

CHAPTER XXI

FINANCE

206. A tax shall not be levied or collected except by or under law or Statute.

Taxes not to be imposed save by authority of law or Statute.

207. (1) (a) Subject to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to the Regions, all funds of the Central Government not allocated for specific purposes shall form one consolidated fund to be called the Consolidated Fund of Sri Lanka into which shall be paid the produce of all taxes, imposts, rates and duties and all other revenues of the Central Government.

Central and Regional Finances.

(b) All revenues received by a Regional Administration and all loans raised by such Administration, and all monies received by such Administration in repayment of loans shall form one consolidated fund to be called the Consolidated Fund of the Region.

(c) All other public monies received by or on behalf of the Central Government or a Regional Administration shall be credited to the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region, as the case may be.

(d) Money out of the Consolidated Fund of Sri Lanka or the Consolidated Fund of the Region shall not be appropriated except in accordance with law or Statute and for the purposes and in the manner provided in the Constitution.

(2) (a) Notwithstanding any of the provisions of this Chapter, Parliament may by law create a Contingencies Fund for the purpose of providing for urgent and unforeseen expenditure.

(b) The Minister of the Cabinet of Ministers in charge of the subject of Finance, if satisfied -

(i) that there is need for any such expenditure ; and

(ii) that any provision does not exist for such expenditure,

may, pending subsequent approval by Parliament, authorize provision to be made therefor by an advance from the Contingencies Fund.

- (c) After each such advance, a supplementary estimate shall, within a period of three months, be presented to Parliament for the purpose of replacing the amounts so advanced.
 - (d) A Regional Council may by Statute establish a Contingency Fund in the nature of an imprest, to be entitled the Contingency Fund of the Region, into which shall be paid from time to time such sums as may be determined by such Statute, and such Fund shall be placed at the disposal of the Minister of the Board of Ministers of the Region in charge of the subject of Finance to enable advances to be made by such Minister out of such Fund with the consent of the Chief Minister of the Region for the purpose of meeting unforeseen expenditure and after each such advance, a supplementary estimate shall, within a period of one month, be presented to the Regional Council for the purpose of replacing the amounts so advanced.
- (3) (a) Excise duties as may be prescribed by Parliament on the recommendation of the Finance Commission shall be levied by the Central Government but shall be collected -
- (i) in the case where such duties are leviable within the Capital Territory, by the Central Government; and
 - (ii) in other cases, by the Regional Administrations of the Regions within which such duties are respectively leviable.
- (b) The proceeds in any financial year of any such duty leviable within any Region shall not form part of the Consolidated Fund of Sri Lanka and shall be assigned to that Region.
- (4) (a) Taxes on wholesale and retail sales (other than sales by manufacturers) shall be levied and collected by the Central Government but shall be apportioned to the Regions in the manner provided in sub-paragraph (b) of this paragraph.
- (b) The net proceeds in any financial year of any such tax shall not form part of the Consolidated Fund of Sri Lanka but shall be assigned to the Region within which such tax is leviable in that year in accordance with such principles of apportionment as may be prescribed by Parliament on the recommendation of the Finance Commission.

- (c) The Finance Commission shall also formulate principles for determining where a sale or purchase or consignment of goods takes place in the course of inter-regional trade or commerce for the purpose of sub-paragraph (b) of this paragraph.
- (5) (a) Taxes on sales or income not otherwise provided for shall be levied and collected by the Central Government and shall be distributed in the manner provided in sub-paragraph (b) of this paragraph.
- (b) A percentage as may be prescribed by Parliament of the net proceeds in any financial year of any such tax shall be assigned to the Region within which such tax is leviable in that year and shall be disbursed to the respective Regions in such manner, and from such time, as may be prescribed by the Finance Commission.
- (6) Such sums as Parliament may by law provide shall be charged to the Consolidated Fund of Sri Lanka in each year as grants in aid of the revenue of such Regions as Parliament may determine to be in need of assistance, and different sums may be fixed for different Regions.

208. (1) Save as otherwise expressly provided in paragraphs (3) and (4) of this Article, money shall not be withdrawn from the Consolidated Fund of Sri Lanka except under the authority of a warrant under the hand of the Minister of the Cabinet of Ministers in charge of the subject of Finance.

Withdrawals of
sums from
Consolidated
Fund.

(2) Any warrant under paragraph (1) of this Article shall not be issued unless money has by resolution of Parliament or by any law been granted for specified public services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of Sri Lanka.

(3) Where the President dissolves Parliament before the Appropriation Bill for the financial year has passed into law, the President may, unless Parliament shall have already made provision, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure of such monies as the President may consider necessary for public services until the expiration of a period of three months from the date on which the new Parliament is summoned to meet.

(4) Where the President dissolves Parliament and fixes a date or dates for a General Election, the President may, unless Parliament has already made provision in that behalf, authorize the issue from the Consolidated Fund of Sri Lanka and the expenditure, of such monies as

The Constitution of the Republic of Sri Lanka

the President may, after consultation with the Election Commission, consider necessary for such elections.

(5) Money shall not be withdrawn from the Consolidated Fund of a Region except under a warrant under the hand of the Chief Minister of the Region.

(6) A warrant under paragraph (5) of this Article shall not be issued unless the money has by Statute of the Regional Council established for the Region, been granted for services for the financial year during which the withdrawal is to take place or is otherwise lawfully charged on the Consolidated Fund of the Region.

Special
Provisions as to
Bills affecting
Public Revenue
of Sri Lanka.

209. A Bill or motion, authorizing the disposal of any monies of, or the imposition of charges upon, the Consolidated Fund of Sri Lanka or other funds of the Central Government, or the imposition of any tax or the repeal, augmentation or reduction of any tax for the time being in force shall not be introduced in Parliament except by a Minister of the Cabinet of Ministers, and unless such Bill or motion has been approved either by the Cabinet of Ministers or in such manner as the Cabinet of Ministers may authorize.

Regional
borrowing and
investment in the
Region.

210. (1) (a) The executive power of the Region extends to domestic and international borrowing upon the security of the Consolidated Fund of the Region.

(b) International borrowings by a Regional Administration shall be subject to such criteria and limitations as may be specified by Parliament and shall require the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance.

(2) (a) The limits as regards domestic borrowing and the limitations and criteria as regards international borrowing by each Regional Administration for each financial year shall, subject to the provisions of sub-paragraph (b) of this paragraph, be laid down by the Minister of the Cabinet of Ministers in charge of the subject of Finance before the thirtieth day of September of the preceding financial year.

(b) In laying down these limits and criteria, the Minister shall take into consideration the requirements of fiscal policy and the demands of monetary stability as well as the repayment capacity of each Regional Administration.

(3) Any agreements negotiated and entered into by Regional Administrations regarding international grants and foreign

development assistance shall be in accordance with the national policies on international aid as laid down, from time to time, by the Cabinet of Ministers and approved by Parliament.

211. (1) (a) There shall be a Finance Commission consisting of five members who have distinguished themselves or held high office, in the fields of finance, law, administration, business or learning, and who shall be appointed by the President on the recommendation of the Constitutional Council.

Finance
Commission.

(b) In making a recommendation under sub-paragraph (a) of this paragraph, the Constitutional Council shall ensure that the three major communities are represented on the Commission.

(c) The President shall appoint one of the members as the Chairperson of the Finance Commission.

(2) Every member of the Commission, unless the member earlier resigns or is removed, from office, shall hold office for a period of five years.

(3) The Central Government shall, on the recommendation of and in consultation with the Commission, allocate from the annual budget such funds as are adequate for the purpose of meeting the needs of the Regions.

(4) Subject to paragraph (5) of this Article, it shall be the duty of the Commission to make recommendations to the President as to —

(a) the principles on which such funds as are granted annually by the Central Government for the use of Regions, shall be apportioned between the various Regions;

(b) the principles on which the sharing and assignment or the assignment of revenue between the Central Government and the Regions should take place with a view to ensuring the assured measure of finances necessary for effective devolution ; and

(c) any other matter referred to the Commission by the President relating to regional finance.

- (5) In making the recommendations under sub-paragraphs (a) and (b) of paragraph (4) of this Article, the Commission shall formulate such principles with the objective of achieving balanced regional development in the country, and shall accordingly take into account—
- (a) the population of each Region ;
 - (b) the per capita income of each Region;
 - (c) the need, progressively, to reduce social and economic disparities;
 - (d) the need, progressively, to reduce the difference between the per capita income of each Region and the highest per capita income among the Regions ;
 - (e) the need to have effective utilization of the monies made available to the respective Regions;
 - (f) any exceptional expenditure incurred by a Regional Administration to meet exigencies such as natural disasters;
 - (g) the returns submitted to the Commission by every Regional Administration including information relating to expenditure ; and
 - (h) the reports of the Auditor-General consequent to the audits of Regional Administrations and authorities thereof.
- (6) The Commission shall determine its own procedure and shall have such powers in the performance of its duties as Parliament may, by law, confer on it.
- (7) The President shall cause every recommendation made by the Finance Commission under this Article to be laid before Parliament, and shall notify Parliament as to the action taken thereon.
- (8) Any court, tribunal or other institution shall not inquire into, or pronounce on, or in any manner entertain, determine or rule upon, any question relating to the adequacy of such funds, or any recommendation made, or principle formulated by the Commission.

212. (1) The property and income of the Central Government shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by a Regional Administration.
- (2) The property and income of a Regional Administration shall be exempt from taxation by the Central Government, save and except customs duties.
213. (1) There shall be an Auditor-General who shall be appointed by the President and who shall hold office during good behaviour.
- (2) The salary of the Auditor-General shall be determined by Parliament, shall be charged on the Consolidated Fund of Sri Lanka and shall not be reduced during the term of office of the Auditor-General.
- (3) The office of the Auditor-General shall become vacant-
- (a) upon death;
- (b) on resignation in writing addressed to the President;
- (c) on attaining the age of sixty years ;
- (d) on removal by the President on account of ill health or physical or mental infirmity; or
- (e) on removal by the President upon an address of Parliament.
- (4) Whenever the Auditor-General is unable to discharge the functions of the office, the President may appoint a person to act in the place of the Auditor-General.
214. (1) The Auditor-General shall audit the accounts of all departments of the Central Government and of the Regional Administrations, the offices of the Cabinet of Ministers, the Judicial Service Commission, the National Public Service Commission, the Finance Commission, the National Police Commission, Regional Public Service Commissions, Regional Police Commissions, the Parliamentary Commissioner for Administration, the Secretary-General of Parliament, the Election Commission, the Commission for the Investigation of Bribery or Corruption, local authorities, public corporations and business or other undertakings vested in the Central Government under any written law.

Exemption of income and property of the Central Government and of Regional Administrations from taxation.

Auditor-General.

Duties and functions of the Auditor-General.

- (2) Notwithstanding the provisions of paragraph (1) of this Article, the Minister of the Cabinet of Ministers in charge of any such public corporation or business or other undertaking may, with the concurrence of the Minister of the Cabinet of Ministers in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of such public corporation or business or other undertaking, and where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that the Auditor-General proposes to utilize the services of such auditor or auditors for the performance and discharge of the Auditor-General's duties and functions in relation to such public corporation, business or undertaking and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.
- (3) The Auditor-General shall also perform and discharge such duties and functions as may be prescribed by Parliament by law.
- (4) (a) The Auditor-General may for the purpose of the performance and discharge of the Auditor-General's duties and functions engage the services of a qualified auditor or auditors who shall act under the direction and control of the Auditor-General.
- (b) If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit, the Auditor-General may engage the services of-
- (i) a person not being an employee of the department, body or authority the accounts of which are being audited; or —
 - (ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of such department, body or authority,

and such person or institution shall act under the direction and control of the Auditor-General.

- (5) (a) The Auditor-General or any person authorized or engaged by the Auditor-General shall, in the performance and discharge of the duties and functions of the Auditor-General, be entitled-

- (i) to have access to all books, records, returns and other documents;
 - (ii) to have access to stores and other property ; and
 - (iii) to be furnished with such information and explanations as may be necessary for the performance of such duties and functions.
- (b) Every qualified auditor appointed to audit the accounts of any public corporation, or business or other undertaking, or any other person authorized by such auditor shall be entitled to like access, information and explanations in relation to such public corporation, or business or other undertaking.
- (6) (a) The Auditor-General shall within ten months after the close of each financial year and as and when the Auditor-General deems it necessary, submit reports on the performance and discharge of the duties and functions of the Auditor-General under the Constitution, to Parliament, in so far as those duties and functions relate to departments of the Central Government, public corporations, local authorities and business and other undertakings vested in the Government under any written law, and to the Regional Council established for a Region in so far those duties and functions relate to the Regional Administration of that Region.
- (b) The reports of the Auditor-General relating to the Regional Administration which are required to be submitted to a Regional Council under sub-paragraph (a) of this paragraph shall be laid before the relevant Regional Council.
- (7) Every qualified auditor appointed under the provisions of paragraph (2) of this Article shall submit the auditor's report to the Minister and also submit a copy thereof to the Auditor-General.
- (8) In this Article, "qualified auditor" means—
- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or

- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.