

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of May 31, 2013

SUPPLEMENT

(Issued on 03.06.2013)



**TWENTY FIRST AMENDMENT TO THE
CONSTITUTION**

(Private Member's Bill)

A

BILL

**to amend the Constitution of the Democratic Socialist Republic of
Sri Lanka**

*To be presented in Parliament by Ven. Athuraliye Rathana Thero M. P.
for Gampaha District*

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Twenty First (Amendment) to the Constitution

AN ACT TO AMEND THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

Whereas the 13th Amendment to the Constitution was purportedly enacted, consequent to the Indo - Sri Lanka Accord being entered into between the President of Sri Lanka and the Prime Minister of India in 1987 under duress in
5 defiance of the sovereignty of the people of Sri Lanka and;

Whereas the Supreme Court of the Democratic Socialist Republic of Sri Lanka did not approve the provisions of the 13th amendment Bill as being consistent with the Constitution in as much as only four judges of the Supreme
10 Court out of nine held that the approval of the people at a referendum was not required to enact the 13th Amendment whilst five judges held that at least one or more of the provisions of the Bill was in violation of the Constitution and therefore required the approval of the people at a
15 referendum and ;

Whereas in terms of Article 80(2) of the Constitution “where the Supreme Court has determined that a Bill or any provision thereof requires the approval of the people at a referendum” such bill or such provision shall become law only upon the
20 same being approved by the people at a referendum and the President certifies that the Bill or any Provision thereof has been so approved in the manner as set out in the said Article;

Whereas the majority of the judges that constituted the bench of the Supreme Court had determined that the Bill or any
25 one or more of the provisions thereof requires the approval of the people at a referendum, such Bill can become law only if complied with Article 80(2) upon being approved by the people at a referendum and therefore the purported certificate of the Speaker endorsed on the Bill purportedly
30 under Articles 79 and 80(1) of the Constitution is invalid and unconstitutional and ;

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Whereas the Supreme Court has determined that any Bill or any Provision thereof requires the approval at a referendum the only cause of action available under the law is to comply with the process set out in Article 80(2) and the purported
5 Amendment made to Article 154G(2)(b) and 154G(3)(b) of the 13th Amendment Bill in Parliament without a further determination by the Supreme Court is unconstitutional and unlawful and ;

Whereas the 13th Amendment in Article 154A (3)
10 provides for the establishment of one administrative unit for two or more Provinces, to accommodate the unlawful undertaking given by the then President of Sri Lanka in the Indo-Sri Lanka accord to establish one administrative unit for the Northern and Eastern Provinces of Sri Lanka on the
15 erroneous and false basis that the Northern and Eastern Provinces form part of the homeland of one single ethnic and/or linguistic community as claimed by the separatist forces and ;

Whereas the 13th Amendment has sought to abdicate the
20 legislative power vested in Parliament and the Executive power vested in the President by the division of governmental power and restricted the Parliament and the President respectively exercising the legislative and executive power of the people and thereby offended the
25 unitary character of the State ;

Whereas the 13th Amendment has vested *inter alia* police powers (including powers in relation to maintenance of public order) in Provincial Councils which was hitherto exercised by the Government of Sri Lanka, which will be a serious
30 threat to national security concerns of the Republic in as much as ;

(a) the 13th Amendment provides for the Chief Minister of a Province to directly control the Head of the Provincial Police Force and thereby all Police
35 Officers of the said Force and even national police

5 units operating in any province. (vide Item 11 of the Appendix of List 1 of the 9th Schedule) thereby effectively taking away the powers of the Inspector General of Police and the Government of Sri Lanka exercising any authority over such police force.

10 (b) the 13th Amendment entrusts the responsibility of prevention detection, investigation of all offences (except the offences specified in the Schedule therein) and institution of prosecutions (subject to the powers of the Attorney General) to Provincial Councils and to enact any law on any such matter and further empower any Provincial Council to prevent any Police Officers of another Province entering such Province (vide the limitations contained in sub paragraph (k) of the 2nd item of list II of the 9th Schedule) and thereby jeopardizing the management of law and order and the national security of the Republic.

20 (c) the 13th Amendment even restricts police officers of the national police force from being in uniform compelling them to be in plain clothes even when performing the limited responsibilities allowed within a province such as when engaging in prevention detection and investigation of a scheduled offence (vide item 11.1 read with 12.1 of the relevant Appendix of the 9th Schedule).

30 Whereas the 13th Amendment, though based on the Constitutional structure of India, denies the Government of Sri Lanka to intervene in the event of a Province acting against the interests of the Republic, although the Central government of India is empowered to intervene in similar situations. (Vide Article 256 and 257 of the Constitution of India.)

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Whereas the power of the Government of Sri Lanka to give directions with regard to the manner of exercising executive power by a Province is restricted to a situation where the maintenance of essential supplies and services is threatened
5 or that the security of Sri Lanka is threatened by war or external aggression or armed rebellion (vide Article 154j and 154k) no such limitation is placed under the Constitution on the Government of India and ;

10 Whereas the 13th Amendment seeks to weaken the Government of Sri Lanka whilst strengthening the Provincial Councils and thereby destroying the unitary character of the State, territorial integrity of Sri Lanka and the sovereignty of its people and ;

15 Whereas Sri Lanka is a Free, sovereign, independent and unitary State and it is the duty of the State to safeguard the independence, sovereignty, unity and the territorial integrity of Sri Lanka and the provision of the 13th Amendment are a threat to the independence, sovereignty, unity and the territorial integrity of Sri Lanka ;

20 BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the twenty first Amendment to the Constitution.

25 2. The Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as the “Constitution”) is hereby amended by the repeal of;—

(a) Article 154A to 154T which constitute Chapter XVIII

(b) Article 155(3A)

30 (c) Ninth Schedule

3. Article 170 of the Constitution is hereby amended by the substitution, in the definition of “written law” for the words “and includes statutes made by Provincial Councils, orders” of the words “and include orders”.

5 **4.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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