

PROVINCIAL COUNCILS ACT.

No. 42 OF 1987

AN ACT TO PROVIDE FOR THE PROCEDURE TO BE FOLLOWED IN PROVINCIAL COUNCILS; FOR MATTERS RELATING TO THE PROVINCIAL PUBLIC SERVICE ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

Short title and date of operation

1. This Act may be cited as the Provincial Councils Act, No. 42 of 1987, and shall come into operation in respect of all or any of its provisions, on such date or dates as the president may appoint, by Order published in the Gazette, not being a date or dates prior to the coming into operation of the Thirteenth Amendment to the Constitution.

Name and membership of Provincial Council

PART I

MEMBERSHIP OF PROVINCIAL COUNCIL

2. Where a Provincial Council is established for a Province by virtue of Article 154A of the Constitution, the President shall, by Order published in the Gazette, assign a name to such Council and specify the number of members such Provincial Council shall consist of. In specifying such number, the President shall have regard to the area and population of the Province for which that Provincial Council is constituted.

Qualification for membership of Provincial Council

3. No person shall be qualified to be elected as a member of a Provincial Council or to sit

and vote as a member of such Council -

(a) if such person is subject to any of the disqualifications specified in paragraphs (a) , (b) , (c), (d) ,(e) , (f) and (g) of Article 91(1) of the Constitution ;

(b) if such person is under any law, disqualified from voting at an election of members to a local authority;

(c) if he is a Member of Parliament ;

(d) if he is a member of any other Provincial Council or stands nominated as a candidate for election for more than one Provincial Council ;

(e) if he is stands nominated as a candidate for election to a Provincial Council, by more than one recognized political party or independent group.

Oath or affirmation by members.

4. No member of a Provincial Council shall sit or vote as such member until he has taken or subscribed the oath, or made or subscribed the affirmation, set out in the

Vacation of seats.

Fourth Schedule to the Constitution.

5. (1) If a member of any Provincial Council -

(a) becomes subject to any disqualification mentioned in section 3;
or

(b) resigns his seat by writing under his hand addressed to the
Chairman,

his seat in the Provincial Council shall thereupon become vacant.

(2) If for a period of ninety days a member of the Provincial Council is without permission of the Council absent from all meetings thereof, the Council may declare his seat vacant :

Provided that in computing the said period of ninety days, no account shall be taken of any period during which the Council is prorogued for more than four consecutive days.

6. If a person sits or votes as a member of a Provincial Council before he has complied with the requirements of section 4, or when he knows that he is not qualified, or that he is disqualified, for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of one hundred rupees to be recovered as a debt due to the State.

PART II

MEETINGS AND CONDUCT OF BUSINESS OF PROVINCIAL COUNCILS

7. (1) Every Provincial Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

(2) A member holding office as Chairman or Deputy Chairman of a Provincial Council -

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman to the Chairman, resign his office;

(c) may be removed from his office by a resolution of the Council passed by a majority of the whole number of members of the Council (including those not present) :

Provided that whenever the Council is dissolved, the Chairman shall not vacate

Penalty for sitting and voting before making oath or when disqualified.

Chairman and Deputy Chairman.

his office

until immediately before the first meeting of the Council after the dissolution.

(3) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as may be determined by the rules of procedure of the Council.

(4) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council shall act as Chairman.

(5) There shall be paid to the Chairman and the Deputy Chairman of the Provincial Council such salaries and allowances as may be fixed by the Provincial Council, by statute and, until provision in that behalf is so made, such salaries and allowances as the Governor may, with the approval of the President, by order, determine.

8. (1) At any sitting of the Provincial Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of subsection (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Provincial Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in section 10, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

9. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of a Provincial Council, there shall be freedom of speech in every Provincial Council.

(2) No member of the Provincial Council shall be liable to any proceedings in Court in respect of anything said or any vote given by him in the Council or any Committee thereof, and no person shall be liable in respect of the publication by, or under, the authority of such Council, of any report, paper, votes or proceedings.

(3) The provisions of subsections (1) and (2) shall apply in relation to persons who by virtue of any written law have the right to speak in, and otherwise to take part in, the proceedings of, a Provincial Council or any committee thereof as they apply in relation to members of that Council.

10. (1) Save as otherwise provided in this Act, all questions at any sitting of the Provincial Council shall be determined by a majority of votes of the members present

Chairman or Deputy Chairman not to preside while resolution for his removal under discussion

Powers and privileges of Members of Provincial Councils.

Voting in Council

and voting other than the Chairman or person acting as such.

(2) The Chairman or person acting as such shall not vote in, the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(3) A Provincial Council shall have the power to act notwithstanding any vacancy in the membership thereof, and any proceedings in any such Council shall be valid, notwithstanding that it is discovered subsequently that some person who was not entitled to do so, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of a Provincial Council shall be one-third of the total number of members of the Council. Where one-third of the number of members is an integer and fraction, the integer immediately higher to that integer and fraction shall be deemed to be the one third of the number of members for the purpose of this section.

(5) If at any time during a meeting of a Provincial Council there is no quorum, it shall be the duty of the Chairman, or person acting as such, either to adjourn the Council or to suspend the meeting until there is a quorum.

11. A Provincial Council may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Provincial Council shall, after consultation with the Chairman of such Council and with the approval of the President. make rules-

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and conduct of business in, the Provincial Council in relation to any financial matter or to any statute for the appropriation of moneys out of the Provincial fund of the province;

(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of functions of the Governor in so far as he is required by the Constitution or this Act, to act in his discretion.

12. (1) The validity of any proceedings in a Provincial Council shall not be called in question on the ground of alleged irregularity of procedure.

(2) No officer or member of a Provincial Council in whom powers are vested, by or under this Act, for regulating the procedure, or the conduct of business, or for maintaining order, in such Council shall be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

13. The property of the State shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or under any statute made by a Provincial Council.

14. (1) A statute pending in a Provincial Council shall not lapse by reason of the prorogation of such Council.

Rules of procedure.

Court not to inquire into proceedings of Provincial Council.

Exemption of State property from taxation

Lapsing of statutes.

Conduct of business.

(2) A statute pending in a Provincial Council shall lapse on a dissolution of the Council

15. (1) The Governor shall make rules for the allocation of business among the Ministers in so far as it is not business with respect to which the Governor is by, or under, the Constitution required to act in his discretion.

(2) Save as otherwise provided in this Act, all executive action of the Governor, whether taken on the advice of his Ministers or otherwise, shall be expressed to be taken in the name of the President.

(3) Orders and other instruments made and executed in the name of the President, shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument, made or executed by the President.

16. (1) All contracts entered into in the exercise of the executive power of the Governor of the Province, shall be entered into, and performed, in the name of the Provincial Council constituted for that Province, as if such Provincial Council were a body corporate.

(2) All actions in relation to the exercise of such executive power shall be brought by, or against such Provincial Council, as if such Provincial Council were a body corporate.

17. (1) A Provincial Council shall have its own secretarial staff.

(2) A Provincial Council may, by statute, regulate the recruitment, and conditions of service, of persons appointed to its secretarial staff.

18. Subject to paragraph (4) of Article 154B of the Constitution, no discussion shall take place in a Provincial Council with respect to the conduct of the President or the Governor or a Judicial Officer or a Member of Parliament.

PART III

FINANCE

19. (1) There shall be a Provincial Fund for each Province into which shall be paid-

(a) the proceeds of all taxes imposed by the Provincial Council of that Province;

(b) the proceeds of all grants made to such Provincial Council in respect of the Province,

by the Government of Sri Lanka;

(c) the proceeds of all loans advanced to the Provincial Council from the Consolidated

Fund of Sri Lanka; and

(d) all other receipts of the Provincial Council.

Contracts and suits.

Secretariat.

Restriction on discussion in Provincial Council.

Provincial Fund of Province.

