

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

**SEVENTEENTH AMENDMENT TO THE  
CONSTITUTION**

(Certified on 3<sup>rd</sup> October 2001)

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Seventeenth Amendment to the Constitution

(Certified on 3<sup>rd</sup> October, 2001)

L.D. – O. 47/2001.

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

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

- |    |   |  |
|----|---|--|
| 1. | This Act may be cited as the Seventeenth Amendment to the Constitution.   | Short title  |
| 2. | The Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as the “Constitution”) is hereby amended by the insertion immediately after Article 41 of the Constitution of the following new Chapter, which shall have effect as Chapter VIIA of the Constitution :- | Insertion of Chapter VIIA in the Constitution of the Democratic Socialist Republic of Sri Lanka. |

## CHAPTER VIIIA

### The Constitutional Council

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

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

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- (e) one person nominated upon agreement by the majority of the Members of Parliament belonging to political parties or independent groups other than the respective political parties or independent groups to which the Prime Minister and the Leader of the Opposition belongs and appointed by the President.

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

(3) In nominating the five persons referred To in sub-paragraph (e) of paragraph (1) of this Article, the Prime Minister and the Leader of the Opposition shall consult the leaders of the Political parties and independent groups Represented in Parliament. Three of such persons Shall, in consultation with the Members of Parliament who belong to the respective minority Communities, be nominated to represent minority Interests.

(4) The persons to be appointed or nominated As the case may be, under sub-paragraphs (d), (e) And (f) of paragraph (1) of this Article, shall be Persons of eminence and integrity who have Distinguished themselves in public life and who are not members of any political party.

(5) The President shall upon receipt of a

Written communication of the nominations under Sub-paragraph (e) or sub-paragraph (f) of Paragraph (1) of this Article, forthwith make the Respective appointments.

(6) (e) On the dissolution of Parliament, notwithstanding the provisions of paragraph (2) of Article 64 of the Constitution, the Speaker shall continue to hold office as a member of the Council, until a Member of Parliament is elected To be the Speaker under paragraph (1) of the Aforesaid Article;

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(b) Notwithstanding the dissolution of Parliament, the Leader of the Opposition shall continue to hold office as a member of the Council, until such time after a General Election Following such dissolution, A Member of Parliament is recognised as the Leader of the Opposition in Parliament.

(7) Every member of the Council appointed under sub-paragraph (e) and sub-paragraph (f) of Paragraph (1) OF THIS Article, shall hold office for a period of three years from the date of appointment as such member, unless he earlier resigns his office by writing addressed to the President, or is removed from office by the President on both the Prime Minister and the Leader of the Opposition forming an opinion that such member is physically or mentally incapacitated and is unable to function further in office, or is convicted by a court of law for any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 of the Constitution or is deemed to have vacated his office under paragraph (7) of Article 41E.

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

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(9) The member appointed under sub-paragraph (d) of paragraph (1) of this Article shall, unless earlier removed from office by the President, hold office for a period of three years.

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

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

Council to recommended appointments

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

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

(3) It shall be the duty of the Council to recommend to the President persons for appointment as Chairmen or members of the Commissions specified in the Schedule to this Article, whether the occasion for such appointment arises, and such recommendations shall reflect, the different ethnic groups.

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

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Provision is made, such person shall be removed by the President only with the prior approval of the Council.

Schedule

(a) The Election Commission.

- (b) the Public Service Commission
- (c) The National Police Commission
- (d) The Human Rights Commission of Sri Lanka
- (e) The Permanent Commission to Investigate Allegations of Bribery or Corruption
- (f) The Finance Commission
- (g) The Delimitation Commission.

Council to approve appointments.

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

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

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

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

### Schedule

#### PART I

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

Commission other than the Chairman.

## PART II

- (a) The Attorney-General
- (b) The Auditor-General
- (c) The Inspector-General of Police
- (d) The Parliamentary Commissioner for Administration (Ombudsman).
- (e) The Secretary-General of Parliament.

Secretary  
and officers  
of the  
Council

**41D.** (1) There shall be a Secretary to the Council who shall be appointed by the Council.

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

Meetings of  
The Council

**41E.** (1) The Council shall meet as often as may be necessary to discharge the functions Assigned to the Council by the provisions of this

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Chapter or by any other law, and such meetings shall be summoned by the Secretary to the Council on the direction of the Chairman of the Council.

(2) The Chairman shall preside at all meetings of the Council, and in the absence of the Chairman, the Prime Minister, and in the absence of the Prime Minister, the Leader of the Opposition shall preside at the meetings of the Council. Where the Chairman, the Prime Minister and the Leader of the Opposition are all absent from any such meeting, the members present shall elect a member from among themselves to preside at such meeting.

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

(4) The Council shall endeavour to make every recommendation, approval or decision it is required to make by unanimous decision, and in the absence of an unanimous decision, no

recommendation, approval or decision made shall be valid, unless supported by not less than five members of the Council present at such meeting.

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

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

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

Council to perform other duties.

**41F.** The Council shall perform and discharge such other duties and functions as may be imposed or assigned to the Council by the Constitution, or by any other law.

Expenses to be charged on the Consolidated Fund.

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

Finality of Decisions of The Council.

**41H.** Subject to the provisions of paragraphs (1),(2),(4), and (5) of Article 126, no court shall have the power or jurisdiction to entertain, hear or decide or call in question on any ground whatsoever, or in any manner whatsoever, any decision of the Council or any approval or recommendation made by the Council, which decision, recommendation or approval shall be final and conclusive for all purposes.

Amendment of Article 52 of the Constitution is hereby amended by the repeal of paragraph (7) of that Article, and the substitution thereof of the following paragraph:-

“(7) For the purposes of this Article –

- (a) the Office of the secretary-General of Parliament, the Office of the Parliamentary Commissioner for Administration (Ombudsman), the Constitutional Council, the Public Service Commission, the Election Commission, the National Police Commission and the Office of the Secretary to the Cabinet of Ministers; and
- (b) the Department of the Auditor-General,

shall be deemed not to be departments of Government.”

4. Chapter IX of the Constitution is hereby repealed and the following Chapter substituted therefor:-

Replacement of Chapter IX of the Constitution.

## CHAPTER IX

### The Executive

#### The Public Service

Public Service Commission.

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

(2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Council or a local authority.

(3) Every person who immediately before his appointment as a member of the Commission was a public officer in the service of the State or a judicial officer, shall, upon such appointment taking effect cease to hold such office and shall be ineligible for further appointment as a public officer or a judicial officer.

Ceases to be a member of the Public Service Commission, or while continuing to be a member, attains the age at which he would, if he were a public officer or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer and to hold a pensionable office in the service of the State, for the purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

(4) Every member of the Commission shall hold office for a period of three years from the date of his appointment, unless he becomes subject to any disqualification under paragraph (2) of this Article or earlier resigns from his office by writing addressed to the President or is removed from office by the President on the recommendation of the Constitutional Council or is convicted by a court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated this office under paragraph (5) of this Article.

(5) A member of the Commission shall be eligible for reappointment as a member, but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.

(6) A member of the Commission who without obtaining prior leave of the Commission absents himself from three consecutive meetings of the Commission, shall be deemed to have vacated office with effect from the date of the

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third of such meetings, and shall not be eligible thereafter to be reappointed as a member of the Commission.

(7) The President may grant a member leave from the performance of his duties relating to the Commission for a period not exceeding two months and shall for the duration of such period on the recommendation of the Constitutional Council, appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave.

(8) A member of the Commission shall be paid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished During the term of office of such member.

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

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

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

Powers and functions of Cabinet of Ministers and of the commission.

**55.** (1) The appointment, promotion, transfer, disciplinary control and dismissal of public officers shall be vested in the Commission.

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

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(3) Notwithstanding the provision of paragraph (1) of this Article, the appointment, promotion, transfer, disciplinary control and dismissal of all Heads of Departments shall vest in the Cabinet of Ministers, who shall exercise such powers after ascertaining the views of the Commission.

(4) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters of policy relating to public officers.

(5) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise and discharge of its powers and functions, and shall forward to Parliament in each

calendar year, a report of its activities for such year.

Committees  
Of the  
Commission.

**56.** (1) The Commission may delegate to a Committee consisting of three persons (not being members of the Commission) appointed by the Commission, the powers of appointment, promotion, transfer, disciplinary control and dismissal of such categories of public officers as are specified by the Commission.

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

(3)The procedure and quorum for meetings of any such committee shall be as determined by the Commission by rules made in that behalf. The Commission shall cause such rules to be Published in the Gazette.

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(4)there shall be a Secretary to each Committee, who shall be appointed by the Commission.

Delegation

**57.** (1) The Commission may delegate to a public officer subject to such conditions and procedure as may be determined by the Commission, its powers of appointment, promotion, transfer, disciplinary control and dismissal of such category of public officers as are specified by the Commission.

(2)The Commission shall cause any such delegation to be published in the Gazette, including the condition and procedure determined by the Commission for such purpose.

Right of  
appeal

**58.** (1) Any public officer aggrieved by an Order relating to a promotion, transfer, dismissal or an order on a disciplinary matter made by a Committee or any public officer under Article 56 Or article 57, in respect of the officer so aggrieved, may appeal to the Commission against such order in accordance with such rules made by the Commission from time to time, relating to the Commission from time to time, relating to the Procedure to be followed in the making, hearing And determination of an appeal made to the Commission and the period fixed within which

An appeal should be heard and concluded.

(2)The Commission shall have the power upon such appeal to alter, vary, rescind or confirm an order against which an appeal is made, or to give directions in relation thereto, or to order such further or other inquiry as to the Commission shall seem fit.

(3)The Commission shall cause to be published in the Gazette the rules made by it under paragraph (1) of this Article.

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Administrative Appeals Tribunal. **59.** (1) There shall be an administrative Appeals Tribunal appointed by the Judicial Service Commission.

(2) The Administrative Appeals Tribunal shall have the power to alter, vary or rescind any order or decision made by the Commission .

Commission Not to Exercise Power where There is **60.** Upon delegation of any of its powers to a Committee or a public officer appointed under Article 56 or Article 57 as the case may be, the Commission shall not, while such delegation is in force, exercise or perform its functions or duties in regard to the categories of public officers in respect of which such delegation is made, subject to the provisions contained in paragraphs (1) and (2) of Article 58.

Procedure at Meetings **61.** (1) The quorum for a meeting of the Commission shall be five members.

(2) All decisions of the Commission shall be made by a majority of votes of the members present at the meeting. In the event of an equality of votes, the member presiding at the meeting shall have a casting vote.

(3) The Chairman of the Commission shall preside at all meetings of the Commission, and in his absence, a member elected by the members present from amongst themselves, shall preside at such meeting.

Immunity From legal Proceedings **61A** , Subject to the provisions of paragraphs (1), (2), (3), (4) and (5) of Article 126, no court or tribunal shall have power or jurisdiction to

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inquire into, or pronounce upon or in any manner call in question any order or decision made by the Commission, a Committee, or any public officer, in pursuance of any power or duty conferred or imposed on such Commission, or delegated to a Committee or public officer, under this Chapter or under any other law.

Savings of Rules and Regulations In force

**61B** Until the Commission otherwise provides, all rules, regulations and procedures relating to the public service as are in force on the date of the coming into operation of this Chapter, shall, mutatis mutandis, be deemed to continue in force as rules, regulations and procedures relating to the public services if they had been made or provided for under this Chapter

Interference With the Commission

**61C** (1) Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person, in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission, or a Committee or a public officer to whom the Commission has delegated any power under this Chapter, or to so influence any member of the Commission or a Committee, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

(3) Every High Court established under Article 154P of the Constitution shall have Jurisdiction to hear and determine any matter Referred to in paragraph (1) of this Article.

Oath or affirmation of office

**61D.** A person appointed to any office referred to in this Chapter shall not enter upon the duties of his office until he takes and

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Subscribes the oath or makes and subscribes the affirmation set out in the Fourth Schedule to the Constitution.

Appointments by the President

**61E.** The President shall appoint –  
(a) the heads of the Army, the Navy and the Air Force; and

- (c) subject to the provisions of Article 41C, the Attorney-General and the Inspector-General of Police.

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

Amendment of      **5.** Article 65 of the Constitution is hereby amended as follows:

- (1) in paragraph (1) of that Article, by the Substitution for the words “shall be appointed by the President” of the words “shall, subject to the provisions of Article 41C, be appointed by the President”: and
- (2) in paragraph (6) of that Article, by the substitution for the words “President may appoint a person”, of the words “President may, subject to the provisions of Article 41C, appoint a person”.

Amendment of      **6.** Article 89 of the constitution is hereby amended in paragraph (j) of that Article, by the substitution for the worlds and figures “Article 116” of the words and figures “Article may be”  
Article 89 of the Constitution

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**7.** Article 91 of the Constitution is hereby amended in paragraph (1) thereof as follows :-

Amendment of  
Article 91 of the  
Constitution

- (1) by the insertion immediately after sub-paragraph (d)(iv) of that paragraph, of the following new sub-paragraph :-

“(iva) a member of a Provincial Public Service Commission.”

- (2) by the substitution for sub-paragraph (d)(v) of that paragraph, of the following sub-paragraph :-

“(v) the Commissioner-General of Elections.”;

- (3) by the insertion immediately after sub-paragraph (d)(v) of that paragraph, of the following new sub-paragraphs :-

“(va) a member of the Election Commission,

(vb) a member of the Constitutional Council,

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

(4) by the insertion immediately after sub-paragraph (d)(viii) of that paragraph, of the following new sub-paragraph :-

“(viiia) an officer of a Provincial Public Service holding any office created after February 01.1988, the initial of the salary scale of which is, on the date of the creation of that office, not less than such amount as determined by resolution of Parliament, or such other amount per annum as would, under any subsequent revision of such salary scales, correspond to such initial,”

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Repeal of Articles 103 and 104 of the Constitution. **8.** Article 103 and Article 104 of the Constitution are hereby repealed.

Insertion of Chapter XIVA in the Constitution **9.** The following new Chapter is hereby inserted immediately after Article 102 of the Constitution and shall have effect as Chapter XIVA of the Constitution :-

#### CHAPTER XIVA

##### Election Commission

Election Commission **103.** (1) There shall be an Election Commission (in this Chapter referred to as the “Commission”) consisting of five members appointed by the President on the recommendation of the Constitutional Council, from amongst persons who have distinguished themselves in any profession or in the fields of administration or education. The President shall on the recommendation of the Constitutional Council, appointed one member as its Chairman.

(2)The object of the Commission shall be to conduct free and fair elections and Referenda.

(3)No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Council or a local authority, or is or appointed a judicial officer or

public officer, or is or enters into the employment of the State in any capacity whatsoever.

(4)the provisions of the Constitution and any other law relating to the removal of judges of the Supreme Court and the Court of Appeal from Office shall, mutatis mutandis, apply to the Removal of a member of the Commission from Office.

(5)A member of the Commission who without obtaining prior leave of the Commission, absents himself from three consecutive meetings

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of the Commission, shall be deemed to have vacated office with effect from the date of the third of such meetings.

(6)A member of the Commission shall hold office for a period of five years from the date of appointment, unless he becomes subject to any disqualification under paragraph (3) of this Article or earlier resigns from office by writing addressed to the President or is removed from office under paragraph (4) of this Article, or is convicted by a court of law of any offence involving moral turpitude, or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated office under paragraph (5) of this Article.

(7)The President may grant a member leave from the performance of his duties relating to the commission for a period not exceeding two months and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave. Every such appointment shall be made on the recommendation of the Constitutional Council.

(8)A member of the Commission shall be maid such emoluments as may be determined by Parliament. The emoluments paid to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during the term of office of the member.

(9) all members of the Commission shall be deemed to be public servants within the meaning

and for the purposes of Chapter IX of the Penal Code.

Meeting of the Commission **104.** (1) The quorum for any meeting of the Commission shall be three members.

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(2)(a) The Chairman of the Commission shall preside at all meetings of the Commission and, in the absence of the Chairman from any meeting of the Commission, a member elected by the members present from amongst themselves shall preside at such meeting.

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

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

Finality of decisions and immunity from suit.

**104A** Subject to the jurisdiction conferred on the Supreme Court under paragraph (1) of Article 126, Article 104H and Article 130, and on the Court of Appeal by Article 144, and the Jurisdiction conferred on any court by any law to hear and determine election petitions or Referendum petitions :-

(a) no court shall have the power jurisdiction to entertain or hear or decide or call in question on any ground and in any manner whatsoever, any decision, direction or act of the Commission, made or done or purported to have been made or done under the Constitution or under any law relating to the holding of an election or the conduct of a Referendum as the case may be, which decisions, directions or acts shall be final and conclusive; and

- (b) no suit or prosecution or other proceeding shall lie against any member or officer of the Commission for any act or thing which in good faith is done or purported to be done by him in the performance of his duties or the discharge of his functions under the constitution or under any law relating to the holding of an election or the conduct of a Referandum as the case may be.

Powers,  
functions  
and duties of  
the  
Commission

**104B.** (1) The Commission shall exercise, perform any discharge all such powers, duties and functions conferred or imposed on or assigned to –

- (a) the Commission; or
- (b) the Commissioner-General of Elections

by the Constitution, and by the law for the time being relating to the election of the President, the election of Members of Parliament, the election of members of Provincial Councils, the election of members of local authorities and the conduct of Referenda, including but not limited to all the powers, duties and functions relating to the preparation and revision of registers of electors for the purposes of such elections and Referenda and the conduct of such elections and Referenda.

(2) It shall be the duty of the Commission to secure the enforcement of all laws relating to the holding of any such election or the conduct of Referenda and it shall be the duty of all authorities of the State charge with the enforcement of such laws, to co-operate with the Commission to secure such enforcement.

(3) The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament

For the exercise, performance and discharge of Its powers, duties and functions and shall forward To parliament for each calendar year a report of Its activities for such year.

(4)(a) The Commission shall have the power during the period of an election, to prohibit the use of any movable or immovable property belonging to the State or any public corporation –

(i) for the purpose of promoting or preventing the election of any candidate or any political party or independent group contesting at such election;

(ii) by any candidate or any political party or any independent group contesting at such election,

by a direction in writing by the Chairman of the Commission or of the Commissioner-General of Elections on the instruction of the Commission.

(b) It shall be the duty of every person or officer in whose custody or under whose control such property is for the time being to comply with and give effect to such direction.

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

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(b) It shall be the duty of the Chairman of the Sri Lanka Broadcasting Corporation and the Chairman of the Sri Lanka Rupavahini Corporation, to take all necessary steps to ensure compliance with any guidelines as are issued to them under sub-paragraph (a).

(c) Where the Sri Lanka Broadcasting Corporation and the Sri Lanka Rupavahini Corporation as the case may be, contravenes any guidelines issued by the Commission under sub-Paragraph (a), the Commission may appoint a competent Authority by name or by office, who shall, with effect from the date of such appointment, take over the management of such Broadcasting Corporation or Rupavahini Corporation as the case may be, in respect of all Political broadcasts or any other broadcast, which in the opinion of the Commission impinge on the

election, until the conclusion of the election and the Sri Lanka broadcasting Corporation and the Sri Lanka Rupavahini Corporation, shall not during such period, discharge any function connected with or relating to such management which is taken over by the Competent Authority.

(d)Parliament may by law provide for the powers and functions of the Competent Authority appointed under sub-paragraph (c).

Deployment  
Of Police by  
The  
Commission

**104C.** (1) Upon the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case may be, the Commission shall notify the Inspector-General of Police of the facilities and the number of police officers required by the Commission for the holding or conduct of such election or Referendum, as the case may be.

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(2)The Inspector-General of Police shall make available to the Commission the facilities and police officers specified in any notification made under paragraph (1) of this Article.

(3)The Commission may deploy the police officers and facilities made available to the Commission in such manner as is calculated to promote the conduct of a free and fair election or Referendum, as the case may be.

(4)Every police officer made available to the Commission under paragraph (2) of this Article, shall be responsible to and act under the direction and control of the Commission during the period of an election.

(5)No suit, prosecution or other proceeding, shall lie against any police officer made available to the Commission under this Article for any lawful act or thing in good faith done by such police officer, in pursuance of a direction of the Commission or his functioning under the Commission.

Deployment  
Of Armed  
Forces

**104D.** It shall be lawful for the Commission upon the making of an Order for the holding of an election or the making of a Proclamation requiring the conduct of a Referendum, as the case may be, to make recommendations to the President regarding the deployment of the armed

forces of the Republic for the prevention or control of any actions or incidents which may be prejudicial to the holding or conducting of a free and fair election or referendum, as the case may be.

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Commissioner  
General of  
Elections  
and other  
officers of  
the  
Commission

**104E.** (1) There shall be a Commissioner-General of Elections who shall, subject to the approval of the Constitutional Council, be appointed by the Commission on such terms and conditions as shall be determined by the Commission.

(2) The Commissioner-General of Elections shall be entitled to be present at meetings of the Commission, except where any matter relating to him is being considered by the Commission. He shall have no right to vote at such meetings.

(3) The Commission may appoint such other officers to the Commission on such terms and conditions as may be determined by the Commission.

(4) The salaries of the Commissioner-General of Elections and the other officers of the Commission, shall be determined by the Commission and shall be charged on the Consolidated Fund.

(5) The Commissioner-General of Elections shall, subject to the direction and control of the Commission, implement the decisions of the Commission and exercise supervision over the Officers of the Commission.

(6) The Commission may delegate to the Commissioner-General of Elections or other Officer of the Commission, any power, duty or function of the Commission, and the Commissioner-General of Elections or such Officer shall exercise, perform and discharge such Power, duty or function, subject to the direction and control of the Commission.

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(7) The office of the Commissioner-General of Elections shall become vacant –

- (a) upon his death
- (b) on his resignation in writing addressed to the Commission;
- (c) on his attaining the age of sixty five years ;
- (d) on his removal by the Commission on account of ill health or physical or mental infirmity; or
- (d) on his removal by the Commission on the presentation of an address of Parliament in compliance with the provisions of paragraph (8), for such removal on the ground of proved misbehaviour or incapacity.

(8)(a) The address referred to in subparagraph (e) of paragraph (7) of this Article shall be required to be supported by a majority of the total number of Members of Parliament (including those not present) and no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of Parliament, unless notice of such Resolution is signed by not less than one-third of The total number of Members of Parliament and Sets out full particulars of the alleged Misbehaviour or incapacity.

(b)Parliament shall by law or by Standing Orders, provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehaviour or incapacity and the right of the Commissioner-General of Elections to appear and to be heard in person or by representatives.

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Returning  
Officers

**104F.** (1) The Commission shall from time to time by notice published in the Gazette appoint by name or by office a person to be a Returning Officer to each electoral district, and may appoint by name or by office one or more persons to assist the Returning Officer in the performance of his duties.

(2)Every Officer appointed under paragraph (1)shall in the performance and discharge of such duties and functions as are assigned to him, be

subject to such directions as may be issued by the Commission and shall be responsible and answerable to the Commission therefor.

Public  
Officers

**104G.** All public officers performing duties and functions at any election or Referenda shall act in the performance and discharge of such duties and functions under the directions of the Commission, and shall be responsible and answerable to the Commission therefor.

Power of  
Supreme  
Court to  
issue writs.

**104H.** (1) The jurisdiction conferred on the Court of Appeal under Article 140 of the Constitution shall, in relation to any matter that may arise in the exercise by the Commission of the powers conferred on it by the Constitution or by any other law, be exercised by the Supreme Court.

(2) Every application invoking the jurisdiction referred to in paragraph (1), shall be made within one month of the date of the commission of the act to which the application relates. The Supreme Court shall hear and finally dispose of the application within two months of the filing of the Same.

Interpretation.

**104J.** In this Chapter “during the period of Election” shall mean the period commencing On the making of a Proclamation or order for the

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Conduct of a Referendum or for the holding of an Election, as the case may be, and ending on the Date on which the result of pool taken at such Referendum or election, as the case may be, is Declared.

Amendment of  
Article 107 of the  
Constitution

**10.** Article 107 of the Constitution is hereby amended in Paragraph (1) of that Article, by the substitution for the words “shall be appointed by the President of the Republic by warrant Under the hand”, of the words “shall, subject to the provisions Of Article 41C, be appointed by the President by warrant under His hand”.

Amendment of  
Article 109 of the  
Constitution

**11.** Article 109 of the Constitution is hereby amended as follows:

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

- (3) in paragraph (2) of that Article, by the substitution for the words “the President may appoint”, of the words “the President may, subject to the provisions of Article 41C, appoint”.

Amendment of Article 111 of the Constitution. **12.** Article 111 of the Constitution is hereby amended as follows -

- (1) by the repeal of paragraph (2) of that Article and the substitution therefore of the following paragraph :-

“(2) the Judges of the High Court shall –

- (a) on the recommendation of the Judicial Service Commission, be appointed by the President by warrant under his hand and such recommendation shall be made after consultation with the Attorney-General;
- (b) be removable and be subject to the disciplinary control of the President on the recommendation of the Judicial Service Commission”; and

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- (2) by the addition immediately after paragraph (3) of that Article, of the following new paragraph : -

“(4) Any Judge of the High Court may resign his office by writing under his hand addressed to the President”.

**13.** Article 111A of the Constitution is hereby amended in paragraph (1) of that Article, by the substitution for the words “the President may, by warrant, appoint” of the words “the President may, on the recommendation of the Judicial Service Commission, by warrant, appoint”

Amendment of Article 111A of the Constitution

**14.** The following Article is hereby inserted immediately after Article 111A of the Constitution, and shall have effect as Article 111B of the Constitution :-

Insertion of new Article 111B in the Constitution

Fiscal for The whole Island

111B. There shall be a Fiscal, who shall the Fiscal for the whole Island and who shall exercise supervision and control over Deputy Fiscals attached to all Courts of First Instance”.

**15.** Article 116 of the Constitution is hereby re-numbered as Article 111C of the Constitution.

Re-numbering of Article 116 of the Constitution as

Article 111c.

**16.** The following new Chapter is hereby inserted immediately after Article 111C of the Constitution, and shall have effect as Chapter XVA OF THE Constitution :-

Insertion of Chapter XVA in the Constitution

## CHAPTER XVA

### JUDICIAL SERVICE COMMISSION

Constitution  
Of the  
Judicial  
Service  
Commission

**111D.** (1) There shall be Judicial Service Commission (in this Chapter referred to as the “Commission”) consisting of the Chief Justice and two other Judges of the Supreme Court appointed by the president, subject to the Provisions of Article 41C.

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

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Meetings of  
The  
Commission

**111E.** (1) The quorum for any meeting of the Commission shall be two members of the Commission.

(2) A Judge of the Supreme Court appointed As member of the Commission shall, unless he Earlier resigns his office or is removed therefrom As hereinafter provided or ceases to be a Judge of The Supreme Court, hold office for a period of Three years from the date of his appointment, but Shall be eligible for re-appointment.

(3) All decisions of the Commission shall be Made by majority of the members present, and In the event of an equality of votes, the Chairman Of the meeting shall have a casting vote.

(4) The Commission shall have power to act Notwithstanding any vacancy in its membership And no act or proceeding of the Commission shall Be, or be deemed to be invalid by reason only of Such vacancy or any defect in the appointment of A member.

(5) The president may grant to any member Of the Commission leave from his duties and may Appoint on the recommendation of the Constitutional Council, a person qualified to be A member of the commission to be temporary Member for the period of such leave.

(6) The president may, on the recommendation of the Constitutional Council for cause assigned, remove from office any member of the Commission.

Allowances  
Of members  
Of the  
Commission.

**111F.** A member of the Commission shall be paid such allowances as may be determined by parliament. Such allowances shall be charged On the Consolidated Fund and shall not be reduced During the period of office of member, and shall Be in addition to the salary and other allowances Attached to. And received from. The substantive Appointment :-

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Provided that until the amount to be paid as Allowances is determine under the provisions of This Article, the members of the Commission shall Continue to receive as allowances, such amount as they were receiving on the day immediately preceding the date on which this Chapter comes into operation.

Secretary to  
the  
Commission

**111G.** There shall be a Secretary to the Commission who shall be appointed by the Commission from among senior judicial officers Of the Courts of First Instance.

Powers of  
the  
Commission

**111H.** (1) The Judicial Service Commission is hereby vested with the power to –

- (a) transfer judges of the High Court;
- (b) appoint, promote, transfer, exercise disciplinary control and dismiss judicial officers and scheduled public officers.

(2) The Commission may make –

- (a) rules regarding training of Judges of the High Court, the schemes for recruitment and training, appointment, promotion and public officers;
- (b) provision for such matters as are necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the Commission.

(3) The Chairman of the Commission or any Judge of the Supreme Court or Judge of the Court

of Appeal as the case may be, authorized by the Commission shall have power and authority to

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Inspect any Court of First Instance, or the records, Registers and other documents maintained in such Court or hold such inquiry as may be necessary.

(4)The Commission may by Order published in the Gazette delegate to the Secretary to the Commission the power to make transfers in respect of scheduled public officers, other than transfers involving increase of salary, or to make acting appointments in such cases and subject to Such limitations as may be specified in the Order.

Judicial officers and scheduled public officers may resign.

**111J.** Any judicial officer or scheduled public officer may resign his office by writing under his hand addressed to the Chairman of the Commission.

Immunity from legal proceedings.

**111K.** No suit or proceeding shall lie against the Chairman, member or Secretary or officer of the Commission for any lawful act which in good faith is done in the performance of his duties or functions as such Chairman, member, Secretary or officer of the Commission.

Interference With the Commission An offence.

**111L.** (1)Every person who otherwise than in the course of such persons lawful duty, directly or indirectly, alone or by or with any other person, In any manner whatsoever, influences or attempts To influence any decision or order made by the Commission or to so influence any member Thereof, shall be guilty of any offence and shall on Conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Provided however that the giving of a certificate or testimonial to any applicant or candidate for any judicial office or scheduled public officer shall not be an offence.

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(2)Every High Court established under

Article 154P of the Constitution shall have  
Jurisdiction to hear and determine any matter  
Referred to in paragraph (1)

Interpretation

**111M.** (a) In this Chapter –

“appointment” includes the appointment to act  
in any office referred to in this Chapter.

“judicial officer” means any person who holds  
office as judge, presiding officer or  
member of any Court of First instance,  
tribunal or institution created and  
established for the administration of  
justice or for the adjudication of any  
labour or other dispute, but does not  
include a Judge of the Supreme Court  
or of the Court of Appeal or of the High  
Court or a person who performs arbitral  
functions, or a public officer whose  
principal duty is not the performance of  
functions of a judicial nature; and

“scheduled public officer” means the Registrar  
of the Supreme Court, the Registrar of  
the Court of Appeal, the Registrar,  
Deputy Registrar or Assistant Registrar  
of the High Court or any Court of First  
Instance, the Fiscal, the Deputy Fiscal  
of the Court of Appeal or High Court  
and any Court of First Instance, any  
public officer employed in the Registry  
of the Supreme Court, Court of Appeal  
or High Court or any Court of First  
Instance included in a category specified  
in the Fifth Schedule or such other  
categories as may be specified by Order

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made by the Minister in charge of the  
subject to Justice and approved  
by Parliament and published in the  
Gazette.

(b) No court, tribunal or institution shall have  
jurisdiction to entertain or to determine the  
question whether or not a person is a judicial  
officer within the meaning of the Constitution  
but such question shall be determined solely by  
the Commission, whose decision thereon shall be  
final and conclusive.

(c) No act or such person or proceeding held

before such person, prior to such determination as is referred to in sub-paragraph (b), shall be deemed to be invalid by reason of such determination.

Repeal of Articles 112,113,113A, 114,115 and 117 of the Constitution

**17.** Articles 112, 113, 113A, 114, 115 and 117 of the Constitution are hereby repealed.

Amendment of Article 153 of the Constitution

**18.** Article 153 of the Constitution is hereby amended as follows:

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

Amendment of Article 154R of The Constitution.

**19.**Article 154R of the Constitution is hereby amended in sub-paragraph (c) of paragraph (1) of that Article, by the Substitution for the words “three other members to represent”.

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Of the words “three other members who are appointed by the President on the recommendation of the Constitutional Council, to represent”.

**20.**The following new Chapter is hereby inserted immediately after Article 155 of the Constitution and shall have effect as Chapter XVIIIA of the Constitution :-

Insertion of new Chapter XVIIIA in the Constitution

#### “CHAPTER XVIIIA

#### National Police Commission

Constitution Of the National Police Commission.

**155A.**(1) There shall be a National Police Commission (in this Chapter referred to as the “Commission”) consisting of seven members appointed by the President on the recommendation of the Constitutional Council. The Constitutional Council may, in making its recommendation, consult the Public Service Commission. The President shall on the recommendation of the Constitutional Council appoint one member as the Chairman.

(2) No person shall be appointed as a member of the Commission or continue to hold office as such member if he is or becomes a member of Parliament, a Provincial Council or a local authority.

(3) Every person who immediately before his appointment as a member of the Commission was a public officer in the service of the State or a judicial officer, shall upon such appointment taking effect, cease to hold such office, and shall be ineligible for further appointment as a public officer or a judicial officer.

Provided that any such person shall, until he ceases to be a member of the Commission, or while continuing to be a member, attain the age

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at which he would, if he were a public officer or a judicial officer, as the case may be, be required to retire, be deemed to be a public officer or a judicial officer and to hold a pensionable office in the service of the State, for the purpose of any provision relating to the grant of pensions, gratuities and other allowances in respect of such service.

(4) Every member of the Commission shall hold office for a period of three years from the date of his appointment, unless he becomes subject to any disqualification under paragraph (2) of this Article, or earlier resigns from his office by writing addressed to the President or is removed from office by the President on the recommendation of the Constitutional Council or is convicted by a Court of law of any offence involving moral turpitude or if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81 or is deemed to have vacated his office under paragraph (6) of this Article.

(5) A member of the Commission shall be eligible for reappointment as a member, but shall not be eligible for appointment as a public officer or a judicial officer after the expiry of his term of office as a member. No member shall be eligible to hold office as a member of the Commission for more than two terms.

(6) In the event of the Chairman or a member of the Commission absenting himself from three

consecutive meetings of the Commission without the prior leave of the Commission, he shall be deemed to have vacated his office from the date of the third of such meetings and shall not be eligible to be reappointed as a member or as Chairman of the Commission.

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

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

Meetings of the Commission

**155B.** (1) The quorum for a meeting of the Commission shall be four members.

(2)The Chairman shall preside at all meetings of the Commission and in his absence a member elected by the members present from amongst the members shall preside at such meeting.

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

(4)The Commission shall have power to act notwithstanding an vacancy in its membership, and any act or proceeding or decision of the Commission shall not be invalid or deemed to be invalid by reason only of such vacancy or any defeat in the appointment of the Chairman or member.

Immunity From legal Proceedings.

**155C.**(1)Subject to the jurisdiction conferred on the Supreme Court under paragraph (1)of Article 126, no court or tribunal shall have The power or jurisdiction to inquire into, or

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pronounce upon or in any manner call in question any order or decision made by the Commission or a Committee, in pursuance of any power or

duty, conferred or imposed on such Commission or Committee under this Chapter or under any other law.

Secretary to the Commission

**155D.** There shall be a Secretary to the Commission and such other officers appointed by the Commission on such terms and conditions as may be determined by the Commission.

Costs and Expenses

**155E.** The costs and expenses of the Commission shall be a charge on the Consolidated Fund.

Interference With the Commission

**155F.**(1) Every person who, otherwise than in the course of such person's lawful duty, directly or indirectly by himself or by or with any other person, in any manner whatsoever influences or attempts to influence or interferes with any decision of the Commission or a Committee, or to so influence any member of the Commission or a Committee, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

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

Powers of the Commission

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

### 38 Seventeenth Amendment to the Constitution

Promotion, transfer, disciplinary control and Dismissal in consultation with the Inspector General of Police.

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

(2) The Commission shall establish procedures to entertain and investigate public complaints and complaints of any aggrieved

person made against a police officer or the police service, and provide redress in accordance with the provisions of any law enacted by Parliament for such purpose.

(3)The Commission shall provide for and determine all matters regarding police officers, including the formulation of schemes of recruitment and training and the improvement of the efficiency and independence of the police service, the nature and type of the arms, ammunition and other equipment necessary for the use of the National Division and the Provincial Divisions, codes of conduct, and the standards to be followed in making promotions and transfers, as the commission may from time to time consider necessary or fit.

(4)The Commission shall exercise all such powers and perform all such functions and duties as are vested in it under Appendix 1 of List I contained in the Ninth Schedule of the Constitution.

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Committees  
Of the  
Commission.

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

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

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

Delegation  
of functions  
by the  
Commission

**155J.**(1) The Commission may, subject to such conditions and procedures as may be prescribed by the Commission, delegate to the Inspector-General of Police or in consultation with the Inspector-General of Police to any Police Officer, its powers of appointment, promotion, transfer, disciplinary control and dismissal of any category of police officers.

(2)The Commission shall cause any such

delegation to be published in the Gazette.

Right of  
Appeal.

**155K.** (1) A police officer aggrieved by any order relating to promotion, transfer or any order on a disciplinary matter or dismissal made by the Inspector-General of Police or a Committee or Police officer referred to in Article 155H and 155J in respect of himself, may appeal to the Commission against such order in accordance with rules made by the Commission from time to time regulating the procedure and the period fixed for the making and hearing of an appeal by the Commission

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(2)The Commission shall have the power to alter, vary, rescind or confirm such order upon such appeal, or to give directions in relation there to, or to order such further or other inquiry, as to the Commission shall seem fit.

(3)The Commission shall from time to time cause to be published in the Gazette, rules made by it under paragraph (1) of this Article.

(4)Upon any delegation to the Inspector-General of Police or a Committee or Police Officer under Article 155H and 155J of this Chapter as the case may be, the Commission shall not, whilst such delegation of its powers is in force, exercise or perform its functions or duties in respect of the categories of Police Officers in respect of which such delegation is made, subject to the right of appeal hereinbefore provided.

Appeal to  
The  
Administrative  
Appeals  
Tribunal.

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

Saving of  
existing  
rules and  
regulations.

**155M.** Until the Commission otherwise provides all rules, regulations and procedures relating to the police force as are in force shall continue to be operative and in force.

Commission  
Answerable  
To  
Parliament

**155N.** The Commission shall be responsible and answerable to Parliament in accordance with the provisions of the Standing Orders of Parliament for the exercise, performance and

Discharge of its powers, duties and functions, and  
Shall forward to Parliament in each calendar year  
A report of its activities in such year”.

#### 41 Seventeenth Amendment to the Constitution

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

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

Amendment of Article 170 of the Constitution as follows:-  
22. Article 170 of the constitution is hereby amended

- (1) in the definition of the expression “judicial officer”, by the substitution for the words “other than in Article 114” of the words “other than in Article 111M”; and
- (2) in the definition of the expression “public officer”, by the insertion immediately after paragraph (c), of the following new paragraphs :-

“(ca) a member of the constitutional Council;

(cb) a member of the Election Commission;

(cc) a member of the National Police Commission;

(cd) the Commissioner-General of Elections;

(ce) officers appointed to the Election commission, by the Election Commission;”

#### 42 Seventeenth Amendment to the Constitution

23. The Ninth Schedule to the Constitution is hereby amended in Appendix 1 to List I as follows :-

- (1) by the substitution for item 3 of that Appendix of the following:-

“3. Recruitment to the National Police Division and promotion of Police Officers in the Provincial Divisions to the National division, shall be Made by the National Police Commission”;

Amendment of the Ninth Schedule to the Constitution.

- (2) in item 6 of that Appendix by the substitution for the words “will be referred to the President”, of the words “will be referred to the National Police Commission”;
- (3) in item 7 of that Appendix, by the substitution for the words “with the approval of the President,”, of the words “with the approval of the National Police Commission”; and
- (4) in item 9.2 of that Appendix, by the substitution for the words “The President may, where he considers it necessary provide for alternate training for members of any Provincial Division”, of the words “The National Police Commission may, where he considers it necessary provide for alternate training for members of any Provincial division.”

**24.** (1) the person holding office on the date prior to the date of commencement of this Act, as members of the Public Service Commission and the Judicial Service Commission established by Article 56 and Article 112 Respectively, of the Constitution, shall continue to hold office As such members continue to exercise the powers vested in Those Commissions under the Constitution, prior to the date Of commencement of this Act, until the date on which the Members of the Public Service Commission and the Judicial Service Commission respectively, are appointed under Article 54 and Article 111D respectively of the Constitution.

Commissions under repealed Article 56 and 112 of the Constitution to continue.

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(2)The persons holding office on the day prior to the date of commencement of this Act, as the Secretary to the Public Service Commission and as the Secretary to the Judicial Service Commission appointed under paragraph (7) of Article 56 and Article 113 respectively, of the constitution, shall continue to hold such office under the same terms and conditions.

Chief Justice  
Judges of the  
Supreme Court  
President of the  
Court of Appeal  
&c. to continue  
to hold office.

**25.** (a) The Chief Justice and all the Judges of the Supreme Court and the President and all the Judges of the Court of Appeal holding office on the day prior to the date of the commencement of this Act, shall, subject to the provisions of paragraph (3) of Article 41C, continue to hold office.

(b)Every person holding office on the day prior to the date of the commencement of this Act, as the Attorney-General, the Auditor-General, the Inspector General of police, The parliamentary Commissioner for Administration (Ombudsman) and the Secretary- General of Parliament shall, subject to the provisions of paragraph (3) of Article 41C,

continue to hold such office under the same terms and conditions.

Judges of the High Court &c to Continue to hold Office

**26.** Every person holding office on the day prior to the date of the commencement of this Act –

(a) as a Judge of the High Court;

(b) as a judicial officer, a scheduled public officer, a public officer or a police officer,

shall, continue to hold such office under the same terms and conditions.

Substitution and Savings.

**27.** (1) Unless the context otherwise requires, there shall be substituted for the expressions “Commissioner of Elections” and “Department of the commissioner of Elections” wherever such expressions occur in the

#### 45 Seventeenth Amendment to the Constitution

Constitution and in any written law or in any contract, agreement or other document, of the expression “Election Commission”.

(2) The person holding office as the Commissioner of Elections on the day immediately preceding the date of the commencement of this Act, shall continue to exercise and perform the powers and functions of the office of Commissioner of Elections as were vested in him immediately prior to the commencement of this Act, and of the Election Commission, until an Election Commission is constituted in terms of Article 103, and shall, from and after the date on which the Election Commission is so constituted, cease to hold office as the Commissioner of Elections.

(3) All suits, actions and other legal proceedings instituted by or against the Commissioner of Elections appointed under Article 103 of the Constitution prior to the amendment of such Article by this Act, and pending on the day immediately prior to the date of commencement of this Act, shall be deemed to be suits, actions and other legal proceedings instituted by or against the Election Commission, and shall be continued and completed in the name of the Election Commission.

(4) Any decision or order made, or ruling given by the Commissioner of Elections appointed under Article 103 of the Constitution prior to the amendment of that Article, by this Act, and under any written law on or before the date of the commencement of this Act, shall be deemed to be a decision or order made or ruling given, by the Election Commission.

**28.**All matters pertaining to the appointment, promotion, transfer, disciplinary control and dismissal of any police officer pending before the Public Service Commission, on or before the date of the commencement of this Act, shall stand removed to the National Police Commission established by Chapter XVIII A of the Constitution and accordingly such matter shall be continued and completed before such National Police Commission.

Pending matters before the Public Service stand removed to the National Police Commission.

#### 44 Seventeenth Amendment to the Constitution

Sinhala text to  
Prevail in case  
Inconsistency.

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