

L.D.- O. 12/2022

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

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

Short title **1.** This Act may be cited as the Twenty First Amendment to the Constitution.

Replacement of Chapter VIIA of the Constitution of the Democratic Socialist Republic of Sri Lanka **2.** Chapter VIIA of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter in this Act referred to as the “Constitution”) is hereby repealed and the following Chapter substituted therefor:-

“CHAPTER VIIA

THE CONSTITUTIONAL COUNCIL

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

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

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

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

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

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

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

(6) The President shall, within fourteen days of the receipt of a written communication specifying the nominations made under sub-paragraphs (e) and (f) of paragraph (1), make

the necessary appointments. In the event of the President failing to make the necessary appointments within such period of fourteen days, the persons nominated shall be deemed to have been appointed as members of the Council, with effect from the date of expiry of such period.

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

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

(8) Every member of the Council appointed under sub-paragraphs (d), (e) and (f) of paragraph (1), shall hold office for a period of three years from the date of appointment unless the member earlier resigns his office by writing addressed to the President, is removed from office by the President on both the Prime Minister and the Leader of the Opposition forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office or is convicted by a court of law for any offence

involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 of the Constitution or is deemed to have vacated his office under paragraph (7) of Article 41E.

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

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

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

Council to
recommend
appointments.

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

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

(3) It shall be the duty of the Council to recommend to the President fit and proper persons for appointment as Chairmen or members of the Commissions specified in the Schedule to this Article, whenever the occasion

for such appointments arises, and such recommendations shall endeavour to ensure that such recommendations reflect the pluralistic character of Sri Lankan society, including gender. In the case of the Chairmen of such Commissions, the Council shall recommend three persons for appointment, and the President shall appoint one of the persons recommended as Chairman.

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

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

with effect from the date of expiry of such period.

(5) No person appointed under paragraph (1) or a person appointed to act as the Chairman or a member of any such Commission, shall be removed except as provided for in the Constitution or in any written law, and where

there is no such provision, such person shall be removed by the President only with the prior approval of the Council.

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

SCHEDULE

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

Council to approve appointments.

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

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

Provided that no person shall be appointed to act in any such office for successive periods

not exceeding fourteen days, unless such acting appointment has been approved by the Council on a recommendation by the President.

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

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

SCHEDULE

PART I

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

PART II

- (a) The Attorney-General.
- (b) The Governor of the Central Bank of Sri Lanka;
- (c) The Auditor-General.
- (d) The Inspector-General of Police.
- (e) The Parliamentary Commissioner for Administration (Ombudsman).
- (f) The Secretary-General of Parliament.

Secretary-General
and other officers
of the Council.

41D. (1) There shall be a Secretary-General to the Council who shall be appointed by the Council for a term of three years. Upon the

expiration of his term of office, the Secretary-General shall be eligible for reappointment.

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

Meetings of the Council.

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

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

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

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

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

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

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

(8) The Council shall have the power to act notwithstanding the fact that it has not been fully constituted or that there is a vacancy in its membership. No act, proceeding or decision of the Council carried out or made by the majority vote of the members shall be or deemed to be invalid by reason only of the fact that the Council has not been fully constituted or that there has been a vacancy in its membership or that there has been any defect in the appointment of a member.

Continuation in office of the members of the Council.

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

Powers and duties of the Council.

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

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

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

Expenses to be charged on the Consolidated Fund

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

Finality of decisions of the Council.

41J. Subject to the provisions of Article 126, no court shall have the power or jurisdiction to entertain, hear or decide or call in question, on any ground whatsoever, or in any manner whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, approval or recommendation shall be final and conclusive for all purposes.”.

Amendment of Article 44 of the Constitution

3. Article 44 of the Constitution is hereby amended as follows:-

- (1) by the substitution, in paragraph (1) of that Article, for the words “in consultation with the Prime Minister, where he considers such consultation to be necessary-” of the words “on the advice of the Prime Minister-”;
- (2) by the substitution, in paragraph (3) of that Article, for the words “The President may, at any time, change” of the words “The President may, at any time, on the advice of the Prime Minister, change”; and
- (3) by the repeal of the marginal note to that Article and the substitution therefor of the following marginal note:-

“Ministers and their subjects and functions.”.

Amendment of
Article 45 of
the Constitution

4. Article 45 of the Constitution is hereby amended as follows:-

- (1) by the substitution, in paragraph (1) of that Article, for the words “in consultation with the Prime Minister, where he considers such consultation to be necessary-” of the words “on the advice of the Prime Minister-”;
- (2) by the substitution, in paragraph (2) that Article, for the words “The President may at any time” of the words “The President may, on the advice of the Prime Minister at any time”; and
- (3) by the repeal of the marginal note to that Article and the substitution therefor of the following marginal note:-

“Ministers who are
not members of the
Cabinet of
Ministers.”.

Amendment of
Article 46 of
the Constitution

5. Article 46 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution, for the words “in consultation with the Prime Minister, where he considers such consultation to be necessary,” of the words “on the advice of the Prime Minister,”.

Amendment of
Article 47 of
the Constitution

6. Article 47 of the Constitution is hereby amended by the repeal of paragraphs (2), (3) and (4) of that Article and the substitution therefore of the following paragraphs:-

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

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

(b) ceases to be a Member of Parliament.

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

the Constitution unless he—

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

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

(c) ceases to be a Member of Parliament.”.

Amendment of Article 48 of the Constitution

7. Article 48 of the Constitution is hereby amended in paragraph (2) of that Article, by the substitution, for the words “death, removal from office or resignation,” of the words “death or resignation”.

Amendment of Article 49 of the Constitution

8. Article 49 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution, for the words “by death, removal, resignation or otherwise” of the words “by death, resignation or otherwise”.

Amendment of Article 50 of the Constitution

9. Article 50 of the Constitution is hereby amended, by the substitution for the words “the President may appoint” of the words “the President may, on the advice of the Prime Minister, appoint”.

Amendment of Article 54 of the Constitution

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

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

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

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

“(4) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless the member becomes subject to any disqualification under paragraph (2) or earlier resigns from his office by

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

(3) by the substitution, in paragraph (7) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the recommendation of the Constitutional Council.”.

Amendment of Article 61E of the Constitution

11. Article 61E of the Constitution is hereby amended, in paragraph (b) of that Article, by the substitution for the words and figures “subject to the provisions of Article 41A,” of the words “on the approval of the Constitutional Council”.

Replacement of Article 61F of the Constitution

12. Article 61F of the Constitution is hereby repealed and the following Article is substituted therefor:-

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

Amendment of Article 65 of the Constitution

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

(1) by the substitution, in paragraph (1) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the approval of the Constitutional Council”; and

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

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

Secretary-General.”.

Amendment of
Article 91 of
the Constitution

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

(1) by the substitution, in item (iv) of that sub-paragraph, for the words and figures “referred to **in** Schedule I to Article 41A,” of the words and figures “referred to in Schedule to Article 41B,”;

(2) by the insertion, immediately after item (va) of that sub-paragraph, of the following item:-

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

(3) by the insertion, immediately after item (xii) of that sub-paragraph, of the following item:-

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

Amendment of
Article 95 of
the Constitution

15. Article 95 of the Constitution is hereby amended in paragraph (2) of that Article, by the substitution for the words and figures “paragraph (1) of this Article and subject to the provisions of Article 41A, appoint”, of the words and figure “paragraph (1) and on the recommendation of the Constitutional Council, appoint”.

Amendment of
Article 103 of
the Constitution

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

(1) by the substitution, in paragraph (1) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the recommendation of the Constitutional Council,”; and

(2) by the substitution, in paragraph (7) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the recommendation of the Constitutional Council,”.

Amendment of
Article 104B of
the Constitution

17. Article 104B of the Constitution is hereby amended by the repeal of sub-paragraph (a) of paragraph (5) of that Article and the substitution

therefor of the following sub-paragraph-

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

Amendment of Article 107 of the Constitution

18. Article 107 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution, for the words and figures “subject to the provisions of Article 41A,” of the words “subject to the approval of the Constitutional Council,”.

Amendment of Article 109 of the Constitution

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

(1) by the substitution, in paragraph (1) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the approval of the Constitutional Council,”; and

(2) by the substitution, in paragraph (2) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “on the approval of the Constitutional Council,”.

Amendment of Article 111D of the Constitution.

20. Article 111D of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words and figures “subject to the provisions of Article 41A.”, of the words “subject to the approval of the Constitutional Council.”.

Amendment of Article 111E of the Constitution

21. Article 111E of the Constitution is hereby amended in paragraph (5) of that Article, by the substitution, for the words and figures “subject to the provisions of Article 41A,” of the words “subject to the approval of the Constitutional Council,”.

Amendment of Article 121 of the Constitution

22. Article 121 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution, for the words “within one week” of the words “within fourteen days”.

Amendment of Article 153 of the Constitution

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

- (1) by the substitution, in paragraph (1) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “subject to the approval of the Constitutional Council,”; and
- (2) by the substitution, in paragraph (4) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words, “subject to the approval of the Constitutional Council,”.

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

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

“Constitution of the Audit Service Commission.

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

- (a) two retired officers of the Auditor-General’s Department, who have held office as a Deputy Auditor- General or above;
- (b) a retired judge of the Supreme Court, the Court of Appeal or the High Court of Sri Lanka; and
- (c) a retired Class I officer of the Sri Lanka Administrative Service.

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

- (a) earlier resigns from his office, by letter addressed to the President;

(b) is removed from office as hereinafter provided; or

(c) becomes a Member of Parliament or a member of a Provincial Council or a local authority.

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

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

(5) The Chairman and the members of the Commission shall be paid such allowances as are determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the Chairman or members.

(6) The Chairman and the members of the Commission shall be deemed to be public servants within the meaning and for the purposes of Chapter IX of the Penal Code (Chapter 19).

(7) There shall be a secretary to the Commission who shall be appointed by the Commission.

Meetings of
the
Commission.

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

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

Powers and functions of the Commission.

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

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

- (a) make rules pertaining to schemes of recruitment, the appointment, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, subject to any policy determined by the Cabinet of Ministers pertaining to the same;
- (b) prepare annual estimates of the National Audit Office established by law; and
- (c) exercise, perform and discharge such other powers, duties and functions as may be provided for by law.

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

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

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

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

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

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

Immunity from legal proceedings.

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

Costs and expenses.

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

Appeals to
the
Administrative
Appeals
Tribunal.

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

Commission
to be
answerable to
Parliament.

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

Amendment of
Article 154 of
the Constitution

25. Article 154 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words and figures “the Parliamentary Council, the Commissions referred to in Schedule I to Article 41A,” of the words and figures “the Constitutional Council, the Commissions referred to in the Schedule to Article 41B,”.

Amendment of
Article 154R of
the Constitution

26. Article 154R of the Constitution is hereby amended in subparagraph (c) of paragraph (1) of that Article, by the substitution for the words and figures “subject to the provisions of Article 41A,” of the words “on the recommendation of the Constitutional Council,”.

Amendment of
Article 155A of
the Constitution

27. Article 155A of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words and figures “subject to the provisions of Article 41A,” of the words “on the recommendation of the Constitutional Council,”.

Amendment of
Article 155B of
the Constitution

28. Article 155B of the Constitution is hereby amended, by the insertion, immediately after paragraph (4) of that Article, of following paragraph:-

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

Amendment of Article 155C of the Constitution

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

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

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

“Powers of the Commission.

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

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

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

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

(a) the formulation of schemes of recruitment, promotion and transfer, subject to any policy determined by the Cabinet of Ministers pertaining to the

same;

- (b) training and the improvement of the efficiency and independence of the police service;
- (c) the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions; and
- (d) codes of conduct and disciplinary procedures.

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

Delegation of certain powers of the Commission to a Committee.

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

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

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

Delegation of certain functions by the Commission.

155J. (1) The Commission may, subject to such conditions and procedures as may be specified by the Commission, delegate to the Inspector-General of Police or in consultation with the Inspector-

General of Police to any police officer, its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officers.

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

Right of
Appeal.

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

(2) A police officer aggrieved by any order relating to promotion, transfer or any order on a disciplinary matter or dismissal made by a Committee or the Inspector-General of Police or a police officer referred to in Article 155H and 155J in respect of such officer may, appeal to the Commission against such order in accordance with rules made by the Commission, from time to time, regulating the procedure and the period fixed for the making and hearing of an appeal by the Commission.

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

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

(5) Upon any delegation of its powers to a Committee or the Inspector-General of Police or police officer under Article 155H and 155J, the

Commission shall not, whilst such delegation is in force, exercise, perform or discharge its powers, duties or functions in respect of the categories of police officers in respect of which such delegation is made, subject to the right of appeal hereinbefore provided.

Appeals to Administrative Appeals Tribunal.

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

Replacement of Article 155M of the Constitution

31. Article 155M of the Constitution is hereby repealed and the following Article substituted therefor:-

“Saving of existing rules and regulations.

155M. Until the Commission otherwise provides, all rules, regulations and procedures relating to the Police Force as are in force on the date of the coming into operation of this Article, shall continue to be operative and in force.”.

Amendment of Article 156 of the Constitution

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

- (1) by the substitution, in paragraph (2) of that Article, for the words and figures “subject to the provisions of Article 41A,” of the words “subject to the approval of the Constitutional Council, “; and
- (2) by the substitution, in paragraph (5) of that Article, for the words and figures “subject to the provisions of Article 41A”, of the words subject to the approval of the Constitutional Council,”.

Insertion of new Chapters XIXA and XIXB in the Constitution

33. The following new Chapters are hereby inserted immediately after Chapter XIX and shall have effect as Chapter XIXA and Chapter XIXB of the Constitution: -

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

Commission to
investigate
bribery or
corruption.

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

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

(2) Until Parliament so provides, the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 shall apply, subject to the modification that it shall be lawful for the Commission appointed under that Act, to inquire into, or investigate, an allegation of bribery or corruption, whether on its own motion or on a written complaint made to it.

CHAPTER XIXB

NATIONAL PROCUREMENT COMMISSION

National
Procurement
Commission.

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

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

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

Functions of
the
Commission.

156C. (1) It shall be the function of the Commission to formulate fair, equitable, transparent, competitive and cost effective

procedures and guidelines, for the procurement of goods and services, works, consultancy services and information systems by government institutions and cause such guidelines to be published in the *Gazette* and within three months of such publication, to be placed before Parliament.

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

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

- (d) report on whether members of Procurement Committees and Technical Evaluation Committees relating to the procurements, appointed by government institutions are suitably qualified; and
- (e) investigate reports of procurements made by government institutions outside established procedures and guidelines, and to report the officers responsible for such procurements to the relevant authorities for necessary action.

Powers of
the
Commission

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

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

(2) Every person who—

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

or thing which he was required to produce by a Notice sent to him under paragraph (1),

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

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

Meetings of
the
Commission

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

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

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

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

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

(6) The Commission shall have the power

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

Staff of the
Commission

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

(2) All members and officers of the Commission shall be deemed to be public servants within the meaning, and for the purposes of, Chapter IX of the Penal Code (Chapter 19).

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

Expenses of
the
Commission
to be charged
on the
Consolidated
Fund.

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

Interpretation.

156H. In this Chapter, “government institution” includes the office of the Secretary to the President, the office of the Secretary to the Prime Minister, the office of the Secretary to the Cabinet of Ministers, the offices of the Ministers appointed under Article 44 or 45, the Judicial Service Commission, the Constitutional Council, the Commissions referred to in the Schedule to

Article 41B, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, Ministries, government departments, local authorities, public corporations, business or other undertakings vested in the government under any written law and Companies registered or deemed to be registered under the Companies Act, No. 7 of 2007, in which the government, a public corporation or local authority holds more than fifty *per centum* of the shares of that company.”.

Amendment of
Article 170 of
the Constitution

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

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

—

- (a) the President;
- (b) the Prime Minister;
- (c) the Speaker;
- (d) a Minister appointed under Article 44 or 45;
- (e) a Deputy Minister appointed under Article 46;
- (f) a Member of Parliament;
- (g) a member of the Constitutional Council;
- (h) a member of the Judicial Service Commission;
- (i) the Chairman or a member of any Commission referred to in Article 41B;
- (j) the Secretary-General of Parliament;
- (k) a member of the staff of the Secretary-General of

Parliament;

(l) a member of the University Grants Commission;

(m) a member of the Official Languages Commission;

(n) the Auditor -General; and

(q) the Governor of the Central Bank of Sri Lanka.”.

Transitional
Provisions

35. (1) (a) The ninth Parliament in existence on the day preceding the date on which this Act comes into operation, shall, unless dissolved earlier continue to function until August 19, 2025 and shall thereafter stand dissolved.

(b) The persons holding office respectively as the President and the Prime Minister on the day preceding the date on which this Act comes into operation, shall continue to hold office after such date subject to the provisions of the Constitution.

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

(a) the Chief Justice;

(b) the Judges of the Supreme Court;

(c) the members of the Judicial Service Commission;

(d) the President of the Court of Appeal;

(e) the Judges of the Court of Appeal;

(f) the Attorney-General;

(g) the Governor of the Central Bank of Sri Lanka;

(h) the Auditor-General;

(i) the Inspector-General of Police;

(j) the Parliamentary Commissioner for Administration (Ombudsman);

(k) the Secretary-General of Parliament;

(l) the Judges of the High Court; or

(m) the judicial officers, scheduled public officers, public officers or police officers,

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

(3) Every person holding office on the day preceding the date on which this Act comes into operation, as a member of the Parliamentary Council shall cease to hold office as a member of the Parliamentary Council with effect from the date on which this Act comes into operation.

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

(a) the Election Commission;

(b) the Public Service Commission;

(c) the National Police Commission;

(d) the Human Rights Commission of Sri Lanka;

(e) the Commission to Investigate Allegations of Bribery or Corruption;

(f) the Finance Commission; and

(g) the Delimitation Commission,

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

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

(5) All matters relating to—

(a) the appointment, promotion, transfer, disciplinary control and dismissal of police officers; and

(b) appeals by police officers to the Public Service Commission,

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

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

Avoidance of
doubt

36. For the avoidance of doubt, it is hereby declared that—

(a) where there is a requirement in any written law to obtain the recommendation or approval of the Parliamentary Council on the day preceding the date on which this Act comes into operation, the reference to the Parliamentary Council shall be read and construed as a reference to the Constitutional Council with effect from the date on which this Act comes into operation; and

(b) any Member of the ninth Parliament in existence on the day preceding the date on which this Act comes into operation, who is subject to the disqualification specified in item (xiii) of sub-paragraph (d) of paragraph (1) of Article 91 of the Constitution shall not be qualified to sit and vote in Parliament with effect from the date on which this Act comes into operation.

Sinhala text to
prevail in case
of an
inconsistency

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

