

Fourteenth Amendment to the Constitution

[Certified on 24th May, 1988]

L.D.—O. 18/88

**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 Fourteenth Amendment to the Constitution. Short title.

2. Article 35 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as "the Constitution") is hereby amended in paragraph (3) of that Article, by the substitution, for the words "relating of the election of the President", of the words "relating to the election of the President or the validity of a referendum or to proceedings in the Court of Appeal under Article 144 or in the Supreme Court, relating to the election of a Member of Parliament". Amendment
of Article 35
of the
Constitution
of the
Democratic
Socialist
Republic
of Sri
Lanka.

3. Article 62 of the Constitution is hereby amended by the repeal of paragraph (1) of that Article and the substitution, of the following paragraph therefor :— Amendment
of Article
62 of the
Constitution.

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

4. Article 80 of the Constitution is hereby amended in paragraph (2) of that Article by the substitution for the words "duly approved by the People at a Referendum.", of the following :— Amendment
of Article 80
of the
Constitution.

"duly approved by the People at a Referendum.

No such certificate shall be endorsed by the President on a Bill—

(a) in any case where no petition is filed challenging the validity of the Referendum at which such Bill was approved by the People, until after the expiration of the period within which a petition may be filed, under the law applicable in that behalf, challenging the validity of such referendum;

(b) in any case where a petition is filed challenging the validity of the Referendum at which such Bill was approved by the People, until after the Supreme Court determines that such Referendum was valid."

Insertion of
Article 96A
in the
Constitution.

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

" Division of
electoral
districts
into zones.

96A. (1) Within two weeks of the coming into force of this Article, the President shall, for the purpose of dividing where necessary, electoral districts entitled to return more than ten members into zones, establish a Delimitation Commission consisting of three persons appointed by him who he is satisfied are not actively engaged in politics. The President shall appoint one of such persons to be the 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) Where it appears to the Delimitation Commission that there is in any electoral district entitled to return more than ten members, a substantial concentration of persons united by a community of interest, whether racial, religious or such other like interest, but differing in one or more respects from the majority of the electors in that electoral district, the Delimitation Commission may, after affording the public an opportunity of making representations, as far as possible divide that electoral district into zones so as to ensure the representation of that interest, so however, that an electoral district entitled to return more than ten but less than twenty members, shall be divided into not more than two zones, and an electoral district entitled to return more than twenty members, shall be divided into not more than three zones.

(4) In dividing an electoral district into zones, the Delimitation Commission shall have regard to the polling divisions into which that electoral district has been divided under the law for the time being in force relating to the registration of electors, so as to ensure, as far as practicable, that each zone is a combination of two or more of such polling divisions.

(5) The provisions of paragraphs (5) and (6) of Article 96 shall, *mutatis mutandis*, apply to decisions of the Delimitation Commission.

(6) The Chairman of the Delimitation Commission shall communicate to the President, the decisions of the Commission as regards the division of electoral districts into zones within two months of the coming into force of this Article.

(7) The President shall by Proclamation publish the names and boundaries of the zones into which an electoral district has been divided, in accordance with the decisions of the Delimitation Commission. The zones specified in the Proclamation shall come into operation at the next ensuing General-Election of Members of Parliament, and shall be the zones of that electoral district for the purposes of the Constitution and any law for the time being in force relating to the election of Members of Parliament."

6. Article 98 of the Constitution is hereby amended by the repeal of paragraph (8) of that Article and the substitution, of the following paragraph therefor :—

"(8) (a) 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 certify the number of members which each electoral district is entitled to return by virtue of the Proclamation under Article 97 and this Article, and in the case of an electoral district divided into zones, shall certify the number of members which each zone in such electoral district is entitled to return.

Amendment
of Article 98
of the
Constitution.

(b) Where an electoral district has been divided into zones the apportionment of the members which such electoral district is entitled to return among the zones into which such electoral district has been divided shall be in the same proportion as the proportion which the total number of electors whose names appear in the electoral register for each such zone bears to the total number of electors whose names appear in the electoral register for that electoral district and the provisions of paragraphs (4), (5), (6) and (7) shall, *mutatis mutandis*, apply for the purposes of such apportionment subject to the following modifications--

- (i) as if for the expression "the total number of electors whose names appear in the registers of electors of all the electoral districts", there were substituted the expression "the total number of electors whose names appear in the register of electors of an electoral district";
- (ii) as if for the words "one hundred and sixty", there were substituted the words "the number of members which such electoral district is entitled to return reduced by one";
- (iii) as if for the expression "the total number of electors whose names appear in the register of electors of each electoral district", there were substituted the expression "the total number of electors whose names appear in the register of electors for each zone";
- (iv) as if for the words "electoral district" there were substituted the word "zone".

Replace-
ment of
Article 99
of the
Constitution.

7. Article 99 of the Constitution is hereby repealed and the following Article substituted therefor:—

Proportional
representa-
tion.

99. (1) At any election of Members of Parliament, the total number of members which an electoral district is entitled to return shall be the number specified by the Commissioner of Elections in the Order published in accordance with the provisions of paragraph (8) of Article 98.

(2) Every elector at an election of Members of Parliament shall, in addition to his vote, be entitled to indicate his preferences for not more than three candidates nominated by the same recognized political party or independent group.

(3) 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 for any electoral district, submit one nomination paper setting out the names of such number of candidates as is equivalent to the number of members to be elected for that electoral district, increased by three.

(4) Each elector whose name appears in the register of electors shall be entitled to only one vote notwithstanding that his name appears in the electoral register in more than one electoral district.

(5) The recognized political party or independent group which polls the highest number of votes in any electoral district shall be entitled to have the candidate nominated by it, who has secured the highest number of preferences, declared elected.

(6) (a) Every recognized political party and independent group polling less than one eighth of the total votes polled at any election in any electoral district shall be disqualified from having any candidates of such party or group being elected for that electoral district.

(b) The votes polled by the disqualified parties and independent groups, if any, shall be deducted 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."

(7) The relevant number of votes shall be divided by the number of members to be elected for that electoral district reduced by one. If the number resulting from such

sion is an integer, that integer, or if that number is an integer and fraction, the integer immediately higher to that integer and fraction is hereinafter referred to as the "resulting number".

(8) The number of votes polled by each recognised political party and independent group (other than those parties or groups disqualified under paragraph (8) of this Article) beginning with the party or group which polled the highest number of votes shall then be divided by the resulting number and the returning officer shall declare elected from each such party or group, in accordance with the preferences secured by each of the candidates nominated by such party or group (the candidate securing the highest number of preferences being declared elected first, the candidate securing the next highest number of preferences being declared elected next and so on) such number of candidates (excluding the candidate declared elected under paragraph (5) of this Article) as is equivalent to the whole number resulting from the division by the resulting number of the votes polled by such party or group. The remainder of the votes, if any, after such division, shall be dealt with if necessary, under paragraph (9) of this Article.

(9) Where after the declaration of the election of members as provided in paragraph (8) of this Article there are one or more members yet to be declared elected, such member or members shall be declared elected by reference to the remainder of the votes referred to in paragraph (8) to the credit of each party or group after the declaration made under that paragraph and the votes polled by any party or group not having any of its candidates declared elected under paragraph (8), the candidate nominated by the party or group having the highest of such votes, who has secured the

highest or next highest number of preferences being declared elected a member and so on until all the members to be elected are declared elected.

(10) (a) Where the number of votes polled by each recognized political party or independent group is less than the resulting number referred to in paragraph (7) of this Article the party or group which has polled the highest number of votes shall be entitled to have the candidate nominated by that party or group (excluding the candidate declared elected under paragraph (5) of this Article) who has secured the highest number of preferences declared elected and if there are one or more members yet to be declared elected, the party or group having the next highest number of votes polled shall be entitled to have the candidate nominated by that party or group who has secured the highest number of preferences declared elected and so on, until all the members to be elected for that electoral district are declared elected under the provisions of this paragraph.

(b) After the determination under paragraph (a) if there are one or more members yet to be declared elected in respect of that electoral district the provisions of that paragraph shall, *mutatis mutandis*, apply to the election of such members.

(11) Where under paragraph (5) or (9) or (10) of this Article an equality is found to exist between the votes polled by two or more recognized political parties or two or more independent groups or any combination of them and the addition of a vote would entitle the candidate of one such party or group to be elected, the determination of the party or group to which such additional vote shall be deemed to have been given shall be made by lot.

(12) For the purposes of this Article the number of votes polled shall be deemed to be the number of votes counted other than rejected votes.

(13) (a) Where a Member of Parliament ceases, by resignation, expulsion or otherwise, to be a member of a recognized political party or independent group on whose nomination paper (hereinafter referred to as the "relevant nomination paper") his name appeared at the time of his becoming such Member of Parliament, his seat shall become vacant upon the expiration of a period of one month from the date of his ceasing to be such member :

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 their determination within two months of the filing of such petition. Where the Supreme Court determines that the expulsion was valid the vacancy shall occur from the date of such determination.

(b) Where the seat of a Member of Parliament becomes vacant as provided in Article 66 (other than paragraph (g) of that Article) or by virtue of the preceding provisions of this paragraph the candidate from the relevant recognized political party or independent group who has secured the next highest number of preferences shall be declared elected to fill such vacancy.

(14) (a) Where an electoral district has been divided into zones, the preceding provisions of this Article (other than the provisions of paragraph (5)) shall, *mutatis mutandis*, apply to the nomination of candidates in respect of, and the election of members from, such zones subject to the following modifications :—

(1) as if the words "reduced by one" were omitted from paragraph (7) ;

(ii) as if the words "excluding the candidate declared elected under paragraph (5) of this Article" were omitted from paragraphs (8), and (10) (a).

(b) Where an electoral district has been divided into zones, the recognized political party or independent group which polls the highest number of votes in all the zones of that electoral district shall be entitled to have a candidate whose name appears in the nomination paper submitted by such party or group in respect of any such zone (not being a candidate already declared elected) declared elected. The Commissioner of Election shall require the secretary of such recognized political party or the group leader of such independent group, to name such candidate, and upon such candidate being named, shall declare him elected as a Member of Parliament.

8. The following Article is hereby inserted after Article 99 and shall have effect as Article 99A of the Constitution :—

Insertion
of Article
99A in the
Constitution.

" Election of
Members of
Parliament
on the
basis of
the total
number of
votes
polled
at a
General
Election.

99A. After the one hundred and ninety six members referred to in Article 98 have been declared elected at a General Election of Members of Parliament, the Commissioner of Elections shall forthwith apportion the balance twenty nine seats among the recognised political parties and independent groups contesting such General Election in the same proportion as the proportion 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 purposes of such apportionment, the provisions of paragraphs (4), (5), (6) and (7) of Article 98 shall, *mutatis mutandis*, apply.

Every recognised political party or independent group contesting a General Election shall submit to the Commissioner of Elections within the nomination period specified for such election a list of persons qualified to be elected as Members of Parliament, from which it may nominate persons to file the

seats, if any, which such party or group will be entitled to, on such apportionment. The Commissioner of Elections shall cause every list submitted to him under this Article to be published forthwith in the *Gazette* and in one Sinhala, Tamil and English newspaper upon the expiry of the nomination period.

Where a recognized political party or independent group is entitled to a seat under the apportionment referred to above, the Commissioner of Elections shall by a notice, require the secretary of such recognized political party or group leader of such independent group to nominate within one week of such notice, persons qualified to be elected as Members of Parliament (being persons whose names are included in the list submitted to the Commissioner of Elections under this Article or in any nomination paper submitted in respect of any electoral district by such party or group at that election) to fill such seats and shall declare elected as Members of Parliament, the persons so nominated.

For the purposes of this Article the number of votes polled at a General Election shall be deemed to be the number of votes actually counted and shall not include any votes rejected as void."

Amendment
of Article
130 of the
Constitution.

9. Article 130 of the Constitution is hereby amended as follows :—

- (1) in paragraph (a) of that Article, by the substitution for words "election of the President ;", of the words "election of the President or the validity of a referendum ;";
- (2) in the proviso to that Article by the substitution, for the words "election of the President shall be" of the words "election of the President or the validity of a referendum shall be" ; and
- (3) in the marginal note to that Article, by the substitution, for the words "election petitions", of the words "election and referendum petitions".