

CHAPTER XXVII

TRANSITIONAL PROVISIONS

233 (1) (a) The person declared elected, on December 22, 1999, as President under the 1978 Constitution and holding office immediately prior to the commencement of the Constitution shall be deemed to have been elected by Parliament as the First President under this Constitution and shall, unless the President earlier vacates office by death, resignation, removal or by reason of the election of the President to that office being declared void, hold office for a period of six years calculated from December 22, 1999. First President.

(b) The First President shall, notwithstanding, the appointment of a Prime Minister under this Constitution, exercise, perform and discharge, the powers, duties and functions conferred or imposed on, or assigned to, the President by this Constitution as well as the powers, duties and functions conferred or imposed on or assigned to the Prime Minister under this Constitution, and the Prime Minister shall, so long and so long only as the First President holds office and notwithstanding anything in this Constitution, exercise all the powers conferred on a Prime Minister by the 1978 Constitution.

(c) The First President shall appoint as the First Prime Minister, the Member of Parliament best able to command the confidence of Parliament.

(d) (i) Parliament shall elect a successor to the First President at least fourteen days prior to the expiration of the term of office of the First President, or where the First President earlier vacates office by death, resignation, removal or by reason of the election of the President to that office being declared void, within forty-eight hours of the death, resignation, removal or declaration.

(ii) Upon the election by Parliament, of a successor to the First President, the Prime Minister holding office on the date of the election, shall be deemed to have resigned from the office of Prime Minister and the President shall appoint a Prime Minister under Article 65.

(e) Notwithstanding anything in this Constitution, the First President shall be qualified to be elected, and to continue, as a Member of Parliament whilst holding the office of President.

234. Notwithstanding anything to the contrary in the Constitution - First Parliament.

(a) the First Parliament shall consist of two hundred and twenty five members and, subject to the provisions of this

Constitution, all persons who, immediately prior to the commencement of the Constitution were Members of Parliament under the 1978 Constitution, shall be deemed to have been elected as members of the First Parliament;

- (b) the persons holding office, immediately prior to the commencement of the Constitution, as the Speaker, Deputy Speaker and Deputy Chairman of Committees under the 1978 Constitution shall, with effect from the commencement of the Constitution, be deemed to have been elected as the Speaker, the Deputy Speaker and the Deputy Chairman of Committees respectively, of the First Parliament until Parliament otherwise decides;
- (c) where immediately prior to the commencement of the Constitution, there was a vacancy in Parliament or where any vacancy occurs in the First Parliament, such vacancy shall be filled in the same manner as such vacancy would have been filled had it occurred under the 1978 Constitution; and
- (d) unless sooner dissolved, the First Parliament shall continue until the expiration of a period of six years calculated from the date of the first sitting of the Parliament elected under 1978 Constitution and functioning immediately prior to the commencement of this Constitution and no longer and shall thereupon stand dissolved, and the provisions of the Constitution relating to Parliament shall, *mutatis mutandis*, apply.

Cabinet of Ministers.

235. The Cabinet of Ministers functioning immediately prior to the commencement of the Constitution shall stand dissolved at the commencement of the Constitution and accordingly, persons holding office as the Prime Minister, a Minister of the Cabinet of Ministers or a Deputy Minister under the 1978 Constitution shall cease to hold such office with effect from the commencement of this Constitution.

Continuation of office of Judges, Public Officers &c.

236. (1) Notwithstanding anything in the Constitution—

- (a) the person holding office as the Chief Justice and every person holding office as a Judge of the Supreme Court, immediately prior to the commencement of the Constitution, shall be deemed, with effect from the commencement of the Constitution, to have been appointed respectively, as the Chief Justice under paragraph (1) of Article 151 and as a Judge of the Supreme Court created and established by sub-paragraph (a) of paragraph (1) of Article 146;
- (b) the person holding office as the President of the Court of Appeal and every person holding office as a Judge of the Court of Appeal, immediately prior to the commencement of the Constitution, shall be deemed, with effect from the commencement of the Constitution, to have been appointed

respectively, as the President of the Court of Appeal under paragraph (2) of Article 151 and as a Judge of the Court of Appeal created and established by sub-paragraph (b) of paragraph (1) of Article 146;

- (c) every person holding office, immediately prior to the commencement of the Constitution, as a Judge of the High Court of Sri Lanka shall be appointed as a Judge of a Regional High Court created and established by the Constitution and until such appointment, shall be deemed to continue in service as a Judicial Officer and shall be paid such salary and allowances as were paid to such person immediately prior to the commencement of the Constitution;
- (d) every person who immediately prior to the commencement of the Constitution -
 - (i) held office in a court or tribunal deemed, by virtue of the provisions of paragraph (2) of Article 146, to be a court or tribunal created and established by Parliament;
 - (ii) was in the service of the Republic, any local authority or any public corporation;
 - (iii) held office in any local authority or public corporation;
or
 - (iv) held any appointment under any existing written law,

shall continue in such service or hold such office or appointment, as the case may be, on the same terms and conditions.

(2) (a) Every national public officer, officer of a regional public officer, judicial officer and every other person as is required by the Constitution to make an affirmation or take an oath upon entering the duties of office, and every holder of an office required under existing law to take an official oath and every person in the service of every local authority and of every public corporation shall make and subscribe the affirmation or take and subscribe the oath set out in the Fifth Schedule.

(b) Any such national public officer, regional public officer, judicial officer, person or a holder of an office failing to make and subscribe the affirmation or take and subscribe the oath after the commencement of the Constitution on or before such date as may be prescribed by the Prime Minister by Order published in the *Gazette* shall cease to be in service or hold office as the case may be.

(c) The Minister in charge of the subject of Public Administration may, in the Ministers' sole discretion, permit any national public officer, regional public officer, judicial officer or any person or holder of an office referred to in sub-paragraph (a) of this paragraph to make and subscribe the affirmation or take and subscribe the oath referred to in that sub-paragraph after the prescribed date, if the Minister is satisfied that the failure to make the affirmation or take the oath within the time prescribed, was occasioned by illness or some other unavoidable cause.

(d) On making such affirmation or taking such oath the national public officer, regional public officer, judicial officer or any person or holder shall continue in service or hold office, as if the national public officer, regional public officer, judicial officer or such person or holder had made such affirmation or taken such oath within the time prescribed under sub-paragraph (b) of this paragraph.

Commissions &c.
under 1978
Constitution.

237. The persons holding office, on the day immediately prior to the commencement of the Constitution, as members respectively, of the Public Service Commission, the Judicial Service Commission and the Finance Commission established by the 1978 Constitution or of a Provincial Public Service Commission shall cease to hold such offices at the commencement of the Constitution.

Provisions
relating to
Regional
Councils.

238. (1) Where a Provincial Council established for a Province by the 1978 Constitution was functioning immediately prior to the commencement of the Constitution, a Regional Council shall, with effect from the commencement of the Constitution and notwithstanding anything to the contrary in the Constitution, be deemed to have been established for the Region which corresponds to that Province.

(2) Every person holding office, immediately prior to the commencement of the Constitution, as a Member of a Provincial Council referred to in paragraph (1) shall be deemed, with effect from the commencement of the Constitution, to have been elected as a Member of the corresponding Regional Council and shall hold office as such member until the expiry of a period of five years calculated from the date appointed for the first meeting of such Provincial Council.

(3) Every person holding office, immediately prior to the commencement of the Constitution, as a Governor of a Province, shall, with effect from the commencement of the Constitution and until such time as a Governor is appointed under Article 129, discharge the functions of the office of Governor in the Region corresponding to such Province.

(4) Every person holding office, immediately prior to the commencement of the Constitution, as the Chief Minister of a Province shall, with effect from the commencement of the Constitution, be deemed to have been appointed under Article 134 as the Chief Minister of the Region which corresponds to that Province.

(5) Subject to the provisions of sub-paragraph (a) of paragraph (2) of Article 236, every person who, immediately prior to the commencement of the Constitution, was an officer in a Provincial Public Service shall, with effect from the commencement of the Constitution, continue in service in the corresponding Regional Public Service on the same terms and conditions as were applicable to the such officer in the Provincial Public Service.

(6) Every national public officer released to a Provincial Public Service and serving in a Province immediately prior to the commencement of the Constitution, shall, within a period one year of the commencement of the Constitution, decide whether such national public officer shall continue as a national public officer or join the corresponding regional public service or any other regional public service which consents to employ such national public officer, and where such officer fails to inform the Secretary of the National Public Service Commission of his or her decision within such period, such officer shall be deemed to have decided to continue as a national public officer.

(7) Every national public officer who was, immediately prior to the commencement of the Constitution, serving in a Province in a department relating to a matter with respect to which a Regional Council has, by the Constitution, exclusive power to make Statutes, shall decide within a period of one year of the commencement of the Constitution, whether such national public officer shall continue as a national public officer or join the corresponding regional public service or any other Regional Public Service which consents to employ such national public officer, and where such officer fails to inform the Secretary of the National Public Service Commission of his or her decision within such period, such officer shall be deemed to have decided to continue as a national public officer.

239. Unless the Constitution otherwise provides, appointments to all offices and bodies created or established by the Constitution shall be made within six months of the commencement of the Constitution.

Time limit for appointment &c.

240. All Bills presented in Parliament functioning immediately prior to the commencement of the Constitution and pending immediately prior to the commencement of the Constitution shall be deemed to have been presented in Parliament after the commencement of the Constitution, and may be proceeded with in accordance with the provisions of this Constitution and the Standing Orders of Parliament.

Provision regarding Bills.

241. Every Treaty or Agreement between the Government of Sri Lanka and the Government of any foreign State approved by Parliament under Article 157 of the 1978 Constitution and subsisting immediately prior to the commencement of the Constitution, shall be deemed to be a Treaty or Agreement approved by Parliament under Article 226 of this Constitution and shall have effect accordingly.

Provision regarding Investment Treaties.

242. (1) All references respectively, in any existing written law to the “Supreme Court”, and the “Court of Appeal” shall unless the context otherwise requires, be deemed to be references respectively to the Supreme Court and the Court of Appeal, created and established by this Constitution.

Provision regarding courts &c.

(2) (a) All appeals, proceedings and other matters pending, immediately prior to the commencement of the Constitution, in the Supreme Court established by the 1978 Constitution shall stand removed

to the Supreme Court created and established by this Constitution and such Supreme Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(b) All appeals, proceedings and other matters pending, immediately prior to the commencement of the Constitution, in the Court of Appeal established by the 1978 Constitution shall stand removed to the Court of Appeal created and established by this Constitution and such Court of Appeal sitting in Colombo shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(3) All judgments and orders respectively of the Supreme Court and the Court of Appeal delivered or made immediately prior to the commencement of the Constitution, shall be deemed to have been delivered or made respectively, by the Supreme Court and the Court of Appeal created and established by this Constitution and shall have effect accordingly.

(4) (a) All references in any existing written law to “a High Court established by Article 154P of the Constitution” or “a Provincial High Court” or “a High Court” shall in so far as such references are in relation to the original criminal or civil jurisdiction of such court, be deemed to be references to a Regional High Court created and established by this Constitution.

(b) All original criminal and civil proceedings pending, immediately prior to the commencement of the Constitution, in a High Court established for a Province under the 1978 Constitution shall stand removed to the corresponding Regional High Court created and established by this Constitution, and such Regional High Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(c) All judgments and orders delivered or made immediately prior to the commencement of the Constitution by a High Court established for a Province under the 1978 Constitution, in the exercise of its original criminal or civil jurisdiction shall be deemed to have been delivered or made by the corresponding Regional High Court created and established by this Constitution and shall have effect accordingly.

(d) All references in any existing written law to “a High Court established by Article 154P of the Constitution” or “a Provincial High Court” or “a High Court” shall, in so far as such references are in relation to the appellate, revisionary or writ jurisdiction of such court, be deemed to be references to the Court of Appeal created and established by this Constitution.

(e) All appeals, writ applications and other matters (other than original criminal or civil proceedings) pending immediately prior to the commencement of the Constitution, in a High Court established for a Province under the 1978 Constitution, shall stand removed to the appropriate division circuit of the Court of Appeal created and established by this Constitution, and such Court shall have jurisdiction to take cognizance of, and to hear and determine, or continue and complete the same.

(f) All judgements and orders delivered or made immediately prior to the commencement of the Constitution by a High Court established for a Province under the 1978 Constitution, in the exercise of its appellate, revisionary or writ jurisdiction, shall be deemed to have been delivered or made by the Court of Appeal created and established by this Constitution and shall have effect accordingly.

(5) (a) All proceedings and matters pending immediately prior to the commencement of the Constitution in the High Court of Sri Lanka created and established by the 1978 Constitution, shall stand removed to the Regional High Court of the Western Region and the Regional High Court of the Western Region shall have jurisdiction to take cognizance of, and to hear and determine or continue and complete the same.

(b) All judgements and orders delivered or made by the High Court of Sri Lanka created and established by the 1978 Constitution prior to the commencement of the Constitution, shall be deemed to have been delivered or made by the Regional High Court of the Western Region and shall have effect accordingly.

(6) No appeal shall lie from any judgement, order or decree of the Supreme Court created and established by the 1978 Constitution to the Supreme Court created and established by the Constitution but such judgement, order or decree, as the case may be, shall be final as between the parties to the action, application or other proceeding in which such judgement, order or decree was made.

(7) (a) All attorneys-at-law admitted and enrolled or deemed to have been admitted and enrolled as attorneys-at-law under the provisions of the Judicature Act, No.2 of 1978 shall, subject to the provisions of the Constitution, be deemed to have been admitted and enrolled as attorneys-at-law of the Supreme Court created and established by the Constitution.

(b) After the date fixed by the Minister in charge of the subject of Justice, by Order published in the Gazette, no attorney-at-law shall be entitled to represent any party to a proceeding or be given the right of audience in any court, tribunal or other institution until or unless the attorney-at-law has made and subscribed or taken and subscribed the oath set out in the Fifth Schedule before a Judge of the Supreme Court, Court of Appeal, Regional High Court or any other judicial officer and it shall be the duty of such judge or judicial officer, as the case may be, to forward such affirmation or oath made and subscribed or taken and subscribed to the Registrar of the Supreme Court who shall cause the same to be entered in the roll of such Court, such entry shall be the only proof and that such attorney-at-law has made and subscribed or taken and subscribed such oath or affirmation.

(8) If any matter or question shall arise with regard to any procedure or practice to be followed in any court in consequence of the coming into operation of this Constitution, not provided for in the Constitution or any written law, the Chief Justice shall have the power to give such directions as the Chief Justice may consider necessary to prevent injustice or as the justice of the case may require and to ensure that the provisions of Chapters XVII, XVIII and XIX of the Constitution are given full and complete effect.