

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

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

**A**

**BILL**

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

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*Presented by the Foreign Minister on 10th of February, 2022*

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*Ordered by Parliament to be printed*

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**[Bill No. 106]**

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*STATEMENT OF LEGAL EFFECT*

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

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

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

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

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

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

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

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

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

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

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

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

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| *Prevention of Terrorism (Temporary Provisions) (Amendment)* | 1 |

L.D.–O. 1/2022

AN ACTTOAMENDTHE PREVENTIONOF TERRORISM   
(TEMPORARY PROVISIONS) ACT, NO. 48 OF 1979

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

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| 5 | **1.** | This Act may be cited as the Prevention of Terrorism | | Short title |
| (Temporary Provisions) (Amendment) Act, No. of 2022. | | | Amendment of section 9 of Act,  No. 48 of  1979 |
| **2.** | Section 9 of the Prevention of Terrorism (Temporary | |
| Provisions) Act, No. 48 of 1979 (hereinafter referred to as | | |
| the “principal enactment”) is hereby amended in the proviso | | |
| to subsection (1) thereof, by the substitution for the words | | |
| 10 | “eighteen months.” of the words “twelve months.”. | | | Insertion of  sections 9A  and 9B in the principal  enactment |
| **3.** | The following new sections are hereby inserted | |
| 15 | immediately after section 9 of the principal enactment and | | |
| shall have effect as sections 9A and 9B of that enactment: - | | |
| “Certified  copy of the  detention  Order to be  served on the Magistrate | | 9A. (1) A certified copy of the Order made under section 9 shall be made available within a reasonable period to the Magistrate within whose judicial division the place of detention of the person in respect of whom such Order |
| 20 | relates is situated, for the Magistrate to visit | | |
| such place of detention, in terms of section 9B. | | |
| (2) The detention of any person under | | |
| 25 | section 9 shall be communicated to the Human | | |
| Rights Commission of Sri Lanka in terms of | | |
| section 28 of the Human Rights Commission | | |
| of Sri Lanka Act, No. 21 of 1996, for the persons | | |
| authorized by the Human Rights Commission | | |
| of Sri Lanka to visit the place of detention in | | |
| terms of that Act. | | |

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| 5  10  15 | 2 | *Prevention of Terrorism (Temporary Provisions)* | |
| *(Amendment)* | | |
| Duty of the  Magistrate to visit place of detention | | 9B. (1) It shall be the duty of every Magistrate who has received a certified copy of a detention Order in terms of subsection (1) of section 9A, to visit the place of detention of |
| the person to whom the Order relates (in this section referred to as the “suspect”) at least once in every month during the period of detention, to ensure that the suspect is protected to the extent provided for in the Convention Against Torture and other Cruel, Inhumane or degrading Treatment or Punishment Act, No.22 of 1994.  (2) For the purpose of subsection (1), the Magistrate who visits any place of detention, shall– | | |

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

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| 20  25  30 | (*b*) record his observations and any complaint the suspect may make.  (3) Where the Magistrate is of the opinion, that the suspect may have been subjected to torture, the Magistrate may direct that the suspect be produced before a Judicial Medical Officer for medical examination, and a report be submitted by such Judicial Medical Officer to the Magistrate.  (4) Where the report of such Judicial Medical Officer reveals that the suspect has been subjected to torture, the Magistrate shall make an appropriate order, to provide necessary medical treatment to the suspect. |

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| 5 | *Prevention of Terrorism (Temporary Provisions)* | | 3 | Replacement |
| *(Amendment)* | | |
| (5) The Magistrate may also direct the Inspector General of Police to commence an investigation into the alleged torture in order to enable the Attorney-General to institute criminal proceedings against the person who is alleged to have committed the torture.”. | | |
| **4.**  Section 10 of the principal enactment is hereby  repealed and the following section is substituted therefor:- | | |
| of section 10 |
| of the |
| 10 | “Order under section 9 to be final | 10. An Order made under section 9 shall be final and shall not be called in question in any proceedings or in any court of law, save and except in proceedings under Article 126 or 140 of the Constitution.”. | | principal |
| enactment |
| 15 | **5.** The following new section is hereby inserted immediately after section 10 of the principal enactment and shall have effect as section 10A of that enactment:- | | | Insertion of |
| section 10A |
| in the |
| principal |
| 20 | “An  Attorney- at-Law to have access to a  person in  remand or in detention | 10A. (1) An Attorney- at- Law representing a person remanded or detained under this Act, shall have the right of access to such person and to make representations on behalf of such person, subject to such conditions as may be prescribed by regulations made under this Act or as provided for in other written law. | | enactment |
| 25 | (2) A person remanded or detained under this Act shall have the right to communicate with his relatives, as provided for in written law.”. | | | Amendment of section 11 of the  principal  enactment |
| **6.**  Section 11 of the principal enactment is hereby  amended as follows:- | | |
| 30 | (1) by the insertion immediately after subsection (1) thereof, of the following subsections:- | | |

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

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

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

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| 5  10  15  20  25 | (1B) An Order made under subsection (1) shall be served on the person to whom the Order relates, by the Magistrate in whose judicial division such person resides and the report of the Judicial Medical Officer referred to in subsection (1A) shall be produced before the Magistrate to ensure that such person has not been subjected to torture before serving such Order on such person.  (1C) Where the report issued by the Judicial Medical Officer under subsection (1A) reveals that such person has been subjected to torture, the Magistrate shall make an appropriate order to provide necessary medical treatment to such person.  (1D) The Magistrate may also direct the Inspector General of Police to commence an investigation into the alleged torture in order to enable the Attorney-General to institute criminal proceedings against the person who is alleged to have committed the torture.”.  (2) in the proviso to subsection (3) thereof, by the substitution for the words “eighteen months.” of the words “twelve months.”; |

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

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

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| 5 | *Prevention of Terrorism (Temporary Provisions)* | | 5 | Repeal of |
| *(Amendment)* | | |
| **7.**  Section 14 of the principal enactment is hereby  repealed. | | |
| section 14 of |
| the principal |
| **8.**  Section 15 of the principal enactment is hereby  amended by the addition immediately after subsection (2) | | | enactment |
| Amendment |
| of section 15 |
| of the |
| thereof, of the following new subsection:- | | |
| principal |
| 10 | “(3) Every trial under this Act shall be held on a day to | | | enactment |
| day basis, unless in the opinion of the court exceptional | | |
| circumstances warrant postponement of the | | |
| commencement or continuation of trial, for reasons which | | |
| shall be recorded by court.”. | | |
| 15 | **9.**  Section 15A of the principal enactment is hereby  amended in subsection (1) thereof, by the substitution for | | | Amendment |
| of section |
| 15A of the |
| the words and figures “section 19(*a*)”, of the word and figure | | |
| principal |
| “section 19”. | | |
| enactment |
| **10.**  The following new section is hereby inserted  immediately after section 15A of the principal enactment | | | Insertion of |
| new section |
| 15B in the |
| and shall have effect as section 15B of that enactment:- | | |
| principal |
| 20 | “Grant of  bail to  persons in  remand or in detention | 15B. Notwithstanding anything to the contrary in the provisions of this Act, if the trial against a person remanded or detained under this Act has not commenced after the expiration of twelve months, from the date of | | enactment |
| 25 | arrest, the Court of Appeal may release such | | |
| person on bail, upon an application in that | | |
| behalf, made by the suspect or an Attorney- at- | | |
| Law on his behalf: | | |
| 30 | Provided however, the preceding provisions | | |
| of this section shall not preclude the High | | |
| Court from making an order to remand any | | |
| person under subsection (2) of section 15, until | | |
| conclusion of the trial: | | |

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| 5 | 6 | *Prevention of Terrorism (Temporary Provisions)* | | | Replacement of section 19 of the  principal  enactment |
| *(Amendment)* | | | |
| Provided further, where the trial against an accused in respect of whom the indictment has been forwarded and filed in the High Court, has not commenced after the expiration of twelve months from the date of such filing, the High Court may consider to release such person on bail, upon an application in that behalf made by the accused or an Attorney- at-Law on his behalf.”. | | | |
| 10 | **11.**  Section 19 of the principal enactment is hereby  repealed and the following section is substituted therefor:- | | | |
| 15 | “Provisions of any  written law relating to  the grant of bail not to  apply to  persons  accused of | | 19. Notwithstanding the provisions of any other written law, every person convicted by any court of any offence under this Act shall, notwithstanding that he has lodged a petition of appeal against his conviction or the sentence imposed on him, be kept on remand until the determination of the appeal: | |
| 20 | any offence under this  Act | | | Provided however, that the Court of Appeal may in exceptional circumstances release on bail any such person subject to such conditions as the Court of Appeal may deem fit .”. | Replacement |
| **12.**  Section 26 of the principal enactment is hereby  repealed and the following section is substituted therefor:- | | | |
| of section 26 |
| of the |
| 25 | “Protection of officers &c. | | 26. (1) An Order made or direction given under this Act may be questioned in proceedings under Article 126 or Article 140 of the Constitution. | | principal |
| enactment |
| 30 | (2) Subject to the provisions of subsection (1), no suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing in good faith done or purported to be done in pursuance or supposed pursuance of any Order made or direction given under this Act.”. | | | |
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| 5 | *Prevention of Terrorism (Temporary Provisions)* | 7 | Amendment of section 31 of the  principal  enactment |
| *(Amendment)* | |
| **13.**  Section 31 of the principal enactment is hereby  amended as follows:- | |
| (1) by the repeal of the definition of the expression | |
| “newspaper”; | |
| (2) by the repeal of the definition of the expression | |
| “printing press”; and | |

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

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| 10 | ““torture” shall have the same meaning assigned to | Sinhala text |
| such expression under the Convention Against |
| Torture and other Cruel, Inhumane or degrading |
| Treatment or Punishment Act, No.22 of 1994;”. |
| 15 | **14.**  In the event of any inconsistency between the  Sinhala and Tamil texts of this Act, the Sinhala text shall |
| to prevail in |
| case of |
| prevail. |
| inconsistency |

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| 8 | *Prevention of Terrorism (Temporary Provisions) (Amendment)* |

Department of Government Printing