

21st Amendment to the Constitution

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

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

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

2. Article 12 of the Constitution is hereby amended by addition of the following Sub Article immediately after Sub Article (1) thereof. Insertion of Sub Article 12(1)(a)

(1)A. Every person is entitled to right to life and personal liberty.

3. Chapter VIIA of the Constitution is hereby repealed and the following Chapter substituted therefor; Insertion of Chapter VIIA to the Constitution.

“CHAPTER VIIA

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: – Constitution of the Constitutional Council.

- (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) (i) two Members of Parliament nominated by both the Prime Minister and the Leader of the Opposition” ,
 - (ii) a professional nominated by Sri Lanka Organization of Professional Association,
 - (iii) a person nominated by Sri Lanka Chamber of Commerce,
 - (iv) a professor of a State University nominated by the University Grant Commission,
 appointed by the President.

(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.

(g) if there is no consensual agreement among Vice Chancellors of State Universities regarding a professor to be nominated in terms of paragraph (e)(iv) above, the Chairman of the University Grant Commission shall nominate a professor by the majority vote of Vice Chancellors of State Universities.

- (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 subparagraph (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 subparagraphs (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, or, is removed from office by the President on both the Prime Minister and the Leader of the Opposition forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office or is convicted by a court of law for any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 of the Constitution or is deemed to have vacated his office under paragraph (7) of Article 41E.
- (9) In the event of there being a vacancy among the members appointed under subparagraphs (d), (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 subparagraphs, appoint another person to succeed such member. Any person so appointed, shall hold office during the unexpired part of the period of office of the member whom he succeeds.
- (10) A member appointed under subparagraphs (d), (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.
- 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 to recommend appointments.
- (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 members for appointment, and the President shall appoint one of the members recommended as Chairman.
- (4) The President shall appoint the Chairman and the members of the Commissions specified in the Schedule to this Article, within fourteen days of receiving the recommendations of the Council for such appointments. In the event of the President failing to make the necessary appointments within such period of fourteen days-
- (a) the persons recommended under paragraph (3), to be appointed as members of a Commission, shall be deemed to have been appointed as the members of the Commissions; and
- (b) the person whose name appears first in the list of names recommended under paragraph (3), to be appointed as the Chairman of a Commission, shall be deemed to have been appointed the Chairman of the respective Commission,
- with effect from the date of expiry of such period.
- (5) No person appointed under paragraph (1) or a person appointed to act as the Chairman or a member of any such Commission, shall be removed except as provided for in the Constitution or in any written law, and where there is no such provision, such person shall be removed by the President only with the prior approval of the Council.
- (6) All the Commissions referred to in the Schedule to this Article, other than the Election Commission, shall be responsible and answerable to Parliament.

SCHEDULE

- (a) The Election Commission.
- (b) The Public Service Commission.
- (c) The National Police Commission.
- (d) The Audit Service Commission.
- (e) The Human Rights Commission of Sri Lanka.

- (f) The Commission to Investigate Allegations of Bribery or Corruption.
- (g) The Finance Commission.
- (h) The Delimitation Commission.
- (i) The National Procurement Commission.

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. Council to approve appointments.

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

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

- (3) No person appointed to any Office specified in the Schedule to this Article or to act in any such Office, shall be removed from such Office except as provided for in the Constitution or in any law.
- (4) In the discharge of its function relating to the appointment of Judges of the Supreme Court and the President and Judges of the Court of Appeal, the Council shall obtain the views of the Chief Justice.

SCHEDULE

PART I

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

PART II

- (a) The Attorney-General.
- (b) The Auditor-General.
- (c) The Inspector-General of Police.

- (d) Governor of the Central Bank of Sri Lanka.
- (e) The Parliamentary Commissioner for Administration (Ombudsman).
- (f) The Secretary-General of Parliament.

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

Secretary-General and other officers of the Council.

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

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.

Meetings of the Council.

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

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

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

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

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

- (7) Any member of the Council appointed under sub-paragraphs (d), (e), or (f) of paragraph (1) of Article 41A, who without

obtaining prior leave of the Council absents himself from three consecutive meetings of the Council, shall be deemed to have vacated office with effect from the date of the third of such meetings.

- (8) The Council shall have the power to act notwithstanding the fact that it has not been fully constituted or that there is a vacancy in its membership, and no act, proceeding or decision of the Council shall be or deemed to be invalid by reason only of the fact that the Council has not been fully constituted or that there has been a vacancy in its membership or that there has been any defect in the appointment of a member.
- 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. Continuation in office of the members 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. Powers and duties of the Council.
- (2) The Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other written law.
- (3) The Council shall have the power to make rules relating to the performance and discharge of its duties and function. All such rules shall be published in the Gazette and be placed before Parliament within three months of such publication.
- 41H. The expenses incurred by the Council shall be charged on the Consolidated Fund. Expenses to be charged on the Consolidated Fund.
- 41I. Subject to the provisions of Article 126, no court shall have the power or jurisdiction to entertain, hear or decide or call-in question, on any ground whatsoever, or in any manner whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, approval or recommendation shall be final and conclusive for all purposes.” Finality of decisions of the Council.
4. Paragraph (1) of Article 44 is of the Constitution hereby amended by deletion of the words, “in consultation with the Prime Minister where he considers such consultation to necessary” and substitution of the words “on advice of the Prime Minister”. Prime Ministers advice on appointment of Ministers.

5. Paragraph (1) of Article 45 is of the Constitution hereby amended by deletion of the words, “in consultation with the Prime Minister where he considers such consultation to necessary” and substitution of the words “on advice of the Prime Minister”. Prime Ministers advice on appointment of Ministers.
6. Paragraph (2) of Article 45 of the Constitution is hereby amended by addition of the words “on advice of the Prime Minister” before the words “the President.” Prime Ministers advice on appointment of Ministers.
7. Paragraph (1) Article of 46 of the Constitution is hereby amended by deletion of the words “in consultation with the Prime Minister where he considers such consultation to necessary” and substitution of the words “on advice of the Prime Minister.” Prime Ministers advice on appointment of Deputy Ministers.
8. Paragraphs (3) and (4) Article of 47 of the Constitution is hereby repealed. Amendment of Article 47 of the Constitution.
9. Article 54 of the Constitution is hereby amended as follows; Amendment of Article 54 of the Constitution.

Public Service Commission

- (1) by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph;- Amendment of Article 54 of the Constitution.
- “(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.” Constitution of Public Service Commission.
- (2) by the repeal of paragraph (4) of that Article, and the substitution therefor of the following paragraph;-
- “(4) Every member of the Commission shall hold office for a period of three years from the date of appointment, unless the member becomes subject to any disqualification under paragraph (2) or earlier resigns from his office by writing addressed to the President or is removed from office by the President with the approval of the Constitutional Council or is convicted by a court of law of any offence involving moral turpitude or if a resolution for the imposition of civic Tenure of office.

disability upon the member has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6).”

10. Article 61F of the Constitution is hereby amended by repeal of it and substitution of the following paragraph; -

“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.”

Public Officer
Interpretation.

11. Paragraph (6) of Article 65 of the Constitution is hereby amended by repeal of it and substitution 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.”.

Acting Secretary-
General.

12. Paragraph (1)(d) of Article 91 is hereby amended by addition of the following paragraph immediately after paragraph (va) ;-

Amendment of Article
91(1)(d).

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

(2) Paragraph (1)(d) of Article 91 is hereby amended by addition of the following paragraph immediately after paragraph (xii);-

“(xiii) a person who is not a citizen of Sri Lanka or a citizen of Sri Lanka who is also a citizen any other country;”

Amendment of Article
104B(5)(a).

13. Paragraph (5)(a) of Article 104B of the Constitution is hereby amended by repeal of it and substitution of the following paragraph therefor; -

“(5) (a) The Commission shall have the power to issue from time to time, in respect of the holding of any election or the conduct of a

Powers of the
Commission.

Referendum, such guidelines as the Commission may consider appropriate, to any broadcasting or telecasting operator or any proprietor or publisher of a newspaper, as the case may be, as the Commission may consider necessary to ensure a free and fair election.”

14. Article 149 is hereby amended by addition of the following paragraph immediately after paragraph (2);-

“149(3). The Secretary to each ministry is the Chief Accounting Officer of that ministry and he is responsible to the minister in charge of the subject and to the Parliament relating to the allocation of money and receivable to such ministry and institutions within the purview of such ministry.”

Responsibility of Secretaries.

15. Article 153 is hereby amended by repeal of it and substitution of the following new Articles; -

Amendment of Article 153.

Audit Service Commission

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

Audit Service Commission.

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

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

- (i) earlier resigns from his office, by letter addressed to the President;
- (ii) is removed from office as hereinafter provided; or

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

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

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

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

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

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

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

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

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

(a) make rules pertaining to schemes of recruitment, the appointment, transfer, disciplinary control and dismissal of the members belonging to the Sri Lanka State Audit Service, subject to

any policy determined by the Cabinet of Ministers pertaining to the same;

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

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

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

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

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

influences or attempts to influence on the Commission is an offence.

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

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

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 59, no court or tribunal shall have the power or jurisdiction to inquire into, pronounce upon or in any manner whatsoever call in question any order or decision made by the Commission, in pursuance of any function assigned on such Commission under this Chapter or under any law.

Not to affect Articles 126 and 59

Expenses to be charged on the Consolidated Fund.

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

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.

Not to affect the Powers of the Administrative Appeals Tribunal.

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."

Commission to be answerable to Parliament.

16. Article 155B of the Constitution is hereby amended by the addition at the end of sub Article (4) of that Article, of the following new paragraph: -

Amendment of Article 155B.

"(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."

Inspector General of Police is entitled to be present in meetings.

17. 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: -

Insertion of Articles 155G, 155H, 155J, 155K and 155L.

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.

Powers of the Commission.

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

(2) The Commission shall establish procedures to entertain and investigate public complaints and complaints of any aggrieved person made against a police officer or the police service, and provide redress as

provided by law. In the event of the Commission providing redress, the Commission shall forthwith inform the Inspector-General of Police.

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

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

(b) training and the improvement of the efficiency and independence of the police service;

(c) the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions; and

(d) codes of conduct and disciplinary procedures.

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

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. Delegation of powers of 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.

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

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.

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

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

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

(4) The Commission shall from time-to-time cause to be published in the Gazette, rules made by it.

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

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

18. Article 155M is hereby repealed and the following Article substituted therefor:- Amendment of Article 155M.

“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.” Power to make rules and regulations.

19. The following new Chapter is hereby inserted immediately after Chapter XIX and shall have effect as Chapters XIXA of the Constitution:- Insertion of Chapter XIXA to the Constitution.

CHAPTER XIXA

NATIONAL PROCUREMENT COMMISSION

“156A. (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. Constitution of the National Procurement 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.

156B. (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, Powers of the Commission.

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.

(f) direct such contract and agreements to be presented to the Parliament one month before they are entered into.

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

Powers of the Commission to summon persons.

(a) attend before the Commission, to be questioned by the Commission;

(b) produce to the Commission, any document or thing in the possession or control of that person and specified in such Notice.

(2) Every person who—

(a) fails, without reasonable cause to appear before the Commission when required to do so by a Notice sent to him under paragraph (1);

(b) appears before the Commission in compliance with such a Notice, but refuses without reasonable cause, to answer any questions put to him by the Commission; or

(c) fails or refuses, without reasonable cause, to produce any document or thing which he was required to produce by a Notice sent to him under paragraph (1), shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

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

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

(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. Secretary-General and other officers.

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

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

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

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

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

20. Article 170 of the Constitution is hereby amended by the repeal of the definition of "public officer" and the substitution of the following definition therefor:- Amendment of Article 170.

"public officer" means a person who holds any paid office under the Republic other than a judicial officer, but does not include – Public Officer.

- (a) the President;
- (b) the Prime Minister;
- (c) the Speaker;
- (d) a Minister;

- (e) a Deputy Minister;
- (f) a Member of Parliament;
- (g) a member of the Constitutional Council;
- (h) a member of the Judicial Service Commission;
- (i) a member of the Public Service Commission;
- (j) a member of the Election Commission;
- (k) a member of the National Police Commission;
- (l) a member of the Audit Service Commission;
- (m) a member of the Human Rights Commission of Sri Lanka;
- (n) a member of the Commission to Investigate Allegations of Bribery or Corruption;
- (o) a member of the Finance Commission;
- (p) a member of the Delimitation Commission;
- (q) a member of the National Procurement Commission;
- (r) the Secretary-General of Parliament;
- (s) a member of the staff of the Secretary-General of Parliament;
- (t) a member of the University Grants Commission;
- (u) a member of the Official Languages Commission; and
- (v) the Auditor-General.
- (w) Governor of the Central Bank of Sri Lanka.

For avoidance of doubt

21(1). For the avoidance of doubt it is hereby declared that,-

Avoidance of doubt.

(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 19th August 2025 and shall thereafter stand dissolved;

Transitional provisions.

(b) the persons holding office respectively, as the President and the Prime Minister on the day preceding to this Act come in to operation shall continue to hold such office after such date, subject to the provisions of the Constitution as amended by this Act; and

Transitional provisions.

Transitional provisions.

(c) every person holding office on the day preceding the date on which this Act comes into operation, as,-

- (i) the Chief Justice;
- (ii) Judges of the Supreme Court;
- (iii) the members of the Judicial Service Commission;
- (iv) the President of the Court of Appeal;
- (v) Judges of the Court of Appeal;
- (vi) the Attorney-General;
- (vii) the Auditor-General;
- (viii) the Inspector-General of Police;
- (ix) the Parliamentary Commissioner for Administration (Ombudsman) ;
- (x) the Secretary-General of Parliament;
- (xi) a judge of the High Court; or
- (xii) a judicial officer, a scheduled public officer, public officer or a police officer,

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

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

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

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

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

(3). All matters relating to,-

Transitional provisions.

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

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

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

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

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

Sinhala text to prevail in the event of an inconsistency.