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Part II of January 21, 2022

SUPPLEMENT

(Issued on 27.01.2022)



**PREVENTION OF TERRORISM
(TEMPORARY PROVISIONS) (AMENDMENT)**

A

BILL

**to amend the Prevention of Terrorism (Temporary Provisions)
Act, No. 48 of 1979**

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 9 of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (hereinafter referred to as the “principal enactment”) in order to reduce the aggregate period of detention of a person under a detention order from eighteen months to twelve months.

Clause 3 : This clause inserts new sections 9A and 9B in the principal enactment to enable the Magistrate to visit the place of detention to ensure that the suspect is protected to the extent provided for in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994.

Clause 4 : This clause amends section 10 of the principal enactment and the legal effect of the section as amended is to enable a detainee to apply for a remedy guaranteed under Article 126 or 140 of the Constitution.

Clause 5 : This clause inserts new section 10A in the principal enactment to enable an Attorney-at-Law to have access to a person in remand or in detention, and also to enable the person so remanded or detained to communicate with his relatives.

Clause 6 : This clause amends section 11 of the principal enactment and the legal effect of the section as amended is to enable the suspect to be produced before a judicial medical officer to ensure that such person has not been subjected to torture before serving an Order under section 11 of that enactment.

Clause 7 : This clause repeals section 14 of the principal enactment.

Clause 8 : This clause amends section 15 of the principal enactment in order to provide for holding trials on a day-to-day basis to ensure the expeditious disposal of cases.

Clause 9 : This clause amends section 15A of the principal enactment and is consequential to the amendment made by clause 11.

Clause 10 : This clause inserts new section 15B in the principal enactment to make provision for granting of bail to persons in remand or in detention.

Clause 11 : This clause amends section 19 of the principal enactment and is consequential to the amendment made by Clause 7.

Clause 12 : This clause amends section 26 of the principal enactment and the legal effect of the section as amended is to make provision to question an Order made or direction given under the principal enactment despite the protection afforded to officers for any act or thing done or purported to be done in good faith.

Clause 13 : This clause amends section 31 of the principal enactment in order to remove the definitions of “newspaper” and “printing press” and to include a new definition for the term “torture”.

*Prevention of Terrorism (Temporary Provisions)
(Amendment)*

L.D.–O. 1/2022

AN ACT TO AMEND THE PREVENTION OF TERRORISM
(TEMPORARY PROVISIONS) ACT, NO. 48 OF 1979

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Prevention of Terrorism (Temporary Provisions) (Amendment) Act, No. of 2022. Short title

- 5 **2.** Section 9 of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (hereinafter referred to as the “principal enactment”) is hereby amended in the proviso to subsection (1) thereof, by the substitution for the words “eighteen months.” of the words “twelve months.” Amendment of section 9 of Act, No. 48 of 1979

- 10 **3.** The following new sections are hereby inserted immediately after section 9 of the principal enactment and shall have effect as sections 9A and 9B of that enactment: - Insertion of sections 9A and 9B in the principal enactment
 - 15 “Certified copy of the detention Order to be served on the Magistrate 9A. (1) A certified copy of the Order made under section 9 shall be made available within a reasonable period to the Magistrate within whose judicial division the place of detention of the person in respect of whom such Order relates is situated, for the Magistrate to visit such place of detention, in terms of section 9B.

 - 20 (2) The detention of any person under section 9 shall be communicated to the Human Rights Commission of Sri Lanka in terms of section 28 of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996, for the persons authorized by the Human Rights Commission of Sri Lanka to visit the place of detention in terms of that Act.

 - 25

2 *Prevention of Terrorism (Temporary Provisions)*
 (Amendment)

Duty of the
Magistrate to
visit place of
detention

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9B. (1) It shall be the duty of every Magistrate who has received a certified copy of a detention Order in terms of subsection (1) of section 9A, to visit the place of detention of the person to whom the Order relates (in this section referred to as the “suspect”) at least once in every month during the period of detention, to ensure that the suspect is protected to the extent provided for in the Convention Against Torture and other Cruel, Inhumane or degrading Treatment or Punishment Act, No.22 of 1994.

(2) For the purpose of subsection (1), the Magistrate who visits any place of detention, shall–

(a) personally see the suspect, and look into his wellbeing, welfare and conditions under which he is kept at such place of detention;

(b) record his observations and any complaint the suspect may make.

(3) Where the Magistrate is of the opinion, that the suspect may have been subjected to torture, the Magistrate may direct that the suspect be produced before a Judicial Medical Officer for medical examination, and a report be submitted by such Judicial Medical Officer to the Magistrate.

(4) Where the report of such Judicial Medical Officer reveals that the suspect has been subjected to torture, the Magistrate shall make an appropriate order, to provide necessary medical treatment to the suspect.

Prevention of Terrorism (Temporary Provisions) 3
(Amendment)

5 (5) The Magistrate may also direct the Inspector General of Police to commence an investigation into the alleged torture in order to enable the Attorney-General to institute criminal proceedings against the person who is alleged to have committed the torture.”.

4. Section 10 of the principal enactment is hereby repealed and the following section is substituted therefor:- Replacement of section 10 of the principal enactment

10 “Order under section 9 to be final 10. An Order made under section 9 shall be final and shall not be called in question in any proceedings or in any court of law, save and except in proceedings under Article 126 or 140 of the Constitution.”.

15 5. The following new section is hereby inserted immediately after section 10 of the principal enactment and shall have effect as section 10A of that enactment:- Insertion of section 10A in the principal enactment

20 “An Attorney- at- Law to have access to a person in remand or in detention 10A. (1) An Attorney- at- Law representing a person remanded or detained under this Act, shall have the right of access to such person and to make representations on behalf of such person, subject to such conditions as may be prescribed by regulations made under this Act or as provided for in other written law.

25 (2) A person remanded or detained under this Act shall have the right to communicate with his relatives, as provided for in written law.”.

6. Section 11 of the principal enactment is hereby amended as follows:- Amendment of section 11 of the principal enactment

30 (1) by the insertion immediately after subsection (1) thereof, of the following subsections:-

“(1A) The person to whom an Order made under subsection (1) relates, shall be produced before a

4 *Prevention of Terrorism (Temporary Provisions)*
 (Amendment)

Judicial Medical Officer for medical examination before serving such Order to such person and a report be submitted by the Judicial Medical Officer in respect of such person.

5 (1B) An Order made under subsection (1) shall be served on the person to whom the Order relates, by the Magistrate in whose judicial division such person resides and the report of the Judicial Medical Officer referred to in subsection (1A) shall
10 be produced before the Magistrate to ensure that such person has not been subjected to torture before serving such Order on such person.

15 (1C) Where the report issued by the Judicial Medical Officer under subsection (1A) reveals that such person has been subjected to torture, the Magistrate shall make an appropriate order to provide necessary medical treatment to such person.

20 (1D) The Magistrate may also direct the Inspector General of Police to commence an investigation into the alleged torture in order to enable the Attorney-General to institute criminal proceedings against the person who is alleged to have committed the torture.”.

25 (2) in the proviso to subsection (3) thereof, by the substitution for the words “eighteen months.” of the words “twelve months.”;

 (3) by the repeal of subsection (5) thereof and the substitution therefor of the following subsection:-

30 “(5) An Order made by the Minister under subsection (1) shall be final and shall not be called in question in any proceedings or in any court of law, save and except in proceedings under Article 126 or 140 of the Constitution.”.

Prevention of Terrorism (Temporary Provisions) 5
(Amendment)

7. Section 14 of the principal enactment is hereby repealed. Repeal of section 14 of the principal enactment
8. Section 15 of the principal enactment is hereby amended by the addition immediately after subsection (2) thereof, of the following new subsection:- Amendment of section 15 of the principal enactment
- “(3) Every trial under this Act shall be held on a day to day basis, unless in the opinion of the court exceptional circumstances warrant postponement of the commencement or continuation of trial, for reasons which shall be recorded by court.”.
9. Section 15A of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words and figures “section 19(a)”, of the word and figure “section 19”. Amendment of section 15A of the principal enactment
10. The following new section is hereby inserted immediately after section 15A of the principal enactment and shall have effect as section 15B of that enactment:- Insertion of new section 15B in the principal enactment
- 15B. Notwithstanding anything to the contrary in the provisions of this Act, if the trial against a person remanded or detained under this Act has not commenced after the expiration of twelve months, from the date of arrest, the Court of Appeal may release such person on bail, upon an application in that behalf, made by the suspect or an Attorney-at-Law on his behalf:
- “Grant of bail to persons in remand or in detention
- Provided however, the preceding provisions of this section shall not preclude the High Court from making an order to remand any person under subsection (2) of section 15, until conclusion of the trial:

6 *Prevention of Terrorism (Temporary Provisions)*
 (Amendment)

5 Provided further, where the trial against an
 accused in respect of whom the indictment has
 been forwarded and filed in the High Court,
 has not commenced after the expiration of
 twelve months from the date of such filing, the
 High Court may consider to release such person
 on bail, upon an application in that behalf
 made by the accused or an Attorney- at-Law
 on his behalf.”.

10 **11.** Section 19 of the principal enactment is hereby repealed and the following section is substituted therefor:-

Replacement
of section 19
of the
principal
enactment

15 “Provisions of any written law relating to the grant of bail not to apply to persons accused of any offence under this Act

19. Notwithstanding the provisions of any other written law, every person convicted by any court of any offence under this Act shall, notwithstanding that he has lodged a petition of appeal against his conviction or the sentence imposed on him, be kept on remand until the determination of the appeal:

20 Provided however, that the Court of Appeal may in exceptional circumstances release on bail any such person subject to such conditions as the Court of Appeal may deem fit .”.

12. Section 26 of the principal enactment is hereby repealed and the following section is substituted therefor:-

Replacement
of section 26
of the
principal
enactment

25 “Protection of officers &c.

26. (1) An Order made or direction given under this Act may be questioned in proceedings under Article 126 or Article 140 of the Constitution.

30 (2) Subject to the provisions of subsection (1), no suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing in good faith done or purported to be done in pursuance or supposed pursuance of any Order made or

35 direction given under this Act.”.

Prevention of Terrorism (Temporary Provisions) 7
(Amendment)

13. Section 31 of the principal enactment is hereby amended as follows:-

Amendment
of section 31
of the
principal
enactment

(1) by the repeal of the definition of the expression
“newspaper”;

5 (2) by the repeal of the definition of the expression
“printing press”; and

(3) by the insertion immediately after the definition
“specified person” of the following definition:-

10 ““torture” shall have the same meaning assigned to
such expression under the Convention Against
Torture and other Cruel, Inhumane or degrading
Treatment or Punishment Act, No.22 of 1994;”.

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

Sinhala text
to prevail in
case of
inconsistency

