

## CHAPTER XIV - THE FRANCHISE AND ELECTIONS

### Right to be an elector.

**88.** Every person shall, unless disqualified as hereinafter provided, be qualified to be an elector at the election of the President and of the Members of Parliament or to vote at any Referendum :

Provided that no such person shall be entitled to vote unless his name is entered in the appropriate register of electors.

### Disqualification to be an elector.

**89.** No person shall be qualified to be an elector at an election of the President, or of the Members of Parliament or to vote at any Referendum, if he is subject to any of the following disqualifications, namely-

- (a) if he is not a citizen of Sri Lanka ;
- (b) if he has not attained the age of eighteen years on the qualifying date specified by law under the provisions of Article 101 ;
- (c) if he is under any law in force in Sri Lanka found or declared to be of unsound mind ;
- (d) if he is serving or has during the period of seven years immediately preceding completed 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 :

Provided that if any person disqualified under this paragraph is granted a free pardon such disqualification shall cease from the date on which the pardon is granted ;

- (e) if a period of seven years has not elapsed since -
  - (i) the last of the dates, if any, of his being convicted of any offence under section 52 (1) or 53 of the Ceylon (Parliamentary Elections) Order in Council, 1946, 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 as would correspond to an offence under either of the said two sections ;
  - (ii) the last of the dates, if any, of his being convicted of a corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, 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 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 him guilty of any corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament ;
  - (iv) the last of the dates, if any, of his being convicted or found guilty of bribery under the provisions of the Bribery Act or of any future law 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 his being convicted of any 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 his 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 his being convicted of an illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, 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 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 him guilty of any illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament ;
- (h) if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81, and the period of such civic disability specified in such resolution has not expired ;
- (i) if a period of seven years has not elapsed since –
- (i) the date of his 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 his being convicted of an offence of contempt against, or in disrespect of, the authority of any Special Presidential Commission of Inquiry consisting of such member or members specified in Article 81 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, or
  - (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.
- (j) if the period of his disqualification imposed under Article 116 has not elapsed.

#### **Qualification for election as Member of Parliament.**

**90.** Every Person who is qualified to be an elector shall be qualified to be elected as a Member of Parliament unless he is disqualified under the provisions of Article 91.

#### **Disqualification for election as Member of Parliament.**

**91.** No person shall be qualified to be elected as a Member of Parliament or to sit and vote in Parliament –

- (a) if he is or becomes subject to any of the disqualifications specified in Article 89 ;
- (b) if he -
  - (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 recognized 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 he 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 Article 70 (7) or Article 155 (4) (i), stands nominated as a candidate for election for any electoral district ;
- (c) if he is the President of the Republic;

- (d) if he is -
  - (i) a judicial officer,
  - (ii) the Parliamentary Commissioner for Administration,
  - (iii) the Secretary-General of Parliament or a member of his staff,
  - (iv) a member of the Public Service Commission,
  - (v) the Commissioner of Elections,
  - (vi) the Auditor-General,
  - <sup>22</sup>[(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 the 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 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;]
- (e) if he 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 ;
- (f) if he is an undischarged bankrupt or insolvent, having been declared bankrupt or insolvent ;
- (g) if during the preceding seven years he 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 his judgment as a Member of Parliament or as a member of the legislature prior to the commencement of the Constitution.

(2) For the purposes of sub-paragraph (g) of paragraph (1) of this Article, the acceptance by a Member of Parliament of any allowance or other payment made to him by any trade union or other organization solely for the purpose of his maintenance shall be deemed not to be the acceptance of a bribe or gratification.

#### **Disqualification for election as President.**

**92.** Every person who is qualified to be an elector shall be qualified to be elected to the office of President unless he is subject to any of the following disqualifications -

- (a) if he has not attained the age of thirty years;
- (b) if he is not qualified to be elected as a Member of Parliament under sub-paragraph (d), (e), (f) or (g) of paragraph (1) of Article 91 ;
- (c) if he has been twice elected to the office of President by the People; and
- (d) if he has been removed from the office of President under the provisions of sub-paragraph (e) of paragraph (2) of Article 38.

**Election to be free, equal and secret.**

**93.** The voting for the election of the President of the Republic and of the Members of Parliament and at any Referendum shall be free, equal and by secret ballot.

**Election of the President.**

**94.** (1) At the election of the President every voter while casting his vote for any candidate may-

- (a) where there are three candidates for election, specify his second preference ; and
- (b) where there are more than three candidates for election, specify his second and third preferences.

(2) The candidate, if any, who receives more than one-half of the valid votes cast shall be declared elected as President

(3) Where no candidate is declared elected under paragraph (2) of this Article, the candidate or candidates, other than the candidates who received the highest and second highest number of such votes, shall be eliminated from the contest, and -

- (a) the second preference of each voter whose vote had been for a candidate eliminated from the contest, shall, if it is for one or the other of the remaining two candidates, be counted as a vote for such candidate and be added to the votes counted in his favour under paragraph (2), and
- (b) the third preference of each voter referred to in sub-paragraph (a) whose second preference is not counted under that sub-paragraph shall, if it is for one or the other of the remaining two candidates, be counted as a vote for such candidate and be added to the votes counted in his favour under sub-paragraph (a) and paragraph (2),

and the candidate who receives the majority of the votes so counted shall be declared elected as President.

(4) Where an equality is found to exist between the votes received by two or more candidates and the addition of one vote would determine-

- (a) which candidate is to be declared elected under this Article ; or
- (b) which candidate is not to be eliminated under this Article, then the determination of the candidate to whom such additional vote shall be deemed to have been given for the purpose of such determination shall be made by lot.