



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

**PROVINCIAL COUNCILS ELECTIONS
(AMENDMENT) ACT, No. 17 OF 2017**

[Certified on 22nd of September, 2017]

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*Provincial Councils Elections (Amendment)
Act, No. 17 of 2017*

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L.D.—O. 30/2015

AN ACT TO AMEND THE PROVINCIAL COUNCILS ELECTIONS
ACT, NO. 2 OF 1988

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

- 1.** This Act may be cited as the Provincial Councils Elections (Amendment) Act, No. 17 of 2017.

Short title.
- 2.** Section 10 of the Provincial Councils Elections Act, No. 2 of 1988 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section by the substitution for the words “one week” of the words “four weeks” wherever those words appear in that section.

Amendment of section 10 of Act, No. 2 of 1988.
- 3.** Section 13 of the principal enactment is hereby amended as follows:—

Amendment of section 13 of the principal enactment.

 - (1) in subsection (1) thereof, by the substitution for the words “one nomination paper setting out the names, of such number of candidates as is equivalent to the number of members to be elected from that administrative district, increased by three. Such nomination paper shall be substantially in form A set out in the First Schedule to this Act,” of the words “two nomination papers setting out the names of the candidates contesting electorates, and the names of the candidates on the district list and the electorate list. Such nomination papers shall be substantially in the form prescribed by law:

provided that, in submitting such lists, each political party or independent group shall ensure

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that not less than one-sixth of the total number of candidates to be nominated on the electorate list, and not less than fifty *per centum* of the total number of candidates in the district list, shall be women candidates:

Provided further that, in the event that the number corresponding to one-sixth of fifty *per centum* as the case may be shall be an integer and fraction, the integer shall be deemed to be the applicable number:

Provided further that, the Commissioner of Elections shall, by notice published in the *Gazette*, simultaneously with the call for nominations, specify the number of women candidates to be nominated on each nomination list, in respect of each administrative district.”;

- (2) in subsection (3) thereof, by the substitution for the words, “whose name appears first in the nomination paper” of the words, “who is the independent group leader”;
- (3) in subsection (4) thereof, by the substitution for the words, “first in such nomination paper” of the words, “first in the nomination paper setting out the names of the candidates on the district list”;
- (4) in subsection (5) thereof, by the substitution for the words, “such nomination paper” of the words, “the district list”;
- (5) in subsection (7) thereof, by the substitution for the words, “form A set out in the First Schedule to this Act.” of the words, “the form prescribed by law.”.

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4. The following new section is hereby inserted immediately after section 3 of the principal enactment and shall have effect as section 3A of that enactment:—

Insertion of new section 3A to the principal enactment.

“Delimitation Committee.

3A. (1) There shall be a Delimitation Committee (hereinafter referred to as the “Committee”) appointed by the President within two weeks of the commencement of this Act, consisting of five persons representing the pluralistic character of Sri Lankan society, including professional and social diversity by Order published in the *Gazette*, one of whom shall be nominated by the President as the Chairman of the Committee.

(2) The Committee shall divide each administrative district into such number of electorates as corresponds to Fifty percent (50%) of the total number of members to be elected from such administrative district in terms of subsection (3) of section 3:

Provided that, if the number corresponding to Fifty percent (50%) of the total number of members to be elected from such administrative district in terms of subsection (3) of section 3 is an integer and a fraction, the number shall be rounded to nearest integer.

(3) The Committee shall assign names to each such electorate.

(4) In the division of administrative district into electorates, the following factors shall be taken into consideration by the Committee:—

(a) where it appears to the Committee that, there is, in any area of an administrative district, a substantial

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concentration of persons united by a community of interest, whether racial, religious or otherwise, but differing in one or more of these respects from the majority of the inhabitants of that area, the Committee may make such division of the administrative districts into electorates;

- (b) in making such division, the Committee shall have due regard to—
 - (i) the desirability of reducing to the minimum the disproportion in the number of persons resident in the several electorates of the administrative districts within the Province; and
 - (ii) the geographical and physical features of the electorates.

(5) Where the Committee is of the view that having taken into consideration the requirements specified in subsection (4), it is appropriate to create an electorate which shall be entitled to return more than one member, the Committee shall create a multi member electorate or electorates, as the case may be for any administrative district.

(6) Each electorate within an administrative district shall be entitled to directly return one or more members, as the case may be, to a Provincial Council.

(7) The Committee shall fulfil its responsibilities and duties in terms of subsections (2), (3), (4) and (5) of this section,

within four (4) months of its appointment and thereafter submit its report to the Minister.

(8) The Committee shall endeavour to arrive at a consensus in deciding on the matters entrusted to the Committee.

(9) The Committee shall decide on the procedure to be followed in fulfilling its obligations.

(10) For the purpose of fulfilling its obligations in terms of this section, the Committee shall appoint such officers, experts, technical committees and sub-committees as may be necessary.

(11) The Committee shall submit its report to the Minister, who shall within two weeks of the receipt of such report, table it in Parliament for its approval by not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour.

(12) Where Parliament does not approve such report in terms of subsection (11) within one month of the tabling of the report, then the Speaker shall appoint a Review Committee, consisting of five persons representing the major communities and, headed by the Prime Minister.

(13) The Review Committee shall cause any alteration to be made to the names, numbers, and boundaries of any electorate.

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(14) The Review Committee shall fulfil its responsibilities and duties in terms of subsection (13), within two (2) months of the Minister having referred the report for its consideration and thereafter submit its report to the President.

(15) Upon the receipt of the report of the Review Committee, the President shall by Proclamation forthwith publish the new number of electorates, the boundaries, names assigned to each electorate so created on the report submitted by the Review Committee.

(16) The total number of members which each administrative district is entitled to return shall comprise of—

- (a) such number of members as is equivalent to the number of Electorates within such administrative district; and
- (b) such number of additional members to be elected (hereinafter referred to as the “additional members”) in order to ensure that the total number of members elected from such administrative district is equivalent to the number of members to be elected from such administrative district of the Province as determined by the Election Commission in terms of subsection (3) of section 3.

(17) Any recognized political party or any group of persons contesting as independent

candidates (hereinafter referred to as an “independent group”) may for the purpose of any election of members of Provincial Councils for any administrative district, submit two nomination papers setting out—

- (a) the names of each candidate nominated in respect of each electorate (in this Act, hereinafter referred to as the “Electorate List”); and
- (b) the names of additional candidates in respect of such administrative district as is equivalent to the number of additional members entitled to be elected from such administrative district, increased by three (in this Act hereinafter referred to as the “District List”).”.

5. Section 18 of the principal enactment is hereby repealed, and the following new section substituted therefor:—

Replacement of section 18 of the principal enactment.

“Uncontested election.

18. (1) Where the candidates of only one recognized political party or one independent group stand nominated for election, the returning officer shall declare the candidates on the electorate list of such party or group as having been elected as members of that Provincial Council, and shall call upon the secretary of such recognized political party or the group leader of such independent group to decide, within such period as may be specified by the returning officer, which of the candidates whose names appear in the District List shall be declared elected as additional members of that Provincial Council. Where such secretary or group leader communicates his decision to the returning officer within the

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period specified by the returning officer, the returning officer shall declare such candidates elected as additional members of that Provincial Council. Where such secretary or independent group leader fails to communicate his decision to the returning officer within the period specified by the returning officer, then such number of candidates, in the order in which their names appear in such district list, as is equal to the number of additional members to be elected to that Provincial Council, shall be declared elected as members. The provisions of section 58B shall apply to such nominations. The provisions of section 58B shall apply to any nomination made by such Secretary or independent group leader, as the case may be or to any declaration made by the returning officer under this subsection.

(2) The returning officer shall forthwith make a return which shall be substantially in the prescribed form, to the Commissioner who shall cause the names of the members so elected to be published in the *Gazette*.”.

Amendment of section 22 of the principal enactment.

6. Section 22 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section—

(a) by the deletion of paragraph (b) of that subsection and the substitution therefor, of the following new paragraphs:—

“(b) the names of each political party or independent group contesting in each administrative district, and the approved symbol allotted to each such party or independent group, and in the case of an independent group, the words “Independent Group” and

the distinguishing number if any,
and—

- (i) the names of candidates of each party or group contesting in respect of each electorate; and
 - (ii) the names of the candidates of each party or independent group on the district list, in the same order as appears in the nomination paper submitted by such party or independent group;”;
- (b) in paragraph (d) of subsection (1), by the deletion of the words “of the polling districts” and the substitution therefor of the words “electorate”;
- (2) in subsection (3) thereof, by the substitution, for the words “polling district” of the words “electorate”.
- (3) by the substitution for subsection (4) of that section, of the following:—

“(4) The polling station or stations for each electorate shall be situated within such electorate save where the returning officer, having regard to the special circumstances in any electorate, may decide upon a polling station outside such electorate. The location of the polling station shall be such as to cause the minimum inconvenience to the electors of the electorate:

Provided that, the Elections Commission shall at all times have the power to direct that a polling station be established in respect of more than one electorate.”.

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Amendment of section 24 of the principal enactment.

7. Section 24 of the principal enactment is hereby amended, in subsection (3) of that section by the substitution for the words “regulations contained in the Second Schedule to this Act” wherever those words appear, of the words “prescribed by law”.

Amendment of section 28 of the principal enactment.

8. Section 28 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

- (1) in paragraph (a) of that subsection thereof, by the substitution for the words “form set out in the Third Schedule to this Act” of the words “form prescribed by law”.
- (2) by the substitution for paragraph (b) of that subsection of the following paragraphs:—

“(b) the names of each political party or independent group contesting in each administrative district, and the approved symbol allotted to each such party or independent group and in the case of an independent group the words “Independent Group” and the distinguishing number if any, and—

- (i) the names of candidates of each party or independent group contesting in respect of each electorate; and
- (ii) the names of the candidates of each party or independent group on the district list, in the same order as appears in the nomination paper submitted by such party or independent group.”.

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- 9.** Section 30 of the principal enactment is hereby amended in subsection (2) thereof as follows:—
- Amendment of section 30 of the principal enactment.
- (1) by the substitution for the words “form C set out in the First Schedule to this Act” of the words “form prescribed by law”;
 - (2) by the substitution for paragraph (a) of that subsection of the following:—

“(a) shall contain the approved symbol allotted to each political party or independent group contesting in the administrative district, and the name of the candidates of each party or independent group contesting in respect of such electorate within such administrative district;”.
- 10.** Section 36 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “form D set out in the First Schedule to this Act” of the words ‘form prescribed by law’.
- Amendment of section 36 of the principal enactment.
- 11.** Section 37 of the principal enactment is hereby amended, in subsection (1) of that section for the words “voters in the Third Schedule to this Act and” of the words “voters and”.
- Amendment of section 37 of the principal enactment.
- 12.** Section 38 of the principal enactment is hereby amended as follows:—
- Amendment of section 38 of the principal enactment.
- (1) in subsection (1) thereof, substitution for the words “voters in the Third Schedule to this Act, but” of the words “voters, but”;
 - (2) in subsection (2) thereof—
 - (a) in paragraph (a) of that subsection, substitution for the words, “voters in the Third Schedule to the principal enactment may be” of the words “voters may be”;

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(b) in paragraph (b) thereof, by the substitution for the words “form set out in the Fourth Schedule to this Act ” of the words “form prescribed by law”.

Amendment of section 41 of the principal enactment.

13. Section 41 of the principal enactment is hereby amended, in subsection (1) thereof, by the substitution for the words “in forms E, F and G set out in the First Schedule to this Act” of the words “in the forms prescribed by law”.

Amendment of section 43 of the principal enactment.

14. Section 43 of the principal enactment is hereby amended, by the substitution for the words “form H set out in the First Schedule to this Act” and “in form I in the First Schedule to this Act” of the words “form prescribed by law” respectively.

Amendment of section 45 of the principal enactment.

15. Section 45 of the principal enactment is hereby amended, in subsection (2) thereof, by the substitution for the words “form J set out in the First Schedule to this Act” of the words “in the forms prescribed by law”.

Amendment of section 46A of the principal enactment.

16. Section 46A of the principal enactment is hereby amended as follows:—

(1) in subsection (5) thereof, by the substitution for the words “and the number of preferences secured by each candidate nominated by each such party or independent group” of the words “in respect of each electorate and in respect of the administrative district as a whole”;

(2) in subsections (6) and (7) thereof, by the substitution for the words “administrative district” of the words, “administrative district or electorate”;

(3) in subsection (8) thereof—

(a) by the substitution, for the words “and the preferences secured by each candidate nominated by each such party or independent

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group” of the words “in respect of each electorate and in respect of the administrative district as a whole”; and

(b) by the substitution for the words “independent group and the preferences secured by each such candidate at the poll” of the words “independent group at the poll”.

17. Section 50 of the principal enactment is hereby amended as follows:—

Amendment of section 50 of the principal enactment.

- (1) in paragraph (b) of subsection (2) thereof, by the substitution for the words “ballot boxes.” of the words, “ballot boxes in respect of each electorate”;
- (2) in subsection (5) thereof, by the substitution for the words “ballot papers”, of the words “ballot papers in respect of each electorate”.

18. Section 51 of the principal enactment is hereby amended as follows:—

Amendment of section 51 of the principal enactment.

- (1) in subsection (2) thereof, by the substitution for the words “guidance of voters in the Third Schedule to this Act.” of the words “guidance of voters.”;
- (2) in subsection (7) thereof, by the substitution for the words “of the number of preferences indicated for every” of the words “in respect of the votes polled in respect of each electorate by the”;
- (3) by the repeal of subsections (8), (9) and (10) thereof.

19. Section 53 of the principal enactment is hereby amended in paragraph (h) thereof, by the substitution for the words “and the number of preferences secured by each candidate nominated” of the words “in respect of the votes polled in respect of each electorate”.

Amendment of section 53 of the principal enactment.

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Amendment of section 54 of the principal enactment.

20. Section 54 of the principal enactment is hereby amended by the substitution for the words “set out in the Second Schedule to this Act” and “returning officer” of the words, “prescribed by regulation” and “returning officer, so as to ensure the counting of votes in respect of each electorate separately.” respectively.

Amendment of section 58 of the principal enactment.

21. Section 58 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) thereof—

(a) in paragraph (a) of that subsection thereof, by the substitution for the words “and the number of preferences indicated for each” of the words “in respect of the votes polled in respect of each electorate by the”; and

(b) by the substitution for paragraphs (b), (d), (e) and (f) of that subsection thereof, of the following:—

“(b) the candidate belonging to the recognized political party or the independent group who obtained the highest number of votes in each electorate and who was nominated by such recognized political party or independent group in its nomination paper as its candidates for that electorate shall be declared elected as the member of such electorate;

(c) where and equality of votes is found to exist between any two or more recognized political parties or two or more independent groups, and the

addition of a vote would entitle the nominated candidate of one such recognized political party or independent group to be elected as the member of such electorate, the determination of the recognized political party or independent group to which such additional vote shall be deemed to have been given, shall be made by lot drawn in the presence of the chief counting officer, in such manner as he shall determine.”.

(2) by the repeal of subsection (2) thereof.

22. The following new sections are hereby inserted immediately after section 58 of the principal enactment and shall have effect as sections 58A and 58B of that enactment:—

Insertion of new sections 58A and 58B in the principal enactment.

“Election of members of Provincial Councils.

58A .(1) Upon the declaration under section 58, the additional members elected for all the electorates of the administrative district shall be apportioned in the manner hereinafter provided for in this section.

(2) The total number of valid votes received by all the candidates of each recognized political party and independent group in the administrative district shall be divided by the total number of members to be elected and returned to Provincial Council from such Administrative District. The number resulting from such division (any fraction not being taken into account) shall hereinafter in this section be referred to as “the qualifying number”.

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(3) The aggregate of the votes received by the candidates of each recognized political party and independent group in the respective electorates shall then be divided by the qualifying number, in order to ascertain the number of persons entitled to be elected and returned as members of the Provincial Council, from such administrative district. Where the number ascertained by this method is an integer and a fraction, the integer shall be deemed to be the number for the purpose of this subsection.

(4) Upon ascertaining the number of candidates entitled to be elected and returned from such administrative district, as members of that Provincial Council, by each recognized political party or independent group, as the case may be, in terms of subsection (3), if it is found that the number of members elected from such recognized political party or independent group from such administrative district for that Provincial Council—

- (a) exceeds the number ascertained to be elected and returned as members under subsection (3), then such overhang shall be determined by the Commissioner of Elections; or
- (b) falls short of the number ascertained to be elected and returned as members under subsection (3), then such additional number of members, shall be returned by the respective secretary of the recognized political party or leader of the independent group from the candidates on the Electorate List or the District List,

other than the candidates who have been elected or are not qualified to be a member.

(5) Where at the conclusion of ascertaining the number of members to be returned by any recognized political party or independent group on the method specified in subsection (3), there remains a further number of members to be returned under the proportional representation system as determined under subsection (4), such remaining number shall be allocated on the basis of the highest fraction received by each recognized political party or independent group, as ascertained under subsection (3).

(6) The returning officer shall inform the secretary of the recognized political party or the leader of the independent group, as the case may be, which is entitled to return such number of members as ascertained under subsection (3) of this section, of the number of members including women members that such recognized political party or independent group, as the case may be, is entitled to be elected and returned from the candidates of the Electorate List or the District List other than the candidates who have been elected or are not qualified to be members. The Secretary or Independent Group Leader as the case may be shall accordingly nominate the names of persons who are to be returned as members under that subsection.

(7) The names of the candidates who are returned under this section shall thereafter be declared by the returning officer of the respective administrative district.

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(8) The Commissioner shall ensure that twenty five *per centum* of the total number of members to be elected and returned from each administrative district within a Province shall be women members:

provided that, where the number constituting twenty five *per centum* of the total number of members is an integer and fraction, the integer shall be deemed to be the number which shall constitute twenty five *per centum* for the purpose of this section :

Provided further that a Provincial Council constituted in terms of this Act, shall not be deemed to be unlawful only by virtue of an inability to comply with the provisions of this subsection.

Number of members to be returned.

58B. (1) Where the number of members elected from any recognized political party or independent group for an administrative district results in an overhang and thereby exceeds the number ascertained to be elected and returned as members under subsection (3) of section 58A, the provisions of subsections (3) and (4) of this section shall not apply to such recognized political party or independent group.

(2) Where any recognized political party or independent group has received less than twenty *per centum* of the total number of votes polled in an administrative district, then the provisions of subsections (3) and (4) of this section shall not apply to such recognized political party or independent group.

(3) the apportionment of women members to be elected and returned from each administrative district to each Provincial Council from the recognized political parties and independent groups other than the political parties and the independent groups referred to in subsections (1) and (2) of this section, shall be determined by the Elections Commission, taking into consideration the number of valid votes polled by the other recognized political parties and independent groups within such administrative district, and the method of apportionment set out in Article 99A of the Constitution of the Democratic Socialist Republic of Sri Lanka shall *mutatis mutandis* apply thereto.

(4) Where the number of women members elected for all electorates within an administrative district from any recognized political party or independent group, is less than the number apportioned in terms of subsection (3) of this section, then the shortfall in the number of members shall be returned from among the women candidates in the Electorate List or the District List other than the women candidates who have been elected or are disqualified to be a member.”.

23. Section 60 of the principal enactment is amended by the substitution for the words “form K set out in the First Schedule to this Act”, of the words “the form prescribed by law”.

Amendment of section 60 of the principal enactment.

24. Section 65 of the principal enactment is hereby amended as follows:—

Amendment of section 65 of the principal enactment.

(1) in subsection (2) thereof—

(a) by the substitution for the words “of a person eligible under this Act for election as a

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member” of the words “any other candidate of the Electorate List or the District List other than the candidates who have been elected or are not qualified to be a member”,

(b) by the substitution for the words “nomination paper submitted by that party or independent group for the administrative district in respect of which the vacancy occurred, the candidate who has secured the highest number of preferences at the election of members to that Provincial Council, next to the last of the members declared elected to that Provincial Council from that party or independent group” of the words “the candidate next in the District List other than a candidate who has been elected or is not qualified to be a member”;

(2) by the repeal of subsection (3) thereof, and the substitution therefor of the following new subsection :-

“(3) Where a vacancy occurs in the case of a woman member of a Provincial Council under subsection (1) or (2) such vacancy shall be filled only by the nomination of a woman candidate from the relevant Electorate List or the District List other than the women candidates who have been elected or are not qualified to be a member.”.

Repeal of Schedules in the principal enactment.

Amendment of section 129 of the principal enactment.

25. The Schedules of the principal enactment are hereby repealed.

26. Section 129 of the principal enactment is hereby amended by the insertion immediately after the definition of the expression “members” of the following definition:—

““overhang” means, the number of candidates elected from an administrative district to a Provincial

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Council from any recognized political party or independent group in excess of the number such recognized political party or independent group is entitled to have elected in terms of paragraph (a) of subsection (4) of section 58A of this Act;”.

27. 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.

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