PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

 REGISTRATION OF DEATHS

(TEMPORARY PROVISIONS)

(AMENDMENT) ACT, No. 16 OF 2016

[Certified on 07th September, 2016]

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Registration of Deaths (Temporary Provisions) 1

(Amendment) Act, No. 16 of 2016

[Certified on 07th of September, 2016]

L.D.—O. 41/2015.

ANACT TO AMEND THE REGISTRATION OF DEATHS (TEMPORARY

PROVISIONS) ACT, NO. 19 OF 2010

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:-

1. This Act may be cited as the Registration of Deaths Short Title.

(Temporary Provisions) (Amendment) Act, No. 16 of 2016.

2. The long title to the Registration of Deaths Amendment of

the long title of

(Temporary Provisions) Act, No. 19 of 2010 (hereinafter

Act, No. 19 of

referred to as the “principal enactment”) is hereby amended 2010.

by the substitution for the words “AND FOR MATTERS

CONNECTED THEREWITH OR INCIDENTAL

THERETO.” of the words “TO PROVIDE FOR THE

REGISTRATION OF PERSONS REPORTED MISSING AS

A RESULT OF THE CONFLICT WHICH TOOK PLACE IN

THE NORTHERN AND EASTERN PROVINCES OR ITS

AFTERMATH OR POLITICAL UNREST OR CIVIL

DISTURBANCES OR ENFORCED DISAPPEARANCES OR

OF MEMBERS OF THE ARMED FORCES OR POLICE

IDENTIFIED AS MISSING IN ACTION; AND FOR

MATTERS CONNECTED THEREWITH OR INCIDENTAL

THERETO.”.

3. The Preamble of the principal enactment is hereby Amendment of

amended as follows:- the Preamble of

the principal

enactment.

(1) for the words “subversive activities or civil

commotion” of the words “subversive activities, or

as a result of the conflict which took place in the

Northern and Eastern Provinces or its aftermath or

political unrest or civil disturbances or enforced

disappearances;”;

2—PL 010069—2,961 (07/2016)

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(2) for the words “for the registration of such deaths:”

of the words “for the registration of such deaths and

such missing persons:”.

General 4. (1) In the principal enactment and in any other written

amendments to law there shall be substituted for the words “Registration of

the principal

Deaths (Temporary Provisions) Act” whenever those words

enactment.

occur in the principal enactment or any other written law,

the words “Registration of Deaths and Missing Persons

(Special Provisions) Act”.

(2) Every reference to the “Registration of Deaths

(Temporary Provisions) Act” in any notice, notification,

contract, communication or other document shall be read

and construed as a reference respectively to the

“Registration of Deaths and Missing Persons (Special

Provisions) Act”.

Amendment of 5. Section 1 of the principal enactment is hereby

section 1 of the amended by the repeal of subsections (2) and (3) of that

principal

section and the substitution therefor of the following

enactment.

sections:-

“(2) Notwithstanding any extension of the

period of operation of this Act, the Minister may

not less than one month prior to the expiration of

any period of operation of this Act, by Order

published in the Gazette, extend the period of

operation of Parts I and IA of this Act:

Provided that, –

(a) any period of operation may be extended

by the Minister upon review of such period

having considered the number of

applications seeking relief under the said

Parts; and

(b) any such extension shall not, in any one

instance, be for more than a period of five

years.

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(3) Notwithstanding the expiry of the period of operation

of Parts I and IA, the provisions of Parts II and III shall

continue to be in operation.”.

6. Section 2 of the principal enactment is hereby Amendment of

amended in subsection (2) of that section by the substitution section 2 of the

principal

for the words, “in the Form specified in the Schedule” of the enactment.

words “in the Form A specified in the Schedule”.

7. Section 6 of the principal enactment is hereby Amendment of

amended by the addition immediately after subsection (4) section 6 of the

principal

of that section of the following new subsection:-

enactment.

“(5) Where a Certificate of Absence has been

issued under section 8E in respect of a missing

person a Certificate of Death shall not be issued in

relation to the same missing person until the

cancellation of the Certificate of Absence.”.

8. The following new section is hereby inserted Insertion of new

immediately after section 7 of the principal enactment and section 7A in the

principal

shall have effect as section 7A of the principal enactment:-

enactment.

“If 7A. An applicant who is dissatisfied with

dissatisfied the decision of the Registrar-General made

may apply to

under section 7, may within one month of

District

Court. the notification of such refusal or issue, as the

case may be, make an application to the

District Court against such refusal or issue. The

District Court may after review of the material

before it, either affirm the decision of the

Registrar-General, or direct the Registrar-

General to issue a Certificate of Absence, or

disallow the report issued by the Registrar-

General as the case may be.”.

9. Section 8 of the principal enactment is hereby Amendment of

amended in subsection (1) of that section by the substitution section 8 of the

principal

for the words “substantially in the Form set out in the

enactment.

Schedule”, of the words “substantially in the Form A set out

in the Schedule”.

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Insertion of new 10. The following new Part (sections 8A to 8L) is hereby

Part IA in the inserted immediately after Part I and shall have effect as Part

principal IA, of the principal enactment:-

enactment.

“PART IA

REGISTRATION OF PERSONS MISSING DUE TO THE CONFLICT IN THE

NORTHERN AND EASTERN PROVINCES, POLITICAL UNREST OR CIVIL

DISTURBANCES OR ENFORCED DISAPPEARANCES

Criteria 8A. (1) Where any person is reported missing

required to and has not been heard of for a period

apply for a exceeding one year by those who would

Certificate of

naturally have heard of him, had he been

Absence.

present, and his disappearance is attributable

to the conflict which took place in the Northern

and Eastern Provinces or its aftermath or

political unrest or civil disturbances or

enforced disappearances or is a member of the

armed forces or police who is identified as

missing in action (hereinafter referred to as

“missing person”), a relative of such person

may apply in the manner hereinafter provided,

to register such person as missing and to have

issued to him, a Certificate of Absence in

respect of such person.

(2) Every application under this section

shall be substantially in the Form B specified

in the Schedule to this Act and shall be

forwarded to the Registrar-General or the

District Registrar of the District in which such

missing person was last resident or had his

permanent residence.

(3) The relative appointed by Form C of the

Schedule (hereinafter referred to as the

“relative”) shall administer the affairs of the

missing person in accordance with the

provisions of this Act, taking into account the

best interest of the missing person and the

successors to the estate of such missing person.

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Additional 8B. Every application shall be supported by

material to be an Affidavit of the applicant which shall set

supplied.

out the grounds for his belief that the person

who is sought to be registered is missing. The

application shall be accompanied by a Report

of the Grama Niladhari of the Grama Niladhari

Division in which the person who is sought to

be registered as missing was last resident or

had his permanent residence, confirming the

fact that such person has not been seen or heard

of, for a period of over one year, together with

any other evidence in support of such

application.

Display of 8C. Upon receipt of an application under

application. this Part, the Registrar-General or the District

Registrar as the case may be, shall cause a copy

of such application to be displayed for a period

of two weeks on the notice board kept at his

office and in the office of the relevant Grama

Niladhari.

Objection for 8D. Any person may, within one month of

registration. the date on which a copy of an application is

displayed as provided for in section 8C, forward

to the Register-General or the District Registrar,

as the case may be, his objections in writing to

the registration of such person as missing to

whom such application relates or to the

appointment of the relative and such objection

shall be supported by an Affidavit of the

objector and of any other person, setting out

clearly the grounds for their objections and

tender evidence in support of such objections.

Registration 8E. (1) On the expiry of the period of one

of Missing month allowed to forward objections, the

Persons.

Registrar-General or the District Registrar, as

the case may be, shall consider the application

together with the evidence tendered in support

of the application and the objections if any.

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The Registrar-General or the District Registrar

may, question any person or call for any

evidence and after such inquiry as he may

consider necessary, if satisfied as to the truth

of the matter stated in the application, allow

such application.

(2) Where the application was made to the

Registrar-General, he shall make an order on

the conclusion of such inquiry directing the

District Registrar to register the missing person

in the Register of Missing Persons and to issue

a Certificate of Absence under his hand to the

relative under section 8H, unless the issue of a

Certificate of Absence is disallowed for reasons

assigned.

(3) Where the application was made to the

District Registrar, on the conclusion of such

inquiry, he shall forward to the Registrar-

General a Report under his hand setting out

the particulars concerning the missing person.

The Registrar-General having considered the

contents of the Report shall make an order

directing the District Registrar to register the

missing person in the Register of Missing

Persons under section 8H and to issue a

Certificate of Absence under his hand to the

relative, who applied for the same unless for

reasons assigned the Registrar-General

disallows the issue of a Certificate of Absence.

(4) The District Registrar shall accordingly

enter such particulars in the Register of Missing

Persons and issue a Certificate of Absence to

the relative who applied for the same under

section 8A, in the Form C of the Schedule hereto.

(5) The District Registrar shall forthwith

forward the duplicate of the relevant registration

entry for transmission to the Registrar-General.

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The Registrar-General shall forthwith include

the necessary entries to the Register maintained

under subsection (1) of section 8H subject to

review of the District Court under 8F, if

necessary. The registration entry made by the

Registrar-General shall be final and conclusive

for the purposes of this Act.

If dissatisfied 8F. An applicant who is dissatisfied with the

to apply to decision of the Registrar-General refusing to

District

issue a Certificate of Absence to him under

Court.

section 8E, or a person who has objected under

section 8D to the issue of a Certificate of

Absence under this Part, may within one month

of the notification of such refusal or issue, as

the case may be, make application to the

District Court against such refusal or issue. The

District Court may after review of the material

before it, either affirm or set aside the decision

of the Registrar-General, and may direct the

Registrar-General to issue a Certificate of

Absence or allow the application of a relative,

as the case may be.

Special 8G. (1) Where a Commission appointed

procedure under the Commissions of Inquiry Act (Chapter

relating to

393) or a Special Presidential Commission of

registration

of Missing Inquiry established under the Special

Persons in Presidential Commission Law, No. 7 of 1978

respect of or the Office on Missing Persons established

whom there under the Office on Missing Persons

are findings

(Establishment, Administration and Discharge

by a

Commission of Functions) Act, No. 14 of 2016 finds that a

of Inquiry or person has disappeared or is missing, the

a Special relative of that person may, apply to the

Presidential

Registrar-General or to the District Registrar

Commission

of Inquiry or in which that person was last residing or had

by the Office his permanent residence, substantially in the

on Missing Form “B” set out in the Schedule to this Act, to

Persons. have issued to him, a Certificate of Absence in

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respect of that missing person. Every such

application shall be accompanied by an

Affidavit of the applicant in terms of section

8B and a certified copy of the findings of the

Commission of Inquiry or Special Presidential

Commission of Inquiry or the Interim Report

or Report of the Office on Missing Persons, as

the case may be, relating to such missing

person.

(2) Upon receipt of an application under

subsection (1), the District Registrar shall,

notwithstanding anything to the contrary in

the preceding provisions of this Act, forthwith

send to the Registrar-General a Report under

his hand, setting out the particulars of the

missing person.

(3) Upon receipt of the Report under

subsection (2), the Registrar-General shall

consider the contents of the Report and make

an order directing the District Registrar to

register the missing person in the Register of

Missing Persons and issue under section 8E a

Certificate of Absence under his hand to the

relative of the missing person who applied for

the same.

(4) The District Registrar shall accordingly

enter such particulars in the Register of Missing

Persons as provided under subsections (2) and

(3) of section 8H.

(5) The District Registrar shall forthwith

forward the duplicate of the relevant registration

entry together with the order issued under

subsection (2), to the Registrar-General. The

Registrar-General shall forthwith include the

necessary entries to the Register maintained

under subsection (1) of section 8H. The

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registration entry made by the Registrar-

General shall be final and conclusive for the

purposes of this Act.

Register of 8H. (1) Registrar-General shall maintain a

Missing Register of Missing Persons electronically.

Persons.

The information for registration shall be

entered based on the name of the missing

person and where available the National

Identity Card numerical of the missing person.

(2) Every District Registrar shall also

maintain a Register of Missing Persons and

make such entries as may be directed by the

Registrar-General by order.

(3) Every registration entry made by the

District Registrar –

(a) shall be made in the order of time in

which the particulars were given to

the Registrar-General or the District

Registrar;

(b) shall be numbered consecutively

and signed by the officer making the

entry; and

(c) shall be prepared in triplicate. The

original shall be in the custody of

the District Registrar, the second

copy (hereinafter referred to as the

“duplicate”) shall be forwarded to

the Registrar-General and the third

copy (hereinafter referred to as the

“Certificate of Absence”) shall be

delivered or transmitted by post to

the relative who applied for the

same, duly endorsed under the hand

of the District Registrar.

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Correction 8I. The provisions in Part VI of the Births

of errors. and Deaths Registration Act (Chapter 110)

pertaining to correction of any error, including

an omission in any registration entry shall,

mutatis mutandis, be applicable to registrations

made under this Part.

Applicability 8J. (1) The Certificate of Absence may be

of the used by the relative of the missing person who

Certificate of

applied for the same in order to –

Absence.

(a) apply for benefits under any social

welfare scheme;

(b) (i) temporarily manage under the

supervision of the District Court, the

property and assets of the missing

person and act as a provisional

guardian for dependent children of

the missing person;

(ii) The application under item (i) shall

be made to the District Court having

jurisdiction in respect of the property

concerned or where the dependent

children reside and shall be dealt

with by summary procedure in the

following manner:-

(a) matters pertaining to the

administration of the property

and other assets of the

missing person, shall be

concluded within four months

from the date of application to

the District Court.

(b) matters pertaining to

guardianship of children where

both parents are missing or

where the surviving parent is

unable to secure the wellbeing

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of the child, shall be concluded

within one month.

(c) make representation before

executive, administrative and

judicial authorities on behalf of

the estate of the missing

person.

(2) All institutions and persons in authority

shall recognize and accept the Certificate of

Absence as proof of the status of the person

missing.

(3) (a) Any dispute arising in regard to a

matter specified under paragraph (a)

of subsection (1), may be referred to

the Divisional Secretary of the

Divisional Secretary’s Division by the

relative.

(b) The Divisional Secretary of the

Divisional Secretary’s Division shall

make a determination after having

discussed the matter in dispute with

the relevant Institution, within one

calendar month of receiving the

application.

(c) The determination of the Divisional

Secretary of the Divisional

Secretary’s Division shall be in

writing and be considered as

conclusive thereon.

Period of 8K. (1) The Certificate of Absence shall be

Operation. valid for a period of two years from the date

specified therein:

Provided however –

(a) the remains of the missing person is

recovered or other conclusive

evidence is discovered regarding the

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death of the missing person, in such

instances the Certificate of Absence

shall be annulled and a Certificate of

Death shall be issued under section 6.

(b) the Missing Person is found to be

alive, the provisions of section 13

shall mutatis mutandis apply. The

District Registrar shall accordingly

take action to cancel the registration

and annul the Certificate of Absence;

(2) At the conclusion of the period of two

years, the District Registrar shall inquire from

the relative who is issued with the Certificate of

Absence, of the status of the missing person

and may subject to subsection (2)(a) of section

1 either, –

(i) extend the period of the Certificate of

Absence, subject to subsection (1) (b) of

section 8A, by endorsement for another

two years; or

(ii) direct the relative, if willing to apply for a

Certificate of Death, to make an

application under section 2 and take

action to cancel the registration and annul

the Certificate of Absence; or

(iii) cancel the Certificate of Absence where

the relative does not intend to extend the

period of the said Certificate.

“Cancellation 8L. (1) Notwithstanding anything to the

of a contrary in the preceding provisions of this Act,

Certificate of

where, prior to coming into operation of that

Death and

the issue of a Part–

Certificate of

Absence. (a) an application has been made under

section 2 or 8 for a Certificate of Death

in respect of a missing person; or

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(b) a Certificate of Death has been issued

in respect of a missing person,

then a relative of a missing person may make an

application substantially in the manner specified

under section 8G (1). The Registrar-General shall

forthwith cancell such application or Certificate

referred to in (a) or (b) respectively and issued

a Certificate of Absence under section 8G.

(2) The provisions of section 8D and 8F shall

mutatis mutandis apply to an application made

under this section.”.

 11. Subsection (3) of section 10 of the principal Amendment of

enactment is hereby amended by the substitution for the section 10 of

the principal

words, “set out in the Schedule” of the words, “in Form A set

enactment.

out in the Schedule”.

12. Section 14 of the principal enactment is hereby Replacement of

repealed and the following section substituted therefor:— section 14 of

the principal

enactment.

“Avoidance of 14. For the avoidance of doubt it is hereby

doubt. declared that–

(a) if the operation of Parts I and IA has

lapsed upon the expiry of the period

specified in subsection (2) of section 1,

and no Order for the extension of the

period of operation of Parts I and IA

has been made in terms of that

subsections; and

(b) if an application for the issue of a

Certificate of Death or of a Certificate of

Absence respectively, has been made

in terms of the provisions of sections

2, 8, 8A, 10 and 11 of this Act prior to

the expiry of the period of operation of

Parts I or Parts IA,

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the Registrar-General may proceed to register

the death of such person or register such person

as missing and issue the Certificate of Death

or a Certificate of Absence, respectively, in

terms of the provisions of Part I and Part IA of

this Act.”.

Amendment of 13. Section 15 of the principal enactment is hereby

section 15 of

the principal amended as follows:-

enactment.

(1) by the insertion, immediately after paragraph (c) of

that section, of the following new paragraphs:-

“(d) being aware that a person who has been

registered as missing in pursuance of an

application made under this Act, is alive, fails

to furnish such information to the Register-

General; or

(e) dishonestly or fraudulently uses a Certificate

of Absence issued under this Act knowing or

having reason to believe that the person

referred to in such Certificate is alive,”;

(2) for the words “to a term of imprisonment of not

exceeding five years.” of the words “to a fine not

exceeding one hundred and fifty thousand rupees

or to a term of imprisonment not exceeding two years

and six months.”.

Amendment of 14. Section 17 of the principal enactment is hereby

section 17 of amended by the insertion immediately after the definition

the principal

enactment. of the expression “District Registrar” of the following

definition:-

“Minister” means the Minister assigned the Registrar-

General’s Department;

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“relative” shall in relation to a missing person include the

following persons:-

(i) spouse;

(ii) children including adopted children, non-marital

children, or step children;

(iii) parents (including step-mother, step-father,

adopter);

(iv) full or half brothers or sisters or adopted brothers

or sisters;

(v) father-in-law, mother-in-law, brothers-in-law,

sisters-in-law, sons-in-law, daughters-in-law;

(vi) grandchildren and grandparents.

15. The Schedule to the principal enactment is hereby Amendment of

amended as follows:- the Schedule to

the principal

enactment.

(1) immediately after the word “Schedule” by the

addition of the following:-

“Form A”

(2) by the insertion, immediately after Form A, of the

following new Forms:-

“Form B

(Section 8A(2))

APPLICATION FOR REGISTRATION OF A MISSING

PERSON AND FOR THE ISSUE OF A CERTIFICATE OF

ABSENCE

1. Full name of missing person:

2. Gender and race:

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3. Date of birth:

4. Last seen date (approximately):

5. Address of last known residence:

6. Address of permanent residence:

7. Full name and residence of the person applying as

relative:

8. Relationship of the person applying as relative to

Missing Person:

9. Full name of the Missing Person’s:–

Father :

Mother :

Spouse :

Dependents :

I…………………..……….of………......…...………do

hereby state that the said …………………………………(name

of the person missing) has been missing for a period of over

one year.

I therefore request that the said ………………….…. (name

of the missing person) be registered as a Missing Person

under the Registration of Deaths and Missing Persons

(Special Provisions) Act, No.19 of 2010 and a Certificate of

Absence in respect of such person be issued to me as the

relative, and I shall forthwith inform the Registrar-General, if

the person reported to be missing is found to be alive or on

receiving evidence of the death of the missing person.

............................. ………………………….

Date Signature of Applicant

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Form C

(Section 8A, 8E and 8H)

Registrar-General’s Department

Certificate of Absence

Number: …… District: ………… Division:………

I have this day received from ………………………….. of

………………………………………………notice that the

undermentioned person is missing and do hereby register

the following information:-

1. Full name of person missing:

2. Date and place of last sighting:

3. Sex:

4. Race:

5. Age of person if present:

6. Rank or Profession:

7. Full name of Missing Person’s:

Father:

Mother:

Spouse:

Dependents:

This Certificate shall be valid for a period of two years

from ………… to…………………..

Date: ..................... Registrar: ........................

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Relative appointed to administer the affairs of the

Missing Person

——————(Name) of —————————

(NIC No.) —————————————— as the ———

——————(Relationship).

Signature of the relative: ………………………….. .

N.B.— Section 8J (2) of the Registration of Deaths and Missing

Person (Special Provisions) Act, No. 19 of 2010 requires all

Institutions and Persons in authority to recognize and accept

the Certificate of Absence as proof of the status of the person

missing when applying for benefits under any social welfare

scheme and when making representations on behalf of the

missing person and his estate, before executive, administrative

and judicial authorities.

Sinhala text to 16. In the event of any inconsistency between the

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

of inconsistency.

prevail.

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