

**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.

Amendment of Article 62 of the Constitution of the Democratic Socialist Republic of Sri Lanka. 2. Article 62 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as "the Constitution") is hereby amended by the repeal of paragraph (1) of that Article, and the substitution therefore of the following paragraph:-

“(1) There shall be a Parliament which shall consist of two hundred and fifty five Members elected in accordance with the succeeding provisions of the Constitution.

Replacement of Article 95 of the Constitution. 3. Article 95 of the Constitution is hereby repealed and the following Article is substituted therefore:-

“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 the provisions of 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 Delimitation Commission may if it so considers necessary, appoint as staff of the Commission any officers of the Election Commissioner 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.”.

**Insertion of
new Article
96A in the
Constitution.**

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

**“Division of
Electoral
Districts into
polling
divisions.**

96A. (1) (a) 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.

(b) The Delimitation Commission, in accordance with the succeeding provisions shall apportion one hundred and ninety six members, including one hundred and sixty five members to be elected to the electoral districts to represent the polling divisions within such electoral districts.

(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 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 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, 99
and 99A of
the
Constitution.**

5. Articles 97, 98, 99 and 99A of the Constitution are hereby repealed and the following new 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 together with reasons if any of the descending members.

(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 Commission under paragraph (1) of Article 99.

(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
electoral
districts and
on the
proportional
representation
system.**

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 in accordance with the succeeding provisions of this Article.

(2) The Delimitation Commission shall apportion one hundred and sixty five members to be elected to represent polling divisions of each electoral district including one hundred and ninety six members, in accordance with the succeeding provisions of this Article.

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

(4) The Delimitation Commission, in accordance with the succeeding provisions of this Article shall apportion in a just and equitable manner, not less than twenty and not more than twenty five members to represent each electoral

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 one hundred and sixty.

(8) Where in making an apportionment under paragraph (7) 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.

(9) The Commissioner of Elections as soon as possible after the certification of the registers of electors for all the electoral districts shall by Order published in the Gazette, specify the number of members which each electoral district is entitled to return by virtue of the Proclamation made under Article 97.

(10) 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 of 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

district, ensuring that at least one member is elected to each such electoral district.

(5) The total number of electors of the electoral registers of electoral districts shall be divided by the resulting number of members after deducting the total number of members elected to represent polling divisions from the number of members apportioned under paragraph (4) of Article 98 that is hereinafter referred to as the "specified number". The resulting number from such division (any fraction of being taken into account) is hereinafter referred to as the "qualifying number".

(6) The total number of electors whose names appear in the register of electors of each electoral district, shall be divided by the qualifying number and each electoral district shall be entitled to return such number of members as is equivalent to the number resulting from such division to represent the polling divisions. The balance number of such electors, if any, after such division shall be dealt with, if necessary, in accordance with paragraph (7) of this Article.

(7) 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 (6) of this Article, is less than the numbers of the members specified in paragraph (5) of Article 98, 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 made under paragraph (6), the

necessary, in accordance with paragraph (6) of this Article.

(6) The determination of the entitlement to the balance number of members of each recognized political party or independent group which contested at the election, where the number of members returned to represent any particular electoral district according to the resulting number under paragraph (5) of this Article, is less than one hundred and sixty members to be elected to all the electoral districts shall be made after dividing the above number of votes by the resulting number or the number of votes polled by those parties or groups which have not got any member elected in accordance with paragraph (5) of this Article. On this basis an additional member shall be allocated to each recognized political party or independent group which polled the highest number of votes, until the full number of members to be elected under the proportional representation system is completed.

(7) Where in making an apportionment under paragraph (6), an equality is found to exist between the votes polled by two or more recognized political parties or two or more independent groups or in combination of them and the addition of a vote would entitle the candidate of one such political party or independent group to be elected, the determination of the political party or the independent group to which such additional one vote shall be deemed to have been added, shall be made by the casting of lot.

(8) The Commissioner of Elections as soon as possible after the certification of the registers of

provisions of this Article.

(2) The Delimitation Commission, in addition to the number of members as specified in paragraph (4) of Article 96 of the constitution based on the number of registered electors whose names appear in the register of electors valid at the time of establishment of the Delimitation Commission shall apportion the remaining one hundred and sixty members so as to elect total number of one hundred and ninety six members to represent all the electoral district under proportional representation in accordance with the succeeding provisions of this Article.

(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) The total number of members whose names in the registers of electors of all electoral districts shall be divided by one hundred and sixty. The integer number resulting from that division (any fraction not being taken into account) is hereinafter referred to as the "qualifying member".

(5) The total number of electors, whose names appear in the register of electors of each electoral district, shall be divided by the qualifying number, and each electoral district shall be entitled to return to represent each such electoral district, the integer number resulting from such division. The balance number of such electors, if any, after such division shall be dealt with, if

electors for all the electoral districts shall by Order published in the Gazette, specify the number of members which each electoral district is entitled to return by virtue of the Proclamation made under Article 97.

(9) 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.

(10) Where a vacancy in any polling division due to the resignation or expulsion of an elected member or the termination of such member's party membership or due to death or any other cause, the Election Commissioner shall take action to conduct a bi-election for such polling division. Where a vacancy occurs in respect of a member elected under the proportional representation system based on remaining votes, the secretary of the political party or the leader of the independent group, has the authority to nominate a member for the particular polling division, out of the candidates who contested the election or out of any additional candidates who did not contest from the polling division:

Provided that, in the case of the expulsion of a member of Parliament, his seat shall not become vacant if prior to the expiration of the said period of one month he applies to the Supreme Court by petition in writing and the Supreme Court upon such application determines that such expulsion was invalid such petition shall be inquired into by three judges of the Supreme Court who shall make the determination within two months of the filing of such petition. Where

the Supreme Court determines that the expulsion was valid the vacancy shall occur on the date of such determination.

(11) Except as provided for in paragraph 11 of this Article, no Court shall have jurisdiction to hear and determine any matter relating to disciplinary action taken or proposed to be taken by any recognized political party or Independent group against a member thereof, who is a member of Parliament and accordingly no Court shall have the power to grant a writ, injunction and enjoining Order or any other relief, preventing, restraining or prohibiting any such action or proposed action.

(12) A recognized political party or a 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 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 which is equivalent to the number of members to be elected for such electoral district increased by three. The names of the candidates contesting in each polling division shall be specified in a single nomination paper.

(13) (a) In respect of polling divisions entitled to return one candidate at an election to elect Members of Parliament, 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 Commissioner of Election or the returning

Officer, as the case may be.

(b) In respect of polling divisions entitled to return more than one candidate at an election to elect Members of Parliament, the candidate who has secured the second highest number of votes or the second and the third highest number of votes of the valid votes cast, as the case may be, shall be declared elected to represent the Parliament, by the Commissioner of Election 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.

**Election of
Members of
Parliament on
the basis of the
total number
of votes polled
at a general
Election.**

99A. (1) The number of members to be elected to each electoral district under the proportional representation shall be determined in accordance with the succeeding provisions of this Article.

(2) (a) Every recognized political party and independent group polling less than one twentieth of the total number of 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 number of 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 Members 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".

(3) The number of votes polled by each recognized political party and independent group, other than those parties and groups disqualified under paragraph 6(a) of this Article, shall then be divided by the resulting number, beginning with the recognized political party or the independent group which polled the highest number votes. The Returning Officer shall declare that each recognized political party or independent group shall be entitled to a number of members equal to the whole number after dividing the number of votes polled by each such party or group, by the resulting number.

(4) The determination of the entitlement to the balance number of members of each recognized

paragraph (7) of this Article, of such number of members so reduced or increased shall be completed according to the succeeding provisions of this Article.

(7) Where the number of members elected to represent a particular electoral district according to the resulting number under paragraph (6) of this Article, is less than the number of members to be elected under the proportional representation system, determination of the balance number of members entitled to each political party or independent group who contested such election shall be until the full number of members to be entitled to such political party or independent group under the proportional representation system is completed, the percentages of votes received in relevant polling divisions (reference to the valid number of votes of the polling divisions) by the candidate who contested but not elected from the political party or independent group for each polling division shall be calculated and members shall be elected beginning from the candidate who received the highest percentage to the lowest.

(8) The determination of the entitlement to the balance number of members from each recognized political party or independent group which contested at the election, where the number of members returned to represent any particular electoral district according to the resulting number under paragraph (7) of this Article, is more than the number to be elected under the proportional representation system shall be apportioned by the number of members resulting from the subtraction of total number of members

political party or independent group which contested at the election, where the number of members returned to represent any particular electoral district according to the resulting number under paragraph (3) of this Article, is less than the number to be elected under the proportional representation system, shall be made based on the votes remaining after dividing the above number of votes by the resulting number or the number of votes polled by those parties or groups which have not got any member elected in accordance with paragraph (3) of this Article. On this basis an additional member shall be allocated to each recognized political party or independent group which polled the highest number of votes, from indifference arising from subtracting of first qualifying number and the second qualifying number until the full number of members to be elected under the proportional representation system, is completed.

(5) Where in making an apportionment under paragraph (7) of this Article, an equality is found to exist between the balance number of such electors two or more or two or more total number of such electors or any combination of them and the addition of would entitle elector district to ~~return~~ additional number, the determination of the elector district to which one such elector shall be deemed to added, shall be made determined of lot.

(6) Where the number of members entitle to be elected under the proportional representation system entitled by each recognized political party or independent group contested at such election is less or more than the number of members to be elected to represent a particular electoral district in accordance with the qualifying number under

to be elected to the Parliament under Article 62 from one hundred and ninety six members referred to in Article 96A(1) (b).

(9) After the two hundred and thirty one members referred to in Article 98 have been declared elected at a General Election of Members of Parliament, the Election Commission shall forthwith apportion the balance seats, among the recognized political parties and independent groups contesting such General Election in the same proportion as the promotion which the number of votes polled by each such party or group at such General Election bears to the total number of votes polled at such General Election and for the purpose of such apportionment, the provisions of paragraphs (4), (5), (6) and (7) of Article 98 shall, *mutatis mutandis* apply.

(10) Where a vacancy in any polling division due to the resignation or expulsion of an elected member or the termination of such member's party membership or due to death or any other cause, the Election Commissioner shall take action to conduct a bi-election for such polling division. Where a vacancy occurs in respect of a member elected under the proportional representation system based on remaining votes, the secretary of the political party or the leader of the independent group, has the authority to nominate a member for the particular polling division, out of the candidates who contested the election or out of any additional candidates who did not contest from the polling division:

Provided that, in the case of the expulsion

of a member of Parliament, his seat shall not become vacant if prior to the expiration of the said period of one month he applies to the Supreme Court by petition in writing and the Supreme Court upon such application determines that such expulsion was invalid such petition shall be inquired into by three judges of the Supreme Court who shall make the determination within two months of the filing of such petition. Where the Supreme Court determines that the expulsion was valid the vacancy shall occur on the date of such determination.

(11) Except as provided for in paragraph 10 of this Article, no Court shall have jurisdiction to hear and determine any matter relating to disciplinary action taken or proposed to be taken by any recognized political party or Independent group against a member thereof, who is a member of Parliament and accordingly no Court shall have the power to grant a writ, injunction and enjoining Order or any other relief, preventing, restraining or prohibiting any such action or proposed action.

**Sinhala text
to prevail in
the event of
an
inconsistency**

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