for the appointment of judicial officers and specified public officers; and

(b) provisions for such matters as are necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the Commission.

(10) The Chairperson of the Commission or any Judge of the Supreme Court or Court of Appeal

authorized by such Chairperson, shall have full power and authority to inspect any court of first instance or the records, registers or other documents maintained in such court and to hold such inquiry as may be necessary.

### **Secretary to the Judicial Service Commission.**

157. There shall be a Secretary to the Commission who shall be appointed by the Commission from among senior judicial officers of the courts of first instance.

### **Appointment &c. of judicial officers and specified public officers**

158. (1) The appointment, promotion, transfer, dismissal and disciplinary control of all judicial officers and of all specified public officers is vested in the Commission.

(2) It shall be competent for the Commission by Order published in the

Gazette to delegate any of the Commission's powers under paragraph (1) of this Article in respect of such class or categories of judicial officers or specified public officers as may be specified therein, to a committee of not less than three Judges, each of whom shall be a Judge of the Supreme Court or of the Court of Appeal and one of whom shall be nominated by the Chief Justice as Chairperson.

(3) Any judicial officer or specified public officer may resign by writing addressed to the Chairperson of the Commission.

(4) The Commission may by Order published in the Gazette, delegate to the Secretary to the Commission the power to make all transfers (including transfer from one Region to another Region) in respect of specified public officers, other than transfers involving increase of salaries or the power to make acting appointments in such cases and subject to such limitations as may be specified in the Order.

### **Interpretation.**

159. (1) (a) In Articles 156, 157 and 158 "judicial officer" means an person who holds office as judge, presiding officer or member of any court of first instance, tribunal or institution created and established for the administration of justice or for the adjudication of any labour or other dispute but does not include a Judge of a Regional High Court or a person who performs arbitral functions or a public officer whose principal duty is not the performance of functions of a judicial nature.

(b) No court, tribunal or institution shall have jurisdiction to determine the question whether or not a person is a judicial officer within the meaning of the Constitution but such question shall be determined by the Commission whose decision thereon shall be final and conclusive.

(c) No act of such person or proceeding held before such person, prior to such determination as is referred to in sub-paragraph (b) shall be deemed to be invalid by reason of such determination.

(2) In this Chapter, "specified public officer" means the Registrar of the Supreme Court, the Registrar of the Court of Appeal, the Registrar, Deputy Registrar or Assistant Registrar of any court of first instance, the Fiscal, the Deputy Fiscal of the Court and Appeal and any court of first instance, any national or regional public officer employed in the Registry of the Supreme Court, Court of Appeal or any court of first instance included in any of the following categories, namely,

clerks, interpreters, stenographers, typists and binders or in such other categories as may be specified by Order made by the Minister of the Cabinet of Ministers in charge of the subject of Justice and approved by Parliament.

### **Interference with Judicial Service Commission &c. an offence**

160. (1) Every person who, otherwise than in the course of the person's duty, directly or indirectly, alone or by any other person, in any manner whatsoever, influences or attempts to influence any decision of the Commission, a committee appointed by the Commission or any member thereof, shall be guilty of an offence and shall on conviction by a Regional High Court, be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Anything in paragraph (1) of this Article shall not prohibit any person from giving a certificate or testimonial to any applicant or candidate for any judicial office.

### **Interference with judiciary an offence**

161. (1) Every judge, presiding officer, public officer or other person entrusted by law with judicial powers or functions or with functions under this Chapter or with similar functions under any law enacted by Parliament shall exercise and discharge such powers and functions without being subject to any direction or other interference proceeding from any other person except a superior court, tribunal, institution or other person entitled under law to direct or supervise such judge, presiding officer, public officer or such other person in the exercise or discharge of such powers or functions.

(2) Every person who, without legal authority, interferes or attempts to interfere with the exercise or discharge of the judicial powers or functions of any judge, presiding officer, public officer or such other person as is referred to in paragraph (1) of this Article, shall be guilty of an offence and shall on conviction by a Regional High Court be liable to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding five years or with both such fine and imprisonment and may, in addition, be disqualified for a period not exceeding seven years from the date of such conviction from being an elector and from voting at a Referendum or at any election of Members of Parliament or Members of a Regional Council or any local authority or from holding any public office and from being employed as an officer in the service of the State.

### **Immunity of members of Judicial Service Commission &c**

162. Any suit or proceedings shall not lie against any member of the Commission or any committee appointed by the Commission for any act which in good faith is done or is purported to be done by the member in the performance of the duties or discharge of the functions under the Constitution.

### **Fiscal**

163. There shall be a Fiscal who shall be the Fiscal for the whole Island and shall exercise supervision and control over Deputy Fiscals attached to all courts.

## THE JUDICIARY

### The Jurisdiction of the Supreme Court, the Court of Appeal and the Regional High Courts

#### The Supreme Court

##### **Jurisdiction of the Supreme Court with respect to Bills.**

164. (1) Subject to paragraphs (2), (3), (4) and (5) of this Article, the Supreme Court shall have sole and exclusive jurisdiction to determine any question as to whether any Bill or any provision thereof is inconsistent with the Constitution.

(2) Where a Bill is described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 101

(3) Where the Cabinet of Ministers certifies that Bill, which is described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 100 and submitted to the People at a Referendum, the Supreme Court shall have and exercise no jurisdiction in respect of such Bill.

(4) Where the Cabinet of Ministers certifies that a Bill which is not described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 102, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 101 or whether such Bill is required to comply with paragraphs (1) and (2) of Article 100.

(5) Where the Cabinet of Ministers certifies that any provision of any Bill which is not described in its long title as being for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution is intended to be passed with the special majority required by Article 102, the only question which the Supreme Court may determine is whether any other provision of such Bill requires to be passed with the special majority required by Article 102 or whether any provision of such Bill requires the approval by the People at a Referendum by virtue of the provisions of Article 101 or whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 100.

##### **Ordinary exercise of jurisdiction of Supreme Court with respect to Bills**

165. (1) The jurisdiction of the Supreme Court to ordinarily determine any such question referred to in Article 164 may be invoked by the President by a written reference addressed to the Chief Justice, or by any citizen by a petition in writing addressed to the Supreme Court.

(2) A reference shall be made, or a petition shall be filed under paragraph (1) of this Article, within three weeks of the Bill being placed on the Order Paper of Parliament, and a copy thereof shall at the same time be delivered to the Speaker.

(3) In paragraph (1) of this Article, "citizen" includes a body of persons, whether incorporated



or unincorporated, if not less than three-fourths of the number of members of such body are citizens.

(4) Where the jurisdiction of the Supreme Court has been invoked under this Article, proceedings shall not be had in Parliament in relation to such Bill until the determination of the Supreme Court has been made, or the expiration of a period of three weeks from the date of such reference or petition, whichever occurs first.

(5) The Supreme Court shall make and communicate its determination to the President and to the Speaker within three weeks of the making of the reference or the filing of the petition, as the case may be.

### **Special exercise of jurisdiction of Supreme Court with respect to Bills**

166. (1) In the case of a Bill which is, in the view of the Cabinet of Ministers, urgent in the national interest, and bears an endorsement to that effect under the hand of the Secretary to the Cabinet of Ministers -

(a) the provisions of paragraph (1) of Article 94 and Article 165 shall, subject to the provisions of paragraph (2) of this Article, have no application;

(b) the President shall by a written reference addressed to the Chief Justice, require the special determination of the Supreme Court as to whether the Bill or any provision thereof is inconsistent with the Constitution and a copy of such reference shall at the same time be delivered to the Speaker;

(c) the Supreme Court shall make its determination within twenty-four hours (or such longer period not exceeding three days as the President may specify) of the assembling of the Court, and shall communicate its determination only to the President and to the Speaker.

(2) The provisions of paragraph (4) of Article 165, shall, *mutat mutandis*, apply to such Bill.

### **Determination of Supreme Court in respect of Bills.**

167. (1) The determination of the Supreme Court in the exercise of its jurisdiction under Articles 165 and 166 shall be accompanied by the reasons therefore, and shall state whether the Bill or any provision thereof is inconsistent with the Constitution and if so, which provision or provisions of the Constitution.

(2) Where the Supreme Court determines that the Bill or any provision thereof is inconsistent with the Constitution, it shall also state —

(a) whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 100;

(b) whether such Bill or any provision thereof may only be passed by the special majority required under the provisions of paragraph (2) of Article 102; or

(c) whether such Bill or any provision thereof requires to be passed by the special majority required under the provisions of paragraph (2) of Article 102 and approved by the People at a Referendum by virtue of the provisions of Article 101,

and may specify the nature of the amendments which would make the Bill or such provision cease to be inconsistent with the Constitution.

(3) In the case of a Bill endorsed as provided in Article 166, if the Supreme Court entertains a doubt as to whether a Bill or any provision thereof is inconsistent with the Constitution, it shall be deemed to have been determined that the Bill or such provision of the Bill is inconsistent with the Constitution and the Supreme Court shall comply with paragraphs (1) and (2) of this Article.

(4) Where any Bill or any provision of any Bill has been determined to be inconsistent with the Constitution, such Bill or such provision shall, subject to paragraph (5) of this Article, not be passed except in the manner stated in the determination of the Supreme Court.

(5) It shall be lawful for any Bill referred to in paragraph (3) of this Article to be passed after such amendment as would make the Bill cease to be inconsistent with the Constitution.

(6) Where the Supreme Court has in the exercise of its jurisdiction under Articles 165 and 166 determined that any Bill or provision thereof is inconsistent with the Constitution but does not specify the nature of the amendments which would make the Bill or the provision, as the case may be, cease to be inconsistent with the Constitution, the Bill or provision shall not be passed, otherwise than by the special majority required by Article 102 until the amendments proposed to be made to the Bill or provision, as the case may be, are submitted to the Supreme Court and the Supreme Court determines that the amendments proposed to the Bill or provision, as the case may be, would make the Bill or provision, as the case may be, cease to be inconsistent with the Constitution.

### **Power of review of Acts passed after commencement of the Constitution**

168. (1) The Supreme Court shall, on its jurisdiction being invoked under paragraph (2) or paragraph (5) of this Article and subject to the provisions of this Article, have sole and exclusive jurisdiction to determine whether any Act of Parliament passed after the commencement of the Constitution or any provision thereof is inconsistent with any provision of the Constitution and where it so determines, to declare that Act or provision void to the extent of that inconsistency, without prejudice to anything previously done thereunder.

(2) The jurisdiction of the Supreme Court to determine any such question as aforesaid may be invoked by any citizen by a petition in writing addressed to the Supreme Court within two years of the certification of the Act by the Speaker or the President, as the case may be.

(3) In paragraph (2) of this Article, "citizen" includes a body of persons, whether incorporated or unincorporated, if not less than three-fourths of the number of members of such body are citizens.

(4) Notwithstanding anything in paragraph (2) of this Article, where the jurisdiction of the Supreme Court under Articles 165 and 166 had been invoked to determine the constitutionality of a Bill or a provision of a Bill, as the case may be, a citizen shall not be entitled to invoke the jurisdiction of the Supreme Court under this Article to determine the constitutionality of that Bill after the enactment of the Bill as an Act of Parliament or that provision after enactment of the provision as a provision of an Act of Parliament, on the same grounds as were adduced against the

Bill, or provision of the Bill, as the case may be.

(5) Whenever any question as to whether an Act passed by Parliament after the commencement of the Constitution or any provision thereof is inconsistent with the Constitution arises, at any time within two years of the certification of the Act, in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, other than the Supreme Court, such question shall forthwith be referred to the Supreme Court for determination and on such reference, the Supreme Court may direct that further proceedings be stayed pending the determination of such question, and where any such question arises in the course of any proceedings in the Supreme Court, such question shall be deemed to have been referred to the Supreme Court under this paragraph for determination.

(6) Save as otherwise provided in Articles 164,165,166 and this Article, any court or tribunal created and established for the administration of justice or other institution, person or body of persons shall not in relation to any Bill or Act have power or jurisdiction to inquire into, or pronounce upon, the constitutionality of such Bill or Act or its due compliance with the legislative process on any ground whatsoever.

### **Jurisdiction of the Supreme Court in respect of Statutes of Regional Councils.**

169. (1) The Supreme Court shall have sole and exclusive jurisdiction to determine any question as to whether

- (a) any draft Statute proposed to be passed by a Regional Council or any provision thereof; or
- (b) any Statute passed by a Regional Council or any provision thereof, contravenes, or is inconsistent with, the Constitution.

(2) (a) The jurisdiction of the Supreme Court to ordinarily determine any such question as is referred to in sub- paragraph (a) of paragraph (1) of this Article may be invoked by -

- (i) the Attorney-General;
- (ii) the Advocate-General of the Region in relation to which the draft Statute is proposed to be passed, or
- (iii) any citizen,

by a petition in writing, addressed to the Supreme Court, within three weeks of the draft Statute being published in the Gazette.

(b) Where the jurisdiction of the Supreme Court has been invoked under this paragraph, no proceedings shall be had in any Regional Council in relation to such draft Statute until the determination of the Supreme Court has been made.

(c) The Supreme Court shall make and communicate its determination to the President, the Governor of the Region and the Speaker of the Regional Council proposing to pass such Statute, within three weeks of the filing of the petition.

(d) Where any draft Statute or any provision of a draft Statute has been determined by the Supreme Court to contravene, or to be inconsistent with, the Constitution, such draft Statute or

provision shall not be passed by the Regional Council proposing to pass such draft Statute or provision except in the manner stated in the determination of the Supreme Court.

(e) The provisions of paragraph (6) of Article 167 shall, mutatis mutandis apply to a draft Statute which has been determined by the Supreme Court to contravene, or to be inconsistent with the Constitution.

(3) The jurisdiction of the Supreme Court to ordinarily determine any such question as is referred to in sub- paragraph (b) of paragraph (1) of this Article may be invoked —

(a) by the Attorney-General by a petition in writing addressed to the Supreme Court;

(b) by the Advocate -General of a Region by a petition in writing addressed to the Supreme Court, in every case where such Advocate-General has communicated an opinion to the Governor, the Chief Minister and the Board of Ministers of the Region, prior to the passing of that Statute, that the draft Statute or any provision thereof contravenes or is inconsistent with the Constitution, and the Statute has been passed despite such opinion; or

(c) by any citizen by a petition in writing addressed to the Supreme Court with leave of such Court first had and obtained,

within two years of the Statute being certified by the Speaker of the Regional Council.

(4) The provisions of paragraph (5) of Article 168 shall, mutatis mutandis, apply to any Statute passed by a Regional Council.

(5 ) In paragraphs (2) and (3) of this Article, "citizen" includes a body of persons, whether incorporated or unincorporated, if not less than three-fourths of the number of members of such body are citizens.

(6) Where the jurisdiction of the Supreme Court has been invoked under paragraph (3) of this Article in respect of a Statute by an Advocate-General of a Region, such Statute shall be inoperative until the Supreme Court has made a determination thereon as to its consistency with the Constitution.

(7) The Supreme Court shall make and communicate its determination on any such question as is referred to in sub-paragraph (b) of paragraph (1) of this Article to the President, the Governor of the Region and to the Speaker of the Regional Council making such Statute.

(8) Where the Supreme Court determines that a Statute is inconsistent with any provision of the Constitution it may declare such Statute or provision thereof void to the extent of such inconsistency.

### **Constitutional jurisdiction in respect of the interpretation of the Constitution.**

170. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the interpretation of the Constitution, and accordingly, whenever any such question arises in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, such question shall forthwith be referred to the Supreme Court for determination and on such reference, the Supreme Court may direct that further proceedings be stayed pending the determination of such

question.

(2) The Supreme Court may, when determining such matter, also make any such consequential order as the circumstances of the case may require.

### **Jurisdiction of the Supreme Court regarding fundamental and language rights**

171. (1) The Supreme Court shall have jurisdiction to hear and determine any question relating to the infringement or imminent infringement by State action, including executive or administrative action, of any fundamental right or language right declared and recognized by Chapter III or Chapter IV.

(2) The jurisdiction of the Supreme Court under this Article may be invoked by any person or body of persons referred to in Article 30, within three months of the alleged infringement or imminent infringement, in accordance with such rules of court as may be in force, by way of petition in writing addressed to the Supreme Court praying for relief or redress in respect of such infringement.

(3) An application under paragraph (2) of this Article may be proceeded with only with leave to proceed first had and obtained from the Supreme Court, which leave may be granted or refused as the case may be by not less than two Judges of such Court.

(4) Where in the course of proceedings in the Court of Appeal pursuant to an application for orders in the nature of a writ of habeas corpus, certiorari, prohibition, mandamus or quo warranto, it appears to such Court that there is prima facie evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV by a party to such application, and that the hearing and determination of such infringement or imminent infringement is not within the jurisdiction of the Court of Appeal under Article 182, such Court shall forthwith refer such matter for determination by the Supreme Court.

(5) The Supreme Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any petition or reference referred to in paragraphs (2) or (4) of this Article or paragraph (8) of Article 182 or refer the matter back to the Court of Appeal if, in its opinion, there is no infringement of a fundamental right or language right.

(6) The Supreme Court may at any stage of the proceedings relating to a petition or reference referred to in paragraph (2) or (4) of this Article or paragraph (8) of Article 182 refer such matter to the Human Rights Commission of Sri Lanka or other appropriate body or person for inquiry and report.

(7) The Supreme Court shall hear and finally dispose of any petition or reference under this Article not later than three months of the filing of the petition or the making of the reference, as the case may be, and in computing the period of three months, any period taken for inquiry and report by the Human Rights Commission of Sri Lanka or any other body or person referred to in paragraph (6) shall be excluded.

### **Jurisdiction in respect of validity of Referendum.**

172. The Supreme Court shall have power to hear and determine and make such orders as are

provided for by law on any legal proceeding relating to the validity of a Referendum.

**Jurisdiction in respect of breach of Parliament privilege.**

173. The Supreme Court shall have, according to law, the power to take cognizance of, and punish any person for the breach of the privileges of Parliament.

**Appellate jurisdiction.**

174. (1) The Supreme Court shall, subject to the Constitution, be the final court of civil and criminal appellate jurisdiction for and within the Republic for the correction of all errors in fact or in law which shall be committed by the Court of Appeal or by any court of first instance, tribunal or other institution from which a right of appeal has been provided by law direct to the Supreme Court and the judgements and orders of the Supreme Court shall in all cases be final and conclusive on all such matters.

(2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal, where any appeal lies in law to the Supreme Court, from any order, judgement, decree, or sentence made by—

(a) the Court of Appeal; or

(b) any court of first instance, tribunal or other institution where a right of appeal has been provided by law direct to the Supreme Court,

and it may affirm, reverse or vary any such order, judgement, decree or sentence of the Court of Appeal, or any court of first instance, tribunal or institution and may issue such directions to any court of first instance, tribunal or institution or order a new trial or further hearing in any proceedings as the justice of the case may require, and may also call for and admit fresh or additional evidence if the interests of justice so demand and may in such event, direct that such evidence be recorded by the Court of Appeal or any court of first instance, tribunal or other institution.

**Right of appeal**

175. (1) An appeal shall lie to the Supreme Court from any final order, judgement, decree or sentence of the Court of Appeal in any matter or proceeding, whether civil or criminal, which involves a substantial question of law if the Court of Appeal grants leave to appeal to the Supreme Court ex mero motu or at the instance of any aggrieved party to such matter or proceeding.

(2) The Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgement, decree, or sentence made by the Court of Appeal, in any matter or proceedings, whether civil or criminal, where the Court of Appeal has refused to grant leave to appeal to the Supreme Court, or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court and shall, in every matter or proceeding in which it is satisfied that the question to be decided is of public or general importance, grant leave to appeal.

(3) An appeal shall lie direct to the Supreme Court on any matter and in the manner specifically provided for by any other law passed by Parliament.

### **Review of judgement of the Supreme Court**

176. The Supreme Court shall have jurisdiction to review any judgement of the Supreme Court which in the opinion of the Chief Justice is fit for review by a fuller bench of the Supreme Court.

### **Consultative and other jurisdictions of the Supreme Court**

177. (1) (a) If at any time it appears to the President of the Republic that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon that question, the President may refer the question to that Court for consideration and the Court may, after such hearing as the Court thinks fit, within the period specified in such reference or within such time as may be extended by the President, report to the President its opinion thereon.

(b) Such opinion shall be expressed after consideration by at least five judges of the Supreme Court.

(c) Every proceeding under this paragraph shall be held in private unless the Court, for special reasons, otherwise directs.

(2) Subject to the provisions of the Constitution, the Supreme Court shall have and exercise all such powers and jurisdiction as were immediately prior to the commencement of the Constitution vested in the Supreme Court created and established by the 1978 Constitution insofar as such powers and jurisdiction are not inconsistent with the provisions of the Constitution.

### **Right of the Attorney-General to be heard**

178. The Attorney-General shall be noticed and have the right to be heard in all proceedings in the Supreme Court in the exercise of its jurisdiction under Articles 164, 165, 166, 168, 169, 170, 171, 172, 173 and 176 of the Constitution.

### **Supreme Court to give priority to the hearing of certain matters**

179. The Supreme Court shall give priority to the hearing and determination of any matter in respect of which its jurisdiction under Articles 165, 166, 167, and 170 is invoked and shall dispose of such matter as expeditiously as possible.

## **The Court of Appeal**

### **Jurisdiction of the Court of Appeal.**

180. (1) The Court of Appeal shall have and exercise, subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by a Regional High Court or by any other court of first instance, tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and restitutio in integrum, of all causes, suits, actions, prosecutions, matters and the things of which such court, tribunal or other institution may have taken cognizance.

(2) The appellate, revisionary and other jurisdiction of the Court of Appeal under this Article in respect of judgements, decrees, orders and sentences -

(a) of the Regional High Courts shall be exercised by the Court of Appeal sitting in Colombo;

(b) of other courts of first instance, tribunals or other institutions shall be exercised by the Court

of Appeal in the Division within which such court of first instance, tribunal or other institution is situate.

(3) The Court of Appeal shall also have and exercise all such powers and jurisdiction, appellate and original, as Parliament may by law vest or ordain.

**Powers in appeal.**

181. (1) Subject to paragraph (2) of this Article, the Court of Appeal may in the exercise of its jurisdiction under Article 180, affirm, reverse, correct or modify any order, judgement, decree or sentence according to law or it may give directions to such court, tribunal or other institution or order a new trial or further hearing upon such terms as the Court of Appeal shall think fit.

(2) Any judgement, decree, order or sentence of any court, tribunal or institution shall not be reversed or varied on account of any error, defect or irregularity, which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.

(3) The Court of Appeal may further receive and admit new evidence additional to, or supplementary of, the evidence already taken in such court, tribunal or institution touching the matters at issue in any original case, suit, prosecution or action, as the justice of the case may require.

**Jurisdiction of the Court of Appeal regarding fundamental and language rights.**

182. (1) The Court of Appeal shall have jurisdiction to hear and determine any question relating to the infringement or imminent infringement of any fundamental or language right declared and recognized by Chapter III or Chapter IV by State action, including executive or administrative action, in respect of any matter set out in the Regional List.

(2) The jurisdiction of the Court of Appeal under this Article may be invoked by any person or body of persons referred to in Article 30, within three months of the alleged infringement or imminent infringement, in accordance with such rules of court as may be in force, by way of petition in writing addressed to the Court of Appeal praying for relief or redress in respect of such infringement.

(3) An application under paragraph (2) of this Article may be proceeded with only with leave to proceed first had and obtained from the Court of Appeal.

(4) The Court of Appeal shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any petition referred to in paragraph (2) of this Article.

(5) The Court of Appeal may at any stage of the proceedings relating to a petition referred to in paragraph (2) of this Article refer such matter to the Human Rights Commission of Sri Lanka or other appropriate body or person for inquiry and report.

(6) The Court of Appeal shall hear and finally dispose of any petition under this Article not later than three months of the filing of the petition and in computing the period of three months, any period taken for inquiry and report by the Human Rights Commission of Sri Lanka or any other body or person referred to in paragraph (6) shall be excluded.



(7) Where in the course of proceedings taken under this Article, it appears to the Court of Appeal that the alleged infringement or imminent infringement does not come within its jurisdiction but appears instead to come within the jurisdiction of the Supreme Court under Article 171, the Court shall refer such matter to the Supreme Court for consideration and determination.

(8) The jurisdiction of the Court of Appeal under this Article shall be exercised in the Division within which such State action is alleged to have been taken.

(9) The Attorney-General shall be noticed and have the right to be heard in all proceedings in the Court of Appeal in the exercise of its jurisdiction under this Article.

**Powers to issue writs.**

183. (1) Subject to the provisions of the Constitution, the Court of Appeal shall have full power and authority to inspect and examine the records of any court of first instance or tribunal or other institution, and grant and issue according to law, orders in the nature of writs of certiorari, prohibition, mandamus and quo warranto against the judge of any court of first instance or tribunal or other institution or any other person.

(2) Parliament may by law provide that in such category of cases as may be specified in such law, the jurisdiction conferred on the Court of Appeal by paragraph (1) of this Article shall be exercised by the Supreme Court and not by the Court of Appeal.

(3) Subject to paragraphs (4) and (5), the Court of Appeal may grant and issue orders in the nature of writs of habeas corpus to bring up before such Court—

(a) the body of any person to be dealt with according to law; or

(b) the body of any person illegally or improperly detained in public or private custody, and to discharge or remand any person so brought up or otherwise deal with such persons according to law.

(4) On an application for an order under paragraph (3) of this Article, it shall be lawful for the Court of Appeal to require the body of such person to be brought up before the most convenient court of first instance and to direct the judge of such court to inquire into and report to the Court Of Appeal upon the acts of the alleged imprisonment or detention and to make such provision for the interim custody of the body produced as to such court shall seem proper and the Court of Appeal shall upon the receipt of such report, make order to discharge or remand the person so alleged to be imprisoned or detained or otherwise deal with such person according to law, and the court of first instance shall conform to, and carry into immediate effect the order so pronounced or made by the Court of Appeal.

(5) Where provision is made by law for the exercise, by any court, of jurisdiction in respect of the custody and control of minor children, then the Court of Appeal, if satisfied that any dispute regarding the custody of any such minor child may more properly be dealt with by such court, direct the parties to an application for an order under paragraph (3) of this Article to make application in that court in respect of the custody of such minor child.

(6) (a) The jurisdiction of the Court of Appeal under paragraph (1) this Article shall be

exercised -

(i) in respect of acts or omissions, other than acts or omissions relating to any matter set out in the Regional List, by the Court sitting in Colombo; and

(ii) in respect of acts or omissions within a Division, in relation to any matter set out in the Regional List, by the Court sitting in that Division.

(b) The jurisdiction of the Court of Appeal under paragraph (3) of this Article shall be exercised by the Court sitting in Colombo or by the Court sitting in any Division within which the corpus is illegally or improperly detained at any stage during the period of the alleged detention.

**Powers to bring up and remove prisoners.**

184. The Court of Appeal may direct—

(a) that a prisoner detained in any prison be brought before a court-martial or any Commissioners acting under the authority of any commission from the President of the Republic for trial or to be examined relating to any matters pending before any such court-martial or Commissioners respectively; or

(b) that a prisoner detained in prison be removed from one custody to another for purposes of trial.

**Power to grant injunctions.**

185. (1) Subject to paragraph (2) of this Article, the Court of Appeal shall have the power to grant and issue injunctions to prevent any irreparable mischief which might ensue before a party making an application for such injunction could prevent the same by bringing an action in any court of first instance.

(2) It shall not be lawful for the Court of Appeal to grant an injunction to prevent a party to any action in any court from appealing to or prosecuting an appeal to the Court of Appeal or to prevent any party to any action in any court from insisting upon any ground of action, defence or appeal, or to prevent any person from suing or prosecuting in any court, except where such person has instituted two separate actions in two different courts for and in respect of the same cause or action, in which case the Court of Appeal shall have the power to intervene by restraining the person from prosecuting one or other of such actions as to it may seem fit.

(3) The jurisdiction of the Court of Appeal under this Article may be exercised by the Court sitting in Colombo or in the Division within which the court of first instance in which the action is proposed to be instituted is situate.

**Election petitions.**

186. The Court of Appeal shall have and exercise jurisdiction to try election petitions in respect of the election to the membership of Parliament or a Regional Council in terms of any law for the time being applicable in that behalf.

**Other jurisdictions of the Court of Appeal.**

187. Subject to the provisions of the Constitution, the Court of Appeal shall have and exercise all such other powers and jurisdiction as were immediately prior to the commencement of the

Constitution vested in the Court of Appeal created and established by the 1978 Constitution insofar as such powers and jurisdiction are not inconsistent with the provisions of the Constitution.

### **Inspection of records.**

188. The Court of Appeal may, ex mero motu or on any application made, call for, inspect and examine any record of a Regional High Court or any record of any other court of first instance, tribunal or other institution and in the exercise of its revisionary powers may make any order thereon as the interests of justice may require.

## **The Regional High Courts**

### **Jurisdiction of the Regional High Courts.**

189. (1) Every Regional High Court shall have and exercise, subject to the provisions of the Constitution or of any law, the original criminal jurisdiction of the High Court of Sri Lanka immediately prior to the commencement of the Constitution, in respect of offences committed within the relevant Region.

(2) Every Regional High Court shall have and exercise, subject to the provisions of the Constitution, such other original jurisdiction and powers as Parliament may, by law provide.

(3) Unless Parliament otherwise provides by law, the several jurisdictions and powers exercised by the High Court of Sri Lanka immediately prior to the commencement of the Constitution and not included in the jurisdiction conferred on a Regional High Court by paragraph (1), shall be exercised by the High Court of the Western Region sitting in Colombo.

(4) (a) Save as provided by any law, the jurisdiction of a Regional High Court shall be exercised by a single judge of the court.

(b) The Chief Justice may, having regard to available facilities, determine by Order published in the Gazette the judicial divisions in respect of which the Regional High Court holden in a particular place shall have exclusive original criminal jurisdiction.

(5) The Chief Justice may, at any time, vary an order made under this Article.

(6) In this Article, "the High Court of Sri Lanka" means the High Court of Sri Lanka created and established by the 1978 Constitution.

## **CHAPTER XX THE PUBLIC SERVICE**

### **Appointments by the president**

190. (1) The President shall, subject to paragraph (2) of this Article, appoint all national public officers required by the Constitution or other written law to be appointed by the President, as well as the Attorney-General and the Heads of the Army, the Navy, the Air Force and the Police Force.

(2) Where any national public officer is required to be appointed on the recommendation of the Constitutional Council or the Parliamentary Committee on High Posts, such public officer shall be

appointed by the President only in conformity with such recommendation.

### **National Public Service Commission**

191. Subject to the provisions of the Constitution the appointment, promotion, transfer, dismissal and disciplinary control of all national public officers vest in the National Public Service Commission.

### **Tenure of the national public officers**

192. Save as otherwise expressly provided by the Constitution, all national public officers shall hold office at pleasure.

### **Cabinet of Ministers to appoint Heads of Departments &c.**

193. (1) (a) Notwithstanding anything in Article 191, the appointment, promotion, transfer, dismissal and disciplinary control of Heads of Departments vest in the Cabinet of Ministers.

(b) The Cabinet of Ministers shall exercise powers under this paragraph in accordance with such criteria as may be recommended by the National Public Service Commission.

(2) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters of policy relating to national public officers.

### **Constitution of the National Public Service Commission**

194. (1) The National Public Service Commission shall consist of not more than seven persons appointed by the President on the recommendation of the Constitutional Council and the President shall nominate one of the members of the Commission to be its Chairperson.

(2) A person shall not be appointed or continue as a member of the National Public Service Commission if the person is a Member of Parliament or of a Regional Council.

(3) (a) Every person who, immediately before the appointment as a member of the National Public Service Commission, was a public officer in the service of the State or a judicial officer shall, when such appointment takes effect, cease to hold such office, and shall be ineligible for further appointment as a national or regional public officer or judicial officer.

(b) Every person referred to in sub-paragraph (a) of this paragraph shall, until; the person ceases to be a member of the National Public Service Commission, or while continuing to be such a member, attains the age at which the person would be required to retire from such service, be deemed to be a public officer in the service of the State or a judicial officer, as the case may be, and to hold a pensionable office in the service of the State, for the purposes of any provision relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) (a) Every member of the National Public Service Commission shall hold office for a period of five years from the date of appointment, unless the member earlier resigns from office by a writing addressed to the President or is removed, subject to the provisions of sub-paragraph (b) of this paragraph, from office by the President, for cause assigned.

(b) A member of the National Public Service Commission shall not be removed from office unless the Constitutional Council has, upon the President requesting the Council to consider the matter, recommended such removal.

(c) A person who has held office as a member of the National Public Service Commission shall not be eligible for reappointment as a member of the Commission.

(5) The President may grant leave from duties to any member of the National Public Service Commission and may nominate a person qualified to be a member of the National Public Service Commission to be a temporary member for the period of such leave.

(6) A member of the National Public Service Commission shall be paid such salary as may be determined by Parliament and the salary payable to any such member shall be charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office.

(7) There shall be a Secretary to the National Public Service Commission who shall be appointed by the Commission.

(8) The quorum for any meeting of the National Public Service Commission shall be three members.

(9) The National Public Service Commission shall have power to act notwithstanding any vacancy in its membership, and any act or proceeding of the Commission shall not be, or be deemed not to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

(10) For the purposes of Chapter IX of the Penal Code, a member of the National Public Service Commission shall be deemed to be a public servant.

(11) For the purpose of this Article and Articles 191, 192 and 193, "national public officer" does not include a member of the Army, Navy or Air Force.

#### **Delegation by the National Public Service Commission of certain powers to a Committee**

195. (1) The National Public Service Commission may delegate to a Committee of the National Public Service Commission consisting of three members as shall be named by the Commission, the powers of appointment, promotion, transfer, dismissal or disciplinary control in respect of such categories of national public officers as are specified by the Commission.

(2) Where the Chairperson of the National Public Service Commission is a member of the Committee so appointed, the Chairperson of the Commission shall be the Chairperson of the Committee, and where the Chairperson of the Commission is not a member of the Committee so appointed such member of the Committee as may be nominated in writing by the Chairperson of the Commission, shall be the Chairperson of that Committee.

(3) There shall be a Secretary to each such Committee who shall be appointed by the National Public Service Commission.

(4) The quorum for any meeting of any such Committee shall be two members.

(5) Any such Committee shall have power to act notwithstanding any vacancy in its membership and any act or proceeding of any such Committee shall not be, or be deemed not to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

#### **National Public Service Commission or Committee to delegate powers to a national public**

**officer.**

196. (1) Subject to the provisions of the Constitution, the National Public Service Commission or any Committee thereof may delegate to a national public officer, subject to such conditions as may be prescribed by the National Public Service Commission, its powers of appointment, promotion, transfer, dismissal or disciplinary control of any category of national public officers.

(2) Any national public officer aggrieved by any order of transfer or of dismissal, or any other order relating to a disciplinary matter made by a national public officer to whom the National Public Service Commission or any Committee thereof has delegated its powers under paragraph (1) of this Article, shall have a right of appeal to the National Public Service Commission of such Committee, as the case may be.

(3) The National Public Service Commission shall have the power to alter, vary or rescind any appointment, promotion, order of transfer or dismissal or any other order relating to a disciplinary matter made, on appeal or otherwise, by a Committee to which the National Public Service Commission has delegated its powers or by a national public officer to whom the National Public Service Commission has delegated its powers under this Article.

(4) A Committee of the National Public Service Commission shall, on appeal to the Committee under paragraph (2) of this Article, have the power to alter, vary or rescind any order of transfer, dismissal or any other. Order relating to a disciplinary matter made by a national public officer to whom the Committee had delegated its powers under paragraph (1) of this Article.

(5) A national public officer aggrieved by any order or decision, made on appeal or otherwise, of the Cabinet of Ministers or the National Public Service Commission in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of such national public officer shall have a right of appeal to the Administrative Appeals Tribunal referred to in this Chapter.

**Any court or tribunal not to pronounce upon or call in question any order or decision relating to public service**

197. Any court, tribunal or institution, other than the Supreme Court and the Court of Appeal shall not have power or jurisdiction to inquire into, pronounce upon or in any manner call in question, any order or decision of the Cabinet of Ministers, the Administrative Appeals Tribunal, the National Public Service Commission, a Committee of the National Public Service Commission or of a national public officer in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of a national public officer.

**Existing rules and regulations relating to public service to continue**

198. Subject to the provision of the Constitution and until the National Public Service Commission otherwise provides, the rules, regulations, and procedures relating to the public service that were in force at the commencement of the Constitution shall, mutatis mutandis, be deemed to continue in force as rules, regulations and procedures relating to the national public service as if they had been made or provided for under this Constitution.

**Interference with National Public Service Commission to be an offence**

199. (1) Every person who, otherwise than in the course of the person's duty, directly or indirectly, alone or by any other person, in any manner whatsoever, influences or attempts to influence any decision of the National Public Service Commission or of any Committee thereof, or of any member of such Commission or of any national public officer exercising any powers delegated by such Commission or Committee, shall be guilty of an offence and shall, on conviction by a Regional High Court, be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Anything in paragraph (1) of this Article shall not prohibit any person from giving a certificate or testimonial to any applicant or candidate for any public office.

### **Regional Public Service Commission.**

200. (1) There shall be a Regional Public Service Commission for each Region established under Chapter XV, which shall consist of not less than three and not more than five persons appointed by the Governor of that Region in consultation with the Board of Ministers of that Region and having regard to the ethnic composition of that Region, and the Governor shall nominate one of the members of the Commission to be the Chairperson thereof.

(2) A person shall not be so appointed or continue as a member of the Regional Public Service Commission if the person is a Member of Parliament, a Member of a Regional Council, a member of a local authority, a public officer in the service of the State or a judicial officer.

(3) (a) Every member of a Regional Public Service Commission shall hold office for a period of five years from the date of the member's appointment, unless the member earlier resigns from office by a writing addressed to the Governor of the Region or is removed from office by the Governor upon the recommendation of the Constitutional Council, acting on a request of the Board of Ministers for that Region, for cause assigned.

(b) A person who has held office as a member of a Regional Public Service Commission shall not be eligible for reappointment as a member of that Commission.

(4) A member of a Regional Public Service Commission shall be paid such salary as may be determined by the Regional Council for that Region and such salary payable to any such member shall be charged on the Consolidated Fund of the Region and shall not to be reduced during the term office of the member.

(5) A Regional Public Service Commission shall have the power to act notwithstanding any vacancy in its membership, and any act or proceedings of such Commission shall not be, or be deemed not to be, invalid by reason only of such vacancy or any defect in the appointment of a member.

### **Chief Secretary and Secretaries of Regional Ministries.**

201. (1) The Chief Secretary of a Region and the Secretary of the Ministry of every Minister of the Board of Ministers of a Region shall be appointed by the Governor of the Region on the advice of the Chief Minister.

(2) (a) The appointment, promotion, transfer, dismissal and disciplinary control of Heads of

Department in the Regional Administration shall vest in the Board of Ministers of the Region.

(b) The Board of Ministers shall exercise powers under this paragraph in accordance with such criteria as may be recommended by the National Public Service Commission.

### **Regional Public Service**

202. (1) (a) Subject to the provisions of the Constitution, the appointment, promotion, transfer, dismissal and disciplinary control of officers of the Regional Public Service of each Region vest in the Regional Public Service Commission of that Region.

(b) Subject to the provisions of the Constitution, the Regional Public Service Commission may delegate to a regional public officer, subject to, such conditions as may be prescribed by the Commission, the powers of the Commission relating to the transfer or disciplinary control of any category of regional public officers.

(c) Any regional public officer aggrieved by any order of transfer or any order relating to a disciplinary matter made by a regional public officer to whom powers have been delegated under sub-paragraph (b) of this paragraph shall have a right of appeal to the Regional Public Service Commission and the Commission shall have the power to alter, vary or rescind any such order.

(2) Subject to the provisions of the constitution, the Board of Ministers of the Region shall provide for and determine all matters of policy relating to regional public officers of that Region.

(3) The Regional Public Service Commission may provide for and determine the procedure for the exercise and the delegation of the powers of appointment, promotion, transfer, dismissal and disciplinary control of officers of the Regional Public Service of the Region.

(4) (a) Every person who otherwise than in the course of duty directly or indirectly, alone or by any other person, in any manner whatsoever, influences or attempts to influence any order or decision of a Regional Public Service Commission or any member thereof or a regional public officer exercising any powers delegated by such Commission, shall be guilty of an offence and shall on conviction by a Regional High Court be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(b) Anything in sub-paragraph (a) of this paragraph shall not prohibit any person from giving a testimonial or certificate to any applicant for any office in the Regional Public Service.

(5) A regional public officer aggrieved by any order or decision, made on appeal or otherwise, of the Board of Ministers or the Regional Public Service Commission in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of such regional public officer shall have a right of appeal to the Administrative Appeals Tribunal referred to in this Chapter.

(6) Any court or tribunal other than the Supreme Court, and the Court of Appeal shall not have power or jurisdiction to inquire into, pronounce upon or in any manner call in question, any order or decision of the Board of Ministers, the Administrative Appeals Tribunal, a Regional Public Service Commission or of a regional public officer in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of an officer of the Regional



Public Service.

(7) Save as otherwise expressly provided by the Constitution all regional public officers shall hold office at pleasure.

**Administrative Appeals Tribunal.**

203. (1) There shall be Administrative Appeals Tribunal appointed by the Judicial Service Commission.

(2) The Administrative Appeals Tribunal shall have the power to alter, vary or rescind any order or decision referred to in paragraph (5) of Article 196 or paragraph (5) of Article 202.

(3) The constitution, powers and the procedure (including the time limits for the preferring of appeals), of the Tribunal shall be prescribed by law.

**Forum of Chairpersons of Public Service Commissions.**

204. (1) There shall be a Forum of Chairpersons of Public Service Commissions (hereinafter in this Article referred to as "the Forum") consisting of the Chairperson of the National Public Service Commission, the Chairperson of the National Police Commission, the Chairperson of every Regional Public Service Commission and the Chairpersons of every Regional Police Commission.

(2) The Secretary to the National Public Service Commission shall act as the Secretary to the Forum.

(3) (a) The quorum for any meeting of the Forum shall be one half of the number of members of the Forum.

(b) Subject to the provisions of sub-paragraph (a) of this paragraph, the Forum may regulate the procedure in regard to its meetings, including the election of a Chairperson in such manner as would enable the rotation of the Chairpersonship amongst all the members of the Forum, and the transaction of business at such meetings.

(4) The functions of the Forum shall be -

(a) to recommend criteria for the appointment, promotion, transfer, dismissal and disciplinary control of national public officers, officers of the National Police Service and of officers of Regional Public and Police Services, with a view to ensuring uniformity of practice and adherence to minimum standards, wherever practicable;

(b) to make recommendations to the appropriate authorities, on the measures that should be taken to improve the quality and efficiency of the National Public Service, the National Police Service and the regional Public and Police Services including the holding of common examinations for recruitment and promotion.

(5) (a) Subject to sub-paragraph (b) of this paragraph, a public officer of the National Public Service may be appointed to a post in a Regional Public Service and an officer of a Regional Public Service may be appointed to a post in the National Public Service or in another Regional Public Service, on such terms and conditions (including terms and conditions relating to salary, allowances and pension entitlement) as may be determined by the Forum.

(b) An appointment under sub-paragraph (a) of this paragraph shall not take place unless the relevant Public Service Commission agrees to the release of the public officer concerned.

### **Official oath or affirmation**

205. A person appointed to any office referred to in this Chapter shall not enter upon the duties of the office until the person makes and subscribes the affirmation or takes and subscribes the oath in the Fifth Schedule.

## **CHAPTER XXI**

### **FINANCE**

#### **Taxes not to imposed save authority of law or Statute.**

206. A tax shall not be levied or collected except by or under law or Statute.

#### **Central and Regional Finances.**

207. (1) (a) Subject to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to the Regions, all funds of the Central Government not allocated for specific purposes shall form one consolidated fund to be called the Consolidated Fund of Sri Lanka into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues of the Central Government.

(b) All revenues received by a Regional Administration and all loans raised by such Administration, and all monies received by such Administration in repayment of loans shall form one consolidated fund to be called the Consolidated Fund of the Region.

(c) All other public monies received by or on behalf of the Central Government or a Regional Administration shall be credited to the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region, as the case may be.

(d) Money out of the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region shall not be appropriated except in accordance with law or Statute and for the purposes and in the manner provided in the Constitution.

(2) (a) Notwithstanding any of the provisions of this Chapter, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(b) The Minister of the Cabinet of Ministers in charge of the subject of Finance, if satisfied -

(i) that there is need for any such expenditure; and

(ii) that any provision does not exist for such expenditure, may, pending subsequent approval by Parliament, authorize provision to be made therefore by an advance from the Contingencies Fund.

(c) After each such advance, a supplementary estimate shall, within a period of three months, be presented to Parliament for the purpose of replacing the amounts so advanced.

(d) A Regional Council may by Statute establish a Contingency Fund in the nature of an imprest, to be entitled the Contingency Fund of the Region, into which shall be paid from time to

time such sums as may be determined by such Statute, and such Fund shall be placed at the disposal of the Minister of the Board of Ministers of the Region in charge of the subject of Finance to enable advances to be made by such Minister out of such Fund with the consent of the Chief Minister of the Region for the purpose of meeting unforeseen expenditure and after each such advance, a supplementary estimate shall, within a period of one month, be presented to the Regional Council for the purpose of replacing the amounts so advanced.

(3) (a) Excise duties as may be prescribed by Parliament on the recommendation of the Finance Commission shall be levied by the Central Government but shall be collected -

(i) in the case where such duties are leviable within the Capital Territory, by the Central Government; and

(ii) in other cases, by the Regional Administrations of the Regions within which such duties are respectively leviable.

(b) The proceeds in any financial year of any such duty leviable within any Region shall not form part of the Consolidated Fund of Sri Lanka and shall be assigned to that Region.

(4) (a) Taxes on wholesale and retail sales (other than sales by manufacturers) shall be levied and collected by the Central Government but shall be apportioned to the Regions in the manner provided in sub-paragraph (b) of this paragraph.

(b) The net proceeds in any financial year of any such tax shall not form part of the Consolidated Fund of Sri Lanka but shall be assigned to the Region within which such tax is leviable in that year in accordance with such principles of apportionment as may be prescribed by Parliament on the recommendation of the Finance Commission.

(c) The Finance Commission shall also formulate principles for determining where a sale or purchase or consignment of goods takes place in the course of inter-regional trade or commerce for the purpose of sub- paragraph (b) of this paragraph.

(5) (a) Taxes on sales or income not otherwise provided for shall be levied and collected by the Central Government and shall be distributed in the manner provided in sub-paragraph (b) of this paragraph.

(b) A percentage as may be prescribed by Parliament of the net proceeds in any financial year of any such tax shall be assigned to the Region within which such tax is leviable in that year and shall be disbursed to the respective Regions in such manner, and from such time, as may be prescribed by the Finance Commission.

(6) Such sums as Parliament may by law provide shall be charged to the Consolidated Fund of Sri Lanka in each year as grants in aid of the revenue of such Regions as Parliament may determine to be in need of assistance, and different sums may be fixed for different Regions.

#### **Withdrawals, of sums from Consolidated Fund.**

208. (1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, money shall not be withdrawn from the Consolidated Fund of Sri Lanka except under the authority of a warrant under the hand of the Minister of the Cabinet of Ministers in charge of the subject of

Finance.

(2) Any warrant under paragraph (1) of this Article shall not be issued unless money has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of Sri Lanka.

(3) Where the President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, the President may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure of such monies as the President may consider necessary for public services until the expiration of a period of three months from the date on which the new Parliament is summoned to meet.

(4) Where the President dissolves Parliament and fixes a date or dates for a General Election, the President may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure, of such monies as the President may, after consultation with the Election Commission, consider necessary for such elections.

(5) Money shall not be withdrawn from the Consolidated Fund of a Region except under a warrant under the hand of the Chief Minister of the Region.

(6) A warrant under paragraph (5) of this Article shall not be issued unless the money has by Statute of the Regional Council established for the Region, been granted for services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of the Region.

### **Special Provision a as to Bills affecting Public Revenue of Sri Lanka**

209. A Bill or motion, authorizing the disposal of any monies of, or the imposition of charges upon, the Consolidated Fund of Sri Lanka or other funds of the Central Government, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall not be introduced in Parliament except by a Minister of the Cabinet of Ministers, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

### **Regional borrowing and investment in the Region**

210. (1) (a) The executive power of the Region extends to domestic and international borrowing upon the security of the Consolidated Fund of the Region.

(b) International borrowings by a Regional Administration shall be subject to such criteria and limitations as may be specified by Parliament and shall require the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance.

(2) (a) The limits as regards domestic borrowing and the limitations and criteria as regards international borrowing by each Regional Administration for each financial year shall, subject to the provisions of sub-paragraph (b) of this paragraph, be laid down by the Minister of the Cabinet of Ministers in charge of the subject of Finance before the thirtieth day of September of the preceding financial year.

(b) In laying down these limits and criteria, the Minister shall take into consideration the requirements of fiscal policy and the demands of monetary stability as well as the repayment capacity of each Regional Administration.

(3) Any agreements negotiated and entered into by Regional Administrations regarding international grants and foreign development assistance shall be in accordance with the national policies on international aid as laid down, from time to time, by the Cabinet of Ministers and approved by Parliament.

### **Finance Commission.**

211. (1) (a) There shall be a Finance Commission consisting of five members who have distinguished themselves or held high office, in the fields of finance, law, administration, business or learning, and who shall be appointed by the President on the recommendation of the Constitutional Council.

(b) In making a recommendation under sub-paragraph (a) of this paragraph, the Constitutional Council shall ensure that the three major communities are represented on the Commission.

(c) The President shall appoint one of the members as the chairperson of the Finance Commission

(2) Every member of the Commission, unless the member earlier resigns or is removed, from office, shall hold office for a period of five years.

(3) The Central Government shall, on the recommendation of and in consultation with the Commission, allocate from the annual budget such funds as are adequate for the purpose of meeting the needs of the Regions.

(4) Subject to paragraph (5) of this Article, it shall be the duty of the Commission to make recommendations to the President as to —

(a) the principles on which such funds as are granted annually by the Central Government for the use of Regions, shall be apportioned between the various Regions;

(b) the principles on which the sharing and assignment or the assignment of revenue between the Central Government and the Regions should take place with a view to ensuring the assured measure of finances necessary for effective devolution; and

(c) any other matter referred to the Commission by the President relating to regional finance.

(5) In making the recommendations under sub-paragraphs (a) and (b) of paragraph (4) of this Article, the Commission shall formulate such principles with the objective of achieving balanced regional development in the country, and shall accordingly take into account —

(a) the population of each Region;

(b) the per capita income of each Region;

(c) the need, progressively, to reduce social and economic disparities;

(d) the need, progressively, to reduce the difference between the per capita income of each Region and the highest per capita income among the Regions;

(e) the need to have effective utilization of the monies made available to the respective Regions;

any exceptional expenditure incurred by a Regional Administration to meet exigencies such as natural disasters;

(g) the returns submitted to the Commission by every Regional Administration including information relating to expenditure; and

(h) the reports of the Auditor-General consequent to the audits of Regional Administrations and authorities thereof.

(6) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.

(7) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament, and shall notify Parliament as to the action taken thereon.

(8) Any court, tribunal or other institution shall not inquire into, or pronounce on, or in any manner entertain, determine or rule upon, any question relating to the adequacy of such funds, or any recommendation made, or principle formulated by the Commission.

### **Exemption of income and property of the Central Government and of Regional Administrations from taxation.**

212. (1) The property and income of the Central Government shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a Regional Administration.

(2) The property and income of a Regional Administration shall be exempt from taxation by the Central Government, save and except customs duties.

### **Auditor-General.**

213. (1) There shall be an Auditor-General who shall be appointed by the President and who shall hold office during good behaviour.

(2) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office of the Auditor-General.

(3) The office of the Auditor-General shall become vacant

(a) upon death;

(b) on resignation in writing addressed to the President;

(c) on attaining the age of sixty years;

(d) on removal by the President on account of ill health or physical or mental infirmity; or

(e) on removal by the President upon an address of Parliament.

(4) Whenever the Auditor-General is unable to discharge the functions of the office, the President may appoint a person to act in the place of the Auditor-General.

### **Duties and functions of the Auditor-General.**

214. (1) The Auditor-General shall audit the accounts of all departments of the Central Government and of the Regional Administrations, the offices of the Cabinet of Ministers, the

Judicial Service Commission, the National Public Service Commission, the Finance Commission, the National Police Commission, Regional Public Service Commissions, Regional Police Commissions, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, the Election Commission, the Commission for the Investigation of Bribery or Corruption, local authorities, public corporations and business or other undertakings vested in the Central Government under any written law.

(2) Notwithstanding the provisions of paragraph (1) of this Article, the Minister of the Cabinet of Ministers in charge of any such public corporation or business or other undertaking may, with the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of such public corporation or business or other undertaking, and where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that the Auditor-General proposes to utilize the services of such auditor or auditors for the performance and discharge of the Auditor-General's duties and functions in relation to such public corporation, business or undertaking and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) The Auditor-General shall also perform and discharge such duties and functions as may be prescribed by Parliament by law.

(4) (a) The Auditor-General may for the purpose of the performance and discharge of the Auditor-General's duties and functions engage the services of a qualified auditor or auditors who shall act under the direction and control of the Auditor-General.

(b) If the Auditor General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit, the Auditor-General may engage the services of

(i) a person not being an employee of the department, body or authority the accounts of which are being audited; or

(ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of such department, body or authority, and such person or institution shall act under the direction and control of the Auditor-General.

(5) (a) The Auditor-General or any person authorized or engaged by the Auditor-General shall, in the performance and discharge of the duties and functions of the Auditor-General, be entitled

(i) to have access to all books, records, returns and other documents;

(ii) to have access to stores and other property; and

(iii) to be furnished with such information and explanations as may be necessary for the performance of such duties and functions.

(b) Every qualified auditor appointed to audit the accounts of any public corporation, or business or other undertaking, or any other person authorized by such auditor shall be entitled to like access, information and explanations in relation to such public corporation, or business or other

undertaking.

(6) (a) The Auditor-General shall within ten months after the close of each financial year and as and when the Auditor-General deems it necessary, submit reports on the performance and discharge of the duties and functions of the Auditor-General under the Constitution, to Parliament, in so far as those duties and functions relate to departments of the Central Government, public corporations, local authorities and business and other undertakings vested in the Government under any written law, and to the Regional Council established for a Region in so far those duties and functions relate to the Regional Administration of that Region.

(b) The reports of the Auditor-General relating to the Regional Administration which are required to be submitted to a Regional Council under sub-paragraph (a) of this paragraph shall be laid before the relevant Regional Council.

(7) Every qualified auditor appointed under the provisions of paragraph (2) of this Article shall submit the auditor's report to the Minister and also submit a copy thereof to the Auditor-General.

(8) In this Article, "qualified auditor" means —

(a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practice as an Accountant issued by the Council of such Institute; or

(b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practice as an Accountant issued by the Council of such Institute.

## **CHAPTER XXII**

### **DEFENCE, NATIONAL SECURITY AND LAW AND ORDER**

#### **Matters pertaining to Defence, National Security, Law and Order &c.**

215. (1) Defence, national security and the raising, establishment and maintenance, as provided for by law, of regular, special and para-military forces shall be subjects reserved exclusively for the Central Government.

(2) Law and order including public order and the exercise of police powers shall —

(a) be reserved exclusively for the Central Government in the Capital Territory and in cases expressly provided for in the Constitution; and

(b) subject to sub-paragraph (a) of this paragraph, be devolved in the Regions.

(3) (a) The nature, type and quantity of firearms, ammunition, explosives, armaments and other equipment for all Regional Police Services shall be determined by the National Police Commission after consulting the Regional Police Commissions as to the requirements of the respective Regional Police Services, and uniform standards and principles shall be applied for all Regional Police Services.

(b) It shall be the responsibility of the Central Government to procure and issue such firearms, ammunition, explosives, armaments and other equipment determined under sub-paragraph (a) of



this paragraph.

### **National Police Service and National Police Commission.**

216. (1) (a) There shall be a National Police Service headed by the National Police Commissioner, and including the National Deputy Police Commissioners, Senior Superintendents of Police, Superintendents of Police, Assistant Superintendents of Police, and other ranks recruited at the national level.

(b) There shall be a National Police Commission consisting of five members appointed by the President on the recommendation of the Constitutional Council and the President shall appoint one of the members as the Chairperson of the Commission, so however that the three major communities shall be represented on the Commission.

(c) Notwithstanding anything in Chapter XX, the National Police Commission shall be responsible for recruitment, promotion, transfer, disciplinary control and dismissal of officers in the National Police Service and for the transfer of officers of a Regional Police Service from one Region to another in consultation with the relevant Regional Police Commissions.

(d) The National Police Commission may delegate the powers of the Commission relating to disciplinary control of any category of officers of the National Police Service, to any officer of the police service not below the rank of a Senior Superintendent of Police.

(e) The provisions of paragraphs (2), (4), (5), (6), (7), (9) and (10) of Article 194, paragraphs (2), (3) and (5) of Articles 196 and articles 197, 198 and 199 shall, mutatis mutandis, apply to the National Police Commission.

(f) The National Police Commissioner or a National Deputy Police Commissioner may transfer a national police officer subject to confirmation by the National Police Commission within one month of the order of transfer.

(2) Subject to the provisions of this Chapter, the following offences shall be exclusively investigated by the National Police Service -

- (a) any offence against the Republic;
- (b) any offence relating to the National Police, Army, Navy and Air Force;
- (c) any offence relating to elections;
- (d) any offence committed against the President;
- (e) any offence committed against the Prime Minister, the Speaker of Parliament, a Minister of the Cabinet of Ministers, a Deputy Minister or a Member of Parliament;
- (1) any offence committed against a Judge of the Supreme Court or the Court of Appeal, a member of the Constitutional Council, a member of any of the Commissions specified in the Schedule to Article 123 and persons holding any of the offices specified in the Schedule to Article 124, a member of the National Police Commission, the Secretary-General of Parliament, a member of the President's staff, a member of the Prime Minister's staff, or a member of the staff of Parliament;
- (g) any offence prejudicial to national security or the maintenance of essential services;

- (h) any offence relating to coins, currency and Government stamps;
- (i) any offence relating to property belonging to the Republic or a public corporation, company or establishment, the whole or part of the capital whereof has been provided by the Republic;
- (j) any offence in respect of which courts in more than one Region have jurisdiction;
- (k) any international crime;
- (l) any offence under any law relating to any matter in the Reserved List; and
- (m) any offence committed within the Capital Territory.

(3) All specialized agencies of the Sri Lanka Police existing immediately prior to the commencement of the Constitution shall form part of the National Police Service.

(4) The National Police Service shall be responsible for the prevention, detection and investigation of all offences committed within the Capital Territory and offences, the investigation of which is reserved exclusively to the National Police Service by paragraph (2) of this Article, and the institution of prosecutions in the relevant courts, other than prosecutions on indictment presented by the Attorney-General, in respect of such offences.

(5) Save as otherwise expressly provided in the Constitution, all officers in the National Police Service shall hold office at pleasure.

**Regional Police Service and Regional Police Commission.**

217. (1) (a) There shall be a Regional Police Service for each Region headed by a Regional Police Commissioner who shall be appointed by the Regional Police Commission with the concurrence of the Board of Ministers of the Region.

(b) (i) There shall be a Regional Police Commission for each Region consisting of five members, of whom two members shall be appointed by the Chief Minister of the Region and three members representing the three major communities of the Region.

(ii) The Governor of the Region shall, in consultation with the members of the Regional Police Commission, appoint one of the members as the Chairperson of the Commission.

(c) (i) Subject to the succeeding provisions of this sub-paragraph the Regional Police Commission shall be responsible for the recruitment, promotion, transfer, disciplinary control and dismissal of officers of the Regional Police Service.

(ii) The Regional Police Commission in exercising its powers under this Article may, if it deems it appropriate, adopt any criteria specified by the National Police Commission in respect of matters referred to in sub- paragraph (c) (i).

(iii) The Regional Police Commissioner or a Regional Deputy Police Commissioner may transfer a regional police officer within the Region, subject to confirmation by the Regional Police Commission within one month of the order of transfer.

(d) The provisions of paragraphs (2), (3), (4), (5) of Article 200 and of paragraphs (3), (4), (5) and (6) of Article 202 shall, mutatis mutandis, apply to a Regional Police Commission.

(2) The Regional Police Service shall consist of the Regional Police Commissioner, Regional Deputy Police Commissioners, Regional Senior Superintendents of Police, Superintendents of Police, Assistant Superintendents of Police, Chief Inspectors, Inspectors of Police, Sergeants and Constables and other ranks recruited to the Regional Police Service of a Region or seconded to the Region.

(3) Save as otherwise expressly provided in the Constitution, all officers in the Regional Police Service shall hold office at pleasure.

(4) The Regional Police Commissioner shall be responsible to the Minister of the Board of Ministers in charge of the subject of law and order in respect of the exercise of powers by the Regional Police Service.

(5) The Regional Police Service shall be responsible for the prevention, detection and investigation of all offences (except the offences specified in paragraph (2) of Article 216) committed within the Region and the institution of prosecutions in the relevant courts, other than prosecutions on indictments presented by the Attorney- General, in respect of such offences.

### **Co-operation between National and Regional Police Services.**

218. (1) Where the Chief Minister of a Region seeks the assistance of the National Police Service to preserve public order within the Region, the National Police Commissioner shall deploy such personnel as are necessary for the purpose.

(2) Notwithstanding anything to the contrary in this Chapter but subject to sub-paragraph (b) of this paragraph —

(a) it shall be the duty of every officer of the National Police Service or Regional Police Services to take all measures for the prevention, detection and investigation of all offences;

(b) where an offence is required to be investigated exclusively by a police service of which the police officer to whom a complaint is made is not a member, the measures taken in pursuance of such complaint shall be communicated without delay to the relevant Police Station or specialized agency having authority to investigate such offence; and

(c) it shall be the duty of every police officer of the National Police Service or a Regional Police Service to assist the police officer having lawful authority in the conduct of an investigation in relation to any offence and any steps taken in the proper discharge of this duty shall be deemed to have been lawfully taken.

(3) It shall be the duty of the National Police Service to make available, upon request, the service of specialized agencies and technical assistance to any Regional Police Service.

## **CHAPTER XXIII PUBLIC SECURITY**

### **Public Security.**

219. (1) The Public Security Ordinance in force at the commencement of the Constitution shall be deemed to be a law enacted by Parliament.

(2) The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security, shall include the power to make regulations -

(a) on any matter in List I of the Second Schedule; and

(b) to the extent strictly required in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, on any matter in List II of the Second Schedule, having the legal effect of over-riding, amending or suspending the operation, of the provisions of any written law except the provisions of the Constitution.

(3) Subject to the provisions of this Chapter, the provisions of any law relating to public security empowering the President to make emergency regulations shall not come into operation, except upon the making of a Proclamation under such law, bringing such provisions into operation.

(4) The provisions of paragraphs (1), (2), (3), (4), (5) and (6) of Article 222 shall, mutatis mutandis, apply to a Proclamation referred to in paragraph (3) of this Article.

### **State of emergency within a Region.**

220. (1) Where the President, upon being advised by the Prime Minister, is of opinion that the security or public order in a Region is threatened by armed insurrection, grave internal disturbances or by any act or omission of the Regional Administration which presents a clear and present danger to the unity and sovereignty of the Republic, the President may make a Proclamation bringing the provisions of the law relating to public security into force in the Region.

(2) Upon the making of a Proclamation pursuant to paragraph (1) of this Article, the President may-

(a) by order deploy in aid of the civil power, the armed forces or any unit of the National Police Service for the purpose of restoring public order; and

(b) make regulations having the legal effect of over-riding, amending or suspending the operation of any written law, except the provisions of the Constitution, relating to any matter in List I of the Second Schedule or any matter provided for in Chapter XXII.

(3) Every Proclamation made pursuant to paragraph (1) of this article shall be revoked, as soon as the President is satisfied that public order has been restored in the Region.

### **Proclamation of emergency on the request of the Governor.**

221. (1) (a) Where the Governor of a Region, upon being advised by the Chief Minister of the Region is of opinion that a situation has arisen in the Region or part thereof wherein the preservation of public order or the maintenance of supplies and services essential to the life of the community is threatened, the Governor may request the President to make a Proclamation bringing the provisions of the law for the time being in force relating to public security into force in the Region or part thereof.

(b) Where the President makes a Proclamation pursuant to sub-paragraph (a) of this paragraph, it shall be lawful

(i) for the Central Government, its representatives or agencies, to exercise authority in respect of

any subject or function contained in List II of the Second Schedule as may be specified by the Governor acting on the advice of the Chief Minister of the Region;

(ii) for the President to make regulations under the law for the time being in force relating to public security having the legal effect of over-riding, amending or suspending the operation of the provisions of any written law, except the provisions of the Constitution, relating to any matter as may be specified by the Governor acting on the advice of the Chief Minister of the Region, in List II of the Second Schedule.

(2) The regulations under sub-paragraph (b) (ii) of paragraph (1) of this Article, shall as far as is approachable be made in consultation with the Governor acting on the advice of the Chief Minister of the Region and the Regional Advocate General of the relevant Region.

### **Communication of Proclamation to Parliament and Regional Councils.**

222. (1) Upon the making of a Proclamation pursuant to Articles 220 and 221, the occasion thereof shall, subject to the other provisions of this Article, be forthwith communicated to Parliament and, accordingly -

(a) if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation and the Parliament so summoned shall be kept in session until the expiration or revocation of such or any further Proclamation or until the conclusion of the General Election, whichever event occurs earlier, and shall thereupon stand dissolved;

(b) if Parliament is at the date of the making of such Proclamation separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.

(2) Where the provisions of the law relating to public security have been brought into operation in a Region by the making of a Proclamation under such law, such Proclamation shall, subject to the succeeding provisions of this Article, be in operation for a period of one month from the date of the making thereof, but without prejudice to the earlier revocation of such Proclamation or to the making of a further Proclamation at or before the end of that period.

(3) (a) A Proclamation made pursuant to Articles 220 and 221 shall, subject to sub-paragraph (b) of this paragraph, expire after a period of fourteen days from the date on which such Proclamation has been made, unless such Proclamation is approved by a resolution of Parliament.

(b) Where Parliament -

(i) stands dissolved at the date of the making of such Proclamation; or

(ii) is at such date separated by any such adjournment or prorogation as is referred to in sub-paragraph (1) (b) of this Article; or

(iii) does not meet when summoned to meet as provided in sub paragraph (a) or (b) of paragraph (1) of this Article, then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of

Parliament.

(4) Upon the revocation by the President of a Proclamation made pursuant to Articles 220 or 221 within a period of fourteen days from the date on which the Proclamation was made or upon the expiration of such a Proclamation in accordance with the provisions of paragraph (3) of this Article, a Proclamation made pursuant to Articles 220 and 221 made within thirty days next ensuing shall not come into operation until the making thereof shall have been approved by a resolution of Parliament.

(5) If Parliament does not approve any Proclamation made pursuant to Articles 220 and 221 such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law but without prejudice to anything lawfully done thereunder.

(6) If the making of a Proclamation cannot be communicated to and approved by Parliament by reason of the fact that Parliament does not meet when summoned, nothing contained in paragraph (3) or (4) of this Article shall affect the validity or operation of such Proclamation and in such event, Parliament shall again be summoned to meet as early as possible thereafter.

(7) Notwithstanding anything in the preceding provisions of this Article, a Proclamation made pursuant to Articles 220 and 221 shall be communicated forthwith to the Regional Council of the Region in respect of which the Proclamation is made and —

(a) in the case of a Proclamation made pursuant to Article 220, and which has been in operation in the Region for a period of ninety consecutive days shall cease to be in force in that Region unless approved by the Regional Council thereof within ten days of the expiration of that period or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter;

(b) in the case of a Proclamation made pursuant to Article 221, shall cease to be in force in that Region unless approved by the Regional Council thereof within a period of fourteen days of such communication or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter.

### **Assumption of powers by the President.**

223. (1) Where the President, upon being advised by the Prime Minister, is of opinion that a situation has arisen in which a Regional Administration is promoting armed rebellion or insurrection or engaging in an intentional violation of Article 1 or 2 or 3, or the provisions of Chapter XV or Chapter XXII of the Constitution which constitutes a clear and present danger to the unity and sovereignty of the Republic, the President may, by Proclamation —

(a) assume to the President, all or any of the functions of the administration of the Region and all or any of the powers vested in, or exercisable by, the Governor, the Chief Minister, the Board of Ministers or any body or authority in the Region; and

(b) where it is necessary for the effectual exercise of the powers under sub-paragraph (a) of this paragraph, dissolve the Regional Council.

(2) Every Proclamation made pursuant to paragraph (1) of this Article shall be forthwith laid before Parliament.

(3) Any Proclamation made pursuant to paragraph (1) of this Article, may be revoked or varied by a subsequent Proclamation.

(4) (a) The President shall, within fourteen days of making a Proclamation pursuant to paragraph (1) of this Article, for the purpose of ascertaining the continued existence of the situation which necessitated the making of such Proclamation and any other relevant matter, direct that a tribunal be constituted in the manner provided in paragraph (5) of this Article, to inquire into and report upon such matters within a period of sixty days from the date of such Proclamation.

(b) Upon receipt of the report of such tribunal, the President shall —

(i) cause the report to be laid before Parliament within a period of thirty days; and

(ii) if the tribunal reports that the situation necessitating a Proclamation made pursuant to paragraph (1) of this Article has ceased to exist, revoke the Proclamation, and in any case where the Regional Council has been dissolved, re-summon such Regional Council.

(5) The tribunal referred to in paragraph (4) of this Article shall consist of a member appointed by the President, a member appointed by the Chief Minister of the relevant Region, and where the Regional Council for that Region has been dissolved, by the person who held office as Chief Minister at the time of such dissolution, and a Chairperson nominated by the members so appointed and, where there is no agreement on the nomination of a Chairperson, the Chairperson shall be nominated by the Constitutional Council.

(6) A court or tribunal shall not have the power or jurisdiction to inquire into, pronounce upon, or in any manner call in question, a report of a tribunal referred to in paragraph (4) of this Article.

### **Proclamations not to be called in question in any court or tribunal.**

224. Every Proclamations referred to in this Chapter shall be conclusive for all purposes and shall not be questioned in any court, tribunal, save and except a tribunal constituted in accordance with Article 223, or other institution shall not inquire into, or pronounce on, or in any manner call in question, such Proclamation or the grounds for making thereof.

## **CHAPTER XXIV**

### **THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION**

#### **Parliamentary Commissioner for Administration.**

225. (1) Parliament shall by law provide for the establishment of the office of the Parliamentary Commissioner for Administration (Ombudsman) charged with the duty of investigating and reporting upon complaints or allegations of the infringement of fundamental rights and other injustices by officers in the service of the State, officers of public corporations and local authorities and other like institutions, in accordance with and subject to the provisions of such law.

(2) The Parliamentary Commissioner for Administration shall be appointed by the President and shall hold office during good behaviour.

(3) The salary of the Parliamentary Commissioner for Administration shall be determined by

Parliament and shall not be reduced during the term of office of the Parliamentary Commissioner for Administration.

(4) The office of the Parliamentary Commissioner for Administration shall become vacant

(a) upon death;

(b) on resignation in writing addressed to the President;

(c) on attaining the age fixed by law;

(d) on removal by the President on account of ill health or physical or mental infirmity; or

(e) on removal by the President on an address of Parliament.

(5) Whenever the Parliamentary Commissioner for Administration is unable to perform and discharge the duties and functions of the office, the President shall appoint a person to act in place of the Parliamentary Commissioner.

(6) (a) Parliament may by law provide for the establishment of one or more offices of Deputy Parliamentary Commissioner for Administration (Ombudsman) charged with the duty of investigating and reporting upon such categories of complaints or allegations referred to in paragraph (1) of this Article as are specified in such law.

(b) Every Deputy Parliamentary Commissioner for Administration (Ombudsman) shall be appointed by the President and shall hold office during good behaviour.

(7) Until Parliament otherwise provides, the Parliamentary Commissioner for Administration Act, No. 17 of 1981 shall, for the purposes of paragraph (1), be deemed to be a law enacted by Parliament providing for the establishment of the office of Parliamentary Commissioner for Administration (Ombudsman).

## **CHAPTER XXV LOCAL GOVERNMENT**

### **Matters pertaining to Local Government.**

226. (1) Subject to the provisions of the Constitution, Local Government shall be a subject devolved on the Regions in accordance with the provisions of this Chapter.

(2) There shall be a system of Local Government consisting of regularly elected local authorities for the entirety of each Region.

(3) (a) The provisions of existing written law relating to the constitution, finance and functions of, and elections to, local authorities shall apply to the respective local authorities functioning in each Region at the commencement of the Constitution.

(b) A Regional Council may, in accordance with the provisions of this Chapter, provide by Statute for the constitution, finance and functions of, and elections to, local authorities in the Region for which that Regional Council is established and a Regional Council may confer additional powers on such local authorities but shall not reduce the powers conferred on the respective local authorities by existing written law.



(c) Parliament may by law provide for—

(i) a common nomenclature to be used in all the Regions for the different categories of local authorities;

(ii) uniform criteria to be applied in all the Regions for converting a local authority of one category established for any area to a local authority of another category; and

(iii) uniform criteria to be applied in all the Regions for the redemarcation of the limits of any local authority area.

(d) In re-demarcating the limits of any local authority area in accordance with the criteria provided for by law, a Regional Administration shall act upon the recommendations of a committee appointed by the Chief Minister of the Region for the purpose, and such committee shall make recommendations after ascertaining the views of the relevant local authority, the Regional Administration and the public.

(4) Every Statute made by a Regional Council of a Region relating to elections to local authorities in that Region, under paragraph (3) of this Article, shall as far as practicable, provide for the adequate representation of women, persons under thirty five years of age and the major communities ordinarily resident in the local authority area for which a local authority is established.

(5) A Regional Administration may delegate to a local authority within the Region, the execution of any work connected with the implementation of a Statute made by the Regional Council of that Region.

## **CHAPTER XXVI**

### **GENERAL**

#### **International Treaties and Agreements.**

227. Where Parliament by resolution passed by not less than two-thirds of the whole number of Members of Parliament approves as being essential for the development of the national economy, any treaty or agreement between the Government of the Republic of Sri Lanka and the Government of any foreign State for the promotion and protection of the investments in Sri Lanka of such foreign State, its nationals, or of corporations, companies and other associations incorporated or constituted under its laws, such treaty or agreement shall, notwithstanding anything in the preceding provisions of the Constitution, have the force of law in Sri Lanka, and otherwise than in the interests of national security, no written law shall be enacted or made, and no executive or administrative action shall be taken, in contravention of the provisions of such treaty or agreement.

#### **Delegation.**

228. (1) Where any person is empowered under the provisions of the Constitution to delegate any power, duty or function to any other person, such person delegating such power, duty or function may, notwithstanding such delegation, exercise, perform or discharge such power, duty or function and may at any time revoke such delegation.

(2) In paragraph (1) of this Article, "person" includes any body persons or any authority.

### **Existing law.**

229. (1) Unless Parliament otherwise provides, all laws, written and unwritten, in force at the commencement of the Constitution, shall, mutatis mutandis, and except as otherwise expressly provided in the Constitution, continue in force and laws so continuing in force are referred to in the Constitution as "existing law".

(2) All written laws including Statutes of Provincial Councils and subordinate legislation continuing in force as provided in paragraph (1) of this Article are referred to in the Constitution as "existing written law".

(3) Save as otherwise provided in the Constitution, existing laws are not, and shall not in any manner be deemed to be, provisions of the Constitution.

(4) Wherever the Constitution provides that any provision of any existing written law or of the Constitution shall continue in force until or unless Parliament otherwise provides, any law of Parliament so providing may be passed by a majority of the members present and voting.

(5) Whenever the Constitution provides that any provision of any existing written law shall continue in force until or unless Parliament otherwise provides and the existing written law referred to consists of subordinate legislation, the provisions of such existing written law shall continue in force, until or unless the Parliament otherwise provides and shall not in any manner be deemed to derogate from the power of the person or body on whom the power to make and, when made, to amend, vary, rescind or revoke such subordinate legislation is conferred, to exercise the power so conferred until or unless the Parliament otherwise provides.

### **Powers, privileges, immunities, and rights of the Republic.**

230. Unless Parliament otherwise provides, the Republic shall continue to possess and exercise all powers, privileges, immunities and rights whatsoever possessed, exercised or exercisable immediately prior to the commencement of the Constitution.

### **Rights, duties and obligations of the Republic.**

231. All rights and all duties or obligations, however arising, of the Government of the Democratic Socialist Republic of Sri Lanka and subsisting immediately prior to the commencement of the Constitution shall be rights, duties and obligations of the Government of the Republic of Sri Lanka as represented by the Central Government, under the Constitution.

### **Past operation of laws, previous acts, offences, and pending actions, &c.**

232. (1) Unless the Constitution otherwise provides, the past operation of any written law in force prior to the commencement of the Constitution or anything duly done or suffered or any offence committed or any right, liberty, obligation or penalty acquired or incurred under any written law in force prior to the commencement of the Constitution shall not in any manner be affected or be deemed to be affected by the Constitution coming into force.

(2) All actions, prosecutions, proceedings, matters or things, including proceedings of Commissions appointed or established by or under any existing written law, pending or uncompleted immediately before the commencement of the Constitution shall, subject to the provisions of the Constitution and mutatis mutandis, be deemed to continue and may be carried on

and completed after the commencement of the Constitution.

## **CHAPTER XXVII**

### **TRANSITIONAL PROVISIONS**

#### **First President.**

233 (1) (a) The person declared elected, on December 22, 1999, as President under the 1978 Constitution and holding office immediately prior to the commencement of the Constitution shall be deemed to have been elected by Parliament as the First President under this Constitution and shall, unless the President earlier vacates office by death, resignation, removal or by reason of the election of the President to that office being declared void, hold office for a period of six years calculated from December 22, 1999.

(b) The First President shall, notwithstanding, the appointment of a Prime Minister under this Constitution, exercise, perform and discharge, the powers, duties and functions conferred or imposed on, or assigned to, the President by this Constitution as well as the powers, duties and functions conferred or imposed on or assigned to the Prime Minister under this Constitution, and the Prime Minister shall, so long and so long only as the First President holds office and notwithstanding any thing in this Constitution, exercise all the powers conferred on a Prime Minister by the 1978 Constitution.

(c) The First President shall appoint as the First Prime Minister, the Member of Parliament best able to command the confidence of Parliament.

(d) (i) Parliament shall elect a successor to the First President at least fourteen days prior to the expiration of the term of office of the First President, or where the First President earlier vacates office by death, resignation, removal or by reason of the election of the President to that office being declared void, within forty-eight hours of the death, resignation, removal or declaration.

(ii) Upon the election by Parliament, of a successor to the First President, the Prime Minister holding office on the date of the election, shall be deemed to have resigned from the office of Prime Minister and the President shall appoint a Prime Minister under Article 65.

(e) Notwithstanding anything in this Constitution, the First President shall be qualified to be elected, and to continue, as a Member of Parliament whilst holding the office of President.

#### **First Parliament.**

234. Notwithstanding anything to the contrary in the Constitution.

(a) the First Parliament shall consist of two hundred and twenty five members and, subject to the provisions of this Constitution, all persons who, immediately prior to the commencement of the Constitution, were Members of Parliament under the 1978 Constitution, shall be deemed to have been elected as members of the First Parliament.

(b) the persons holding office, immediately prior to the commencement of the Constitution, as the Speaker, Deputy Speaker and Deputy Chairman of Committees under the 1978 Constitution shall, with effect from the commencement of the Constitution, be deemed to have been elected as the Speaker, the Deputy Speaker and the Deputy Chairman of Committees respectively, of the First

Parliament until Parliament otherwise decides;

(c) where immediately prior to the commencement of the Constitution, there was a vacancy in Parliament or where any vacancy occurs in the First Parliament, such vacancy shall be filled in the same manner as such vacancy would have been filled had it occurred under the 1978 Constitution; and

(d) unless sooner dissolved, the First Parliament shall continue until the expiration of a period of six years calculated from the date of the first sitting of the Parliament elected under 1978 Constitution and functioning immediately prior to the commencement of this Constitution and no longer and shall thereupon stand dissolved, and the provisions of the Constitution relating to Parliament shall, mutatis mutandis, apply.

### **Cabinet ministers**

235. The Cabinet of Ministers functioning immediately prior to the commencement of the Constitution shall stand dissolved at the commencement of the Constitution and accordingly, persons holding office as the Prime Minister, a Minister of the Cabinet of Ministers or a Deputy Minister under the 1978 Constitution shall cease to hold such office with effect from the commencement of this Constitution.

### **Continuation of office of Judges, Public Officers &c.**

236. (1) Notwithstanding anything in the Constitution —

(a) the person holding office as the Chief Justice and every person holding office as a Judge of the Supreme Court, immediately prior to the commencement of the Constitution, shall be deemed, with effect from the commencement of the Constitution, to have been appointed respectively, as the Chief Justice under paragraph (1) of Article 151 and as a Judge of the Supreme Court created and established by sub-paragraph (a) of paragraph (1) of Article 146;

(b) the person holding office as the President of the Court of Appeal and every person holding office as a Judge of the Court of Appeal, immediately prior to the commencement of the Constitution, shall be deemed, with effect from the commencement of the Constitution, to have been appointed respectively, as the President of the Court of Appeal under paragraph (2) of Article 151 and as a Judge of the Court of Appeal created and established by sub-paragraph (b) of paragraph (1) of Article 146,

(c) every person holding office, immediately prior to the commencement of the Constitution, as a Judge of the High Court of Sri Lanka shall be appointed as a Judge of a Regional High Court created and established by the Constitution and until such appointment, shall be deemed to continue in service as a Judicial Officer and shall be paid such salary and allowances as were paid to such person immediately prior to the commencement of the Constitution;

(d) every person who immediately prior to the commencement of the Constitution -

(i) held office in a court or tribunal deemed, by virtue of the provisions of paragraph (2) of Article 146, to be a court or tribunal created and established by Parliament;

(ii) was in the service of the Republic, any local authority or any public corporation;

(iii) held office in any local authority or public corporation; or

(iv) held any appointment under any existing written law, shall continue in such service or hold such office or appointment, as the case may be, on the same terms and conditions.

(2) (a) Every national public officer, officer of a regional public officer, judicial officer and every other person as is required by the Constitution to make an affirmation or take an oath upon entering the duties of office, and every holder of an office required under existing law to take an official oath and every person in the service of every local authority and of every public corporation shall make and subscribe the affirmation or take and subscribe the oath set out in the Fifth Schedule.

(b) Any such national public officer, regional public officer, judicial officer, person or a holder of an office failing to make and subscribe the affirmation or take and subscribe the oath after the commencement of the Constitution on or before such date as may be prescribed by the Prime Minister by Order published in the Gazette shall cease to be in service or hold office as the case may be.

(c) The Minister in charge of the subject of Public Administration may, in the Minister's sole discretion, permit any national public officer, regional public officer, judicial officer or any person or holder of an office referred to in sub-paragraph (a) of this paragraph to make and subscribe the affirmation or take and subscribe the oath referred to in that sub-paragraph after the prescribed date, if the Minister is satisfied that the failure to make the affirmation or take the oath within the time prescribed, was occasioned by illness or some other unavoidable cause.

(d) On making such affirmation or taking such oath the national public officer, regional public officer, judicial officer or any person or holder shall continue in service or hold office, as if the national public officer, regional public officer, judicial officer or such person or holder had made such affirmation or taken such oath within the time prescribed under sub-paragraph (b) of this paragraph.

### **Commissions &c, under 1978 Constitution.**

237. The persons holding office, on the day immediately prior to the commencement of the Constitution, as members respectively, of the Public Service Commission, the Judicial Service Commission and the Finance Commission established by the 1978 Constitution or of a Provincial Public Service Commission shall cease to hold such offices at the commencement of the Constitution.

### **Provisions relating to Regional Councils.**

238. (1) Where a Provincial Council established for a Province by the 1978 Constitution was functioning immediately prior to the commencement of the Constitution, a Regional Council shall, with effect from the commencement of the Constitution and notwithstanding anything to the contrary in the Constitution, be deemed to have been established for the Region which corresponds to that Province.

(2) Every person holding office, immediately prior to the commencement of the Constitution, as a Member of a Provincial Council referred to in paragraph (1) shall be deemed, with effect from the commencement of the Constitution, to have been elected as a Member of the corresponding

Regional Council and shall hold office as such member until the expiry of a period of five years calculated from the date appointed for the first meeting of such Provincial Council.

(3) Every person holding office, immediately prior to the commencement of the Constitution, as a Governor of a Province, shall, with effect from the commencement of the Constitution and until such time as a Governor is appointed under Article 129, discharge the functions of the office of Governor in the Region corresponding to such Province.

(4) Every person holding office, immediately prior to the commencement of the Constitution, as the Chief Minister of a Province shall, with effect from the commencement of the Constitution, be deemed to have been appointed under Article 134 as the Chief Minister of the Region which corresponds to that Province.

(5) Subject to the provisions of sub-paragraph (a) of paragraph (2) of Article 236, every person who, immediately prior to the commencement of the Constitution, was an officer in a Provincial Public Service shall, with effect from the commencement of the Constitution, continue in service in the corresponding Regional Public Service on the same terms and conditions as were applicable to the such officer in the Provincial Public Service.

(6) Every national public officer released to a Provincial Public Service and serving in a Province immediately prior to the commencement of the Constitution, shall, within a period one year of the commencement of the Constitution, decide whether such national public officer shall continue as a national public officer or join the corresponding regional public service or any other regional public service which consents to employ such national public officer, and where such officer fails to inform the Secretary of the National Public Service Commission of his or her decision within such period, such officer shall be deemed to have decided to continue as a national public officer.

(7) Every national public officer who was, immediately prior to the commencement of the Constitution, serving in a Province in a department relating to a matter with respect to which a Regional Council has, by the Constitution, exclusive power to make Statutes, shall decide within a period of one year of the commencement of the Constitution, whether such national public officer shall continue as a national public officer or join the corresponding regional public service or any other Regional Public Service which consents to employ such national public officer, and where such officer fails to inform the Secretary of the National Public Service Commission of his or her decision within such period, such officer shall be deemed to have decided to continue as a national public officer.

### **Time limit for appointment & c.**

239. Unless the Constitution otherwise provides, appointments to all offices and bodies created or established by the Constitution shall be made within six months of the commencement of the Constitution.

### **Provision regarding Bills**

240. All Bills presented in Parliament functioning immediately prior to the commencement of the Constitution and pending immediately prior to the commencement of the Constitution shall be deemed to have been presented in Parliament after the commencement of the Constitution, and may

be proceeded with in accordance with the provisions of this Constitution and the Standing Orders of Parliament.

**Provision regarding Investment treaties.**

241. Every Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State approved by Parliament under Article 157 of the 1978 Constitution and subsisting immediately prior to the commencement of the Constitution, shall be deemed to be a Treaty or Agreement approved by Parliament under Article 226 of this Constitution and shall have effect accordingly.

**Provision regarding courts &c.**

242. (1) All references respectively, in any existing written law to the "Supreme Court", and the "Court of Appeal" shall unless the context otherwise requires, be deemed to be references respectively to the Supreme Court and the Court of Appeal, created and established by this Constitution.

(2) (a) All appeals, proceedings and other matters pending, immediately prior to the commencement of the Constitution, in the Supreme Court established by the 1978 Constitution shall stand removed to the Supreme Court created and established by this Constitution and such Supreme Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(b) All appeals, proceedings and other matters pending, immediately prior to the commencement of the Constitution, in the Court of Appeal established by the 1978 Constitution shall stand removed to the Court of Appeal created and established by this Constitution and such Court of Appeal sitting in Colombo shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(3) All judgments and orders respectively of the Supreme Court and the Court of Appeal delivered or made immediately prior to the commencement of the Constitution, shall be deemed to have been delivered or made respectively, by the Supreme Court and the Court of Appeal created and established by this Constitution and shall have effect accordingly.

(4) (a) All references in any existing written law to "a High Court established by Article 154P of the Constitution" or "a Provincial High Court" or "a High Court" shall in so far as such references are in relation to the original criminal or civil jurisdiction of such court, be deemed to be references to a Regional High Court created and established by this Constitution.

(b) All original criminal and civil proceedings pending, immediately prior to the commencement of the Constitution, in a High Court established for a Province under the 1978 Constitution shall stand removed to the corresponding Regional High Court created and established by this Constitution, and such Regional High Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(c) All judgments and orders delivered or made immediately prior to the commencement of the Constitution by a High Court established for a Province under the 1978 Constitution, in the exercise of its original criminal or civil jurisdiction shall be deemed to have been delivered or made

by the corresponding Regional High Court created and established by this Constitution and shall have effect accordingly.

(d) All references in any existing written law to "a High Court established by Article 153A of the Constitution" or "a Provincial High Court" or "a High Court" shall, in so far as such references are in relation to the appellate, revisionary or writ jurisdiction of such court, be deemed to be references to the Court of Appeal created and established by this Constitution.

(e) All appeals, writ applications and other matters (other than original criminal or civil proceedings) pending immediately prior to the commencement of the Constitution, in a High Court established for a Province under the 1978 Constitution, shall stand removed to the appropriate division circuit of the Court of Appeal created and established by this Constitution, and such Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(f) All judgements and orders delivered or made immediately prior to the commencement of the Constitution by a High Court established for a Province under the 1978 Constitution, in the exercise of its appellate, revisionary or writ jurisdiction, shall be deemed to have been delivered or made by the Court of Appeal created and established by this Constitution and shall have effect accordingly.

(5) (a) All proceedings and matters pending immediately prior to the commencement of the Constitution in the High Court of Sri Lanka created and established by the 1978 Constitution, shall stand removed to the Regional High Court of the Western Region and the Regional High Court of the Western Region shall have jurisdiction to take cognizance of, and to hear and determine or continue and complete the same.

(b) All judgements and orders delivered or made by the High Court of Sri Lanka created and established by the 1978 Constitution prior to the commencement of the Constitution, shall be deemed to have been delivered or made by the Regional High Court of the Western Region and shall have effect accordingly.

(6) No appeal shall lie from any judgement, order or decree of the Supreme Court created and established by the 1978 Constitution to the Supreme Court created and established by the Constitution but such judgement, order or decree, as the case may be, shall be final as between the parties to the action, application or other proceeding in which such judgement, order or decree was made.

(7) (a) All attorneys-at-law admitted and enrolled or deemed to have been admitted and enrolled as attorneys-at-law under the provisions of the Judicature Act, No.2 of 1978 shall, subject to the provisions of the Constitution, be deemed to have been admitted and enrolled as attorneys-at-law of the Supreme Court created and established by the Constitution.

(b) After the date fixed by the Minister in charge of the subject of Justice, by Order published in the Gazette, no attorney-at-law shall be entitled to represent any party to a proceeding or be given the right of audience in any court, tribunal or other institution until or unless the attorney-at-law has made and subscribed or taken and subscribed the oath set out in the Fifth Schedule before a Judge



of the Supreme Court, Court of Appeal, Regional High Court or any other judicial officer and it shall be the duty of such judge or judicial officer, as the case may be, to forward such affirmation or oath made and subscribed or taken and subscribed to the Registrar of the Supreme Court who shall cause the same to be entered in the roll of such Court, such entry shall be the only proof and that such attorney-at-law has made and subscribed or taken and subscribed such oath or affirmation.

(8) If any matter or question shall arise with regard to any procedure or practice to be followed in any court in consequence of the coming into operation of this Constitution, not provided for in the Constitution or any written law, the Chief Justice shall have the power to give such directions as the Chief Justice may consider necessary to prevent injustice or as the justice of the case may require and to ensure that the provisions of Chapters XVII, XVIII and XIX of the Constitution are given full and complete effect.

## **CHAPTER XXVIII**

### **INTERIM COUNCIL FOR THE NORTHERN AND EASTERN REGIONS**

#### **Interim Council**

243. (1) There shall be an Interim Council for the Northern and Eastern Regions set out in Part C of the First Schedule, with effect from the commencement of the Constitution, and shall continue for a period of five years from that date and such Interim Council shall be deemed to have been dissolved at the end of that period

(2) The Interim Council shall consist of such number of members as is equal to the total number of members entitled to be returned, in accordance with the determination made by the Commissioner of Elections under section 3 (3) of the Provincial Councils Elections Act No.1, of 1988, from the several administrative districts of the Northern and Eastern Provinces to the North-Eastern Provincial Council established under the 1978 Constitution.

(3) The President shall appoint the members of the Interim Council, so however, that the President shall appoint such members for each administrative district of the Northern and Eastern Regions, the number of members appointed for each such administrative district being equal to the number of members that each such administrative district was entitled to return to the North-Eastern Provincial Council in accordance with the determination referred to in paragraph (2) of this Article .

(4) (a) Recognized political parties and independent groups shall nominate, from among persons ordinarily resident in the Northern and Eastern Regions, persons for appointment as members of the Interim Council, for each administrative district of the Northern and Eastern Regions.

(b) The President shall appoint members of the Interim Council from among the persons nominated under sub paragraph (a) of this paragraph for each administrative district of the Northern and Eastern Regions, having regard to the ethnic composition of the Northern and Eastern Regions as well as to the ethnic composition of such administrative district.

(5) The members appointed by the President to the several administrative districts of the Northern and Eastern Regions shall together constitute the Interim Council for the Northern and Eastern

Regions.

(6) (a) A member of the Interim Council may, resign from the Council by writing addressed to the President and such resignation shall take effect from the date on which the President accepts such resignation in writing.

(b) The President shall remove a member of the Interim Council from office on the recommendation of the recognized political party or independent group nominating such member for appointment to the Council.

(7) Whenever a member of the Interim Council dies, resigns or is removed from office, the President shall appoint in place of such member, a person nominated by the recognized political party or independent group which had nominated the member who has died, resigned or was removed from office.

(8) An act or proceeding of the Interim Council shall not be, or be deemed not to be, invalid by reason only of any vacancy in the Council or any defect in the appointment of a member of the Council.

### **Board of Ministers.**

244. (1) There shall be a Board of Ministers for the Northern and Eastern Regions consisting of Chief Minister, two Deputy Chief Ministers and six other Ministers.

(2) The Governor shall appoint as Chief Minister of the two Regions the member of the Interim Council who is best able to command the support of a majority of the members of the Council.

(3) Where the Chief Minister is from one of the three major communities in the two Regions, the two Deputy Chief Ministers shall be from the other two major communities in the two Regions.

(4) (a) The Governor shall appoint as Deputy Chief Ministers, the members respectively, of the Interim Council who are best able to command the support of a majority of the members of the Interim Council belonging to the respective communities of which they are members.

(b) Every Deputy Chief Minister shall be entitled to participate in meetings of the Chief Ministers Conference but shall not be entitled to vote at such meetings.

(5) Of the six other Ministers, at least one shall be from second major community in the two Regions and where there is only one other Minister from such community, such Minister shall be from a recognized political party or independent group other than the recognized political party or independent group of which the Deputy Chief Minister from that community is a member.

(6) (a) The Governor, shall assign the following subjects and functions to the Chief Minister and the two Deputy Chief Ministers —

(i) the Chief Minister - Regional Planning, Finance, Law and Order, Public Investment and Local Government;

(ii) the Deputy Chief Minister from the second major community- Health, Social Services, Rehabilitation and Islamic Culture;

(iii) the Deputy Chief Minister from the third major community- Archaeology and Museums,

Buddhist Culture, Transport and Highways, Housing and Urban Development.

(b) The Governor shall assign subjects and functions, other than the subjects and functions assigned under sub-paragraph (a) of this paragraph to the to the Chief Minister, Deputy Chief Ministers and the other Ministers of the Board of Ministers, on the advice of the Chief Minister.

### **Powers of Interim Council and Board of Ministers.**

245 (1) Subject to the provisions of this Chapter, the Governor of the Northern and Eastern Regions, the Interim Council and the Board of Ministers appointed under this Chapter shall exercise and perform, the powers and duties conferred and imposed respectively on, and discharge the functions assigned respectively to, the Governor of a Region, a Regional Council and the Board of Ministers of a Region, by this Constitution, and all the provisions of this Constitution relating to the Governor of a Region, Regional Councils and the Board of Ministers of a Region shall, save as expressly provided in this Chapter, apply respectively, to the Governor of the Northern and Eastern Regions and to the Interim Council and Board of Ministers appointed under this Chapter.

(2) The Governor, Interim Council and the Board of Ministers shall exercise their respective powers with rigorous impartiality on behalf of all the people in the two Regions, recognizing the diversity of their identities and traditions, and such exercise shall be founded on the principles of full respect for the equality of the civil, political, social, religious and cultural rights of those people and of the freedom from discrimination for all citizens, and on parity of esteem and equal treatment for the identity, ethos and aspirations of all communities in the two Regions.

### **Legislative powers of the Interim Council.**

246. (1) The following shall require the votes of a majority of the members of the Interim Council, present and voting, as well as the votes of a majority of the members of the Interim Council belonging to the second and third major communities in the two Regions, present and voting.

(a) any decision relating to

(i) the election of a Speaker;

(ii) the adoption of standing orders of the Council; and

(b) the passing of a draft Statute declared by the Speaker as having a vital bearing on -

(i) the manifestation of any religion in worship, observance, practice and teaching;

(ii) the security of the two Regions and its inhabitants; or

(iii) economic opportunities in the two Regions, upon a motion to that effect being presented to the Speaker signed by not less than thirty per centum of the total number of members of the Interim Council and the Speaker being satisfied that such draft Statute has such a vital bearing.

(2) A declaration made by the Speaker under sub-paragraph (b) of paragraph (1) of this Article shall be conclusive for all purposes.

(3) (a) Every Statute passed by the Interim Council shall come into force upon the Statute receiving assent as hereinafter provided.

(b) Every Statute passed by the Interim Council shall be presented to the Governor for assent

forthwith on the making thereof, and the Governor shall either assent to the Statute or may as soon as possible after the Statute is presented to the Governor for assent, return the Statute to the Interim Council together with a message requesting the Council to reconsider the Statute or any provision thereof and in particular, requesting the Council to consider the desirability of introducing such amendments as may be recommended in the message.

(c) Where a Statute is returned to the Interim Council under subparagraph (b) of this paragraph, the Council shall reconsider the Statute having regard to the Governor's message and may pass such Statute with or without amendments and present the Statute to the Governor for assent.

(d) Upon presentation of a Statute to the Governor under subparagraph (c) of this paragraph, the Governor may assent to the Statute or reserve the Statute for reference by the President to the Supreme Court within one month of the passing of the Statute for the second time, for a determination that the Statute is not inconsistent with the provisions of the Constitution.

(e) Where, upon such reference, the Supreme Court determines that the Statute is consistent with the provisions of the Constitution, the Governor shall, on receipt of the Court's determination, assent to the Statute, but where the Supreme Court determines that the Statute is inconsistent with the provisions of the Constitution, the Governor shall withhold assent to the Statute.

(4) There shall be an Executive Committee for each Ministry in charge of a Minister of the Board of Ministers and the provisions of this Constitution relating to Executive Committees of Ministries in charge of Ministers of the Board of Ministers of a Region shall, mutatis mutandis, apply to such Executive Committees.

### **Public Service.**

247. (1) There shall be a Public Service Commission and a Public Service for the Northern and Eastern Regions.

(2) Subject to paragraph (3) of this Article, the provisions of this Constitution relating to a Regional Public Service Commission and a Regional Public Service shall, mutatis mutandis, apply to such Commission and such Service.

(3) The Public Service Commission of the two Regions shall make appointments to posts in the Public Service of the Regions in accordance with criteria relating, inter alia, to eligibility and merit prescribed by the National Public Service Commission, but shall ensure, as far as practicable, that appointments to all categories of posts in such Service at the regional level reflect the ethnic composition of the Regions, and that appointments to posts in such Service at district level, reflect the ethnic composition of the district.

### **Police.**

248 (1) There shall be a Police Commission and a Police Service for the Northern and Eastern Regions.

(2) The provisions of this Constitution relating to a Regional Police Commission and to a Regional Police Service shall, subject to paragraph (3) of this Article, apply to such Commission and such Service.

(3) The National Police Commission shall, during the period of office of the Interim Council, recruit officers to all posts in the Police Service of the two Regions.

(4) The Board of Ministers of the two Regions shall assist the Central Government in the decommissioning of weapons unlawfully possessed by armed groups.

### **Finance**

249. (1) The Interim Council shall expend the funds granted annually by the Central Government for the use of the Northern and Eastern Provinces, in accordance with guidelines issued by the Finance Commission.

(2) The guidelines issued under paragraph (1) of this Article shall include, inter alia, guidelines for the expenditure of funds in local authority areas with a view to eliminating or reducing disparities in development prevailing in such local authority areas.

(3) Where funds are allocated by the Interim Council for the development of a local authority area, the Interim Council shall ensure that such funds are not applied in such manner as would discriminate against minority communities living in concentrations in such local authority area.

### **Rehabilitation and Resettlement.**

250. The Interim Council and the Board of Ministers shall take such measures as may be necessary

(a) to rehabilitate and resettle, persons who have been displaced in the Northern and Eastern Regions, after January 1, 1983;

(b) to enable such persons to recover possession of property lost by such persons; and

(c) where such recovery is not possible, to ensure that such persons received adequate compensation for the loss of such property.

### **Cultural Committees.**

251. (1) (a) There shall be a Cultural Committee for each of the three major communities in the Northern and Eastern Regions.

(b) Every Cultural Committee set up for a community shall consist of the members of the Interim Council belonging to such community.

(c) The members of each Cultural Committee shall elect a Chairperson of the Committee from amongst the members.

(d) The Chairpersons of local authorities established for local authority areas within the Regions may attend meetings of a Cultural Committee but shall not be entitled to vote at such meetings.

(2) A Cultural Committee may exercise and perform such powers and duties as may be conferred and imposed on such Committee by Statute and may make recommendations to the Interim Council on measures for the promotion of the culture of the community in respect of which the Committee has been set up.

(3) The Interim Council shall allocate adequate funds annually to every Cultural Committee set up under this Article and it shall be the duty of such Committee to apply such funds for the promotion

of the culture of the community in respect of which the Committee has been set up.

### **Equality Commission.**

252. (1) There shall be an Equality Commission consisting of three members appointed by the President from the three major communities in the Northern and Eastern Regions.

(2) It shall be the function of the Equality Commission to monitor measures taken by the Interim Council and the Board of Ministers of the Regions—

(a) to promote equality of opportunity for all communities in the two Regions in matters such as employment and access to public services; and

(b) to promote parity of esteem amongst all communities in such Regions, and may, for the purpose of discharging of such function, inquire into complaints relating to such matters made against public bodies functioning in such Regions.

(3) The Equality Commission shall report to the President as often as may be necessary.

### **Interim Regional Council.**

253. (1) There shall be an Interim Regional Council for the Northern and Eastern Regions set out in Part C of the First Schedule for the period commencing on the date of dissolution of the Interim Council established under the provisions of Article 243, and ending on the last of the dates fixed for the referendum referred to in paragraph (2) of Article 127.

(2) The Interim Regional Council shall consist of such number of members as is equal to the total number of members appointed to the Interim Council increased by two.

(3) The election of members to the Interim Regional Council shall be from the several administrative districts of the Northern and Eastern Regions and the provisions of the Provincial Councils Elections Act, No.2 of 1988 shall, mutatis mutandis, apply to such election.

(4) The provisions of Articles 244, 245, 246, 247, 248, 249, 250, 251 and 252, other than the provisions of paragraph (3) of Article 248, shall, mutatis mutandis, apply to the Interim Regional Council established under this Article.

(5) (a) If for some unforeseen reason the Referendum referred to in paragraph (2) of Article 127 cannot be held prior to the expiration of a period of ten years from the commencement of the Constitution, two Interim Regional Councils shall be deemed to have been established respectively for the Northern and Eastern Regions set out in Part C of the First Schedule, for the period commencing on the date of expiration of the ten year period and ending on the last of the dates on which such Referendum is subsequently held, and the provisions of the Constitution relating to Regional Councils shall, mutatis mutandis, and unless the context otherwise requires, apply to each such Council.

(b) Upon the holding of the Referendum referred to in sub-paragraph (a) of this paragraph, the relevant provisions of paragraph (2) of Article 127 shall apply.

## **CHAPTER XXIX INTERPRETATION**

## **Interpretation**

254. In the Constitution —

"Central Government" means the persons or institutions exercising the executive power of the People not devolved on the Regions, and insofar as such reference is to the exercise of legislative or judicial power means the persons or institutions exercising the legislative or judicial power, as the case may be, of the People not devolved on the Regions, and expression the "Centre" shall be construed accordingly;

"commencement of the Constitution" means the date appointed by the Proclamation made under Article 256.

"conclusion of the General Election" means the time at which Members of Parliament for all, the electoral districts in respect of which a poll has been taken on the date or dates specified in the Proclamation made under paragraph (4) of Article 86 have been declared elected by the respective returning officers, or when on the results declared more than half the total membership of Parliament consists of Members belonging to any single recognized political party or independent group, whichever event occurs earlier;

"existing law " and "existing written law" means any law or written law, respectively, in force immediately prior to the Constitution and which, under the Constitution ,continue in force;

"judicial officer" other than in Articles 156, 157 and 158, means any person who holds office as—

(a) a Judge of the Supreme Court;

(b) a Judge of the Court of Appeal;

(c) Judge of a Regional High Court; or

(d) any judge, presiding officer or member of any other court of first Instance, tribunal or institution created and established for the administration of justice or for the adjudication of any labour or other dispute but does not include a person who performs arbitral functions or a national public officer or regional public officer whose principal duty or duties is or are not the performance of functions of a judicial nature.

A court or tribunal or institution shall not have jurisdiction to determine the question whether a person is a judicial officer within the meaning of the Constitution but such question shall be determined by the Judicial Service Commission whose decision thereon shall be final and conclusive. An act of such person or proceeding held before such person, prior to such determination, shall be, deemed not to be invalid by reason of such determination:

"law" means any Act of Parliament, and any law enacted by any legislature at any time prior to the commencement of the Constitution and includes an Order in Council but does not include a Statute of a Provincial Council;

"local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;

"national 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) a Vice-President;
- (c) the Speaker;
- (d) a Minister;
- (e) the Governor of a Region;
- (f) a member of the Judicial Service Commission;
- (g) a member of the Election Commission;
- (h) a member of the National Public Service Commission;
- (i) a member of the Finance Commission;
- (j) a member of the National Police Commission;
- (k) a Deputy Minister;
- (l) a Member of Parliament;
- (m) the Secretary-General of Parliament;
- (n) a member of the President's staff;
- (o) an Advisor or Consultant to the President or a Ministry of a Minister;
- (p) a member of a Minister's staff;
- (q) a member of the staff of the Secretary General of Parliament;
- (r) a member of the staff of the Election Commission;

"public corporation" means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 17 of 1982, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

"recognized political party" means unless Parliament otherwise provides, every political party which is treated as a recognized political party under the Parliamentary Elections Act, No.1, of 1981;

"State" includes a Regional Administration or Regional Council;

"territorial waters" includes the territorial sea and the historic waters of Sri Lanka;

"written law" means any law and subordinate legislation, Statutes Proclamations, Rules, By-laws and Regulations made or issued by any body or person having power or authority under any law Statute to make or issue the same; and

"1978 Constitution" means the Constitution enacted on the 16th day of August 1978.

## **CHAPTER XXX**

### **REPEAL**



## Repeal

255. The Constitution adopted and enacted on the 16th day of August 1978 is hereby repealed.

## CHAPTER XXXI PROMULGATION OF THE CONSTITUTION

### Promulgation of the Constitution.

256. (1) The provisions of Chapter I to Chapter XXX shall come into force on the day appointed by the President by Proclamation.

(2) Parliament shall meet on the day so appointed and the President may, in such Proclamation, specify the time at which Parliament shall so meet.

Devo vassatu kalena  
sassasampattihetu ca  
phito bhavatu loko ca  
raja bhavatu dhammiko

## SIDDHIRASTU

## AN ACT TO REPEPL AND REPLACE THE CONSTITUTION OF THE SOCIALIST REPUBLIC OF SRI LANKA

[Dated: August 03, 2000]

### FIRST SCHEDULE

<i>Column I</i>	<i>Column II</i>	<i>Column III</i>
<i>Region</i>	<i>Area</i>	<i>No. of Ministers in the Regional Board of Ministers (excluding the Chief Minister)</i>
<b>Part A</b>		
Western	Administrative Districts of Colombo. Gampaha and Kalutara.	Six
Central	Administrative Districts of Kandy, Nuwara Eliya and Matale.	Six

Southern	Administrative Districts of Galle, Matara and Hambantota.	Six
North Central	Administrative Districts of Anuradhapura and Polonnaruwa.	Five
North Western	Administrative Districts of Puttalam and Kurunegala.	Six
Sabaragamuwa	Administrative Districts of Ratnapura and Kegalle.	Five
Uva	Administrative Districts of Badulla and Moneragala.	Five
<b>Part B</b>		
North-Eastern	Administrative Districts of Jaffna, Kilinochchi, Mannar, Vavuniya and Mullaitivu and the Adminikative District of Trincomalee, Batticaloa and Ampara.	Eight
<b>Part C</b>		
Northern	Administrative Districts of Jaffna, Kilinochchi, Mannar, Vavuniya and Mullaitivu	Six
Eastern	Administrative Districts of Trincomalee, -Batticaloa and Ampara	Six

## **SECOND SCHEDULE**

### **LIST I RESERVED LIST**

1. Defence; national security; national police; security forces; special forces; para-military forces established by or under law.
2. Law and order including public order and the exercise of police powers in the Capital Territory and where expressly provided in the Constitution.
3. Firearms, ammunition, explosives and other armaments.
4. Immigration and emigration; citizenship.
5. Foreign affairs, including all matters which bring the Republic of Sri Lanka into relations with

other States and the undertaking of international obligations.

6. Entering into treaties, conventions and agreements with other States and international organizations and implementing such treaties, conventions and agreements.

7. Elections.

8. National planning.

9. National census and statistics.

10. Currency and foreign exchange, international economic relations, formulation of monetary policy and external resources.

11. Public debt of the Government of Sri Lanka.

12. Foreign loans of the Government of Sri Lanka.

13. Regulation of banking, banking institutions and other national financial institutions.

14. National policy on insurance and national institutions providing insurance services.

15. Regulation of securities, stock exchanges and future markets.

16. Audit of the Government of Sri Lanka, State institutions and public corporations.

17. Taxes on income, capital and wealth of individuals, companies and corporations as provided in Chapter XXI.

18. Customs duties, including import and export duties, and excise duties (excluding such excise duties as may be specified by law) as provided in Chapter XXI.

19. Turnover taxes and stamp duties, goods and services taxes as provided in Chapter XXI.

20. Any other taxes, duties or levies not mentioned in the Regional List.

21. National lotteries.

22. Pensions payable by the Government of Sri Lanka or out of the Consolidated Fund of Sri Lanka.

23. Atomic energy.

24. National grid for the supply of electricity, maintenance and management of the national grid.

25. Regulation of the development and exploitation of mines and minerals including oil fields, petroleum and petroleum products and the collection of royalties thereon.

26. Inter-regional rivers; inter-regional waterways.

27. Airports; ports and harbours with international transportation; provision of facilities, in consultation with the relevant Regional Administrations, in fishery harbours used mainly by vessels engaged in fishing beyond Sri Lankan waters.

28. Inter-regional transport.

29. Railways.

30. Civil aviation.

31. Inter-regional highways linking the Capital Territory with regional capitals, regional capitals with each other and district capitals with each other in so far as the highway linking district capitals traverse regional boundaries; toll roads and expressways constructed by or under authority of the Central Government.

32. Roads within the Capital Territory other than roads maintained by local authorities.

33. Shipping and navigation; Maritime Zones including historical waters and territorial waters; Exclusive Economic Zone and Continental Shelf.
34. Posts and telecommunications.
35. Mass media including Central Government broadcasting and television institutions in conformity with national standards; licensing of broadcasting and media; establishment of regulatory authorities for the determination of national standards relating to communication and media.
36. National Public Service; National Public Service Commission.
37. National health administration (inclusive of existing special purpose hospitals, teaching hospitals affiliated to National Universities, co-ordination of health services, training and co-ordination of education and research relating to health, determination of national health standards, administration of all special programmes); national health plan.
38. Policy and enforcement procedure relating to drugs, poisons and narcotics.
39. Administration of justice; court procedure.
40. Prisons.
41. Policy and law relating to adoption of children.
42. Inter-regional irrigation schemes.
43. Fishing beyond Sri Lankan waters; registration of vessels engaged in fishing beyond Sri Lankan waters; rights relating to traditional migratory fishing within Sri Lankan waters; reference of inter-regional fishing disputes and disputes relating to traditional migratory fishing for settlement in accordance with Article 141.
44. Protection, development and exploitation of marine and aquatic resources in keeping with international obligations and measures to enforce such obligations.
45. National policy on education; national institutes in the field of education, such as the National Institute of Education; administration and supervision of national schools existing immediately prior to the commencement of the Constitution, provided that the administration of any national school may be handed over to the relevant Regional Administration; determination of minimum standards for national public certification examinations and the conduct of such examinations; determination of syllabi and curricula; determination of minimum qualifications for teachers; teacher training institutions; higher technical institutions; educational publications provided by the Central Government; Private education; powers under the Education Ordinance and the Assisted Schools and Training Colleges (Special Provisions) Act in relation to private schools.
46. University Grants Commission; National Universities; National standards for Regional Universities.
47. National standards with regard to professions, occupations and training.
48. National standards relating to research, development and training in the areas of agriculture, fisheries and aquatic resources, science and industries.
49. National research institutions; lands and factories owned, managed or administered by such institutions immediately prior to the commencement of the Constitution.
50. Tea, rubber, coconut, oil palm and teak plantations owned by the Republic immediately prior to the commencement of the Constitution; the regulation of the manufacture of tea, rubber and coconut; tea small holdings; rubber small holdings; coconut small holdings.
51. Foreign trade; general policy on inter-regional trade.

52. Subjects and functions of the Sri Lanka Standards Institution immediately prior to the commencement of the Constitution.
53. Intellectual property including patents, inventions, designs, copyrights, trademarks and merchandise marks.
54. Monopolies, mergers, restrictive trade practices.
55. Buddha Sasana.
56. National Archives and Museums.
57. National Libraries and the National Library Services Board.
58. Archaeology - Policy formulation; excavation and conservation including access for such purpose; maintenance and administration of ancient and historical monuments, archaeological sites, archaeological remains and records declared by or under law before the commencement of the Constitution to be of national importance, and those declared, after consulting the relevant Regional Administration, by or under law, to be of national importance.
59. Preservation and promotion of the national heritage.
60. National Standards relating to public performances.
61. National policy on tourism and promotion of tourism.
62. National land use policy and planning.
63. National plans on forestry, environment and conservation including conservation of flora and fauna in keeping with international obligations.
64. National parks, Strict Natural Reserves, Nature Reserves, Sanctuaries and National Heritage Wilderness Areas declared by or under law and existing immediately prior to the commencement of the Constitution.
65. Reserved Forests and Conservation Forests declared by or under any law and existing immediately prior to the commencement of the Constitution, which shall be used in conformity with national plans on forestry and in accordance with national land use policy as determined by the National Land Use Council.
66. Foreshore; national plans on coast conservation; declaration and demarcation of coast reservations for the implementation of national programmes relating to coast conservation.
67. National housing programs with the concurrence of the relevant Regional Administration.
68. National physical planning; national urban development planning.
69. Formulation and co-ordination of national poverty alleviation programmes.
70. National policy on youth.
71. National policy on women's affairs.
72. National policy on sports; administration of national sports bodies.
73. Intervention in instances of 'national' (natural and environmental) disasters and epidemics.
74. Labour regulation and standards; labour laws.
75. Promotion of and Policy on industrial development.
76. Institutions for the promotion of, and determination of policy relating to investment.
77. National programmes for infrastructure development.
78. National programs on spatial and urban planning in consultation with the relevant Regional

Administrations.

79. Urban planning and implementation in the Capital Territory; public utilities in the Capital Territory.
80. Drainage and waterways within the Capital Territory.
81. Establishment of any authorities for the discharge of any or all of the functions subjects specified in items 32,79 and 80 of the Reserved List and for the delegation of any of the functions of such authority to any local authorities within the Capital Territory.
82. Surveys for the purpose of any matters enumerated in the Reserved List.
83. Fees in respect of any of the matters in the Reserved List, but not including fees taken in any court.
84. Acquisition of private property required for the purposes of any matter in the Reserved List.
85. Requisition of private property for the purposes of any matter in the Reserved List.
86. Any other matter not enumerated in the Regional List.

## **SECOND SCHEDULE**

### **LIST II Regional List**

1. Regional Planning including employment planning at the Regional level and plan implementation including employment programmes.
2. Public debt of a Region, excluding debts owing to the Central Government.
3. Domestic and international borrowing to the extent specified in Chapter XXI.
4. The management and promotion of foreign direct investment, international grants and developmental assistance to the Region to the extent specified in Chapter XXI.
5. Regional programmes for public utility infrastructure development.
6. Regional financial and credit institutions including regional institutions providing insurance services.
7. Excise duties to be specified by law.
8. Betting and gaming taxes, taxes on prize competitions and on lotteries to be specified.
9. Motor vehicle licence fees.
10. Stamp duties on transfer of immovable properties and motor vehicles.
11. Utilisation of fines imposed by courts within the Region, provided that not less than ten per centum of the fines imposed shall be utilised for construction and maintenance of court buildings and the development of the infrastructure of courts.
12. Court fees, including Stamp fees on documents produced in courts.
13. Land revenue, including the assessment and collection of revenues, and maintenance of land records for revenue purposes.
14. Taxes on mineral rights.
15. Pensions payable by a Regional Administration or out of the Consolidated Fund of a Region.
16. Regional lotteries and their conduct.
17. Regional Public Service, Regional Public Service Commission.
18. Regional Commissioner for Administration (Regional Ombudsman).

19. Health and indigenous medicine including Regional Health Services and Regional Health Administration in conformity with the national health plan.
20. Regional policy on education; administration of education and educational services within the Region with due regard to national policy; administration of national schools handed over by the Central Government; research on education; in-service training of teachers; higher education other than as provided in the Reserved List; regional universities; pre-schools; educational publications provided by the Regional Administration.
21. Agriculture and agrarian services inclusive of agricultural research, extension, promotion and education within the Region and promotion of agro-based industries within the Region.
22. Animal husbandry.
23. State land and its use, alienation or disposal as specified in Chapter XVI.
24. Irrigation within the Region other than irrigation schemes utilising water through diversions from water systems from outside the Region.
25. Fisheries, marine resources and aquatic resources within Sri Lankan waters, excluding rights relating to traditional migratory fishing in Sri Lankan waters as provided in the Reserved List.
26. Forests, excluding those specified in the Reserved List, which shall be used, subject to paragraphs (3) and (4) of Article 145, in conformity with national plans on forestry and with due regard to national land use policy as determined by the National Land Use Council.
27. Protection of the environment within a Region in conformity with national plans on environment and conservation.
28. Regional programmes for coast conservation in conformity with national plans.
29. Industries and regional industrial development inclusive of industrial research and training within the Region.
30. Energy excluding the national grid.
31. Trade and commerce excluding foreign trade.
32. Co-operatives and Co-operative Banks.
33. Supply and distribution of food.
34. Markets and fairs.
35. Manufacture and supply of salt, distribution of salt within the Region of manufacture.
36. Roads excluding those specified in the Reserved List; toll roads and expressways constructed by or under the authority of the Regional Administration.
37. Drainage and waterways other than within the Capital Territory.
38. Transport excluding railways but including ferry services.
39. Ports, harbours and fishery harbours other than those specified in the Reserved List.
40. Housing and construction.
41. Urban planning and implementation, other than within the Capital Territory; public utilities, other than within the Capital Territory.
42. Rural development.
43. Local Government to the extent provided in Chapter XXV.
44. Regional libraries and museums.

45. Promotion of cultural activity within the Region including the preservation of cultural diversity.
46. Maintenance and administration of ancient and historical monuments, archaeological sites and records other than those specified in the Reserved List.
47. Public performances.
48. Promotion of regional tourism
49. Relief and reconstruction and the granting of compensation.
50. Social security and social insurance.
51. Social services.
52. Regulation of unincorporated associations and societies within the Region, charities and charitable institutions.
53. Law and order, Regional Police and Regional Police Commission to the extent provided in Chapter XXII.
54. Administration of justice within a Region, to the extent of the provision and setting up of court buildings in consultation with the Judicial Service Commission, the maintenance of court buildings and the development of infrastructure of courts; mediation and conciliation.
55. Borstal and reformatory institutions.
56. Implementation of programmes for the advancement of youth.
57. Implementation of programmes for the advancement of women
58. Sports.
59. Surveys for the purpose of any matters enumerated in the Regional List.
60. Fees in respect of any of the matters in the Regional List.
61. Acquisition of private property required for the purposes of any matter in the Regional List.
62. Requisition of private property required for the purposes of any matter in the Regional List.
63. Imposition, collection and utilisation of fines, other than court fines, in respect of the matters in the Regional List.
64. Any other tax that may be devolved by law on the Region
65. Any other matter provided for in the Constitution.

**AN ACT TO REPEAL AND REPLACE  
THE CONSTITUTION OF THE  
SOCIALIST REPUBLIC OF SRI LANKA**

*[Dated: August 03, 2000]*

**FIFTH SCHEDULE**

*Articles 76, 129(7), 134(7), 151(6), 155(2), 205, 236*

“I . . . . . do solemnly declare and affirm / swear that I will faithfully perform the duties and discharge the functions of the office of . . . . . in accordance with the Constitution of the Republic of Sri Lanka and the law, and that I will be faithful to the Republic of Sri Lanka and that I will to the best of my ability uphold and defend the Constitution of the Republic of Sri Lanka.”



**ENDORSEMENT UNDER ARTICLE 80(2) READ WITH .ARTICLE  
120(b) AND ARTICLE 122 OF THE CONSTITUTION**

The Cabinet of Ministers has certified that in its view that the above Bill is urgent in the national interest.

The Cabinet of Ministers in persuance of Article 80(2) read with Article 120(b) of the Constitution certify that this Bill, which is described in its long title as being a Bill for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 83(b) and submitted to the People for approval at a Referendum.

Secretary to the Cabinet of Ministers