

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

—————————

ASSISTANCE TO AND PROTECTION OF

VICTIMS OF CRIME AND WITNESSES

ACT, No. 4 OF 2015

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[Certified on 07th March, 2015]

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Assistance to and Protection of Victims of 1

Crime and Witnesses Act, No. 4 of 2015

[Certified on 07th March, 2015]

L.D.— O. 46/2007.

AN ACT TO PROVIDE FOR THE SETTING OUT OF RIGHTS AND

ENTITLEMENTS OF VICTIMS OF CRIME AND WITNESSES AND THE

PROTECTION AND PROMOTION OF SUCH RIGHTS AND

ENTITLEMENTS; TO GIVE EFFECT TO APPROPRIATE INTERNATIONAL

NORMS, STANDARDS AND BEST PRACTICES RELATING TO THE

PROTECTION OF VICTIMS OF CRIME AND WITNESSES ; THE

ESTABLISHMENT OF THE NATIONAL AUTHORITY FOR THE

PROTECTION OF VICTIMS OF CRIME AND WITNESSES; CONSTITUTION

OF A BOARD OF MANAGEMENT; THE VICTIMS OF CRIME AND

WITNESSES ASSISTANCE AND PROTECTION DIVISION OF THE SRI

LANKA POLICE DEPARTMENT; PAYMENT OF COMPENSATION TO

VICTIMS OF CRIME; ESTABLISHMENT OF THE VICTIMS OF CRIME

AND WITNESSES ASSISTANCE AND PROTECTION FUND AND FOR

MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows :-

1. (1) This Act may be cited as the Assistance to and Short title.

Protection of Victims of Crime and Witnesses Act, No. 4 of

2015.

(2) The provisions of this Act, other than this section,

shall come into operation on such date or dates as the Minister

may appoint by Order published in the Gazette. Different

dates may be appointed by the Minister for the coming into

operation of different Parts of this Act.

PART I

OBJECTS OF THE ACT

2. The objects of this Act shall be to- Objects of the

Act.

(a) set out, uphold and enforce the rights and

entitlements of victims of crime and witnesses

and to provide for a mechanism to promote,

protect, enforce and exercise such rights and

entitlements ;

2—PL 008490—2,925 (09/2014)

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(b) provide assistance and protection to victims of

crime and witnesses ;

(c) enable victims of crime to obtain compensation

from persons convicted of having committed

offences against them ;

(d) provide for obtaining redress by victims of crime,

including restitution, compensation, reparation

and rehabilitation of such victims ;

(e) set out duties and responsibilities of the State,

judicial officers and public officers towards the

promotion and protection of the rights and

entitlements of victims of crime and witnesses ;

(f) stipulate offences that may be committed against

victims of crime and witnesses and the penal

sanctions that may be imposed on persons who

commit such offences ; and

(g) provide for the adoption and implementation of

best practices relating to the protection of victims

of crime and witnesses.

PART II

RIGHTS AND ENTITLEMENTS OF VICTIMS OF CRIME AND WITNESSES

Rights of 3. A victim of crime shall have the right :—

Victims of

Crime. (a) to be treated with equality, fairness and with respect

to the dignity and privacy of such victim ;

(b) where the victim is a child victim, to be treated in a

manner which ensures the best interests of such

child;

(c) in accordance with procedures as may be prescribed,

to receive prompt, appropriate and fair redress,

including reparation and restitution, for and in

consideration of any harm, damage or loss suffered

as a result of being a victim of a crime ;

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(d) to be appropriately protected from any possible

harm, including threats, intimidations, reprisals or

retaliations ;

(e) to be medically treated for any mental or physical

injury, harm, impairment or disability suffered as a

victim of a crime ;

(f) upon a request made by such victim, to be informed—

(i) by the Authority or the Division, of the legal

remedies available for the redress of any harm

which he has suffered including civil

remedies available for obtaining damages

and relevant periods of prescription

applicable thereto ;

(ii) without prejudice to any on-going

investigations being carried out by the

officer-in-charge of the relevant police station

or other authority conducting the

investigation, of the progress of the

investigation being conducted into the

complaint presented by the victim of crime,

to such police station or other authority

conducting the investigation ;

(iii) by the officer-in-charge of the relevant police

station or other authority conducting an

investigation, the Attorney-General or the

Registrar of the Court, as the case may be, of

the dates fixed for hearing and the progress

and the disposal of judicial proceedings

relating to the offence complained of by the

victim of crime, including the non-summary

inquiry, trial, appeal and application in

revision and by the Authority of the rights

and entitlements of the victim of crime

pertaining to such proceedings ;

(iv) by the officer-in-charge of the relevant

police station or other authority conducting

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an investigation, the Attorney-General, the

Registrar of the Court or the Superintendent

of Prisons, as the case may be, of the dates

fixed for the—

(a) release on bail ;

(b) discharge of the suspect ;

(c) institution of criminal proceedings

against the accused ;

(d) the conviction, sentence or acquittal

of the suspect or the accused; and

(e) the release from prison of the

convict, who has committed or is

alleged to have committed and

offence against the victim of crime

and the reasons therefore ; and

(v) by the Authority of the medical, social

services and any other assistance that is or

may be available for the treatment or

amelioration of any harm caused to such

victim of crime.

(g) to present, either orally or in writing, a complaint

pertaining to the commission of an offence and to

have such complaint recorded by any police officer,

in any police station or other unit or division of the

Police Department and to have such complaint

impartially and comprehensively investigated by the

relevant investigating authority;

(h) without prejudice to any on-going investigation, to

be represented by an Attorney-at-Law during an

investigation, including criminal and forensic

investigations and magisterial inquiries into the

alleged offence committed against such victim and

make necessary representations to the appropriate

competent authorities who are conducting such

investigations ;

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(i) without prejudice to any on-going or concluded

investigation, to obtain certified copies of Cause of

Death forms, Post Mortem Reports, Medico-Legal

Reports, Reports of the Registrar of Finger Prints,

Reports of the Government Analyst and any other

report of an expert and reports filed in the

Magistrate’s Court by the Police, as required by

sections 115, 116 and 120 of the Code of Criminal

Procedure Act :

Provided however, where an application is made

for the purpose of obtaining certified copies of

reports referred to in this paragraph, the Magistrate

to whom such application is made shall inquire from

the police, whether the issue of such Reports would

prejudice the on-going investigations, to which

those Reports relate and where the release of any

one or more of the Reports is likely to prejudice the

on-going investigation, the Magistrate shall refuse

the issue of such Report or Reports ;

(j) to present written communications or make

representations through legal counsel to the

Attorney-General, before, during and after the

investigation into the offence alleged to have been

committed against such victim, and before and during

the conduct of judicial proceedings, including at

the non-summary inquiry, trial and appeal ;

(k) to present written communications or make

representations through legal counsel to an

investigator, who is conducting an investigation into

the offence committed against such victim of crime,

and to be entitled to receive a response in regard to

such communications or representations made ;

(l) to be present at all judicial or quasi-judicial

proceedings relating to an offence, including at the

non-summary inquiry, trial, appeals and any

application in revision, unless the court, Commission

or other tribunal determines, for reasons to be

recorded that such victims evidence would be

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materially affected if he hears other evidence at such

proceedings or the due discharge of justice could

be secured only by the exclusion of such victim

from being present during the hearing of certain parts

of such proceedings ;

(m) to receive any assistance and information required

to attend and participate at judicial or quasi-judicial

proceedings pertaining to the offence committed

against him ;

(n) without prejudice to the prosecution, to be

represented by legal counsel at the several stages

of the criminal proceedings relating to the offence,

including at the non- summary inquiry, trial, appeal

and application in revision, and where a request is

made, to be provided where available with legal

assistance for such purposes ;

(o) following the conviction of the offender and prior to

the determination of the sentence, either personally

or through legal counsel, to submit to court the

manner in which the offence concerned had impacted

on his life, including his body, state of mind,

employment, profession or occupation, income,

quality of life, property and any other aspects

concerning his life ;

(p) in the event of an appeal or application in revision

being presented by a person convicted of having

committed an offence, either personally or through

legal counsel, to submit to court that adjudicates

upon such appeal or application in revision, the

manner in which the offence concerned had impacted

on his life, including his body, state of mind,

employment, profession or occupation, income,

quality of life and property and any other aspects

concerning his life ; and

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(q) in the event of any person in authority considering

the grant of a pardon or remission of sentence

imposed on any person convicted of having

committed an offence, to receive notice thereof and

submit through the Authority to the person granting

such pardon or remission, the manner in which the

offence committed had impacted on his life including

his body, state of mind, employment, profession or

occupation, income, quality of life, property and any

other aspects concerning his life.

4. (1) A victim of crime shall be entitled to receive a Entitlements of

a victim of

sum of money from the Authority, in consideration of the

crime.

expenses incurred as a result of the offence committed and

his participation in any judicial or quasi-judicial proceedings

before a court or Commission, pertaining to the alleged

commission of an offence or an alleged infringement of a

fundamental right or a violation of a human right.

(2) Where necessary resources are available with the State,

a victim of crime shall be entitled to claim and obtain from

the State any required medical treatment, including

appropriate medical services, medicine and other medical

facilities, in respect of physical or mental injury, harm,

impairment or disability suffered as a result of being a victim

of crime and for necessary rehabilitation and counseling

services.

(3) Where due to absence or lack of necessary resources

the State is unable to provide the services claimed by a

victim of crime under subsection (2), such victim shall be

entitled to apply to the Authority for financial assistance for

the purpose of obtaining the required medical treatment for

any physical or mental harm, injury or impairment suffered

as a result of being a victim of crime and for any necessary

rehabilitation and counseling services.

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Entitlements of 5. (1) A witness shall be entitled to receive from

witnesses.

investigational, quasi-judicial and judicial authorities fair and

respectful treatment, with due regard to the dignity and privacy

of such witness.

(2) A witness shall not be harassed or intimidated, coerced

or violated during or thereafter, due to or as a consequence

of-

(a) providing information relating to the commission of

an offence or to the infringement of any fundamental

right or the violation of any human right ;

(b) volunteering to make a statement during an

investigation into any offence or an investigation

or inquiry into the infringement of any fundamental

right or the violation of any human right ; or

(c) providing testimony in a court or before a

Commission relating to the alleged commission of

an offence or an alleged infringement of a

fundamental right or a violation of a human right.

(3) A witness shall be entitled to protection against any

real or possible harm, threat, intimidation, reprisal or retaliation

resulting from such witness having provided information or

lodged a complaint or made a statement to any law

enforcement authority or for having provided any testimony

in any Court or before a Commission or for instituting legal

proceedings, pertaining to the commission of an offence or

for the infringement of a fundamental right or for a violation

of a human right, by any person.

Persons to be 6. A person who is neither a victim nor a witness, shall

entitled to be entitled to claim protection against :

protection in

certain

circumstances. (a) any harassment, intimidation, coercion, violation or

suffering from loss or damage in mind, body or

reputation ; or

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(b) any adverse change to his condition of employment,

due to or as a result of such person having provided

information, lodged a complaint or made a statement to

any law enforcement authority or to any Court or

Commission or of having given a testimony in any Court

or before a Commission, pertaining to the commission of

an offence or an infringement of any fundamental right or

the violation of a human right, at such persons’ place of

employment or in the employment environment of such

person.

7. It shall be the duty of every public officer including Duty of public

the members of the armed forces and police officers and every and judicial

officers to

judicial officer, to recognize, protect and promote rights and respect etc.

entitlements referred to in sections 3, 4, 5 and 6 of this Act. rights and

entitlements.

PART III

OFFENCES AGAINST VICTIMS OF CRIME AND WITNESSES

8. (1) Any person who- Offences against

victims of crime

and witnesses.

(a) threatens a victim of crime or a witness with injury

to his person, reputation or property or to the

person or reputation or property of any other in

whom such victim of crime or witness has an

interest, with the intention of causing alarm to

such victim of crime or witness or to cause such

victim of crime or witness to refrain from lodging

a complaint against such person with a law

enforcement authority or testifying at any judicial

or quasi-judicial proceedings or to compel such

victim of crime to withdraw a complaint lodged or

legal action instituted against such person ; or

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(b) voluntarily causes hurt to a victim of crime or a

witness, with the intention of causing such victim

of crime or witness to refrain from lodging a

complaint against such person with a law

enforcement authority, or testifying at any judicial

or quasi-judicial proceedings or to compel such

victim of crime to withdraw a complaint lodged or

legal action instituted against such person, or in

retaliation for a statement made or testimony

provided by such victim of crime or witness in

any court of law or before a Commission, against

such person,

commits an offence, and shall on conviction by a High

Court, be sentenced to a term of imprisonment not

exceeding ten years and to a fine of rupees twenty

thousand.

(2) Any person who—

(a) voluntarily causes grievous hurt to a victim of

crime or a witness ; or

(b) wrongfully restrains a victim of crime or a

witness,

with the intention of preventing such victim of crime or

witness from lodging a complaint against such person

with a law enforcement authority or from testifying in

any judicial or quasi-judicial proceedings against such

person, or compelling such victim of crime or witness

to withdraw a complaint lodged or a legal action

instituted against such person, or in retaliation for a

statement made or testimony provided by such victim

of crime or witness in a Court of law or before a

Commission against such person, commits an offence,

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and shall on conviction by a High Court be sentenced

to a term of imprisonment not exceeding twelve years

and to a fine of rupees thirty thousand.

(3) Any person who—

(a) by force compels or by any deceitful means,

abuse of authority or by any other means of

compulsion, induces any victim of crime or a

witness to leave any place ; or

(b) intends to cause or knowing that he is likely to

cause wrongful loss, damage or destruction to

the property of a victim of crime or a witness,

causes such loss, damage or destruction to the

property of that victim of crime or witness,

with the intention of preventing such victim of crime

or witness from lodging a complaint or making any

statement against such person to a law enforcement

authority or testifying against such person in any

judicial or quasi-judicial proceedings or in retaliation

for a statement made to a law enforcement authority or

the testimony made against such person in any judicial

or quasi-judicial proceedings by such victim of crime

or witness, commits and offence, and shall on

conviction by the High Court be sentenced to a term

of imprisonment not exceeding twelve years and to a

fine of rupees thirty thousand.

(4) A person who causes—

(a) any harassment, intimidation, coercion, violation,

physical or mental suffering, loss or damage to

the reputation of another person ; or

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(b) an adverse change being made to the conditions

of employment in the place of employment of

such other person,

due to or as a result or consequence of such other

person having provided any information or lodged a

complaint or made a statement to any law enforcement

authority or to any Court or Commission or having

provided testimony in any Court or before a

Commission or instituted legal proceedings pertaining

to the commission of an offence or the infringement of

a fundamental right or the violation of human rights of

such person, commits an offence and shall on

conviction by the High Court be sentenced to a term

of imprisonment not exceeding seven years and to a

fine of rupees fifteen thousand.

(5) Any person who—

(a) having received information given for the

purpose of commencing or conducting an

investigation into an offence ;

(b) having gathered information in the course of

an investigation into an offence ; or

(c) having received such information referred to in

paragraphs (a) and (b) from any other person,

provides, issues or gives to a third person or

publishes or otherwise disseminates any such

information or part thereof regarding the identity

of the relevant victim of crime or a possible witness

or informant who provided such information and

thereby places the life of such victim of crime,

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witness or informant in danger, other than in good

faith and in accordance with or in compliance with—

(a) any provisions or procedures established by

law ;

(b) an order made by a judicial officer ; or

(c) a directive issued by a person duly

authorized to do so by or under any law,

commits an offence, and shall on conviction by

the High Court be sentenced to a term of

imprisonment not exceeding seven years and to

a fine of rupees fifteen thousand.

(6) Any person who is alleged, suspected or accused of

having committed an offence, offers, provides or gives any

gratification to any other person who is—

(a) intending or preparing to institute legal

proceedings against such person for having

committed such offence ; or

(b) likely to provide information or testimony against

such person to any law enforcement authority,

Commission or court,

with a view to preventing, discouraging or dissuading

such other person from instituting legal proceedings or

providing truthful information or testimony against such

first mentioned person who is alleged, suspected or

accused of having committed the offence, commits an

offence, and shall on conviction by the High Court be

sentenced to a term of imprisonment not exceeding seven

years and to a fine of rupees fifteen thousand.

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(7) Any person who with the intention of obtaining any

protection or assistance from the Authority, the police

including the Division, a Court or a Commission, provides

any information knowing or having reasonable grounds to

believe that such information is false, commits and offence,

and shall on conviction by the High Court be sentenced to a

term of imprisonment not exceeding seven years and to a fine

of rupees fifteen thousand.

(8) Any person who is in charge of or participating or

assisting in providing protection to a victim of crime or to a

witness or who otherwise is in possession of information

relating to the protection being afforded to a victim of crime

or a witness, provides, issues or gives to another person such

information and thereby places the life of such victim of

crime or witness in danger, other than in good faith and in

accordance with or in compliance with—

(i) any provisions or procedures established by law ;

(ii) an order made by a judicial officer ; or

(iii) a directive issued by a person duly authorized to

do so by or under any law,

commits an offence, and shall on conviction by the High

Court be sentenced to a term of imprisonment not

exceeding seven years and to a fine of rupees fifteen

thousand.

Attempting or 9. Any person who attempts to commit, instigates or

instigating the intentionally aids any other person to commit or engages in

commission of

an offence under any conspiracy for the commission of any offence referred

section 8, to be to in section 8, shall be guilty of an offence and shall on

an offence. conviction by the High Court be sentenced to the same

punishment provided for that offence, by that section.

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10. (1) (a) An offence under section 8 or 9 shall be An offence

cognizable and non-bailable and no person under section 8

suspected, accused or convicted of such and and 9 to be

cognizable and

offence shall be enlarged on bail, unless

non-bailable.

under exceptional circumstances by the Court

of Appeal.

(b) When enlarging a person on bail, the Court of

Appeal shall have the power to impose a

condition prohibiting communication with or

coming into close proximity with the person

in respect of whom the suspect is alleged to

have committed the offence, and with any

other persons who may be specified in the

order granting such bail.

(2) A trial against a person accused of having committed

any offence under section 8 or under section 9 shall be taken

up before any other business of that court and shall be held

on a day to day basis and not be postponed during the course

of such trial, except due to unavoidable circumstance which

shall be specifically recorded.

(3) If after an inquiry by a Court, it is found that there

exists prima-facie material to conclude that a person who at

the relevant point of time was on bail in respect of any offence

alleged to have been committed by him, has committed an

offence under section 8 or section 9, the bail granted to such

person by the Court which conducted the inquiry shall be

cancelled and such person shall be placed on remand till the

end of the trial in respect of the offence which he had been

enlarged on bail.

PART IV

ESTABLISHMENT OF THE NATIONAL AUTHORITY FOR THE

PROTECTION OF VICTIMS OF CRIME AND WITNESSES

11. (1) There shall be established an Authority which National

shall be called the National Authority for the Protection of Authority for

Victims of Crime and Witnesses (in this Act referred to as the the Protection

of Victims of

“Authority”).

Crime and

Witnesses.

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(2) The Authority shall, by the name assigned to it by subsection

(1), be a body corporate with perpetual succession and have a

common seal, and may sue and be sued in such name.

Board of 12. (1) The administration and management of the affairs

Management of of the Authority shall be vested in a Board of Management

the Authority.

(hereinafter referred to as the “Board”) which shall consist

of :—

(a) the following ex-officio members—

(i) the Secretary to the Ministry of the Minister

in charge of the subject of justice or an

Additional Secretary to the said Ministry,

nominated by such Secretary;

(ii) the Secretary to the Ministry of the Minister

in charge of the Police Department or an

Additional Secretary to the said Ministry,

nominated by such Secretary;

(iii) the Secretary to the Ministry of the Minister

in charge of the subject of Women’s Affairs

or an Additional Secretary to the said

Ministry, nominated by such Secretary;

(iv) the Secretary to the Ministry of the Minister

in charge of the subject of Children or an

Additional Secretary to the said Ministry,

nominated by such Secretary;

(v) a member of the Human Rights Commission

of Sri Lanka established by the Human

Rights Commission of Sri Lanka Act, No.21

of 1996, nominated by such Commission;

(vi) a nominee of the Attorney-General; and

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(vii) a nominee of the Inspector General of Police

holding the rank of a Senior Deputy

Inspector General of Police:

Provided that where the subjects specified

in sub-paragraphs (iii) and (iv) of this

paragraph are assigned to or remain in

charge of a single Minister, the Secretary to

the Ministry of that Minister alone shall be

eligible to become a member of the Board

under this paragraph;

(b) five appointed members, selected from among

persons who are academically or professionally

qualified and have experience in professions or

fields of professional activity associated with

criminology, the criminal justice system, the

promotion and protection of human rights or

medicine appointed by the President.

(2) The President shall, designate as the Chairman of the

Board, a member from among the members of the Board who

shall also be the chairman of the Authority.

(3) The provisions of the Schedule to this Act shall apply

to and in relation to the appointment of the members of the

Board, the meetings of the Board, remuneration payable to

the members and the seal of the Board.

13. (1) The duties and functions of the Authority shall Duties and

be to— functions of the

Authority.

(a) promote the recognition of and respect for the rights

of victims of crime;

(b) promote the recognition of and respect for the

entitlements of witnesses;

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(c) protect or cause to be protected the rights of victims

of crime and entitlements of witnesses;

(d) on receiving a complaint or any information

regarding an alleged infringement or imminent

infringement of any right or entitlement of a victim

of crime or a witness, investigate and inquire into

such alleged infringement or imminent infringement

and to require any relevant authority to take such

appropriate corrective measures in that regard, in

order to ensure the protection and promotion of the

rights and entitlements of victims of crime and

witnesses provided by this Act;

(e) provide necessary assistance to victims of crime

and witnesses, including appropriate measures for

their treatment, reparation, restitution and

rehabilitation;

(f) make an award for payment of compensation to a

victim and for that purpose develop and implement

a scheme for the grant of compensation to victims

of crime from the Victims of Crime and Witnesses

Assistance and Protection Fund established under

section 29 of this Act;

(g) create awareness among the public regarding the

rights and entitlements of victims of crime and

witnesses provided by this Act;

(h) advice and make recommendations to the Sri Lanka

Police Department and any other government

department, statutory institution and to public

officers, either generally or on a case by case basis,

on appropriate and specific measures that should

be adopted or implemented to give effect to the

rights and entitlements of victims of crime and witnesses

and in particular regarding the provision of—

(i) effective protection;

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(ii) necessary treatment, rehabilitation and

counseling; and

(iii) other appropriate assistance,

to victims of crime and witnesses.

(i) review existing policies, legislation and the

practices and procedures being adopted and

followed by various authorities, to ensure their

conformity with recognized standards and best

practices relating to the promotion and protection

of the rights and entitlements of victims of crime

and witnesses, and based on such review, to make

recommendations regarding the adoption,

amendment and application of appropriate policies,

legislation and practices;

(j) make available on request to any Court or a

Commission or any other person information on

best practices pertaining to the reception of

evidence of victims of crime or witnesses through

contemporaneous or near contemporaneous audio-

visual linkage;

(k) take measures to sensitize public officers involved

in the enforcement of the law, including officers of

the Sri Lanka Police, the Prisons Department,

government medical officers and public officers

associated with probation and social services, on

the needs of victims of crime and witnesses and on

any special needs of particular categories of victims

of crime, arising as a result of the harm inflicted or

possible harm that may be inflicted on them due to

their age, gender, religion, language, cultural beliefs

and practices, ethnic or social origins or disabilities

or any other reason;

(l) promote and ensure the observance and application

of codes of conduct and recognized norms and best

practices relating to the protection of the rights and

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entitlements of victims of crime and witnesses, by

Courts, Commissions, any other tribunals, public

officers and employees of statutory bodies involved

in the enforcement of the law, including officers of

the Sri Lanka Police, the Prisons Department,

government medical officers and officers of

government social service institutions;

(m) conduct or promote the conduct of research into

ways and means in which—

(i) incidents of crime can be reduced;

(ii) impact of specific crimes on victims could

be minimized or prevented;

(iii) victims of crime can be effectively treated,

rehabilitated, counseled, assisted,

compensated and protected;

(iv) a conducive environment could be

created for witnesses to make statements

before the law enforcement authorities or

to testify fearlessly at proceedings before

courts, any Commissions and other

tribunals; and

(v) assistance and protection could be

provided to victims of crime and

witnesses;

(n) recommend to appropriate government institutions,

social, health, educational, economic and crime

prevention policies that may be adopted by such

institutions for the reduction of incidents of crime

and for facilitating assistance and protection being

provided to victims of crime and witnesses;

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(o) promote the development, adoption and

implementation of measures of restitution to victims

of crime as a sentencing option in the criminal

justice system;

(p) promote the development and implementation of

measures of restorative justice as a method of

administering criminal justice and as a sentencing

option in the criminal justice system;

(q) develop, adopt and implement a scheme for

providing assistance and protection to victims of

crime and witnesses;

(r) issue guidelines pertaining to the establishment and

maintenance of the Victims of Crime and Witnesses

Assistance and Protection Division;

(s) present annually to Parliament, a report on the:—

(i) manner in which the Authority has given

effect to the objects of this Act;

(ii) performance and discharge of the duties

and functions of the Authority; and

(iii) proposals for necessary policy and

legislative reforms.

(t) do or perform any further functions and activities

that may be necessary to achieve the objects of this

Act.

(2) Where the Authority makes any recommendations to

any person or authority or requires any person or authority

to carry out any measures under subsection (1), it shall be

the duty of such person or authority:—

(a) to give effect to such recommendation or carry out

such measure and report back to the Authority of

such fact; or

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Crime and Witnesses Act, No. 4 of 2015

(b) where the person or the authority concerned is

unable to give effect to the recommendations or

carry out the measures, to report back to the

Authority of such inability, giving reasons for the

same.

(3) For the purpose of ensuring that any recommendations

or the measures are given effect to or carried out adequately

and in a proper manner by the person or authority concerned

under paragraph (a) of subsection (2), the Authority shall

monitor all activities performed by such person or authority

in giving effect to the recommendations or carrying out the

measures concerned.

Powers of the 14. (1) The Authority shall have the power—

Authority.

(a) for the purpose of conducting an

investigation or an inquiry into an alleged or

an imminent infringement of a right or

entitlement of a victim of crime or witness,

to:—

(i) require any person other than a

judicial officer or a Commissioner

of a Commission to appear before

the Authority and to participate in

an investigation or inquiry;

(ii) require any person other than a court

or a Commission, to produce before

the Authority any document, a

certified copy thereof or other

material in his or its possession or

custody, including the reports of

investigations, information book,

extracts and officers visiting book

extracts of the police, for examination

and copying;

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(iii) require any person other than a court

or a Commission to provide to the

Authority in writing, any

information which it or he is likely

to possess;

(iv) interview and record the statement

of any person other than that of a

judicial officer or a Commissioner

of any Commission;

(v) make an application to any court or

Commission and be entitled to

obtain certified copies of any

proceedings of any case, action or

other proceedings of such Court or

Commission and documents and

other material that may be filed of

record in a case record or a file of

such court or Commission;

(vi) enter into, inspect, examine or

observe and record any event,

location or process taking place in

any place, including an

investigation, inquiry, trial or other

proceeding;

(vii) make an appropriate order and to

direct, advice or recommend the

adoption of such measures for the

promotion or protection of the rights

and entitlements of the victim of

crime or a witness or for remedying

any damage caused as a result of the

infringement of the rights or

entitlement of the relevant victim of

crime or the witness;

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(b) acquire, hold, take or give on lease or hire,

mortgage, pledge, sell or otherwise dispose

of any movable or immovable property;

(c) enter into such contracts as may be necessary

for the performance and discharge of it’s

duties and functions;

(d) invest monies lying to the credit of its Fund

in an appropriate and secure manner and open

and maintain current, savings or deposit

accounts in banks;

(e) appoint, dismiss and exercise disciplinary

control over officers, consultants and advisors

as may be necessary for the proper

performance and discharge of it’s duties and

functions;

(f) subject to the provisions of section 24(3).

solicit, accept and receive donations, gifts,

bequests and grants from sources within or

outside Sri Lanka and to apply the same for

the proper discharge of it’s duties and

functions;

(g) exercise all such other and further powers as

may be necessary for the proper performance

and discharge of it’s duties and functions

under this Act.

(2) Any person who fails to comply with any requirement

imposed by the Authority under paragraph (a) of subsection

(1) shall be guilty of an offence of contempt of the Authority.

(3) Every offence of contempt committed against the

Authority shall be punishable by the Supreme Court as

though it were an offence of contempt committed against the

authority of that Court and the Supreme Court is hereby

vested with jurisdiction to try every such offence.

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(4) Where the Authority determines that a person is guilty

of an offence of contempt under subsection (2), against the

Authority, the Authority may transmit to the Supreme Court,

a certificate setting out such determination. Every such

Certificate shall be signed by the chairman of the Authority.

(5) In any proceedings for the punishment of an offence

of contempt which the Supreme Court may think fit to take

cognizance of, as provided in this section, any document

purporting to be a certificate signed and transmitted to the

Court under subsection (4) 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 evidence that the determination set out in the

certificate was made by the Authority and of the

facts stated in the determination.

(6) In any proceeding taken as provided in this section

for the punishment of any alleged offence of contempt

against the Authority no member of the Authority shall,

except with his own consent and notwithstanding anything

to the contrary in this Act, be summoned or examined as a

witness.

15. (1) There shall be a Director-General of the Authority Appointment of

who shall be a person professionally qualified and Director-

General.

experienced in professional activity associated with the

criminal justice system or law enforcement.

(2) The Director-General shall be appointed by the Board.

(3) The Director-General shall be the chief executive officer

of the Authority and shall be responsible for carrying out all

such duties necessary for the management and administration

of the affairs of the Authority.

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Crime and Witnesses Act, No. 4 of 2015

(4) The Board may delegate to the Director-General any of

the duties and functions of the Authority and such of its

powers as may become necessary, to perform and discharge

the duties and functions so delegated.

Investigations 16. (1) An investigation by the Authority into any

and Inquiries. complaint or information regarding an alleged infringement

or imminent infringement of a right or entitlement of a victim

of crime or of a witness, shall be carried out on its behalf by

an officer of the Authority, nominated by the Authority who

shall submit the report of such investigation including the

notes of such investigation to the Board.

(2) (a) where the Board is of the opinion that such

report discloses an alleged infringement or

imminent infringement of a right or

entitlement of a victim of crime or of a

witness, the Board shall appoint a Panel

consisting of three members of the Board,

elected by the members from among

themselves to conduct an inquiry;

(b) the Board shall nominate one of the members

of the Panel to be its Chairman.

(3) The provisions of sub-paragraphs (i) to (iv) of

paragraph (a) of section 14 shall apply to and in respect of

the conduct of an inquiry by a Panel.

(4) In the case of a division of opinion among the

members of the Panel regarding any matter being inquired

into by it, the opinion of the majority shall prevail.

(5) At the conclusion of an inquiry under this section,

the Panel shall submit to the Board a report on the same,

along with its recommendations on the matter inquired into.

(6) On receipt of the report of a Panel, the Board shall take

such action on the same as to it shall deem fit and appropriate.

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Crime and Witnesses Act, No. 4 of 2015

17. In the conduct of an inquiry under this Act, the panel Director-

may be assisted by the Director-General. General to assist

in the inquiry.

18. (1) The Authority shall have its own Fund. Fund of the

Authority and

(2) There shall be credited to the Fund of the Authority:— its financial

year.

(a) all such sums of money as may be voted from

time to time by Parliament for the use of the

Authority; and

(b) all such sums of money as may be received by

the Authority by way of donations, gifts,

bequests and grants from sources within or

outside Sri Lanka.

(3) All sums of money required to defray expenditure

incurred by the Authority in the exercise and performance

of its duties and functions under this Act, shall be paid out

of the Fund of the Authority.

(4) The Board shall cause proper accounts to be kept of

the receipts and expenditure, assests and liabilities and all

other transactions of the Authority.

(5) The financial year of the Authority shall be the

calendar year.

PART V

VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND PROTECTION

DIVISION.

19. (1) The Inspector General of Police shall, in Victims of Crime

consultation with and following such guidelines as shall be and Witnesses

issued by the Authority for the purpose, establish and Assistance and

Protection

maintain a Division to be called the ‘Victims of Crime and

Division.

Witnesses Assistance and Protection Division’ (in this Act

referred to as the “Division”), for the purpose of providing

assistance and protection to victims of crime and witnesses.

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Crime and Witnesses Act, No. 4 of 2015

(2) A Senior Superintendent of Police, who comes under

the supervision of the nominee of the Inspector General of

Police appointed as a member of the Board referred to in

section 12(1) (a) (vii) shall be placed in charge of the

Division.

(3) The duties of the Division shall be to—

(a) provide effective and necessary protection to

victims of crime and witnesses ; and

(b) investigate by itself or with the assistance of any

other police officer, into, complaints, allegations or

information pertaining to threats, reprisals,

intimidations, retaliations or any harm, harassment,

coercion or violation being committed on victims

of crime and witnesses and their property and any

offence committed under section 8 or section 9 of

this Act.

Victims of Crime 20. (1) The Division shall draw up and implement in

and Witnesses

compliance with the guidelines issued by the Authority for

Assistance and

Protection that purpose, a ‘Victims of Crime and Witnesses Assistance

programme. and Protection Programme’ which shall provide for taking

effective measures necessary to assist and protect victims of

crime and witnesses, from potential or existing threats, harm,

reprisals, retaliations and intimidations.

(2) It shall be the duty of the Division to take all such

steps as may be necessary to create awareness among the

public about the Victims of Crime and witnesses Assistance

and Protection Programme drawn up by it under subsection

(1), including what action may be taken by a victim of crime

or a witness in the event of facing any threat, harm, reprisal,

retaliation, intimidation and the manner in which victims of

crime or witnesses may apply for and obtain assistance and

protection under such Programme.

Assistance to and Protection of Victims of 29

Crime and Witnesses Act, No. 4 of 2015

(3) The Division may undertake the admission of a victim

of crime or witness into its Victims of Crime and Witnesses

Assistance and Protection Programme, on:—

(a) a request made by a victim of crime or a witness;

(b) a recommendation made by the Authority;

(c) a report submitted by any law enforcement

Authority or a public officer; or

(d) a notification received from a court or a

Commission.

(4) The provision of assistance and protection to a victim

of crime or witness shall be effected by the Division after the

conduct of a threat assessment and with the consent of the

victim of crime or witness concerned.

(5) Prior to the implementation of the Victims of Crime

and Witnesses Assistance and Protection Programme, the

Division may require the victim of crime or witness

concerned, to enter into a memorandum of understanding

with the Division.

PART VI

ENTITLEMENT OF A VICTIM OF CRIME OR WITNESS TO OBTAIN

PROTECTION

21. (1) A victim of crime or a witness who has Duty to provide

reasonable grounds to believe that any harm may be inflicted protection to

victims of crime

on him due to his cooperation with, or participation in, any and witnesses.

investigation or inquiry into an offence or into the

infringement of a fundamental right or the violation of a human

right being conducted or his intended attendance at or

participation in any judicial or quasi-judicial proceeding, shall

be entitled to seek protection from such real or anticipatory

harm.

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Crime and Witnesses Act, No. 4 of 2015

(2) A request for protection under subsection (1), may be

made to the Authority, the Division, a Court before which the

relevant judicial proceedings are scheduled to commence or

where proceedings are pending or have been conducted, to a

Commission or to the officer-in-charge of any police station.

Nature, 22. (1) Upon a consideration of the need for protection,

commencement, the availability of necessary resources and subject to the

duration and

termination of prevailing laws, the measures that the Authority, the Division

the grant of or a Commission, may provide to a victim of crime or a witness

protection. may include—

(a) security to the person and property;

(b) temporary accommodation including shelters;

(c) permanent re-location with the consent of the victim

of crime or witness as the case may be;

(d) temporary or permanent employment;

(e) re-identification;

(f) any other measure which the Authority, the

Division or a Commission, shall consider necessary.

(2) The Authority, the Division or a Commission, may

provide protection to any victim of crime or any witness

immediately upon the receipt of any information or

complaint from such person, whether during or after the

conduct of a criminal investigation, before, during or after

any investigation or inquiry by a Commission and before,

during or after any judicial proceedings.

(3) When providing protection or assistance to any victim

of crime or witness, the Division shall act in accordance

with the advice and recommendations made by the Authority.

Assistance to and Protection of Victims of 31

Crime and Witnesses Act, No. 4 of 2015

(4) Where a request is made by the Division to any

Ministry, Government Department, statutory institution or

any public officer for assistance in providing protection or

assistance to any victim of crime or a witness, it shall be the

duty of such Ministry, Government Department or statutory

institution or such public officer, unless unable to do so for

reasons assigned, to provide the protection or assistance

directly to the victim of crime or the witness concerned or to

provide the assistance requested for by the Division.

(5) The Authority, the Senior Superintendent of Police in

charge of the Division or a Commission shall cease to provide

protection or assistance to any victim of crime or witness,

where—

(a) the need for such protection or assistance no longer

exists; or

(b) such victim of crime or witness—

(i) requests that such protection or assistance

be terminated;

(ii) refuses to receive such protection or

assistance;

(iii) abuses the protection or assistance granted;

(iv) commits any breach of the peace or commits

an indictable offence;

(v) acts contrary to the terms of the memorandum

of understanding entered into; or

(vi) is found to have provided any false

information, statement, complaint or

testimony in order to obtained protection or

assistance or having obtained assistance or

protection in terms of this Act, provides false

information, statement, complaint or

testimony to any law enforcement Authority,

Court or Commission.

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Crime and Witnesses Act, No. 4 of 2015

Officer in charge 23. An officer-in-charge of a police station who is in

of a police receipt of a request made under section 21, shall take

station to take

necessary steps necessary steps to forthwith investigate or inquire into the

on receipt of a request received and if circumstances so require,

request by a immediately provide any necessary protection and

victim of crime

communicate the receipt of such request and information

or a witness.

pertaining to action taken by him following the receipt of

such request, including his findings pertaining to the

information received, to the Authority and to the Division.

Authority or a 24. (1) With the view to protecting the interests of

Commission to vulnerable victims of crime or witnesses under exceptional

protect

vulnerable circumstances, the Authority may, either acting on a

victims and notification received from a Court or from a Commission or

witnesses. on its own motion, by itself or with the assistance of any

designated public officer or any other person or organization,

directly provide protection to such a victim of crime or a

witness.

(2) (a) With the view to protecting the interest of

vulnerable victims of crime or witnesses, a

Commission may, after prior notice to the

Authority, acting on a request by a victim of a

crime or a witness or on its own motion by

itself or with the assistance of any designated

public officer, directly provide protection to

such a victim of crime or a witness, whose

statement or testimony the Commission intends

to record or has already recorded.

(b) In the situation referred to in paragraph (a), the

Division shall provide protection to the victim

of crime or witness, only with the prior approval

of the Commission concerned and after the issue

to the Authority of a notice pertaining to the

same.

Assistance to and Protection of Victims of 33

Crime and Witnesses Act, No. 4 of 2015

(c) In a situation where a Commission decides by

itself or with the assistance of a designated

public officer to provide protection to a victim

of crime or witness, the Commission shall not

obtain for such purpose the advice, services or

assistance, including resources, from any

person other than a public officer:

Provided however, the Commission may at

any time transfer the responsibility of

providing protection to such a victim of crime

or a witness, to either the Authority or the

Division, and where the responsibility is so

transferred, it shall be the duty of the Authority

or the Division, to undertake to provide the

necessary protection to such a victim of crime

or witness.

(3) The Authority, the Division or a Commission shall

not solicit or obtain any assistance from any foreign

government or national, foreign or international

organization, in providing assistance or protection to a

victim of crime or a witness, without the prior sanction of

the Attorney-General and the Secretary to the Ministry of

the Minister in charge of the subject of Foreign Affairs the

grant of which shall be considered and decided upon by the

Attorney-General and such secretary as expeditiously as

possible.

25. (1) A Court or a Commission which has reasonable Protection to be

grounds to believe that a victim of crime or a witness in any prescribed by

Courts and

judicial or quasi-judicial proceeding before such court or

Commissions.

before such Commission, requires assistance or protection

from harm, threat, reprisal, retaliation or intimidation or

assistance to attend and participate in such judicial or quasi-

judicial proceedings, such Court or the Commission shall,

subject to the provisions of subsection (2), take all necessary

steps to cause such assistance and protection to be provided

to such victim of crime or witness.

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Crime and Witnesses Act, No. 4 of 2015

(2) The protection and assistance that may be provided to

any victim of crime or witness under subsection (1), shall not

cause any prejudice to the rights and entitlements of the

person suspected or accused of the offence concerned or the

infringement of the fundamental right or the violation of the

human right, of the victim of crime or witness concerned.

(3) The protection and assistance that may be provided

under subsection (1), may include:—

(a) the adoption of special measures to protect the

rights of children and to ensure the best interests of

child victims of crime and child witnesses.

(b) the conduct of either the entirety or part of the

judicial or quasi- judicial proceedings in camera;

(c) the adoption of measures necessary to prevent the

victim of crime or the witness concerned from being

unnecessarily harassed, intimidated, coerced,

violated or influenced by seeing the accused present

at the venue of the trial or inquiry;

(d) the prevention of the identity of and the background

information pertaining to the victim of crime or the

witness from being disclosed; and

(e) the adoption of appropriate measures to prevent

disclosure of the identity and the entirety or part of

the testimony of such victim of crime or witness, to

persons other than the accused concerned and his

legal representative. The measures adopted shall

include the power to direct media institutions, media

personnel and other specified persons from

publishing, broadcasting, telecasting or otherwise

disseminating information pertaining to the

identity of the victim of crime or the witness

concerned.

Assistance to and Protection of Victims of 35

Crime and Witnesses Act, No. 4 of 2015

(4) Notwithstanding the provisions of subsection (1), a

Court or a Commission may by a notification issued in that

behalf, request the Authority or the Division to provide to a

victim of crime or a witness the protection referred to therein.

On receipt of such a request, it shall be the duty of the

Authority or the Division to take all necessary measures to

provide the protection requested for to the victim of crime

or the witness concerned, where after conducting any

necessary inquiries it is of the view that the need to provide

such protection, is well founded.

26. A law enforcement authority or any public officer, Protection to be

who has reasonable grounds to believe that a victim of crime provided by law

enforcement

or a witness requires assistance or protection from any

authorities and

possible harm, threat, reprisal, retaliation or intimidation in public officers.

attending and participating in any judicial or quasi-judicial

proceedings, such law enforcement authority or the public

officer shall forthwith issue a communication to that effect

to the Authority and to the Division.

27. (1) Any victim of crime or a witness who has received Duties of victims

any assistance or protection under this Act, shall not— of crime and

witnesses

receiving

(a) abuse such assistance or protection granted; protection and

assistance.

(b) provide false information or testimony to any

investigating agency, a Court or a Commission; or

(c) act contrary to the terms of the memorandum of

understanding entered into with the Authority, the

Division or the Commission, which provided the

assistance or protection concerned.

(2) Where a victim of crime or witness acts in

contravention of the provisions of subsection (1), any officer

or authority who or which provided assistance or protection

under this Act to such victim of crime shall discontinue the

assistance or protection provided to such victim of crime or

witness under this Act.

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Crime and Witnesses Act, No. 4 of 2015

PART VII

COMPENSATION

Compensation. 28. (1) Notwithstanding anything to the contrary in the

Judicature Act and the Code of Criminal Procedure Act, every

High Court and every Magistrate’s Court may upon

conviction of a person by such Court, in addition to any

penal sanction that may be imposed on such person in respect

of the offence for which he is convicted, order the convicted

person to pay to Court—

(a) (i) an amount not exceeding one million rupees

to be paid as compensation to the victim of

crime or witness concerned; or

(ii) a sum of money not exceeding twenty per

centum of the maximum fine payable for that

offence; or

(b) both the compensation and the sum of money

referred to in paragraph (a).

(2) Prior to arriving at a determination on the quantum of

compensation to be imposed under sub paragraph (i) of

paragraph (a) of subsection (1), the High Court or the

Magistrate’s Court shall call for, examine and consider:—

(a) all relevant information relating to the victim of crime,

including the report of the Government Medical

Officer who has examined the victim, that may enable

the Court to determine the nature and the extent of

the damage, loss or harm that the victim of crime

may have suffered as a result of being subjected to

the offence the person convicted of had been

charged with;

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Crime and Witnesses Act, No. 4 of 2015

(b) representations or submissions made by the victim

of crime or his legal representative, relating to the

impact of the crime on such victim; and

(c) information pertaining to any compensation that

may have already been paid to such victim of crime

by any court, by the Authority or otherwise received

by him from any other source.

(3) The presiding Judge of the High Court or the

Magistrate shall, remit the money paid under:—

(a) sub paragraph (i) of paragraph (a) of sub section (1)

as compensation to the victim of crime concerned

or to his next of kin or dependents;

(b) sub paragraph (ii) of paragraph (a) of sub section

(1) to the Victims of Crime and Witnesses Assistance

and Protection Fund established under section 29

of this Act;

(c) paragraph (b) of subsection (1), in the

corresponding manner provided in paragraph (a)

and (b) of this subsection.

(4) In the event of a person convicted of failing to make

any payments imposed under subsection (1), the Presiding

Judge of the High Court or the Magistrate shall, determine

and pronounce a default term of imprisonment the convict

shall be required to serve, in lieu of the non-payment of such

sums of money:

Provided that, where the Presiding judge of the High Court

or the Magistrate upon inquiry is satisfied that the person

convicted does not have necessary financial resources to

make the payment imposed under subsection (1), such

Presiding Judge or the Magistrate shall, enter a community

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Crime and Witnesses Act, No. 4 of 2015

based correction order and where such an order is entered,

the provisions relating to community based correction orders

contained in the Community Based Corrections Act, No. 46

of 1999, shall mutatis mutandis, apply in regard to that order.

(5) The receipt of compensation by a victim under

subsection (1)(a) (i) of this section shall not prejudice such

victim from claiming damages in any civil proceedings,

provided that when determining the quantum of damages to

be awarded, such civil court shall take into consideration the

compensation received by such victim, under subsection

(1)(a) (i) of this section.

Victims of Crime 29. (1) There shall be a fund called the Victims of Crime

and Witnesses and Witnesses Assistance and Protection Fund (hereinafter

Assistance and referred to as the “Protection Fund”).

Protection Fund.

(2) The Protection Fund shall be administered and

managed by the Board.

(3) There shall be paid into the Protection Fund—

(a) all such sums as may be voted by the parliament for

such Fund;

(b) all such sums as may be received by the Authority

to be remitted to the Protection Fund by way of any

gift, donation, contribution, bequest and grant from

any local or foreign sources; and

(c) all such monies remitted by a Court under subsection

(1)(a) (ii) of section 28 :

Provided that any money collected by a Court in

the form of a fine, shall not be remitted to the

Protection Fund.

(4) There shall be paid out of the Protection Fund all such

sums as may be determined by the Board for the payment

of—

(a) compensation to victims of crime for any physical

or mental harm or loss or damage to property;

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(b) compensation to dependent family members,

dependent next of kin and any other person

dependent on a victim of crime who had died or

been physically or mentally incapacitated as a result

of being a victim of crime.

(5) The Director-General shall be the principal accounting

officer of the Protection Fund and shall cause proper accounts

to be kept of the income and expenditure and assets and

liabilities of such Fund.

(6) The financial year of the Protection Fund shall be the

calendar year.

30. (1) A victim of crime shall be entitled to apply to Entitlement to

the Authority— apply for

compensation

and assistance.

(a) for the payment of compensation in respect of any

physical or mental injury or impairment caused and

for any loss or damage to property, suffered as a

result of being a victim of a crime; and

(b) for the payment of monies required to obtain

medical treatment or rehabilitation or counseling

services, in relation to any physical or mental injury

or impairment suffered by such victim as a result of

being a victim of crime.

(2) In determining whether compensation should be paid

to a victim of crime who makes an application under subsection

(1), the Authority shall take into consideration any sum of

money already received by such victim of crime as

compensation under section 28 or received by him on an

order made by any Court or otherwise received by him from

any other source.

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(3) Where any compensation or expense is paid to a victim

of crime under subsection (1) prior to an award being made

by a Court for the payment of compensation to such victim of

crime, the payment made by the Authority under subsection

(1) shall be deemed to be an interim relief being granted to

such victim of crime, pending the award of compensation by

a Court.

(4) In the grant of compensation and any expenses to a

victim of crime under subsection (1) of this section, it shall be

the duty of the Authority to comply with the requirements of

any regulation that may be made in that behalf.

PART VIII

TESTIMONY THROUGHAUDIO-VISUALLINKAGE

Recording of 31. (1) Notwithstanding anything to the contrary in

evidence or any other law a Court conducting an identification parade, a

statement

through non summary inquiry or any other inquiry or a trial, or a

contempor- Commission conducting an investigation or inquiry or any

aneous audio- law enforcement authority conducting an investigation,

visual linkage.

may, if it be in the best interest of justice and is found

necessary:—

(a) as a measure of protection to be afforded to a victim

of crime or witness; or

(b) on grounds of expediency,

Record any evidence or a statement of such victim of

crime or witness, by securing such testimony or statement

without his personal attendance before such Court,

Commission or law enforcement authority through

technical means by which contemporaneous or near

contemporaneous audio-visual linkage between the

Court, the Commission or the law enforcement authority,

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and any other location (hereinafter referred to as the

“remote location”) within Sri Lanka, from where such

person testifies or makes the statement, could be

established.

(2) Subject to the provision of section 32 the Court, the

Commission or the law enforcement authority shall, prior to

the reception and recording of the testimony or statement in

terms of subsection (1), satisfy itself that the audio-visual

linkage concerned is technically accurate and reliable and a

judicial officer or a public officer designated by the Court, the

Commission or the law enforcement authority concerned is

present at such remote location, from where the victim of

crime or witness seeks to testify or make the statement.

(3) Prior to commencing the reception and recording of

the testimony or statement of the victim of crime or witness

from the remote location designated under subsection (2),

the Court, the Commission or the law enforcement authority

concerned shall, on the recommendation of the Attorney-

General and the Secretary to the Ministry of the Minister

and subject to the provisions of section 32, obtain from the

Authority financial and other resources necessary for the

establishment and the functioning of the relevant audio-

visual linkage.

(4) For the purposes of this section “Court” means a Court

before which any criminal proceedings are being conducted.

32. (1) (a) Where the Attorney-General and the Authority not

Secretary to the Ministry of the Minister required to

provide

recommends, that :-

assistance under

section 31 in

(i) it is not in the national interest certain

including national security, to circumstances.

obtain the testimony or statement

of the victim of crime or witness

concerned from the remote

location ;

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(ii) it would not be feasible to secure

the testimony or the statement of

the relevant victim of crime or

witness from the remote location,

identified under subsection (1) of section

31, the Attorney-General shall convey

his opinion to the Court, Commission or

the law enforcement authority

concerned.

(b) Where the Attorney-General is of the

opinion that it would be in the interest of

justice to secure such testimony or

statement from any other appropriate

alternate remote location, the Attorney-

General may recommend to the court, the

Commission or the law enforcement

authority of such alternate location.

(2) (a) Where the Attorney-General has expressed an

opinion that the recording of evidence or the

securing of a statement of any victim of crime

or witness from a particular remote location is

inappropriate, the Court, the Commission or law

enforcement authority concerned, shall not

proceed to receive and record the testimony or

statement of the relevant victim of crime or

witness through contemporaneous audio-

visual linkage from such remote location, and

consequently the Authority shall not be

required to provide any necessary assistance

and financial or other resources to the Court,

the Commission or the law enforcement

authority under subsection (3) of section 31.

(b) where the Court, the Commission or the law

enforcement authority, decides to change the

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remote location to the location recommended

by the Attorney-General under subsection (1),

such Court, Commission or the law enforcement

authority, may proceed to obtain the assistance

of the Authority under subsection (3) of section

31.

33. (1) A Court or a Commission intending to record Procedure in

the testimony of a victim of crime or witness under the recording

provisions of section 31, shall initially cause the statement testimony or

to be recorded and serve such statement on the Attorney- statement.

General, the victim of crime or witness and on any person

whose legal rights may be affected by such testimony or on

their legal representatives and issue not less than thirty days

notice, to all such parties concerned, of the scheduled date

of recording of the testimony of the victim of crime or witness

concerned.

(2) The judicial officer or the person designated by a Court

or Commission under subsection (2) of section 31, to be

present at the remote location concerned from which the victim

of crime or witness proposes to testify or make the statement,

shall be required to make his observations, where necessary

by interviewing the victim of crime or witness concerned and

any other relevant person and submit a report to the Court or

the Commission containing such matters as may be

prescribed.

(3) The Court or the Commission shall upon considering

the contents of the report submitted under subsection (2),

and any other relevant material before such court or

Commission, reach its decision as to whether it would be in

the best interests of justice to receive the evidence or

statement concerned given through such contemporaneous

audio-visual linkage, and on the admissibility and use of

such evidence or statement recorded.

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Receiving or 34. No Court, Commission or law enforcement authority

recording shall receive or record the testimony or statement of any

testimony

victim of crime or witness through contemporaneous audio-

through audio-

visual linkage to visual linkage, save and except in accordance with

be according to requirements laid down for the same by the provisions of

this part. this part of this Act.

PART IX

GENERAL

Interference in 35. Any person who without lawful authority interferes

the discharge of or obstructs or attempts to interfere or obstruct any Court,

duties etc. Commission, Authority, Board, Division or any public or

judicial officer, in the exercise, discharge or performance of

any power, function or duty, under this Act, shall be guilty

of an offence under this Act and shall on conviction by the

High Court be liable to a term of imprisonment not exceeding

seven years and to a fine not exceeding rupees twenty

thousand.

Secrecy. 36. (1) Unless it becomes necessary for the purposes of

giving effect to the provisions of this Act, no person shall in

any judicial or quasi-judicial proceedings, be compelled to

divulge whether a victim of crime or a witness is receiving

or has received assistance or protection under this Act.

(2) No person shall otherwise than for the purpose of

giving effect to the provisions of this Act or in compliance

with the provisions of any other law, divulge to any other

person whether a victim of crime or a witness is receiving or

has received assistance or protection under this Act.

Assessment of 37. In assessing the credibility of a testimony given by

credibility of a a victim of crime or witness in any Court or Commission, the

testimony.

fact that a victim of crime or a witness is receiving or has

received any assistance or protection under this Act, shall

not be relevant.

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38. The provisions of this Act shall have effect Provisions of

notwithstanding anything to the contrary in any other written this Act to

law and accordingly, in the event of any conflict or prevail over

other laws.

inconsistency between the provisions of this Act and such

other written law, the provisions of this Act shall prevail.

39. (1) The provisions of Article 154 of the Constitution Audit of

relating to the audit of the accounts of public corporations Accounts.

shall apply to and in relation to the audit of the accounts of

the Fund of the Authority and the Protection Fund.

(2) The provisions of Part II of the Finance Act, No. 38 of

1971 shall mutatis mutandis apply to the financial control

and accounts of the Funds referred to in subsection (1).

40. (1) At the request of the Authority, any officer in the Appointment of

public service may, with the consent of that officer, the public officers to

the staff of the

Secretary of the Ministry by or under which that officer is

Authority.

employed, and the Secretary to the Ministry of the Minister

in charge of the subject of Public Administration, be

temporarily appointed to the staff of the Authority for such

period as may be determined by the Authority or with like

consent be permanently appointed to the staff of the

Authority.

(2) Where any officer in the public service is temporarily

appointed to the staff of the Authority the provisions of

subsection (2) of section 14 of the National Transport

Commission Act, No. 37 of 1991 shall, mutatis mutandis,

apply to and in relation to him.

(3) Where any officer in the public service is permanently

appointed to the staff of the Authority, the provisions of

subsection (3) of section 14 of the National Transport

Commission Act, No. 37 of 1991 shall, mutatis mutandis,

apply to and in relation to him.

(4) Where the Authority 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

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period of service to the Authority by that person shall be

regarded as service to the Government for the purpose of

discharging the obligations of such contract.

Officials of the 41. Members of the Board, the Director-General and all

Authority other officers and employees of the Authority, consultants

deemed to be and advisors appointed by the Authority, shall be deemed

public officers.

to be public officers within the meaning and for the purposes

of the Penal Code and of the Code of Criminal Procedure

Act respectively.

The Authority 42. The Authority shall be deemed to be a Scheduled

deemed to be a Institution within the meaning of the Bribery Act and the

Scheduled

Institution provisions of that Act shall be construed accordingly.

within the

meaning of the

Bribery Act.

Action against 43. Where an offence under this Act is committed by a

bodies of body of persons, then:—

persons.

(a) if that body of persons is a body corporate, every

director, manager, chief executive officer and

secretary of that body corporate ;

(b) if that body of persons is a firm, every partner of

that firm and its chief executive officer ;

(c) if that body of persons is an unincorporated body,

every individual who is a member of such body

and its chief executive officer ; and

(d) if that body of persons is a local authority or any

other authority appointed by or under any law

relating to a local authority to act on behalf of such

local authority, the Chairman of such local

authority,

shall be guilty of an offence :

Provided however, any director, manager, chief executive

officer and secretary of any body corporate or every

partner and the chief executive officer of any firm or every

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member and the chief executive officer of an unincorporated

body or the Chairman of a local authority, as the case may

be, shall not be guilty of an offence under this section, if

he proves to the satisfaction of the Court that such offence

was committed without his knowledge or that he exercised

all due diligence to prevent the commission of such

offence.

44. (1) The Minister on the recommendation of the Regulations.

Authority, may make regulations under this Act in respect of

all matters that are prescribed and on such matters as may

become necessary to be provided for in order to give effect

to the provisions of this Act.

(2) Every regulation made under subsection (1) shall be

published in the Gazette and shall come into force on the

date of such publication or on such later date as may be

specified in such regulation.

(3) All regulations made under this section shall as soon

as convenient after their publication in the Gazette, be

brought before the Parliament for approval. Any such

regulation which is not so approved shall be deemed to be

rescinded as from the date of its disapproval, but without

prejudice to anything done thereunder.

(4) Notification of the date on which a regulation is

deemed to be rescinded shall be published in the Gazette.

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

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

of inconsistency.

prevail.

46. In this Act, unless the context otherwise Interpretation.

requires-

“child victim of crime” and “child witness” respectively

means, a person who is less than eighteen years of

age and who is either a victim of crime or is a witness;

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“Code of Criminal Procedure Act, means the Code of

Criminal Procedure Act, No. 15 of 1979 ;

“Commission” means—

(a) a Commission of Inquiry appointed under the

Commissions of Inquiry Act, (Chapter 393) ;

(b) a Special Presidential Commission of Inquiry

established under the Special Presidential

Commissions of Inquiry Law, No. 7 of 1978 ;

(c) the Commission to Investigate Allegations of

Bribery and Corruption established by the

Commission to Investigate Allegations of

Bribery or Corruption Act, No. 19 of 1994 ; and

(d) the Human Rights Commission of Sri Lanka

established by the Human Rights Commission

of Sri Lanka Act, No. 21 of 1996.

“law enforcement authority” means a police officer or any

other person authorised by or under any written law

to investigate into the commission of an offence;

“Judicature Act” means the Judicature Act, No. 2 of 1978;

“victim of crime” means a person including a child victim

who has suffered any injury, harm, impairment or

disability whether physical or mental, emotional,

economic or other loss, as a result of an act or omission

which constitutes an alleged—

(a) offence under any law ; or

(b) infringement of a fundamental right guaranteed

under Articles 13(1) or (2) of the Constitution,

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and includes a person who suffers harm as a result

of intervening to assist such a person or to prevent

the commission of an offence, and the parent or

guardian of a child victim of crime and any member

of the family and next of kin of such person,

dependents and any other person of significant

importance to that person ;

“witness” means any person who—

(a) has provided information or lodged a complaint

with any law enforcement officer and based

upon such information or complaint, an

investigation or inquiry could or has commenced

or is likely to commence, in connection with the

alleged commission of an offence or the

infringement of a fundamental right or the

violation of a human right ;

(b) in the course of an investigation or inquiry

conducted by a law enforcement authority into

the alleged commission of an offence or

infringement of a fundamental right or the

violation of a human right, has provided

information or made a statement containing an

account of matters in respect to which such

person had been questioned ;

(c) has provided an affidavit or submitted a

statement in support of a complaint made or

any legal action instituted by a victim of crime;

(d) has provided information or any communication

to a Commission ;

(e) has reasonable grounds to believe that he shall

be summoned by a Court or a Commission to

make a statement or testify in any judicial or

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quasi-judicial proceedings against a person,

based on information provided or a statement

made to a law enforcement authority or a

Commission by such person ;

(f) has received summons from a court or a

Commission to make a statement, testify or

produce any document, report or object in any

judicial or quasi-judicial proceeding before

such Court or Commission ; or

(g) being a public officer, has investigated into

the alleged commission of an offence or an

alleged infringement of a fundamental right or

the violation of a human right,

and includes a victim of crime, a child witness, the

parent or guardian of a child witness, a family

member or dependent of such witness or any other

person of significant importance to such person, an

expert witness and a person who has been summoned

to testify before a Court or a Commission on behalf of

a person suspected or accused of the alleged

commission of an offence or the infringement of a

fundamental right or the violation of a human right ;

and

“written communication” includes a letter transmitted in

any medium whatsoever, such as by ordinary or

registered post, by facsimile and electronic mail.

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SCHEDULE

[section 11(3)]

1. A person shall be disqualified from being appointed or continuing

as an appointed member of the Board—

(a) if he is or becomes a member of Parliament, a Provincial

Council or any local authority ;

(b) if he is not or ceases to be a citizen of Sri Lanka ;

(c) if he is under any law in force in Sri Lanka or in any other

country, found or declared to be of unsound mind ; or

(d) if he is serving or has served, a sentence of imprisonment

imposed by any Court in Sri Lanka or any other country.

2. Every appointed member of the Board shall, unless he vacates

office earlier by death, resignation or removal, hold officer for a term

of three years from the date of his appointment and unless he has

been removed from office, be eligible for reappointment :

Provided that a member appointed in place of a member who had

vacated office by death, resignation or removal, shall hold office for

the unexpired term of office of the member whom he succeeds.

3. The Minister may, by Order published in the Gazette, remove

from office an appointed member of the Board for misconduct in the

performance of his duties or where such member has been found

guilty of an offence involving fraud or dishonesty, in consultation

with those persons who are required to be consulted for the appointment

of such appointed member under paragraph (b) of subsection (1) of

section 11. An appointed member who is removed, shall cease to hold

office from and after the date of publication of such Order in the

Gazette.

4. An appointed member of the Board, may at any time resign

from his office by letter to that effect addressed to the Minister and

such resignation shall take effect upon it being accepted by the Minister

in writing.

5. In the event of the vacation of office by death, resignation or

removal of an appointed member of the Board, having regard to the

provisions of paragraph (b) of subsection (1) of section 11 another

person may be appointed to succeed such member. Any person so

appointed in place of such member, shall hold office during the

unexpired part of the term of office of the member whom be succeeds.

6. Where an appointed member of the Board, by reason of illness,

infirmity or absence from Sri Lanka for a period not less than three

months, is temporarily unable to perform his duties, it shall be the

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duty of such member to inform the appointing authority in writing, of

such inability. Thereupon, having regard to the provisions of paragraph

(b) of subsection (1) of section 11 another person may be appointed

to act in his place during such period.

7. The members of the Board may be paid such remuneration out

of the Fund of the Authority as the Minister may determine.

8. (1) The Chairman of the Board, shall, if present, preside at

every meeting of the Board. In the absence of the Chairman from any

such meeting, the members present shall elect one of the members

present, to preside at such meeting.

(2) The quorum for any meeting of the Board, shall be five

members.

(3) The person presiding at any meeting of the Board, shall, in

addition to his own vote have a casting vote.

(4) Subject to the provisions of this paragraph, the Board may

regulate the procedure in regard to its meetings and the transaction of

business at such meetings.

9. No act, decision or proceeding of the Board, shall be deemed to

be invalid by reason only of the existence of any vacancy therein or

any defect in the appointment of any member thereof.

10. (1) The seal of the Authority may be determined and devised

by the Board, and may be altered in such manner as may be determined

by the Board.

(2) The seal of the Authority shall be in the custody of such person

as the Board may determine from time to time.

(3) The seal of the Authority shall not be affixed to any instrument

or document except with the sanction of the Board and in the presence

of two members of the Board, who shall sign the instrument or

document in token of their presence.

(4) The Board shall maintain a register of the instruments and

documents to which the seal of the Board has been affixed.

11. (1) If the Chairman of the Board is, by reason of illness or

absence from Sri Lanka temporarily unable to perform the duties of

his office, having regard to the provisions of subsection (2) of section

11, another member of the Board shall be appointed to act in his

place.

(2) The Chairman of the Board may at any time resign from the

office of Chairman by a letter addressed to the Minister. Such

resignation shall take effect upon it being accepted by the Minister in

writing.

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