

PARLIAMENT OF CEYLON

4th Session 1955-56



Ceylon Parliamentary Elections (Amendment) Act, No. 16 of 1956

Date of Assent : February 16, 1956

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Ceylon Parliamentary Elections (Amendment) Act, No. 16 of 1956 3

L. D.—O. 1/56.

AN ACT TO AMEND THE CEYLON (PARLIAMENTARY ELECTIONS) ORDER IN COUNCIL, 1946, TO GIVE EFFECT TO SOME OF THE RECOMMENDATIONS OF THE SELECT COMMITTEE APPOINTED BY THE HOUSE OF REPRESENTATIVES TO REPORT ON AMENDMENTS TO THAT ORDER IN COUNCIL SUBJECT TO SUCH MODIFICATIONS AS ARE CONSIDERED NECESSARY, AND TO TERMINATE THE INCAPACITY TO WHICH ANY PERSON IS SUBJECT ON THE DATE OF COMMENCEMENT OF THIS ACT BY REASON OF AN ACT OR OMISSION WHICH BEFORE THAT DATE WAS A CORRUPT PRACTICE AND WHICH ON OR AFTER THAT DATE WILL BE AN ILLEGAL PRACTICE.

[Date of Assent: February 16, 1956]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Ceylon Parliamentary Elections (Amendment) Act, No. 16 of 1956.

Short title.

2. Section 10 of the Ceylon (Parliamentary Elections) Order in Council, 1946, hereinafter referred to as "the Order in Council", is hereby amended as follows:—

Amendment of section 10 of the Ceylon (Parliamentary Elections) Order in Council, 1946.

(1) in sub-section (2) of that section, by the substitution, for the words "two thousand", of the words "one thousand five hundred";

(2) in sub-section (3) of that section, by the substitution, for the expression "at the next revision of the register of electors for that electoral district and not earlier.", of the expression "on the date of publication of the notice under section 22 (1) relating to the next certification of the register of electors for such electoral district, but the revision of such register before such certification shall be made on the basis of such alteration."; and

(3) by the insertion, immediately after sub-section (3) of that section, of the following sub-section:—

“(3A) A notice published in the *Government Gazette* under sub-section (1) or sub-section (3) may from time to

4 *Ceylon Parliamentary Elections (Amendment)*
Act, No. 16 of 1956

time be amended, in the particulars in paragraph (d) (iii) of sub-section (1) required to be specified in that notice, after notifying the proposed amendments to the public in such manner as the Commissioner may determine and after giving an opportunity to the public for making representations in regard to the proposed amendments."

Amendment of
section 15
of the Order
in Council.

3. Section 15 of the Order in Council is hereby amended as follows:—

(1) in sub-section (2) of that section, by the substitution, for the words "the modification that", of the following:—

' the modifications that sub-section (2) of section 11 shall be read and construed as if, for the words "or at such other place", there were substituted the words "and at such other places", and that section 12 shall be read and construed as if, for the words "two weeks", there were substituted the words "four weeks", and that'; and

(2) by the addition, at the end of that section, of the following sub-sections:—

"(3) Where the name of any person who is qualified in accordance with this Order to have his name entered in any register of electors prepared under sub-section (1) for any electoral district has been omitted from that register, any other person may make an application to the registering officer of that electoral district to have the name of the first-mentioned person inserted in such register. Such application shall be in writing and shall be substantially in the Form CC in the First Schedule to this Order and shall be made to such registering officer so as to reach him within four weeks from the date of the publication in the *Government Gazette* of the notice of completion of such register. Where an application is made under this sub-section, the registering officer shall, as soon as practicable, hold a public inquiry into the application, giving not

less than twelve days' written notice of the inquiry and of the date on which and the time and place at which the inquiry will commence to the applicant and to the person in respect of whom the application is made, and, if such person appears at the inquiry and supports the application and satisfies the registering officer that the application should be allowed, the application shall be allowed and, if such person fails to do so, the application shall be disallowed.

(4) Before the certification of the register of electors prepared for any electoral district under sub-section (1), application may be made to the registering officer of that electoral district for the correction of an existing entry relating to the applicant in such register, and, where such application is made, the registering officer shall, if he is satisfied after such inquiry as he deems fit that the entry relates to the applicant and is erroneous or defective in any particular, cause the necessary amendment in the entry to be made."

4. Section 16 of the Order in Council, as amended by Act No. 48 of 1949, is hereby amended, in sub-section (1) of that section, by the substitution, for all the words from "the Commissioner" to the end of that sub-section, of the following:—

"the Commissioner shall cause the revision of such register to be commenced and a notification, stating that the revision of such register has commenced and informing every person qualified to be an elector for such electoral district how he may ascertain whether his name is in such register and, if not, how he may secure its insertion therein, to be published in the *Government Gazette* in Sinhalese, Tamil and English and in at least one Sinhalese newspaper, one Tamil newspaper and one English newspaper circulating in such electoral district and to be conspicuously displayed at public places within such electoral district."

Amendment of
section 16
of the Order
in Council.

6 *Ceylon Parliamentary Elections (Amendment)*
Act, No. 16 of 1956

Amendment of
section 18
of the Order
in Council.

5. Section 18 of the Order in Council is hereby amended, in sub-section (2) of that section, by the substitution, for the words " or at such other place ", of the words " and at such other places ".

Amendment of
section 19
of the Order
in Council.

6. Section 19 of the Order in Council is hereby amended as follows:—

(1) in sub-section (3) of that section, by the substitution, for the words " as though the references therein ", of the following:—

" as though the references in section 12 to two weeks were references to four weeks and as though the references therein "; and

(2) by the addition, at the end of that section, of the following sub-section:—

" (4) Where a person is entitled to claim under sub-section (1) to have his name inserted or retained in any register of electors, any other person may make an application to the registering officer to have the name of the first-mentioned person inserted or retained in that register. Such application shall be in writing and shall be substantially in the Form CC in the First Schedule to this Order and shall be made to the registering officer so as to reach him within four weeks from the date of the publication in the *Government Gazette* of the notice of the completion of Lists A and B. Where an application is made under this sub-section, the registering officer shall, as soon as practicable, hold a public inquiry into the application, giving not less than twelve days' written notice of the inquiry and of the date on which and the time and place at which the inquiry will commence to the applicant and to the person in respect of whom the application is made, and, if such person appears at the inquiry and supports the application and satisfies the registering officer that the application should be allowed, the application shall

be allowed, and, if such person fails to do so, the application shall be disallowed. ”.

7. Section 20 of the Order in Council is hereby amended by the addition, at the end of that section, of the following sub-section :—

Amendment of
section 20
of the Order
in Council.

“ (3) Application may be made to the registering officer of any electoral district before the certification of the register of electors for that district for the correction of an existing entry relating to the applicant in that register, and, where such application is made, the registering officer shall, if he is satisfied after such inquiry as he deems fit that the entry relates to the applicant and is erroneous or defective in any particular, cause the necessary amendment in the entry to be made. ”.

8. (1) The following new sections are hereby inserted immediately after section 22, and shall have effect as section 22A and section 22B respectively, of the Order in Council :—

Insertion
of new
sections 22A
and 22B in
the Order in
Council.

“ Language of
the registers
of electors
and the lists
prepared for
the purpose of
revising such
registers.

22A. (1) In this section—

“ language of the majority ”, with reference to any electoral district, means the language (other than the English language) spoken by the majority of the people of that electoral district,

“ language of the minority ”, with reference to any electoral district, means the language (other than the language of the majority and the English language) spoken by not less than twenty per centum of the people of that electoral district, and

“ prescribed date ” means such date as shall be specified, for the purposes of this section, by the Minister by Order published in the *Gazette*.

(2) After the prescribed date, the register of electors for each electoral district and the lists prepared for the

8 *Ceylon Parliamentary Elections (Amendment)*
Act, No. 16 of 1956

purpose of revising such register shall be in the language of the majority and in the English language and, where there is a language of the minority, in such language of the minority.

Re-insertion
of name
deleted from
register of
electors.

22B. Where any person whose name is deleted from any register of electors as he is subject under this Order to the incapacity of being registered as an elector by reason of—

- (a) his conviction of a corrupt or an illegal practice, or
- (b) the report of an election judge or of the Supreme Court published under sub-section (2) of section 82D, or
- (c) his conviction of an offence under section 52 or section 53, or

(d) the operation of section 4A, ceases to be subject to that incapacity, then, if he makes a written application to the registering officer of any electoral district to have his name entered in the register of electors for that electoral district and such registering officer is satisfied that such person is not disqualified under section 4 to have his name entered in such register, the name of such person shall be inserted in such register. The insertion of such name in such register shall have effect notwithstanding that at the time of such insertion the revision or certification of such register under this Order may have been completed. ”.

(2) Where any person was on the day immediately preceding the date of commencement of this Act subject to the incapacity referred to in section 22B inserted in the Order in Council by sub-section (1) of this section, the provisions of the said section 22B shall apply to that person in like manner as they apply to any person subject to such incapacity on or after such date.

Amendment of
section 80
of the Order
in Council.

9. Section 30 of the Order in Council is hereby amended, in sub-section (2) of that section, by the omission of the word “ true ”.

10. Section 35 of the Order in Council is hereby amended as follows:—

Amendment of
section 35
of the Order
in Council.

(1) in sub-section (1) of that section—

(a) by the substitution, for the expression “shall allot”, of the expression “shall, subject to the provisions of sub-section (1A), allot”, and

(b) by the substitution, for the words “In this sub-section”, of the words “In this section”;

(2) by the insertion, immediately after sub-section (1) of that section, of the following new sub-sections:—

“(1A) (a) Where a general election is to be held, the secretary of any political party may, not later than ten days after the date of publication of the Proclamation dissolving Parliament, make on behalf of such party a written application to the Commissioner for the determination of one approved symbol to be allotted to the candidates of such party, and, if two or more candidates of such party are candidates for the election in an electoral district for which two or more members are to be returned, such application shall specify which one of those candidates should be allotted the approved symbol determined by the Commissioner. Upon such application being made, the Commissioner shall determine an approved symbol for allotment to candidates of such party.

(b) Where the election in any electoral district is adjourned under sub-section (1) to enable a poll to be taken and there is an approved symbol determined by the Commissioner under paragraph (a) of this sub-section in respect of any political party which has any candidate or candidates for election in that electoral district, then, in lieu of the allotment of an approved symbol in accordance with the provisions of sub-section (1), there shall,—

(i) if only one member is to be returned for that electoral district, be allotted the approved symbol so determined to the candidate of that party for election in that electoral district, and

(ii) if two or more members are to be returned for that electoral district, be allotted the approved symbol so determined, where there is only one candidate of that party for election in that electoral district, to that candidate, and, where there are two or more candidates of that party for election in that electoral district, to that one of those candidates who is specified in respect of that electoral district in the application made on behalf of that party under paragraph (a) of this sub-section:

Provided that, where one of two or more candidates of a political party for election in an electoral district for which two or more members are to be returned is allotted an approved symbol determined by the Commissioner under paragraph (a) of this sub-section in respect of that party, the other candidate or each of the other candidates of that party for election in that electoral district shall be allotted an approved symbol in accordance with the provisions of sub-section (1).

(c) An approved symbol allotted under this sub-section to a candidate shall be printed on the ballot paper opposite that candidate's name.

(d) An approved symbol determined by the Commissioner under paragraph (a) of this sub-section for allotment to the candidates of any political party shall not be allotted under sub-section (1) to any other candidate.

(1B) Where a candidate is nominated by means of two or more nomination papers, he shall, forthwith after an approved symbol is allotted to him under sub-section (1) or sub-section (1A), select one of those nomination papers and notify the returning officer in writing that the name of the proposer and the name of the seconder appearing in the selected nomination paper should be specified as the name of his proposer and the name of his seconder in the notice relating to the election to be published under sub-section (3), and, if such candidate does not so select and so notify, the returning officer shall select one of such nomination papers for the purpose of determining the name of the proposer and the name of the seconder of such candidate to be specified in such notice.”;

(3) in sub-section (2) of that section by the substitution, for the expression “allotted to each candidate, and ”, of the expression “allotted to each candidate, a statement of the nomination paper selected under sub-section (1B) by or in respect of each candidate nominated by means of two or more nomination papers, and ”;

(4) in sub-section (3) of that section by the substitution, in paragraph (c) of that sub-section, for the words “and the names of their proposers and seconders; ”, of the following:—

“and the name of the proposer and the name of the seconder appearing in the nomination paper of each candidate who is nominated by means of one nomination paper only, and the name of the proposer and the name of the seconder appearing in the nomination paper selected under sub-section (1B) by or in respect of each candidate who is nominated by means of two or more nomination papers; ”;
and

12 Ceylon Parliamentary Elections (Amendment)
Act, No. 16 of 1956

(5) by the insertion, immediately after sub-section (3) of that section, of the following sub-sections:—

“(3A) Where due to any emergency it is necessary that the situation of any polling station should be different from that specified in a notice published under sub-section (3), the Commissioner may cause the situation of that polling station to be altered after consulting the candidates.

(3B) Where due to any emergency the poll for an election in any electoral district cannot be taken on the date specified in the notice relating to the election published under sub-section (3), the Commissioner may, by Order published in the *Government Gazette*, appoint another date for the taking of such poll, and such other date shall not be earlier than the twenty-first day after the publication of the Order in the *Government Gazette*.”.

Amendment of
section 39
of the Order
in Council.

11. Section 39 of the Order in Council is hereby amended by the repeal of sub-section (5) of that section and the substitution therefor of the following sub-section:—

“(5) (a) Not more than two polling agents of each candidate shall at any time be admitted to or be allowed to remain in any polling station which is not reserved exclusively for the use of female voters.

(b) Not more than one polling agent of each candidate shall at any time be admitted to or be allowed to remain in any polling station reserved exclusively for the use of female voters.

(c) The Commissioner may, by notice published in the *Government Gazette*, order that, in the case of any polling station reserved exclusively for the use of female voters, no male polling agent shall be admitted to that polling station.”

Amendment of
section 47
of the Order
in Council.

12. Section 47 of the Order in Council is hereby amended by the addition, at the end of that section, of the following sub-section:—

“(4) The presiding officer shall despatch to the returning officer, together with the packets and the

Ceylon Parliamentary Elections (Amendment) 13
Act, No. 16 of 1956

ballot box or boxes, a statement specifying the number of ballot papers entrusted to such presiding officer and accounting for them under the heads of—

- (a) ballot papers issued to voters, other than spoilt ballot papers,
- (b) spoilt ballot papers, and
- (c) unused ballot papers.”.

13. Section 48 of the Order in Council is hereby amended as follows:—

Amendment of
section 48
of the Order
in Council.

(1) in sub-section (1) of that section—

(a) by the substitution, for all the words from “may appoint” to “attend”, of the following:—

‘may appoint not more than two agents, hereinafter referred to as the “counting agents”, to attend’;
and

(b) by the substitution, for the words “name and address of the counting agent”, of the words “name and address or names and addresses of the counting agent or agents”; and

(2) in sub-section (2) of that section, by the substitution, for the words “a counting agent, to such counting agent,”, of the words “any counting agent or agents, to such or each such counting agent,”.

14. Section 52 of the Order in Council is hereby amended by the insertion, immediately after sub-section (1) of that section, of the following sub-sections:—

Amendment of
section 52
of the Order
in Council.

“(1A) No person shall, on any date on which a poll is taken at a polling station, do any of the following acts within a distance of fifty yards of the entrance of that polling station:—

- (a) canvassing for votes;
- (b) soliciting the vote of any elector;
- (c) persuading any elector not to vote for any particular candidate;
- (d) persuading any elector not to vote at the election;

14 *Ceylon Parliamentary Elections (Amendment)*
Act, No. 16 of 1956

- (e) distributing or exhibiting any handbill, placard, poster or notice relating to the election (other than any official handbill, placard, poster or notice) or any symbol allotted under section 35 to any candidate.

Every person who contravenes the provisions of this sub-section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(1B) No person shall, on any date on which a poll is taken at any polling station,—

- (a) use or operate, within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof, any megaphone or loudspeaker or other apparatus for magnifying or reproducing the human voice, or

- (b) shout or otherwise act in a disorderly manner within or at the entrance of a polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station. Every person who contravenes the provisions of this sub-section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(1C) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1B), and may seize any apparatus used for such contravention.”

Amendment of
section 58
of the Order
in Council.

15. Section 58 of the Order in Council is hereby amended, in sub-section (1) of that section as amended by Act No. 26 of 1953, as follows:—

- (1) by the omission of paragraph (c) of that sub-section;

Ceylon Parliamentary Elections (Amendment) 15
Act, No. 16 of 1956

- (2) in paragraph (e) of that sub-section, by the substitution, for the words "such election; or", of the words "such election,";
- (3) by the omission of paragraph (f) of that sub-section; and
- (4) by the omission of all the words from "Provided, however, that" to the end of that sub-section.

16. Where a person is at the commencement of this Act subject to the incapacity of being registered as an elector or of voting at any election under the Order in Council or of being elected or appointed as a Senator or Member of Parliament by reason of his conviction of a corrupt practice under paragraph (c) or paragraph (f) of sub-section (1) of section 58 of the Order in Council prior to its amendment by section 15 of this Act or of the finding in the report of an election judge or of the Supreme Court published under sub-section (2) of section 82D of the Order in Council that he has committed a corrupt practice under either or both of those paragraphs, such incapacity shall cease on the date of the commencement of this Act notwithstanding anything to the contrary in the Order in Council.

Termination of incapacity arising out of commission, prior to commencement of this Act, of a corrupt practice under section 58 (1) (c) or (f) of the Order in Council.

17. Section 61 of the Order in Council is hereby amended, in sub-section (1) of that section, as follows:—

- (1) by the substitution, for the words "before the opening of the poll", of the words "before the opening of, or during, the poll"; and
- (2) by the addition, at the end of that sub-section, of the following:—

"Where such election agent, after informing such presiding officer of the name of any polling agent appointed to act at such station, revokes the appointment of that polling agent and appoints another polling agent to such station, such election agent shall inform such presiding officer in writing of the revocation of such appointment and of the name of the new polling agent appointed to such station."

16 *Ceylon Parliamentary Elections (Amendment)*
Act, No. 16 of 1956

Amendment of
section 68
of the Order in
Council.

18. Section 68 of the Order in Council is hereby amended, in sub-section (1) of that section, by the substitution, for paragraph (b) of that sub-section, of the following paragraph:—

“(b) a reasonable number of polling agents for each polling district having regard to the need to revoke the appointment of any polling agent for that polling district during the poll;”.

Insertion of
new sections
68A and
68B in the
Order in
Council.

19. The following new sections are hereby inserted immediately after section 68, and shall have effect as section 68A and section 68B respectively, of the Order in Council:—

“Printing,
etc. of
election
publications
by candidates
and election
agents.

68A. A candidate, or an election agent, who prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of its printer and publisher shall be guilty of an illegal practice.

False
declaration
as to election
expenses.

68B. A candidate, or an election agent, who knowingly makes the declaration as to election expenses required by section 70 falsely shall be guilty of an illegal practice.”

Repeal of
section 73A
of the Order
in Council.

20. Section 73A inserted in the Order in Council by Act No. 26 of 1953 is hereby repealed.

Insertion of
new sections
92A and 92B
in the Order
in Council.

21. The following new sections are hereby inserted immediately after section 92, and shall have effect as section 92A and section 92B respectively, of the Order in Council:—

“Requisition-
ing of
premises for
use as polling
stations.

92A. (1) Where the Commissioner considers that any premises, other than any school referred to in section 92, are required for the purpose of being used as a polling station, he may requisition those premises for that purpose by order in writing addressed to and served on the person in actual possession of those premises, or, where no person is in such actual possession, on the owner of such premises.

Ceylon Parliamentary Elections (Amendment) 17
Act, No. 16 of 1956

(2) Where any premises are requisitioned under sub-section (1), the period of such requisition shall not extend beyond four weeks.

(3) In this section, "premises" means any land, building or part of a building and includes a hut, shed or structure or any part thereof.

Compensation
for requi-
sitioning
premises.

92B. (1) Where any premises are requisitioned under section 92A, the Commissioner shall pay, out of moneys provided for the purpose by Parliament, compensation for such requisition to the person who was in actual possession of those premises immediately before the requisition or, where no person was in such actual possession, the owner of those premises, and shall make good any damage done to those premises during the period of the requisition.

(2) The amount of compensation payable under sub-section (1) in respect of any premises shall be determined by taking into consideration—

(a) the rent payable in respect of those premises, or, where no rent is so payable, the rent payable for similar premises in the locality, and

(b) if, in consequence of the requisition of those premises, the person who was in actual possession of those premises immediately before the requisition was compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(3) Where any person entitled to compensation under this section is aggrieved by the decision of the Commissioner in regard to the amount of the compensation, that person may appeal in writing to the Minister from that decision. Upon such appeal being made, the Minister shall appoint an

18 Ceylon Parliamentary Elections (Amendment)
Act, No. 16 of 1956

arbitrator and shall refer such appeal to him for determination, and the determination of the arbitrator on such appeal shall be final. ”.

Amendment of
the First
Schedule to the
Order in
Council.

22. The First Schedule to the Order in Council is hereby amended by the insertion, immediately after Form C, of the following Form:—

FORM CC

(SECTION 15 AND SECTION 19)

Form of application by a person to have the name of another person inserted or retained in a register of electors.

To the Registering Officer of Electoral District.

I, (give name, christian or ge or other names in full: surname or ge name first) hereby declare that (give name, christian or ge or other names in full of the person in respect of whom the application is made; surname or ge name first) possesses the residential qualification at (state exact address or addresses of residence in the electoral district and all the following particulars which are applicable) in the (Tulana or Wasama or Vidane's division) in the division of the (Korale or Udayar or Vidane Arachchi) of in the Divisional Revenue Officer's division of or in the Ward in the town of in the above-named electoral district and that his name has been omitted/expunged from the register of electors/omitted from List B/included in List A for the above-named electoral district, and I hereby apply to have such name inserted/retained in the afore-said register on the following grounds (state grounds of application):—

.....
.....
.....

2. My address for notice is
Dated the day of 19

.....
(Signature or thumb mark of applicant)

Signed or marked by the above-named applicant in my presence
this day of 19 at

(Signature of witness)

.....
.....
(Address of witness)