

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of August 28, 2020

SUPPLEMENT

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**TWENTIETH AMENDMENT
TO THE CONSTITUTION**

**A
BILL**

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

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Twentieth Amendment to the Constitution

L.D.- O. 7/2020

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 Twentieth Amendment to the Constitution. Short title
- 5 **2.** The Constitution of the Democratic Socialist Republic of Sri Lanka (in this Act referred to as the “Constitution”) is hereby amended in paragraph (3A)(a)(i) of Article 31 thereof, by the substitution, for the words “by election, for a further term.”, of the words “by election, for a second
10 term.”. Amendment of Article 31 of the Constitution of the Democratic Socialist Republic of Sri Lanka.
- 3.** Article 33 of the Constitution is hereby repealed and the following Article substituted therefor:- Replacement of Article 33 of the Constitution.
- “Powers and functions of the President. **33.** In addition to the powers and functions expressly conferred on or assigned to him by the Constitution or by any written law, the
15 President. President shall have the power-
- 20 (a) to make the Statement of Government Policy in Parliament at the commencement of each session of Parliament;
- 25 (b) to preside at ceremonial sittings of Parliament;
- (c) to receive and recognize and to appoint and accredit Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents;

5 (d) to appoint as President’s Counsel, attorneys-at-law who have reached eminence in the profession and have maintained high standards of conduct and professional rectitude. Every President’s Counsel appointed under this paragraph shall be entitled to all such privileges as were hitherto enjoyed by a Queen’s Counsel;

10 (e) to keep the Public seal of the Republic, and to make and execute under the Public seal the acts of appointment of the Prime Minister and other Ministers of the Cabinet of Ministers, the Chief Justice and other Judges of the Supreme Court, such grants and dispositions of lands and immovable property vested in the Republic as he is by law required or empowered to do, and to use the Public Seal for sealing all things whatsoever that shall pass that Seal;

(f) to declare war and peace; and

25 (g) to do all such acts and things, not being inconsistent with the provisions of the Constitution or written law, as by international law, custom or usage he is required or authorized to do.”.

4. Article 33A of the Constitution is hereby repealed. Repeal of Article 33A of the Constitution.

30 5. Article 35 of the Constitution is hereby repealed and the following Article substituted therefor:- Replacement of Article 35 of the Constitution.

“Immunity
of President
from suit.

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35. (1) While any person holds office as President, no proceedings shall be instituted or continued against him in any court or tribunal in respect of anything done or omitted to be done by him either in his official or private capacity.

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(2) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period of time during which such person holds the office of President shall not be taken into account in calculating any period of time prescribed by that law.

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(3) The immunity conferred by the provisions of paragraph (1) of this Article shall not apply to any proceedings in any court in relation to the exercise of any power pertaining to any subject or function assigned to the President or remaining in his charge under paragraph (2) of Article 44 or to proceedings in the Supreme Court under paragraph (2) of Article 129 or to proceedings in the Supreme Court under Article 130 (a) relating to the election of the President or the validity of a referendum or to proceedings in the Court of Appeal under Article 144 or in the Supreme Court, relating to the election of a Member of Parliament:

Provided that any such proceedings in relation to the exercise of any power pertaining to any such subject or function shall be instituted against the Attorney-General.”.

30

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

Replacement
of Chapter
VIIA of the
Constitution.

“CHAPTER VII A

THE EXECUTIVE

THE PARLIAMENTARY COUNCIL

5 President to
make the
appointments
in respect
of the
Commissions
and offices
10 referred to
in the
Schedules.

41A. (1) The Chairmen and members of the Commissions referred to in Schedule I to this Article and the persons to be appointed to the offices referred to in Part I and Part II of Schedule II to this Article shall be appointed to such Commissions and such offices by the President. In making such appointments, the President shall seek the observations of a Parliamentary Council (hereinafter referred to as “the Council”), comprising—

(a) the Prime Minister;

15

(b) the Speaker;

(c) the Leader of the Opposition;

(d) a nominee of the Prime Minister, who shall be a Member of Parliament; and

20

(e) a nominee of the Leader of the Opposition, who shall be a Member of Parliament:

25

Provided that, the persons appointed in terms of sub-paragraphs (d) and (e) above shall be nominated in such manner as would ensure that the nominees would belong to communities which are communities other than those to which the persons specified in paragraphs (a), (b) and (c) above, belong.

SCHEDULE I

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

10

SCHEDULE II

PART I

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

PART II

1. The Attorney-General.
- 20 2. The Auditor-General.
3. The Parliamentary Commissioner for Administration (Ombudsman).
4. The Secretary-General of Parliament.

25 (2) The Speaker shall require the Prime Minister and the Leader of the Opposition to make such nominations within one week of the date of the commencement of this Article, provided that if the Prime Minister and the Leader of the Opposition

fail to make such nominations, the Speaker shall proceed to nominate any Members of Parliament to be nominees for the purposes of sub-paragraphs (d) and (e) of paragraph (1), taking into consideration the criteria specified in the proviso to paragraph (1) of this Article.

(3) If at the time the President seeks the observations of the Council under paragraph (1), the Prime Minister and the Leader of the Opposition have failed to name the persons who shall be their nominees in the Council, the Speaker shall nominate such Members of Parliament to be nominees for the purposes of sub-paragraphs (d) and (e) of paragraph (1), taking into consideration the criteria specified in the proviso to paragraph (1) of this Article.

(4) Notwithstanding the provisions of paragraph (2) of Article 64 of the Constitution, the Speaker shall for the purpose of this Article, continue as Speaker on the dissolution of Parliament, until a Member of Parliament is elected to be the Speaker under paragraph (1) of Article 64. The new Speaker shall thereupon be a member of the Council.

(5) 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, 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 Council.

(6) Notwithstanding the dissolution of Parliament, the nominees 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

5 such dissolution, Members of Parliament are
elected to Parliament. The Prime 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 (d) and (e) of paragraph (1) of this
Article.

10 (7) The tenure of the Council constituted under
this Article shall extend for such period as specified
in paragraph (2) of Article 62 and such tenure shall
not be affected by any prorogation of Parliament
in terms of Article 70:

15 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 Leader of the
Opposition, as the case may be, to nominate taking
20 into consideration the criteria specified in the
proviso to paragraph (1), another Member of
Parliament to be his nominee in the Council. In
such an event, the Member of Parliament nominated
to fill the vacancy created by either removal or
incapacity, as the case may be, shall continue as
25 member of the Council only for the unexpired
period of the tenure of the member for whose
vacancy he was nominated.

30 (8)(a) When the President seeks the
observations of the Council under paragraph (1),
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
35 seeking such observations.

(b) If the Council fails to communicate its
observations to him within the period specified in
sub-paragraph (a), the President shall forthwith
proceed to make the aforesaid appointments.

(9) 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) of this Article, he may within a period of one week from the date of the President seeking such observations of the Council, forward to the Speaker the name of any person in relation thereto. The President may take such names into consideration when making such appointments.

(10) 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 offices referred to in Part I and Part II of Schedule II of 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.

(11) The procedure to be followed in obtaining the observations of the Council shall be as determined by the Speaker.”.

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

Replacement
of Chapter
VIII of the
Constitution

“CHAPTER VIII

THE EXECUTIVE

The Cabinet of Ministers

Responsibility
of the
President.

30 **42.** The President shall be responsible to Parliament for the due exercise, performance and discharge of his powers, duties and functions under the Constitution and any written law, including the law for the time being relating to public security.

Cabinet
of
Ministers.

5

43. (1) There shall be a Cabinet of Ministers charged with the direction and control of the Government of the Republic, which shall be collectively responsible and answerable to Parliament.

(2) The President shall be a member of the Cabinet of Ministers and shall be the Head of the Cabinet of Ministers:

10

Provided that notwithstanding the dissolution of the Cabinet of Ministers under the provisions of the Constitution, the President shall continue in office.

15

(3) The President shall appoint as Prime Minister the Member of Parliament who in his opinion is most likely to command the confidence of Parliament.

Ministers
of Cabinet
and their
subjects
and
functions.

20

44. (1) The President shall, from time to time, in consultation with the Prime Minister, where he considers such consultation to be necessary –

25

(a) determine the number of Ministers of the Cabinet of Ministers and the Ministries and the assignment of subjects and functions to such Ministers; and

(b) appoint from among the Members of Parliament, Ministers to be in charge of the Ministries so determined.

30

(2) The President may assign to himself any subject or function and shall remain in charge of any subject or function not assigned to any Minister under the provisions of paragraph (1) of this Article or the provisions of paragraph (1) of Article 45 and may for that purpose

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Twentieth Amendment to the Constitution

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determine the number of Ministries to be in his charge, and accordingly, any reference in the Constitution or any written law to the Minister to whom such subject or function is assigned, shall be read and construed as a reference to the President.

10

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

15

Ministers who are not members of the Cabinet and their Ministries, subjects and functions.

45. (1) The President may, from time to time, in consultation with the Prime Minister where he considers such consultation to be necessary –

20

(a) appoint from among Members of Parliament, Ministers who shall not be Members of the Cabinet of Ministers; and

(b) determine the assignment of subjects and functions to, and the Ministries, if any, which are to be in charge of, such Ministers.

25

(2) The President may at any time change any appointment or assignment made under paragraph (1) of this Article.

30

(3) Every Minister appointed under this Article shall be responsible and answerable to the Cabinet of Ministers and to Parliament.

(4) Any Minister of the Cabinet of Ministers may, by Notification published in the *Gazette*,

5 delegate to any Minister who is not a member
of the Cabinet of Ministers any power or duty
pertaining to any subject or function assigned
to him, or any power or duty conferred or
imposed on him by any written law and it shall
be lawful for such other Minister to exercise
and perform any power or duty delegated to him
under this paragraph, notwithstanding anything
to the contrary in the written law by which that
10 power or duty is conferred or imposed on such
Minister of the Cabinet of Ministers.

Deputy
Ministers. 46. (1) The President may, from time to time,
in consultation with the Prime Minister, where he
considers such consultation to be necessary,
15 appoint from among the Members of Parliament,
Deputy Ministers to assist the Ministers of the
Cabinet of Ministers in the performance of their
duties.

20 (2) Any Minister of the Cabinet of Ministers
may, by Notification published in the *Gazette*,
delegate to his Deputy Minister any power or
duty pertaining to any subject or function
assigned to him, or any power or duty conferred
or imposed on him by any written law and it shall
25 be lawful for the Deputy Minister to exercise and
perform any power or duty delegated to him under
this paragraph notwithstanding anything to the
contrary in the written law by which that power
or duty is conferred or imposed on such
30 Minister of the Cabinet of Ministers.

Tenure of
office of
the Prime
Minister,
Ministers
35 and
Deputy
Ministers. 47. The Prime Minister, a Minister of the
Cabinet of Ministers, any other Minister or
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 –

12

Twentieth Amendment to the Constitution

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

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

5

(c) ceases to be a Member of Parliament.

Cabinet of Ministers after dissolution of Parliament.

10

48. (1) The Cabinet of Ministers functioning immediately prior to the dissolution of Parliament shall notwithstanding such dissolution continue to function and shall cease to function upon the conclusion of the General Election. Accordingly, the Prime Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers shall continue to function unless they cease to hold office as provided in paragraph (a) or (b) of Article 47.

15

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(2) Notwithstanding the death, removal from office or resignation of the Prime Minister, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge, or may himself exercise, perform and discharge the powers, duties and functions of the Prime Minister. If there is no such other Minister, the President shall himself exercise perform and discharge the powers, duties and functions of the Cabinet of Ministers until the conclusion of the General Election.

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(3) On the death, removal from office or resignation, during the period intervening between the dissolution of Parliament and the conclusion of the General Election, of a

5 Minister of the Cabinet of Ministers or any other Minister, the President may appoint any other Minister to be the Minister in charge of such Ministry or to exercise, perform and discharge the powers, duties and functions of such Minister or may himself take charge of such Ministry or exercise, perform and discharge such powers, duties and functions.

10 Dissolution of Cabinet of Ministers. **49.** (1) On the Prime Minister ceasing to hold office by death, removal, resignation or otherwise, except during the period intervening between the dissolution of Parliament and the conclusion of the General Election, the Cabinet of Ministers shall, unless the President has in the exercise of his powers under Article 70 dissolved Parliament, stand dissolved and the President shall appoint a Prime Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers in terms of Articles 43, 44, 45 and 46:

15 Provided that if after the Prime Minister so ceases to hold office Parliament is dissolved, the Cabinet of Ministers shall continue to function with the other Ministers of the Cabinet as its members, until the conclusion of the General Election. The President may appoint one such Minister to exercise, perform and discharge or may himself exercise, perform and discharge the powers, duties and functions of the Prime Minister and the provisions of Article 48 shall, *mutatis mutandis*, apply.

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30
35 (2) If Parliament rejects the Statement of Government Policy or the Appropriation Bill or passes a vote of no-confidence in the Government, the Cabinet of Ministers shall stand dissolved, and the President shall, unless he has in the exercise of his powers under Article 70 dissolved Parliament, appoint a Prime

Minister, Ministers of the Cabinet of Ministers, other Ministers and Deputy Ministers in terms of Articles 43, 44, 45 and 46.

5 Acting
Minister
and acting
Deputy
Minister.

50. Whenever a Minister of the Cabinet of Ministers, other Minister or Deputy Minister is unable to discharge the functions of his office, the President may appoint any Member of Parliament to act in place of the said Minister of the Cabinet of Ministers, other Minister or Deputy Minister.

10

Secretary to
Cabinet of
Ministers.

51. There shall be a Secretary to the Cabinet of Ministers who shall be appointed by the President. The Secretary shall, subject to the direction of the President, have charge of the office of the Cabinet of Ministers, and shall discharge and perform such other functions and duties as may be assigned to him by the President or the Cabinet of Ministers.

15

20 Secretaries
to
Ministries.

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

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

25

(3) The Secretary to a Ministry shall cease to hold office upon the dissolution of the Cabinet of Ministers under the provisions of the Constitution or upon a determination by the President under Article 44 or Article 45 which results in such Ministry ceasing to exist.

30

(4) Where the Secretary to a Ministry so ceases to hold office, the Cabinet of Ministers

may appoint such Secretary to any other post in the Public Service:

5 Provided that a person who immediately prior to his appointment as Secretary was in the Public or Local Government Service or in the service of any public corporation shall be deemed to have been temporarily released from such service and shall be entitled to revert to such service without loss of seniority upon his
10 so ceasing to hold office as Secretary.

(5) The proviso to paragraph (4) of this Article shall, *mutatis mutandis*, apply to a Secretary to a Ministry upon –

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

20 (b) his resignation, unless disciplinary proceedings are pending or contemplated against him on the date of his resignation.

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

(7) For the purposes of this Article –

30 (a) the Office of the Secretary-General of Parliament, the Office of the Parliamentary Commissioner for Administration (Ombudsman), the Public Service Commission, the
35 Election Commission, the National

Police Commission and the Office of the Secretary to the Cabinet of Ministers; and

(b) the National Audit Office,

5 shall be deemed not to be departments of Government.

Official
oath or
affirmation.

10 **53.** A person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until such person takes and subscribes the oath or makes and subscribes the affirmation set out in the Fourth Schedule.”.

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

Amendment
of Article 54
of the
Constitution

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

20 “(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 fifteen years experience as public officers. The President shall appoint one of such members as its Chairman.”;

25

30 (2) by the substitution, in paragraph (4) of that Article, for the words “by the President with the approval of the Constitutional Council or is convicted”, of the words “by the President or is convicted”;

(3) by the substitution, in paragraph (7) of that Article, for the words “such period, on the

recommendation of the Constitutional Council, appoint”, of the words “such period, appoint”.

5 **9.** Article 56 of the Constitution is hereby amended in paragraph (1) of that Article, 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

10. Article 57 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the 10 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

11. Article 61A of the Constitution is hereby amended by the substitution for the words and figures “Subject to the provisions of Article 59 and Article 126,”, of the words and 15 figures “Subject to the provisions of paragraphs (1), (2), (3), (4), and (5) of Article 126,”. Amendment of Article 61A of the Constitution

12. Articles 61E and 61F of the Constitution are hereby repealed and the following Articles are substituted therefor:- Replacement of Articles 61E and 61F of the Constitution

20”Appointments by the President. **61E.** The President shall appoint –

(a) the Heads of the Army, the Navy and the Air Force; and

(b) the Attorney - General.

Interpretation.

25 **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 or a scheduled public officer appointed by the Judicial Service Commission.”.

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

Amendment
of Article 65
of the
Constitution

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

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

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

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

14. Article 70 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article, and the substitution therefor of the following paragraph:-

Amendment
of Article 70
of the
Constitution

- 20 “(1) The President may, from time to time, by Proclamation summon, prorogue and dissolve Parliament:

Provided that –

- 25 (a) subject to the provisions of sub-paragraph (d), when a General Election has been held consequent upon a dissolution of Parliament by the President, the President shall not thereafter dissolve Parliament until the expiration of a period of one year from the date of such General Election, unless Parliament by resolution
30 requests the president to dissolve Parliament;

- (b) the President shall not dissolve Parliament on the rejection of the Statement of Government Policy at the commencement of the first session of Parliament after a General Election;
- 5 (c) subject to the provisions of sub-paragraph (d), the President shall not dissolve Parliament after the Speaker has entertained a resolution complying with the requirements of sub-paragraphs (a) and (b) of paragraph (2) of Article
- 10 38, unless –
- (i) such resolution is not passed as required by sub-paragraph (c) of paragraph (2) of Article 38;
- 15 (ii) the Supreme Court determines and reports that the President has not become permanently incapable of discharging the functions of his office or that the President has not been guilty of any of the other allegations contained in such resolution;
- 20 (iii) the consequent resolution for the removal of the President is not passed as required by sub-paragraph (e) of paragraph (2) of Article 38; or
- 25 (iv) Parliament by resolution requests the President to dissolve Parliament;
- (d) where the President has not dissolved Parliament consequent upon the rejection by Parliament of the Appropriation Bill, the President shall dissolve Parliament if Parliament rejects the
- 30 next Appropriation Bill.”.

15. Article 78 of the Constitution is hereby amended as follows- Amendment of Article 78 of the Constitution

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

5 “(1) Every Bill shall be published in the *Gazette* at least seven days before it is placed on the Order Paper of Parliament.”; and

- (2) by the insertion, immediately after paragraph (2) of that Article, of the following paragraph-

10 “(3) Any amendment proposed to a Bill in Parliament shall not deviate from the merits and principles of such Bill.”.

16. Article 85 of the Constitution is hereby amended by the insertion, immediately after paragraph (1) of that Article, Amendment of Article 85 of the Constitution
15 of the following paragraph:-

20 “(2) The President may in his discretion submit to the People by Referendum any Bill (not being a Bill for the repeal or amendment of any provision of the Constitution, or for the addition of any provision to the Constitution, or for the repeal and replacement of the Constitution, or which is inconsistent with any provision of the Constitution), which has been rejected by Parliament.”.

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

- (1) by the repeal of items (v), (va) and (vc) of that sub-paragraph and the substitution therefor of the following items:-

30 “(v) the Commissioner-General of Elections,

(va) a member of the Election Commission,

(vb) a member of the National Police Commission,”;

5 (2) by the substitution in item (vii) of that sub-paragraph, for the words “a public officer or a member of the Sri Lanka State Audit Service holding any office”, of the words “a public officer holding any office”;

10 (3) by the substitution in item (viii) of that sub-paragraph, for the words “a public officer or a member of the Sri Lanka State Audit Service holding any office”, of the words “a public officer holding any office”; and

(4) by the repeal of item (xiii) of that sub-paragraph.

15 **18.** Article 92 of the Constitution is hereby amended, by the substitution in paragraph (a) of that Article, for the words “thirty five”, of the word “thirty”. Amendment of Article 92 of the Constitution

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

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

25 “(1) There shall be an Election Commission (in this Chapter referred to as the “Commission”) consisting of three members appointed by the President from amongst persons who have distinguished themselves in any profession or in the fields of administration or education. The President shall appoint one member as its Chairman.”;

30

- (2) by the repeal of paragraph (7) of that Article, and the substitution therefor of the following paragraph:-

5 “(7) The President may grant a member
 leave from the performance of his duties
 relating to the Commission for a period not
 exceeding two months and may appoint a
 person qualified to be a member of the
 Commission to be a temporary member for the
 10 period of such leave.”.

20. Article 104B of the Constitution is hereby amended as follows-

Amendment
 of Article
 104B of the
 Constitution

- (1) by the substitution, in sub-paragraph (i) of paragraph (4)(a) of that Article, for the words “the election or any candidate of any political party”, of the words “the election of any candidate or any political party”;

- (2) by the insertion, immediately after paragraph (4) of that Article of the following paragraph:-

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

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

- (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.”;

5

(3) by the repeal of paragraph (5)(b) of that Article and substitution therefor of the following paragraph-

10

“(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).”.

15

21. Article 104E of the Constitution is hereby amended by the repeal of paragraph (1) of that Article and the substitution therefor of the following paragraph:-

Amendment of Article 104E of the Constitution

20

”(1) There shall be a Commissioner-General of Elections who shall be appointed by the Commission on such terms and conditions as shall be determined by the Commission.”.

22. Article 104GG of the Constitution is hereby repealed.

Repeal of Article 104GG of the Constitution

25

23. Article 107 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article and the substitution therefor of the following paragraph:-

Amendment of Article 107 of the Constitution

“(1) The Chief Justice, the President of the Court of Appeal and every other Judge of the Supreme Court and the Court of Appeal shall be appointed by the President by Warrant under his hand.”.

24. Article 109 of the Constitution is hereby repealed and the following Article substituted therefor:-

Replacement of Article 109 of the Constitution

“Acting appointments. **109.** (1) If the Chief Justice or the President of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause the President shall appoint another Judge of the Supreme Court, or of the Court of Appeal, as the case may be, to act in the office of Chief Justice, or the President of the Court of Appeal, respectively, during such period.

5

10

(2) If any Judge of the Supreme Court or of the Court of Appeal is temporarily unable to exercise, perform and discharge the powers, duties and functions of his office, by reason of illness, absence from Sri Lanka or any other cause, the President may appoint another person to act as a Judge of the Supreme Court or Court of Appeal, as the case may be, during such period.”.

15

20

25. Article 111D of the Constitution is hereby repealed and the following Article substituted therefor: -

Replacement of Article 111D of the Constitution

“Constitution of the Judicial Service Commission. **111D.** (1) There shall be a Judicial Service Commission (in this Chapter referred to as the “Commission”) consisting of the Chief Justice and two other Judges of the Supreme Court appointed by the President.

25

(2) The Chief Justice shall be the Chairman of the Commission.”.

30

26. Article 111E of the Constitution is hereby amended by the repeal of paragraphs (5) and (6) of that Article, and the substitution therefor of the following paragraphs: -

Amendment of Article 111E of the Constitution

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

10 (6) The President may, for cause assigned, remove from office any member of the Commission.”.

27. The following new Article is hereby inserted immediately after Article 121 and shall have effect as Article 122 of the Constitution:-

Insertion of new Article 122 of the Constitution

15 “Special exercise of constitutional jurisdiction in respect of urgent Bills **122.** (1) In the case of a Bill which is, in the view of the Cabinet of Ministers, urgent in the national interest, and bears an endorsement to that effect under the hand of the Secretary to the Cabinet –

20 (a) the provisions of Article 78(1) and of Article 121, shall subject to the provisions of paragraph (2) of this Article, have no application;

25 (b) the President shall, by a written reference addressed to the Chief Justice, require the special determination of the Supreme Court as to whether the Bill or any provision thereof is inconsistent with the Constitution. A copy of such reference shall at the same time be delivered to the Speaker;

30

(c) the Supreme Court shall make its determination within twenty-four hours (or such longer period not exceeding three days as the President may specify) of the assembling of the Court and shall communicate its determination only to the President and the Speaker.

(2) The provisions of paragraph (2) of Article 121 shall, *mutatis mutandis*, apply to such Bill.

(3) The provisions of this Article shall not apply to any Bill for the amendment, repeal and replacement, alteration or addition of any provision of the Constitution or for the repeal and replacement of the Constitution.”.

15 **28.** Article 123 of the Constitution is hereby amended by the insertion immediately after paragraph (2) of that Article, of the following new paragraph: - Amendment of Article 123 of the Constitution

20 “(3) In the case of a Bill endorsed as provided in Article 122, if the Supreme Court entertains a doubt whether the Bill or any provision thereof is inconsistent with the Constitution, it shall be deemed to have been determined that the Bill or such provision of the Bill is inconsistent with the Constitution, and the Supreme Court shall comply with the provisions of paragraphs (1) and (2) of this Article.”.

25 **29.** Article 124 of the Constitution is hereby amended by the substitution for the words and figures “provided in Articles 120 and 121,”, of the words and figures “provided in Amendment of Article 124 of the Constitution

30 Articles 120,121 and 122,”.

30. Article 134 of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the figures “121, 125,”, of the figures “121, 122,125,”. Amendment of Article 134 of the Constitution

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

Amendment of Article 153 of the Constitution

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

“(1) There shall be an Auditor-General who shall be appointed by the President and who shall hold office during good behaviour.”;

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

15 “(4) Whenever the Auditor-General is unable to discharge the functions of his office, the President may appoint a person to act in the place of the Auditor-General.”.

32. Article 153A of the Constitution is hereby repealed.

Repeal of Article 153A of the Constitution

33. Article 153B of the Constitution is hereby repealed.

Repeal of Article 153B of the Constitution

20 34. Article 153C of the Constitution is hereby repealed.

Repeal of Article 153C of the Constitution

35. Article 153D of the Constitution is hereby repealed.

Repeal of Article 153D of the Constitution

36. Article 153E of the Constitution is hereby repealed. Repeal of Article 153E of the Constitution
37. Article 153F of the Constitution is hereby repealed. Repeal of Article 153F of the Constitution
- 5 38. Article 153G of the Constitution is hereby repealed. Repeal of Article 153G of the Constitution
39. Article 153H of the Constitution is hereby repealed. Repeal of Article 153H of the Constitution
- 10 40. Article 154 of the Constitution is hereby amended as follows: - Amendment of Article 154 of the Constitution
- (1) by the repeal of paragraph (1) of that Article and the substitution therefor of the following paragraph: -
- 15 “(1) The Auditor-General shall audit the accounts of all departments of Government, the Offices of the Cabinet of Ministers, the Judicial Service Commission, the Public Service Commission, the Provincial Public Service Commissions, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament and the Commissioner of Elections, local
- 20 authorities, public corporations and business or other undertakings vested in the Government under any written law.”;
- 25

- 5 (2) in paragraph (2) of that Article, by the substitution for the words and the figure “such public corporation, business or other undertaking or a company referred to in paragraph (1)”, wherever those words and the figure appear in that paragraph, of the words “such public corporation or business or other undertaking”;
- 10 (3) in sub-paragraph (b) of paragraph (5) of that Article, by the substitution for the words and the figure “public corporation, business or other undertaking or a company referred to in paragraph (1)” wherever those words and the figure appear in that paragraph, of the words “public corporation, or business or other undertaking”; and
- 15 (4) by the repeal of paragraph (9) of that Article.

20 **41.** Article 154R of the Constitution is hereby amended in paragraph (1) of that Article, by the repeal of sub-paragraph (c) of that paragraph, and the substitution therefor of the following paragraph: - Amendment of Article 154R of the Constitution

25 “(c) three other members appointed by the President to represent the three major communities each of whom shall be a person who has distinguished himself, or held high office, in the field of finance, law, administration, business or learning.”.

42. Article 155A of the Constitution is hereby amended as follows:- Amendment of Article 155A of the Constitution

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

(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

(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 his appointment, unless he becomes subject to any disqualification under paragraph (2) of this Article, or earlier resigns from his office by writing addressed to the President or is removed from office by the President, 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 him has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6) of this Article.”.

43. Article 155B of the Constitution is hereby amended by the repeal of paragraph (5) of that Article.

Amendment of Article 155B of the Constitution

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

Amendment of Article 155C of the Constitution.

45. Article 155F of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words “any decision of the Commission or a Committee or any police officer to whom the Commission has delegated any power under this Chapter or to so influence any member of the Commission or a Committee or any police officer to whom any power has been delegated shall be guilty”, of the words “any decision of the Commission or a Committee, or to so influence any member of the Commission or a Committee shall be guilty”.

Amendment of Article 155F of the Constitution

46. The following new Article is hereby inserted immediately after Article 155F and shall have effect as Article 155FF of the Constitution: -

Insertion of new Article 155FF of the Constitution

“Powers of the Commission
 15 the Commission
 20
 155FF. 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.”

47. Article 155G of the Constitution is hereby repealed.

Repeal of Article 155G of the Constitution

48. Article 155H of the Constitution is hereby repealed.

Repeal of Article 155H of the Constitution

49. Article 155J of the Constitution is hereby repealed.

Repeal of Article 155J of the Constitution

50. Article 155K of the Constitution is hereby repealed. Repeal of Article 155K of the Constitution
51. Article 155L of the Constitution is hereby repealed. Repeal of Article 155L of the Constitution
- 5 52. Article 155M of the Constitution is hereby repealed and the following Article substituted therefor:- Replacement of Article 155M of the Constitution
- 10 “Saving of existing rules and regulations”
- 155M. All rules and regulations and procedures in force on the date of the commencement of this Article relating to police officers shall be deemed to continue to be operative, until rules, regulations and procedures are made hereunder by the Public Service Commission.”.
- 15 53. Article 156 of the Constitution is hereby amended as follows:- Amendment of Article 156 of the Constitution
- (1) by the repeal of paragraph (2) of that Article and the substitution therefor of the following paragraph: -
- 20 “(2) The Parliamentary Commissioner for Administration shall be appointed by the President and shall hold office during good behaviour.”
- (2) by the repeal of paragraph (5) of that Article and the substitution therefor of the following paragraph:-
- 25 “(5) Whenever the Parliamentary Commissioner for Administration is unable to perform and discharge the duties and functions of his office, the

President shall appoint a person to act in his place.”.

54. Chapter XIXA of the Constitution (Article 156A) is hereby repealed. Repeal of Chapter XIXA of the Constitution

5 **55.** Chapter XIXB of the Constitution (Articles 156B to 156H) is hereby repealed. Repeal of Chapter XIXB of the Constitution

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

10 “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 Speaker;
- 15 (c) a Minister appointed under Article 44 or 45;
- (d) a member of the Election Commission;
- (e) a member of the National Police Commission;
- (f) the Commissioner - General of Elections;
- 20 (g) officers appointed to the Election Commission, by the Election Commission;
- (h) a member of the Judicial Service Commission;
- 25 (i) a member of the Public Service Commission;
- (j) a Deputy Minister;
- (k) a Member of Parliament;
- (l) the Secretary-General of Parliament;
- (m) a member of the President’s staff;
- 30 (n) a member of the staff of the Secretary-General of Parliament.”.

57. (1) Every person holding office on the day immediately preceding the date of commencement of this Act, as— Transitional Provisions

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

20 shall, unless he earlier resigns, dies or is removed from office continue to hold such office and shall continue to exercise, perform and discharge the powers, duties and functions of that office under the same terms and conditions.

25

(2) Every person holding office on the day immediately preceding the date of commencement of this Act, as a member of the Constitutional Council shall cease to hold such office with effect from the date of commencement of this Act:

30

5 Provided such person shall, unless he earlier resigns, dies or is removed from office continue to exercise, perform and discharge the powers, duties and functions of his office until such date on which the Parliamentary Council is constituted in accordance with Chapter VIIA of the Constitution.

10 (3) Every person holding office on the day immediately preceding the date of commencement of this Act, as the Chairman or a member of –

- 15 (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;
20 (f) the Finance Commission; and
 (g) the Delimitation Commission,

25 shall, unless he earlier resigns, dies or is removed from office continue to exercise, perform and discharge the powers, duties and functions of his office until such date on which the respective Commissions are constituted in accordance with Chapter VIIA of the Constitution.

30 (4) Every person holding office on the day immediately preceding the date of commencement of this Act, as the Chairman or a member of –

- 35 (a) the Audit Service Commission; and
 (b) the National Procurement Commission,

shall cease to hold such office with effect from the date of commencement of this Act:

5 Provided that such person shall, unless he earlier resigns, dies or is removed from office continue to exercise, perform and discharge the powers, duties and functions of their respective offices for a period of
10 six months from the date of commencement of this Act, for the purpose of discharging and performing the duties and functions pending or uncompleted as at the day immediately preceding the date of commencement of
15 this Act.

(5) Notwithstanding the provisions of subsection (4),-

20 (a) all suits, prosecutions, actions, proceedings, matters or things which have been instituted by or against the Audit Service Commission and the National Procurement Commission and which are pending as at the day immediately preceding the date of
25 commencement of this Act shall with effect from the date of commencement of this Act be deemed to be suits, prosecutions, actions, proceedings, matters or
30 things which have been instituted by or against the Government;

35 (b) any decree, order or award entered or made in favour of or against the Audit Service Commission and the National Procurement Commission by any court or tribunal or other body in any action, matter, proceeding or thing shall with effect from the date

- 5 of commencement of this Act be deemed to be a decree, order or award entered or made in favour of or against the Government and may be enforced accordingly; and
- 10 (c) all property movable and immovable, belonging to the Audit Service Commission and the National Procurement Commission as at the day immediately preceding the date of commencement of this Act shall with effect from the date of commencement of this Act vest in and be deemed to be the property of the Government.
- 15 (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 Audit Service Commission on the day immediately preceding the date of commencement of this Act shall, with effect from that date, stand transferred to the Public Service Commission and shall be determined by the Public Service Commission accordingly.
- 20
- 25 (7) All matters pertaining to-
- (a) the appointment, promotion, transfer, disciplinary control and dismissal of police officers; and
- 30 (b) appeals by police officers to the National Police Commission,

pending before the National Police Commission on the day immediately preceding the date of commencement of this Act, shall, with effect from that date, stand transferred to the Public Service Commission and shall be determined by
5 the Public Service Commission accordingly.

58. 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 an inconsistency

