



THE CONSTITUTION

OF THE

DEMOCRATIC SOCIALIST REPUBLIC

OF SRI LANKA

(As amended up to 31st October 2022)

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CHAPTER XVI
THE SUPERIOR COURTS

The Supreme Court

**General
jurisdiction
of Supreme
Court**

118. The Supreme Court of the Republic of Sri Lanka shall be the highest and final superior Court of record in the Republic and shall subject to the provisions of the Constitution exercise –

- (a) jurisdiction in respect of constitutional matters;
- (b) Jurisdiction for the protection of fundamental rights;
- (c) final appellate jurisdiction;
- (d) consultative jurisdiction;
- (e) jurisdiction in election petitions;
- (f) jurisdiction in respect of any breach of the privileges of Parliament; and
- (g) jurisdiction in respect of such other matters which Parliament may by law vest or ordain.

**Constitution
of Supreme
Court**

119. (1) The Supreme Court shall consist of the Chief Justice and of not less than six and not more than ¹¹⁶[sixteen] other Judges who shall be appointed as provided in Article 107.

(2) The Supreme Court shall have power to act notwithstanding any vacancy in its membership and no act or proceeding of the Court shall be, or shall be deemed to be, invalid by reason only of any such vacancy or any defect in the appointment of a Judge.

120. The Supreme Court shall have sole and exclusive jurisdiction to determine any question as to whether any Bill or any provision thereof is inconsistent with the Constitution:

**Constitutional
Jurisdiction of
the Supreme
Court**

Provided that –

- (a) in the case of a Bill described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 83;
- (b) where the Cabinet of Ministers certifies that a Bill, which is described in its long title as being for the amendment of any provisions of the Constitution; or for the repeal and replacement of the Constitution, intended to be passed with the special majority required by Article 83 and submitted to the People by Referendum, the Supreme Court shall have and exercise no jurisdiction in respect of such Bill;
- (c) where the Cabinet of Ministers certifies that a Bill which is not described in its long title as being for the amendment of any provision of the Constitution, or for the repeal and replacement of the Constitution, is intended to be passed with the special majority required by Article 84, the only question which the Supreme Court may determine is whether such Bill requires approval by the People at a Referendum by virtue of the provisions of Article 83 or whether such Bill is required to comply with paragraphs (1) and (2) of Article 82; or

- (d) where the Cabinet of Ministers certifies that any provision of any Bill which is not described in its long title as being for the amendment of any provision of the Constitution or for the repeal and replacement of the Constitution is intended to be passed with the special majority required by Article 84, the only question which the Supreme Court may determine is whether any other provision of such Bill requires to be passed with the special majority required by Article 84 or whether any provision of such Bill requires the approval by the People at a Referendum by virtue of the provisions of Article 83 or whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 82.

**Ordinary
Exercise of
constitutional
jurisdiction in
respect of Bills**

121. (1) The jurisdiction of the Supreme Court to ordinarily determine any such question as aforesaid may be invoked by the President by a written reference addressed to the Chief Justice, or by any citizen by a petition in writing addressed to the Supreme Court. Such reference shall be made, or such petition shall be filed,¹¹⁷[within fourteen days] of the Bill being placed on the Order Paper of the Parliament and a copy thereof shall at the same time be delivered to the Speaker. In this paragraph “citizen” includes a body, whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.

(2) Where the jurisdiction of the Supreme Court has been so invoked no proceedings shall be had in Parliament in relation to such Bill until the determination of the Supreme Court has been made, or the expiration of

117 - Substituted by the Twenty First Amendment to the Constitution Sec. 17.

a period of three weeks from the date of such reference or petition, whichever occurs first.

(3) The Supreme Court shall make and communicate its determination to the President and to the Speaker within three weeks of the making of the reference or the filing of the petition, as the case may be.

¹¹⁸[122. (1) In the case of a Bill which is, in view of the Cabinet of Ministers, urgent in the interest of national security or for the purpose of any matter relating to disaster management, and bears an endorsement to that effect under the hand of the Secretary to the Cabinet -

**Special
exercise of
constitutional
jurisdiction
in respect of
urgent Bills**

- (a) the provisions of paragraph (1) of Article 78 and of Article 121, shall, subject to the provisions of paragraph (2) of this Article, have no application;
- (b) the President shall, by a written reference addressed to the Chief Justice, require the special determination of the Supreme Court as to whether the Bill or any provision thereof is inconsistent with the Constitution. A copy of such reference shall at the same time be delivered to the Speaker;
- (c) the Supreme Court shall make its determination within twenty-four hours (or such longer period not exceeding three days as the President may specify) of the assembling of the Court and shall communicate its determination only to the President and the Speaker.

(2) The provisions of paragraph (2) of Article 121 shall, *mutatis mutandis*, apply to such Bill.

(3) The provisions of this Article shall not apply to any Bill for the amendment, repeal and replacement, alteration or addition of any provision of the Constitution or for the repeal and replacement of the Constitution.]

**Determination
of Supreme
Court in
respect of
Bills**

123. (1) The determination of the Supreme Court shall be accompanied by the reasons there for and shall state whether the Bill or any provision thereof is inconsistent with the Constitution and if so, which provision or provisions of the Constitution.

(2) Where the Supreme Court determines that the Bill or any provision thereof is inconsistent with the Constitution, it shall also state -

- (a) whether such Bill is required to comply with the provisions of paragraphs (1) and (2) of Article 82; or
- (b) whether such Bill or any provision thereof may only be passed by the special majority required under the provisions of paragraph (2) of Article 84; or
- (c) whether such Bill or any provision thereof requires to be passed by the special majority required under the provisions of paragraph (2) of Article 84 and approved by the People at a Referendum by virtue of the provisions of Article 83, and may specify the nature of the amendments which would make the Bill or such provision cease to be inconsistent.

¹¹⁹[(3) In the case of a Bill endorsed as provided in Article 122, if the Supreme Court entertains a doubt whether the Bill or any provision thereof is inconsistent with the Constitution, it shall be deemed to have been

determined that the Bill or such provision of the Bill is inconsistent with the Constitution, and the Supreme Court shall comply with the provisions of paragraphs (1) and (2) of this Article.]

(4) Where any Bill, or the provision of any Bill, has been determined or is deemed to have been determined, to be inconsistent with the Constitution, such Bill or such provision shall not be passed except in the manner stated in the determination of the Supreme Court:

Provided that it shall be lawful for such Bill to be passed after such amendment as would make the Bill cease to be inconsistent with the Constitution.

124. Save as otherwise ¹²⁰[provided in Articles 120, 121 and 122], no court or tribunal created and established for the administration of justice or other institution, person or body of persons shall in relation to any Bill, have power or jurisdiction to inquire into, or pronounce upon, the constitutionality of such Bill or its due compliance with the legislative process, on any ground whatsoever.

Validity of Bills and legislative process not to be questioned

125. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the interpretation of the Constitution and accordingly, whenever any such question arises in the course of any proceedings in any other court or tribunal or other institution empowered by law to administer justice or to exercise judicial or quasi-judicial functions, such question shall forthwith be referred to the Supreme Court for determination. The Supreme Court may direct that further proceedings be stayed pending the determination of such question.

Constitutional jurisdiction in the interpretation of the Constitution

(2) The Supreme Court shall determine such question within two months of the date of reference and make any such consequential order as the circumstances of the case may require.

120 - Substituted by the Twentieth Amendment to the Constitution Sec. 28.

**Fundamental
rights
jurisdiction
and its
exercise**

126. (1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV.

(2) Where any person alleges that any such fundamental right or language right relating to such person has been infringed or is about to be infringed by executive or administrative action, he may himself or by an Attorney-at-Law on his behalf, within one month thereof, in accordance with such rules of court as may be in force, apply to the Supreme Court by way of petition in writing addressed to such Court praying for relief or redress in respect of such infringement. Such application may be proceeded with only with leave to proceed first had and obtained from the Supreme Court, which leave may be granted or refused, as the case may be, by not less than two judges.

(3) Where in the course of hearing in the Court of Appeal into an application for orders in the nature of a writ of *habeas corpus*, *certiorari*, *prohibition*, *procedendo*, *mandamus* or *quo warranto*, it appears to such Court that there is prima facie evidence of an infringement or imminent infringement of the provisions of Chapter III or Chapter IV by a party to such application, such Court shall forthwith refer such matter for determination by the Supreme Court.

(4) The Supreme Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstance in respect of any petition or reference referred to in paragraphs (2) and (3) of this Article or refer the matter back to the Court of Appeal if in its opinion there is no infringement of a fundamental right or language right.

(5) The Supreme Court shall hear and finally dispose of any petition or reference under this Article within two months of the filing of such petition or the making of such reference.

127. (1) The Supreme Court shall, subject to the Constitution, be the final Court of civil and criminal appellate jurisdiction for and within the Republic of Sri Lanka for the correction of all errors in fact or in law which shall be committed by the Court of Appeal or any Court of First Instance, tribunal or other institution and the judgments and orders of the Supreme Court shall in all cases be final and conclusive in all such matters.

**Appellate
jurisdiction**

(2) The Supreme Court shall, in the exercise of its jurisdiction, have sole and exclusive cognizance by way of appeal from any order, judgement, decree, or sentence made by the Court of Appeal, where any appeal lies in law to the Supreme Court and it may affirm, reverse or vary any such order, judgement, decree or sentence of the Court of Appeal and may issue such directions to any Court of First Instance or order a new trial or further hearing in any proceedings as the justice of the case may require and may also call for and admit fresh or additional evidence if the interests of justice so demands and may in such event, direct that such evidence be recorded by the Court of Appeal or any Court of First Instance.

128. (1) An appeal shall lie to the Supreme Court from any final order, judgement, decree or sentence of the Court of Appeal in any matter or proceedings, whether civil or criminal, which involves a substantial question of law, if the Court of Appeal grants leave to appeal to the Supreme Court *ex mero motu* or at the instance of any aggrieved party to such matter or proceedings.

**Right of
appeal**

(2) The Supreme Court may, in its discretion, grant special leave to appeal to the Supreme Court from any final or interlocutory order, judgement, decree, or

sentence made by the Court of Appeal in any matter or proceedings, whether civil or criminal, where the Court of Appeal has refused to grant leave to appeal to the Supreme Court or where in the opinion of the Supreme Court, the case or matter is fit for review by the Supreme Court:

Provided that the Supreme Court shall grant leave to appeal in every matter or proceedings in which it is satisfied that the question to be decided is of public or general importance.

(3) Any appeal from an order or judgement of the Court of Appeal, made or given in the exercise of its jurisdiction under Article 139, 140, 141, 142 or 143 to which the President, a Minister, a Deputy Minister or a public officer in his official capacity is a party, shall be heard and determined within two months of the date of filing thereof.

(4) An appeal shall lie directly to the Supreme Court on any matter and in the manner specifically provided for by any other law passed by Parliament.

¹²¹[(5) Any application for leave to appeal or special leave to appeal made to the Supreme Court under this Article may be granted or refused, as the case may be, by not less than two Judges of the Supreme Court.]

Consultative jurisdiction

129. (1) If at any time it appears to the President of the Republic that a question of law or fact has arisen or is likely to arise which is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer that question to that Court for consideration and the Court may, after such hearing as it thinks fit, within the period specified in such reference or within such time as may be extended by the President, report to the President its opinion thereon.

121 - Inserted by the Twentieth Amendment to the Constitution Sec. 29.

(2) Where the Speaker refers to the Supreme Court for inquiry and report all or any of the allegation or allegations, as the case may be, contained in any such resolution as is referred to in Article 38(2)(a), the Supreme Court shall in accordance with Article 38(2)(d) inquire into such allegation or allegations and shall report its determination to the Speaker within two months of the date of reference.

(3) Such opinion, determination and report shall be expressed after consideration by at least five Judges of the Supreme Court, of whom, unless he otherwise directs, the Chief Justice shall be one.

(4) Every proceeding under paragraph (1) of this Article shall be held in private unless the Court for special reasons otherwise directs.

130. The Supreme Court shall have the power to hear and determine and make such orders as provided for by law on –

- (a) any legal proceeding relating to ¹²³[election of the President or the validity of a referendum];
- (b) any appeal from an order or judgment of the Court of Appeal in an election petition case:

Provided that the hearing and determination of a proceeding relating to the ¹²⁴[election of the President or the validity of a referendum shall be] by at least five Judges of the Supreme Court of whom, unless he otherwise directs, the Chief Justice shall be one.

131. The Supreme Court shall have according to law the power to take cognizance of and punish any person for the breach of the privileges of Parliament.

**Jurisdiction
in ¹²²[election
and
referendum
petitions]**

**Jurisdiction
in respect of
breaches of
Parliamentary
privileges**

122 - Marginal note substituted by the Fourteenth Amendment to the Constitution Sec 9(3).

123 - Substituted by the Fourteenth Amendment to the Constitution Sec. 9(1).

124 - Substituted by the Fourteenth Amendment to the Constitution Sec. 9(2).

**Sittings of
the Supreme
Court**

132. (1) The several jurisdictions of the Supreme Court shall be ordinarily exercised at Colombo unless the Chief Justice otherwise directs.

(2) The jurisdiction of the Supreme Court may be exercised in different matters at the same time by the several Judges of that Court sitting apart:

Provided that its jurisdiction shall, subject to the provisions of the Constitution, be ordinarily exercised at all times by not less than three Judges of the Court sitting together as the Supreme Court.

(3) The Chief Justice may –

- (i) of his own motion; or
- (ii) at the request of two or more Judges hearing any matter; or
- (iii) on the application of a party to any appeal, proceeding or matter if the question involved is in the opinion of the Chief Justice one of general and public importance, direct that such appeal, proceeding or matter be heard by a Bench comprising five or more Judges of the Supreme Court.

(4) The judgement of the Supreme Court shall, when it is not an unanimous decision, be the decision of the majority.

**Appointment
of *ad hoc*
Judges**

133. (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any sittings of the Court, the Chief Justice may with the previous consent of the President request in writing the attendance at the sittings of the Court as an *ad hoc* Judge, for such period as may be necessary, of the President of the Court of Appeal or any Judge of the Court of Appeal.

(2) It shall be the duty of such a Judge who had been so requested, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required and while so attending he shall have all the jurisdictions, powers and privileges and shall perform the duties of a Judge of the Supreme Court.

134. (1) The Attorney-General shall be noticed and have the right to be heard in all proceedings in the Supreme Court in the exercise of its jurisdiction under Articles 120, ¹²⁵[121,122, 125], 126, 129(1) and 131.

Right to be heard by the Supreme Court

(2) Any party to any proceedings in the Supreme Court in the exercise of its jurisdiction shall have the right to be heard in such proceedings either in person or by representation by an Attorney-at-Law.

(3) The Supreme Court may in its discretion grant to any other person or his legal representative such hearing as may appear to the Court to be necessary in the exercise of its jurisdiction under this Chapter.

135. The Registry of the Supreme Court shall be in charge of an officer designated the Registrar of the Supreme Court who shall be subject to the supervision, direction and control of the Chief Justice.

Registry of the Supreme Court and office of Registrar

136. (1) Subject to the provisions of the Constitution and of any law the Chief Justice with any three Judges of the Supreme Court nominated by him, may, from time to time, make rules regulating generally the practice and procedure of the Court including -

Rules of the Supreme Court

- (a) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the terms under which appeals to the Supreme Court and the Court of Appeal

are to be entertained and provision for the dismissal of such appeals for non-compliance with such rules;

- (b) rules as to the proceedings in the Supreme Court and Court of Appeal in the exercise of the several jurisdictions conferred on such Courts by the Constitution or by any law, including the time within which such matters may be instituted or brought before such Courts and the dismissal of such matters for non-compliance with such rules;
- (c) rules as to the granting of bail;
- (d) rules as to the stay of proceedings;
- (e) rules providing for the summary determination of any appeal or any other matter before such Court by petition or otherwise, which appears to the Court to be frivolous and vexatious or brought for the purpose of delay;
- (f) the preparation of copies of records for the purpose of appeal or other proceedings in the Supreme Court and Court of Appeal;
- (g) the admission, enrolment, suspension and removal of Attorneys-at-Law ¹²⁶[....] and the rules of conduct and etiquette for such Attorneys-at-Law;
- (h) the attire of Judges, Attorneys-at-Law, officers of Court and persons attending the Courts in Sri Lanka whether established by the Constitution, or by Parliament or by existing law;

- (i) the manner in which panels of jurors may be prepared and the mode of summoning, empanelling and challenging of jurors;
- (j) proceedings of Fiscals and other ministerial officers of such courts and the process of such courts and the mode of executing the same;
- (k) the binding effect of the decisions of the Supreme Court;
- (l) all matters of practice and procedure including the nature and extent of costs that may be awarded, the manner in which such costs may be taxed and the stamping of documents in the Supreme Court, Court of Appeal, High Court and Courts of First Instance not specially provided by or under any law.

(2) Every rule made under this Article shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such rule.

(3) All rules made under this Article shall as soon as convenient after their publication in the Gazette be brought before Parliament for approval. Any such rule which is not so approved shall be deemed to be rescinded as from the date it was not so approved, but without prejudice to anything previously done thereunder.

(4) The Chief Justice and any three Judges of the Supreme Court nominated by him may amend, alter or revoke any such rules of court and such amendment, alteration or revocation of the rules will operate in the like manner as set out in the preceding paragraph with reference to the making of the rules of court.