

CHAPTER XX

THE PUBLIC SERVICE

190. (1) The President shall, subject to paragraph (2) of this Article, appoint all national public officers required by the Constitution or other written law to be appointed by the President, as well as the Attorney-General and the Heads of the Army, the Navy, the Air Force and the Police Force.

Appointments
by the President.

(2) Where any national public officer is required to be appointed on the recommendation of the Constitutional Council or the Parliamentary Committee on High Posts, such public officer shall be appointed by the President only in conformity with such recommendation.

191. Subject to the provisions of the Constitution the appointment, promotion, transfer, dismissal and disciplinary control of all national public officers vest in the National Public Service Commission.

National Public
Service
Commission.

192. Save as otherwise expressly provided by the Constitution, all national public officers shall hold office at pleasure.

Tenure of the
national public
officers.

193. (1) (a) Notwithstanding anything in Article 191, the appointment, promotion, transfer, dismissal and disciplinary control of Heads of Departments vest in the Cabinet of Ministers.

Cabinet of
Ministers to
appoint Heads of
Departments &c.

(b) The Cabinet of Ministers shall exercise powers under this paragraph in accordance with such criteria as may be recommended by the National Public Service Commission.

(2) Subject to the provisions of the Constitution, the Cabinet of Ministers shall provide for and determine all matters of policy relating to national public officers.

194. (1) The National Public Service Commission shall consist of not more than seven persons appointed by the President on the recommendation of the Constitutional Council and the President shall nominate one of the members of the Commission to be its Chairperson.

Constitution of
the National
Public Service
Commission.

(2) A person shall not be appointed or continue as a member of the National Public Service Commission if the person is a Member of Parliament or of a Regional Council.

(3) (a) Every person who, immediately before the appointment as a member of the National Public Service Commission, was a public officer in the service of the State or a judicial officer shall, when such appointment takes effect, cease to hold such office, and shall be ineligible for further appointment as a national or regional public officer or judicial officer.

(b) Every person referred to in sub-paragraph (a) of this paragraph shall, until the person ceases to be a member of the National Public Service Commission, or while continuing to be such a member, attains the age at which the person would be required to retire from such service, be deemed to be a public officer in the service of the State or a judicial officer, as the case may be, and to hold a pensionable office in the service of the State, for the purposes of any provision relating to the grant of pensions, gratuities or other allowances in respect of such service.

(4) (a) Every member of the National Public Service Commission shall hold office for a period of five years from the date of appointment, unless the member earlier resigns from office by a writing addressed to the President or is removed, subject to the provisions of sub-paragraph (b) of this paragraph, from office by the President, for cause assigned.

(b) A member of the National Public Service Commission shall not be removed from office unless the Constitutional Council has, upon the President requesting the Council to consider the matter, recommended such removal.

(c) A person who has held office as a member of the National Public Service Commission shall not be eligible for reappointment as a member of the Commission.

(5) The President may grant leave from duties to any member of the National Public Service Commission and may nominate a person qualified to be a member of the National Public Service Commission to be a temporary member for the period of such leave.

(6) A member of the National Public Service Commission shall be paid such salary as may be determined by Parliament and the salary payable to any such member shall be charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office.

(7) There shall be a Secretary to the National Public Service Commission who shall be appointed by the Commission.

(8) The quorum for any meeting of the National Public Service Commission shall be three members.

(9) The National Public Service Commission shall have power to act notwithstanding any vacancy in its membership, and any act or proceeding of the Commission shall not be, or be deemed not to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

(10) For the purposes of Chapter IX of the Penal Code, a member of the National Public Service Commission shall be deemed to be a public servant.

(11) For the purpose of this Article and Articles 191, 192 and 193, "national public officer" does not include a member of the Army, Navy or Air Force.

195. (1) The National Public Service Commission may delegate to a Committee of the National Public Service Commission consisting of three members as shall be named by the Commission, the powers of appointment, promotion, transfer, dismissal or disciplinary control in respect of such categories of national public officers as are specified by the Commission.

Delegation by the National Public Service Commission of certain powers to a Committee

(2) Where the Chairperson of the National Public Service Commission is a member of the Committee so appointed, the Chairperson of the Commission shall be the Chairperson of the Committee, and where the Chairperson of the Commission is not a member of the Committee so appointed such member of the Committee as may be nominated in writing by the Chairperson of the Commission, shall be the Chairperson of that Committee.

(3) There shall be a Secretary to each such Committee who shall be appointed by the National Public Service Commission.

(4) The quorum for any meeting of any such Committee shall be two members.

(5) Any such Committee shall have power to act notwithstanding any vacancy in its membership and any act or proceeding of any such Committee shall not be, or be deemed not to be, invalid by reason only of any such vacancy or any defect in the appointment of a member.

196. (1) Subject to the provisions of the Constitution, the National Public Service Commission or any Committee thereof may delegate to a national public officer, subject to such conditions as may be prescribed by the National Public Service Commission, its powers of appointment, promotion, transfer, dismissal or disciplinary control of any category of national public officers.

National Public Service Commission or Committee to delegate powers to a national public officer.

(2) Any national public officer aggrieved by any order of transfer or of dismissal, or any other order relating to a disciplinary matter made by a national public officer to whom the National Public Service Commission or any Committee thereof has delegated its powers under paragraph (1) of this Article, shall have a right of appeal to the National Public Service Commission or such Committee, as the case may be.

(3) The National Public Service Commission shall have the power to alter, vary or rescind any appointment, promotion, order of transfer or dismissal or any other order relating to a disciplinary matter made, on appeal or otherwise, by a Committee to which the National Public Service Commission has delegated its powers or by a national public officer to whom the National Public Service Commission has delegated its powers under this Article.

(4) A Committee of the National Public Service Commission shall, on appeal to the Committee under paragraph (2) of this Article, have the power to alter, vary or rescind any order of transfer, dismissal or any other order relating to a disciplinary matter made by a national public officer to whom the Committee had delegated its powers under paragraph (1) of this Article.

(5) A national public officer aggrieved by any order or decision, made on appeal or otherwise, of the Cabinet of Ministers or the National Public Service Commission in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of such national public officer shall have a right of appeal to the Administrative Appeals Tribunal referred to in this Chapter.

Any court or tribunal not to pronounce upon or call in question any order or decision relating to public service.

197. Any court, tribunal or institution, other than the Supreme Court and the Court of Appeal shall not have power or jurisdiction to inquire into, pronounce upon or in any manner call in question, any order or decision of the Cabinet of Ministers, the Administrative Appeals Tribunal, the National Public Service Commission, a Committee of the National Public Service Commission or of a national public officer in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of a national public officer.

Existing rules and regulations relating to public service to continue.

198. Subject to the provision of the Constitution and until the National Public Service Commission otherwise provides, the rules, regulations, and procedures relating to the public service that were in force at the commencement of the Constitution shall, *mutatis mutandis*, be deemed to continue in force as rules, regulations and procedures relating to the national public service as if they had been made or provided for under this Constitution.

Interference with National Public Service Commission to be an offence.

199. (1) Every person who, otherwise than in the course of the person's duty, directly or indirectly, alone or by any other person, in any manner whatsoever, influences or attempts to influence any decision of the National Public Service Commission or of any Committee thereof, or of any member of such Commission or of any national public officer exercising any powers delegated by such Commission or Committee, shall be guilty of an offence, and shall, on conviction by a Regional High Court, be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Anything in paragraph (1) of this Article shall not prohibit any person from giving a certificate or testimonial to any applicant or candidate for any public office.

200. (1) There shall be a Regional Public Service Commission for each Region established under Chapter XV, which shall consist of not less than three and not more than five persons appointed by the Governor of that Region in consultation with the Board of Ministers of that Region and having regard to the ethnic composition of that Region, and the Governor shall nominate one of the members of the Commission to be the Chairperson thereof.

Regional Public
Service
Commission.

(2) A person shall not be so appointed or continue as a member of the Regional Public Service Commission if the person is a Member of Parliament, a Member of a Regional Council, a member of a local authority, a public officer in the service of the State or a judicial officer.

(3) (a) Every member of a Regional Public Service Commission shall hold office for a period of five years from the date of the member's appointment, unless the member earlier resigns from office by a writing addressed to the Governor of the Region or is removed from office by the Governor upon the recommendation of the Constitutional Council, acting on a request of the Board of Ministers for that Region, for cause assigned.

(b) A person who has held office as a member of a Regional Public Service Commission shall not be eligible for reappointment as a member of that Commission.

(4) A member of a Regional Public Service Commission shall be paid such salary as may be determined by the Regional Council for that Region and such salary payable to any such member shall be charged on the Consolidated Fund of the Region and shall not to be reduced during the term of office of the member.

(5) A Regional Public Service Commission shall have the power to act notwithstanding any vacancy in its membership, and any act or proceedings of such Commission shall not be, or be deemed not to be, invalid by reason only of such vacancy or any defect in the appointment of a member.

201. (1) The Chief Secretary of a Region and the Secretary of the Ministry of every Minister of the Board of Ministers of a Region shall be appointed by the Governor of the Region on the advice of the Chief Minister.

Chief Secretary
and Secretaries
of Regional
Ministries.

(2) (a) The appointment, promotion, transfer, dismissal and disciplinary control of Heads of Department in the Regional Administration shall vest in the Board of Ministers of the Region.

(b) The Board of Ministers shall exercise powers under this paragraph in accordance with such criteria as may be recommended by the National Public Service Commission.

Regional Public
Service

202. (1) (a) Subject to the provisions of the Constitution, the appointment, promotion, transfer, dismissal and disciplinary control of officers of the Regional Public Service of each Region vest in the Regional Public Service Commission of that Region.

(b) Subject to the provisions of the Constitution, the Regional Public Service Commission may delegate to a regional public officer, subject to, such conditions as may be prescribed by the Commission, the powers of the Commission relating to the transfer or disciplinary control of any category of regional public officers.

(c) Any regional public officer aggrieved by any order of transfer or any order relating to a disciplinary matter made by a regional public officer to whom powers have been delegated under sub-paragraph (b) of this paragraph, shall have a right of appeal to the Regional Public Service Commission and the Commission shall have the power to alter, vary or rescind any such order.

(2) Subject to the provisions of the Constitution, the Board of Ministers of the Region shall provide for and determine all matters of policy relating to regional public officers of that Region.

(3) The Regional Public Service Commission may provide for and determine the procedure for the exercise and the delegation of the powers of appointment, promotion, transfer, dismissal and disciplinary control of officers of the Regional Public Service of the Region.

(4) (a) Every person who otherwise than in the course of duty directly or indirectly, alone or by any other person, in any manner whatsoever, influences or attempts to influence any order or decision of a Regional Public Service Commission or any member thereof or a regional public officer exercising any powers delegated by such Commission, shall be guilty of an offence and shall on conviction by a Regional High Court be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(b) Anything in sub-paragraph (a) of this paragraph shall not prohibit any person from giving a testimonial or certificate to any applicant for any office in the Regional Public Service.

(5) A regional public officer aggrieved by any order or decision, made on appeal or otherwise, of the Board of Ministers or the Regional Public Service Commission in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of such regional public officer shall have a right of appeal to the Administrative Appeals Tribunal referred to in this Chapter.

(6) Any court or tribunal other than the Supreme Court, and the Court of Appeal shall not have power or jurisdiction to inquire into, pronounce upon or in any manner call in question, any order or decision of the Board of Ministers, the Administrative Appeals Tribunal, a Regional Public Service Commission or of a regional public officer in regard to any matter concerning the appointment, promotion, transfer, dismissal or disciplinary control of an officer of the Regional Public Service.

(7) Save as otherwise expressly provided by the Constitution all regional public officers shall hold office at pleasure.

203. (1) There shall be Administrative Appeals Tribunal appointed by the Judicial Service Commission.

Administrative
Appeals
Tribunal.

(2) The Administrative Appeals Tribunal shall have the power to alter vary or rescind any order or decision referred to in paragraph (5) of Article 196 or paragraph (5) of Article 202.

(3) The constitution, powers and the procedure (including the time limits for the preferring of appeals), of the Tribunal shall be prescribed by law.

204. (1) There shall be a Forum of Chairpersons of Public Service Commissions (hereinafter in this Article referred to as "the Forum") consisting of the Chairperson of the National Public Service Commission, the Chairperson of the National Police Commission, the Chairperson of every Regional Public Service Commission and the Chairpersons of every Regional Police Commission.

Forum of
Chairpersons of
Public Service
Commissions.

(2) The Secretary to the National Public Service Commission shall act as the Secretary to the Forum.

(3) (a) The quorum for any meeting of the Forum shall be one half of the number of members of the Forum.

(b) Subject to the provisions of sub-paragraph (a) of this paragraph, the Forum may regulate the procedure in regard to its meetings, including the election of a Chairperson in such manner as would enable the rotation of the Chairpersonship amongst all the members of the Forum, and the transaction of business at such meetings.

(4) The functions of the Forum shall be —

(a) to recommend criteria for the appointment, promotion, transfer, dismissal and disciplinary control of national public officers, officers of the National Police Service and officers of Regional Public and Police Services, with a view to ensuring uniformity of practice and adherence to minimum standards, wherever practicable;

(b) to make recommendations to the appropriate authorities, on the measures that should be taken to improve the quality and efficiency of the National Public Service, the National Police Service and the regional Public and Police Services including the holding of common examinations for recruitment and promotion.

(5) (a) Subject to sub-paragraph (b) of this paragraph, a public officer of the National Public Service may be appointed to a post in a Regional Public Service and an officer of a Regional Public Service may be appointed to a post in the National Public Service or in another Regional Public Service, on such terms and conditions (including terms and conditions relating to salary, allowances and pension entitlement) as may be determined by the Forum.

(b) An appointment under sub-paragraph (a) of this paragraph shall not take place unless the relevant Public Service Commission agrees to the release of the public officer concerned.

Official oath or affirmation.

205. A person appointed to any office referred to in this Chapter shall not enter upon the duties of the office until the person makes and subscribes the affirmation or takes and subscribes the oath in the Fifth Schedule.