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Part II of November 10, 2017

SUPPLEMENT

(Issued on 14.11.2017)



**CODE OF CRIMINAL PROCEDURE
(SPECIAL PROVISIONS) (AMENDMENT)**

A

BILL

**to amend the Code of Criminal Procedure (Special Provisions)
Act, No. 2 of 2013**

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STATEMENT OF LEGAL EFFECT

Clause 2: This Clause amends the Code of Criminal Procedure (Special Provisions) Act, No. 2 of 2013 (hereinafter to as the “principal enactment”) by inserting new section 6A in that Act and the legal effect of the amendment is to make provisions to ensure the rights of an Attorney-at-Law who represents a person held in the police custody.

Clause 3: This Clause amends section 7 of the principal enactment and the legal effect of the section as amended is to make provisions for the aggregate period of any one extension of the period of operation of the principal enactment, to not exceed four years.

Clause 4: This Clause inserts new section 8A in the principal enactment and the legal effect of the amendment is to define the expressions “Attorney-General”, “cognizable offence” and “officer in charge of a police station”.

Code of Criminal Procedure (Special Provisions)
(Amendment)

L. D.—O. 47/2017.

AN ACT TO AMEND THE CODE OF CRIMINAL PROCEDURE
(SPECIAL PROVISIONS) ACT, NO. 2 OF 2013

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

1. This Act may be cited as the Code of Criminal Procedure (Special Provisions) (Amendment) Act,
5 No. of 2017. Short title.

2. The following new section is hereby inserted immediately after section 6 of the Code of Criminal Procedure (Special Provisions) Act, No. 2 of 2013 (hereinafter referred to as the “principal enactment”) and shall have effect
10 as section 6A of that Act:— Insertion of
new section
6A in Act,
No. 2 of
2013.

“Right of an Attorney-at-Law to access a person in the police custody.”
15 6A. (1) Notwithstanding anything to the contrary in this Act, an Attorney-at-Law representing a person in police custody shall, from the time such person is taken into custody, be entitled to have access to the police station in which such person is being held in custody, for the purposes specified in this section.

20 (2) The right of an Attorney-at-Law, to have access to the police station, and to make representations, shall not affect the investigations that may be conducted in respect of the person being represented.

25 (3) Any such Attorney-at-Law shall be permitted entry into such police station and shall be treated cordially and courteously, and

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(Amendment)

be given a fair and patient hearing by the police officers attached to such police station.

5 (4) Any such Attorney-at-Law shall, on behalf of the person being held in police custody, be entitled to meet the officer in charge of the police station and ascertain from such officer the following information:–

(a) offence alleged to have been committed by such person;

10 (b) date, time and location of the arrest of such person;

(c) date, approximate time and place of producing such person before a Magistrate; and

15 (d) any other information, the revealing of which would not adversely affect the conduct of further investigations and the interests of justice.

20 (5) Any such Attorney-at-Law shall be entitled to–

(a) make representations on behalf of such person being held in police custody, to the officer in charge of the police station;

25 (b) make an application to the officer in charge of the police station, seeking the grant of bail for such person in terms of section 6 of the Bail Act, No. 30 of 1997; and

(c) have access to the person being held in police custody, as provided for in subsections (6), (7), (8), (9) and (10).

5 (6) Any such Attorney-at-Law shall, if he so requests, be allowed to have access to the person being held in police custody. However, such access may be delayed, if the officer in charge of the police station has reasonable grounds to believe that the exercise of such right of access at the time such right is sought to be exercised—

15 (a) may lead to destruction of, interference with, or harm to the evidence that is connected with the committing of a cognizable offence, or may interfere with or cause any threat or harm to any person who may be acquainted with the facts and circumstances pertaining to the commission of such offence; or

25 (b) may lead to the alerting of other persons who may have committed or, being concerned in the commission of such cognizable offence or other offences committed in the course of the same transaction, and who have not been arrested in that regard; or

30 (c) may hinder the identification, location or recovery of any property obtained by the commission of cognizable offence, or the value thereof or part thereof; or

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 (Amendment)

5 (d) may hinder the identification,
 location or recovery of any weapon
 or other utensil used in the
 commission of such cognizable
 offence.

10 (7) In any event, an Attorney-at-Law shall
 be allowed access to the person in police
 custody before the expiry of the time period,
 within which such person is to be produced
 before a Magistrate as provided for, by law.

15 (8) The decision to delay the access as
 provided for, in the preceding provisions may
 be reviewed by an officer not below the rank of
 a Superintendent of Police, and the decision of
 such officer after review, shall be given effect
 to, by the officer in charge of the police station.

20 (9) An Attorney-at-Law having access to a
 person in police custody, shall exercise such
 access in a responsible manner, in good faith,
 and shall not unnecessarily or unreasonably
 extend the period of access beyond the time
 that may be reasonably required.

25 (10) An Attorney-at-Law having access to a
 person in police custody, shall not be entitled
 to be present when such person is being
 interviewed and his statement is being recorded.

30 (11) Where such Attorney-at-Law makes,
 representations or, an application under
 subsection (5), the officer in charge of the police
 station shall—

 (a) make a record of the representations
 so made;

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(Amendment)

(b) give due consideration to such representations; and

(c) record reasons for the grant or refusal of such application seeking bail.”.

5 **3.** Section 7 of the principal enactment is hereby amended in subsection (2) by the substitution for the words “two years” of the words “four years”.

Amendment of section 7 of the principal enactment.

10 **4.** The following new section is hereby inserted immediately after section 8 of the principal enactment and shall have effect as section 8A of that enactment—

Insertion of new section 8A in the principal enactment.

15 “Interpretation. 8A. In this Act unless the context otherwise requires, the expressions “Attorney-General”, “cognizable offence” and “officer in charge of a police station” shall have the same meanings assigned to those expressions in the Code of Criminal Procedure Act, No. 15 of 1979.”.

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

Sinhala text to prevail in case of inconsistency.

