

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

"PRESIDENTS' ENTITLEMENTS (REPEAL) BILL"

SC/SD/23/2025

Petitioner : Wahalathanthrige Renuka
Dushyantha Perera,
No. 365,
Nagahawela Road,
Kotikawatta,
Angoda.

Counsel : N.K. Ashokbharan, instructed by Ms.
Niluka Welgama for the Petitioner.

SC/SD/24/2025

Petitioner : Ranasinghe Mudalige Don Harindra
Rathnapala Banagala
11/1A,
Jethawanawatta,
Udugama,
Essella,
Veyangoda.

Counsel : Eraj De Silva PC, with Daminda
Wijayaratne, Janagan
Sundramoorthy, Zul Luthufi, Naveed
Ahmed, Tharini Ratwatte, Parami
Gunawardana, instructed by
Vidanapathirana Associates for the
Petitioner.

SC/SD/25/2025

Petitioner : Premasiri Piyaratne Wijayasekara
No. 129/6,
Hiripitiya,
Pannipitiya.

Counsel : Eraj De Silva PC, with Daminda
Wijayarathne, Janagan
Sundramoorthy, Zul Luthufi, Naveed
Ahmed, Tharini Ratwatte, Parami
Gunawardana, instructed by
Vidanapathirana Associates for the
Petitioner.

SC/SD/26/2025

Petitioner : Mahinda Pathirana
University of Sabaragamuwa Sri
Lanka,
Belihuloya.

Counsel : Saman Galappaththi with Isuru
Perera, instructed by Anuradha
Senerath Weragoda.

SC/SD/27/2025

Petitioner : Dampella Gamage Ravindra Manoj
Kumar
No. 12/2,
Bishop Terrace,
Lakshapathiya,
Moratuwa.

Counsel : Saman Galappaththi with Isuru

Perera, instructed by Anuradha
Senerath Weragoda.

SC/SD/28/2025

Petitioner : Don Sarath Mohan
Wijewickrama
No. 62/10,
Shanthi Lane,
Udumulla Road,
Battaramulla.

Counsel : M. U. M. Ali Sabry PC, with Ruwantha
Cooray, Naamiq Nafath, Ms. Shehani
Alwis and Joshua Croos Moraes
instructed by Anuradha Senarath
Weragoda for the Petitioner.

Respondent in all Petitions : Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Counsel : Viraj Dayaratne PC SG, with Ms.
Yuresha De Silva DSG, Rajitha Perera
DSG, Ms. Ishara Madarasinghe SC
and Ms. Madusha Thanippuliarachchi
SC, instructed by Ms. Nimalika
Wickramasinghe SA.

BEFORE:

P. PADMAN SURASENA, CJ
ACHALA WENGAPPULI, J
SAMPATH B. ABAYAKOON, J

The Bench assembled for hearing the Petitions on 25th August 2025.

Court, at the outset, with the concurrence of the learned Counsel for all the parties consolidated all the Applications bearing numbers SC/SD/23/2025, SC/SD/24/2025, SC/SD/25/2025, SC/SD/26/2025, SC/SD/27/2025 and SC/SD/28/2025. Thereafter, the Court proceeded to hear the submissions of all Counsel who appeared for the Petitioners in all these cases and the submissions of the learned Solicitor General and concluded the hearing.

The Bill titled “Presidents’ Entitlements (Repeal) Act No. of 2025” (hereinafter sometimes referred to as the Bill) was published in the Gazette on 31st July 2025 and was placed on the Order Paper of Parliament on 07th August 2025.

The above-mentioned Petitioners have filed these Petitions invoking the jurisdiction vested in this Court by virtue of Article 120 read with Article 121(1) of the Constitution challenging the constitutionality of the Bill. The Petitioners have prayed for a determination from this Court under Article 123 of the Constitution.

The Bill contains four clauses, and the Petitioners in all these Petitions have challenged the Bill as a whole. The marginal notes of the four clauses of the Bill are as follows:

- Clause 1 - Short title
- Clause 2 - Repeal of the Act, No. 4 of 1986
- Clause 3 - Avoidance of doubt
- Clause 4 - Sinhala text to prevail in case of inconsistency

The Petitioners have prayed for a determination and declaration that one or more of Clauses 1 to 4 of the said Bill is/are inconsistent with one or more of the Articles 1, 3, 4, 11, 12(1), 12(2), 14 and 36 of the Constitution. It is on that basis that the Petitioners have sought to argue before us that the provisions in Section 83 of the Constitution shall apply to this Bill and therefore the Bill shall only become law if the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members (including those not present), and is approved by the People at a

Referendum and a certificate is endorsed thereon by the President in accordance with Article 80.

For convenience, let us reproduce below, all the four clauses of this Bill in their entirety.

Long Title

AN ACT TO REPEAL THE PRESIDENTS' ENTITLEMENTS ACT, NO. 4 OF 1986.

Clause 2

"The Presidents' Entitlements Act, No. 4 of 1986 (hereinafter referred to as the "repealed Act") is hereby repealed."

Clause 3

"For the avoidance of doubt, it is hereby declared that-

(a) any residence provided to, or monthly allowance paid to, a former President or the widow of a former President in terms of the provisions of section 2 of the repealed Act;

(b) monthly secretarial allowance paid to, and official transport and such other facilities provided to, a former President or the widow of a former President in terms of the provisions of section 3 of the repealed Act; and

(c) monthly pension paid to the widow of a former President in terms of the provisions of section 4 of the repealed Act,

preceding the date of commencement of this Act, shall no longer be provided with or paid to, on and after the date of commencement of this Act."

Clause 4

"In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail."

Let us now turn to the arguments put forward by the Petitioners. The primary submission made by the learned Counsel for the Petitioners in all these cases centered around the provision of law set out in Article 36 of the Constitution. The said Article is reproduced below for easy reference:

Article 36

- (1) *Within one month of the commencement of the Constitution, Parliament shall by resolution determine the salary, allowances and pension entitlement of the holders of the office of President. Such pension shall be in addition to any other pension to which such person is entitled by virtue of any prior service.*
- (2) *Upon the assumption of the office of President the holder of such office shall become entitled to the receipt of such salary and allowances and thereafter, of such pension as may be determined by Parliament. Any subsequent amendment, repeal or replacement of this Article and any subsequent law or any provision thereof inconsistent with this Article shall not have retrospective operation.*
- (3) *The salary, allowances and pension of the President shall be charged on the Consolidated Fund.*
- (4) *Parliament may by resolution increase, but shall not reduce, the salary, allowances or pension entitlement of the holders of the office of President.*

The learned Counsel for the Petitioners in all these cases advanced their arguments on the primary basis that Parliament has enacted the Presidents Entitlements Act No. 04 of 1986 as required/mandated by Article 36(2) of the Constitution. That was the fundamental argument put forward by them. It is on that footing that the learned Counsel for the Petitioners heavily relied on the restrictions against having any retrospective effect for any subsequent amendment, repeal or replacement of Article 36(2) which would be inconsistent with the already existing legal provision in that Article. It is on that basis that the Petitioners have sought to argue that the Bill titled Presidents' Entitlements (Repeal) Act No. of 2025 is inconsistent with the provisions of law in the Constitution, namely Article 36(2) thereof.

As further arguments arising out of the above fundamental argument, the Petitioners sought to advance the following arguments also before us:

- i. People have chosen to confer on the President, the privileges set out in Article 36(2) as it is the President who is expected to exercise their Executive power.
- ii. Exercise of Executive power of people is part of the people's sovereignty in terms of Article 3 of the Constitution.
- iii. Therefore, it is the people's sovereignty that had required the Parliament to confer upon the President, the privileges set out in Act No. 04 of 1986.
- iv. In the above circumstances, repealing such privileges which the people have chosen to confer upon the President is a violation of their sovereignty.

It was on the above basis that the Petitioners have sought to argue that the Bill, as it seeks to repeal the provisions of law in Article 36(2), is inconsistent with Article 3 of the Constitution.

We have carefully perused Article 36(2) of the Constitution. We find no ambiguity in its meaning. The language is simple and clear. The relevant portion reads as follows:

"Upon the assumption of the office of the President the holder of such office shall become entitled to the receipt of such salary and allowances and thereafter, of such pension as may be determined by Parliament..."

It is clearer in the Sinhala version which reads as follows:

“යම් තැනැත්තකු විසින් ජනාධිපති ධුරය භාර ගනු ලැබූ විට පාර්ලිමේන්තුව විසින් නිශ්චය කරනු ලබන පරිදි වූ වැටුප් සහ දීමනා ලැබීමට ද ඉන් පසුව, එසේ නිශ්චය කරනු ලබන විශ්‍රාම වැටුප් ලැබීමට ද ඒ තැනැත්තා හිමිකම් ලබන්නේ ය. පසුව මෙම ව්‍යවස්ථාවට කරනු ලැබූ සංශෝධනයක්, මෙම ව්‍යවස්ථාව පරිච්ඡින්න කිරීමක් නැතහොත් ප්‍රතියෝජනය කිරීමක් සහ මෙම ව්‍යවස්ථාවට අනනුකූල වන පසුව පනවනු ලැබූ යම් නීතියක් හෝ ඒ නීතියක යම් විධිවිධානයක් අතීතයට බල නොපාන්නේය.”

Thus, it is clear that Article 36(2) has conferred the holder of the office of President, an entitlement to receive a salary and allowances when in office. The phrase “**and thereafter,**” or in Sinhala “ඉන් පසුව,” in the above sentence indicates that such holder

of office of President would also be entitled to a pension as determined by Parliament. Obviously, such holder of office would only become entitled to a pension after his or her retirement. This has to be so because one cannot draw a pension while in office. Thus, it is those three items, i.e. salary, allowances and pension, that cannot be taken away with a retrospective operation by any subsequent amendment, repeal or replacement.

We have also perused carefully, the Presidents Entitlements Act No. 04 of 1986. In its preamble it is clearly stated that the said Act is "AN ACT TO PROVIDE FOR THE GRANT OFFICIAL RESIDENCE AND OTHER ALLOWANCES AND FACILITIES TO FORMER PRESIDENTS AND TO THE WIDOWS OF FORMER PRESIDENTS; TO PROVIDE FOR THE PAYMENTS OF PENSIONS TO SUCH WIDOWS; AND FOR MATTERS CONNECTED WITH OR INCIDENTAL THERETO."

Section 2 of Act No. 04 of 1986 makes available to every former President and the widow of a former President, an appropriate residence free of any rent. If such residence is not provided for the use of such former President or for the widow of such former President, such person is entitled to receive a monthly allowance, the quantum of which has been specified therein.

Section 3 of Act No. 04 of 1986 makes every former President and a widow of a former President, entitled to a monthly secretarial allowance, the quantum of which also has been specified therein.

In addition, in terms of Section 3(2) of the Act every former President and the widow of a former President is entitled to official transport and all such other facilities as are for the time being provided to a minister of the Cabinet of Ministers.

In terms of Section 4 of the Act, a widow of a former President is entitled to receive a monthly pension such former President was entitled to receive at the time of his death or would have been entitled to receive upon his ceasing to hold the office of President.

The above provisions make it clear to us that Presidents Entitlements Act No. 04 of 1986 is not an Act enacted by Parliament to introduce a pension scheme to holders of the office of President in terms of Section 36(2) of the Constitution. Those provisions also clearly show us that the Presidents Entitlement Act No. 04 of 1986 was only enacted by Parliament to give the afore-said benefits only to former Presidents and to the widows of former Presidents. There is a drastic difference between a person who holds office as President and a person who had held the office of President but has later ceased to hold such office. The latter is called former President. Therefore, it is clear that Act No. 04 of 1986 has never given any pension entitlement to a holder of the office of President. It has only given the afore-said benefits only to former Presidents.

Therefore, we are unable to accept the argument advanced by the learned Counsel for the Petitioners that Parliament enacted Act No. 04 of 1986 as required/mandated by Article 36(2) of the Constitution to introduce pension entitlements to holders of the office of President. We hold that the benefits which Act No. 04 of 1986 has given to former Presidents is not something envisaged by any provision of the Constitution. In other words, the framers of the Constitution have neither thought nor wanted to confer any such benefit on a person who holds office as President. As has already been mentioned above, it is only those three items, i.e. salary, allowances and pension, that the framers of the Constitution had wanted to confer on any person who holds office as President. It is only those three items, i.e. salary, allowances and pension, that the framers of the Constitution had wanted to jealously guard against being taken away by any subsequent amendment, repeal or replacement.

We therefore proceed to hold that Act No. 04 of 1986 is a stand-alone piece of legislation passed in 1986, i.e. 08 years after the promulgation of the 1978 Constitution. Thus, it is clear that Act No. 04 of 1986 has only introduced some additional benefits which the Constitution had never contemplated to grant to a person who holds office as President.

It is opportune at this stage that the Supreme Court in Senarath and Others v Chandrika Bandaranaike Kumaratunga and Others¹ has concluded as follows:

"It has to be noted that the President's Entitlement Act No. 04 of 1986 is a unique piece of legislation which grants entitlements only to former Presidents and their widows. Intrinsically it is an exception to the concept of equality before the law, since no other holder of public office is granted such benefits. It appears that there is no similar legal provision in any other country.

The provisions of this Act being an exception in itself to equality before the law, have to be strictly interpreted and applied..."

The above quotation clearly indicates that this Court has already held two things. Firstly, it has held that the benefits conferred by Act No. 04 of 1986 are only to the former Presidents and their widows. Secondly it has held that such conferment is an exception to the concept of equality before the law.

In other words, what the impugned Bill seeks to achieve is to remove the said exception to the concept of equality before the law. That could be done only by repealing Act No. 04 of 1986.

As the Constitution has not envisaged either in Article 36 or in any other article, the conferment of the benefits set out in Act No. 04 of 1986, the impugned Bill which seeks to repeal the Act No. 04 of 1986 also cannot become inconsistent with any provision of the Constitution.

Even in the case SC/FR/449/2019 decided on 29-02-2024,² this Court referring to the provisions of the Presidents Entitlements Act No. 04 of 1986 proceeded to hold as follows:

"Accordingly, the word 'former' used in the Long Title and in sections 2 and 3 of the said Act shows that the provisions of the said Act are only

¹ [2007] 1 Sri LR 59 at page 77

² At page 29

applicable to former Presidents and widows of former Presidents. Hence, the entitlements provided in the said Act become due only after a President retires from office. Thus, no decision can be made to grant benefits under the said Act prior to a President retiring from his office...."

In view of the above conclusion, we are of the view that it is neither relevant nor necessary to deal with the other arguments advanced by the Petitioners: i.e., the arguments that the proposed enactment of the impugned Bill would violate Article 1, 3, 4, 10, 11 and 12.

For the above reasons, we hold that no provision in the Bill titled Presidents' Entitlements (Repeal) Act No. 2025 is inconsistent with any provision of the Constitution. We are of the view that the Bill titled Presidents' Entitlements (Repeal) Act No. 2025 can be enacted by Parliament with a simple majority.

We place on record our appreciation of the assistance given by the learned Counsel who appeared for the Petitioners and the learned Solicitor-General who represented the Attorney-General, in these proceedings.

P. PADMAN SURASENA
CHIEF JUSTICE

ACHALA WENGAPPULI
JUDGE OF THE SUPREME COURT

SAMPATH B. ABAYAKOON
JUDGE OF THE SUPREME COURT