

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA**

"PARLIAMENTARY PENSIONS (REPEAL) BILL"

SC/SD/01/2026

Petitioners : Adikari Mudiyanselage Piyasoma Upali
Midella, Deegalla
Kuliyapitiya.

Matarage Upali Sarath Danstan Amarasiri
"Sinhagiri",
Aluth Ihala,
Mapalagama (Central).

Respondent : Hon. Attorney General
Attorney General's Department,
Colombo 12.

Counsel : Dr. Wijayadasa Rajapaksha, PC with
Dasun Nagashena, Shabeer Huzair
instructed by Sanath Wijewardena
Associates for the Petitioners.

Viveka Siriwardane, ASG with Yuresha de
Silva, DSG, Fazly Razik, DSG and Navodi
de Zoysa, SC for the Respondent.

SC/SD/02/2026

Petitioners : Marakkala Manage Premasiri
'Sagara',
Kottagoda.

Yapa Mudiyanselage Egodaha gedara
Nawarathne Banda
No. 1/19,
Wepathana,
Gomagoda.

Bolognalage Nishantha Deepal
Gunasekara
No. 380C, Koskolawatte,
Malwala,
Rathnapura.

Saman Siri Herath
148/1,
Parani Mawatha,
Maikkulama,
Chilaw.

Respondent : Hon. Attorney General
Attorney General's Department,
Colombo 12.

Counsel : Dr. Wijayadasa Rajapaksha, PC with
Dasun Nagashena, Shabeer Huzair
instructed by Sanath Wijewardena
Associates for the Petitioners.

Viveka Siriwardane, ASG with Yuresha de
Silva, DSG, Fazly Razik, DSG and Navodi

de Zoysa, SC for the Respondent.

SC/SD/03/2026

Petitioner : Don Ranjith Nanda Kumarage
"Sirikumara",
Wakwella,
Galle.

Respondent : Hon. Attorney General
Attorney General's Department,
Colombo 12.

Counsel : Eraj de Silva, PC with Daminda
Wijayarathne, Janagan Sundaramorthi
N.K. Ashokbharan, Saman Ekanayake,
Zul Luthufi, Naveed Amhed, Sanjana
Mapatuna, Tharini Ratwatte and Parami
Gunawardane instructed by
Vidanapathirana Associates for the
Petitioner.

Viveka Siriwardane, ASG with Yuresha de
Silva, DSG, Fazly Razik, DSG and Navodi

de Zoysa, SC for the Respondent.

SC/SD/04/2026

Petitioner : Edward Gunasekara
No. 55,
Negombo Road,
Katuwellagama.

Respondent : Hon. Attorney General

Attorney General's Department,
Colombo 12.

Counsel : Tharaka Nanayakkara instructed by
R.M.S.P. Rathnayaka for the Petitioner.

Viveka Siriwardane, ASG with Yuresha de
Silva, DSG, Fazly Razik, DSG and Navodi
de Zoysa, SC for the Respondent.

SC/SD/05/2026 Petitioner : Achala Suranga Mabotuwana
Jagodage
No. 377/4,
Rathnarama Road,
Hokandara South.

Respondent : Hon. Attorney General
Attorney General's Department,
Colombo 12.

Counsel : Chandima Weerakkody for the Petitioner.

Viveka Siriwardane, ASG with Yuresha de
Silva, DSG, Fazly Razik, DSG and Navodi
de Zoysa, SC for the Respondent.

BEFORE:

P. PADMAN SURASENA, CJ
ACHALA WENGAPPULI, J
ARJUNA OBEYSEKERE, J

The Bench assembled for hearing the Petitions on 22-01-2026.

Court, at the outset, with the concurrence of the learned Counsel for all the parties consolidated all the Applications bearing numbers SC/SD/01/2026, SC/SD/02/2026, SC/SD/03/2026, SC/SD/04/2026 and SC/SD/05/2026. Thereafter, the Court proceeded to hear the submissions of all Counsel who appeared for the Petitioners in all these cases and the submissions of the learned Additional Solicitor General and then concluded the hearing.

The Bill titled "Parliamentary Pensions (Repeal) Act, No. ... of 2026" (hereinafter sometimes referred to as the Bill) was published in the Gazette on 29-12-2025 and was placed on the Order Paper of Parliament on 07-01-2026.

The above-mentioned Petitioners have filed these five Petitions invoking the jurisdiction vested in this Court by virtue of Article 121 read with Articles 120 and 123 of the Constitution challenging the constitutionality of this Bill. The Petitioners have prayed for a determination from this Court under Article 123 of the Constitution.

The Bill contains four clauses, and the Petitioners in all these Petitions have challenged the Bill as a whole. The marginal notes of the four clauses of the Bill are as follows:

- Clause 1 - Short title
- Clause 2 - Repeal of the Law, No. 1 of 1977
- Clause 3 - Avoidance of doubt
- Clause 4 - Sinhala text to prevail in case of inconsistency

The Petitioners have prayed for a determination and declaration that one or more of Clauses 1 to 4 of the said Bill is/are inconsistent with one or more of the Articles 1, 3, 4, 10, 11, 12(1), 12(2), 13(5), 14, 68, 83 and 84 of the Constitution. It is on that basis that the Petitioners have sought to argue before us that the provisions in Section 83 of the Constitution shall apply to this Bill and therefore the Bill shall only become law if the

number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present), and is approved by the People at a Referendum and a certificate is endorsed thereon by the President in accordance with Article 80.

The contents of the Bill are very short and hence for convenience, let us reproduce below, all the four clauses of this Bill in their entirety.

Long Title

"AN ACT TO REPEAL THE PARLIAMENTARY PENSIONS LAW, NO. 1 OF 1977"

Clause 1

"This Act may be cited as the Parliamentary Pensions (Repeal) Act, No. of 2026."

Clause 2

"The Parliamentary Pensions Law, No. 1 of 1977 is hereby repealed."

Clause 3

"For the avoidance of doubt, it is hereby declared that any person who is entitled to receive a pension in terms of the provisions of the Parliamentary Pension Law, No. 1 of 1977, section 9 of Act, No. 1 of 1982 or section 9 of Act, No. 47 of 1990, and is in receipt of a pension under the aforesaid provisions preceding the date of commencement of this Act, shall, on and after the date of commencement of this Act, cease to receive such pension."

Clause 4

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

Let us now turn to the arguments put forward by the Petitioners.

In the course of the submissions, the thrust launched by the learned Counsel for all the Petitioners revolved around the argument that they have a legitimate expectation to continue to draw the pensions which they have been hitherto drawing. Thereafter they sought to link this to independence of the Members of Parliament, sovereignty and even to torture and thereby sought to argue that the Bill also violates Articles 3, 11 and 12(1) of the Constitution.

The main purpose of this Bill is to repeal the Parliamentary Pensions Law, No. 01 of 1977 which had established a non-contributory pension scheme for the grant of pensions to persons who have ceased to be Members of Legislature.

Although it originally sought to provide for pensions only to persons who have ceased to be Members of Legislature, it must be noted that the amendments subsequently brought by Parliament have made considerably large extensions of this benefit in the following ways:

- I. Amendment Act No. 50 of 1979 has extended the scope of the 1977 Law by including appointed members of the Ceylon (State Council) Order in Council and House of Representatives which was previously limited to elected members.
- II. Then amendment Act No. 1 of 1982, extended the scope of the 1977 Law (previously limited to the Members of Legislature) to the widows/widowers of the Members of Legislature upon the death of the Members of Legislature.
- III. Then amendment Act No. 33 of 1985 introduced a separate scheme of pension entitlement for persons who have held certain offices in the legislature as specified in the newly introduced Schedule by this amendment Act. The said additional entitlement also varied depending on the period of service. As per amended Section 4 of the Law, the pension is now calculated on the basic salary of the office holder as opposed to the standard pension rate of members of legislation.

Additionally, this amendment Act introduces a new section (S. 7C), which entitles persons receiving pensions under this Law to a payment of all such allowances as are currently paid to public officers on their pensions. This is in addition to the pension entitlement under the Law.

IV. Then amendment Act No. 47 of 1990 further expanded the scope of the Parliamentary Pensions Law (previously limited to the Members of Legislature and extended to their widows/widowers by Amendment Act No. 1 of 1982) to include the children of Members of Legislature. Such children must be below the age of twenty-one years and are entitled to the pension upon the death of the Member of Legislature and where the spouse has predeceased the Member of Legislature OR upon death or remarriage of the spouse subsequent to the death of the Member of Legislature. Children include adopted children and further the age limit of twenty-one years may be extended in the case where a Medical Board determines the child is incapable of earning his livelihood due to physical or mental disability.

This legislative history demonstrates that the Parliamentary Pensions Law has evolved far beyond its original scope. What began as a limited and symbolic benefit has, over time, become a wide-ranging, non-contributory entitlement extending to multiple categories of persons, including family members, thereby imposing a growing financial burden on the State.

There is no dispute that all persons who have ceased to be Members of Legislature along with many others who have been brought in by subsequent Amendments, by virtue of the afore-mentioned provisions, continue to enjoy those benefits as at now. Thus, it is on the basis that the Bill will stop those persons who have hitherto benefitted from the provisions in the Law No. 01 of 1977 as amended, that the Petitioners sought to argue

that this Bill, which will stop whatever they receive, is against their legitimate expectation to continue to receive all those benefits forever.

At the outset, we must mention here that if the legitimate expectation is a general ground which will operate as a bar for the Parliament to enact laws, then it will not be possible for the Parliament to enact any law to abolish, modify or change any hitherto existed system. Such impossibility would extend to both procedural and substantive laws. Thus, the concept of legitimate expectation as a general rule cannot operate as a bar to the enactment of law. It is necessary that the laws of any country must change based on the current requirements of its citizens. If legitimate expectation is allowed to restrict legislative or policy reform, it would undermine the ability of the Country to adapt laws to the subsequent changes taking place in the society, be that in its social, economic or policy needs. For instance, the fact that some persons have structured their lives according to a particular scheme of taxes imposed at that particular time, would not necessarily mean that such persons who have hitherto not been liable to pay taxes under that scheme at that time must continue to remain excepted from tax. In such a situation, there is no sense in saying that they must be allowed to continue to enjoy that benefit for ever on the basis that prior non-liability to pay taxes has created for them, a legitimate expectation that they will never ever have to pay taxes irrespective of any change in the country or its economy.

The Petitioners sought to argue that the Government has arbitrarily brought this piece of legislation to punish its opponents. However, as pointed out by the learned Additional Solicitor General, we observe that the impugned legislative initiative is not arbitrary but is rooted in a clear electoral mandate conferred upon the present Government by the people at the Presidential Election and the General Election. The Additional Solicitor General submitted that the abolition of pension entitlements granted to Members of Parliament and their families was an express and clear unequivocal commitment the present Government has given to the people. We observe that the Cabinet Memorandum

dated 16th June 2025 presented by the Hon. Minister of Justice and National Integration has recorded that fact under the heading 'Background' in the following way:

"1. Background

1.1 The Government invited all Sri Lankans aspiring to a thriving nation and a beautiful life to join in with the people's government in implementing the proposed activities outlined in the government manifesto.

1.2 Accordingly, under the policy of a dignified life - a strong country, the peoples mandate was given to abolish pension rights given to Members of the Parliament and their families.

1.3 The original intent of the Parliamentary Pensions Law would have been to offer modest benefits to the elected political representatives in gratitude for the services rendered similar to practices worldwide. Unfortunately, time to time these legal provisions have been misinterpreted, misused, and further amended to offer a host of benefits not only to the elected political representatives but to their families, as well

1.4 Given the above, after discussing with relevant agencies a model draft bill marked as Annex I has been drafted in order to repeal the Parliamentary Pensions Law, No. 1 o 1977."

Thus, it is clear that the people of this country have given a mandate to the present Government to repeal the Parliamentary Pensions Law No. 1 of 1977. It is on that mandate from the people, that the executive acting through the Cabinet of Ministers has placed this Bill before the Parliament, which contains the peoples' representatives, to enable them to decide on it. We therefore reject the submissions made by the learned

counsel for the Petitioners that the Government has brought this piece of legislation arbitrarily to punish those who oppose the Government

The Petitioners also sought to argue that this piece of legislation violates Article 3 of the Constitution. As we have stated before, it is the people who have given this mandate. Article 3 of the Constitution states thus: "*In the Republic of Sri Lanka sovereignty is in the People and is inalienable...*"

According to Article 4 of the Constitution, the People can exercise and enjoy their Sovereignty which consists of their legislative power, through Parliament which consists of the representatives they have elected. They can also exercise their executive power through the President they have elected. Therefore, we see no merit in the submissions made by the learned Counsel for the Petitioners that this piece of legislation violates Article 3 of the Constitution. We reject the said submission.

Since the learned Counsel for the Petitioners sought to argue that the Constitution has guaranteed pensions for the Members of Parliament we carefully went through the relevant provisions in the Constitution. Having gone through the provisions of the Constitution, we observe that it has never been the intention of the Constitution to provide to those who have been covered by the Parliamentary Pensions Law, No. 01 of 1977, such benefits. We observe that whenever the Constitution has thought it fit to confer such benefits to any person whose maintenance of independence needs to be taken care of, it has specifically enacted such provisions. Article 36(2) and Article 108 of the Constitution would stand as examples.

Let us now turn to another recent Determination this Court has made. In the Special Determination of this Court on the Presidents' Entitlements (Repeal) Bill,¹ this Court did not agree with the submission of the Petitioners in that case that the benefits which the

¹ SC/SD/23/2025 - SC/SD/28/2025

Presidents' Entitlements Act No. 04 of 1986 has given to former Presidents is something envisaged by Article 36(2) of the Constitution. The excerpt relevant in that regard taken from the said Determination is reproduced below:

"Therefore, we are unable to accept the argument advanced by the learned Counsel for the Petitioners that Parliament enacted Act No. 04 of 1986 as mandated by Article 36(2) of the Constitution to introduce pension entitlements to holders of the office of the President. We hold that the benefits which Act No. 04 of 1986 has given to former Presidents is not something envisaged by any provision of the Constitution. In other words, the framers of the Constitution has never even thought nor had they wanted to confer any such benefit on a person who holds office as President. As has already been mentioned above, it is only those three items, i.e. salary, allowances and pension, that the framers of the Constitution had wanted to confer on any person who holds office as President. It is only those three items, i.e. salary, allowances and pension, that the framers of the Constitution had wanted to jealously guard against any attempt to take away the said items by any subsequent amendment, repeal or replacement."

As has been cited in SC/SD/23-28/2025, let us at this stage produce below what this Court had held in Senarath and others v Chandrika Bandaranaike Kumaratunga and others.² It is as follows:

"It has to be noted that the Presidents' Entitlement Act No. 04 of 1986 is a unique piece of legislation which grants entitlements only to former Presidents and their widows. Intrinsically it is an exception to the concept of equality before the law, since no other holder of public office is granted

² [2007] 1 Sri LR 59 at page 77

such benefits. It appears that there is no similar legal provision in any other country.

The provisions of this Act being an exception in itself to equality before the law, have to be strictly interpreted and applied ... ”

We have already held that it has never been the intention of the Constitution to provide to those who have been covered by the Parliamentary Pensions Law, No. 01 of 1977, such benefits. The very purpose of the impugned Bill is to stop whatever the benefits the Petitioners and others receive up until now, under the Parliamentary Pensions Law, No. 01 of 1977 which had established a non-contributory pension scheme for the grant of pensions to persons who have ceased to be Members of Legislature. It is not disputed that one needs to earn a pension. How one could earn it must be in accordance with the Minutes on Pensions.

We observe that Section 2 of Ordinance No. 2 of 1947 has made the Minutes on Pensions a part of the written law of Ceylon from 1901.

According to Section 2 of the Minutes on Pensions, every Public Servant holding a permanent office in the service of Ceylon which has been declared to be pensionable by a notification published in the government gazette may be awarded in a pension.

Thus, for any person to be eligible to draw a pension after his retirement from a particular post, it is necessary and a pre-requisite that such permanent post must have been declared as a pensionable post by a notification in the Government Gazette published under the Minutes on Pensions. We observe that the Members of Legislature are not persons who hold permanent posts as public servants and therefore they cannot be entitled to pension benefits under the existing law with regard to the payment of pensions in this country. Thus, the above analysis of law with regard to the pensions show clearly that the benefits created and conferred on the Petitioners and the others who derive such

benefits under the Parliamentary Pensions Law, No. 01 of 1977, is an exception to the concept of equality before the law. What the impugned Bill seeks to achieve is to remove the said exception to the concept of equality before the law.

We are convinced that it is that exceptional conferment, that the Parliament by the Bill impugned by the Petitioners in these instant cases, has sought to abolish. As the Constitution has not envisaged in any Article, the conferment of the benefits such as benefits under the Parliamentary Pensions Law, No. 01 of 1977, the impugned Bill which seeks to repeal the Law, No. 01 of 1977 cannot be inconsistent with any provision of the Constitution.

Let us again turn to the Special Determination of this Court on the Presidents' Entitlements (Repeal) Bill,³ We observe that the Petitioners of that case (in SC/SD/23-28/2025) challenged the Bill titled "AN ACT TO REPEAL THE PRESIDENTS' ENTITLEMENTS ACT, NO. 4 OF 1986."

The provisions of the said Bill are reproduced below in their entirety:

Long Title

AN ACT TO REPEAL THE PRESIDENTS' ENTITLEMENTS ACT, NO. 4 OF 1986.

Clause 2

"The Presidents' Entitlements Act, No. 4 of 1986 (hereinafter referred to as the "repealed Act") is hereby repealed."

Clause 3

"For the avoidance of doubt, it is hereby declared that-

(a) any residence provided to, or monthly allowance paid to, a former President or the widow of a former President in terms of the provisions of section 2 of the repealed Act;

(b) monthly secretarial allowance paid to, and official transport and such other facilities provided to, a former President or the widow of a former President in terms of the provisions of section 3 of the repealed Act; and

(c) monthly pension paid to the widow of a former President in terms of the provisions of section 4 of the repealed Act, preceding the date of commencement of this Act, shall no longer be provided with or paid to, on and after the date of commencement of this Act."

Clause 4

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

In the said case (in SC/SD/23-28/2025) the Petitioners sought to advance the following arguments before this Court:

- i. The people have chosen to confer on the President the privileges set out therein as it is the President who is expected to exercise their Executive power.
- ii. Exercise of Executive power of people is part of the people's sovereignty in terms of Article 3 of the Constitution.
- iii. In the above circumstances, it is the people's sovereignty that had required the Parliament to confer upon the President the privileges set out in Act No. 04 of 1986.
- iv. Therefore, repealing such privileges which the people have chosen to confer upon the President is a violation of their sovereignty.

v. Therefore, the Bill, as it seeks to repeal the provisions of law in Article 36(2) is inconsistent with Article 3 of the Constitution.

However, this Court in that determination did not accept the afore-said line of arguments.

We observe that the jurisdiction conferred on this Court by Article 120 of the Constitution is a jurisdiction to determine any question as to whether any Bill or any provision thereof is inconsistent with the Constitution. Article 123 of the Constitution requires this Court to state in its determination whether the Bill or any provision thereof is inconsistent with the Constitution.

For the foregoing reasons, we are unable to accept the argument advanced by the learned Counsel for the Petitioners that it was the intention of the Constitution to introduce pension entitlements to the Members of Legislature. We hold that the benefits which the Parliamentary Pensions Law, No. 01 of 1977 has given is not something envisaged by any provision of the Constitution. In other words, the framers of the Constitution have never even thought nor had they wanted to confer any such benefit on any such person.

In view of the above conclusion, we are of the view that it is neither relevant nor necessary to deal with the other arguments advanced by the Petitioners: i.e., the arguments that the proposed enactment of the impugned Bill would violate Article 1, 10, 11 and 12 also.

For the above reasons, we hold that no provision in the Bill titled "Parliamentary Pensions (Repeal) Act No. ... of 2026" which was published in the Gazette on 29-12-2025 and was placed on the Order Paper of Parliament on 07-01-2026, is inconsistent with any provision of the Constitution. We are of the view that the Bill titled "Parliamentary Pensions (Repeal) Act No. ... of 2026" can be enacted by Parliament with a simple majority.

We place on record our appreciation of the assistance given by the learned Counsel who appeared for the Petitioners, the learned Additional Solicitor-General who represented the Attorney-General, in these proceedings.

P. PADMAN SURASENA
CHIEF JUSTICE

ACHALA WENGAPPILI
JUDGE OF THE SUPREME COURT

ARJUNA OBYESEKERE
JUDGE OF THE SUPREME COURT