

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

Part II of June 12, 2015

SUPPLEMENT

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**TWENTIETH AMENDMENT TO
THE CONSTITUTION**

**A
BILL**

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

*Ordered to be Published by the Prime Minister and Minister of Policy
Planning, Economic Affairs, Child , Youth and Cultural Affairs*

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Twentieth Amendment to the Constitution

L.D.—O. 24/2015

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 Twentieth Amendment to the Constitution. Short Title.

5 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 substitution thereof of the following:- Amendment of Article 62 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

10 “(1) There shall be a Parliament which shall consist of two hundred and thirty seven members selected in accordance with the provisions of the Constitution.”.

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 Article 95 of the Constitution is hereby repealed and the following Article is substituted therefor:- Replacement of Article 95 of the Constitution.

15 “Establishment of the Delimitation Commission. 95. (1) (a) The President shall establish a Delimitation Commission once every fifteen years and within a period of three months of the coming into force of this Article, the President shall for the delimitation of electoral districts and polling divisions establish the first such *ad hoc* Delimitation Commission consisting of five persons appointed by him on the recommendation of the Constitutional Council;

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25 (b) The members of the Delimitation Commission shall be appointed from among

2 *Twentieth Amendment to the Constitution*

persons whom the President is satisfied, are not engaged in politics;

5 (c) The President shall on the recommendation of the Constitutional Council appoint one of such members to be its Chairman.

10 (2) Where any member of such Delimitation Commission dies or resigns or if the President is satisfied on the recommendation of Constitutional Council that any such member has become incapable of discharging the functions as such, the President shall in accordance with the provisions of paragraph (1), appoint another person in his place.

15 (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.

20 (4) The Delimitation Commission may if it so considers necessary, co-opt as staff of such Commission any officer of the Elections Commission or of the Elections Department or any officer from any Government Department to assist in the discharge of its functions.”.

4. Article 96 of the Constitution is hereby amended by the repeal of paragraph (6) of that Article.

Amendment of Article 96 of the Constitution.

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

Insertion of new Article 96A in the Constitution.

5 “Division of Electoral Districts into Polling Divisions. 96A. (1) In the division of electoral districts into polling divisions, the following factors shall be taken into consideration by the Delimitation Commission:-

10 (a) where it appears to the Delimitation Commission that there is, in any area of an electoral district, a substantial concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Commission may make such division of the electoral districts into polling divisions, as may be necessary to render possible the representation of that interest;

15 (b) in making such division, the Commission shall have due regard to-

20 (i) the desirability of reducing to the minimum the disproportion in the number of persons resident in the several polling divisions of the electoral districts;

25 (ii) the geographical and physical features of the polling divisions; and

30 (iii) the level of economic development and the prevailing cultural ties within the electoral district or the polling division.

(2) (a) Where the Delimitation Commission is of the view that-

5 (i) having considered the factors specified in paragraph (1) it is appropriate to create multi member polling divisions which are entitled to return more than one Member; or

10 (ii) it is appropriate to create multi member polling divisions which are entitled to return more than one Member with a view to avoiding an increase in the number of polling divisions within any electoral district; or

15 (iii) the reasons that led to the creation of multi member electorates in the past are still valid and applicable,

20 the Delimitation Commission shall have the power to create a multi member polling division or multi member polling divisions, as the case may be:

25 Provided that in any event the maximum number of members to be returned directly by a multimember polling division shall not exceed three.

(b) The Delimitation Commission however, shall ensure that the number of multi member polling divisions created, shall be kept to a minimum.”.

6. Articles 97, 98,99 and 99A of the Constitution are hereby repealed and the following newArticles are substituted therefor:-

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

5 “Proclamation of names etc, of Electoral Districts and Polling Divisions. 97. (1)The Delimitation Commission shall accomplish its mandate on such period or any extended period, as the case may be as shall be determined by the President and on accomplishing its mandate, submit a report on the same to the President together with reasons including the reasons of the dissenting members if any.

15 (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 and the number of members of Parliament which each electoral district and polling division is entitled to return.

25 (3) The electoral districts and the polling divisions specified in the Proclamation made under paragraph (2) shall become operative in respect of all 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 for all purposes of the Constitution and of any law for the time being in force, relating to the election of Members of Parliament.

35 Apportionment of members among electoral Districts. 98. (1)The several electoral districts together shall be entitled to return one hundred and forty five members to directly represent all the polling divisions within such electoral districts in accordance with the succeeding provisions of this Article.

5 (2) The Delimitation Commission shall apportion a maximum of twenty five members in a just and equitable manner out of the one hundred and forty five members specified in paragraph (1) to represent each such electoral district:

Provided that at least one member shall be apportioned to each electoral district.

10 (3) Four members shall be apportioned equitably among electoral districts so as to ensure the adequate representation of communities of interest that would, but for such apportionment be under-represented.

15 (4) The total number of electors on the registers of electors of all electoral districts shall be divided by one hundred and sixty. The number resulting from such division (any fraction not being taken into account) is hereinafter referred to as the “qualifying number”.

20 (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 such number of members as is equivalent to the number resulting from such division to represent each electoral district. The balance number of such electors, if any, after such allocation shall be dealt with, if necessary in accordance with paragraph (6).

25 (6)(a) 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) is less than the number specified in paragraph

(2), the apportionment among the electoral districts of the balance number of members shall be by reference to the balance number of such electors specified in paragraph (5).

5 (b) In the case of any electoral district not entitled to return a single member under paragraph (5), such apportionment shall be based on the total number of electors whose names appear in the register of electors of such electoral district, and the electoral district having the highest number of electors of the balance number or such total number of electors, being entitled to return one or one more members and so on until the total number of members to be returned reaches one hundred and forty five.

20 (7) Where in making an apportionment of members under paragraph (5) or paragraph (6), as the case may be, 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 elector would entitle such electoral district to return an additional member, the ascertainment of the electoral district to which one such elector shall be deemed to be added shall be determined by lot.

30 Determination of the number of Members entitle to be elected to each electoral district under the Proportional representation system. 99. (1) The total number of members entitled to be returned to Parliament from each electoral district shall be determined by the Election Commission in accordance with the succeeding provisions of this Article.

35 (2) The Election Commission, in addition to the apportionment of the number of members in the manner specified in paragraph (4) of

Article 96 and paragraph (3) of Article 98 shall,apportion one hundred and sixty members among the electoral districts so as to return the total number of two hundred members to represent all the electoral districts.

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

(4) The total number of electors whose names appear in the registers of electors of each electoral district shall be divided by the second qualifying number and each electoral district shall be entitled to return such number of members to represent such electoral district, as is equal to the integer number resulting from such division. The balance number of such electors, if any, after such division shall be dealt with, if necessary, in accordance with paragraph (5).

(5) Where the total number of members to be returned by all the electoral districts ascertained by reference to the second qualifying number in accordance with paragraph (4), is less than one hundred and sixty, 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 specified in paragraph (4). In the case of any electoral district not entitled to return a single member according to the determination made under paragraph (4), such apportionment shall be

5 based on the total number of electors whose names appear in the register of electors of such electoral district, and the electoral district having the highest of such balance number of electors or such total number of such electors, being entitled to return one more member and so on until the total number of members to be returned reaches one hundred and sixty.

10 (6) Where in making an apportionment of members under paragraph (4) or (5), 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 elector would
15 entitle one electoral district to return an additional member the ascertainment of the electoral district to which one such elector shall be deemed to be added, shall be determined by lot.

20 (7) Any elector whose name appears in the register of electors shall notwithstanding that such electors name appears in the electoral register in more than one electoral district or
25 polling division be entitled to cast his vote once at any election of Members of Parliament.

(8) The Commissioner Elections as soon as possible after the certification of the registers of electors for all the electoral districts shall by
30 Order published in the *Gazette*, certify the number of members which each electoral district and each polling division within such district is entitled to return by virtue of the Proclamation made under Article 97 and this Article.

(9) 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.

5 Election of Members of Parliament to represent the polling divisions.
10 99A. (1) (a) A recognized political party or a group of persons contesting as independent candidates (hereinafter referred to as “independent group”) shall for the purpose of election of members referred to in Article 98, submit, in respect of each electoral district in which such party or group intends to contest, one nomination paper setting out-

15 (i) the names of each candidate or candidates as the case may be, nominated in respect of each polling division;

20 (ii) the names of additional candidates in respect of such electoral district as is equivalent to the difference between the total number of members to be returned from that district and the total number of members entitled to be returned directly from the polling divisions within such district, increased by three.

25 (b) Notwithstanding any provision to the contrary not less than ten *per centum* of the total number of candidates (any fraction not being taken in to account) or in any case a minimum of one on each nomination paper
30 submitted under paragraph (1)(a) shall consist of women or a woman, as the case may be.

35 (2) (a) In respect of a polling division which is entitled to return one candidate at an election to Parliament, the candidate who has secured the highest number of votes out of the valid votes cast in each such polling division shall

be declared elected to Parliament by the Commissioner of Elections or the Returning Officer, as the case may be.

5 (b) In respect of a polling division entitled to return more than one member, the candidate who has secured the second highest number of votes or candidates who have secured the second and the third highest number of votes of the valid votes cast, as the case may be, shall also be declared elected to Parliament, by the Commissioner of Elections or the Returning Officer, as the case may be.

10 (c) In respect of any polling division if candidates who have obtained an equal number of votes and the addition of one vote would enable a candidate or candidates as the case may be to be elected, the Commissioner of Elections or the Returning Officer, as the case may be, shall determine by lot the candidate or candidates as the case may be, to whom such vote or votes shall be added.

15 Election of Members of Parliament under proportional representation system on the basis of the total number of votes polled at an Election. 25 99B. (1) The number of members to be elected from each electoral district shall be determined in accordance with the succeeding provisions of this Article.

30 (2) (a) Every recognized political party and independent group polling less than three *per centum* 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 save an except directly from a polling division.

(b) Where there are any recognized political parties or independent groups which are disqualified from having a Member elected for

5 that electoral district under paragraph (2)(a), then the total number of votes polled by such recognized political parties or independent groups at such election shall be deducted from the total votes polled at the election in that electoral district and the number of votes after such deduction of votes is hereinafter referred to in this Article as the “relevant number of votes”.

10 (c) The relevant number of votes shall be divided by the number of Members to be elected for that electoral district. If the number resulting from such division is an integer, that integer or if that number is an integer and a fraction, the
15 integer immediately higher to that integer and fraction, is hereinafter in this Article referred to as the “resulting number”.

20 (3) The number of votes polled by each recognized political party and independent group other than those recognized political parties and independent groups disqualified under paragraph(2)(a), shall then be divided by the resulting number, beginning with the
25 recognized political party or the independent group which polled the highest number of votes. The Returning Officer shall declare that each recognized political party or independent group shall be entitled to return such number of members equal to the number resulting from
30 dividing the number of votes polled by each such party or group, by the resulting number:

 Provided that, the integer number resulting from such division (any fraction not being taken into account) shall be taken into account:

5 Provided further that the recognized political party or independent group which polled the highest number of votes in that electoral district shall be entitled to have one member in addition to the number of members apportioned by reference to the resulting number.

10 (4)(a) 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 (3) is less than the number to be elected under the proportional representation system shall be made based on the votes remaining after dividing the votes obtained by each such political party or independent group by the resulting number or on the basis of the number of votes polled by those political parties or groups which have not received any member but are entitled to elect members in a with paragraph (3).

25 (b) On the basis referred to in subparagraph (a) an additional member shall be allocated to each recognized political party or independent group which polled the highest number of votes, until the total number of members to be elected to such electoral district under the proportional representation system, is completed.

30 (5) Where in determining the number of members under paragraph (3) or (4), an equality is found to exist between two or more of the balance numbers of such votes or two or more total number of such votes or any combination

5 of them in such electoral district and the addition of one or more votes would entitle such party or group to return an additional member the determination of the party or group district to which such vote or votes shall be added, shall be by lot.

10 (6) Where the number of members entitled to be elected under the proportional representation system by each recognized political party or independent group which 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 paragraph (2), such number of members so reduced or increased shall be completed according to the succeeding provisions of this Article.

20 (7) Where the number of members of a recognized political party or independent group elected to represent the polling divisions within a particular electoral district according to the resulting number under paragraph (2) is less than the number of members to be elected under the proportional representation system, the determination of the balance number of members each recognized political party or independent group which contested such election but not elected becomes entitled to shall be based on the percentage of votes received in relevant polling divisions (reference to the valid number of votes of the polling divisions) by the candidates from such recognized political party or independent group for each polling division and members shall be elected on descending order starting from the candidate who received the highest

percentage until the total number of members entitled to represent the Parliament from such recognized political party or independent group under the proportional representation system is arrived at:

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Provided that the Secretary of a recognized political party or a leader of an independent group shall be entitled to nominate not more than half the number of members to be elected under proportional representation system from among candidate who was not elected but secured highest percentage of valid vote cast under this paragraph and where such recognized political party or independent group is entitled to only one additional member in terms of the proportional representation system, the Secretary of such recognized political party or the leader of the independent group may instead of the member who obtained the highest *percentage* and elected, nominate a suitable candidate who contested at such polling division but not elected.

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(8) Where the number of members of a recognized political party or independent group elected to represent the polling divisions of any particular electoral district according to the resulting number under paragraph (2) is more than the number to be elected from recognized political party or independent group that under the proportional representation system, the determination of the entitlement to the balance number of members of each recognized political party or independent group which contested at the election shall be made by the subtraction of

two hundred members referred to in paragraph (2) of Article 99 from the total number of two hundred and thirty seven members to be elected to the Parliament under Article 62.

5 (9) After two hundred members referred to
in paragraph (2) of Article 99 have been
declared elected at a General Election of
Parliament, the Election Commissioner shall
forthwith make a preliminary allocation of the
10 balance number of thirty seven members from
the National List among the recognized
political parties and independent groups
contesting such General Election on the basis
of the total number of valid votes secured by
15 each recognized political party and
independent group which reference to the total
number of valid votes cast by the electors.
Where the number of members secured by each
recognized political party or independent
20 group is in excess of the number of members
apportioned to such party or group from the
National List, then, the excess number shall be
first deducted from the National List and the
balance shall be apportioned according to the
25 percentage secured by respective parties or
groups and for the purpose of such
apportionment, the provisions of paragraphs
(2) to (8) shall, *mutatis mutandis* apply.

30 (10) Where a vacancy arises in any polling
division due to the resignation or expulsion of
an elected member to represent any polling
division or the termination of such member's
party membership or due to death or any other
cause, the Commissioner of Elections shall take
35 action to conduct a by-election for such polling
division. Where a vacancy occurs in respect of
a member elected under the proportional

5 representation system, the secretary of such 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 have been given nominations but not contested from the polling division:

10 Provided that, in the case of an expulsion of a member of Parliament, his seat shall not become vacant if prior to the expiration of a period of one month from the date of such expulsion such member applies to the Supreme Court by petition in writing and the Supreme Court upon receipt of such application
15 determines that such expulsion was invalid and, 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
20 the vacancy shall occur on the date of such determination:

25 Provided further, no Court shall have jurisdiction in any matter relating to disciplinary action taken or proposed to be taken by recognized political party or independent group against the member thereof, who is the member of Parliament, and
30 accordingly no Court shall have power to grant a writ, injunction, an enjoining order or any other relief preventing, restraining or prohibiting any such action or proposed action. Supreme Court shall have the exclusive
35 jurisdiction to hear and determine any matter that may arise under these Article.

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

Sinhala text
to prevail in
the event of
an
inconsistency.

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