

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:-

Short Title.

1. This Act may be cited as the Twentieth Amendment to the Constitution.

Replacement of Article 95 of the Constitution of the

Democratic Socialist Republic of Sri Lanka.

2. Article 95 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as "the Constitution") is hereby repealed and the following Article is substituted therefor:-

"Establishment of the Delimitation Commission.

95. (1) Within three months of the coming into force of this Article, the President shall for the delimitation of Electoral Districts, establish a Delimitation Commission consisting of five persons appointed by him, who he is satisfied are not actively engaged in politics. The President shall appoint one of such persons to be its Chairman.

(2) If any member of the 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 paragraph (1) of this Article, appoint another person in his place.

(3) For the purpose of assisting the Delimitation Commission in the discharge of its functions, the President shall appoint a secretary and where necessary an additional secretary, a deputy secretary and an assistant secretary to such Commission.

(4) The Commission may if it so consider necessary, appoint as staff of the Commission any officers of the Election Commission or of the Election Department or any officer from any Government Department or any other person, to assist it in the discharge of its functions."

Amendment of Article 96 of the Constitution.

3. Article 96 of the Constitution is hereby amended by the insertion immediately after paragraph (3) of that Article, of the following new paragraph:-

appropriate to create multi member electorates which are entitled to return more than one Member; or

(b) in order to avoid the number of members entitled to be returned to represent any electoral district from becoming excessive, it is appropriate to create multi member electorates which are entitled to return more than one Member; or

(c) the reasons that led to the creation of a multi member electorate in the past are still valid and applicable,

the Delimitation Commission shall have the power to create a multi member electorate or multi member electorates, as the case may be. The Delimitation Commission however, shall ensure that the number of multi member electorates created, shall be kept at a minimum level."

Replacement of Articles 97, 98 and 99 of the Constitution.

5. Articles 97, 98 and 99 of the Constitution are hereby repealed and the following Articles are substituted therefore:-

"Proclamation of names etc, of electoral districts and polling divisions.

97. (1) The Delimitation Commission shall be required to accomplish its mandate by such date as shall be determined by the President, and on accomplishing its mandate, to submit a report on the same to the President.

(2) Upon receipt of the report submitted by the Delimitation Commission under paragraph (1), the President shall by proclamation publish the names and boundaries of the electoral districts, the names and boundaries of the polling divisions falling within each such electoral district, the number of members which each polling division is entitled to return and the number of members to be returned in respect of each electoral district on the proportional representation system based on the remaining votes, as determined by the Delimitation

"(3A) Where the Delimitation Commission is of the opinion that it is just and equitable to make any minor alterations to the existing boundaries or the geographical area of any administrative district or administrative districts, as the case may be, the Delimitation Commission shall have the power to make such alterations."

Insertion of  
new Article  
96A in the  
Constitution.

4. The following new Article is hereby inserted immediately after Article 96 and shall have effect as Article 96A of the Constitution:-

"Division of  
Electoral Districts  
into polling  
divisions.

96A. (1) The Delimitation Commission shall, taking into consideration the factors specified in paragraph (2) of this Article, divide each Electoral District into not less than three and not more than sixteen polling divisions, ensuring that at least one Member is directly elected by the registered electors of each such division, to represent such polling division.

(2) In the division of Electoral Districts into polling divisions, the following factors shall be taken into consideration by the Delimitation Commission :-

- (a) the ratio of the ethnic composition of the population of the area concerned and the need to ensure a representation based on such ethnic ratio;
- (b) the geographical and physical features of the relevant Electoral District or polling division;
- (c) the number of registered voters and its density in the relevant Electoral District or polling division; and
- (d) the level of economic development and the prevailing social and cultural ties within the Electoral District or the polling division.

(3) Where the Delimitation Commission is of the view that:-

- (a) having considered the factors specified in paragraph (2) of this Article it is

Commission under paragraph .....

(3) The electoral districts and the polling divisions specified in the proclamation made under paragraph (2) shall become operative in respect of all General Elections conducted for the election of Members of Parliament after the publication of such proclamation, and shall thereafter be the electoral districts and polling divisions 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 of Parliament.

Number of Members to be returned by the several electorates and on the proportional representation system on remaining votes.

98. (1) The several electoral districts together shall be entitled to return one hundred and sixty five members to represent all the polling divisions within such electoral districts and sixty six members to be returned on the proportional representation system based on remaining votes.

(2) The number of members to be elected to represent the polling divisions of each electoral district and the number of members to be elected on the proportional representation system based on remaining votes, shall be determined by the Delimitation Commission in accordance with paragraph (5) of Article 98 and paragraph (1) of Article 99, respectively.

(3) The apportionment of the number of members that each electoral district is entitled to return to represent the polling divisions, shall be determined by the Delimitation Commission in accordance with the succeeding provisions of this Article.

(4) The total number of members to be elected to represent polling divisions shall be subtracted by the number of members apportioned under Article ... and the number resulting from such subtraction shall be known as the "specified number", and the

total number of electors whose names appear in the registers of all electoral districts shall be divided by such specified number. The whole number resulting from such division (any fraction not being taken into account) is hereinafter referred to as the "qualifying number".

(5) The total number of electoral whose names appear in the register of electoral of each electoral district, shall be divided by the qualifying number and each electoral district shall be entitled to return to represent the polling divisions, such number of members as is equivalent to the whole number resulting from the division of the total number of such electors in that electoral district by the qualifying number. The balance number of such electors, if any, after such division shall be dealt with, if necessary, in accordance with paragraph (6) of this Article.

(6) Where the total number of members to be returned by all the electoral districts ascertained by reference to the qualifying number in accordance with paragraph (5) of this Article, is less than the specified number referred to in paragraph (4) of this Article, the apportionment of the entitlement among the electoral districts of the balance number of members, shall be by reference to the balance number of such electors and in the case of any electoral district not entitled to return a single member according to the determination under paragraph (5), the total number of electors whose names appear in the register of electors of such electoral district, the electoral district having the highest of such balance number of such electors or such total number of electors, being entitled to return one more member and so on, until the total number of members to be returned reach the specified number referred to in paragraph (4) of this Article.

(7) Where in making an apportionment under paragraph (6) of this Article an equality is found to exist between two or more balance number of such

electors or two or more total number of such electors or any combination of them and the addition of one such elector would entitle one electoral district to return an additional member, the determination of the electoral district to which one such elector shall be deemed to be added, shall be determined by lot.

(8) For the purposes of this Article, "the register of electors" means the register of electors for the time being in operation, on the basis of which an election is being held.

Proportional  
representation  
based on  
remaining  
votes.

99. (1) The number members to be elected at an election to elect Members of Parliament from each electoral district on the proportional representation system based on remaining votes, shall be determined by the Delimitation Commission in accordance with the succeeding provisions of this Article.

(2) The number of members to be elected on the proportional representation system based on remaining votes in respect of each electoral district, shall be a minimum of two members and shall be so apportioned by the Delimitation Commission as to proportionately correspond to the number of members to be elected to represent the polling divisions of each electoral district.

(3) Each elector whose name appears in the register of electors shall be entitled to one vote at every election held for the election of Members of Parliament, notwithstanding that such electors name appears in the electoral register in more than one electoral district.

(4) Any recognized political party or any group of persons contesting as independent candidates (hereinafter referred to as an "independent group") may for the purpose of any election of Members of Parliament, submit a single nomination paper setting out the number of members being nominated to the represent the polling divisions of

each electoral district, and also setting out the number of members to be elected for such electoral district on the proportional representation system based on remaining votes, which is equivalent to the number of members to be elected for such electoral district. The names of the candidates contesting in each polling division shall be specified in a single nomination paper.

(5) (a) In respect of polling divisions entitled to return one Member, the candidate who has secured the highest number of votes of the valid votes cast in each such polling division, shall be declared elected to represent the Parliament, by the Election Commission or the returning Officer, as the case may be.

(b) In respect of polling divisions entitled to return more than one candidate, the candidate who obtained the second highest number of votes or the second and the third highest number of votes, as the case may be, shall be declared elected to represent the Parliament, by the Election Commission or the returning Officer, as the case may be.

(c) In respect of a polling division entitled to return two or more candidates and such candidates have obtained an equal number of votes each and the addition of one or where relevant two votes would enable the selection of the candidate to be elected, the Election Commission or the Returning Officer, as the case may be, shall determine the candidate to whom such vote or votes should be added, by the casting of lots.

(6)(a) Every recognized political party and independent group polling less than one twentieth of the total valid votes polled at any election in any electoral district, shall be disqualified from having a Member elected for that electoral district from such party or group, on the proportional representation system based on remaining votes.

(b) If there are any recognized political parties or

independent groups which are disqualified, then the total votes polled by such recognized political parties or independent groups and the number of votes obtained by the candidates elected for the polling divisions, shall be deducted by from the total votes polled at the election in that electoral district and the number of votes resulting from such deduction, is hereinafter referred to as the "relevant number of votes".

(c) The relevant number of votes shall be divided by the number of Member to be elected for that electoral district on the proportional representation system based on remaining votes. If the number resulting from such division is an integer, that integer, or if that number is an integer and a fraction, the integer immediately higher to that integer and fraction, is hereafter referred to as the "resulting number".