

## CHAPTER XV

## THE DEVOLUTION OF POWER TO REGIONS

Establishment of  
Regional  
Council.

**127.** (1) (a) There shall be a Regional Council for every Region specified in Part A of the First Schedule.

(b) The Capital Territory shall form part of the Western Region.

(c) Parliament may, from time to time, by resolution, determine the limits of the Capital Territory, so however, that the limits so determined do not result in the alteration of the boundaries of the Western Province.

(2) (a) The President shall, by Order published in the *Gazette*, require a Referendum to be held in the Administrative Districts of Trincomalee, Batticaloa and Amparai, and fix a date or dates therefor, being a date or dates not earlier than the expiration of a period of nine years from the commencement of the Constitution and not later than three months prior to the expiration of a period of ten years from the commencement of the Constitution to enable the electors of such Districts to decide on the question whether or not such Districts and the Administrative Districts of Jaffna, Kilinochchi, Vavuniya, Mannar and Mullaitivu should form one Region to be designated the North-Eastern Region.

(b) Where at such Referendum the question-

(i) is answered in the affirmative by a majority of the valid votes cast, a Regional Council shall be established for the North-Eastern Region specified in Part B of the First Schedule with effect from such date as the President shall appoint by Order published in the *Gazette*;

(ii) is not answered in the affirmative, two separate Regional Councils shall be established for the Northern Region and the Eastern Region as specified respectively in Part C of the First Schedule with effect from such date as the President shall appoint by Order published in the *Gazette*.

(3) (a) For the purposes of Article 3 and this Article, the Administrative Districts specified therein and in the First Schedule and the areas and boundaries of such districts shall be those specified by or under any written law and in force at the commencement of the Constitution.

(b) It shall be lawful for Parliament, by resolution under the applicable law, to abolish any Administrative District referred to in the First Schedule, establish a new Administrative District, or to alter the limits of any such Administrative District, so however that such abolition, establishment or alteration does not result in the alteration of the area or boundaries of any Region.

- (4) (a) The holding of the Referendum provided for in this Article shall be deemed to be valid notwithstanding any inconsistency with the provisions of Chapter XII.
- (b) Parliament shall, by law, provide for all matters relating to such Referendum and, until Parliament so provides, the provisions of the Referendum Act. No. 7 of 1981 shall, *mutatis mutandis*, apply.

**128.** Every Regional Council established under Article 127 shall be constituted upon the members of such Council being elected in accordance with the law relating to Regional Council elections. Election of Members.

**129.** (1) There shall be a Governor for each Region for which a Regional Council has been established under with Article 127. Governor.

- (2) (a) Subject to sub-paragraph (b) of this paragraph, the Governor shall be appointed by the President in consultation with the Prime Minister and with the concurrence of the Chief Minister of the Region.

(b) Where an agreement cannot be arrived at under sub-paragraph (a) this paragraph as to the person to be appointed as Governor, the President shall refer the matter to the Constitutional Council, which shall, after ascertaining the views of the Prime Minister and the Chief Minister, recommend to the President, a suitable person for appointment as Governor and the President shall appoint the person so recommended as Governor.

(c) The appointment of the Governor under this Article shall be made by warrant under the hand of the President.

(d) The office of Governor shall become vacant upon—

- (i) the expiry of the term of office of the Governor;
- (ii) the death of the Governor;
- (iii) the resignation from office by the Governor by writing addressed to the President;
- (iv) the making of a decision of a Committee consisting of the Chairman of the Regional Council of the Region, the Chief Minister of the Region, the Leader of the largest political party or independent group in the Regional Council other than the party or group to which the Chief Minister belongs and the Advocate-General of the Region, that the Governor is permanently incapable of discharging the functions of the office of Governor by reason of mental or physical infirmity; or

(v) the removal of the Governor from office by the President on an address made by the Regional Council under paragraph (3) of this Article.

(3)(a) A Regional Council may, subject to sub-paragraph (b) of this paragraph, present an address to the President advising the removal of the Governor on the ground that the Governor-

(i) has intentionally violated the provisions of the Constitution;

(ii) is guilty of misconduct or corruption involving the abuse of power of the office of Governor; or

(iii) is guilty of bribery or an offence involving moral turpitude,

if a resolution for the presentation of such address is passed by an absolute majority of the whole number of members of the Council (including those not present) voting in its favour.

(b) A resolution for the presentation of an address to the President advising the removal of the Governor on the grounds referred to in sub-paragraph (a) of this paragraph shall not be entertained by the Speaker of the Regional Council or discussed at the Council, unless notice of such resolution is signed by not less than one-third of the whole number of members of the Council.

(4) Whenever the Governor is prevented by illness or any other cause from performing the duties of the office of Governor, or is temporarily absent from Sri Lanka, the President shall appoint the Governor of an adjoining Region to act in the office of Governor.

(5) Subject to the provisions of this Article, the Governor shall hold office for a period of five years from the date the Governor assumes office.

(6) Every person appointed as Governor shall assume office upon making and subscribing the affirmation or taking and subscribing the oath, set out in the Fifth Schedule, before the President.

(7) Upon the assumption of office, a Governor shall cease to hold any other office created or recognised by the Constitution and if the Governor is a Member of Parliament or a Member of a Regional Council, shall vacate the seat in Parliament or in the Regional Council, as the case may be, and shall not hold any other office or place of profit.

(8) (a) The Governor may from time to time summon a Regional Council to meet for the first sitting of any session at such time and place as the Governor thinks fit, but two months shall not intervene between the last sitting in one session and the date appointed for the first sitting of the next session.

- (b) The Governor may, from time to time, prorogue the Regional Council.
- (c) The Governor may dissolve the Regional Council.
- (d) Subject to the provisions of the Constitution, the Governor shall exercise the powers under sub-paragraphs (b) and (c) of this paragraph in accordance with the advice of the Chief Minister, as long as the Chief Minister commands the support of the majority of the Regional Council.

(9) (a) The Governor of a Region shall have the power to grant pardon to any person convicted of an offence under a Statute made by the Regional Council of that Region or a law made by Parliament on a matter in respect of which the Regional Council has power to make Statutes, or to grant a respite or remission of punishment imposed by court on any such person.

(b) The Governor shall exercise the power under this paragraph in consultation with a committee consisting of the seniormost Judge of the Regional High Court or any other Judge of the Regional High Court nominated by such Judge, a nominee of the Chief Minister and the Advocate-General of the Region.

(c) The Governor shall not exercise the powers under this paragraph where power has been exercised by the President under Article 59 in respect of the same person and in respect of the same offence.

(10) The Governor may address the Regional Council and may for that purpose require the attendance of members.

(11) It shall be the duty of the Chief Minister of every Region to communicate to the Governor of the Region all decisions of the Board of Ministers relating to the administration of the affairs of the Region and the proposals for legislation.

(12) Parliament shall, by law or resolution, make provision for the salary and allowances payable to holders of the office of Governor.

**130.** (1) (a) The executive power of the Region is vested in the Governor, and, insofar as such power relates to matters with respect to which a Regional Council has power to make Statutes, the Governor shall act on the advice of the Chief Minister and the Board of Ministers.

Executive powers of the Region.

(b) The exercise of executive power relating to specific subjects and functions shall be through Ministers acting directly or through subordinate officers, in accordance with this Chapter.

(2) (a) All contracts made in the exercise of the executive power of a Region shall be expressly made in the name of the Governor of the Region, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the Governor by such persons and in such manner as the Governor may direct or authorize.

(b) The Governor shall not be personally liable in respect of any contract or assurance made or executed for the purposes of this Article, nor shall any person making any such contract or assurance on behalf of the Governor, be personally liable in respect thereof.

Interpretation of written law on matters enumerated in the Regional List.

**131.** (1) Where any power or function including the power to make any Order, Proclamation, Notification, regulation or rule, is conferred on, or assigned to a Minister of the Cabinet of Ministers or to a public officer, as the case may be, by any written law made prior to the commencement of the Constitution on any matter enumerated in List II of the Second Schedule (hereinafter referred to as the "Regional List"), such power or function may -

(a) if such power or function is conferred on, or assigned to, any such Minister, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the Minister of the Board of Ministers of that Region to whom the subject has been assigned; and accordingly, references in every such written law to a Minister of the Cabinet of Ministers shall be deemed to include references to the Minister of the Board of Ministers of such Region to whom the function has been assigned ; and

(b) if such power or function is conferred on, or assigned to, a public officer, be exercised or discharged, in relation to a Region and unless the context otherwise requires, by the officer of the Regional Public Service holding an office corresponding to the office held by such public officer; and accordingly, references in every such written law to a public officer shall be deemed to include a reference to the officer of the Regional Public Service who holds an office corresponding to the office held by such public officer.

(2) Where any such written law referred to in paragraph (1) of this Article makes provision-

(a) for any Order, Proclamation, Notification, regulation or rule made under that written law to be laid before Parliament ; or

(b) for the annulment or approval of any such Order, Proclamation, Notification, regulation or rule, by Parliament,

such provision shall have effect in relation to a Region as if reference in it to Parliament were a reference to the Regional Council established for that Region.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply, *mutatis mutandis*, to Statutes of the corresponding Provincial Councils established by the 1978 Constitution and in force immediately prior to the commencement of the Constitution.

**132.** A Regional Council shall consist of such number of members as may be determined by or under law, who shall be elected in such manner as may be determined by Parliament by law.

Membership of a Regional Council.

**133.** A Regional Council shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting, and the expiry of the said period of five years shall operate as the dissolution of the Council.

Term of office.

**134.** (1) There shall be a Board of Ministers with the Chief Minister as the Head of the Board and such number of Ministers in respect of each Region as is specified in Column III of the First Schedule, to aid and advise the Governor of the Region in the discharge of the functions of the Governor and the Governor shall, in the discharge of those functions, act in accordance with such advice except in so far as the Governor is by or under the Constitution required to discharge the functions or any of them in the Governor's discretion or in consultation with a person or body of persons.

Board of Ministers.

(2) (a) The Governor shall, subject to sub-paragraph (b) of this paragraph, appoint as Chief Minister, the member of the Regional Council established for that Region who is best able to command the support of a majority of the members of that Council.

(b) Where more than one half of the members elected to a Regional Council are members of one political party or independent group, the Governor shall appoint the leader of that party or group in the Council as Chief Minister.

(3) After the conclusion of an election of members of a Regional Council, the Commissioner-General of Elections shall forthwith apportion the number of Ministers among the recognised political parties and independent groups contesting the election and which have informed the Commissioner-General of Elections that they wish to participate in the Board of Ministers, in the same proportion as the proportion which the number of valid votes polled by each such party or group at the election held on the basis of proportional representation bears to the total number of valid votes polled by all such parties and groups at such election and for the purposes of such apportionment, the provisions of paragraphs (4), (5) and (6) and of Article 116 shall, *mutatis mutandis*, apply.

(4) (a) The Commissioner-General of Elections shall forthwith inform the Governor, of the number of Ministers each such recognised political party or independent group is entitled to appoint by virtue of the apportionment made under paragraph (3) and the Governor shall, within three days of the receipt of such information, summon the Chief Minister and the secretaries and group leaders of such parties and groups and shall on the recommendations of such secretaries and group leaders and after consultation with the Chief Minister, appoint the Ministers of the Board of Ministers.

(b) Any vacancy arising as a result of a Minister ceasing to hold office shall be filled in accordance with the provisions of this paragraph.

(5) Where the secretary of a recognised political party or the group leader of an independent group does not make any recommendation upon being summoned by the Governor under sub-paragraph (a) of paragraph (4) of this Article, it shall be presumed that such recognised political party or independent group does not wish to participate in the Board of Ministers and the Commissioner-General of Elections shall thereupon re-apportion the number of Ministers, and the provisions of paragraph (3) and (4) of this Article shall apply.

(6) Every Regional Council established for a Region shall by Statute, specify the principal subjects and functions in respect of which Ministers of the Board of Ministers of that Region shall be appointed, and until such Statute is passed, the Chief Minister shall determine such principal subjects and functions.

(7) (a) The Chief Minister of a Region shall in consultation with the Ministers appointed under paragraphs (4) and (5) of this Article, assign subjects and functions to such Ministers in accordance with the Statute made by the Regional Council established for that Region or the determination referred to in paragraph (6) of this Article.

(b) The Chief Minister of a Region together with the Ministers appointed under paragraphs (4) and (5) of this Article shall constitute the Board of Ministers of that Region, and the Board of Ministers shall be collectively responsible and answerable to the Regional Council established for that Region.

(c) The quorum for any meeting of the Board of Ministers shall be not less than one half of the total number of Ministers constituting the Board of Ministers.

(8) A person appointed to the office of Chief Minister or member of the Board of Ministers shall not enter upon the duties of the office of Chief Minister or Minister of the Board of Ministers until such person makes and subscribes the affirmation or takes and subscribes the oath set out in the Fifth Schedule.

(9) (a) Upon the death or resignation of the Chief Minister or where the Chief Minister is deemed to have resigned, the Board of Ministers shall stand dissolved, and the Governor shall, subject to sub-paragraph (b) of this paragraph, appoint a Chief Minister and a Board of Ministers in accordance with the provisions of this Article.

(b) Where it is not possible to make an appointment in accordance with the provisions of paragraph (2) of this Article, the Governor shall, subject to sub paragraph (c) of this paragraph, dissolve the Regional Council .

(c) The Governor shall, prior to such dissolution, endeavour to ascertain whether any member of the Regional Council is able to command the support of a majority of the members of that Council.

(10) If the Regional Council rejects the statement of policy of the Regional Administration or the draft Appropriation Statute or passes a vote of no-confidence in the Regional Administration, the Chief Minister shall be deemed to have resigned.

(11) There shall be for each Ministry in charge of a Minister of the Board of Ministers, a Secretary and the Secretary shall, subject to the direction and control of the Minister , exercise supervision over the departments and institutions in charge of such Minister of the Board of Ministers.

(12) The Secretary shall also function as the Secretary to the Executive Committee appointed for that Ministry.

**135.** (1) There shall be an Executive Committee for each Ministry of which the Minister in charge of such Ministry shall be the Chairperson.

Executive  
Committees.

(2) The Minister shall exercise power in relation to the subjects and functions assigned to the Minister in consultation with the Executive Committee.

(3) (a) The Executive Committee may make proposals in relation to policy to the Board of Ministers through the Minister and the Board of Ministers shall consider such proposals.

(b) Where the Board of Ministers does not agree to a proposal made by an Executive Committee under sub-paragraph (a) of this paragraph , the Board shall notify its decision to such Executive Committee and any member of such Executive Committee may place such proposal before the Regional Council.

(c) The Executive Committee may delegate any of its powers to the Minister.

(4) (a) Every Regional Council shall proceed to the election of the aforesaid Committees as soon as may be after the election of a Speaker and before proceeding to the despatch of any other business.

(b) Each Committee shall consist of, as nearly as possible, an equal number of members and every member of the Council, except the Speaker, shall be elected to one such Committee.

(c) Any member of the Council shall not be elected to more than one Committee.

(d) Where a member of a Committee is elected to fill any vacancy in the office of the Speaker, that member shall, upon such election, cease to be a member of such Committee.

(5) Subject to the provisions of this Article, the procedure for the election of Executive Committees and for the assignment to an Executive Committee of any member elected to the Council after the first meeting thereof following a general election and for transfer of members from one Committee to another shall be as prescribed by the Standing Orders of the Council and in the absence of such Standing Orders, the procedure shall be as determined by the Speaker.

(6) Whenever a Minister of the Board of Ministers is unable to discharge the functions of the Minister's office, the Governor, acting on the advice of the Chief Minister tendered in consultation with the Secretary of the recognised political party or the group leader of the independent group, as the case may be, of which such Minister is a member, may appoint any member of the Executive Committee, of which such Minister is Chairperson, to act in place of such Minister.

The Advocate-General of the Region.

**136.** (1) The Governor of each Region shall appoint an attorney-at-law from the Region who has achieved eminence in the profession and has maintained high standards of conduct and professional rectitude to be the Advocate-General of the Region.

(2) It shall be the duty of the Advocate-General to give advice to the Governor, the Chief Minister and the Board of Ministers upon such legal matters and perform such other duties in relation thereto, as may be from time to time referred or assigned to the Advocate-General by the Governor, and to discharge the functions conferred on the Advocate-General by or under this Chapter or other law.

(3) The Advocate-General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine.

137. (1) Subject to the provisions of the Constitution, the Regional Council of a Region shall have exclusive power to make Statutes, including Statutes having retrospective effect, for such Region or any part thereof with respect to any of the matters enumerated in the "Regional List".

Legislative power, delegation and procedure.

(2) A Statute of a Regional Council shall not contravene or be inconsistent with the Constitution and any Statute, insofar as it is in contravention or inconsistent with the Constitution, shall, to the extent of such contravention or inconsistency be void.

(3) (a) A Regional Council shall not abdicate or in any manner alienate its legislative power.

(b) The provisions of paragraphs (2), (3) and (4) of Article 92 shall, *mutatis mutandis*, apply to the exercise of legislative power by Regional Councils.

(4) (a) Sittings of a Regional Council and the procedure for the transaction of business by a Regional Council shall be regulated by Standing Orders made by such Council.

(b) Parliament may by resolution provide for model Standing Orders for Regional Councils.

138. (1) Every draft Statute proposed to be presented in a Regional Council shall be submitted to the Governor at least fourteen days prior to presentation, and every such draft Statute shall be published in the *Gazette* at least seven days prior to presentation.

Review of constitutionality of draft Statutes.

(2) It shall be the duty of the Advocate-General of the Region to examine every draft Statute before it is published in the *Gazette*, for any contravention or inconsistency with the Constitution and the Advocate-General or any officer assisting the Advocate-General in the performance of the duties under this Article shall be afforded all facilities necessary for the performance of such duties.

(3) If the Advocate-General is of the opinion that a draft Statute or any provision thereof, contravenes, or is inconsistent with, the Constitution, the Advocate-General shall, subject to the provisions of paragraph (4) of this Article, communicate such opinion to the Governor, the Chief Minister and the Board of Ministers, and may, after publication of the draft Statute in the *Gazette*, invoke the jurisdiction of the Supreme Court under subparagraph (a) of paragraph (10) of Article 169(1)(a) to determine the constitutionality of the draft Statute or any provisions thereof.

(4) Where an amendment is proposed to a draft Statute in the Regional Council, the Advocate-General of the Region shall communicate the

opinion on matters specified in paragraph (2) of this Article to the Speaker at the stage when the draft Statute is ready to be put to the Regional Council for its acceptance.

(5) Where a draft Statute is passed, despite the opinion of the Advocate-General that it contravenes or is inconsistent with the Constitution, it shall be the duty of the Advocate-General to invoke the jurisdiction of the Supreme Court under sub-paragraph (b) of paragraph (1) of Article 169 to determine the constitutionality of such Statute or any provision thereof.

Statutes inconsistent with laws and Statutes of Provincial Councils.

**139.** (1) Where there is a law with respect to any matter in the Regional List in force in any Region on the date on which a Regional Council is established for that Region and the Regional Council established for that Region subsequently makes a Statute on the same matter and which is described in its long title as being inconsistent with that law, then, the provisions of that law shall, with effect from the date on which that Statute is certified by the Speaker of the Regional Council, remain suspended and be inoperative within that Region, to the extent of such inconsistency.

(2) Where there is a Statute of a Provincial Council established by the 1978 Constitution in force in any area of a Region on the date on which a Regional Council is established for that Region, such Statute shall continue to be in force in relation to the area to which it was applicable unless the Regional Council provides otherwise.

When a draft Statute becomes law.

**140.** (1) Every draft Statute passed by a Regional Council shall come into force upon the certificate of the Speaker of that Council being endorsed thereon.

(2) The Speaker shall endorse on every draft Statute passed by the Regional Council a certificate in the following form : -

“This draft Statute (state the short title of the draft Statute), has been duly passed by the Regional Council”.

(3) Where a certificate is endorsed on a draft Statute as provided for in paragraph (2) of this Article a court or tribunal shall not inquire into, pronounce upon or in any manner call in question, the validity of such Statute save as provided in Article 169.

Chief Ministers' Conference.

**141.** (1) (a) There shall be established a Chief Ministers' Conference which shall consist of the Chief Ministers of all the Regions.

(b) Where there is no Chief Minister in office in any Region, the Governor of that Region, or any person authorized by the Governor, may represent the Region at the Conference.

(2) (a) The Chairperson of the Chief Ministers' Conference shall be elected by the Chief Ministers from among themselves in rotation, so however, that each Chief Minister shall hold office as Chairperson for a period of up to three months.

(b) The Chairperson of the Chief Ministers' Conference shall represent the Conference on the Constitutional Council.

(3) The Conference shall have the power-

- (a) to take all such steps as may be necessary to ensure full compliance with the provisions of this Constitution relating to Regional Councils and Regional Administrations, in accordance with the spirit and intention of the Constitution;
- (b) to inquire into and to settle by mediation or conciliation any dispute which may arise between or among two or more Regional Administrations;
- (c) to inquire into and discuss subjects in which all or more than one of the Regions have a common interest, and to make recommendations for the better co-ordination of policy and action in respect of such subjects ; and
- (d) to discuss matters, policy and procedure relating to finance, the financial administration and accountability of the Regional Administrations and to make representations thereon to the Finance Commission and the Central Government.

(4) (a) Where efforts at mediation and conciliation as provided for in sub-paragraph (b) of paragraph (3) of this Article fail, such dispute may be referred for adjudication to a tribunal established, in accordance with this Article.

(b) The tribunal referred to in sub-paragraph (a) of this paragraph shall consist of a member appointed by each of the Regional Administrations which is a party to the dispute and a Chairperson nominated by the members so appointed.

(c) Where there is no agreement on the nomination of the Chairperson, the Chairperson shall be nominated by the Constitutional Council.

(d) The practices and procedures of the tribunal shall be regulated by rules framed by the Conference, and until such rules are framed, by rules determined by the Chairperson of the tribunal.

(e) Any award or determination made by such tribunal shall be binding on the parties to the dispute.

(5) Anything in this paragraph shall not be read and construed as empowering the tribunal to determine any question relating to the interpretation of the Constitution.

(6) The Conference shall regulate its own procedures and shall meet every month, unless otherwise determined by the Conference.

(7) The Prime Minister shall meet with the Conference regularly, so however that a period of three months shall not elapse between two consecutive meetings.