



THE CONSTITUTION
OF
SRI LANKA
(CEYLON)

(Printed on the Orders of Government)

1972

**THE CONSTITUTION
OF
SRI LANKA
(CEYLON)**

**THE Constitution of the Republic of Sri Lanka
(Ceylon) adopted and enacted by the Constituent
Assembly of the People of Sri Lanka on the
22nd day of May, 1972.**

**NOEL TITTAWELLA,
Secretary,
Constituent Assembly.**

Colombo, May 22, 1972.

THE CONSTITUTION OF SRI LANKA

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The Constitution of Sri Lanka

SVASTI

WE THE PEOPLE OF SRI LANKA BEING RESOLVED IN THE EXERCISE OF OUR FREEDOM AND INDEPENDENCE AS A NATION TO GIVE TO OURSELVES A CONSTITUTION WHICH WILL DECLARE SRI LANKA A FREE SOVEREIGN AND INDEPENDENT REPUBLIC PLEDGED TO REALIZE THE OBJECTIVES OF A SOCIALIST DEMOCRACY INCLUDING THE FUNDAMENTAL RIGHTS AND FREEDOMS OF ALL CITIZENS AND WHICH WILL BECOME THE FUNDAMENTAL LAW OF SRI LANKA DERIVING ITS POWER AND AUTHORITY SOLELY FROM THE PEOPLE DO ON THIS THE TENTH DAY OF THE WAXING MOON IN THE MONTH OF VESAK IN THE YEAR TWO THOUSAND FIVE HUNDRED AND FIFTEEN OF THE BUDDHIST ERA THAT IS MONDAY THE TWENTY-SECOND DAY OF MAY ONE THOUSAND NINE HUNDRED AND SEVENTY-TWO ACTING THROUGH THE CONSTITUENT ASSEMBLY ESTABLISHED BY US HEREBY ADOPT ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

CHAPTER I

THE PEOPLE, THE STATE AND SOVEREIGNTY

1. Sri Lanka (Ceylon) is a Free, Sovereign and Independent Republic. Republic of Sri Lanka.
2. The Republic of Sri Lanka is a Unitary State. Unitary State.
3. In the Republic of Sri Lanka, Sovereignty is in the People and is inalienable. Sovereignty of the people.
4. The Sovereignty of the People is exercised through a National State Assembly of elected representatives of the People. National State Assembly.
5. The National State Assembly is the supreme instrument of State power of the Republic. The National State Assembly exercises—Supreme instrument of State power.
 - (a) the legislative power of the People;
 - (b) the executive power of the People, including the defence of Sri Lanka, through the President and the Cabinet of Ministers; and
 - (c) the judicial power of the People through courts and other institutions created by law except in the case of matters relating to its powers and privileges, wherein the judicial power of the People may be exercised directly by the National State Assembly according to law.

CHAPTER II

BUDDHISM

Buddhism.

6. The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster Buddhism while assuring to all religions the rights granted by section 18 (1) (d).

CHAPTER III

LANGUAGE

Official Language

7. The Official Language of Sri Lanka shall be Sinhala as provided by the Official Language Act, No. 33 of 1956.

Official Language
Sinhala.

8. (1) The use of the Tamil language shall be in accordance with the Tamil Language (Special Provisions) Act, No. 28 of 1958.

Use of Tamil
Language

(2) Any regulation for the use of the Tamil language made under the Tamil Language (Special Provisions) Act, No. 28 of 1958, and in force immediately before the commencement of the Constitution shall not in any manner be interpreted as being a provision of the Constitution but shall be deemed to be subordinate legislation continuing in force as existing written law under the provisions of section 12.

Language of Legislation

9. (1) All laws shall be enacted or made in Sinhala.

Language of
Legislation.

(2) There shall be a Tamil translation of every law so enacted or made.

10. (1) All written laws, including subordinate legislation in force immediately prior to the commencement of the Constitution, shall be published in the *Gazette* in Sinhala and in Tamil translation as expeditiously as possible under the authority of the Minister in charge of the subject of Justice.

Laws in English
superseded on
publication in
Sinhala.

(2) The laws so published shall be laid before the National State Assembly at the meeting next following the date of such publication.

(3) Unless the National State Assembly otherwise provides, the law published in Sinhala under the provisions of subsection (1) of this section, shall, as from the date of such publication, be deemed to be the law and supersede the corresponding law in English.

Language of the Courts

Language of the
courts.

11. (1) The language of the courts and tribunals empowered by law to administer justice and of courts, tribunals and other institutions established under the Industrial Disputes Act and of Conciliation Boards established under the Conciliation Boards Act, No. 10 of 1958, shall be Sinhala throughout Sri Lanka and accordingly their records, including pleadings, proceedings, judgements, orders and records of all judicial and ministerial acts, shall be in Sinhala:

Provided that the National State Assembly may, by or under its law, provide otherwise in the case of institutions exercising original jurisdiction in the Northern and Eastern Provinces and also of courts, tribunals and other institutions established under the Industrial Disputes Act and of Conciliation Boards established under the Conciliation Boards Act, No. 10 of 1958, in the Northern and Eastern Provinces.

(2) The provisions of subsection (1) of this section shall apply to any institution which under any future law shall have a jurisdiction or function corresponding or substantially similar to the jurisdiction or function of any institution referred to in that subsection.

(3) In the Northern and Eastern Provinces and in proceedings before Quazis under the Muslim Marriage and Divorce Act, parties, applicants and persons legally entitled to represent such parties or applicants before any court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section may—

(a) submit their pleadings, applications, motions and petitions in Tamil; and

(b) participate in the proceedings in Tamil.

In all such cases a Sinhala translation shall be caused to be made by such court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section for the purposes of the record.

(4) Every party, applicant, judge, juryman or member of a tribunal not conversant with the language used in a court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section, shall have the right to interpretation, and to translation into Sinhala or Tamil, provided by the

State to enable him to understand and participate in the proceedings before the court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section.

Such person shall also have the right to obtain, in Sinhala or Tamil, any such part of the record as he may be entitled to obtain according to law.

(5) A person legally entitled to represent a party or an applicant may participate in the proceedings in any court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section, in Sinhala or Tamil, and shall be entitled for that purpose, to interpretation, in Sinhala or Tamil provided by the State.

(6) Subject to the provisions contained in the preceding subsections of this section, the Minister in charge of the subject of Justice may, with the concurrence of the Cabinet of Ministers, issue Orders, Directions and Instructions permitting the use of a language other than Sinhala or Tamil by a judge or other state officer administering justice or by a pleader appearing before a court, tribunal or other institution referred to in subsection (1) or subsection (2) of this section. Every judge and other state officer administering justice shall be bound to implement the Orders, Directions and Instructions issued under this subsection.

CHAPTER IV

GENERAL PROVISIONS

Existing law.

12. (1) Unless the National State Assembly otherwise provides, all laws, written and unwritten, in force immediately before the commencement of the Constitution, except such as are specified in Schedule 'A' shall, *mutatis mutandis*, and except as otherwise expressly provided in the Constitution, continue in force. The laws so continuing in force are referred to in the Constitution as "existing law".

All written laws including subordinate legislation so continuing in force are referred to in the Constitution as "existing written law".

(2) Save as otherwise provided in the Constitution, existing laws are not and shall not in any manner be deemed to be provisions of the Constitution.

(3) Wherever the Constitution provides that any provision of any existing written law or of the Constitution shall continue in force until or unless the National State Assembly otherwise provides, any law of the National State Assembly so providing may be passed by a majority of the members present and voting.

(4) Whenever the Constitution provides that any provision of any existing written law shall continue in force until or unless the National State Assembly otherwise provides and the existing written law referred to consists of subordinate legislation, the provision that such existing written law shall continue in force until or unless the National State Assembly otherwise provides shall not in any manner be deemed to derogate from the power of the person or body on whom the power to make and, when made, to amend, vary, rescind or revoke such subordinate legislation is conferred to exercise the power so conferred until or unless the National State Assembly otherwise provides.

Powers, privileges, duties and obligations of the Republic.

13. Unless the National State Assembly otherwise provides, the Republic of Sri Lanka shall possess and exercise all powers, privileges, immunities and rights whatsoever possessed, exercised or exercisable by Elizabeth the Second Queen of Ceylon and of Her other Realms and Territories, Head of the Commonwealth

and shall have all such obligations and duties, howsoever arising, of Elizabeth the Second Queen of Ceylon and of Her other Realms and Territories, Head of the Commonwealth as were in existence immediately prior to the Constitution coming into operation.

14. All rights and all duties or obligations, howsoever arising, of the Government of Ceylon and subsisting immediately prior to the commencement of the Constitution shall be rights, duties and obligations of the Government of the Republic of Sri Lanka under the Constitution.

Rights, duties and obligations of the Republic.

15. (1) Unless the Constitution otherwise provides, the past operation of any law in force prior to the commencement of the Constitution or anything duly done or suffered or any offence committed or any right, liberty, obligation or penalty acquired or incurred under any law in force prior to the commencement of the Constitution shall not in any manner be affected or be deemed to be affected by the Constitution coming into force.

Past operation of laws, previous acts, offences and pending actions, etc.

(2) All actions, prosecutions, proceedings matters or things, including proceedings of Commissions appointed or established by or under any existing written law, pending or uncompleted immediately before the commencement of the Constitution shall, subject to the provisions of the Constitution and *mutatis mutandis*, be deemed to continue and may be carried on and completed after the commencement of the Constitution.

CHAPTER V

PRINCIPLES OF STATE POLICY

Principles of
State Policy.

16. (1) The Principles of State Policy contained in the subsections which follow shall guide the making of laws and the governance of Sri Lanka.

(2) The Republic is pledged to carry forward the progressive advancement towards the establishment in Sri Lanka of a socialist democracy, the objectives of which include—

- (a) full realization of all rights and freedoms of citizens including group rights;
- (b) securing full employment for all citizens of working age;
- (c) the rapid development of the whole country;
- (d) the distribution of the social product equitably among citizens;
- (e) the development of collective forms of property such as State property or co-operative property, in the means of production, distribution and exchange as a means of ending exploitation of man by man;
- (f) raising the moral and cultural standards of the people; and
- (g) the organization of society to enable the full flowering of human capacity both individually and collectively in the pursuit of the good life.

(3) The State shall safeguard the independence, sovereignty, unity and the territorial integrity of Sri Lanka.

(4) The State shall endeavour to strengthen National unity by promoting co-operation and mutual confidence between all sections of the people of Sri Lanka including the racial, religious and other groups.

(5) The State shall endeavour to eliminate economic and social privilege, disparity and exploitation and ensure equality of opportunity to all citizens.

(6) The State shall strengthen and broaden the democratic structure of Government and democratic rights of the people by affording all possible

opportunities to the people to participate at every level in national life and in government, including the civil administration and the administration of justice.

(7) The State shall assist the development of the cultures and the languages of the people.

(8) The State shall endeavour to ensure social security and welfare.

(9) The State shall endeavour to create the necessary economic and social environment to enable people of all religious faiths to make a living reality of their religious principles,

(10) The State shall promote peace and international co-operation.

17. The provisions of section 16 do not confer legal rights and are not enforceable in any court of law; nor may any question of inconsistency with such provisions be raised in the Constitutional Court or any other Court.

Principles of
State Policy
not justiciable.

CHAPTER VI

FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental
Rights and
Freedoms.

18. (1) In the Republic of Sri Lanka—

- (a) all persons are equal before the law and are entitled to equal protection of the law;
- (b) no person shall be deprived of life, liberty or security of person except in accordance with the law;
- (c) no citizen shall be arrested, held in custody, imprisoned or detained except in accordance with the law;
- (d) every citizen shall have the right to freedom of thought, conscience and religion. This right shall include the freedom to have or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching;
- (e) every citizen has the right by himself or in association with others, to enjoy and promote his own culture;
- (f) all citizens have the right to freedom of peaceful assembly and of association;
- (g) every citizen shall have the right to freedom of speech and expression, including publication;
- (h) no citizen otherwise qualified for appointment in the central government, local government, public corporation services and the like, shall be discriminated against in respect of any such appointment on the ground of race, religion, caste or sex:

Provided that in the interests of such services, specified posts or classes of posts may be reserved for members of either sex ;

- (i) every citizen shall have the right to freedom of movement and of choosing his residence within Sri Lanka.

(2) The exercise and operation of the fundamental rights and freedoms provided in this Chapter shall be subject to such restrictions as the law prescribes in the interests of national unity and integrity, national security, national economy, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others or giving effect to the Principles of State Policy set out in section 16.

(3) All existing law shall operate notwithstanding any inconsistency with the provisions of subsection (1) of this section.

CHAPTER VII

THE PRESIDENT OF THE REPUBLIC

Head of State.

19. There shall be a President of the Republic of Sri Lanka who is the Head of the State.

Head of Executive and Commander-in-Chief.

20. The President is the Head of the Executive and the Commander-in-Chief of the armed forces.

Powers and functions of President.

21. The President has the following powers and functions:—

- (a) he declares war and peace;
- (b) he summons, prorogues and dissolves the National State Assembly;
- (c) he appoints the Prime Minister, the other Ministers of the Cabinet of Ministers and Deputy Ministers;
- (d) he appoints the Judges referred to in section 122, other state officers and Commissioners who may under the Constitution or any other law, be appointed by the President;
- (e) he receives and recognizes, appoints and accredits Ambassadors, High Commissioners, Plenipotentiaries and other diplomatic agents;
- (f) he presides at ceremonial sittings of the National State Assembly;
- (g) he performs such other functions pertaining to the office of the President of Sri Lanka as are prescribed by the Constitution or by any other law, and subject to the Constitution and to any other law, such functions as are by international usage performed by a Head of State; and
- (h) he keeps the Public Seal of the Republic of Sri Lanka and makes and executes under the Public Seal grants and dispositions of such lands and immovable property vested in the Republic of Sri Lanka as may be lawfully granted by the President, and uses the Public Seal for sealing all things whatsoever that shall pass the said Seal.

22. (1) When any offence has been committed for which the offender may be tried within the Republic of Sri Lanka, the President may grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender or of any one of such principal offenders, if more than one.

Grant of Pardon.

(2) The President may in the case of any offender convicted of any offence in any court within the Republic of Sri Lanka—

- (a) grant a pardon, either free or subject to lawful conditions; or
- (b) grant any respite, either indefinite or for such period as the President may think fit, of the execution of any sentence passed on such offender; or
- (c) substitute a less severe form of punishment for any punishment imposed on such offender; or
- (d) remit the whole or part of any punishment imposed or of any penalty or forfeiture otherwise due to the Republic on account of such offence:

Provided that where any offender shall have been condemned to suffer death by the sentence of any court, the President shall cause a report to be made to him by the judge who tried the case and shall forward such report to the Attorney-General with instructions that after the Attorney-General has advised thereon, the report shall be sent together with the Attorney-General's advice to the Minister whose function it is to advise the President on the exercise of the said powers.

23. (1) While any person holds office as President of the Republic of Sri Lanka, no civil or criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him either in his official or private capacity.

Immunity of President from suit.

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

Salary of
President.

24. The President shall receive such salary and allowances and on retirement such pension or gratuity as may be determined by resolution by the National State Assembly, and such salary, allowances, pension or gratuity shall be charged on the Consolidated Fund. The salary, allowances, pension or gratuity of a President may not be altered to his disadvantage.

Appointment of
President and
assumption of
office.

25. Any citizen who is qualified to be an elector at an election for the purpose of electing a Member of the National State Assembly may be nominated by the Prime Minister for the Office of President of the Republic of Sri Lanka and the person so nominated assumes office as President of the Republic of Sri Lanka upon his taking the following oath before the Chief Judge of the highest Appellate Court or other judge of that court:—

solemnly declare and affirm

“ I,, do _____
swear

that I will be faithful and bear true allegiance to the Republic of Sri Lanka, that I will uphold the Constitution of Sri Lanka and shall faithfully perform the duties and functions of the Office of President of the Republic of Sri Lanka in accordance with the Constitution and with the law.”:

Provided that the first President of the Republic of Sri Lanka shall take the oath before the Members of the National State Assembly present at that time.

President's term
of office.

26. (1) Subject to the provisions of subsection (2) of this section, the President holds office for a period of four years:

Provided that, notwithstanding the expiration of this period, the President shall remain in office until the next President assumes office.

(2) The Office of President of the Republic of Sri Lanka becomes vacant—

(a) upon the death of the President; or

(b) on the President resigning his office by a writing addressed to the Prime Minister; or

- (c) on the determination by the Prime Minister that the President is incapable of performing the functions of his office by reason of mental or physical infirmity; or
- (d) on the National State Assembly passing a resolution of no-confidence against the President, proposed by the Prime Minister; or
- (e) on the National State Assembly passing by at least two-thirds of the whole number of members of the National State Assembly (including those not present) voting in its favour a resolution of no-confidence against the President, introduced by any Member by a written notice, addressed to the Speaker and signed by such Member and by at least half the total number of members of the National State Assembly.

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

President to act
on advice.

(2) No institution administering justice and likewise no other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any act or omission on the part of the President on the ground that the provisions of subsection (1) of this section have not been complied with.

28. (1) Whenever the President is prevented by illness or any other cause from performing the duties of his office, or is absent from Sri Lanka, or during any period in which the Office of President of the Republic of Sri Lanka would otherwise be vacant, such other person as the Prime Minister may nominate, or in the absence of such nomination, the person for the time being lawfully performing the functions of the Chief Judge of the highest Appellate

Acting
President. Presi-

Court shall act in the office of President of the Republic of Sri Lanka; such person shall, before assuming office take the oath in the form and manner prescribed in section 25.

(2) Any person so acting in the Office of President of the Republic shall not continue to act after the President or some other person having a prior right to act in the said office has notified that he has assumed or resumed or is about to assume or resume the said office.

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

CHAPTER VIII

THE NATIONAL STATE ASSEMBLY

General Provisions

29. The National State Assembly shall consist of such number of elected representatives of the people as a Delimitation Commission established under section 77 may determine in accordance with the provisions of the Constitution. The Members of the National State Assembly shall be designated Members of Parliament.

Number and designation of Members of National State Assembly.

30. The National State Assembly shall be deemed to be validly constituted and shall have power to act notwithstanding any vacancy in the membership thereof and any proceedings in the National State Assembly shall be valid notwithstanding that it is discovered subsequently that a person not entitled so to do sat or voted or otherwise participated in the proceedings.

National State Assembly validly constituted notwithstanding vacancies.

31. Except for the purpose of electing the Speaker of the National State Assembly, no Member of the National State Assembly shall sit or vote in the National State Assembly until he has taken the following oath of allegiance to the Constitution before the National State Assembly:—

Oath of Allegiance.

“ I,, do solemnly declare and affirm/swear that I will be faithful and bear true allegiance to the Republic of Sri Lanka and that I will uphold the Constitution of Sri Lanka.”

32. (1) The National State Assembly shall, at its first meeting after a general election, elect three Members to be respectively the Speaker, the Deputy Speaker and Chairman of Committees (hereinafter referred to as the “ Deputy Speaker ”) and the Deputy Chairman of Committees thereof.

Speaker, Deputy Speaker and Deputy Chairman of Committees.

(2) A Member holding office as the Speaker or the Deputy Speaker or the Deputy Chairman of Committees of the National State Assembly shall, unless he earlier resigns the office or ceases to be a Member, vacate his office on the dissolution of the National State Assembly.

(3) Whenever the office of Speaker, Deputy Speaker or Deputy Chairman of Committees becomes vacant otherwise than as a result of a dissolution of the National State Assembly, the National State Assembly shall at its first meeting after the occurrence of the vacancy elect another Member to be the Speaker, Deputy Speaker or Deputy Chairman of Committees, as the case may be.

(4) If the National State Assembly, after having been dissolved, is summoned under subsection (2) of section 40, each of the members mentioned in subsection (2) of this section shall, notwithstanding anything therein, resume and continue to hold his office while that National State Assembly is kept in session.

Persons presiding at sittings of National State Assembly.

33. The Speaker, or in his absence the Deputy Speaker, or in their absence the Deputy Chairman of Committees, shall preside at sittings of the National State Assembly. If none of them is present, a Member elected by the National State Assembly for the sitting shall preside at that sitting of the National State Assembly.

Quorum.

34. If at any time during a meeting of the National State Assembly, the attention of the person presiding is drawn to the fact that there are fewer than twenty members present, the person presiding shall, subject to any Standing Order of the National State Assembly, adjourn the sitting without question put.

Clerk to the National State Assembly.

35. (1) There shall be a Clerk to the National State Assembly who shall be appointed by the President.

(2) The members of the staff of the Clerk to the National State Assembly shall be appointed by him with the approval of the Speaker.

(3) The Clerk to the National State Assembly shall not be removed except by the President upon an address of the National State Assembly.

(4) The age of retirement of the Clerk to the National State Assembly shall, unless the National State Assembly otherwise provides, be sixty years.

36. (1) The seat of a Member of the National State Assembly shall become vacant—

Vacation
seats
National
Assembly. of
in
State

- (a) upon his death; or
- (b) if, by a writing under his hand addressed to the Clerk to the National State Assembly, he resigns his seat; or
- (c) if he becomes subject to any of the disqualifications mentioned in sections 68 and 70; or
- (d) if he becomes a member of a state service or, being a member of a state service, does not cease to be a member of such service before he sits in the National State Assembly; or
- (e) if, without the leave of the National State Assembly first obtained, he absents himself from sittings of the National State Assembly during a continuous period of three months; or
- (f) if his election as a Member of the National State Assembly or, in the case of a Member of the first National State Assembly, his election as a Member of Parliament or as a Member of the National State Assembly is declared void under the law in force for the time being; or
- (g) upon the dissolution of the National State Assembly.

(2) Whenever the seat of a Member of the National State Assembly falls vacant, except under the provisions of paragraph (f) or paragraph (g) of subsection (1) of this section, the Clerk to the National State Assembly shall inform the President who shall within one month by notice in the *Gazette* order the holding of an election to fill the vacancy.

37. (1) Subject to the provisions of the Constitution, the National State Assembly may by resolution or Standing Order provide for—

Standing
Orders.

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

(2) Until the National State Assembly otherwise provides, the Standing Orders of the House of Representatives operative immediately prior to the commencement of the Constitution shall, *mutatis mutandis*, continue in force as the Standing Orders of the National State Assembly.

Privileges of
National State
Assembly and
remuneration of
Members.

38. (1) Until the National State Assembly otherwise provides, the privileges, immunities and powers of the National State Assembly and of its Members shall be the same as those of the House of Representatives and of its Members immediately prior to the commencement of the Constitution, and accordingly, the Parliament (Powers and Privileges) Act shall as far as applicable and *mutatis mutandis*, continue in force.

(2) The Ministers, the Deputy Ministers, Members of the National State Assembly including the Speaker, the Deputy Speaker and the Deputy Chairman of Committees shall be paid such remuneration and allowances as may be provided by the National State Assembly.

(3) Until the National State Assembly so provides, the remuneration payable to Ministers, the Speaker, the Deputy Speaker, the Deputy Chairman of Committees and other Members of the National State Assembly shall be the same as the remuneration paid to Ministers, the Speaker, the Deputy Speaker, the Deputy Chairman of Committees and other Members of the House of Representatives immediately before the commencement of the Constitution. The Deputy Ministers of the National State Assembly shall, until the National State Assembly otherwise provides, be paid the same remuneration as were paid to Parliamentary Secretaries of the House of Representatives immediately before the commencement of the Constitution.

Proceedings of
National State
Assembly out-
side jurisdiction
of courts.

39. (1) Except as otherwise expressly provided in the Constitution, no court or other institution administering justice shall have power or jurisdiction in respect of the proceedings of the National State Assembly or of anything done, purported to be done or omitted to be done by or in the National State Assembly.

(2) Unless the National State Assembly otherwise provides, the provisions of subsection (1) of this section shall not affect the operation of the Parliament (Powers and Privileges) Act.

Duration of the National State Assembly

40. (1) Unless the National State Assembly is sooner dissolved, every National State Assembly elected under the Constitution shall continue for a period of six years from the date of its first meeting and no longer, and the expiry of the period of six years shall operate as a dissolution of the National State Assembly.

Duration of
National State
Assembly.

(2) If at any time after the dissolution of the National State Assembly an emergency is declared under subsection (2) of section 134, the Proclamation declaring the emergency shall operate as a summoning of the National State Assembly to meet on the tenth day after such Proclamation unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation. The National State Assembly so summoned shall be kept in session until the termination of the emergency or the conclusion of the general election whichever occurs earlier and shall thereupon stand dissolved.

41. (1) The National State Assembly shall be summoned to meet at least once in every year. The summoning of the National State Assembly shall be by Proclamation of the President.

Sessions of
National State
Assembly.

(2) The National State Assembly may not be prorogued for any period longer than four months, and the date for the next session shall be stated in the Proclamation proroguing the National State Assembly.

(3) When the National State Assembly is prorogued, any Bill introduced before such prorogation may be proceeded with during the session immediately following such prorogation.

(4) At any time while the National State Assembly stands prorogued, the President may by Proclamation summon the National State Assembly for a date earlier than the date referred to in subsection (2) of this section, such earlier date not being earlier than three days from the date of the Proclamation.

(5) At any time while the National State Assembly stands prorogued, the National State Assembly may be dissolved.

(6) When the National State Assembly is dissolved, the Proclamation by which the National State Assembly is dissolved shall fix a date or dates for the election of members of the National State Assembly and shall summon the new National State Assembly to meet on a date not later than four months from the date of the Proclamation.

(7) When the National State Assembly stands dissolved by the expiry of the period of six years fixed for its continuance, the dissolution shall operate as a statutory direction for the election of Members of the National State Assembly to be held before a period of four months, commencing on the date of the dissolution, elapses, and the President shall after consultation with the Prime Minister fix dates within such period for the holding of the elections and for the first meeting of the National State Assembly.

The First National State Assembly

First National
State Assembly.

42. (1) The Members of the first National State Assembly shall be—

- (a) persons who were Members of the Constituent Assembly immediately prior to the commencement of the Constitution; and
- (b) such persons as may be elected under the provisions of subsection (4) of this section.

(2) The electoral districts relating to the House of Representatives existing immediately prior to the commencement of the Constitution shall be the electoral districts in relation to the first National State Assembly.

(3) Where a Member of the first National State Assembly represented an electoral district in the House of Representatives existing immediately prior to the commencement of the Constitution, he shall be deemed to be a Member for that electoral district in the first National State Assembly.

(4) Where any electoral district relating to the first National State Assembly is not represented in the first National State Assembly there shall be deemed to be a vacancy in the membership of the first National State

Assembly and such vacancy shall be filled in accordance with the law relating to elections to the National State Assembly in force for the time being.

(5) Unless sooner dissolved, the first National State Assembly shall continue for a period of five years commencing on the date of the adoption of the Constitution by the Constituent Assembly.

(6) The provisions of the Constitution relating to a National State Assembly elected as provided by the Constitution shall apply to the first National State Assembly unless any of such provisions are inapplicable by reason of the special provisions in the Constitution relating to the first National State Assembly.

The First Prime Minister

43. The holder of the Office of Prime Minister immediately before the commencement of the Constitution, shall be the first Prime Minister under the Constitution and assumes office as Prime Minister upon taking the following oath before the Members of the National State Assembly present at that time:—

First Prime Minister.

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

Legislative Powers of the National State Assembly

44. The legislative power of the National State Assembly is supreme and includes the power—

Legislative powers of National State Assembly.

- (a) to repeal or amend the Constitution in whole or in any part; and
- (b) to enact a new Constitution to replace the Constitution:

Provided that such power shall not include the power—

- (i) to suspend the operation of the Constitution or any part thereof; and
- (ii) to repeal the Constitution as a whole without enacting a new Constitution to replace it.

No delegation of
principal law-
making power.

45. (1) The National State Assembly may not abdicate, delegate or in any manner alienate its legislative power, nor may it set up an authority with any legislative power other than the power to make subordinate laws.

(2) It shall not be a contravention of the preceding provisions of this section for the National State Assembly to make any law containing—

- (a) any provision empowering any authority to appoint a date on which a law passed by the National State Assembly is to come into effect or to cease to have effect;
- (b) any provision empowering any authority to make by order any law enacted by the National State Assembly or any part thereof applicable to any locality or to any class of persons; and
- (c) any provision empowering any authority by an order or an act prescribed by law to create legal persons.

(3) (a) The National State Assembly may by law confer the power of making subordinate legislation for prescribed purposes on any person or body.

(b) Wherever any provision in an existing written law confers the power of making subordinate legislation for prescribed purposes on any person or body such power shall be deemed to have been conferred by a law of the National State Assembly.

(4) The National State Assembly may as an exception to the provisions of subsection (1) of this section, delegate to the President the power to make, in accordance with the law for the time being relating to public security and for the duration of a state of emergency, emergency regulations in the interests of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion or for the maintenance of supplies and services essential to the life of the community. The power to make such emergency regulations shall include the power to make regulations having the legal effect of overriding, amending or suspending the operation of the provisions of any law except the provisions of the Constitution.

CHAPTER IX

PROCEDURE FOR ENACTING LAWS AND FOR PASSING RESOLUTIONS

46. (1) Every Bill for a law shall be published in the *Gazette* in Sinhala and in Tamil translation at least seven days before it is placed on the Agenda of the National State Assembly.

Publication and passing of Bills.

(2) The passage of a Bill through the National State Assembly shall be in accordance with the Standing Orders of the National State Assembly and the provisions of this Chapter.

(3) The National State Assembly may, in circumstances to be prescribed in the Standing Orders, suspend the operation of Standing Orders.

47. Except in the case where the special majority is prescribed by sections 51 and 52 any question proposed for the decision of the National State Assembly shall be decided by a majority of votes of members present and voting. The Speaker shall not vote in the first instance but shall exercise a casting vote in the event of an equality of votes.

Voting in National State Assembly.

48. (1) A Bill passed by the National State Assembly shall become a law of the National State Assembly when the certificate, as provided by section 49 is endorsed upon it. Such law may provide for the retrospective operation of any or all of its provisions or for the appointment of a date on which the law or any provision thereof shall come into operation.

When Bill becomes law.

(2) No institution administering justice and likewise no other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question the validity of any law of the National State Assembly.

49. (1) The Speaker or, when he is unable to perform the functions of his office, the Deputy Speaker shall endorse on every Bill passed by the National State Assembly, the Certificate prescribed by subsection (2) of this section.

Speaker's Certificate.

(2) The Certificate, signed by the Speaker or the Deputy Speaker, as the case may be, shall be in the following form:—

“ This law (here include the short title of the law) has been duly passed by the National State Assembly.”.

(3) The Certificate under subsection (2) of this section shall be conclusive for all purposes. No institution administering justice and likewise no other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any such Certificate.

Resolutions.

50. All resolutions of the National State Assembly, including resolutions required or authorized to be made under the provisions of the Constitution or of any law, may be passed in accordance with the procedure prescribed therefor by the Standing Orders of the National State Assembly.

CHAPTER X

SPECIAL PROCEDURE FOR LAWS AMENDING THE CONSTITUTION AND LAWS INCONSISTENT WITH THE CONSTITUTION

51. (1) No Bill for the repeal or amendment of any provision of the Constitution shall be placed on the Agenda of the National State Assembly unless the provision to be repealed or amended and consequential amendments, if any, are expressly stated in the body of the Bill, and the long title of the Bill expressly states that the Bill is for the amendment of the Constitution.

Amendment or
repeal of
Constitution
must be
express.

(2) No Bill for the repeal of the Constitution shall be placed on the Agenda of the National State Assembly unless the Bill contains provisions replacing the Constitution to be repealed and the long title of the Bill expressly states that the Bill is for the repeal and replacement of the Constitution.

(3) If in the opinion of the Speaker or when he is unable to perform the functions of his office in the opinion of the Deputy Speaker, a Bill does not satisfy the conditions in subsection (1) or subsection (2) of this section, he shall direct that such Bill be not proceeded with unless it is amended so as to satisfy the required conditions.

(4) No provision in any law shall have the legal effect of repealing or amending any provision of the Constitution by implication.

(5) No Bill for the replacement, repeal or amendment of the Constitution shall be certified under section 49 unless it is passed by two-thirds at least of the whole number of members of the National State Assembly (including those not present) voting in its favour.

52. (1) The National State Assembly may enact a law, which, in some particular or respect, is inconsistent with any provision in the Constitution without amending or repealing such provision of the Constitution provided that such law is passed by the majority required for the amendment of the Constitution.

Enactment of
laws incon-
sistent with
Constitution.

(2) A law passed under the provisions of subsection (1) of this section shall not be interpreted as amending the provisions of the Constitution with which such law is inconsistent.

Examination of Bills

Duties of
Attorney-
General in
regard to
published Bills.

53. (1) It shall be the duty of the Attorney-General to examine every Bill for any contravention of the requirements of subsections (1) and (2) of section 51 and for any provision which cannot be validly passed except by the special majority prescribed by the Constitution; and the Attorney-General or any officer assisting the Attorney-General in the performance of his duties under this subsection and subsection (4) of this section shall be afforded all facilities necessary for the performance of his duties.

(2) If the Attorney-General is of the opinion that a Bill contravenes any of the requirements of subsections (1) and (2) of section 51 or that any provision in a Bill cannot be validly passed except by the special majority prescribed by the Constitution, he shall communicate such opinion to the Speaker.

(3) If the Attorney-General is of the opinion that the Speaker should refer to the Constitutional Court the question whether a Bill contravenes any of the requirements of subsections (1) and (2) of section 51 or the question whether any provision in a Bill cannot be validly passed except by the special majority prescribed by the Constitution, he shall communicate such opinion to the Speaker.

(4) The duty of the Attorney-General under the preceding provisions of this section shall include the duty of examining all amendments proposed to a Bill and of communicating his opinion at the stage when the Bill is ready to be put to the National State Assembly for its acceptance.

Constitutional Court

Constitutional
Court.

54. (1) There shall be a Constitutional Court for the performance of the functions assigned to it by the Constitution. The President shall appoint, for a term of four years, five persons to be members of the Constitutional Court. Whenever occasion arises for the determination of any matter arising under subsection (2) of this section or of section 55, three

members of the Constitutional Court chosen in accordance with the rules of the Constitutional Court shall determine such matter.

(2) Any question as to whether any provision in a Bill is inconsistent with the Constitution shall be referred by the Speaker or, when he is unable to perform the functions of his office, the Deputy Speaker to the Constitutional Court for decision if—

(a) the Attorney-General communicates his opinion to the Speaker under section 53; or

(b) the Speaker receives within a week of the Bill being placed on the Agenda of the National State Assembly a written notice raising such a question signed by the leader in the National State Assembly of a recognized political party; or

(c) the question is raised within a week of the Bill being placed on the Agenda of the National State Assembly by written notice addressed to the Speaker and signed by at least such number of members of the National State Assembly as would constitute a quorum of the National State Assembly; or

(d) the Speaker or, when he is unable to perform the functions of his office, the Deputy Speaker takes the view that there is such a question; or

(e) the Constitutional Court on being moved by any citizen within a week of the Bill being placed on the Agenda of the National State Assembly, advises the Speaker that there is such a question.

(3) No proceedings shall be had in the National State Assembly in relation to a Bill referred to the Constitutional Court under subsection (2) of this section or of section 55 until the decision of the Constitutional Court under subsection (4) of this section or its opinion under section 55 has been given.

(4) The decision of the Constitutional Court upon a reference under subsection (2) of this section shall bind the Speaker and shall be conclusive for all purposes. No institution administering justice and

likewise no other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question a decision of the Constitutional Court.

Urgent Bills.

55. (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, the provisions of subsection (1) of section 46 and of subsection (2) of section 54 shall have no application.

(2) Such a Bill shall be referred by the Speaker or, when he is unable to perform the functions of his office, by the Deputy Speaker to the Constitutional Court which shall advise the Speaker whether—

- (a) in its opinion the provisions of the Bill are consistent with the Constitution; or
- (b) in its opinion the Bill or any provision therein is inconsistent with the Constitution; or
- (c) it entertains a doubt that the Bill or any provision therein is consistent with the Constitution.

The Constitutional Court shall communicate its advice to the Speaker as expeditiously as possible and in any case within twenty-four hours of the assembling of the Court.

(3) Such Bill shall not be placed on the Agenda of the National State Assembly until the Speaker has received from the Constitutional Court its advice as provided for in subsection (2) of this section.

(4) If the Constitutional Court advises the Speaker that this Bill or any provision therein is inconsistent with the Constitution or that the Constitutional Court entertains a doubt whether the Bill or any provision therein is consistent with the Constitution such Bill may not pass into law except with the special majority required for the amendment of the Constitution.

**Vacancies in the
Constitutional
Court.**

56. (1) A vacancy in the membership of the Constitutional Court shall arise—

- (a) upon the death of a member; or
- (b) on the resignation of a member by a writing addressed to the President; or

- (c) on the removal of a member by the President on account of ill-health or physical or mental infirmity; or
- (d) on the determination of the term for which the members of the Constitutional Court are appointed.

(2) Any vacancy referred to in subsection (1) of this section may be filled in accordance with the provisions of subsection (1) of section 54.

(3) Whenever a member of the Constitutional Court is absent from Sri Lanka, the President may appoint a person to be a member of the Court during such absence.

(4) Except as provided in the preceding provisions of this section, the membership of the Constitutional Court shall remain unaltered during the period for which it was appointed.

57. Prior to the appointment of the members of the Constitutional Court, the National State Assembly shall fix the remuneration to be paid to its members. The remuneration so fixed shall remain unaltered throughout the period of its term and shall be charged on the Consolidated Fund.

Remuneration-
of members of
the Constitu-
tional Court.

Procedure of the Constitutional Court

58. The Clerk to the National State Assembly shall be the Registrar of the Constitutional Court and shall convene the Court.

Convening of
Constitutional
Court.

59. (1) The Constitutional Court may, from time to time, subject to the provisions of the Constitution make rules of Court for regulating generally the practice and procedure of the Constitutional Court.

Constitutional
Court to re-
gulate its own
procedure.

(2) Every rule of Court shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in such rule.

(3) All rules of Court made under this section shall, as soon as convenient after their publication in the *Gazette*, be brought before the National State

Assembly for approval. Any such rule which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

Chairman.

60. The Chairman of the Constitutional Court for any occasion shall be chosen in accordance with the rules of the Constitutional Court.

Decisions of
Constitutional
Court.

61. (1) The decision of the Constitutional Court shall be by majority vote.

(2) No member of the Constitutional Court present at a session shall refrain from voting.

Sittings of
Constitutional
Court.

62. All hearings before the Constitutional Court shall be open to the public.

Constitutional
Court to hear
arguments and
who may
appear before it.

63. (1) The Attorney-General shall have the right to be heard on all matters before the Constitutional Court.

(2) The Constitutional Court may in its discretion grant to any person such hearing as may appear to the Court to be necessary before dealing with any question referred to it under subsection (2) of section 54.

(3) The Constitutional Court may if it thinks it necessary or expedient summon and hear witnesses and order the production before it of any document or other thing.

(4) No Member of the National State Assembly shall appear as an Advocate or a Proctor before the Constitutional Court.

Contempt of
Constitutional
Court.

64. (1) The Constitutional Court shall have full power and authority to take cognizance of and to try in a summary manner any offence of contempt committed against or in disrespect of its authority and on conviction to commit the offender to jail until he shall have purged his contempt or for such period as to the Court shall seem meet; and such imprisonment shall be simple or rigorous as the Court shall direct

and the offender may in addition thereto or in lieu thereof in the discretion of the Court be sentenced to pay a fine not exceeding five thousand rupees.

(2) The state officers enforcing or carrying out the orders of the Supreme Court made under its contempt jurisdiction shall in like manner enforce and carry out the orders of the Constitutional Court made under subsection (1) of this section.

65. The decision of the Constitutional Court shall be given within two weeks of the reference together with the reasons. A dissentient member of the Constitutional Court may also state his reasons for his dissent and these shall be forwarded together with the majority decision and reasons.

Time within which decision and reasons of Constitutional Court must be given.

CHAPTER XI

CONSTITUTION OF THE NATIONAL STATE
ASSEMBLY

The Franchise

Age of voting. 66. Every citizen of the age of eighteen years and over, unless disqualified as hereinafter provided, is qualified to be an elector at elections to the National State Assembly.

Citizenship laws.

67. Unless the National State Assembly otherwise provides, such laws relating to citizenship and to rights of citizens as were in force immediately before the commencement of the Constitution shall, *mutatis mutandis*, continue in force:

Provided that no law of the National State Assembly shall deprive a citizen by descent of the status of citizen of Sri Lanka.

Disqualifications to be an elector.

68. No person shall be qualified to be an elector at an election of members of the National State Assembly if he is subject to any of the following disqualifications, namely—

- (a) if he is not a citizen of Sri Lanka; or
- (b) if he is under any law in force in Sri Lanka found or declared to be of unsound mind; or
- (c) if he is serving or has during the period of five years immediately preceding completed the serving of a sentence of imprisonment (by whatever name called) for a term of six months or longer for an offence punishable with imprisonment for a term of two years or longer or is under sentence of death or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term of six months or longer awarded in lieu of execution of any such sentence:

Provided that if any person disqualified under this paragraph is granted a free pardon such disqualification shall cease from the date on which the pardon is granted;

(d) if a period of seven years has not elapsed since—

(i) the last of the dates, if any, of his being convicted of any offence under section 52 (1) or 53 of the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or of such offence under the law for the time being relating to the election of members to the National State Assembly as would correspond to an offence under either of the said two sections; or

(ii) the last of the dates, if any, of his being convicted of a corrupt practice under the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or of such offence under the law for the time being relating to the election of members to the National State Assembly as would correspond to the said corrupt practice; or

(iii) the last of the dates, if any, being a date after the commencement of the Constitution of a report made by an Election Judge finding him guilty of any corrupt practice under the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or under any law for the time being relating to the election of members to the National State Assembly; or

(iv) the last of the dates, if any, of his being convicted or found guilty of bribery under the provisions of the Bribery Act or of any future law as would correspond to the Bribery Act;

(e) if a period of five years has not elapsed since—

(i) the last of the dates, if any, of his being convicted of any offence under the provisions of sections 77 to 82 (both inclusive) of the Local Authorities Elections Ordinance or for such offence under any future law as would correspond to any offence under the said sections; or

- (ii) the last of the dates, if any, of his being convicted of an offence under the provisions of sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance or of such offence under any future law as would correspond to the said offence; or
 - (iii) the publication in the *Gazette* under the provisions of subsection (4) of section 5 of the Public Bodies (Prevention of Corruption) Ordinance or under the provisions of any future law as would correspond to such subsection of a finding against him by a Commission of Inquiry; or
- (f) if a period of three years has not elapsed since—
- (i) the last of the dates, if any, of his being convicted of an illegal practice under the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or of such offence under the law for the time being relating to the election of members to the National State Assembly as would correspond to the said illegal practice; or
 - (ii) the last of the dates, if any, being a date after the commencement of the Constitution of a report made by an Election Judge finding him guilty of any illegal practice under the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or under any law for the time being relating to the election of members to the National State Assembly.

Qualification for membership of National State Assembly.

69. Every person who is qualified to be an elector is qualified to be elected as a member of the National State Assembly unless he is disqualified under the provisions of section 70.

Disqualifications for membership of National State Assembly.

70. (1) No person shall be qualified to be elected as a Member of the National State Assembly or to sit or vote in the National State Assembly—

- (a) if he becomes subject to any of the disqualifications specified in section 68; or

(b) if he—

- (i) stands nominated as a candidate for election for more than one electoral district at a General Election; or
- (ii) stands nominated as a candidate for election for an electoral district and before the conclusion of the election for that electoral district he stands nominated as a candidate for election for any other electoral district; or
- (iii) being a Member of the National State Assembly stands nominated as a candidate for election for any electoral district; or

(c) if he is—

- (i) a Judge or other state officer referred to in section 124; or
- (ii) the Clerk to the National State Assembly or a member of his staff; or
- (iii) the Commissioner of Elections; or
- (iv) the Auditor-General; or
- (v) a state officer holding any office the initial of the salary scale of which is not less than Rs. 6,720 per annum; or
- (vi) an officer in any public corporation holding any office the initial of the salary scale of which is not less than Rs. 7,200 per annum; or
- (vii) a member of the Regular Force of the Army, Regular Naval Force or the Regular Air Force; or
- (viii) a police officer or a state officer exercising police functions; or

(d) if he has any such interest in any such contract made by or on behalf of the State or a public corporation as may be prescribed by or under a law of the National State Assembly; or

(e) if he is an undischarged bankrupt or insolvent, having been declared bankrupt or insolvent; or

(f) if during the preceding seven years he has been adjudged by a competent court or by a commission appointed under the Commissions of Inquiry Act or by a Commission appointed with the approval of the National State Assembly or by a Committee of the National State Assembly to have accepted a bribe or gratification offered with a view to influencing his judgment as a Member of the National State Assembly.

(2) A "public corporation" for the purposes of the Constitution means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance with capital wholly or partly provided by the Government by way of grant, loan or other form.

(3) For the purposes of paragraph (f) of subsection (1) of this section, the acceptance by a Member of the National State Assembly of any allowance or other payment made to him by any trade union or other organization solely for the purposes of his maintenance shall not be deemed to be the acceptance of a bribe or gratification.

Penalty for sitting or voting in the National State Assembly when disqualified.

71. Any person who—

- (a) having been elected a Member of the National State Assembly but not having been at the time of such election qualified to be so elected, shall sit or vote in the National State Assembly; or
- (b) shall sit or vote in the National State Assembly after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

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

Election of Members to the National State Assembly

72. The election of members to the National State Assembly shall be free and shall be by secret ballot.

Election to be free and secret.

73. Subject to the provisions of this Chapter, the National State Assembly may by law make provision for—

Powers of National State Assembly in respect of elections.

- (a) the registration of electors;
- (b) the preparation and revision of electoral lists;
- (c) the procedure for the election of members to the National State Assembly;
- (d) the creation of offences relating to elections and punishment therefor;
- (e) the grounds for avoiding elections; and
- (f) such other matters as are necessary or incidental to the election of members to the National State Assembly:

Provided, however, that a law made under this section shall not add to the disqualifications enumerated in section 70.

74. When a state officer is a candidate at any election, he shall be deemed to be on leave from the date on which he stands nominated as a candidate until the conclusion of the election. Such a state officer shall not during this period exercise, perform or discharge any of the powers, functions or duties of his office.

State officer not to function during period of election.

75. Until the National State Assembly provides for the matters referred to in section 73, such laws relating to or connected with the election of members of Parliament and the determination of disputed elections as were in force immediately before the commencement of the Constitution shall, subject to the provisions contained in this Chapter, apply, *mutatis mutandis*, to the said matters.

Continuance of existing laws relating to elections.

Delimitation of Electoral Districts

76. The provisions of sections 77 to 81 (both inclusive) shall apply in regard to the delimitation of electoral districts.

Delimitation of electoral districts.

Establishment
of Delimitation
Commission.

77. (1) Within one year after the completion of every general census commencing with the first general census completed after the commencement of the Constitution, the President shall establish a Delimitation Commission.

(2) Every Delimitation Commission established under this section shall consist of three persons appointed by the President who shall select persons who he is satisfied are not actively engaged in politics. The President shall appoint one of such persons to be the Chairman.

(3) If any member of a Delimitation Commission shall die, or resign, or if the President is satisfied that any such member has become incapable of discharging his functions as such, the President shall, in accordance with the provisions of subsection (2) of this section, appoint another person in his place.

Duties of
Delimitation
Commission.

78. (1) Every Delimitation Commission established under section 77 shall divide each Province of Sri Lanka into a number of electoral districts ascertained as provided in subsection (2) of this section and shall assign names thereto.

(2) The total number of persons who, according to the last preceding general census, were for the time being resident in the Province shall be ascertained to the nearest 75,000.* In respect of each 75,000* of this number the Delimitation Commission shall allot one electoral district to the Province and shall add a further number of electoral districts (based on the number of square miles in the Province at the rate of one additional electoral district for each 1,000 square miles of area calculated to the nearest 1,000) as follows:—

Western Province	...	...	1
Central Province	...	...	2
Southern Province	...	...	2
Northern Province	...	...	4
Eastern Province	...	...	4
North-Western Province	...	...	3
North-Central Province	...	...	4
Province of Uva	...	...	3
Province of Sabaragamuwa	...	...	2

* Amended to 90,000 by the First Amendment to the Constitution

(3) Subject to the provisions of subsections (4) and (5) of this section, each electoral district of a Province shall have as nearly as may be an equal number of citizens of Sri Lanka:

Provided that in dividing a Province into electoral districts, every Delimitation Commission shall have regard to the transport facilities of the Province, its physical features and the community or diversity of interest of its inhabitants.

(4) Where it appears to the Delimitation Commission that there is in any area of a Province a substantial concentration of citizens of Sri Lanka united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission may make such division of the Province into electoral districts as may be necessary to render possible the representation of that interest. In making such division the Commission shall have due regard to the desirability of reducing to the minimum the disproportion in the number of citizens of Sri Lanka resident in the several electoral districts of the Province.

(5) Notwithstanding anything in subsection (1) or subsection (4) of this section, the Delimitation Commission shall have power to create in any Province one or more electoral districts returning two or more members if the racial composition of the citizens of Sri Lanka in that Province is such as to make it desirable to render possible the representation of any substantial concentration of citizens of Sri Lanka in that Province who are united by a community of racial interest different from that of the majority of the citizens of Sri Lanka in that Province:

Provided that in any such case the number of electoral districts for that Province, as ascertained in accordance with the provisions of subsection (2) of this section, shall be reduced so that the total number of members to be returned for that Province shall not exceed the total number of electoral districts so ascertained.

Decisions of
Delimitation
Commission.

79. In the event of a difference of opinion among the members of any Delimitation Commission, the opinion of the majority of the members thereof shall be deemed to be the decision of the Commission. Where each member of the Commission is of a different opinion, the opinion of the Chairman shall be deemed to be the decision of the Commission.

Notification of
electoral dis-
tricts.

80. The Chairman of every Delimitation Commission shall communicate the decision of the Commission to the President who shall by Proclamation publish the names and boundaries of the electoral districts as decided by the Commission and the number of members to be returned by each such district. The districts specified in the Proclamation for the time being in force shall be the electoral districts of Sri Lanka for all purposes of the Constitution and of any law for the time being in force relating to the election of members to the National State Assembly.

Re-division of
electoral dis-
tricts.

81. Any re-division of the Provinces of Sri Lanka into electoral districts effected under the provisions of section 78 and any alteration consequent upon such re-division in the total number of the members of the National State Assembly shall, in respect of the election of members thereof, come into operation at the next General Election held after such re-division and not earlier:

Provided, however, that if a National State Assembly is dissolved before the publication of the Proclamation referred to in section 80, the General Election consequent on such dissolution shall be held on the basis of the electoral districts existing at the time of such dissolution.

Commissioner of Elections

Commissioner of
Elections.

82. (1) There shall be a Commissioner of Elections who shall be appointed by the President and who shall hold office during good behaviour.

(2) The salary of the Commissioner of Elections shall be determined by the National State Assembly, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(3) The office of the Commissioner of Elections shall become vacant—

- (a) upon his death; or
- (b) on his resignation in writing addressed to the President; or
- (c) on his attaining the age of sixty years; or
- (d) on his removal by the President on account of ill-health or physical or mental infirmity; or
- (e) on his removal by the President upon an address of the National State Assembly.

(4) Whenever the Commissioner of Elections is unable to perform the functions of his office, the President may appoint a person to act in the place of the Commissioner of Elections.

(5) The President may in exceptional circumstances permit a Commissioner of Elections who has reached the age of sixty years to continue in office for a period not exceeding twelve months.

83. The Commissioner of Elections shall exercise, perform or discharge all such powers, functions or duties as may be conferred or imposed on or vested in him by the laws for the time being in force relating to elections to the National State Assembly or any other written law.

Powers, functions and duties of the Commissioner of Elections.

CHAPTER XII

CONTROL OF FINANCE

Control of
National State
Assembly over
public finance.

84. The National State Assembly shall have full control over public finance. No tax, rate or any other levy shall be imposed by any local government body or any other public authority, except by or under the authority of a law passed by the National State Assembly.

Consolidated
Fund.

85. (1) The funds of the Republic not allocated by law to specific purposes shall form one Consolidated Fund into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues and receipts of the Republic not allocated to specific purposes.

(2) The interest on the public debt, sinking fund payments, the costs, charges and expenses incidental to the collection, management and receipt of the Consolidated Fund and such other expenditure as the National State Assembly may determine shall be charged on the Consolidated Fund.

Withdrawal of
sums from
Consolidated
Fund.

86. (1) Save as otherwise expressly provided in subsection (3) of this section, no sum shall be withdrawn from the Consolidated Fund except under the authority of a warrant under the hand of the Minister in charge of the subject of Finance.

(2) No such warrant shall be issued unless the sum has by resolution of the National State Assembly or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund.

(3) Where the President dissolves the National State Assembly before the Appropriation Bill for the financial year has passed into law, he may, unless the National State Assembly shall have already made provision, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date on which the new National State Assembly is summoned to meet.

(4) Where the President dissolves the National State Assembly and fixes a date or dates for a general election, the President may unless the National State Assembly has already made provision in that behalf, authorize the issue from the Consolidated Fund and the expenditure of such sums as he may, after consultation with the Commissioner of Elections, consider necessary for such elections.

87. (1) Notwithstanding any of the provisions of section 85, the National State Assembly may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

Contingencies
Fund.

(2) The Minister in charge of the subject of Finance, if satisfied—

(a) that there is need for any such expenditure, and

(b) that no provision for such expenditure exists may, with the consent of the Prime Minister, authorize provision to be made therefor by an advance from the Contingencies Fund.

(3) As soon as possible after every such advance, a Supplementary Estimate shall be presented to the National State Assembly for the purpose of replacing the amount so advanced.

88. No Bill or motion, authorizing the disposal of or the imposition of charges upon, the Consolidated Fund or other funds of the Republic, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall be introduced in the National State Assembly except by a Minister, nor unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

Special provisions as to Bills affecting public revenue.

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

Auditor-General.

(2) The salary of the Auditor-General shall be determined by the National State Assembly, shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(3) The office of the Auditor-General shall become vacant—

- (a) upon his death; or
- (b) on his resignation in writing addressed to the President; or
- (c) on his attaining the age of sixty years; or
- (d) on his removal by the President on account of ill-health or physical or mental infirmity; or
- (e) on his removal by the President upon an address of the National State Assembly.

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

Duties and
functions of
Auditor-
General.

90. (1) The Auditor-General shall audit the accounts of all Departments of Government and the accounts of local authorities and of public corporations and of any business or other undertaking vested under any written law in the Government. The Auditor-General shall also perform such duties and functions as may be prescribed by law by the National State Assembly.

(2) The Auditor-General or any person authorized by him shall, in the performance of the duties and functions under subsection (1) of this section, be entitled—

- (a) to have access to all books, records, returns and other documents;
- (b) to have access to stores and other property; and
- (c) to be furnished with such information and explanations as may be necessary for the purposes of the audit.

(3) The Auditor-General shall report to the National State Assembly annually and as and when he deems necessary on the performance of his duties and functions under the Constitution.

CHAPTER XIII

EXECUTIVE GOVERNMENT

The President and the Cabinet of Ministers

91. The President shall be responsible to the National State Assembly for the due execution and performance of the powers and functions of his office under the Constitution and under other law, including the law for the time being relating to public security.

Responsibility of President in regard to the executive.

92. (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 to the National State Assembly and answerable to the National State Assembly on all matters for which they are responsible.

Cabinet of Ministers.

(2) Of the Ministers, one who shall be the Head of the Cabinet of Ministers shall be the Prime Minister. The President shall appoint as Prime Minister the Member of the National State Assembly who, in the President's opinion, is most likely to command the confidence of the National State Assembly.

93. Upon the death or the resignation of the Prime Minister, the President shall appoint a Prime Minister who shall assume office as Prime Minister upon taking the following oath:—

Occasions for the appointment of a Prime Minister.

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

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

Ministers and their subjects and functions.

(2) The President shall appoint from among the Members of the National State Assembly Ministers to be in charge of the Ministries so determined.

(3) The Prime Minister may at any time change the assignment of subjects and functions and recommend to the President changes in the

composition of the Cabinet of Ministers. Such changes shall not affect the continuity of the Cabinet of Ministers, including the continuity of its responsibility to the National State Assembly.

Deputy
Ministers.

95. (1) The President may appoint from among the Members of the National State Assembly Deputy Ministers to assist the Ministers in the performance of their duties pertaining to the National State Assembly and to their departments and to exercise and perform such powers and duties of the Ministers under written law as may be delegated to the Deputy Ministers under subsection (2) of this section.

(2) A Minister may, by notification published in the *Gazette*, delegate to his Deputy Minister any of the powers or duties conferred or imposed on the Minister by any written law, and it shall be lawful for the Deputy Minister to exercise or perform any power or duty delegated to him under this subsection notwithstanding anything to the contrary in the written law by which that power or duty is conferred or imposed on the Minister.

Tenure of office
of Ministers
and Deputy
Ministers.

96. A Minister or a Deputy Minister shall continue to hold office throughout the period during which the Cabinet of Ministers continues to function under the provisions of the Constitution unless he—

- (a) is removed by a writing under the hand of the President; or
- (b) resigns his office by a writing under his hand addressed to the President; or
- (c) ceases, save in the circumstances set out in section 97, to be a member of the National State Assembly.

Cabinet of
Ministers during
dissolution of
National State
Assembly.

97. The Cabinet of Ministers functioning immediately prior to the dissolution of a National State Assembly shall continue to function during the period intervening between dissolution and the conclusion of the General Election.

Dissolution of
Cabinet of
Ministers.

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

(2) The provisions of subsection (1) of this section shall not operate if the death or resignation of the Prime Minister occurs in the period referred to in section 97 and in that event, the Cabinet of Ministers shall continue to function with the other Ministers as its members. The President shall appoint one from among such Ministers to be the Prime Minister.

(3) If on the death or resignation of a Prime Minister in the period referred to in section 97 there is no other Minister, the President shall exercise and perform the powers and functions of the Cabinet of Ministers functioning under section 97 until the conclusion of the General Election.

99. The Prime Minister shall be deemed to have resigned—

Occasions when
Prime Minister
is deemed to
have resigned

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

(2) if the National State Assembly rejects the Appropriation Bill or the National State Assembly passes a vote of no-confidence in the Government or the National State Assembly rejects the Statement of Government Policy at any session other than the first session of the National State Assembly and the Prime Minister does not within forty-eight hours of such rejection of the Appropriation Bill or of such passage of a vote of no-confidence in the Government or of such rejection of the Statement of Government Policy advise the President to dissolve the National State Assembly, upon such forty-eight hours having elapsed.

100. (1) If the National State Assembly rejects the Statement of Government Policy at its first session and the Prime Minister within forty-eight hours of such rejection advises the President to dissolve the National State Assembly, the President may notwithstanding such advice decide not to dissolve the National State Assembly. Upon the President so deciding, the Prime Minister shall be deemed to have resigned.

Further oc-
casions when
Prime Minister
is deemed to
have resigned.

(2) If the National State Assembly rejects the Statement of Government Policy at its first session and the Prime Minister does not within forty-eight hours of such rejection advise the President to dissolve the National State Assembly, the Prime Minister shall be deemed to have resigned upon such forty-eight hours having elapsed.

Acting Minister
and Acting De-
puty Minister.

101. Whenever a Minister or a Deputy Minister is unable to perform the functions of his office, the President may appoint any Member of the National State Assembly to act in the place of the said Minister or Deputy Minister.

Secretary
Cabinet
Ministers. to
of

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

Secretaries to
Ministries.

103. (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.

(3) For the purpose of this section the Office of the Clerk to the National State Assembly, the Department of the Commissioner of Elections, the Department of the Auditor-General and the Office of the Secretary to the Cabinet of Ministers shall be deemed not to be departments of Government.

(4) The President may transfer any Secretary to a Ministry to any other post in the State Service.

Form of oath.

104. No person appointed to any office referred to in this Chapter shall enter upon the duties of his office unless he takes the special oath prescribed for his office or where no such oath is prescribed, the oath set out in Schedule 'B'.

State Officers

Definition of
state officer.

105. A "state officer" means any person who holds a paid office as a servant of the Republic, but does not include—

- (a) the President;
- (b) a Minister or a Deputy Minister; and
- (c) a Member of the National State Assembly by reason only of the fact that he receives any remuneration or allowance as a Member.

106. (1) The Cabinet of Ministers shall be responsible for the appointment, transfer, dismissal and disciplinary control of state officers and shall be answerable therefor to the National State Assembly.

Responsibility
of Cabinet of
Ministers.

(2) Subject to the provisions of the Constitution, the Cabinet of Ministers shall have the power of appointment, transfer, dismissal and disciplinary control of all state officers.

(3) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters relating to state officers including the constitution of state services, the formulation of schemes of recruitment and codes of conduct for state officers, the procedure for the exercise and the delegation of the powers of appointment, transfer, dismissal and disciplinary control of state officers.

(4) The Cabinet of Ministers may notwithstanding any delegation of powers as is referred to in this Chapter exercise its powers of appointment, transfer, dismissal and disciplinary control of state officers.

(5) No institution administering justice shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any recommendation, order or decision of the Cabinet of Ministers, a Minister, the State Services Advisory Board, the State Services Disciplinary Board, or a state officer, regarding any matter concerning appointments, transfers, dismissals or disciplinary matters of state officers.

107. (1) Save as otherwise expressly provided by the Constitution, every state officer shall hold office during the pleasure of the President. The National State Assembly may however in respect of a state officer holding office during the pleasure of the President provide otherwise by a law passed by a majority of those present and voting.

Tenure of office
of state officers.

(2) Subject to the provisions of the Constitution, and unless the National State Assembly otherwise provides, the Services of the Government of Ceylon existing immediately prior to the commencement of the Constitution shall, *mutatis mutandis*, continue and shall be deemed to be State Services constituted under the provisions of subsection (3) of section 106.

(3) Subject to the provisions of the Constitution and until the National State Assembly otherwise provides, the rules, regulations and procedures relating to the Services of the Government of Ceylon referred to in subsection (2) of this section that were in force immediately prior to the commencement of the Constitution shall, *mutatis mutandis*, be deemed to continue in force as rules, regulations and procedures relating to state services as if they had been made or provided under the Constitution.

(4) Until provision is made under subsection (3) of section 106 in regard to the delegation of authority for appointment, transfer, dismissal and disciplinary control of state officers, the authorities to whom such powers had been delegated by the Public Service Commission immediately prior to the commencement of the Constitution, shall continue to exercise such powers.

State officers
appointed by
President.

108. The following state officers shall be appointed by the President:—

- (a) state officers required by the Constitution or by or under the authority of a written law to be appointed by the President;
- (b) the Attorney-General; and
- (c) heads of the Army, Navy and Air Force and of the Police Force.

Pensions and
Gratuities.

109. (1) All pensions, gratuities or other like allowances payable to persons who have ceased to be in the service of the Government of Ceylon or cease to be in the services of the Republic of Sri Lanka, or to widows, children or other dependants of such persons, shall be governed by the written law under which they were granted, or by any subsequent written law which is not less favourable.

(2) All pensions, gratuities and other like allowances referred to in this section shall be a charge on the Consolidated Fund.

Applicability of
sections 111 to
120.

110. (1) The provisions of the succeeding sections in this Chapter shall apply to all state officers other than—

- (a) the state officers referred to in section 35 and in section 108;

- (b) every state officer, the principal duty or duties of whose office is the performance of functions of a judicial nature;
- (c) the members of the Army, Navy and Air Force; and
- (d) the members of the President's Office or of his personal staff.

(2) Subject to the provisions of any law of the National State Assembly, any question as to whether or not an office falls within paragraph (b) of subsection (1) of this section shall be decided by the Cabinet of Ministers. Such decision shall be final and conclusive. No institution administering justice and likewise no other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any such decision.

State Services Advisory Board

111. (1) There shall be a State Services Advisory Board to exercise, perform or discharge such powers, functions or duties as are required of the State Services Advisory Board under the Constitution.

**State Services
Advisory Board.**

(2) The State Services Advisory Board shall consist of three members appointed by the President, one of whom shall be designated Chairman.

(3) No person shall be appointed or shall remain a member of the State Services Advisory Board—

- (a) if he is a Member of the National State Assembly; or
- (b) if he is a member of the State Services Disciplinary Board; or
- (c) if he is a state officer.

(4) Every member of the State Services Advisory Board shall, subject to the provisions of subsection (5) of this section, hold office for a period of four years from the date of his appointment.

(5) The office of a member of the State Services Advisory Board shall become vacant—

- (a) upon the death of such member; or

- (b) on such member resigning his office by a writing addressed to the President; or
- (c) on such member being removed from office by the President.

(6) Where the office of any member of the State Services Advisory Board becomes vacant, the President shall appoint another person in place of the member who dies, or resigns or is removed from office and the person so appointed shall hold office during the unexpired period of the term of office of the member last mentioned.

(7) Where any member of the State Services Advisory Board becomes for any cause temporarily unable to perform the duties of his office, the President may appoint another person to act in the place of such member.

(8) A member of the State Services Advisory Board may be paid such salary as may be determined by the National State Assembly. The salary payable to any such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(9) There shall be a Secretary to the State Services Advisory Board appointed by the Cabinet of Ministers.

State Services Disciplinary Board

State Services
Disciplinary
Board.

112. (1) There shall be a State Services Disciplinary Board to exercise, perform or discharge such powers, functions or duties as are required of the State Services Disciplinary Board under the Constitution.

(2) The State Services Disciplinary Board shall consist of three members appointed by the President, one of whom shall be designated Chairman.

(3) No person shall be appointed or shall remain a member of the State Services Disciplinary Board—

- (a) if he is a Member of the National State Assembly; or
- (b) if he is a member of the State Services Advisory Board; or
- (c) if he is a state officer.

(4) Every member of the State Services Disciplinary Board shall, subject to the provisions of subsection (5) of this section, hold office for a period of four years from the date of his appointment.

(5) The office of a member of the State Services Disciplinary Board shall become vacant—

- (a) upon the death of such member; or
- (b) on such member resigning his office by a writing addressed to the President; or
- (c) on such member being removed from office by the President.

(6) Where the office of any member of the State Services Disciplinary Board becomes vacant, the President shall appoint another person in place of the member who dies, or resigns or is removed from office and the person so appointed shall hold office during the unexpired period of the term of office of the member last mentioned.

(7) Where any member of the State Services Disciplinary Board becomes for any cause temporarily unable to perform the duties of his office, the President may appoint another person to act in the place of such member.

(8) A member of the State Services Disciplinary Board may be paid such salary as may be determined by the National State Assembly. The salary payable to any such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(9) There shall be a Secretary to the State Services Disciplinary Board appointed by the Cabinet of Ministers.

Appointment of State Officers

113. (1) Except where the Constitution otherwise provides, appointments to posts of Heads of Departments and to such other posts as may be prescribed by the Cabinet of Ministers shall be made by the Cabinet of Ministers after receiving the recommendation of the Minister in charge of the Ministry or the Department to which the posts are attached. No such recommendation shall be made by a Minister except after consultation with the State Services Advisory Board.

Appointments
of Heads of
Departments
and to
prescribed posts.

(2) In case the recommendation for such appointments is from amongst the state officers in service in another Ministry or Department, the recommendation of the Minister referred to in subsection (1) of this section shall be made only after consultation with the Minister in charge of that other Ministry or Department.

Appointments
to other posts.

114. Appointments to posts which do not fall under section 113 and which may be prescribed by the Cabinet of Ministers under this section may be made by the Cabinet of Ministers only after having received through the Minister in charge of the Ministry or Department to which the posts are attached, the recommendation of the State Services Advisory Board.

Delegation of
powers of
appointment.

115. (1) The Cabinet of Ministers may in accordance with the assignment of subjects and functions by the Prime Minister and subject to such conditions as may be prescribed by the Cabinet of Ministers, delegate to any Minister all or any of its powers of appointment under section 106 except the power to make the appointments referred to in sections 113 and 114.

(2) A Minister exercising the powers of appointment delegated to him under subsection (1) of this section shall do so only after receiving the recommendation of the State Services Advisory Board, and if the person to be appointed is a state officer in another Ministry or Department only after consultation with the Minister in charge of that other Ministry or Department.

Appointments
by state officers.

116. A Minister may with the concurrence of the Cabinet of Ministers delegate to any state officer subject to such conditions as may be prescribed any of the powers of appointment delegated to such a Minister under subsection (1) of section 115. Notwithstanding any such delegation, the Minister shall with the concurrence of the Cabinet of Ministers be entitled to act in regard to any matter so delegated to a state officer.

Dismissal and Disciplinary Control of State Officers

Disciplinary
action against
state officers.

117. The Cabinet of Ministers shall exercise its powers of dismissal and disciplinary control of state officers only after receiving through the Minister in charge of the Ministry or Department to which a state officer is attached, a recommendation from the State Services Disciplinary Board.

118. (1) The Cabinet of Ministers may in accordance with the assignment of subjects and functions by the Prime Minister and subject to such conditions as may be prescribed by the Cabinet of Ministers, delegate to a Minister its powers of dismissal and disciplinary control of state officers.

Delegation of
disciplinary
powers to
Minister.

(2) A Minister shall exercise the powers delegated to him under subsection (1) of this section only after receiving a recommendation from the State Services Disciplinary Board. An order made by a Minister in the exercise of his powers under this subsection shall, except where the order is one of dismissal, be final. Where the order is one of dismissal and no appeal is made against such an order in terms of subsection (3) of this section such order of dismissal shall be final.

(3) A state officer aggrieved by an order of dismissal made under subsection (2) of this section shall, subject to the procedures determined by the Cabinet of Ministers, have the right to make a single appeal against such order of dismissal to the Cabinet of Ministers who shall have the power either to confirm or vary in any manner such order of dismissal.

119. (1) A Minister may with the concurrence of the Cabinet of Ministers delegate to any state officer subject to such conditions as may be prescribed any of the powers of dismissal and disciplinary control delegated to such a Minister under subsection (1) of section 118. Notwithstanding any such delegation the Minister shall with the concurrence of the Cabinet of Ministers be entitled to act in regard to any matter so delegated to a state officer.

Delegation of
disciplinary
powers to state
officers.

(2) A state officer aggrieved by an order relating to a disciplinary matter including an order of dismissal made under the powers delegated under the preceding subsection of this section shall, subject to the procedures determined by the Cabinet of Ministers, have the right to make a single appeal against such an order to the State Services Disciplinary Board. The order of the State Services Disciplinary Board on such an appeal shall, except when it is one of dismissal, be final.

Where the order is one of dismissal and no appeal is made in terms of subsection (3) of this section such order of dismissal shall be final.

(3) A state officer aggrieved by an order of dismissal of the State Services Disciplinary Board under subsection (2) of this section shall, subject to the procedures determined by the Cabinet of Ministers, have the right to make a single appeal to the Minister referred to in subsection (1) of this section, who shall have the power to vary such order of dismissal.

Transfer of State Officers

Transfer of state
officers.

120. (1) The Cabinet of Ministers shall exercise its powers of transfer of state officers in accordance with the procedures to be prescribed by the Cabinet of Ministers.

(2) The Cabinet of Ministers may subject to such conditions as may be prescribed by the Cabinet of Ministers delegate to a Minister all or any of its powers under subsection (1) of this section.

(3) A Minister may with the concurrence of the Cabinet of Ministers delegate to any state officer subject to such conditions as may be prescribed by the Cabinet of Ministers any of the powers delegated to such Minister under subsection (2) of this section. Notwithstanding any such delegation the Minister shall with the concurrence of the Cabinet of Ministers be entitled to act in regard to any matter so delegated to a state officer.

(4) "Transfer" for the purpose of this section shall mean the moving of a state officer from one post to another post in the same service or in the same grade of the same Ministry or Department with no change in salary.

CHAPTER XIV

ADMINISTRATION OF JUSTICE

Creation of Courts

121. (1) Subject to the provisions of the Constitution, the National State Assembly may by law create and establish institutions for the administration of justice and for the adjudication and settlement of industrial and other disputes and institutions vested with the power of making decisions of a judicial or quasi judicial nature.

Creation of
Courts by
National State
Assembly.

(2) Unless the National State Assembly otherwise provides, the courts established by the Court of Appeal Act, No. 44 of 1971, the Court of Criminal Appeal Ordinance, the Courts Ordinance and the Rural Courts Ordinance and all other courts and institutions created and established by existing written law for the purposes referred to in subsection (1) of this section, shall continue to function, subject to the provisions of the Constitution. Such courts and institutions shall be deemed, *mutatis mutandis*, to derive their jurisdiction and powers under the Constitution.

(3) The powers of the highest court with original jurisdiction established by law for the administration of justice shall, except in matters expressly excluded by existing laws or laws enacted by the National State Assembly, include the power to issue such mandates in the nature of writs as the Supreme Court is empowered to issue under the existing law. The National State Assembly shall have the power to enact such laws by a majority of the Members present and voting.

(4) Subject to the provisions of the Constitution, existing written law shall, unless the National State Assembly otherwise provides, regulate the procedure of the courts and institutions referred to in subsection (2) of this section.

Judges of the Court of Appeal and the Supreme Court

122. (1) The Judges of the Court of Appeal, of the Supreme Court or of the courts that may be created by the National State Assembly to exercise and perform powers and functions corresponding or substantially similar to the powers and functions exercised and performed by the aforesaid courts shall be appointed by the President.

Judges of the
Court of Appeal
and the
Supreme Court.

(2) Every such Judge shall hold office during good behaviour and shall not be removed except by the President upon an address of the National State Assembly.

(3) Unless the National State Assembly otherwise provides, the term of office of a Judge of the Court of Appeal shall be as provided by the Court of Appeal Act, No. 44 of 1971, and the age for the retirement of Judges of the Supreme Court shall be sixty-three years.

(4) The salaries of such Judges shall be determined by the National State Assembly and shall be charged on the Consolidated Fund.

(5) The salary payable to or the age of retirement of any such Judge shall not be reduced during his term of office.

Commissioners
of Assize.

123. Commissioners of Assize under the Courts Ordinance or such persons as the National State Assembly may provide for by law to exercise and perform powers and functions corresponding or substantially similar to the powers and functions exercised and performed by the Commissioners of Assize shall be appointed by the President.

Appointment of Judges and other State Officers administering justice

Appointment,
transfer,
dismissal and
disciplinary
control of
Judges and
other State
Officers
administering
justice.

124. (1) Except as otherwise provided in sections 122 and 123, the appointment, transfer, dismissal and disciplinary control of—

(a) Judges of the Courts established under the Courts Ordinance, Presidents appointed under the Rural Courts Ordinance and Judges of Courts which may be created and established by the National State Assembly under section 121;

(b) state officers constituting Labour Tribunals under the Industrial Disputes Act or such persons as the National State Assembly may empower by law to exercise and perform powers and functions exercised and performed by such Labour Tribunals; and

- (c) all state officers the principal duty or duties of whose office is the performance of functions of a judicial nature,

shall be made or exercised in accordance with the provisions of the succeeding sections of this Chapter.

(2) The provisions of the succeeding sections of this Chapter shall apply also to the appointment, dismissal and disciplinary control of Quazis exercising jurisdiction under the Muslim Marriage and Divorce Act or under the laws for the time being relating to Muslim marriage and divorce.

125. (1) There shall be a Judicial Services Advisory Board to exercise, perform and discharge such powers, functions and duties as are required of this Judicial Services Advisory Board under the Constitution.

Judicial Services
Advisory Board.

(2) The Judicial Services Advisory Board shall consist of five members. One of such members shall be the Chief Judge of the highest court with original jurisdiction who shall be the Chairman. If the Chief Judge of the highest court with original jurisdiction is unable to function as Chairman the next senior judge of that court shall be the Chairman.

(3) The members of the Judicial Services Advisory Board other than the Chairman shall be appointed by the President. Of the members appointed by the President, one shall be from amongst the state officers referred to in paragraph (a) of subsection (1) of section 124 and another shall be from amongst the state officers referred to in paragraph (b) of subsection (1) of section 124.

(4) No person shall be appointed as or shall remain a member of the Judicial Services Advisory Board if he is a Member of the National State Assembly.

(5) Every member of the Judicial Services Advisory Board other than the Chairman shall, subject to the provisions of subsection (6) of this section, hold office for a period of four years from the date of his appointment.

(6) The office of a member of the Judicial Services Advisory Board other than that of the Chairman shall become vacant—

- (a) upon the death of such member;
- (b) on such member resigning his office by a writing addressed to the President;
- (c) on such member being removed from office by the President; or
- (d) on a member appointed from amongst the state officers referred to in paragraphs (a) and (b) of subsection (1) of section 124 ceasing to be such a state officer.

(7) Where the office of any member of the Judicial Services Advisory Board becomes vacant under subsection (6) of this section, the President shall appoint another person in place of such member and the person so appointed shall hold office during the unexpired period of the term of office of the member last mentioned.

(8) Where any member of the Judicial Services Advisory Board other than the Chairman becomes for any cause temporarily unable to perform the duties of his office, the President may appoint another person to act in the place of such member.

(9) A member of the Judicial Services Advisory Board may be paid such salary or allowance as may be determined by the National State Assembly. Any salary or allowance payable to such member shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(10) There shall be a Secretary to the Judicial Services Advisory Board appointed by the Cabinet of Ministers in consultation with the Chairman of the Judicial Services Advisory Board.

(11) The Cabinet of Ministers may in consultation with the Judicial Services Advisory Board make—

- (a) rules regarding schemes of recruitment and procedures for the appointment of judges and other state officers referred to in section 124; and

- (b) provision for such other matters as are necessary or expedient for the exercise, performance and discharge of the powers, functions and duties of the Judicial Services Advisory Board.

126. (1) The appointment of judges and other state officers referred to in section 124 shall be made by the Cabinet of Ministers after receiving the recommendation of the Judicial Services Advisory Board.

Appointment of
Judges and
other state
officers
administering
justice.

(2) Whenever the occasion arises for making any of the appointments referred to in section 124 the Judicial Services Advisory Board shall forward to the Cabinet of Ministers a list of persons recommended for appointment together with the list of applicants.

(3) The Cabinet of Ministers may appoint any person in the recommended list.

(4) The Cabinet of Ministers may appoint an applicant not in the recommended list and, if such appointment is made, the Cabinet of Ministers shall table in the National State Assembly the name of the person appointed and the reasons for not accepting the recommendation of the Judicial Services Advisory Board and the list of persons recommended by the Judicial Services Advisory Board.

(5) The Cabinet of Ministers may delegate to the Secretary to the Judicial Services Advisory Board, subject to such limitations and conditions as may be prescribed by the Cabinet of Ministers, the power to make acting appointments of Judges and other state officers referred to in section 124.

Dismissal and Disciplinary Control of Judges and other State Officers administering justice

127. (1) There shall be a Judicial Services Disciplinary Board to exercise the powers of dismissal and disciplinary control over the judges and other state officers referred to in section 124.

Judicial Services
Disciplinary
Board.

(2) The Judicial Services Disciplinary Board shall consist of three members. The Chief Judge of the highest court with original jurisdiction shall be the Chairman of the Board. Two other judges of that court nominated by the President shall be the other two members of the Board.

(3) Where any member of the Judicial Services Disciplinary Board other than the Chairman becomes for any cause temporarily unable to perform the duties of his office, the President may appoint another judge of the highest court with original jurisdiction to act in the place of such member.

(4) The Secretary to the Judicial Services Advisory Board shall be the Secretary to the Judicial Services Disciplinary Board.

(5) The Cabinet of Ministers may in consultation with the Judicial Services Disciplinary Board make—

- (a) rules of conduct for such judges and other state officers as are referred to in section 124;
- (b) rules of procedure for matters connected with the holding of disciplinary inquiries; and
- (c) provision for such other matters as are necessary or expedient for the performance of the duties of the Judicial Services Disciplinary Board.

(6) Where the Judicial Services Disciplinary Board exercises its powers of dismissal over a judge or other state officer referred to in section 124, the Judicial Services Disciplinary Board shall forward through the Minister in charge of the subject of Justice a report thereon to the Cabinet of Ministers. A copy of such report shall also be transmitted to the Speaker of the National State Assembly.

Removal for
misconduct.

128. A judge or a state officer referred to in section 124 found guilty of misconduct shall be removed from office.

Removal of
Judges and
other state
officers ad-
ministering
justice.

129. (1) Any judge or state officer referred to in section 124 may be removed for misconduct by the President on an address of the National State Assembly.

(2) The provisions of section 127 shall operate without prejudice to the provisions of subsection (1) of this section.

(3) No motion for such removal shall be placed on the Agenda of the National State Assembly until the Speaker has obtained a report from the Judicial

Services Disciplinary Board on such particulars of the charge as are alleged in the motion against a judge or state officer who is the subject of such motion.

(4) The findings of the Judicial Services Disciplinary Board on the particulars of the charge referred to it under subsection (3) of this section shall be final and shall not be debated by the National State Assembly.

(5) It shall be the duty of the Judicial Services Disciplinary Board to report to the Speaker on any charge referred to it under subsection (3) of this section:

Provided that such report may consist of the findings of the Judicial Services Disciplinary Board upon an inquiry already held or commenced on any such charge.

Transfer of Judges and other State Officers administering justice

130. (1) The Judicial Services Advisory Board shall effect the transfer of judges and other state officers referred to in section 124.

Transfer of
Judges and other
state officers
administering
justice.

(2) Subject to the procedures determined by the Cabinet of Ministers, an appeal lies from an order effecting a transfer under this section to the Minister in charge of the subject of Justice.

(3) The Judicial Services Advisory Board may, with the concurrence of the Cabinet of Ministers and subject to such conditions as may be prescribed, delegate to the Secretary, Judicial Services Advisory Board such powers as may be necessary to deal with incidental matters relating to the transfer of judges and other state officers referred to in section 124.

(4) "Transfer" for the purpose of this section shall mean a transfer not involving an increase of salary.

Independence of Persons administering justice

131. (1) Every Judge, state officer or other person entrusted by law with judicial powers or functions shall exercise such judicial powers and functions

Independence of
Judges and
state officers
Administering
Justice.

without being subject to any direction or other interference proceeding from any other person, except a superior court or institution entitled under law to direct or supervise such judge, state officer or person in the exercise or performance of such judicial powers and functions.

(2) Every person who, without legal authority therefor, interferes or attempts to interfere with the exercise or performance of the judicial powers or functions of any Judge, state officer or person referred to in subsection (1) of this section shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to one year or with fine or with both.

CHAPTER XV

CONTINUATION IN SERVICE OF JUDGES, PUBLIC SERVANTS AND OTHERS

132. Until the National State Assembly otherwise provides, every person who immediately prior to the commencement of the Constitution—

Continuation in
service of
Judges, public
servants and
others.

(a) held judicial office in any court referred to in subsection (2) of section 121; or

(b) was in the service of the Government of Ceylon, any local authority or any public corporation; or

(c) held any office in any local authority or public corporation; or

(d) held any appointment under any written law, shall continue in such service or hold such office or appointment under the same terms and conditions.

133. (1) Every state officer and such other person as is required by the Constitution to take an oath on entering upon the duties of his office, every holder of an office required under the existing law to take an official oath and every person in the service of every local authority and of every state corporation shall take the oath prescribed in Schedule 'B'. Any such state officer, person or holder of an office failing to take the prescribed oath after the commencement of the Constitution within such time as may be prescribed by the Prime Minister shall cease to be in service or hold office.

Oath of
allegiance to be
taken by state
officers and
others.

(2) The Minister in charge of the subject of Public Administration may, in his sole discretion, permit any state officer, person or holder of an office referred to in subsection (1) of this section, to take the oath referred to in that subsection after the prescribed date if he is satisfied that the failure to take the oath within the time prescribed was occasioned by illness or some other unavoidable cause. On his taking such oath, he shall continue in service or hold office as if he had taken the said oath within the time prescribed in subsection (1) of this section.

CHAPTER XVI

PUBLIC SECURITY

Public Security.

134. (1) Unless the National State Assembly otherwise provides, the Public Security Ordinance, shall, *mutatis mutandis*, and subject to the provisions of the Constitution and subsection (2) of this section, be deemed to be a law enacted by the National State Assembly.

(2) Upon the Prime Minister advising the President of the existence or the imminence of a state of public emergency, the President shall declare a state of emergency. The President shall act on the advice of the Prime Minister in all matters legally required or authorized to be done by the President in relation to a state of emergency.

*Devo vassatukālena
sāssasampattiḥetu ca
phīto bhavatu loko ca
rājā bhavatu dhammiko*

SIDDHIRASTU

SCHEDULE 'A'

(1) Ceylon (Constitution and Independence) Orders-in-Council, 1946 and 1947.

(2) Royal Titles Act.

(3) Sections 1 to 10, 13A and sections 14 and 15 of the Royal Executive Powers and Seals Act.