



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRILANKA**

**EIGHTEENTH AMENDMENT TO THE
CONSTITUTION**

A

BILL

**to amend the Constitution of the Democratic Socialist Republic of
Sri Lanka**

*Presented by the Prime Minister and Minister of Buddha Sasana and
Religious Affairs on 07th September, 2010*

Ordered by Parliament to be printed

[Bill No. 39]

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Eighteenth Amendment to the Constitution

L. D.—O. 19/2010

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 Eighteenth Amendment to the Constitution. Short title.

5 2. The Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as the “Constitution”) is hereby amended in Article 31 thereof, as follows:— Amendment
of Article 31
of the
Constitution
of the
Democratic
Socialist
Republic of
Sri Lanka.

(1) by the repeal of paragraph (2) of that Article; and

(2) in paragraph (3A) (a)(i) of that Article,—

10 (a) by the substitution for the words “at any time after the expiration of four years from the commencement of his first term of office” of the words “at any time after the expiration of four years from the commencement of his current term of office”; and

15 (b) by the substitution for the words “by election, for a further term.” of the following:—

“by election, for a further term:

20 Provided that, where the President is elected in terms of this Article for a further term of office, the provisions of this Article shall *mutatis mutandis* apply in respect of any subsequent term of office to which he may be so elected.”.

3. Article 32 of the Constitution is hereby amended as follows:—

Amendment of Article 32 of the Constitution.

(1) by the repeal of paragraph (3) of thereof, and the substitution therefor of the following:—

5 “(3) The President shall by virtue of his office attend Parliament once in every three months. In the discharge of this function the President shall be entitled to all the privileges, immunities and powers of a member of Parliament, other than the entitlement to vote, and shall not be liable for any breach of the privileges of Parliament or of its members.”; and

(2) by the addition immediately after paragraph (3) thereof, of the following new paragraph:—

15 “(4) The President shall by virtue of his office, also have the right to address and send messages to Parliament.”.

4. Chapter VIIA of the Constitution (Articles 41A to 41H) is hereby repealed.

Repeal of Chapter VIIA of the Constitution.

5. The following new Heading and Article is hereby inserted immediately after Article 41 of the Constitution and shall have effect as the Heading and Article 41A thereof:—

Insertion of new Article 41A in the Constitution.

“THE EXECUTIVE

THE PARLIAMENTARY COUNCIL

25 President to made the appointments in respect of the Commissions and offices referred to in the Schedules.

30 41A. (1) The Chairman and members of the Commissions referred to in Schedule I to this Article, and the persons referred to in Part I and Part II of Schedule II to this Article, shall be appointed to the Commissions and the Offices referred to in the said Schedules, by the President. In making such appointments, the

President shall seek the observations of a Parliamentary Council comprising—

- (1) the Prime Minister;
- (2) the Speaker;
- 5 (3) the Leader of the Opposition;
- (4) a nominee of the Prime Minister, who shall be a Member of Parliament; and
- (5) a nominee of the Leader of the Opposition, who shall be a Member of Parliament:

10 Provided that, the persons appointed in terms of sub-paragraphs (4) and (5) above shall be nominated in such manner as would ensure that the nominees would belong to communities which are communities other than those to
15 which the persons specified in paragraphs (1), (2) and (3) above belong.

SCHEDULE I

1. The Election Commission.
2. The Public Service Commission.
- 20 3. The National Police Commission.
4. The Human Rights Commission of Sri Lanka.
5. The Permanent Commission to Investigate Allegations of Bribery and Corruption.
- 25 6. The Finance Commission.
7. The Delimitation Commission.

SCHEDULE II

PART I

1. The Chief Justice and the Judges of the Supreme Court.
- 5 2. The President and Judges of the Court of Appeal.
3. The Members of the Judicial Service Commission, other than the Chairman.

PART II

- 10 1. The Attorney-General.
 2. The Auditor-General.
 3. The Parliamentary Commissioner for Administration (Ombudsman).
 4. The Secretary-General of Parliament.
- 15 (2) Notwithstanding the provisions of paragraph (2) of Article 64 of the Constitution, the Speaker shall for the purposes of this Article, continue as Speaker on the dissolution of Parliament, until a Member of Parliament is
- 20 elected to be the Speaker under paragraph (1) of the aforesaid Article. The new Speaker shall thereupon be a member of the above Parliamentary Council.
- 25 (3) Notwithstanding the dissolution of Parliament, the Leader of the Opposition shall for the purposes of this Article, continue as Leader of the Opposition, until such time after a General Election following such dissolution,

5 a Member of Parliament is recognized as the Leader of the Opposition in Parliament. The new Leader of the Opposition shall thereupon be a member of the above Parliamentary Council.

10 (4) Notwithstanding the dissolution of Parliament, the nominee of the Prime Minister and the Leader of the Opposition respectively who are Members of Parliament shall continue as members until such time after a General Election following such dissolution Members of Parliament are elected to Parliament. The Prim Minister and the Leader of the Opposition shall thereupon respectively nominate two new members of Parliament to be their nominees in terms of sub-paragraphs (4) and (5) of paragraph (1) of this Article.

20 (5) The tenure of the Parliamentary Council constituted under this Article shall extend for such period as specified in paragraph (1) of Article 62 and such tenure shall not be affected by any prorogation of Parliament in terms of Article 70:

25 Provided that the persons appointed as nominees of the Prime Minister and the Leader of the Opposition respectively may during such tenure be removed by the President or in the event of an incapacity of such nominee the President may require the Prime Minister or
30 Leader of the Opposition, as the case may be, to nominate another Member of Parliament to be his nominee in such Council. In such and event the Member of Parliament nominated to fill the vacancy created by either removal or
35 incapacity as the case may be, shall continue as member of such Council only for the

unexpired period of the tenure of the member for whose vacancy he was nominated.

5 (6) When the President seeks the observations of the Parliamentary Council referred to in paragraph (1) for the purpose of making the appointments of the Chairman and members of the Commissions referred to in Schedule I to Paragraph (1) of this Article, he shall require the Council to convey through the Speaker the observations of the Council, on the persons proposed by him for such appointments, within a period of one week from the date of such communication. If such Committee fails to communicate its observations to him within the specified period, the President shall forthwith proceed to make the aforesaid appointments.

20 (7) Where the Leader of any recognized political party represented in Parliament desires to propose the name of any person for appointment as Chairman or member of a Commission referred to in Schedule I to paragraph (1) to this Article, he may within the period of one week specified above, forward to the Speaker the name of any person in relation thereto. The President may take such names into consideration when making such appointments.

30 (8) No person appointed to be the Chairman or member of a Commission referred to in Schedule I of this Article or any of the persons appointed to the posts referred to in Part I and Part II of Schedule II to this Article shall be removed, otherwise than in the manner provided for in the Constitution or in any law enacted for such purpose. Where no such provision is made, such person shall be removed by the President.”.

6. Article 54 of the Constitution is hereby amended as follows:—

Amendment
of Article 54
of the
Constitution.

(1) by the repeal of paragraph (1) thereof, and the substitution therefor of the following:—

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

15 (2) in paragraph (4) thereof, by the substitution for the
words “removed from office by the President on the
recommendation of the Constitutional Council, or”
the words “removed from office by the President,
or”; and

20 (3) in paragraph (7) thereof, by the substitution for the
words “for the duration of such period on the
recommendation of the Constitutional Council
appoint” the word “for the duration of such period
appoint”.

7. Article 55 of the Constitution is hereby repeal and the following Article substituted therefor:—

Amendment
of Article 55
of the
Constitution.

25 “Powers and functions of the Cabinet of Ministers and of the Commission. 55. (1) The Cabinet of Ministers shall provide for and determine all matters of policy relating to public officers, including policy relating to appointments, promotions, transfer, disciplinary control and dismissal.

30 (2) The appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Department shall, vest in the Cabinet of Ministers.

5 (3) Subject to the provisions of the Constitution, the appointment, promotion, transfer, disciplinary control and dismissal of public officers shall be vested in the Public Service Commission.

(4) The Commission shall not derogate from the powers and functions of the Provincial Public Service Commissions as are established by law.

10 (5) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise and discharge of its powers and functions. The Commission shall
15 also forward to Parliament in each calendar year, a report of its activities in respect of such year.”.

20 **8.** Article 56 of the Constitution is hereby amended in paragraph (1) thereof, by the substitution for the words “as are specified by the Commission” of the words, “as are specified by the Cabinet of Ministers”. Amendment of Article 56 of the Constitution.

25 **9.** Article 57 of the Constitution is hereby amended in paragraph (1) thereof, by the substitution for the words “as are specified by the Commission” of the words, “as are specified by the Cabinet of Ministers”. Amendment of Article 57 of the Constitution.

10. Article 61^F of the Constitution is hereby amended by the omission of the words “a police officer appointed by the National Police Commission” from the definition of the expression “public officer”. Amendment of Article 61^F of the Constitution.

30 **11.** Article 65 of the Constitution is hereby amended as follows:— Amendment of Article 65 of the Constitution.

(1) in paragraph (1) thereof, by the substitution for the words “shall, subject to the provisions of Article

41c, be appointed by the President,” of the words “shall be appointed by the President”; and

- 5 (2) in paragraph (6) thereof, by the substitution for the words “President may, subject to the provisions of Article 41c, appoint a person” of the words “President may appoint a person”.

12. Article 91 of the Constitution is hereby amended in paragraph (1) thereof, by the repeal of sub-paragraph (*d*) (*vb*). Amendment of Article 91 of the Constitution.

10 **13.** Article 103 of the Constitution is hereby amended in paragraph (1) thereof, by the substitution for the words “consisting of five members” of the words “consisting of three members”. Amendment of Article 103 of the Constitution.

14. Article 104B of the Constitution is hereby amended as follows:— Amendment of Article 104B of the Constitution.

- 15 (1) by the insertion immediately after paragraph (4) thereof, of the following new paragraph:—

20 (4a) For the avoidance of doubt it is stated that any guideline issued by the Commission during the period commencing with the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of the Referendum, as the case may be, shall—

25 (a) be limited to matters which are directly connected with the holding of the respective election or the conduct of a respective Referendum as the case may be; and

30 (b) not be connected directly with any matter relating to the public service or any matter within the ambit of administration of the Public Service Commission or the Judicial Service Commission, as the case may be, appointed under the Constitution.”; and

10 *Eighteenth Amendment to the Constitution*

- (2) in paragraph (5), by the repeal of sub-paragraphs (b), (c) and (d) thereof and the substitution therefor of the following paragraph:—

5 “(b) It shall be the duty of any broadcasting or telecasting operator or any proprietor or publisher of a newspaper as the case may be, to take all necessary steps to ensure compliance with any guidelines as are issued to them under paragraph (a).”.

- 10 **15.** Article 107 of the Constitution is hereby amended in paragraph (1) thereof, by the substitution for the words “shall, subject to the provisions of Article 41 c, be appointed by the President by Warrant under his hand”.

Amendment of Article 107 of the Constitution.

- 15 **16.** Article 109 of the Constitution is hereby amended as follows:—

Amendment of article 109 of the Constitution.

- (1) in paragraph (1) thereof, by the substitution for the words “the President shall, subject to the provisions of Article 41c, appoint,” of the words “the President shall appoint”; and

- 20 (2) in paragraph (2) thereof, by the substitution for the words “the President may, subject to the provisions of Article 41c, appoint” of the words “President may appoint a person”.

- 25 **17.** Article 111D of the Constitution is hereby amended in paragraph (1) thereof, by the substitution for the words “appointed by the President subject to the provisions of Article 41c” of the words “appointed by the President”.

Amendment of Article 111D of the Constitution.

- 30 **18.** Article 111E of the Constitution is hereby amended in paragraphs (5) and (6) thereof, by the omission therefrom the words “on the recommendation of the Constitutional Council”.

Amendment of Article 111E of the Constitution.

19. Article 153 of the Constitution is hereby amended as follows:—

Amendment of Article 153 of the Constitution.

- 5 (1) in paragraph (1) thereof, by the substitution for the words “shall, subject to the provisions of Article 41c, be appointed by the President,” of the words “shall be appointed by the President”; and
- 10 (2) in paragraph (4) thereof, by the substitution for the words “the President may, subject to the provisions of Article 41c, appoint” of the words “President may appoint”.

20. Article 154 of the Constitution is hereby amended by the substitution for the words “the Public Service Commission” of the words, “the Public Service Commission, the Provincial Public Service Commissions”.

Amendment of Article 154 of the Constitution.

15 **21.** Article 154R of the Constitution is hereby amended in sub-paragraph (c) of paragraph (1) thereof, by the substitution for the words “three other members who are appointed by the President on the recommendation of the Constitution Council, to represent” of the words “three other

20 members appointed by the President, to represent”.

Amendment of Article 154R of the Constitution.

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

Amendment of Article 155A of the Constitution.

- (1) by the repeal of paragraph (1) thereof, and the substitution therefor of the following:—
- 25 “(1) There shall be a National Police Commission (in this Chapter referred to as “the Commission”) consisting of not more than seven members appointed by the President. The President shall appoint one member as the Chairman.”; and
- 30 (2) in paragraph (4) thereof, by the substitution for the words “from office by the President on the recommendation of the Constitutional Council, or” of the words “from office by the President, or”;

23. The following new Articles are hereby inserted immediately after Article 155^F of the Constitution and shall have effect as Articles 155^{FF} and 155^{FFF} thereof:—

Insertion of new Articles 155^{FF} and 155^{FFF} in the Constitution.

5 “Powers of the Commission
10 155^{FF}. The Commission shall be empowered to entertain and investigate complaints from members of the public or any aggrieved person against a police officer or the police force, and shall provide redress in accordance with the provisions of any law enacted by Parliament. For this purpose the Commission may make rules to establish procedures for entertaining and investigating complaints from members of the public or any aggrieved person.

15 Commission to make rules.
155^{FFF}. The Commission shall from time to time make rules for such matters which require rules to be made. Every such rule shall be published in the *Gazette*.”.

24. Article 155^G of the Constitution is hereby repealed. Repeal of Article 155^G of the Constitution.

25. Article 155^H of the Constitution is hereby repealed. Repeal of Article 155^H of the Constitution.

20 **26.** Article 155^J of the Constitution is hereby repealed. Repeal of Article 155^J of the Constitution.

27. Article 155^K of the Constitution is hereby repealed. Repeal of Article 155^K of the Constitution.

28. Article 155^L of the Constitution is hereby repealed. Repeal of Article 155^L of the Constitution.

29. Article 155M of the Constitution is hereby repealed and the following Article substituted therefor:—

Replacement of Article 155M of the Constitution.

“Saving of existing rules and regulations. 155M. All rules and regulations and procedures in force on the date of the commencement of this Article shall be deemed to continue to be operative, until rules, regulations and procedures are made hereunder.”.

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

Amendment of Article 156 of the Constitution.

- (1) in paragraph (1) thereof, by the substitution for the words “shall, subject the provisions of Article 41c, be appointed by the President,” of the words “shall be appointed by the president”;
- (2) in paragraph (5) thereof, by the substitution for the words “the President shall, subject to the provisions of article 41c, appoint” of the words “the President shall appoint”.

31. For the avoidance of doubts it is hereby declared that:—

Avoidance of doubts.

- (1) the members of the Judicial Service Commission established under Article 112 of the Constitution and holding office on the date prior to the commencement of this Act, shall from and after the date of the commencement of this Act, continue to hold office as such members and to exercise and discharge the powers and functions vested in the Commission under the Constitution;
- (2) the Chief Justice and the other Judges of the Supreme Court and the President and the other Judges of the Court of Appeal and the Judges of the High Court holding office on the date prior to the

commencement of this Act, shall from and after the date of the commencement of this Act, continue to hold office and exercise and discharge the powers and functions vested in them under the Constitution:

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(3) every person holding office as the Secretary of the Judicial Service Commission, the Attorney-General, the Auditor-General, the Inspector-General of Police, the Parliamentary Commissioner for Administration (Ombudsman) and the Secretary-General of Parliament holding office on the date prior to the commencement of this Act, shall from and after the date of the commencement of this Act, continue to hold office and exercise and discharge the powers and functions vested in them under the Constitution;

20
25
(4) the person holding office as the Commissioner on the date prior to the commencement of this Act, shall from and after the date of the commencement of this Act, continue to hold office and exercise and discharge the powers and functions vested in him under the Constitution as Commissioner of Elections until the Election Commission is Constituted in terms of Article 103 and from and after the date of the constitution of the Election Commission, cease to hold office as the Commissioner of Elections:

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35
Provided that the President may, if he considers it expedient to do so or if the exigencies of a situation so requires it, at any time prior to the constitution of the Election Commission, appoint to the office of Commissioner of Elections, a person holding office as a Deputy Commissioner of Elections to discharge the functions presently being conferred on the Commission by the Constitution.

- 5 (5) all matters pertaining to the appointment, promotion, transfer, disciplinary control and dismissal of Police Officers pending before the National Police Commission established under Chapter XVIIIA of the Constitution on the date prior to the commencement of this Act, shall from and after the date of the commencement of this Act, be vested with the Inspector-General of Police and any appeal made by a police officer pending before the National Police Commission on the date prior to the commencement of this Act, shall, from and after the date of the commencement of this Act, stand transferred to the Public Service Commission and shall be heard and completed accordingly;
- 10
- 15 (6) all appointments made in respect of the Commissions and posts described in the foregoing paragraphs of this section, from and after the expiration of the term of office of the Constitutional Council appointed in terms of Article 41A of the Constitution, during the period commencing on the day on which the term of the aforesaid Council expired and the date of the coming into operation of this Act, shall be deemed to be valid and effectual;
- 20
- 25 (7) the staff of the Public Service Commission shall be members of the public service and be subject to the rules as are applicable to a public office in relation to the rank of such office;
- 30 (8) from and after the appointment of the Election Commission in terms of the Constitution, the Department of Elections shall be deemed to be the Staff of such Commission for the purposes of Chapter XIV A of the Constitution and shall whenever it is so required for the duration of an election or a referenda, perform the functions of a Secretariat.

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

Sinhala text
to prevail in
case of
inconsistency.

5 ENDORSEMENT UNDER ARTICLE 122 OF THE
CONSTITUTION

It is hereby certified that in the view of the Cabinet of Ministers, the above Bill is urgent in the national interest.

S. Abeyasinghe,
Secretary to the Cabinet of Ministers.

10 30th August, 2010.

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