

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

CODE OF CRIMINAL PROCEDURE (SPECIAL

PROVISIONS) ACT, No. 2 OF 2013

[Certified on 06th February, 2013]

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Code of Criminal Procedure (Special Provisions) 1

Act, No. 2 of 2013

[Certified on 06th February, 2013]

L.D.–O. 51/2011.

ANACT TO PROVIDE FOR THE EXTENSION OF THE PERIOD OF DETENTION OF

PERSONS ARRESTEDWITHOUT AWARRANT IN ORDER TOFACILITATE THE

CONDUCT OFINVESTIGATIONS; FOR DISPENSING WITH THECONDUCT OF

THE NON-SUMMARY INQUIRY IN CERTAIN CASES; TO PROVIDE FOR THE

TAKING OF DEPOSITIONS OF WITNESSES FOR THE PROSECUTION; AND TO

MAKE PROVISION FOR MATTERS CONNECTEDTHEREWITH OR INCIDENTAL

THERETO.

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :—

1. This Act may be cited as the Code of Criminal Short title.

Procedure (Special Provisions) Act, No. 2 of 2013.

2. Notwithstanding anything contained in the Code of Period of

detention of

Criminal Procedure Act, No. 15 of 1979 other than the

persons arrested

provisions of section 43 A of that Act, any peace officer shall not to be more

not detain in custody or otherwise confine a person arrested than twenty-four

hours or forty-

without a warrant for a longer period than under all the eight hours.

circumstances of the case is reasonable and such period shall

not exeed twenty-four hours exclusive of the time necessary

for the journey from the place of arrest to the presence of the

Magistrate:

Provided that, where the arrest is in relation to an offence

as is specified in the Schedule to this Act, such period of

detention in police custody may, on production before him

of the person arrested and on a certificate filed by a police

officer not below the rank of the Assistant Superintendent of

Police submitted prior to the expiration of the said period of

2—PL 006931—4,090 (01/2013)

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twenty-four hours, to the effect that it is necessary to detain

such person for the purpose of further investigations, be

extended upon an Order made in that behalf by the Magistrate

for a further period not exceeding twenty-four hours, so

however that the aggregate period of detention shall not

exceed forty-eight hours:

Provided further, that any person arrested and detained for

a further period shall be afforded an opportunity to consult

an Attorney-at-Law of his choice and to communicate with

any relative or friend of his choice during the period of such

detention.

Direct 3. (1) Notwithstanding anything contained in the Code

indictment in of Criminal Procedure Act, No. 15 of 1979, where there are

case of offence

committed in aggravating circumstances or circumstances that give rise to

aggravating public disquiet inconnection with the commission of an

circumstances. offence, specified in the Second Schedule to the Judicature

Act, No. 2 of 1978, it shall be lawful for the Attorney-General

to forward indictment directly to the High Court.

(2) The Attorney-General may in forwarding indictment

directly in terms of subsection (1) proceed to do so ex mero

motu or upon receipt of the relevant record from the

Magistrate.

Magistrate to 4. (1) Notwithstanding anything contained in the Code

forward record

of Criminal Procedure Act, No. 15 of 1979, where there are

to Attorney-

General. aggravating circumstances or circumstances that give rise to

public disquiet inconnection with the commission of an

offence, specified in the Second Schedule to the Judicature

Act, No. 2 of 1978, the Magistrate shall not hold a preliminary

inquiry in terms of Chapter XV of the Code of Criminal

Procedure Act, No. 15 of 1979 and shall forthwith forward

the record of the proceedings to the Attorney-General and

thereafter abide by the instructions of the Attorney-General.

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(2) Upon receipt of the record of the procedings by the

Magistrate in terms of subsection (1), the Attorney-General

shall–

(a) where he is of the opinion that there are

aggravating circumstances or circumstances

that give rise to public disquiet in connection

with the commission of the aforesaid offence,

forward indictment directly to the High Court;

(b) where he is of the opinion that the

circumstances do not warrant the forwarding

of direct indictment to the High Court, return

the record to the Magistrate within thirty days

of the receipt of the same and direct that a

preliminary inquiry be held in terms of Chapter

XV of the Code of Criminal Procedure Act, No.

15 of 1979.

(3) If the Magistrate proceeds to hold a preliminary inquiry

in terms of Chapter XV of the aforesaid Code, the Attorney-

General shall, call for the record of the proceedings, for the

purpose of considering the forwarding of indictment directly

to the High Court. In such an event the Magistrate shall

forthwith suspend proceedings and forward the record of the

proceedings to the Attorney-General and shall thereafter abide

by the instructions of the Attorney-General.

5. Any proceedings in terms of the provisions of this Act Proceedings to

shall be concluded within a period of ninety days from the be terminated

within ninety

date of the commencement of proceedings under Chapter

days.

XV of the Code of Criminal Procedure Act, No. 15 of 1979.

6. (1) Notwithstanding anything contained in Chapter Depositions.

XV of the Code of Criminal Procedure Act, No. 15 of 1979, in

the course of holding of an inquiry under the aforesaid

Chapter, the following provisions shall apply to the taking

of statements of persons who know the facts and circumstances

of the case.

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(2) Subject to the provisions of subsection (ii), the

Magistrate shall read out, or cause to be read out to every

witness produced against the accused, in the presence and

hearing of the accused, the statement made by the witness in

the course of the investigation conducted in terms of Chapter

XI of the Code of Criminal Procedure Act, No. 15 of 1979 and

shall ask the witness whether the statement is an accurate

record of what he had stated to the police.

(3) (a) If the witness states, in response to an inquiry made

of him under subsection (1), that the statement is an accurate

record of what he had stated to the police, the Magistrate

shall record that fact. The Magistrate shall permit the witness,

if the witness so desires, to make such additions or alterations

to his original statement. Every such addition or alteration

shall be recorded.

(b) The Magistrate shall not permit any cross-examination

of the witness by the accused or his pleader, but the Magistrate

may put to the witness, any clarification required by the

accused or his pleader of any matter arising from the statement

made by the witness in the course of the investigation or any

additions or alterations to his original statement if any, and

may put to the witness any clarification which the Magistrate

himself may require of any such matter. Every clarification

so made shall be recorded:

Provided that, having considered the nature of the material

contained in the statement of a witness made to the police,

the prosecution may tender the witness for cross-examination

by the accused or his pleader.

(4) The Magistrate shall thereafter read out or cause to be

read out to the witness, the statement made by the witness to

Court affirming the accuracy of the statement made by him

in the course of the investigation and the clarifications if any

made by him under subsection (2), and additions or alterations

to his original statement if any, made by him under subsection

(3), and shall require the witness to swear or affirm to the

truth of the matters recorded.

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(5) (a) If on the other hand, the witness states in response

to an inquiry made of him under subsection (1), that the

statement is not, in its entirety or in part, an accurate record

of what he had stated to the police, the Magistrate shall permit

the witness to give an account of the circumstances relating

to the offence, or as the case may be, to make such additions

or alterations to his original statement as the witness may

wish to make.

(b) The Magistrate shall not permit any cross-examination

of the witness by the accused or his pleader but the Magistrate

may put to the witness, any clarification required by the

accused or his pleader of any matter arising from the account

given, or additions or alterations made by the witness or may

put to the witness any clarification that the Magistrate himself

may rquire of any such matter:

Provided that, having considered the nature of the material

contained in the statement of a witness made to the police,

the prosecution may tender the witness for cross-examination

by the accused or his pleader.

(c) The Magistrate shall record the account given, or the

additions or alterations made by the witness under paragraph

(a) and any clarifiactions made by the witness under paragraph

(b) and read out the same or cause the same to be read out to

the witness and shall require the witness to swear or affirm to

the truth of the matter so recorded.

(6) Before a witness is produced against the accused, the

Magistrate shall permit the accused or his pleader to peruse

in open court, the statement made by that witness to the

Police in the course of the investigation.

(7) The Magistrate shall sign, and shall cause the witness

to sign a certified copy of the statement made by the witness

to the Police in the course of the investigation and cause the

same to be filed of record. The copy so filed shall for all

puposes form part of the record of the inquiry.

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(8) The Magistrate shall not summon an expert witness

or a police officer but shall cause the report of such expert

witness or the affidavit of such police officer, as the case may

be, to be produced and filed of record:

Provided that, the Magistrate may, for reasons to be

recorded and in the case of an expert witness, with the prior

sanction of the Attornery-General summon an expert witness

or police officer to be present in Court for examination.

(9) Where an expert witness or a police officer appears in

Court in response to summons issued on him under subsection

(8) the Magistrate shall not permit any cross-examination of

such expert witness or police officer by the accused or his

pleader but may put to such expert witness or police officer,

any clarifications that the accused or his pleader may require,

of any matter arising from the report of the expert witness or

the affidavit of the police officer, as the case may be, or from

the examination of such expert witness or police officer, as

the case may be and the Magistrate may himself put to the

witness any clarification that he may require of any such

matter. Every clarification so made shall be recorded.

(10) A statement made by an expert witness or police

officer and the deposition made by a witness tendered for

cross-examination under this section, shall be deemed to be

admissible in evidence in terms of section 33 of the Evidence

Ordinance (Chapter 14).

(11) (a) Where the accused—

(i) is absconding or has left the island; or

(ii) is unable to attend or remain in Court by

reason of illness and has consented either

to the commencement or continuance of

the inquiry in his absence, such inquiry

may commence or continue without

prejudice to him; or

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(iii) by reason of his conduct in Court is

obstructing or impeding the progress of the

inquiry,

the Magistrate may, if satisfied of these facts, commence and

proceed or continue with the inquiry in the absence of the

accused.

(b) An Attorney-at-Law may appear for such absent

accused.

(c) The inquiry shall proceed as far as is practicable

in accordance with the provisions of this Act

except that the provisions of section 416 of the

Code of Criminal Procedure Act, No. 15 of 1979

shall not apply to the depositions recorded

where there is a trial on indictment in the High

Court whether the accused is present in the High

Court or not.

(12) The statement made by a witness to the police in the

course of the investigation together with, his statement and

clarifications, if any, recorded under subsection (3) or the

additions, alterations and clarifications made and recorded

under subsection (4) or the account given and recorded

under subsection (5), shall be regarded for the purposes of

this Act, as the deposition of that witness.

(13) Every witness produced against the accused at the

inquiry shall be entitled to be represented by an Attorney-

at-Law.

(14) If after the conclusion of the procedure set out above,

the Magistrate does not consider that the case should be

dealt with in accordance with the provisions of section 153

of the Code of Criminal Procedure Act, No. 15 of 1979, the

Magistrate shall read the charge to the accused and explain

the nature thereof in ordinary language and inform him that

he has a right to call witnesses and, if he so desires to give

evidence on his own behalf.

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(15) The provisions of Chapter XV of the Code of

Criminal Procedure Act, No. 15 of 1979 shall mutatis

mutandis apply to any preliminary inquiry held under the

provisions of this Act.

Duration of the 7. (1) The provisions of this Act shall be in operation for

Act.

a period of two years commencing from the date of coming

into operation of this Act.

(2) The Minister may, at any time within one month prior

to the expiration of the period of operation of this Act, by

Order published in the Gazette, extend for a further period

the operation of the Act, so however that the aggregate period

of any one extension shall not exceed two years from the

date of the extension so granted.

(3) The Order made under subsection (2) shall be

operative when the signature of the Minister is affixed thereto

and every such Order shall be published in the Gazette.

(4) Every Order made under subsection (3) shall be placed

before Parliament within three months from the date of

publication of such Order in the Gazette.

(5) A notification specifying of the date on which

Parliament has approved the Order shall be published in the

Gazette.

Validation.

8. Where during the period commencing on May 31,

2009 and ending on the date of the coming into operation of

this Act, any power, duty or function was exercised,

performed or discharged by any person to whom such

power, duty or function was assigned by or under Criminal

Procedure (Special Provisions) Act, No. 42 of 2007, such

power, duty or function which was so exercised, performed

or discharged, shall, notwithstanding that the provisions of

the said Criminal Procedure (Special Provisions) Act, No. 42

of 2007 was not in operation during the that period, be

deemed to have been validly exercised, performed or

discharged, as if the said Act was in operation during such

period:

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Provided that, the aforesaid provisions of this section

shall not affect any decision or Order made by any Court in

respect of any detention made during the period within which

the said Act is so deemed to have been in operation.

9. In the event of any inconsistency between the Sinhala Sinhala text to

and Tamil texts of this Act, the Sinhala text shall prevail. prevail in case

of inconsistency.

Schedule

(Section 2)

Column I Column II

1. Abetment of an offence set out in

the Schedule, if the act abetted is

committed. Section 102-Penal Code

2. Conspiracy for the abetment or

commission of any offence set out

in the Schedule. Section 113B-Penal Code

3. Murder. Section 296-Penal Code

4. Culpable Homicide not amounting

to murder. Section 297-Penal Code

5. Attempt to commit murder. Section 300-Penal Code

6. Kidnapping or abduction to commit

murder. Section 355-Penal Code

7. Kidnapping or abduction with

intent to wrongfully confine a

person. Section 356-Penal Code

8. Kidnapping or abduction with

intent to wrongfully subject

person to grievous hurt. Section 358-Penal Code

9. Concealing or keeping in

confinement

a kidnapped person. Section 359-Penal Code

10. Rape. Section 364-Penal Code

11. Theft, preparation having being

made to cause death &c. Section 371-Penal Code

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12. Robbery with attempt to cause

death or grievous hurt. Section 383-Penal Code

13. Attempt to commit robbery when

armed with deadly weapon. Section 384-Penal Code

14. Attempt to commit any of the

above offences. Section 490-Penal Code

15. An offence committed with the Explosive as defined in the

use of explosives, an Explosives Act (Chapter

offensive weapon or a gun. 183); offensive weapon

as defined in the

Offensive Weapons

Act, No. 18 of 1966 and

a Gun as defined in the

Firearms Ordinance

(Chapter 182)

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