

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

Part II of March 28, 2025

SUPPLEMENT

(Issued on 28.03.2025)



CODE OF CRIMINAL PROCEDURE (AMENDMENT)

A

BILL

to amend the Code of Criminal Procedure Act, No. 15 of 1979

Ordered to be published by the Minister of Justice and National Integration

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 66.00

Postage : Rs. 150.00



This Gazette Supplement can be downloaded from www.documents.gov.lk

STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the “principal enactment”), by inserting new sections 144A and 144B in the principal enactment and the legal effect of the amendment is to make provisions to –

- (a) empower the Magistrate to dispense the personal attendance of a suspect or accused in court under the circumstances specified in that section; and
- (b) specify the circumstances under which the personal attendance of a suspect or accused shall not be dispensed with, by a Magistrate.

Clause 3 : This clause amends section 241 of the principal enactment and is consequential to the amendment made by clause 4.

Clause 4 : This clause amends the principal enactment, by inserting new sections 241A and 241B in the principal enactment and the legal effect of the amendment is to make provisions to -

- (a) empower the judge of the High Court to dispense the personal attendance of an accused in court under the circumstances specified in that section; and
- (b) specify the circumstances under which the personal attendance of an accused shall not be dispensed with, by a judge of the High Court.

Clause 5 : This clause amends the principal enactment, by inserting new sections 273A to 273U in that enactment and the legal effect of the amendment is to make provisions to –

- (a) empower the Magistrate or the Judge of the High Court to record remote testimony of a witness by contemporaneous audio-visual linkage during the inquiry or trial in court;
- (b) empower the Magistrate or the Judge of the High Court in appropriate instances to direct the Registrar of the relevant Court to forward summons to the experts in state sector for the submission of reports and attendance in court;
- (c) enable such experts to transmit the signed reports electronically; and
- (d) make admissible in evidence the report of the expert received by the court electronically.

Clause 6 : This clause amends the Second Schedule to the principal enactment by inserting new Forms 24 and 25 in that Schedule.

Code of Criminal Procedure (Amendment)

L.D.- O 5 /2018

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. of 2025. Short title

5 2. The following new sections are hereby inserted immediately after section 144 of the Code of Criminal Procedure Act, No.15 of 1979 (hereinafter referred to as the “principal enactment”) and shall have effect as sections 144A and 144B of that enactment: - Insertion of
new sections
144A and 144B
in Act, No. 15
of 1979

10 “Personal attendance of the suspect or accused may be dispensed with, under special
15 circumstances” **144A.** (1) The Magistrate may, having regard to the provisions of subsection (4) of this section and section 144B, dispense with the personal attendance in court of a suspect or an accused in respect of whom criminal proceedings have been commenced before such Magistrate, for –

(a) extending the period of detention;

(b) hearing an application for bail;

20 (c) hearing an application for assisting the conduct of any investigation, any criminal trial, any inquiry or any other proceeding; or

(d) any other purpose.

25 (2) The personal attendance of the suspect or accused may be so dispensed with, on an application made by the relevant person, as

specified in subsection (3), if the Magistrate is satisfied that the personal attendance of such suspect or accused in court may be dispensed with, on any one or more of the grounds specified in subsection (4).

(3) An application under subsection (2), in respect of a suspect or accused, shall be made by –

(a) the Attorney-General;

(b) the suspect or accused himself, or his Attorney-at-Law, as the case may be;

(c) the officer-in-charge of the relevant police station;

(d) the Superintendent of the prison wherein the suspect or accused is detained; or

(e) the officer-in-charge of the place of detention wherein the suspect or accused is detained.

(4) The Magistrate may dispense with the personal attendance of the suspect or accused under subsection (1), on the following grounds: -

(a) where there is a threat or an apprehension of serious harm to, the life of the suspect or accused;

(b) where public reaction to the offence alleged to have been committed by the suspect or accused is likely to give rise to a breach of the peace;

- (c) where there is a likelihood of the suspect or accused escaping from detention or being involuntarily removed from detention;
- 5 (d) where there is a likelihood of the suspect or accused obstructing the proceedings of court;
- (e) where the suspect or accused has been subjected to a state of quarantine under any written law in order to prevent the spread of an infectious or contagious disease dangerous to life;
- 10 (f) where the personal attendance of a suspect or an accused who has been admitted to compulsory rehabilitation in terms of the provisions of any written law causes interruption to the rehabilitation process of such suspect or accused and the purpose of the attendance of the suspect or accused is to extend the period of detention; or
- 15 (g) where the personal attendance of the suspect or accused is likely to pose a threat to the public safety and health due to a pandemic or other similar situation prevailing for the time being;
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30 Provided however, where the Magistrate is of the opinion that a ground specified in this subsection has ceased to exist, he may direct the personal attendance of the suspect or accused in court and enforce his attendance in manner hereinbefore provided.

5 (5) Where a Magistrate dispenses with the personal attendance of a suspect or an accused in court, under subsection (1), the reasons for the same shall be recorded in writing and such suspect or accused shall-

- (a) have the right to be represented in court by an Attorney-at-Law; and
- 10 (b) be permitted to make his representation and to observe the proceedings instituted by, on behalf of, or relating to such suspect or accused through contemporaneous audio-visual linkage.

15 (6) (a) The Registrar of the Magistrate's Court shall make necessary arrangements in the Court to facilitate the suspect or accused to make his representation and to observe the proceedings in accordance with the provisions of subsection (5).

20 (b) The officer-in-charge of the place of detention wherein such suspect or accused is detained or the Superintendent of the prison wherein such person is detained shall in consultation with the Registrar of the Magistrate's Court provide necessary facilities to such suspect or accused being detained, to make his representation through contemporaneous audio-visual linkage and to observe the proceedings of the Court as referred to in paragraph (a).

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(7) Where the place of detention of such suspect or accused or the prison is within the judicial division of the Magistrate who dispensed with the personal attendance

5 of such suspect or accused in court, such Magistrate shall visit such place of detention or the prison not later than forty-eight hours of calling the case, and shall look into the well-being of the suspect or accused so detained.

10 (8) Where the place of detention of the suspect or accused or the prison is situated outside the judicial division of the Magistrate who dispensed with the personal attendance of such suspect or accused in court, it shall be the duty of such Magistrate to forthwith communicate, in the prescribed Form, with the Magistrate having jurisdiction over the relevant judicial division and request him to visit the place of detention of the suspect or accused or the prison for the purpose referred to in subsection (7).

20 (9) Where the Magistrate within whose judicial division the place of detention of the suspect or accused or the prison is situated, is unable to visit the place of detention or the prison it shall be the duty of such Magistrate to forthwith communicate, in the prescribed Form, with any other Magistrate and request him to visit the place of detention of the suspect or accused or the prison for the purpose referred to in subsection (7).

30 (10) Any Magistrate who has been communicated with under subsection (8) or (9) shall visit the place of detention of the suspect or accused or the prison not later than forty- eight hours of the receipt of the Form calling on him to visit such place, and report back in writing within one week of such visit to the Magistrate who dispensed with the personal attendance of the suspect or accused, of such visit in the Form prescribed in that behalf.

(11) It shall be the duty of the officer-in-charge of the place of detention or the Superintendent of the prison to produce any such suspect or accused so detained, before the Magistrate who visits the place of detention or the prison in terms of the provisions of subsection (7), (8) or (9) and to provide such Magistrate with the facilities required by him.

(12) Where a Magistrate visits the place of detention or the prison to look into the well-being of a suspect or accused in terms of the provisions of subsection (7), (8) or (9), an Attorney-at-Law who represents such suspect or accused shall be permitted to be present at the time of such visit.

Circumstances under which the personal attendance of a suspect or accused shall not be dispensed with

144B. (1) The Magistrate shall not dispense with the personal attendance in court of a suspect or an accused under section 144A-

(a) where the suspect or accused is produced before a Magistrate for the first time from the custody of a police officer, a custom officer, an excise officer or a forest officer or from the place of detention and where such physical appearance is mandatory in terms of the provisions of the applicable written law;

(b) where any suspect or accused produced before a Magistrate for extending the period of detention has made a complaint that he was subjected to assault, torture or any other act or omission amounting to a violation of human rights or was threatened with assault, torture or any

other act or omission amounting to a violation of human rights while detained in a place of detention or the prison;

5 (c) where such suspect or accused is a person of unsound mind;

(d) where the Magistrate is of the opinion, or is satisfied based on an application made to that effect that the personal attendance of the suspect or accused in court is desirable in the
10 circumstance of the case or in the interest of justice;

(e) where the accused does not consent himself being represented by an Attorney-at-Law for receiving the charge sheet or the verdict on behalf of the accused:
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Provided that, if the accused consents himself being represented by an Attorney-at-Law for receiving the charge sheet or the verdict it shall be the duty of the Magistrate to make an order to serve a copy thereof on the accused through the officer-in-charge of the place of detention or the Superintendent of the Prison and to keep such fact in record upon confirming that the copy has been served on the accused.
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(2) Subject to the provisions of section 192, the Magistrate shall not dispense with the personal attendance in court of an accused, unless the accused has given the consent to an Attorney-at-Law to represent him at the trial and such Attorney-at-Law and the accused have been given sufficient facilities for private
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communication at the Court and at the place of detention or the Prison.

5 (3) Subject to the provisions of section 192, the Magistrate shall not dispense with the personal attendance in court of an accused, after the commencement of the trial without the express consent of the accused or his Attorney-at-Law.”.

10 **3.** Section 241 of the principal enactment is hereby amended as follows: -

Amendment of section 241 of the principal enactment

(1) in paragraph (b) of subsection (1) thereof, by the substitution for the words “to serve indictment on him.”, of the words “ to serve indictment on him; or ”; and

15 (2) by the addition immediately after paragraph (b) of subsection (1) of the following new paragraph: -

20 “(c) that the personal attendance of such person in court shall be dispensed with having regard to the provisions of sections 241A and 241B.”.

4. The following new sections are hereby inserted immediately after section 241 of the principal enactment and shall have effect as section 241A and 241B of that enactment: -

Insertion of new sections 241A and 241B in the principal enactment

25 “Personal attendance of the accused may be dispensed with, under special circumstances

30 **241A.** (1) The Judge of the High Court presiding at the sessions of the High Court of the relevant judicial zone may having regard to the provisions of subsection (4) of this section and section 241B dispense with the personal attendance in Court of an accused in respect of whom the trial is pending, or has been commenced, with or without a jury before such Court.

5 (2) The personal attendance of the accused in court may be so dispensed with, on an application made by the relevant person, as specified in subsection (3), if the Judge is satisfied that the personal attendance of such accused in court may be dispensed with, on any one or more of the grounds specified in subsection (4).

10 (3) An application under subsection (2), in respect of an accused, shall be made by -

- (a) the Attorney-General;
- (b) the accused himself, or his Attorney-at-Law, as the case may be;
- 15 (c) the Superintendent of the prison wherein the accused is detained; or
- (d) the officer-in-charge of the place of detention.

20 (4) The Judge may dispense with the personal attendance of the accused under subsection (1), on the following grounds: -

- (a) where there is a threat or an apprehension of serious harm to, the life of the accused;
- 25 (b) where public reaction to the offence alleged to have been committed by the accused is likely to give rise to a breach of the peace;
- 30 (c) where there is a likelihood of the accused escaping from detention or being involuntarily removed from detention;

(d) where there is a likelihood of the accused obstructing the proceedings of court;

5 (e) where the accused has been subjected to a state of quarantine under any written law in order to prevent the spread of an infectious or contagious disease dangerous to life; or

10 (f) where the personal attendance of the accused is likely to pose a threat to the public safety and health due to a pandemic or other similar situation prevailing for the time being:

15 Provided that, where the Judge is of the opinion that a ground specified in this subsection has ceased to exist, he may direct the personal attendance of the accused in court and enforce his attendance in manner hereinbefore provided.

20 (5) Where a Judge of the High Court dispenses with the personal attendance of an accused in court, under subsection (1), the reasons for the same shall be recorded in writing and such accused shall be –

25 (a) represented in court by an Attorney-at-Law; and

30 (b) permitted to make his representation and to observe the proceedings instituted by, on behalf of, or relating to such accused through contemporaneous audio-visual linkage.

5 (6) (a) The Registrar of the High Court shall make necessary arrangements in the Court to facilitate the accused to make his representation and to observe the proceedings in accordance with the provisions of subsection (5).

10 (b) The officer-in-charge of the place of detention wherein the accused is detained or the Superintendent of the prison wherein such accused is detained, shall in consultation with the Registrar of the High Court provide necessary facilities to such accused being detained, to make his representation through contemporaneous audio-visual linkage and to observe the proceedings of the court as referred to in paragraph (a).

20 (7) Where the place of detention of such accused or the prison is within the judicial zone of the Judge who dispensed with the personal attendance of such accused in Court, it shall be the duty of such Judge to forthwith communicate, in the prescribed Form, to the Magistrate having jurisdiction over the relevant judicial zone and request him to visit such place of detention or the prison not later than forty-eight hours of calling the case, and shall look into the well-being of the accused so detained.

30 (8) Where the place of detention of the accused or the prison is situated outside the judicial zone of the Judge who dispensed with the personal attendance of such accused in Court, it shall be the duty of such Judge to forthwith communicate, in the prescribed

Form, to the Magistrate having jurisdiction over the relevant judicial zone and request him to visit the place of detention of the accused, for the purpose referred to in subsection (7).

5 (9) Where the Magistrate within whose
judicial zone the place of detention of the
accused or the prison is situated, is unable to
visit the place of detention or the prison, it shall
be the duty of such Magistrate to forthwith
10 communicate, in the prescribed Form, to any
other Magistrate and request him to visit the
place of detention of the accused or the prison
for the purpose referred to in subsection (7).

15 (10) Any Magistrate who has been
communicated with under subsection (7), (8)
or (9) shall visit the place of detention of the
accused or the prison not later than forty-eight
hours of the receipt of the Form calling on him
to visit such place, and report back in writing
20 within one week of such visit to the Judge who
dispensed with the personal attendance of the
accused, of such visit in the Form prescribed
in that behalf.

25 (11) It shall be the duty of the officer-
in-charge of the place of detention or the
Superintendent of the prison wherein the
accused is detained to produce any such
accused so detained, before the Magistrate
who visits the place of detention or the prison
30 in terms of the provisions of subsection (7),
(8) or (9) and to provide such Magistrate with
the facilities required by him.

35 (12) Where a Magistrate visits the place of
detention or the prison to look into the well-
being of an accused in terms of the provisions

of subsection (7), (8) or (9), an Attorney-at-Law who represents such accused shall be permitted to be present at the time of such visit.

- 5 Circumstances under which the personal attendance of an accused shall not be dispensed with
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- 241B.** (1) The Judge of the High Court shall not dispense with the personal attendance in court of or an accused under section 241A-
- (a) where any accused produced before a Judge of the High Court has made a complaint that he was subjected to assault, torture, or any other act or omission amounting to a violation of human rights or was threatened with assault, torture or any other act or omission amounting to a violation of human rights while detained in a place of detention or a prison;
 - (b) such accused is a person of unsound mind;
 - (c) where the Judge of the High Court is of the opinion, or is satisfied based on an application made to that effect that the personal attendance of the accused in court is desirable in the circumstance of the case or in the interest of justice;
 - (d) where the accused does not consent himself being represented by an Attorney-at-Law for receiving the indictment or the verdict on behalf of the accused:

5 Provided that, if the accused
 consents himself being represented
 by an Attorney-at-Law for receiving
 the indictment or the verdict, it shall
10 be the duty of the Judge of the High
 Court to make an order to serve a
 copy thereof on the accused through
 the officer-in-charge of the place of
 detention or the Superintendent of the
15 prison and to keep such fact in record
 upon confirming that the copy has
 been served on the accused.

15 (2) Subject to the provisions of section
 241, the Judge of the High Court shall not
 dispense with the personal attendance in
 Court of an accused, unless the accused has
 given the consent to an Attorney-at-Law to
 represent him at the trial and such Attorney-
20 at-Law and the accused have been given
 sufficient facilities for private communication
 at the Court and at the place of detention or
 the prison.

25 (3) Subject to the provisions of section 241,
 the Judge of the High Court shall not dispense
 with the personal attendance in Court of an
 accused, after the commencement of the trial
 without the express consent of the accused or
 his Attorney-at-Law.”.

30 5. The following new sections are hereby inserted
 immediately after section 273 of the principal enactment and
 shall have effect as sections 273A, 273B, 273C, 273D, 273E,
 273F, 273G, 273H, 273I, 273J, 273K, 273L, 273M, 273N, 273O,
 273P, 273Q, 273R, 273S, 273T and 273U of that enactment:-
 Insertion of
 new sections
 273A, 273B,
 273C, 273D,
 273E, 273F,
 273G, 273H,
 273I, 273J,
 273K, 273L,
 273M, 273N,
 273O, 273P,
 273Q, 273R,
 273S, 273T
 and 273U in
 the principal
 enactment

- “Examination
of a witness
through
contem-
poraneous
audio-visual
linkage
during trial or
inquiry
- 273A.** (1) Notwithstanding the provisions of sections 272 and 273 and any other written law, the Judge of the High Court or the Magistrate may-
- (a) upon the application made by the relevant person, as specified in subsection (2); or
- (b) on his own motion in the interest of justice,
- and subject to the provisions of subsections (3) and (4), direct that evidence of a witness may be given through contemporaneous audio-visual linkage from a location at a remote point within or outside Sri Lanka.
- (2) An application under subsection (1) may be made by –
- (a) the Attorney-General;
- (b) the officer-in-charge of the relevant police station;
- (c) the National Authority for the Protection of Victims of Crime and Witnesses representing a witness or victim of a crime, within the meaning of the Assistance to and Protection of Crime and Witnesses Act, No. 10 of 2023;
- (d) the officer-in-charge of a place of detention; or
- (e) the accused himself, or his Attorney-at-Law, as the case may be.

(3) The Judge of the High Court or the Magistrate shall, before issuing a direction under subsection (1), consider any concerns or objections of the prosecution or the defence or the witness, as the case may be.

(4) The Judge of the High Court or the Magistrate shall not issue a direction under subsection (1), unless he satisfied that –

(a) all parties had notice of the application made under subsection (1);

(b) the contemporaneous audio-visual linkage and such other facilities are available or can be reasonably made available enabling the –

(i) persons at the court point to see and hear all other persons taking part in the proceedings at the remote point where the evidence is given; and

(ii) persons at the remote point where the evidence is being given can see and hear all other persons taking part in the proceedings in the court point;

(c) the witness sought to be called through contemporaneous audio-visual linkage can be examined and the evidence can be recorded through contemporaneous audio-visual linkage; or

(d) such direction is fair to every party to the proceedings or is in the interest of the administration of justice.

Application to
call a witness
through contemporaneous
audio-visual
5 linkage

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273B. (1) Every party to a criminal proceeding making an application to call a witness through contemporaneous audio-visual linkage shall file or cause to be filed in court after notice to the other party, the details in relation to the identification of the witness giving evidence from the remote point, the language use for giving evidence, the location of the witness and the remote point from where the evidence to be given by the witness.

15

(2) Every witness shall file an affidavit, before giving evidence through contemporaneous audio-visual linkage that he is the same person who is going to depose on the screen, with a copy of such affidavit to the other party:

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Provided that, where the witness is a child and the Judge of the High Court or the Magistrate is satisfied with the identification of such child witness, he may dispense with such requirement of filing an affidavit.

25

(3) Where an application is made to call a witness located in Sri Lanka, other than a witness who is employed in a government institution, through contemporaneous audio-visual linkage, the party making the application shall specify the name, address and telephone number or the electronic mail addresses of the person to be appointed as the Commissioner under section 273c unless the court appoints a suitable person as the Commissioner.

30

(4) Where an application is made to call a witness located outside Sri Lanka through contemporaneous audio-visual linkage, the party making the application shall file in court details of the High Commission, the Embassy or the Consulate, including the address,

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telephone number and electronic mail address of the High Commission, the Embassy or the Consulate for the purpose of appointing a diplomatic officer as the Commissioner under section 273c.

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Appointment of
Commissioner
and court
officer
for the
examination
of a witness
through
contemporaneous
audio-visual
linkage

273c. (1) The Judge of the High Court or the Magistrate shall appoint –

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(a) a Commissioner at the remote point (hereinafter in this Act referred to as the “Commissioner”); and

(b) a Court officer at the court point (hereinafter in this Act referred to as the “court officer”),

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to co-ordinate the examination of the witness through contemporaneous audio-visual linkage.

20

(2) The Registrar or an officer of the Court appointed by the Judge of the High Court or the Magistrate under paragraph (b) of subsection (1) shall be the court officer.

25

(3) Subject to the provisions of subsection (5), where the witness resides or is located in Sri Lanka, the Judge of the High Court or the Magistrate may appoint an Attorney-at-Law as the Commissioner at the remote point.

30

(4) Where the contemporaneous audio-visual facility is available in any government institution in Sri Lanka, and the witness to be called is an employee of such institution, the head of such institution, any senior executive officer or an Attorney-at-Law employed in that institution nominated by the head of such institution shall be the Commissioner at the remote point.

5 (5) Where the Commissioner is satisfied
that any witness, is unable to attend the
remote point due to sickness or infirmity,
the Commissioner appointed at the remote
point may, visit the home or any other place
where the witness resides, and coordinate
the examination of such witness through
contemporaneous audio-visual linkage,
subject to any further direction of the Judge of
10 the High Court or the Magistrate at the court
point.

Service of
Commission
15 **273d.** (1) The Judge of the High Court
or the Magistrate directing to call a witness
through contemporaneous audio-visual
linkage, who is residing in Sri Lanka issue a
commission together with the copy of such
direction to such Commissioner at the remote
point by way of registered post, courier
service or electronic means.

20 (2) Where the witness to be called through
contemporaneous audio-visual linkage is an
employee of a government institution, such
commission shall be delivered to the head
of such institution by way of registered post,
25 courier service or electronic means.

30 (3) (a) Where the witness to be called
through contemporaneous audio-visual
linkage is outside Sri Lanka, the Judge of
the High Court or the Magistrate shall issue
a commission substantially in such form
specified in Form No. 24 of the Second
Schedule to this Code to any diplomatic
officer of the High Commission, the Embassy
or the Consulate of Sri Lanka in such location
35 outside Sri Lanka.

(b) The commission issued under
subsection (a) shall be delivered to the
Secretary to the Ministry of the Minister

assigned the subject of Foreign Affairs in duplicate by way of registered post, courier service or electronic means to be served on such diplomatic officer.

5 Oath or affirmation to be taken by the Commissioner outside Sri Lanka

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273E. Every person appointed as a Commissioner and every court officer shall –

(a) take and subscribe or make and subscribe an oath or affirmation substantially in such form specified in Form No. 25 of the Second Schedule to this Code before a Justice of Peace; and

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(b) return immediately to the Court, a copy of such oath or affirmation by electronic mail or any other electronic means as directed by the Judge of the High Court or the Magistrate and the original with the report specified in section 273P after completing the commission.

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Fixing the date, time etc. & informing the witness

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273F. (1) Where the Judge of the High Court or the Magistrate directs to record evidence of a witness through contemporaneous audio-visual linkage, he shall, in consultation with the Commissioner or any court officer and the parties, fix a date, time and location for the examination of a witness through contemporaneous audio-visual linkage.

30

(2) Any party calling the evidence of a witness through contemporaneous audio-visual linkage shall inform the witness, the date, time and the location fixed under subsection (1), allowing him a reasonable time for preparation and for travelling to the place at which the attendance, if any, is required.

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Service of Summons

273G. (1) Upon the application of any party calling the evidence of a witness through

5 contemporaneous audio-visual linkage in Sri Lanka, the Judge of the High Court or the Magistrate may direct to serve summons on such witness in the manner provided in Chapter V or by a courier service or any other electronic means directed by such Judge or the Magistrate.

10 (2) The Summons to any witness giving evidence through contemporaneous audio-visual linkage outside Sri Lanka may also be served by courier service or any electronic means directed by the Judge of the High Court or the Magistrate.

15 (3) The Summons issued to a witness whose attendance is required either to give evidence or produce documents through contemporaneous audio-visual linkage shall specify the date, time and venue of the remote point, together with any document if any, and shall comply with the provisions of Chapter V to this Code.

25 The Judge of the High Court or the Magistrate to make necessary appointments and other orders to assist the witness through contemporaneous audio-visual linkage

273H. (1) The Judge of the High Court or the Magistrate on any application made by a party or on his own motion, may, appoint any or more of the following persons to assist a witness who is to be examined through contemporaneous audio-visual linkage: -

30 (a) a qualified translator where the witness to be examined is not conversant with the language of the court;

(b) an interpreter where the witness to be examined is hearing or speech impaired;

35 (c) an expert for reading of documents where the person to be examined is visually impaired; or

(d) an interpreter or translator, or specially trained educator where the

witness to be examined is suffering temporarily or permanently from a mental or physical disability:

5 Provided that, the Judge of the High Court or the Magistrate shall be satisfied that such translator, expert, interpreter or educator is qualified to perform his duties as a translator, expert, interpreter or educator.

10 (2) The Judge of the High Court or the Magistrate may allow the other party to appoint an observer at the remote point who shall be an Attorney-at-Law or in case of examination of a witness located outside Sri Lanka, any such person who is authorized to practice as an Attorney-at-Law or a Commissioner for Oaths at such location.

15 (3) If documents including electronic documents are to be used, an appropriate medium for formally sharing and presenting such documents prior to or during the hearing, shall be agreed upon and arranged by the parties, and if parties cannot agree, the Judge of the High Court or the Magistrate may make necessary orders.

25 **273i.** (1) Unless the Judge of the High Court or the Magistrate directs otherwise, the proceedings at the court point shall be conducted in public as a live hearing and all persons including the parties or their representatives and their Attorneys-at-Law shall be entitled to participate in the examination of a witness through contemporaneous audio-visual linkage at court point.

30 Participants at examination of a witness through contemporaneous audio-visual linkage

35 (2) The following persons shall be entitled to participate in the examination of a witness through contemporaneous audio-visual linkage at the remote point: -

- (a) the Commissioner and a technical officer where necessary;
- (b) witness whose attendance is required either to give evidence or produce documents through contemporaneous audio-visual linkage;
- (c) translator, interpreter or expert or any other person who is permitted by the judge at court point at the time of deciding the date and time of the examination of a witness; and
- (d) an observer permitted by the Judge of the High Court or the Magistrate.
- 273j.** (1) The court officer shall, on the direction of the Judge of the High Court or the Magistrate ensure in consultation with all parties that the Commissioner has received sufficiently in advance of the scheduled hearing through contemporaneous audio-visual linkage, the copies certified by the Registrar of the relevant court, of the relevant documents agreed upon by the parties which will be required for the remote examination of the witness.
- (2) The provisions of subsection (1) shall not be considered as a bar or prohibition for producing of documents according to law by using the contemporaneous audio-visual linkage for examination.
- (3) If in the course of examination of a witness at a remote point through contemporaneous audio-visual linkage, it is necessary to produce a document to the witness at the remote point, he may, subject to the applicable written law and procedure, permit the document to be produced to the witness in the following manner :—

Duties of the
commissioner
and the court
officer

5 (a) if the document is at the court or other point where the court is sitting, a copy of such document shall be transmitted to the Commissioner at the remote point electronically to be produced to the witness by electronic mail or using a document visualizer or any other electronic means;

10 (b) if the document is at the remote point where the witness is giving evidence, a copy of such document shall be transmitted to the court point or other place electronically by electronic mail or using a document visualizer
15 or any other electronic means:

 Provided that, the hard copy of such document shall be transmitted to the court point subsequently by registered post or courier.

20 (4) The Commissioner shall be responsible for making all necessary practical arrangements in coordination with the court officer and making any additional request for the assistance of the court, if any, in obtaining
25 the evidence to ensure the attendance of the witness and matters connected therewith.

 (5) It shall be the duty of the Commissioner to ensure that all directions issued by the Judge of the High Court or the Magistrate are complied with during the examination of a
30 witness and to ensure that any other device, except the one provided by the court or with the approval of such Judge or the Magistrate is not used during such examination.

(6) Any audio or video recording of an examination of a witness through contemporaneous audio-visual linkage by any unauthorized person shall be prohibited. Where any party or representative is permitted to participate in such examination, the Judge of the High Court or the Magistrate may, in an appropriate case, require an undertaking to be made to the Commissioner that no such recording shall be made.

Safeguards
to be taken
during
recording
of an
examination
of a witness
through
contempo
raneous
audio-visual
linkage

273k. (1) (a) The Judge of the High Court or the Magistrate shall, with assistance of the Commissioner confirm the identity of the person to be examined through contemporaneous audio-visual linkage and administer an oath or affirmation in accordance with law, practice and procedure of the court for the examination of a witness located in Sri Lanka or outside Sri Lanka.

(b) An oath or affirmation made by a person outside Sri Lanka, giving evidence through contemporaneous audio-visual linkage under this Code and a statement made on oath or affirmation by such person outside Sri Lanka and given in evidence through live audio-visual linkage, shall be treated as having been made in the same way as if the person were to give evidence in the courtroom or other place in Sri Lanka and for the purpose dealing with the offence of contempt of court under any relevant written law for the time being in force in Sri Lanka.

(2) The examination of a witness through contemporaneous audio-visual linkage shall be taken in open court in writing by the Judge of the High Court or the Magistrate at the court point or in his presence and hearing and under his personal direction and supervision as with live examination of the witness where

the Judge is sitting and such examination shall also be recorded electronically only at the court point where the Judge is sitting.

5 (3) The examination of a witness through contemporaneous audio-visual linkage shall ordinarily take place during the court working hours:

10 Provided however, the court may issue suitable directions with regard to timings of the audio-visual hearing as the circumstances may arise.

15 (4) The court point or the remote point, for the purposes of this Act, shall remain as a formal court sitting and the Supreme Court may make rules under section 453, laying down the protocols relating to examination of a witness through contemporaneous audio-visual linkage.

20 Examination of a witness through contemporaneous audio-visual linkage in accordance with the usual practice of the Court
25
30 **273L.** (1) The examination of a witness through contemporaneous audio-visual linkage shall, to the greatest extent possible, be conducted in accordance with the usual practice of the Court in open court and the Evidence Ordinance (Chapter 14), this Code, the Judicature Act, No. 2 of 1978 or any other written law for the time being in force, which provides for the receiving of evidence through contemporaneous audio-visual linkage shall apply, to the extent not inconsistent with the provisions of this Code.

35 (2) The Judge of the High Court or the Magistrate may, having regard to the changed environment created by video-link technology, and the geographical separation of participants, may issue appropriate directions whether or not upon application by the parties to ensure that examination of

a witness through contemporaneous audio-visual linkage will not interfere with the rights of the parties to have a fair trial.

5 Failure of
contemp
oraneous
audio-visual
linkage

10 **273M.** (1) Where an interruption is experienced during hearing through the contemporaneous audio-visual linkage due to technological fault, the court officer and the Commissioner shall make all endeavors to rectify and restore the connection immediately.

15 (2) The Commissioner shall ensure that the witness at the remote point does not communicate with other participants during such interruption and inform the Judge or the Magistrate at the court point immediately after restoring the connection that he has taken all steps to avoid the witness communicating with other participants and to limit their mobility as much as possible during such interruption.

20 (3) (a) If contemporaneous audio-visual linkage fails during the proceedings and any technological fault cannot be rectified immediately, the Judge of the High Court or the Magistrate may adjourn the proceeding or

25 make such other orders as are appropriate in the circumstances including suspension and rescheduling of the proceedings.

30 (b) If the Judge of the High Court or the Magistrate on his own or at the request of the Commissioner or on the application of a party made immediately after such remote hearing is satisfied that the technological fault has adversely affected the examination of a witness through contemporaneous audio-visual linkage, he may cancel the hearing

35 immediately and either conduct the hearing afresh or direct that a physical hearing be conducted in court.

(4) In case of adjournment due to failure of contemporaneous audio-visual linkage, the Judge of the High Court or the Magistrate may make such order as to costs as may be just.

(5) For the purpose of this section –

“poor audio visual quality” means the impaired quality or sound of the picture received;

“technological fault” includes any equipment or network failure or fault at any site or with service providers which causes slower transmission speed or poor audio visual quality.

Power and authority of a Judge and the privileges etc. of the Commissioner, court officer, Attorney-at-Law and the witness

273N. (1) A Judge of the High Court or a Magistrate presiding or acting judicially at the court point in a proceeding of a court at the court point, shall have in connection with evidence being taken through contemporaneous audio-visual linkage from a person in Sri Lanka or outside Sri Lanka, the same power and authority as a Judge of the High Court or a Magistrate.

(2) A Commissioner acting on a commission duly issued by the Judge of the High Court or the Magistrate to co-ordinate and link with the court that issued commission and a court officer, shall have in connection with the evidence being taken through contemporaneous audio-visual linkage from a person in Sri Lanka or outside Sri Lanka, the same privileges, protection and immunity as a Commissioner of the court or a court officer.

(3) An Attorney-at-Law shall have, in connection with such appearance for a party

through contemporaneous audio-visual linkage, the same privileges, protection and immunity as an Attorney-at-Law appearing for a party in or before such court.

5 (4) A person attending as a witness either in Sri Lanka or outside Sri Lanka in a proceeding in a court at the remote point shall have, in connection with giving evidence as a witness, through contemporaneous
10 audio-visual linkage, the same protection as a witness in a proceeding in or before such court.

Expenses for use of
15 contemporaneous audio-visual linkage for receiving evidence or making submissions
20 **273o.** (1) All expenses of a remote hearing shall be borne by the party seeking contemporaneous audio-visual linkage other than the expenses for any observer appointed by the other party, the legal fee of such other party and the expenses of sending documents to the remote point:

25 Provided that, where the order to take evidence through contemporaneous audio-visual linkage is made by the Judge of the High Court or the Magistrate on its own, the costs for such audio-visual hearing, unless the parties agree to bear the expenses, may be met by the Court.

30 (2) Where the technology live-court room has been established in any court or where other contemporaneous audio-visual technology services have been provided permanently to any court, the court may, subject to the rules or circulars issued by the Ministry of the Minister assigned the subject of Justice, dispense with the costs for the use
35 of contemporaneous audio-visual facility in Sri Lanka, either in full or in part.

40 (3) Notwithstanding the orders that can be made by court in relation to payment of cost, in the event that the court, after evidence is led as to the proof of the document, accepts the

document, the party who sought to impeach the document shall be liable to pay incurred cost of proving the document in addition to tax cost, unless the court for good reason directs otherwise.

5

Return of
commission

273p. (1) After the commission has been duly executed, it shall be returned by the Commissioner together with his report in writing subscribed with his name and directions issued by the Judge of the High Court or a Magistrate and the steps taken by him to comply with all directions to the court that issued commission along with the original of the affidavit referred to in section 273B and such report and affidavit shall be filed of record.

10

15

(2) The evidence recorded in the aforesaid manner using contemporaneous audio-video linkage shall not be admissible as evidence unless and until the report and affidavit referred in subsection (1) is recorded to the court:

20

Provided that, the evidence recorded in the aforesaid manner using contemporaneous audio-visual linkage other than evidence, led without the appointment of a commissioner at the remote point shall not be admissible as evidence, unless and until the report and affidavit mentioned in subsection (1) is submitted to court.

25

30

The transcripts
of record of
remote witness
and requests
for certified
transcripts of
video recording

273q. (1) Subject to the provisions of section 273L, the evidence recorded at the examination of a witness through contemporaneous audio-visual linkage shall become the official record of the testimony.

35

(2) The encrypted master copy shall be retained in the court digital server separately as part of the record by the Registrar and the encrypted backup copy shall be kept in any other external safe location.

(3) Where a party requests that in the course of contemporaneous audio-visual recording, some privileged communication has taken place, the Judge of the High Court or the Magistrate shall make appropriate directions in that regard.

(4) A party may be allowed to view the master copy of the contemporaneous audio-visual recording retained in the court on application and such application shall be decided solely by the Judge of the High Court or the Magistrate on a case-by-case basis, subject to strict conditions, including that the master copy may be viewed only in the presence of the Registrar or the technical officer.

(5) Copies of the master copy or the back-up copy of the contemporaneous audio-visual recording shall not be issued to any party by the court.

Location or premises to be considered part of the court

273r. (1) Any place within or outside Sri Lanka in which contemporaneous audio-visual linkage is being used for the purpose of giving evidence in any proceeding under this code, shall be deemed to be part of the court in Sri Lanka that is sitting in a courtroom or other place for the purpose of conducting the proceedings under this code.

(2) Any offence committed at the remote point shall be deemed to have been committed at the courtroom or other place where the court is sitting for the purposes of the laws in force in Sri Lanka and the laws relating to evidence, procedure, contempt of court or perjury shall *mutatis mutandis* apply.

(3) All proceedings conducted by a court through contemporaneous audio-visual linkage shall be judicial proceedings and all the courtesies and practices applicable to a physical court, including protocols in regulations made, shall apply to these proceedings.

5

Examination
of expert
witnesses
through
contempo
raneous
audio-visual
linkage

10

273s. (1) The Judge of the High Court or the Magistrate shall call a report or evidence from an expert witness in the manner hereinafter provided in this section.

15

(2) (a) Subject to the provisions of sections 148 and 397 the Magistrate may in appropriate circumstances summon any expert witness to give evidence or to produce a report through contemporaneous audio-visual linkage.

20

(b) The Judge of the High Court may in appropriate circumstances summon any expert witness to give evidence or to produce a report through contemporaneous audio-visual linkage.

25

(3) The Judge of the High Court or the Magistrate as the case may be, may summon any expert witness in the manner provided for in Chapter V of this code or by a courier service or any other electronic means.

30

(4) It shall be the duty of any such expert witness who received a summon to acknowledge the receipt of such summon and comply with the order issued by such summon.

35

(5) Where the Judge of the High Court or the Magistrate orders an expert witness to submit a report electronically, such report shall be authenticated by means of an electronic signature before transmitting such report to the court.

(6) The facts contained in a report submitted through electronic means shall be admissible in evidence of such facts, if the parties to the case do not insist on the personal attendance of such expert witness and the presiding judge deems it appropriate.

(7) For the purpose of this section “expert witness” includes a judicial medical officer, a forensic medical officer, an officer of the Department of Government Analyst and a forensic medical specialist of the Department of Forensic Medicine of a Medical Faculty in a University.

Regulations

273r. For the purposes of sections 273A to 273s (both inclusive), regulations shall be made with the concurrence of the Chief Justice in respect of the following matters: -

(a) prescribing the type of equipment and method of technology to be used and the arrangements to be made where a person is to appear by the use of contemporaneous audio-visual linkage;

(b) declaring any court as a designated technology live-court room;

(c) prescribing the cost of contemporaneous audio-visual linkage and payment, if any, to be made to any external service provider for providing contemporaneous audio-visual linkage to such proceedings within or outside Sri Lanka; and

(d) providing for any other matters contemplated by this Code as being necessary for its administration, or necessary for giving it full effect.

5 the expert's opinion and the facts
on which the opinion is formed and
which contains the substance of the
expert's evidence which the party
serving the statement intends to
adduce as evidence in chief at the
hearing;

“government institution” includes –

10 (a) any Ministry, department,
provincial ministry or department
or public body exercising
executive or administrative
functions on behalf of the
government; or

15 (b) any local authority or office, body
or agency or entity or any other
government agency or entity
prescribed by the regulations; or

20 (c) any hospital, health service,
clinic, detention or corrective
services centre, children's
home, or shelter home, child
care centre, youthful offenders
training school, custody home,
25 disabled centre, any centre under
the Department of probation and
child care services and any centre
for the protection of children
and young persons or youthful
30 offenders owned or controlled by
the Government or a Provincial
Council or a local government;

35 “Minister” means the minister assigned the
subject of Justice under Article 44 or
45 of the Constitution;

5 “officer-in-charge of a place of detention”
means the superintendent, manager
or other officer charged with the
administration and control of the
relevant place of detention;

10 “place of detention” means any detention
facility within the meaning of any
written law and shall include a training
school, remand home, a certified
school for suspects or accused and a
quarantine centre within the meaning
15 of the Quarantine and Prevention of
Diseases Ordinance (Chapter 222),
and any treatment and rehabilitation
centre within the meaning of the
Drug Dependent Persons (Treatment
and Rehabilitation) Act, No. 54 of
2007;

20 “recording” means a recording on any
medium –

- (a) of a single image, a moving
image or any sound; or
- (b) from which a single image, a
moving image or any sound
25 may be produced or reproduced;

30 “remote point” means the place where
the witness to be examined
through contemporaneous
audio-visual linkage is located
on a commission issued by the
Judge of the court that hears the
case at the court point or any other
remote point for the proceedings
through contemporaneous audio-
visual linkage whether located in
35 Sri Lanka or outside Sri Lanka;

5 “technology live courtroom” means the
court room that is declared by the
Minister for the purposes of this
Code as premises enabling members
of the public or court users to see and
hear proceedings that are held in such
other court premises or broadcast
and lined with any other location in
10 Sri Lanka or outside Sri Lanka in
accordance with directions made by
the Minister in consultation with the
Chief Justice, in terms of the regulations
made under section 273r of this Code;

15 “transmission” means any transmission by
electronic means of a single image, a
moving image or any sound;

“witness employed in a government
institution” means –

20 (a) a member of staff of a
government institution or a
person employed in or engaged
by any government institution
who provides an expert’s
report for use in evidence
25 in proceedings or proposed
proceedings or who is called
as an expert to give opinion
evidence in the proceedings;

30 (b) a member of a government
institution called to a tender
document or to corroborate
a document of the said
government institution which is
kept in the custody of the said
35 government institution; or

(c) any employee of a government institution or any other witness of a class prescribed by any regulations or directives of any government institution.”.

5

6. The Second Schedule to the principal enactment is hereby amended by the insertion immediately after Form 23 thereof, of the following new Forms and shall have effect as Form 24 and Form 25 of that Schedule: -

Amendment of the second Schedule to the principal enactment

“No. 24

FORM OF THE COMMISSION

[section 273D (3) (a)]

5	REQUEST FOR SERVICE ABROAD OF COMMISSION TO A DIPLOMATIC OFFICER OF THE SRI LANKAN EMBASSY/HIGH COMMISSION/CONSULATE	
	To: Secretary Ministry of Foreign Affairs Colombo 01	
10	Court that issued commission:	
	Case No.:	
	Name of the parties	
15	Nature of the case: Name and address of the applicant:	Name and address of receiving authority:
20	Request: commission to be served on Diplomatic Officer: Country: Location: Address:	
25	In accordance with the provisions of sections 273 (.....) and 273 (.....) of the Code of Criminal Procedure Act, No. 15 of 1979.	
	Documents attached:	
	Date:	Signature of Registrar and the stamp

5

The Secretary to the Ministry of Foreign Affairs is requested to serve the attached commission together with documents to the duly appointed Diplomatic Officer of the Embassy / High Commission / Consulate ofand return the copy of this form to the Court of with a statement of the service endorsed hereon, and signed by the Secretary to the Ministry of Foreign Affairs, Sri Lanka.

Endorsement:

Date: Signature:

No. 25

[section 273E (a)]

OATH OR AFFIRMATION OF THE COMMISSIONER OR
THE COURT OFFICER

5 Ido
solemnly and truly declare and affirm/swear that I have,
duly and faithfully and to the best of my ability, knowledge
and judgment performed the duties of my office as a
Commissioner or a court officer in accordance with the
10 law and direction issued by the Judge of the High Court/
Magistrate ofwithout fear or favour, affection
or ill-will.”.

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

Sinhala text to
prevail in case
of
inconsistency

