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

**Part II of October 08, 2021**

**SUPPLEMENT**

(*Issued on 08.10.2021*)



**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*

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*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 section 144A in that Act and the legal effect of the amendment is to make provisions to empower the Magistrate to dispense the personal attendance of a suspect or accused in court under the circumstances specified in that section.

*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 section 241A in that enactment and the legal effect of the amendment is to make provisions to empower the Judge of the High Court to dispense the personal attendance of an accused in court under the circumstances specified in that section.

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| *Code of Criminal Procedure (Amendment)* | 1 |

L. D.- O 5/2018

AN ACTTOAMENDTHE CODEOF 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 | Short title |

Procedure (Amendment) Act, No. of 2021.

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

of that Act:-

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

period of detention or for any other purpose.

(2) The personal attendance of the suspect or accused may be so dispensed with, on an application made by the relevant person, as 20 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).

|  |  |
| --- | --- |
| 25 | (3) An application under subsection (2), in respect of a suspect or accused, shall be |

made by –

2 *Code of Criminal Procedure (Amendment)*

(*a*) the Attorney General;

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

|  |  |  |
| --- | --- | --- |
| 5 | (*c*) | the officer in charge of the relevant |

police station; or

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

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

|  |  |  |
| --- | --- | --- |
| 15 | (*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

|  |  |  |
| --- | --- | --- |
| 20 | (*c*) | give rise to a breach of the peace; |
| where there is a likelihood of the |

suspect or accused escaping from   
detention or being involuntarily   
removed from detention;

|  |  |  |
| --- | --- | --- |
| 25 | (*d*) | where there is a likelihood of the |

suspect or accused obstructing the   
proceedings of court;

*Code of Criminal Procedure (Amendment)*  3

(*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 5 infectious or contagious disease dangerous to life;

(*f*) where the personal attendance of a suspect or an accused who has been admitted to compulsory 10 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 15 the suspect or accused is to extend the period of detention; or

(*g*) where the personal attendance of the suspect or accused is likely to pose a threat to the public safety and 20 health due to a pandemic or other similar situation prevailing for the time being:

Provided however, where the Magistrate is of the opinion that a ground specified in 25 subsection (4) 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) Where a Magistrate dispenses with the

|  |  |
| --- | --- |
| 30 | 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–

4 *Code of Criminal Procedure (Amendment)*

(*a*) have the right to be represented in   
 court by an Attorney-at-Law; and

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (*b*) | be | permitted | to | make | his |

representation and to observe the 5 proceedings instituted by, on behalf of, or relating to such suspect or accused through contemporaneous or near contemporaneous audio- visual linkage.

10 (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 15 of subsection (5).

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

25 paragraph (*a*).

(*c*) For the purpose of this subsection  
“place of detention” means any detention   
facility within the meaning of any written law   
and shall include any Quarantine Centre within

30 the meaning of the Quarantine and Prevention

*Code of Criminal Procedure (Amendment)*  5

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 5 2007.

(7) Where the place of detention of such suspect or accused is within the judicial division of the Magistrate who dispensed with the personal attendance of such suspect or 10 accused in court, such Magistrate shall visit such place of detention not later than forty- eight hours of calling the case, and shall look into the well-being of the suspect or accused so detained.

15 (8) Where the place of detention of the suspect or accused 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 20 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, for the 25 purpose referred to in subsection (7).

(9) Where the Magistrate within whose judicial division the place of detention of the suspect or accused is situated, is unable to visit the place of detention, it shall be the duty of 30 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 for the purpose referred to in subsection (7).

6 *Code of Criminal Procedure (Amendment)*

(10) Any Magistrate who has been   
communicated with under subsection (8) or (9)   
shall visit the place of detention of the suspect   
or accused not later than forty- eight hours of

5 the receipt of the Form calling on him tovisit 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 10 prescribed in that behalf.

(11) It shall be the duty of the   
Superintendent of a prison to produce any such   
suspect or accused so detained, before the   
Magistrate who visits the prison in terms of the

|  |  |
| --- | --- |
| 15 | provisions of subsection (7), (8) or (9)and to provide such Magistrate with the facilities |

required by him.

(12) Where a Magistrate visits a prison to look into the well-being of a suspect or accused 20 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.”.

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| 25 | **3.** | Section 241 of the principal enactment is hereby | Amendment |
| of section |
| amended as follows:– | |
| 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”;

|  |  |  |
| --- | --- | --- |
| 30 | (2) | by the addition immediately after paragraph (*b*) of |

subsection (1) of the following new paragraph:–

*Code of Criminal Procedure (Amendment)*  7

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 5 | **4.** | The following new section is hereby inserted | | Insertion of |
| new section |
| immediately after section 241 of the principal enactment | | |
| 241A in the |
| 10 | and shall have effect as section 241A of that enactment:- | | | principal |
| enactment |
| “Personal | | 241A. (1) The Judge of the High Court |
| attendance of the accused  may be | | presiding at the sessions of the High Court of the relevant judicial zone may having regard |
| dispensed  with, under special | | to the provisions of subsection (4), dispense with the personal attendance in court of an |
| circumstances | | accused in respect of whom the trial,is pending, |

or has been commenced, with or without a jury   
before such Court.

15 (2) The personal attendance of the accused 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 20 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 an accused, shall be made by –

|  |  |  |
| --- | --- | --- |
| 25 | (*a*) | the Attorney General; |
| (*b*) | the accused himself, or his |

Attorney- at- Law, as the case may   
be; or

(*c*) the Superintendent of the prison   
 wherein the accused is detained.

8 *Code of Criminal Procedure (Amendment)*

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

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | where there is a threat or an |
| apprehension of serious harm to, the |

life of the accused;

(*b*) where public reaction to the offence   
 alleged to have been committed by   
 the accused is likely to give rise to a

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | breach of the peace; |
| where there is a likelihood of the |

accused escaping from detention or   
being involuntarily removed from   
detention;

|  |  |  |
| --- | --- | --- |
| 15 | (*d*) | where there is a likelihood of the |

accused obstructing the proceedings   
of court;

|  |  |  |
| --- | --- | --- |
| 20 | (*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

|  |  |  |
| --- | --- | --- |
| 25 | (*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:

|  |  |
| --- | --- |
| 30 | Provided however, where the Judge is of the opinion that a ground specified in subsection |

(4) has ceased to exist, he may direct the

*Code of Criminal Procedure (Amendment)*  9

personal attendance of the accused in court   
and enforce his attendance in manner   
hereinbefore provided.

(5) Where a Judge of the High Court 5 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 –

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | represented in court by an Attorney- |
| (*b*) | at- Law; and |
| permitted to make his representation |

and to observe the proceedings   
instituted by, on behalf of, or relating

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 15 | to | such | accused | through | |
| contemporaneous | | | or | near |

contemporaneous audio-visual   
linkage.

(6) (*a*) The Registrar of the High Court shall   
make necessary arrangements in the Court to

20 facilitate the accused to make his representation and to observe the proceedings in accordance with the provisions of subsection (5).

(*b*) The Superintendent of the prison wherein such accused is detained or the officer-25 in-charge of the place of detention wherein such person is detained, shall in consultation with the Registrar of the High Court provide necessary facilities to such accused being detained, to make his representation and to 30 observe the proceedings of the Court as referred to in paragraph (*a*).

10 *Code of Criminal Procedure (Amendment)*

(*c*) For the purpose of this subsection  
“place of detention” means any detention   
facility within the meaning of any written law   
and shall include any Quarantine Centre within

|  |  |
| --- | --- |
| 5 | the meaning 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

10 2007.

(7) Where the place of detention of such accused is within the judicial zone of the Judge who dispensed with the personal attendance of such accused in court, such Judge shall visit 15 such place of detention not later than forty- eight hours of calling the case, and shall look into the well-being of the accused so detained.

(8) Where the place of detention of the accused is situated outside the judicial zone of 20 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 High Court Judge having jurisdiction over the 25 relevant judicial zone and request him to visit the place of detention of the accused, for the purpose referred to in subsection (7).

(9) Where the Judge within whose judicial zone the place of detention of the accused is 30 situated, is unable to visit the place of detention, it shall be the duty of such Judge to forthwith communicate, in the prescribed Form, to any other High Court Judge and request him to visit the place of detention of 35 the accused for the purpose referred to in subsection (7).

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(10) Any High Court Judge who has been communicated with under subsection (8) or (9) shall visit the place of detention of the accused not later than forty-eight hours of the receipt 5 of the Form calling on him to visit such place, and report back in writing 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.

|  |  |
| --- | --- |
| 10 | (11) It shall be the duty of the Superintendent of a prison to produce any such |

accused so detained, before the Judge who visits   
the prison in terms of the provisions of

|  |  |
| --- | --- |
| 15 | subsection (7), (8) or (9) and to provide such Judge with the facilities required by him. |

(12) Where a Judge visits a prison to look   
into the well-being of an accused in terms of   
the provisions of subsection (7), (8) or (9), an

|  |  |
| --- | --- |
| 20 | Attorney-at-Law who represents such accused shall be permitted to be present at the time of |

such visit.”.

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| --- | --- | --- |
| **5.** | In the event of any inconsistency between the Sinhala | Sinhala text to prevail in case of |
| and the Tamil texts of this Act, the Sinhala text shall prevail. | |

inconsistency

|  |  |
| --- | --- |
| 12 | *Code of Criminal Procedure (Amendment)* |

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