

CONSTITUTION OF THE JUDICIAL SERVICE COMMISSION

111D. (1) There shall be a Judicial Service Commission (in this Chapter referred to as the "Commission ") consisting of the Chief Justice and two other Judges of the Supreme Court appointed by the President subject to the provisions of Article 41C.

(2) The Chief Justice shall be the Chairman of the Commission.

Meetings of the Commission

111E. (1) The quorum for any meeting of the Commission shall be two members of the Commission.

(2) A Judge of the Supreme Court appointed as a member of the Commission shall, unless he earlier resigns his office or is removed there from as hereinafter provided or ceases to be a Judge of the Supreme Court, hold office for a period of three years from the date of his appointment, but shall be eligible for re-appointment.

(3) All decisions of Commission shall be made by a majority of the members present, and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) The commission shall have power to act notwithstanding any vacancy in its membership and no act or Proceeding of the Commission shall be, or be deemed to be invalid by reason only of such vacancy or any defect in the appointment of a member.

(5) The President may grant to any member of the Commission leave from his duties and may appoint on the recommendation of the Constitutional Council, a person qualified to be member of the commission to be temporary member for the period of such leave.

(6) The President may on the recommendation of the Constitutional Council, for cause assigned, remove from office any member of the commission.

Allowances of the members of the Commission

111F. A member of the Commission shall be paid such allowances as may be determined by Parliament. Such allowances shall be charged on the Consolidated Fund and shall not be reduced during the period of office of a member, and shall be in addition to the salary and other allowances attached to, and received from, the substantive appointment:

Provided that until the amount to be paid as allowances is determined under the provisions of this Article, the members of the Commission shall continue to receive as

allowances, such amount as they were receiving on the day immediately preceding the date on which this Chapter comes into operation.

Secretary to the Commission

111G. There shall be a Secretary to the commission who shall be appointed by the Commission from among senior judicial officers of the Courts of First Instance.

Powers of the Commission

- 111H. (1) The Judicial Service Commission is hereby vested with the power to -
- (a) Transfer judges of the High court:
 - (b) appoint, promote, transfer, exercise disciplinary control and dismiss judicial officers and scheduled public officers.
- (2) The Commission may make-
- (a) rules regarding training of judges of the High Court, the schemes for recruitment and training, appointment, promotion and transfer of judicial offices and scheduled public officers;
 - (b) provision for such matters as are necessary of expedient for the exercise, performance and discharge of the powers, duties and functions of the commission.
- (3) The Chairman of the Commission or any Judge of the Supreme Court or Judge of the Court of Appeal as the case may be, authorized by the Commission shall have power and authority to inspect any Court of First Instance, or the records, registers and other documents maintained in such Court, or hold such inquiry as may be necessary.
- (4) The Commission may by Order published in the Gazette delegate to the Secretary to the Commission the power to make transfers in respect of scheduled public officers, other than transfers involving increase of salary, or to make acting appointments in such cases and subject to such limitations as may be specified in the Order.

Judicial officers and scheduled public officers may resign.

111J. Any judicial officer or scheduled public officer may resign his office by writing under his hand addressed to the Chairman of the Commission.

Immunity from legal proceedings.

111K. No suit or proceeding shall lie against the Chairman, member or Secretary or officer of the Commission for any lawful act which in good faith is done in the performance of his duties or functions as such Chairman, member, Secretary or officer of the Commission.

Interference with the Commission an offence.

111L. (1) Every person who otherwise than in the course of such persons lawful duty, directly or indirectly, alone or by or with any other person, in any manner whatsoever, influences or attempts to influence any decision or order made by the Commission or to so influence any member thereof, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding three years or to both such fine and imprisonment:

Provided however that the giving of a certificate or testimonial to any applicant or candidate for any judicial office or scheduled public office shall not be an offence.

(2) Every High court established under Article 154P of the Constitution shall have jurisdiction on hear and determine any matter referred to in paragraph (1).

Interpretation

111M (a) In this chapter-

"appointment" includes the appointment to act in any office referred to in this Chapter.

"judicial officer" means any person who holds office as judge, presiding officer or member of any Court of First Instance, tribunal or institution created and established for the administration of justice or for the adjudication any labor or other dispute, but does not include a Judge of the Supreme Court or of the Court of Appeal or of the High Court or a person who performs arbitral functions, or a public officer whose principal duty is not the performance of functions of a judicial nature; and

"scheduled public officer" means the Registrar of the Supreme Court, the Registrar of Court of Appeal, the Registrar, Deputy Registrar or Assistant Registrar of the High Court or any Court of First Instance, the Fiscal, the Deputy Fiscal of the Court Appeal or High Court and any Court of First Instance, any public officer employed in the Registry of the Supreme Court, Court of Appeal or High Court or any Court of First Instance included in a category specified in the Fifth Schedule or such other categories as may be specified by Order made by the Minister in charge of the subject of justice and approved by Parliament and published in the Gazette.

- (b) No court, tribunal or institution shall have jurisdiction to entertain or to determined the question whether or not a person is a judicial officer within the meaning of the constitution, but such question shall be determined solely by the Commission, whose decision thereon shall be final and conclusive.
- (C) No act of such person or proceeding held before such person, prior to such determination as is referred to in sub-paragraph (b), shall be deemed to be invalid by reason of such determination.

Repeal of Articles 112, 113, 113A, 114, 115 and 117 of the Constitution.

17. Articles 112, 113, 113A, 114, 115 and 117 of the Constitution are hereby repealed.

Amendment of Article 153 of the Constitution

18. Article 153 of the Constitution is hereby amended as follows:-

(1) In paragraph (1) of that article, by the substitution for the words “shall be appointed by the president”, of the words “shall, subject to the provisions of Article 41C, be appointed by the President”; and

(2) In paragraph (4) of that article, by the substitution for the words “the president may appoint”, of the words “the President may, subject to the provisions of Article 41C, appoint”.

Amendment of Article 154R of the Constitution

19. Article 154 of the Constitution is hereby amended in sub-paragraph (c) of paragraph (1) of that article. By the substitution for the words “three other members to represent”, of the words “three other members who are appointed by the president on the recommendation of the constitutional council, to represent”.

Insertion of new Chapter XVIIIA in the Constitution

20. The following new Chapter is hereby inserted immediately after Article 155 of the Constitution and shall have effect as Chapter XVIIIIA of the Constitution :-