

CHAPTER 378

SRI LANKA PRESS COUNCIL

Law No. 5 of 1973.

A LAW TO PROVIDE FOR THE APPOINTMENT OF A SRI LANKA PRESS COUNCIL, TO REGULATE AND TO TENDER ADVICE ON MATTERS RELATING TO THE PRESS IN SRI LANKA, FOR THE INVESTIGATION OF OFFENCES RELATING TO THE PRINTING OR PUBLICATION OF CERTAIN MATTERS IN NEWSPAPERS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[30th March. 1973.]

Short title.

1. This Law may be cited as the Sri Lanka Press Council Law.

Information (in this Law referred to as " the Director "); and

(b) six other members appointed by the President, of whom—

PART I

THE SRI LANKA PRESS COUNCIL

Constitution of Sri Lanka Press Council.

2. (1) There shall be a Council which shall be called the Sri Lanka Press Council (in this Law referred to as " the Council") consisting of the persons who are for the time being members thereof under this Law.

(i) one shall be a person to represent the working journalists, such person being selected from a panel of not more than seven persons nominated by the journalists' associations in Sri Lanka, and

(2) The Council shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(ii) one shall be a person to represent the interests of the employees of newspaper businesses, such person being selected from panels of not more than three persons nominated by each registered trade union of such employees.

(3) The Council may, for the purpose of functioning as a body corporate under this Law,—

(2) One of the members appointed by the President shall be designated Chairman of the Council.

(a) acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of, any immovable or movable property; and

(3) No person who is or becomes a Member of Parliament shall be eligible for appointment, or to continue in office, as a member of the Council.

(b) enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Council, all such contracts or agreements as may be necessary in the exercise of the powers of the Council.

Members of the Council.

3. (1) The Council shall consist of—

4. (1) Every member of the Council, other than the Director, shall, subject to the provisions of subsection (2), hold office for a period of three years, and shall accordingly vacate his office at the end of that period.

Term of office of members of the Council, other than the Director.

(a) the person for the time being holding office as the Director of

(2) A member of the Council, other than the Director, shall vacate his office as such member, otherwise than by effluxion of time—

- (a) upon his death ; or
- (b) if he resigns such office by writing under his hand addressed to the President; or
- (c) if he is removed from office by the President; or
- (d) if he is adjudged by a competent court to be insolvent or bankrupt or of unsound mind.

(3) A member of the Council shall not be removed from office unless the President is satisfied—

- (a) that such member has become subject to the disqualification set out in subsection (3) of section 3 ; or
- (b) that such member has become permanently incapable of performing his functions as a member; or
- (c) that such member has done or committed any act, matter or thing which in the opinion of the President is of a fraudulent or an illegal character, or which is likely to prejudice or damage the interests of the Council.

(4) A member of the Council who is appointed in place of a member who vacates his office, otherwise than by effluxion of time, shall hold office for the unexpired period of the term of office of the member whom he has succeeded.

(5) Where a member of the Council, other than the Director, becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the President may appoint a person to act in his place in accordance with the preceding provisions of this Law.

(6) A member of the Council who vacates his office by effluxion of time shall be eligible for reappointment.

5. The members of the Council, other than the Director, shall be paid remuneration for attendance at meetings of the Council at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Remuneration of members of the Council, other than the Director.

6. (1) The quorum for any meeting of the Council shall be five.

Quorum for meetings of the Council and the procedure to be followed at such meetings.

(2) Subject to the other provisions of this Law, the Council may regulate the procedure in regard to the meetings of the Council and the transaction of business at such meetings.

7. The Council may act notwithstanding a vacancy amongst the members thereof.

The Council may act despite a vacancy.

8. Subject to the provisions of this Law, the objects of the Council shall be—

Objects of the Council.

- (1) to ensure the freedom of the press in Sri Lanka, to prevent abuses of that freedom, and to safeguard the character of the Sri Lanka press in accordance with the highest professional standards;
- (2) to ensure that newspapers shall be free to publish as news true statements of facts, and any comments based upon true statements of facts;
- (3) to ensure on the part of newspapers and journalists the maintenance of high standards of journalistic ethics, and to foster a due sense of both the rights and responsibilities of citizenship;
- (4) to improve methods of recruitment, education, welfare and training in the profession of journalism;
- (5) to promote a proper functional relation among all sections engaged in the production or publication of newspapers, and the establishment of common services for the supply and dissemination of news as may from time to time appear to be desirable;

(6) to undertake research into the use and needs of the press, to keep under review developments likely to restrict the supply of information of public interest and importance and developments in the Sri Lanka press which may tend towards concentration or monopoly, and to suggest appropriate remedial measures in relation thereto;

(7) to advise the Government on any matter pertaining to the regulation and conduct of newspapers.

Action by the Council against newspapers, editors, &c.

9. (1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that there has been published in a newspaper a statement, picture or other matter which is untrue, distorted or improper, as the case may be, or that an editor or a working journalist of a newspaper has committed any professional misconduct or breach of the code of Journalistic ethics, the Council may hold an inquiry in the prescribed manner and if the Council is satisfied, after giving the newspaper, the proprietor, printer, publisher, editor or journalist concerned an opportunity of being heard, that it is necessary so to do, it may either—

- (a) order that a correction approved by the Council be published in the appropriate newspaper; or
- (b) censure the proprietor, printer, publisher, editor, journalist or other officer or authority of such newspaper; or
- (c) order that an apology be tendered by such proprietor, printer, publisher, editor, Journalist or other officer or authority to the appropriate party.

(2) In any inquiry under subsection (1) in pursuance of a complaint made to the Council the burden of satisfying the Council in regard to the matter of any complaint, shall be on the complainant. In any inquiry initiated by the Council of its own motion, the newspaper, proprietor, printer, publisher, editor or Journalist, as the case may be, shall be furnished with a statement of the material upon which the inquiry has been initiated by the Council and an

opportunity given to such persons of challenging such material as is reasonable in the opinion of the Council.

(3) All corrections and apologies ordered, and censures made, by the Council under subsection (1) shall be published in such newspaper and in such manner as may be determined by the Council.

(4) Nothing in subsection (1) shall be deemed—

- (a) to prevent any person aggrieved by any matter referred to in that subsection from instituting or maintaining any proceedings in any court of law in respect of such grievance; or
- (b) to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(5) Any order or censure of the Council made under subsection (1) shall be final and conclusive and shall not be questioned in any court of law.

10. The Council may—

General powers of the Council.

- (1) require the proprietor, printer, publisher, editor or journalist of any newspaper to furnish to the Council such returns and information on such matters as it may deem necessary for the purpose of performing its functions under this Law;
- (2) prescribe a code of ethics for journalists;
- (3) subject to the provisions of this Law, make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, welfare, conduct and the grant of leave to them;
- (4) make rules in respect of the administration of the affairs of the Council;
- (5) study developments which may tend towards monopoly or concentration of ownership of newspapers,

including a study of the ownership and the financial structure of newspapers, and suggest appropriate measures in relation thereto;

- (6) hold such enquiries as may be necessary in accordance with such provisions as may be prescribed ;
- (7) promote technical or other research ;
- (8) draw the attention of the appropriate authorities to any breach of the provisions of this Law, or of any regulations made thereunder; and
- (9) do such other acts as may be incidental or conducive to the carrying out of the objects of the Council or the exercise of its powers under this Law.

(ii) refuses to be sworn or having been duly sworn, refuses or fails without cause, which in the opinion of the Council is reasonable, to answer any question put to him touching the matters being inquired into by the Council, or

(iii) refuses or fails without cause, which in the opinion of the Council is reasonable, to produce and show to the Council any document or other thing which is in his possession or power and which is in the opinion of the Council necessary for arriving at the truth of the matters being inquired into by the Council,

Powers of the Council in respect of inquiries under this Law.

11. For the purpose of any inquiry held by the Council under this Law, the Council shall have all the powers of a District Court—

- (a) to summon and compel the attendance of any person;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to any person.

Offences under the Law in connexion with inquiries held by the Council.

- 12.** (1) Where any person—
- (a) without sufficient reason publishes any statement or does anything that brings the Council or any member thereof into disrepute during the progress or after the conclusion of any inquiry conducted by such Council; or
 - (b) interferes with the lawful process of the Council; or
 - (c) in the course of an inquiry being held by the Council under this Law—
 - (i) fails without cause, which in the opinion of the Council is reasonable, to appear before the Council at the time and place mentioned in any summons issued by the Council; or

such person shall be guilty of the offence of contempt against or in disrespect of the authority of the Council.

(2) Where the Council determines that a person has committed any offence of contempt (referred to in subsection (1)) against or in disrespect of its authority, the Council may cause its Secretary to transmit to the Court of Appeal a certificate setting out such determination ; every such certificate shall be signed by the Chairman of the Council.

(3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of as provided in subsection (5) hereunder, any document purporting to be a certificate signed and transmitted to the Court under subsection (2) shall—

- (a) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved ; and
- (b) be conclusive evidence that the determination set out in the certificate was made by the Council and of the facts stated in the determination.

(4) In any proceedings taken as provided in subsection (5) hereunder for the

punishment of any alleged offence of contempt against or in disrespect of the authority of the Council, no member of the Council shall, except with his own consent, be summoned or examined as a witness.

(5) Every offence of contempt committed against or in disrespect of the authority of the Council shall be punishable by the Court of Appeal under Article 105 of the Constitution, as though it were an offence of contempt committed against or in disrespect of the authority of that Court.

Offences by bodies of persons.

13. In the case of any offence under this Law committed by a body of persons—

(a) where the body of persons is a body corporate, every director, secretary and officer of that body corporate shall each be deemed to be guilty of that offence; and

(b) where the body of persons is a firm, every partner of the firm shall be deemed to be guilty of that offence :

Provided that no such person shall be deemed to be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Persons liable in case of offences committed through the means of a newspaper.

14. In the case of any offence under this Law committed through the means of a newspaper, the proprietor, publisher, printer, editor and journalist of such newspaper shall each be deemed to be guilty of that offence:

Provided that no such person shall be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Certain criminal publications.

15. (1) Every person who publishes, or causes the publication of, in any newspaper,—

(a) any profane matter; or

(b) any statement or matter concerning a person which will amount to

defamation of such person within the meaning of section 479 of the Penal Code; or

(c) any advertisement which is calculated to injure public morality; or

(d) any indecent or obscene statement or matter,

shall be guilty of an offence and shall, upon conviction, be liable to be punished with a fine not exceeding five thousand rupees, or with imprisonment of either description for a term not exceeding two years or with both such fine and imprisonment.

(2) For the purposes of this section—

(a) " profane matter " means any matter which is intended to insult—

(i) any religion or the founder of any religion;

(ii) any deity or saint venerated by the followers of any religion; and

(b) " indecent or obscene statement or matter " shall be deemed to be any statement or matter which is likely to deprave and corrupt persons who may, having regard to all relevant circumstances, read or see that statement or matter.

16. (1) No person shall publish, or cause to be published, in any newspaper, any matter which purports to be the proceedings or any part thereof, of a meeting of the Cabinet of Ministers. Publication of certain matters relating to Cabinet decisions, &c.

(2) No person shall publish, or cause to be published in any newspaper—

(a) any matter which purports to be the contents or any part of the contents of any document sent by or to all or any of the Ministers to or by the Secretary to the Cabinet of Ministers; or

(b) any matter which purports to be a decision or any part of a decision of the Cabinet of Ministers,

unless it has been approved for publication in the newspapers by the Secretary to the Cabinet of Ministers.

(3) No person shall publish or cause to be published in any newspaper any official secret within the meaning of the Official Secrets Act or any matter relating to military, naval, air-force or police establishments, equipment or installation which is likely to be prejudicial to the defence and security of the Republic of Sri Lanka, unless such matter has been approved for publication in the newspapers by the Secretary to the Ministry charged with the subject of Defence.

(4) No person shall publish or cause to be published in any newspaper any statement relating to monetary, fiscal, exchange control or import control measures alleged to be under consideration by the Government or by any Ministry or by the Central Bank, the publication of which is likely to lead to the creation of shortages or windfall profits or otherwise adversely affect the economy of Sri Lanka, unless such matter has been approved for publication in the newspapers by the Secretary to the Ministry charged with the subject in question.

(5) Subject to the preceding provisions of this section, no person shall publish, or cause to be published, in any newspaper, any proposal or other matter, alleged to be under consideration by any Minister or any Ministry or the Government, when it is false that such proposal or matter is under consideration by such Minister, Ministry or by the Government. In any prosecution for a contravention of this subsection, the burden of proving that any such proposal or other matter so published is false shall be on the prosecution.

(6) In this section—

- (a) " Cabinet of Ministers " includes a Committee of Ministers appointed by the Cabinet of Ministers;
- (b) " Government " means the Cabinet of Ministers;
- (c) " Secretary to the Cabinet of Ministers " includes an officer

authorized in writing by the Secretary to the Cabinet of Ministers for the purposes of this section.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall, upon conviction, be liable to be punished with a fine not exceeding five thousand rupees, or with imprisonment of either description for a term not exceeding two years, or with both such fine and imprisonment.

17. In any proceedings at an inquiry before the Council, the Commissioner or the defendant may appear in person or by a pleader or any agent duly authorized in writing,

Appearance before the Council.

For the purposes of this section, the word " pleader " means an attorney-at-law.

18. All sums paid or recovered by way of fines under this Law shall be credited to the Consolidated Fund.

Fines to be credited to the Consolidated Fund.

PART II

FINANCE

19. (1) The Council shall have its own Fund.

The Fund of the Council.

(2) There shall be paid into the Fund of the Council—

- (a) all such sums of money as may be voted from time to time by Parliament for use of the Council;
- (b) all sums of money received by the Council in the exercise, discharge and performance of its functions, powers and duties including any registration fees that may be recovered from proprietors of newspapers in terms of regulations made under this Law; and
- (c) all donations, gifts or grants from any source whatsoever.

(3) There shall be paid out of the Fund of the Council all sums of money required to defray any expenditure incurred by the

Council in the exercise, discharge and performance of its functions, powers and duties, and all such sums of money as are required to be paid out of such Fund by or under this Law.

Application of the provisions of the Public Corporations (Financial Control) Act.

20. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Council.

Financial year of the Council.

21. The financial year of the Council shall be the calendar year.

PART III
GENERAL

Appointment of Press Commissioner.

22. (1) For the purposes of this Law, the Council may, with the concurrence of the Minister, appoint a Press Commissioner who shall be the chief executive officer of the Council.

(2) The Commissioner shall act under the general direction and control of the Council.

(3) The Commissioner may be paid such salary and allowances as may be determined by the Minister with the advice of the Council and the concurrence of the Minister in charge of the subject of Finance.

Appointment of staff.

23. (1) Subject to the succeeding provisions of this section, the Council may appoint for the purposes of this Law, such officers and servants as it may deem necessary.

(2) At the request of the Council any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent, or be permanently appointed to such staff.

(3) The provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall, *mutatis mutandis*, apply in relation to any officer in the public service who is temporarily appointed to the staff of the Council, and the provisions of subsection (3) of the aforesaid section 9

shall, *mutatis mutandis*, apply in relation to any officer in the public service who is permanently appointed to such staff.

(4) Where the Council employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Council by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Council any member of the Local Government Service or any officer or servant of any local authority may, with the consent of such member, officer or servant and the Secretary to the Ministry charged with the subject of Local Government or that authority, as the case may be, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent, or be permanently appointed to such staff, on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Council and that Secretary or authority.

(6) Where any member of the Local Government Service or any officer or servant of any local authority is temporarily appointed to the staff of the Council, he shall be subject to the same disciplinary control as any other member of such staff.

24. The Council shall comply with such general directions as may be given to the Council by the Minister in accordance with the provisions of this Law or of any regulations made thereunder.

Compliance with directions.

25. Regulations may be made under this Law for the registration of the proprietors and editors of newspapers in respect of their newspapers, and the levy of fees in respect of such registration,

Regulations regarding registration and registration fees.

26. For the purposes of this Law, the printer and publisher of every newspaper shall, on each day on which such newspaper is published or on the day next following which is not a holiday, cause to be delivered at the office of the Commissioner a copy of

Duties of printer and publisher of newspaper.

* Repealed by Law No. 19 of 1978.

such newspaper and of every subsequent and other varied edition or impression of such newspaper so printed or published with the name and place of residence of the printer or publisher thereof signed and written thereon, after such name and address are printed by his hand and in his accustomed manner of signing or by some person appointed and authorized by him for that purpose, and of whose appointment and authority due notice in writing signed by such printer or publisher is given to the Commissioner.

Protection of members, officers and servants of the Council for action taken under this Law.

27. No civil or criminal proceedings shall be instituted against any member of the Council or against any officer or servant of the Council appointed for the purposes of this Law for any act which is in good faith done or purported to be done by him under this Law,

Officers and servants of the Council deemed to be public servants.

28. All officers and servants of the Council shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

The Council deemed to be a scheduled institution within the meaning of the Bribery Act.

29. The Council shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Rules and regulations.

30. (1) The Council may make rules—

- (a) setting out a code of ethics for journalists, and
- (b) in respect of the administration of the affairs of the Council.

(2) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law and for all matters required by this Law to be prescribed or in respect of which regulations are necessary or authorized by this Law.

(3) Every rule or regulation made under this section shall be laid before Parliament for approval. Every rule, or regulation which is so approved shall be deemed to be valid and effectual as though herein enacted with effect from the date of the notification

of such approval in the Gazette or from such later date as may be specified in such notification.

Offences under the Law.

31. Any person who disobeys any lawful order of the Council or in any other manner contravenes any provisions of this Law shall be guilty of an offence under this Law and shall upon conviction after summary trial before a Magistrate be liable, except as otherwise provided in this Law, to a fine of one thousand rupees or to a term of imprisonment of either description of one year or to both such fine and imprisonment.

Disclosure of sources of information.

32. (1) Nothing in this Law shall be deemed to require any newspaper, proprietor, printer, publisher, editor or journalist to disclose the source of information relating to any item of news published in any newspaper.

(2) It shall be lawful for any newspaper, proprietor, printer, publisher, editor or journalist to disclose the source of information in relation to any such item by way of defence at any inquiry under section 9 or any prosecution under section 16 (5).

(3) The provisions of subsection (1) shall have no application to any other law or to any proceedings in relation to any newspaper, proprietor, printer, publisher, editor or journalist under the provisions of any other law.

33. In this Law, unless the context otherwise requires—

"Commissioner" means the Press Commissioner appointed under this Law and in relation to inquiries held under this Law and proceedings before the Council, includes any officer authorized in that behalf by the Commissioner;

"newspaper" means any paper containing public news, intelligence or occurrences printed or published in Sri Lanka, but does not include any proclamation, notice, or other public paper printed and published under the authority of the Government, or any paper containing only lists of current prices, or the state of markets, or accounts of the arrival, sailing or other circumstances relating to

merchant ships or vessels, or advertisements of a commercial or like nature, or advertisements previously published in the Gazette;

34. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Law and such other law, the provisions of this Law shall prevail.

This Law to Prevail over other written law.

"prescribed " means prescribed by regulations made under this Law.