

CHAPTER XIII

THE FRANCHISE AND ELECTIONS

Right to be an elector.

106. Every person shall, unless disqualified as hereinafter provided, be qualified to be an elector at the election of Members of Parliament and of Members of a Regional Council, and to vote at any Referendum but shall not be entitled to vote at such election or Referendum unless the name of the person is entered in the appropriate register of electors.

Disqualification to be an elector.

107. (1) A person shall not be qualified to be an elector at an election of Members of Parliament or Members of a Regional Council or to vote at any Referendum if the person is subject to any of the following disqualifications, namely-

- (a) if the person is not a citizen of Sri Lanka;
- (b) if the person has not attained the age of eighteen years on the qualifying date specified by law under the provisions of Article 120;
- (c) if the person is under any law in force in Sri Lanka found or declared to be of unsound mind;
- (d) subject to paragraph (2), if the person is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment (by whatever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years, or is under sentence of death, or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of such sentence;
- (e) if a period of seven years has not elapsed since-
 - (i) the last of the dates, if any, of the person being convicted of any offence under sections 66 or 76 of the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda or to the election of, the President, or of Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to an offence under either of the said two sections;
 - (ii) the last of the dates, if any, of the person being convicted of a corrupt practice under the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda or the election of, the President, or of

- Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to the said corrupt practice;
- (iii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding the person guilty of any corrupt practice under the Parliamentary Elections Act, No. 1 of 1981, or under any law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils; or
 - (iv) the last of the dates, if any, of the person being convicted or being found guilty of bribery under the provisions of the Bribery Act or of any future Act, as would correspond to the Bribery Act;
- (f) if a period of five years has not elapsed since-
- (i) the last of the dates, if any, of the person being convicted of an offence under the provisions of sections 77 to 82 (both inclusive) of the Local Authorities Elections Ordinance or for such offence under any future law, as would correspond to any offence under the said sections; or
 - (ii) the last of the dates, if any, of the person being convicted of an offence under the provisions of sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance or of such offence under any future law, as would correspond to the said offence;
- (g) if a period of three years has not elapsed since-
- (i) the last of the dates, if any, of the person being convicted of an illegal practice under the Parliamentary Elections Act, No. 1 of 1981, or of such offence under the law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils, as would correspond to the said illegal practice;
 - (ii) the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding the person guilty of any illegal practice under the Parliamentary Elections Act, No. 1 of 1981, or under any law for the time being relating to Referenda, or the election of, Members of Parliament or of Members of Provincial Councils or Regional Councils;

(h) if a period of seven years has not elapsed since-

- (i) the date of the person being convicted of any offence under the provisions of sections 188 to 201 (both inclusive) of the Penal Code or for such other offence under any future law, as would correspond to any offence under the said sections; or
- (ii) the date of the person being convicted of an offence of contempt against, or in disrespect of, the authority of any Special Presidential Commission of Inquiry by reason of -
 - (1) the failure of such person without cause which in the opinion of such Commission is reasonable, to appear before such Commission at the time and place mentioned in any summons which such Commission is empowered by law to issue;
 - (2) the refusal of such person to be sworn or affirmed, or the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to answer any question put to such person touching the matters directed to be inquired into by such Commission; or
 - (3) the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to produce and show to such Commission any document or thing which is in the possession or power of such person and which in the opinion of such Commission is necessary for arriving at the truth of the matters to be inquired into by such Commission; or
- (i) if the period of the person's disqualification imposed under Article 161 has not elapsed.

(2) Where any person disqualified to be an elector under sub-paragraph (d) of paragraph (1) of this Article is granted a free pardon by the President under sub-paragraph (a) of paragraph (1) of Article 59, such disqualification shall cease from the date on which the pardon is granted.

Qualification for election as Member of Parliament.

108. (1) Every person who is qualified to be an elector shall be qualified to be elected as a Member of Parliament unless the person is disqualified under the provisions of paragraph (2).

(2) A person shall not be qualified to be elected as a Member of Parliament or to sit and vote in Parliament-

- (a) if the person is or becomes subject to any of the disqualifications specified in Article 107;

(b) if the person-

- (i) stands nominated as a candidate for election for more than one electoral district at a General Election;
- (ii) stands nominated as a candidate for election by more than one recognised political party or independent group in respect of any electoral district;
- (iii) stands nominated as a candidate for election for an electoral district and before the conclusion of the election for that electoral district, stands nominated as a candidate for election for any other electoral district ; or
- (iv) being a Member of Parliament except in the circumstances referred to in paragraph (5) of Article 86 or sub-paragraph (a) of paragraph (1) of Article 222 stands nominated as a candidate for election for any electoral district ;

(c) if the person is the President or a Vice-President of the Republic;

(d) if the person is the Governor of a Region;

(e) if the person is-

- (i) a judicial officer;
- (ii) the Parliamentary Commissioner for Administration (Ombudsman);
- (iii) the Secretary-General of Parliament or a member of the staff of the Secretary-General ;
- (iv) a member of the National Public Service Commission or the Finance Commission or the Judicial Service Commission or a Regional Public Service Commission or a Regional Police Commission;
- (v) a member of the Election Commission or a member of the staff of the Election Commission;
- (vi) the Auditor-General ;
- (vii) a public officer holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 6,720 per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial ;

- (viii) a public officer holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (vii) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first mentioned initial;
- (ix) an officer in any public corporation holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs.7,200 per annum or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial;
- (x) an officer in any public corporation or of any Regional Public Service, holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable on that date to an office referred to in item (ix) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first mentioned initial;
- (xi) a member of the Regular Force of the Army, Navy or Air Force;
or
- (xii) a police officer or a public officer exercising police functions;
- (f) if the person has any such interest in any such contract made by or on behalf of the State or a public corporation as Parliament shall by law prescribe;
- (g) if the person is an undischarged bankrupt or insolvent, having been declared bankrupt or insolvent; or
- (h) if during the preceding seven years the person has been adjudged by a competent court or by a Special Presidential Commission of Inquiry to have accepted a bribe or gratification offered with a view to influencing the person's judgement as a Member of Parliament or as a Member of the legislature prior to the commencement of the Constitution.

(3) For the purposes of sub-paragraph (h) of paragraph (2) of this Article, the acceptance by a Member of Parliament of any allowance or other payment made to the Member by any trade union or other organisation solely for the purpose of the maintenance of the Member shall be deemed not to be an acceptance of a bribe or gratification.

109. The voting for the election of the Members of Parliament and of Members of Regional Councils and at any Referendum shall be free, fair and by secret ballot.

Election to be free, fair and secret.

110. (1) (a) Subject to sub-paragraph (b) of this paragraph, there shall be an Election Commission consisting of five persons appointed by the President, on the recommendation of the Constitutional Council, from amongst persons who have distinguished themselves in the professions or in the fields of administration or higher education.

Election Commission.

(b) Until the Constitutional Council is constituted, the members of the Election Commission shall be appointed by the President, and two of the members so appointed shall be nominees of the Leader of the Opposition in Parliament.

(c) The President shall nominate one of the members of the Election Commission to be the Chairperson of the Commission.

(2) A person shall not be appointed or continue as a member of the Election Commission if he or she is a Member of Parliament or of a Regional Council or of a local authority.

(3) The provisions of this Constitution and other law relating to the removal of Judges of the Supreme Court and the Court of Appeal from office shall apply to the removal of members of the Election Commission from office, subject to the modification that the committees referred to in sub-paragraphs (i) and (ii) of paragraph (4) of Article 151 shall, in their application to both the Chairperson and a member of the Commission, consist of three persons who hold or have held office as a Judge of the Supreme Court or the Court of Appeal created and established by this Constitution, the 1978 Constitution or other law.

(4) A member of the Election Commission who without leave of the President first obtained is absent from three consecutive meetings of the Commission shall be deemed to have vacated office with effect from the date of the third of such meetings.

(5) Every member of the Election Commission shall hold office for a period of five years from the date of appointment, unless the member resigns from office by writing addressed to the President or is removed from office under paragraph (3) of this Article or is deemed to have vacated office under paragraph (4) of this Article, but shall be eligible for reappointment.

(6) (a) The President may grant leave from his duties to a member of the Election Commission and may appoint a person qualified to be a member of the Commission to be a temporary member for the period of such leave.

(b) Every such appointment shall be on the recommendation of the Constitutional Council, and where such temporary vacancy occurs at any time prior to the constitution of the Constitutional Council, such appointment shall be made by the President, so however that where the vacancy is in respect of a member nominated by the Leader of the Opposition, the President shall make such appointment with the concurrence of the Leader of the Opposition.

(7) A member of the Election Commission shall be paid such salary as may be determined by Parliament. The salary payable to a member of the Commission shall be charged on the Consolidated Fund of Sri Lanka and shall not be diminished during the term of office of the member.

(8) The quorum for any meeting of the Election Commission shall ordinarily be three members but the quorum for any meeting at which a decision relating to the appointment or removal of the Commissioner-General of Elections is taken shall be four members, and in the event of an equality of votes, the Chairperson shall have a casting vote.

(9) (a) The Chairperson of the Election Commission shall preside at meetings of the Commission and, in the absence of the Chairperson from any meeting of the Commission, a member elected from among the members present shall preside at such meeting.

(b) Decisions of the Election Commission shall be by a majority of the members present and voting at the meeting at which the decision is taken.

(10) The Election Commission shall have power to act notwithstanding any vacancy in the membership of the Commission and any act or proceedings of the Commission shall not be, or shall not be deemed to be, invalid by reason only of such vacancy or any defect in the appointment of a member.

(11) No suit, prosecution or other proceedings shall lie against the Election Commission or any member or officer of the Election Commission for any act or thing in good faith done, in pursuance, or supposed pursuance, of any power conferred on such Commission, officer or member under the Constitution or other law.

Powers and
functions of the
Election
Commission.

111. (1) The Election Commission shall exercise, perform and discharge, all powers, duties and functions conferred or imposed on, or assigned to —

(i) the Election Commission; or

(ii) the Commissioner of Elections,

by the Constitution, by law for the time being in force relating to the election of Members of Parliament, election of members of Regional

Councils and Referenda or by other written law, including but not limited to all powers, duties and functions relating to the preparation and revision of registers of electors for the purposes of such elections and referenda and the conduct of such elections and referenda.

(2) The Election Commission shall be responsible and answerable to Parliament, for the exercise, performance and discharge, of the powers, duties and functions referred to in paragraph (1) of this Article.

(3) Upon the making of a Proclamation or Order requiring the holding or conduct of an election or referendum, as the case may be, the Election Commission shall notify the National Police Commissioner of the facilities and the number of the police officers required by the Commission for the holding or conduct of such election or referendum, as the case may be.

(4) The National Police Commissioner shall make available to the Election Commission, the facilities and police officers specified in any notification made under paragraph (3) of this Article.

(5) The Election Commission may deploy the police officers made available to the Commission under paragraph (4) of this Article in such manner as is calculated to promote the conduct of a free and fair election or referendum, as the case may be.

(6) During the period commencing on the date of the Proclamation or Order requiring the holding or conduct of the election or referendum, as the case may be, and ending on the date on which the result of the poll taken at such election or referendum, as the case may be, is declared, every police officer made available to the Commission under paragraph (4) of this Article shall, notwithstanding anything in the Constitution or other law, be responsible to, and act under the direction and control of, the Election Commission.

(7) No suit or prosecution or other proceeding, civil or criminal, shall lie against any police officer made available to the Election Commission under paragraph (4) of this Article for any act or thing in good faith done by such police officer during the period referred to in paragraph (6) of this Article, in pursuance, or supposed pursuance, of a direction of the Election Commission.

(8) It shall be lawful for the Election Commission to make recommendations to the President, during the period commencing on the date of the Proclamation or Order requiring the holding or conduct of an election or referendum, as the case may be, and ending on the date on which the result of the poll taken at such election or referendum, as the case may be, is declared, regarding the deployment of the armed forces of the Republic for the prevention or control of any incidents which may be prejudicial to the holding or conduct of a free and fair election or referendum, as the case may be.

Commissioner-General of Elections.

112. (1) The Election Commission shall appoint the Commissioner-General of Elections and other officers of the Commission on such terms and conditions as may be determined by the Commission, and shall exercise disciplinary control over the officers appointed under this paragraph.

(2) The salaries of the Commissioner-General of Elections and other officers of the Election Commission shall be charged on the Consolidated Fund of Sri Lanka.

(3) The Commissioner-General of Elections shall, subject to the direction and control of the Election Commission, execute the decisions of the Commission and exercise supervision over the other officers of the Commission.

(4) The Election Commission may delegate to the Commissioner-General of Elections or other officer of the Commission, any power, duty or function of the Commission and the Commissioner-General of Elections or such officer shall exercise, perform or discharge such power, duty or function, subject to the direction and control of the Commission.

(5) Notwithstanding anything in any law, the Election Commission shall not appoint any person other than a Commissioner, Deputy Commissioner or Assistant Commissioner, of Elections to be a returning officer at any election or referendum conducted by the Election Commission.

Establishment of Delimitation Commission.

113. (1) Within three months of the commencement of the Constitution, the President shall for the delimitation of electoral districts for the election of Members of Parliament, establish a Delimitation Commission consisting of three persons appointed by the President, who the President is satisfied, are not actively engaged in politics.

(2) The President shall appoint one of such persons to be the Chairperson.

(3) 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 the functions of a member as such, the President shall, in accordance with the provisions of paragraph (1) of this Article, appoint another person in place of such member.

Electoral districts.

114. (1) The Delimitation Commission shall divide Sri Lanka into not less than twenty and not more than twenty-five electoral districts and shall assign names thereto.

(2) Each Region of Sri Lanka may itself constitute an electoral district or may be divided into two or more electoral districts.

(3) Where a Region is divided into a number of electoral districts, the Delimitation Commission shall have regard to the existing administrative districts so as to ensure as far as is practicable that each electoral district shall be an administrative district or a combination of two or more administrative districts or two or more electoral districts together constitute an administrative district.

(4) The electoral districts of each Region shall together be entitled to return four members, (independently of the number of members which they are entitled to return by reference to the number of electors whose names appear in the registers of electors of such electoral districts), and the Delimitation Commission shall apportion such entitlement equitably among such electoral districts.

(5) (a) In the event of a difference of opinion among the members of the Delimitation Commission, the opinion of the majority thereof shall prevail and shall be deemed to be the decision of the Commission.

(b) Where each member of the Commission is of a different opinion, the opinion of the Chairperson shall be deemed to be the decision of the Commission.

(c) Any dissentient member may state the reasons for such dissent.

(6) The Chairperson of the Delimitation Commission shall communicate the decisions of the Commission, together with the reasons, if any, stated by a dissentient member, to the President.

115. The President shall, by Proclamation, publish the names and boundaries of the electoral districts and the number of members, which each such electoral district is entitled to return by virtue of the provisions of paragraph (4) of Article 114 in accordance with the decision of the Delimitation Commission, and the electoral districts specified in the Proclamation shall come into operation at the next ensuing General Election of Members of Parliament and shall thereafter be the electoral districts of Sri Lanka for all the purpose of the Constitution and of any law for the time being in force relating to the election of Members of Parliament.

Proclamation of names &c. of electoral districts.

116. (1) The several electoral districts shall together be entitled to return one hundred and ninety-six members.

Number of members to be returned by the several electoral districts and their apportionment among such electoral districts.

(2) The apportionment of the number of members that each electoral district shall be entitled to return shall, in the case of thirty-six members, be determined in accordance with the provisions of paragraph (4) of Article 114.

(3) The apportionment of the number of members that each electoral district shall be entitled to return out of the balance number of one hundred and sixty members shall be determined in accordance with the succeeding provisions of this Article.

(4) The total number of electors whose names appear in the registers of electors of all the electoral districts shall be divided by one hundred and sixty and 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 electors whose names appear in the register of electors of each electoral districts shall be entitled to return 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 and 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 one hundred and sixty members, 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 (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 such electors, being entitled to return one more member and so on until the total number of members to be returned number one hundred and sixty.

(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 made by lot.

(8) The Commissioner-General 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 115 and this Article.

(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.

**Proportional
representation.**

117. (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-General of Elections in the Order published in accordance with the provisions of paragraph (8) of Article 116

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

(3) Any recognised 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 the name of the elector appears in the electoral register in more than one electoral district.

(5) The recognised 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 recognised political party and independent group polling less than one twentieth 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 numbers 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 division 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 (6) 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 recognised 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), (9) or (10) of this Article an equality is found to exist between the votes polled by two or more recognised 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 the recognised political party or independent group on whose nomination paper (hereinafter referred to as

the "relevant nomination paper") the name of the Member appeared at the time of becoming a Member of Parliament, the seat held by the Member shall, subject to paragraph (b), become vacant upon the expiration of a period of one month from the date of the Member ceasing to be a member of the recognised political party or independent group.

(b) Where a Member who would otherwise cease to be a Member under sub-paragraph (a) of this paragraph by reason of expulsion from a recognised political party or independent group applies to the Supreme Court by petition in writing before the expiration of the period of one month specified in that sub-paragraph, and the Supreme Court upon such petition -

- (i) determines that such expulsion was invalid, the seat of that Member shall not become vacant; or
- (ii) determines that the expulsion was valid, the seat held by that Member shall become vacant from the date of such determination.

(c) A petition under sub-paragraph (b) of this paragraph 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.

(d) In sub-paragraph (a) of this paragraph, "nomination paper" when used in relation to a recognised political party or independent group, includes a list submitted by that recognised political party or independent group under paragraph (2) of Article 118.

(14) Where the seat of a Member of Parliament (other than a Member declared elected under Article 118) becomes vacant as provided in Article 82 (other than paragraph (g) of that Article) or by virtue of the provisions of paragraph (13) of this Article, the candidate from the relevant recognised political party or independent group who has secured the next highest number of preferences shall be declared elected to fill such vacancy.

118. (1) After the one hundred and ninety six members referred to in Article 116 have been declared elected at a General Election of Members of Parliament, the Commissioner-General 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 116 shall, *mutatis mutandis*, apply.

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

(2) Every recognised political party or independent group contesting a General Election shall submit to the Commissioner-General 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 fill the seats, if any, which such party or group will be entitled to, on such apportionment. The Commissioner-General of Elections shall cause every list submitted to the Commissioner-General 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.

(3) Where a recognised political party or independent group is entitled to a seat under the apportionment referred to in paragraph (2), the Commissioner-General of Elections shall by a notice, require the secretary of such recognised 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-General 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.

(4) The Commissioner-General of Elections shall before issuing the aforesaid notice, determine whether the number of members belonging to any community, ethnic or otherwise, elected to Parliament under Article 117 is commensurate with the national population ratio and request the secretary of such recognised political party or group leader of such independent group in so nominating persons to be elected as Members of Parliament to ensure as far as practicable, that the representation of all communities is commensurate with their national population ratios.

(5) Where the seat of a Member of Parliament elected under this Article becomes vacant, as provided for in Article 82 or sub-paragraph (a) of paragraph (13) of Article 117, the provisions of paragraphs (3) and (4) of this Article shall, *mutatis mutandis*, apply to the filling of such vacancy.

(6) 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.

Penalty for sitting and voting in Parliament or Regional Council when disqualified.

119. Any person who -

- (a) having been elected a Member of Parliament or a Member of a Regional Council but not having been at the time of such election qualified to be so elected, shall sit or vote in Parliament or such Regional Council; or
- (b) shall sit or vote in Parliament or a Regional Council after the person's seat therein has become vacant or the person has become disqualified from sitting or voting therein,

knowing or having reasonable grounds for knowing that the person was so disqualified or that the person's seat has become vacant, as the case may be, shall be liable to a penalty of five hundred rupees for every day upon which the person so sits or votes, to be recovered as a debt due to the Republic by an action instituted by the Attorney-General in the District Court of Colombo.

120. (1) Subject to paragraph (2) of this Article, Parliament may by law make provision for-

Parliament may make provision in respect of elections.

- (a) the registration of electors;
- (b) the prescribing of a qualifying date on which a person should be resident in any electoral district to be entered in the register of electors of that electoral district;
- (c) the prescribing of a qualifying date on which a person should have attained the age of eighteen years to qualify for the purposes of registration as an elector;
- (d) the preparation and revision of registers of electors;
- (e) the procedure for the election of Members of Parliament and of Members of Regional Councils;
- (f) the creation of offences relating to such elections and the punishment therefor;
- (g) the grounds for avoiding such elections, and where an election has been held void, the manner of holding fresh elections;
- (h) the form and manner in which vacancies shall be filled when all the candidates whose names appearing in the nomination paper of a recognised political party or independent group have been exhausted by election or otherwise; or
- (i) the manner of determination of disputed elections and such other matters as are necessary or incidental to the election of Members of Parliament and of Members of Regional Councils.

(2) Any law referred to in paragraph (1) of this Article shall not add to the disqualifications specified in Articles 107 and 108.

(3) Until Parliament by law makes provision for such matters, the Parliamentary Elections Act, No. 1 of 1981 and the Provincial Councils

Elections Act, No. 2 of 1988, as amended from time to time, shall, subject to the provisions of the Constitution, *mutatis mutandis*, apply to the election of Members of Parliament and to the election of Members of Regional Councils.

Public officer or
an officer of a
public
corporation not
to function
during period of
election.

121. When a public officer or an officer of a public corporation is a candidate at any election of Members of Parliament or of Members of a Regional Council, the officer shall be deemed to be on leave from the date on which the officer stands nominated as a candidate until the conclusion of the election and such public officer or officer of a public corporation shall not during such period exercise, perform or discharge any of the powers, duties or functions of the office of that officer.