

Provincial Councils (Amendment)

AN ACT TO AMEND THE PROVINCIAL COUNCILS ACT NO.42 OF 1987

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 (Amendment) Act, No. of 2024, and shall come into operation on such date as may be appointed by the Minister by Order published in the Gazette'.

Amendment
of section 2
of the Act

2. Section 2 of the Provincial Councils Act No. 42 of 1987 (hereinafter referred to as the "principal enactment"), is hereby further amended by adding following subsections;

- 2 (II) (A) The central government shall share powers with a Provincial Council Established in every province as provided by the constitution.

(B) Local Government bodies established under the law will be the third tier of governance within each province.

- (III) (A) Provincial Councils shall have exclusive powers to make statutes in respect of subjects mentioned in the Provincial Council list in consistent with the constitution and the national policy framework.

Powers
of the
PCS

(B) Provincial Councils will not have powers to make laws on subjects in the reserved list.

(C) Provincial Councils will be vested with powers to make statutes mentioned in the concurrent list in relation to the implementation of existing laws: provided that new statutes mentioned in the concurrent list will be made with the concurrence of the parliament of Sri Lanka with the understanding of the provisions contained in 154 C of the constitution and Provincial Councils (consequential provisions) Act No.12 of 1989

(D) As provisioned by the Article 154(G) (9) of the constitution when a Provincial Council makes a statute where there is an existing law in relation to any matter on the concurrent list, and if the statute which described in its long title which is similar to the existing law and inconsistent with the existing law, then, the provisions of the statute shall, unless Parliament, by resolution, decides to the contrary remain suspended and be inoperative within that province.

(E) Central government may be vested with powers to implement existing laws with regard to the Provincial Council list.

(F) As provisioned by the Article 154(G)(8) of the constitution when a

Provincial Council makes a statute where there is an existing law in relation to any matter on the Provincial Council list, and if the statute which described in its long title which is similar to the existing law and inconsistent with the existing law, then, the provisions of the law shall, with effect from the date on which that statute receives assent and so long only as that statute in force, existing law will be suspended and be inoperative within that province. Provisions of the section 3.4 of this Act will prevail over the existing provisions of the Provincial Councils (Consequential Provisions) Act, No. 12 of 1989.

- (G) The executive authority of the provincial council shall be delegated to the Chief Minister and the provincial cabinet by the Governor of the province by;
- (a) implementing statutes of the province;
 - (b) carrying out the administration in the province;
 - (c) developing and implementing provincial policy, and
 - (d) Coordinating the functions of the provincial administration and its departments.

- (IV) The central government and the Provincial Councils, shall engage periodically in a participatory policy making process in relation to powers in the reserved list, Provincial Council list and the concurrent list.

Participatory
Policy
making

- (V) There shall be a Chief Ministers' conference with the participation of all Chief Ministers of the provinces to discuss matters, procedures, and policies to ensure cooperation among the provinces.

Center -
Peripheral
relations &
coordination

- (VI) In par with the conference of Chief Ministers there shall be a conference of chief secretaries to coordinate inter-provincial administration and share the best practices of the inter provincial development administration coordination.

Amendment
of section 11
of the
principal
enactment.

3. Section 11 of the principal enactment, is hereby further amended by the repeal of the entire section and the substitution therefor of the following section :

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

Provided that the Provincial Council shall in consultation with the Governor will make such rules through the Chairman of such Council -

- a) For securing the timely completion of financial business.
- b) For regulating the procedure of, and the 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 regulating the procedure of the conduct, privileges of members of the

Provincial Councils.

- d) In relation to the rules that govern the procedure and conduct of its business, other than procedure and its business provisioned by the Section 24 and 25 that need governor's ascent, other rules and procedure can be adopted by a two thirds majority of the provincial council.

Amendment
of section 15
of the
principal
enactment.

- 4. A. Section 15 of the principal enactment, is hereby further amended in subsection (1) of that section by the substitution of the following paragraph:

“(1) Governor of the province for which is established under the constitution, shall be exercised governor's powers through ministers of the board of ministers and governor's executive power will be delegated to the board of ministers of the province”

- B. Section 15 of the principal enactment, is hereby further amended in subsection (2) of that section by the substitution of the following paragraph:

“(2) The Governor shall appoint a Chief Minister, the member of the province council, constituted to the province, who in the governor's opinion is best able to command the support of the majority of the council.”

- C. Section 15 of the principal enactment, is hereby further amended in subsection (3) of that section by the substitution of the following paragraph:

“(3) Every Provincial Council shall make statutes applicable to the province, subject to the provisions of the constitution on the advice and approval of the board of ministers, which is done in consultation with the governor.”

- D. Section 15 of the principal enactment, is hereby further amended by adding following subsections numbered as subsection 4, 5,6,7,8,9 and 10 after the subsection (3) of the section:

“(4) The Chief Minister who is appointed under section 15 (2) will be head of the board of Ministers and have powers to **direct** the chief secretary on day-to-day functioning of the province.

(5) The governor of the province as the chief executive of the province in consultation with the Chief Minister of the Provincial Council will set up a coordination mechanism to monitor and evaluate airfares of the provincial administration and development.

(6) Acts provisioned under 15(2), 15(3), 15(4) and 15(5) shall be expressed to be taken in the name of the President by the Governor of the province.

(7) The board of ministers will make rules regulations required under the provincial statutes under the province with the concurrence of the governor of the province.

(8) There shall be a provincial chief secretary to implement administrative functions in the provincial list and the concurrent list subject to section 3, 2 of the act.

(9) Central government shall implement its powers and functions under the reserved list through the district secretaries and divisional secretaries.

(10) Divisional secretaries shall have powers of coordinating functions between the central government and Provincial Council.”

Amendment
of section 17
of the
principal
enactment.

5. A. Section 17 of the principal enactment, is hereby further amended in subsection (1) of that section by the substitution of the following paragraph:

(1) “A Provincial Council shall have its own secretarial staff who function under the directions of the Chairperson of the Provincial Council and the provincial public service functioning under the Provincial Chief Secretary.”

- B. Section 17 of the principal enactment, is hereby further amended in subsection (2) of that section by the substitution of the following paragraph:

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

- C. Section 17 of the principal enactment, is hereby further amended by adding following subsections numbered as subsection 3 and 4 after the subsection (2) of the section as follows:

“(3) The provincial financial commission shall be responsible for:

- (a) The distribution of provincial revenues between provincial local authorities.
- (b) Assignment of tax and non-tax revenues to local authorities
- (c) Determination of grants in aid to local governments from the consolidated fund of the state of Sri Lanka and Provinces.
- (d) Generating provincial fiscal devolution strategy
- (e) Assess the potential fiscal generation venues within the province.
- (f) Coordinate with the finance commission and central government in grants and loans.

(4) There shall be a legal Department Established under the provincial secretariat to advise the provincial cabinet on matters relating to smooth governance in statute making. Coordinate with the finance commission at the central Government in grants at loans.”

Amendment
of section 19
of the
principal
enactment.

6. A. Section 19 of the principal enactment, is hereby further amended by adding following subsections after the subsection 19 (1) (a) of the section:

19 (1) (a) (i) Revenue collection as stipulated by the constitution shall be a responsibility of the provincial revenue administration setup under each Provincial Council.

(ii) Once collected by the provincial administration, Revenue collected will be divided between the center and the province. Revenue from the province will

be paid to the provincial fund.

- (iii) A percentage of the revenue may be prescribed by parliament out of the net proceeds in any financial year of any such tax shall be assigned to be province within which such tax is livable in that year and shall be disbursed to the respective provinces in such mannerist and such time, as may be prescribed by the finance commission.
- (iv) Excise duties as may be prescribed by the parliament on the recommendation of the finance Commission shall be levied by the central government but shall be collected by the provincial administration of the provinces other than capital territories.
- (v) Taxes on wholesale and retail sales other than sales by manufacturer shall be levied and collected by the central Government but shall be apportioned to the provinces in the manner prescribed by the parliament act.
- (vi) The net proceeds in any financial year of any such tax shall not form part of the consolidated fund, and such proceeds shall be assigned to the provinces within which such tax is livable in every financial year in accordance with such principles of apportionment as may be prescribed by the parliament on the recommendation of the finance commission.
- (vii) The finance commission shall formulate principles for determining where a sale or purchase or consignment of goods take place in the course of inter-regional trade or commerce.

B. Section 19 of the principal enactment, is hereby further amended in subsection (5) of that section by the substitution of the following paragraph:

“(5) The custody of provincial fund of a province, the payment of money in such fund, and all other matters connected with or ancillary most matters shall be regulated by rules made by the governor in consultation with the Chief Minister and board of ministers of the province.”

Amendment
of section 20
of the
principal
enactment.

7. Section 20 of the principal enactment, is hereby further amended in subsection (3) of that section by the substitution of the following paragraph:
- “(3) The Governor may make rules regulating all matters connected to the custody of the payment of monies into, and the withdrawal of monies from the emergency fund of the province in consultation with the Chief Minister and board of minister of the province”

Introducing
new section
after the
section 20 of
the principal
enactment.

8. Following new section numbered as 20(A) should be added after the Section 20 of the principal enactment;
- 20A. There shall be established a Chief Minister’s fund which can appropriate money out of the provincial fund of the province based on clearly established development indicators and enacted through a statute by the Provincial Councils of the

province. The fund disbursements are subjected to the supervision of the finance commission.

Amendment
of section 21
of the
principal
enactment.

9. Section 21 of the principal enactment, is hereby further amended in subsection (1) of that section by the substitution of the following paragraph:

“(1) The provincial minister in charge of the subject of finance may borrow upon the security of the provincial fund subject to criteria as limitations specified by the parliament.

Any sum required by the province as a loan but the provincial fund is not in a position to guarantee it in financial terms, and if the province required security in addition to the security given by the provincial fund, subsection (1) such security shall be given as a security out of the consolidated fund of Sri - Lanka paid out of the consolidated fund which is requested through the finance commission.”

Amendment
of section 22
of the
principal
enactment.

10. Section 22 of the principal enactment, is hereby further amended by adding following subsections numbered as 22 (1), 22 (2) and 22 (3) after the section:

“(1) Provincial Councils established in provinces under the constitution shall have Powers over the implementation of foreign funded projects whether they are negotiated through the government or the Provincial Council.

(2) Provincial Councils of the province shall have powers to negotiate foreign grants that will be directly allocated to the province with the concurrence of the central government.

(3) Areas of Development that are seeking for direct foreign grants shall be approved by the Finance Commission.”

Amendment
of section 23
of the
principal
enactment.

11. Section 23 of the principal enactment, is hereby further amended by adding following new subsection numbered as subsection (3) after the subsection (2) of the section as follows:

“(3) The Auditor General shall audit and report on the accounts, financial statements and financial management of departments, institutions and administrations that are accounted under the provincial statutes adopted by the provincial councils.”

Amendment
of section 24
of the
principal
enactment.

12. A. Section 24 of the principal enactment, is hereby further amended in subsection (1) of that section by the substitution of the following paragraph:

“(1) A statute in relation to any subject with respect to which Provincial Council has power to make statutes shall be introduced as mentioned herein under (a) to (e) of Section 24(1) only be moved in a Provincial Council in consultation with the governor.

- B. Section 24 of the principal enactment, is hereby further amended by repealing the subsection (2) and (3) of that and introducing new subsection numbered as 24 (2) by following paragraph:

“(2) A bill of stature, would involve expenditure from the provincial fund of a province, shall be passed by the council in consultation with the Governor and assented to by the governor.”

Amendment
of section 25
of the
principal
enactment.

13. A. Section 25 of the principal enactment, is hereby further amended in subsection (1) of that section by the substitution of the following paragraph

(1)The provincial board of minister of a province shall in respect of every financial year at least three months before the expiration of the financial year can to be laid before the Provincial Council of that province a statement of estimated receipts and expenditure of the province for that year in this part referred to as “annual financial statement” in consultation with the Governor and assented to by the Governor.

- B. Following new section numbered as 25(2) (AA) should be added after the Section 25 (2) of the principal enactment;

25 (2) AA. The annual estimates to be presented pursuant to section 25(1) shall be accompanied by a statement of expenses allocated to each provincial ministry in the previous financial year and particulars of whether the objectives of the expenses have been achieved.

Amendment
of section 26
of the
principal
enactment.

14. Section 26 of the principal enactment, is hereby further amended by repealing the subsection (1) of that section and the substitution of the following paragraph:

“(1) So much of the estimates as relates to expenditure charged upon the provincial fund of the province shall be submitted to the vote of the Provincial Council.

Amendment
of section 27
of the
principal
enactment.

15. Section 27 of the principal enactment, is hereby further amended by introducing new three subsections numbered as 27 AA, 27AAA and 27AAA after the 27 (1) (a) subsection of that section as follows;

“AA) the expenditure charged on the provincial fund by the emergency fund of the province under amended section 20 shall be submitted to the vote of the Provincial Council.

AAA) the expenditure charged on the provincial fund by the Chief Minister’s fund under newly added section 20 A shall be submitted to the vote of the Provincial Council.

AAAA) All expenditures charged on the Provincial Fund should be subjected to and in accordance with the criteria and indicators laid down by a provincial fiscal management statute enacted by the Provincial Council.”

Amendment
of section 31
of the
principal
enactment.

16. Section 31 of the principal enactment, is hereby further amended by repealing the entire section and the substitution of the following paragraph:

- “(1) The chief secretary and secretaries of provincial ministries shall be appointed by the Governor on the advice of the Board of Ministers.
(2) The Secretary to the Provincial Ministry shall, subject to the direction and control of his or her Provincial Minister, exercise supervision over the departments of the Provincial Council or other institutions under the charge of his or her provincial Minister.
(3) The chief secretary and the secretaries to the provincial ministries are the chief accounting officers of the institutions that they are in charge of.
(4) The chief secretary and the secretaries to the provincial ministries are responsible for the Introduction of annual development plans based on key performance indicators for the provincial council itself and other Provincial Ministries.”

Amendment
of section 32
of the
principal
enactment.

17. A. Section 32 of the principal enactment, is hereby further amended in subsection 32 (1) and 32 (2) of that section by the substitution of the following paragraph;

“The governor shall appoint a provincial public service commission in consultation with the Chief Minister, Leader of the opposition, and supported by a resolution adopted in the Provincial Council.”

B. Section 32 of the principal enactment, is hereby further amended by introducing new five subsections numbered as (2AA), (2AA.1), (2AAA), (2AAAA) and (2AAAAA) after the 32 (2A) subsection of that section as follows;

“(2AA) The heads of Provincial Council departments shall be appointed by the governor on the advice of the Board of Ministers, after ascertaining the views of the provincial public service commission.

(2AA.1) The heads of department serving under the Provincial Ministry shall, subject to the direction and control of his or her Provincial Ministry Secretary, exercise supervision over the departments of the Provincial Council or other institutions under the charge of his or her provincial Minister.

(2AAA) Provincial public service commission in consultation with provincial ministry secretaries of provincial department heads shall prepare provincial carder requirements, subject to the public financial capacity of the provincial budget. Provided that if the requirement exceeds the provincial financial capacity, provincial public service commission shall get the concurrence of the national department of management service to recruit such excessive cadres.

(2AAAA) Provincial public service commission shall establish a mechanism and criteria for the inter provincial transferring and secondment of the carders serving within the province as well as carders coming from inside of the province.

(2AAAAA) The provincial public service commission shall be guided by a provincial recruitment policy when it appoints persons to the cadre requirement of the province in relation to the new appointments as well as transfers.”

Amendment
of section 33
of the
principal
enactment.

18. A. Section 33 of the principal enactment, is hereby further amended in last sentence of the subsection (1) of that section by the substitution of the following sentence;

“.....The governor shall nominate one of the members of the commission to be the chairperson in consultation with the Chief Minister and leader of the opposition in a Provincial Council.