



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**CODE OF CRIMINAL PROCEDURE
(AMENDMENT)
ACT, No. 52 OF 1980**

[Certified on 11th December, 1980]

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Code of Criminal Procedure (Amendment)

Act, No. 52 of 1980

(Certified on 11th December, 1980)

L.D.—O.62/80

**AN ACT TO AMEND THE CODE OF CRIMINAL PROCEDURE ACT,
No. 15 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 Code of Criminal Procedure (Amendment) Act, No. 52 of 1980.

Short title.

2. Section 2 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:—

**Amendment
of section
2 of Act
No. 15 of
1979.**

(a) by the substitution, for the definition of “Government Analyst”, of the following new definition:—

“Government Analyst” includes any person appointed to be or to act as Government Analyst or Additional or Deputy or Senior Assistant or Assistant Government Analyst; and

(b) by the substitution, for the definition of “Government Examiner of Questioned Documents”, of the following new definition:—

“Government Examiner of Questioned Documents” includes any person appointed to be or to act as Government Examiner of Questioned Documents or Senior Assistant or Assistant Government Examiner of Questioned Documents; and

3. Section 109 of the principal enactment is hereby amended as follows:—

**Amendment
of section
109 of the
principal
enactment.**

(a) by the insertion immediately after subsection (4) of that section of the following new subsection:—

“(4A) Where an offence is committed in the presence of a police officer he may proceed to record the statement of any person present at or about the scene of the offence and the statement of any suspect, and if such police officer is not himself the officer in charge of the police station of the area in which the offence is committed, he shall forthwith report the facts to the officer in charge of such police station.”; and

- (b) by the repeal of subsection (5) of that section and the substitution therefor of the following new subsection :—

“ (5) (a) If from information received or otherwise, an officer in charge of the police station or inquirer has reason to suspect the commission of any offence, he shall himself make an investigation or authorize the making of an investigation under this Chapter in the manner hereinafter set out :

Provided however, if the offence is a cognizable offence or he has reason to apprehend a breach of the peace, he shall, in the case of every inquirer, forthwith submit a report to the Magistrate's Court having jurisdiction in respect of such offence and in the case of an officer in charge of the police station, forthwith submit a report to his own immediate superior and proceed in person to the spot to investigate the facts and circumstances of the case and to take such measures as may be necessary for the immediate discovery and arrest of the offender :

Provided further, that an officer in charge of a police station may depute one of his subordinate officers to proceed to the spot to make such investigation and to take such measures as may be necessary for the discovery and arrest of the offender.

(b) If it appears to an officer in charge of a police station or an inquirer that there is no sufficient ground for entering on an investigation he shall not be bound to investigate the case.”.

Amendment
of section
115 of the
principal
enactment.

4. Section 115 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection :—

“ (1) Whenever an investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 37, and there are grounds for believing that further investigation is necessary the officer in charge of the police station or the inquirer shall forthwith forward the suspect to the Magistrate having jurisdiction in the case and shall at the same time transmit to such Magistrate a report of the case, together with a summary of the statements, if any, made by each of the witnesses examined in the course of such investigation relating to the case.”.

5. Section 116 of the principal enactment is hereby amended as follows:—

Amendment
of section
116 of the
principal
enactment.

- (a) in subsection (1) of that section, by the substitution for the words “that the information is well founded or that further investigation is necessary”, of the words “that the information is well founded”; and
- (b) in subsection (3) of that section, by the substitution for the words “any such weapon”, of the words “any weapon”.

6. Section 118 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

Amendment
of section
118 of the
principal
enactment.

“ (1) If an inquirer or a police officer who is investigating any non-cognizable offence is of opinion that it is necessary to exercise any power conferred upon him by this Act which could be exercised only in respect of a cognizable offence, he shall, upon receiving an order from a Magistrate, be entitled to exercise such power in respect of such non-cognizable offence.”.

7. Section 135 of the principal enactment is hereby amended as follows:—

Amendment
of section
135 of the
principal
enactment.

- (a) in paragraph (c) of subsection (1) of that section by the substitution for the words and figures “under sections 190, 191, 192, 193, 196, 197, 202, 203, 204, 205, 206, 207 and 223 of the Penal Code”, of the words and figures “under sections 190, 193, 196, 197, 202, 203, 204, 205, 206, 207 and 223 of the Penal Code”;
- (b) in paragraph (e) of subsection (1) of that section by the substitution for the words and figures “any offence punishable under Chapter VI of the Penal Code or punishable under section 290A or section 291B of the same Code”, of the words and figures “any offence punishable under section 290A or 291B of the Penal Code”; and
- (c) by the addition immediately after subsection (4) of that section of the following new subsections:—

‘ (5) In this section the expression “some other person” shall be deemed to include a peace officer.

(6) This section shall not apply to any case in which the Attorney-General has exercised his powers under section 393 (7).

Replacement
of section
142 of the
principal
enactment.

8. Section 142 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“Procedure
to be
adopted
when case
proceeds.

142. (1) Where the offence or any one of them where there is more than one, falls within the list of offences set out in the Second Schedule to the Judicature Act, No. 2 of 1978, or where the Attorney-General has under section 145(b) or section 393(7)(b) directed the Magistrate to hold a preliminary inquiry, the Magistrate shall follow the procedure laid down in Chapter XV.

(2) Where the offence appears to be one triable summarily in a Magistrate's Court the Magistrate shall follow the procedure laid down in Chapter XVII :

Provided that if the Magistrate is of opinion that the offence cannot be adequately punished by a Magistrate's Court he shall forthwith stop further proceedings and forward the record of the case to the Attorney-General, and thereafter abide the instructions of the Attorney-General.”

Replacement
of section
158 of the
principal
enactment.

9. Section 158 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“Accused
entitled to
statements
to the
police.

158. (1) When an accused has been committed for trial he shall, if he demands it at a reasonable time before the trial, be furnished with a certified copy of the statements to the police of the witnesses who have testified before the Magistrate and of the statements (if any) to the police of the accused, by the officer-in-charge of the police station where the relevant books are kept, on payment therefor at such rate as may be prescribed by the Minister by regulation :

Provided that until a rate is so prescribed the rate shall be twenty-five cents for a hundred words.

(2) When an indictment has been forwarded against any person in respect of an offence which is not shown to be triable by

a Magistrate's Court in the eighth column of the First Schedule, the Attorney-General may, in the interests of justice, make available to the accused or to his attorney-at-law, for perusal the statement to the police of any witness not listed in the indictment."

10. Section 162 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for paragraph (b) thereof, of the following new paragraph:—

Amendment
of section
162 of the
principal
enactment.

"(b) where there was no preliminary inquiry under this Chapter, copies of statements to the police, if any, of the accused and the witnesses listed in the indictment;".

11. Section 281 of the principal enactment is hereby amended as follows:—

Amendment
of section
281 of the
principal
enactment.

(a) by the substitution for the words "under the age of sixteen years," of the words "under the age of eighteen years,"; and

(b) in the marginal note thereto, by the substitution for the words "under sixteen years of age," of the words "under eighteen years of age.".

12. Section 393 of the principal enactment is hereby amended as follows:—

Amendment
of section
393 of the
principal
enactment.

(a) by the insertion immediately after subsection (6) of that section of the following new subsection:—

"(7) Notwithstanding any other provisions contained in this Act, it shall be lawful for the Attorney-General, having regard to the nature of the offence or any other circumstances, in respect of any summary offence—

(a) to forward an indictment directly to the High Court, or

(b) to direct the Magistrate to hold a preliminary inquiry in accordance with the procedure set out in Chapter XV in respect of any offence specified by him where he is of opinion that the evidence recorded at a preliminary inquiry will be necessary for preparing an indictment.

and thereupon such offence shall not be triable by a Magistrate's Court." ; and

(b) by the renumbering of subsection (7) of that section as subsection (8).

Amendment
of section
394 of the
principal
enactment.

13. Section 394 of the principal enactment is hereby amended by the substitution for the words "All persons appearing before the High Court under a commitment for trial or in pursuance of bail so to appear" of the words "All persons appearing before the High Court".

Replacement
of section
443 of the
principal
enactment.

14. Section 443 of the principal enactment is hereby repealed and the following new section substituted therefor :—

"Attorney-
General,
complainant
and accused
person
entitled to
certified
copy of
whole or
part of
proceedings
whether
concluded
or pending.

443. The Registrar of the court shall without delay, upon application made to him issue—

(a) to the Attorney-General who shall be exempt from any payment ; or

(b) to the complainant or to every accused person on payment made at the rates mentioned in section 442,

a certified copy of the whole or any part as desired of the proceedings (whether pending or concluded) against such accused person."

Insertion
of new
section
456A in the
principal
enactment.

15. The following new section is hereby inserted immediately after section 456, and shall have effect as section 456A, of the principal enactment :—

"Failure to
comply
with Act
not to affect
validity of
complaint
&c.

456A. The failure to comply with any provision of this Act shall not affect or be deemed to have affected the validity of any complaint, committal or indictment or the admissibility of any evidence unless such failure has occasioned a substantial miscarriage of justice."

Retrospec-
tive effect of
amendments.

16. The amendments made to the principal enactment by the preceding provisions of this Act, shall be deemed for all purposes to have come into operation on the date of coming into operation of the principal enactment and such provisions shall apply to all prosecutions, proceedings or matters pending in any court of first instance or pending in any other court whether in appeal or otherwise.

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