



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

**REMOVAL OF OFFICERS (PROCEDURE)
ACT, No. 5 OF 2002**

[Certified on 26th March, 2002]

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Removal of Officers (Procedure)
Act, No. 5 of 2002

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L. D.— O. 6/2002.

AN ACT TO PROVIDE FOR THE PROCEDURE TO BE FOLLOWED FOR THE REMOVAL OF PERSONS APPOINTED TO CERTAIN OFFICES SPECIFIED IN PART II OF THE SCHEDULE TO ARTICLE 41C OF THE CONSTITUTION ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

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

1. This Act may be cited as the Removal of Officers (Procedure) Act, No. 5 of 2002. Short title.

2. The holders of the Office of—

- (a) the Attorney - General;
- (b) the Inspector - General of Police,

Holders of certain Offices not to be removed except in accordance with the procedure set out in this Act.

shall not be removed from such Office, except in accordance with the procedure as set out hereinafter in this Act.

3. The persons appointed to the Offices referred to in section 2 may be removed from office on any one or more of the following grounds :—

Grounds of removal of persons holding Offices referred to in section 2.

- (a) being adjudged an insolvent by a court of competent jurisdiction ;
- (b) being unfit to continue in office by reason of ill health or physical or mental infirmity ;
- (c) being convicted of an offence involving moral turpitude, treason or bribery ;
- (d) being found guilty of misconduct or corruption ;

- (e) being found guilty of gross abuse of power of his office ;
- (f) being found guilty of gross neglect of duty ;
- (g) being found guilty of gross partiality in office ; or
- (h) ceasing to be a citizen of Sri Lanka.

Removal on grounds referred to paragraphs (a), (b), (c) or (h) of section 3.

4. (1) The removal of the holder of either of the Offices specified in section 2 on any one or more of the grounds referred to in paragraphs (a), (b), (c) or (h) of section 3, shall be by the President.

(2) In the exercise of the power referred to in subsection (1), the President shall take into consideration such evidence whether oral or written, which in the opinion of the President is adequate to support the existence of the grounds referred to in that subsection.

Procedure to be followed for removal in certain cases.

5. (1) The removal by the President of the holder of either of the Offices specified in section 2 on any one or more of the grounds referred to in paragraphs (d), (e), (f) or (g) of section 3, shall be after the presentation of an address of Parliament supported by a majority of the total number of Members of Parliament (including those not present) for the appointment of a Committee of Inquiry :

Provided however, that no resolution for the presentation of such an address shall be entertained by the Speaker, unless notice of such resolution is signed by not less than one-third of the total number of Members of Parliament including those not present.

(2) Upon receipt of a resolution in accordance with subsection (1), a Committee of Inquiry (hereinafter referred to as the "Committee") shall be constituted to inquire and report its findings in respect of the alleged grounds, on which the removal is being sought.

6. The Committee constituted in terms of subsection (2) of section 5, shall comprise of the following persons :—

Constitution of the Committee.

- (a) where the inquiry is in relation to the Attorney-General, the Committee shall consist of three persons of which the Chairman shall be the Chief Justice and two other persons appointed from among persons who have previously held the office of Attorney-General or persons who have reached eminence in the field of law, appointed by the Speaker with the concurrence of the Prime Minister and the Leader of the Opposition; and
- (b) where the inquiry is in relation to the Inspector-General of Police, the Committee shall consist of three persons of which the Chairman shall be a Judge of the Supreme Court nominated by the Chief Justice, the person holding office as Chairman of the Police Commission established under Article 155A of the Constitution and a person who has reached eminence in the field of law or management of public administration, appointed by the Speaker with the concurrence of the Prime Minister and the Leader of the Opposition.

7. (1) The Chairman of the Committee shall preside at all sittings of the Committee.

Chairman to preside at sittings.

(2) The Committee may regulate the procedure with regard to the inquiries to be conducted by such Committee.

8. (1) The functions of the Committee shall be—

Functions of the Committee.

- (a) to inquire into and investigate the alleged grounds on which the removal of the holder of, either of the Offices specified in section 2, is being sought ; and
- (b) to make findings in respect of the alleged grounds of removal of the holders of such Offices and forthwith communicate such finding to the Speaker ;

(2) The decision of the Committee, shall be the decision of the majority.

Powers of the Committee.

9. For the purpose of discharging its functions, the Committee shall have all or any of the following powers :—

- (a) procure and receive all such evidence, written or oral and to examine all such persons as witnesses, as the Committee may think necessary or desirable to procure or examine ;
- (b) require the evidence, whether written or oral of any witness, to be given on oath or affirmation (Such oath or affirmation would be such as would be administered if he were giving evidence in a court of law) and such oath or affirmation shall be administered to every such witness by an officer authorized in that behalf by the Committee;
- (c) summon any person residing in Sri Lanka to attend any inquiry of the Committee to give evidence or produce any document or other thing in his possession, and examine him as a witness or require him to produce any document or other thing in his possession ;
- (d) admit, notwithstanding the provisions of the Evidence Ordinance, any evidence whether written or oral, which would otherwise be inadmissible in any civil or criminal proceedings ;
- (e) admit or exclude the public from such inquiry or investigation or any part thereof.

Immunity of witnesses before the Committee.

10. (1) A person who gives evidence before the Committee shall in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled to in respect of such evidence given by him before such court.

(2) No person shall in respect of any evidence written or oral, given by that person to, or before the Committee be liable to any action, prosecution or other proceeding civil or criminal in any court :

Provided that nothing in the preceding provisions of this subsection shall —

- (a) affect, or be deemed or construed to affect, any prosecution or penalty for any offence under Chapter XI of the Penal Code ;
- (b) prohibit or be deemed or construed to prohibit or be deemed or construed to prohibit the publication or disclosure of the name or of the evidence or any part of the evidence of any witness who gives evidence before the Committee, for the purposes of the prosecution of that witness under Chapter XI of the Penal Code.

11. (1) Every summons issued by the Committee shall be under the hand of the Chairman of the Committee. Summons.

(2) Summons shall be served by delivering it to the person named therein, or where that is not practicable, by leaving it at the last known place of abode of that person or by sending it by registered post.

(3) Every person to whom a summons is served shall attend before the Committee at the time and place mentioned therein, and shall answer the questions put to him by the Committee or produce such documents or other things as are required of him and are in his possession or authority, according to the tenor of the summons.

12. (1) An act done or omitted to be done in relation to the Committee whether in the presence of the Committee or otherwise, shall constitute an offence of contempt against, or in disrespect of, the authority of the Committee, if such act, if done or omitted to be done in relation to the Supreme Court, would have constituted an offence of contempt against, or in disrespect of the authority of, such Court. Contempt of
Committee.

(2) Any person who—

- (a) fails without cause which in the opinion of the Committee is reasonable, to appear before the Committee at the time and place mentioned in the summons served under this Act ; or
- (b) refuses to be sworn or affirmed, or having being duly sworn or affirmed refuses or fails without cause, which in the opinion of the Committee is reasonable, to answer any question put to him touching the matters being inquired into, or investigated by the Committee ; or
- (c) refuses or fails without cause, which in the opinion of the Committee is reasonable, to comply with the requirements of a notice or written order or direction issued or made to him by the Committee ; or
- (d) upon whom summons is served under this Act, refuses or fails without cause, which in the opinion of the Committee is reasonable, to produce and show to the Committee any document or thing, which is in his possession, control or authority and which is in the opinion of the Committee necessary for arriving at the truth of the matters being inquired into, or investigated,

shall be guilty of the offence of contempt against, or in disrespect of, the authority of the Committee.

(3) Every offence of contempt committed against or in disrespect of the Authority of the Committee shall be punishable by the Supreme Court as though it were an offence of contempt committed against, or in disrespect of the authority of that Court, and the Supreme Court is hereby vested with jurisdiction to try every such offence.

(4) Where the Committee determines that a person is guilty of the offence of contempt under subsection (1) or subsection (2), against or in disrespect of its authority, the Committee may transmit to the Supreme Court a certificate setting out such determination ; every such certificate shall be signed by the Chairman of the Committee, provided that in the case of an inquiry or investigation with regard to the removal of the Attorney- General, the Chief Justice shall take cognizance of such offence of contempt and deal with such offence in the manner and offence of contempt against the Supreme Court would be dealt with.

(5) In any proceedings for the punishment of an offence of contempt which the Supreme Court may think fit to take cognizance of, as provided by in this section, any document purporting to be a certificate signed and transmitted to such Court under subsection (4), shall—

- (a) be received in evidence, and be deemed to be such a certificate without further proof ; and
- (b) be evidence that the determination set out in the certificate and the facts stated in such determination was made by the Committee.

(6) In any proceedings taken as provided for in this section for the punishment of an alleged offence of contempt against, or in disrespect of, the authority of the Committee, no member of the Committee shall, and notwithstanding anything to the contrary in this Act, be summoned or examined as a witness.

13. The Committee may obtain the assistance of such officers and servants as may be necessary to assist it in the discharge of its functions under this Act.

Officers and servants to assist the Committee.

14. The officers and servants appointed to assist the Committee shall be deemed to be public servants within the meaning of the Penal Code and every inquiry or investigation conducted by the Committee shall be deemed to be a judicial proceeding within the meaning of that Code.

Officers and servants to be public servants.

Immunity from
suit.

15. (1) No proceedings, civil or criminal, shall be instituted against any member of the Committee or any officer or servant appointed to assist the Committee other than for contempt, or against any other person assisting the Committee in any other way, for any lawful act which in good faith is done or omitted to be done, by him as such member or officer or servant or other person.

(2) A member of the Committee or an officer or servant appointed to assist the Committee shall not be required to produce in any court, any document received by, or to disclose to any court, any matter or thing coming to the notice of the Committee in the course of any inquiry or investigation conducted by the Committee under this Act, except as may be necessary for the purposes of proceedings for contempt or for an offence under this Act.

(3) No proceedings civil or criminal, shall be instituted in any court against any member of the Committee in respect of any finding or report made by the Committee under this Act.

Officers and
servants to be
Scheduled
officers.

16. The officers and servants appointed to assist the Committee shall be deemed to be officers of a Scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Resolution for
removal.

17. The Speaker shall, upon receipt of the findings of the Committee in terms of paragraph (b) of section 8 and where a finding of guilt has been arrived at, place such finding in the form of a resolution in the Order Paper of Parliament for the removal of the holder of such office in respect of whom the inquiry was held.

Removal.

18. The resolution so placed on the Order Paper in terms of section 17 shall be dealt with in accordance with the Standing Orders of Parliament. Upon the majority of Members of Parliament (including those not present) voting in favour of such resolution, the holder of such office to whom such resolution relates shall forthwith be removed from office by the President.

- 19.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.
- 20.** In this Act, unless the context otherwise requires— Interpretation.
- “Attorney-General” means the holder of the Office of Attorney-General of the Democratic Socialist Republic of Sri Lanka ; and
- “Inspector-General of Police” means the holder of the Office of Inspector-General of Police of the Democratic Socialist Republic of Sri Lanka.

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