

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

*————————*

**ASSISTANCE TO AND PROTECTION OF VICTIMS OF CRIME AND WITNESSES**

**A**

**BILL**

**to provide for the setting out of rights and entitlements of victims of crime and witnesses and the protection and promotion of such rights and entitlements; to give effect to appropriate international norms, standards and best practices relating to the assistance to and protection of victims of crime and witnesses; to provide for the establishment of the National Authority for the Protection of Victims of Crime and Witnesses, the Victims of Crime and Witnesses Assistance and Protection Division and the Victims of Crime and Witnesses Assistance and Protection Fund; to provide for the payment of compensation to victims of crime; to repeal the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015; and to provide for matters connected therewith or incidental thereto**

*————————*

*Presented by the Minister of Justice, Prison Affairs and*   
*Constitutional Reforms on 25th of April, 2023*

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*Ordered by Parliament to be printed*

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| **[Bill No. 173]** | *————————* |

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| *Assistance to and Protection of Victims* | 1 |

*of Crime and Witnesses*

L.D.-O. 38/2019

AN ACTTOPROVIDEFORTHESETTINGOUTOFRIGHTSANDENTITLEMENTS

OFVICTIMSOFCRIMEANDWITNESSESANDTHEPROTECTIONAND PROMOTIONOFSUCHRIGHTSANDENTITLEMENTS; TOGIVEEFFECTTO APPROPRIATEINTERNATIONALNORMS, STANDARDSANDBESTPRACTICES

RELATINGTOTHEASSISTANCETOANDPROTECTIONOFVICTIMSOF CRIMEANDWITNESSES; TOPROVIDEFORTHEESTABLISHMENTOFTHE NATIONAL AUTHORITYFORTHE PROTECTIONOF VICTIMSOF CRIME AND WITNESSES, THE VICTIMSOF CRIMEAND WITNESSES ASSISTANCEAND PROTECTION DIVISIONANDTHE VICTIMSOF CRIME AND WITNESSES ASSISTANCEAND PROTECTION FUND; TOPROVIDE FORTHEPAYMENTOFCOMPENSATIONTOVICTIMSOFCRIME; TOREPEAL THE ASSISTANCETOAND PROTECTIONOF VICTIMSOF CRIMEAND WITNESSES ACT, NO. 4 OF 2015; ANDTOPROVIDEFORMATTERS CONNECTEDTHEREWITHORINCIDENTALTHERETO.

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

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| --- | --- | --- |
| 5 | **1.** (1) This Act may be cited as the Assistance to and | Short title |
| Protection of Victims of Crime and Witnesses Act, No. of | and date of |
| operation |
| 2023. |

(2) The provisions of this Act, other than this section, shall come into operation on such date as the Minister may by Order published in the *Gazette* appoint (in this Act referred to as the “appointed date”).

10 (3) The provisions of this section shall come into operation on the date on which the Certificate of the Speaker is endorsed on the Bill.

PART I

OBJECTSOFTHE ACT

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | **2.** The objects of this Act shall be- | | Objects of |
| the Act |
| (*a*) | to set out the rights and entitlements of victims of |

crime and witnesses;

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(*b*) to set out duties and responsibilities of the State,   
 judicial officers and public officers in upholding,   
 promoting and protecting the rights and   
 entitlements of victims of crime and witnesses;

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| 5 | (*c*) | to stipulate conductthat constitute offences against |
| (*d*) | victims of crime and witnesses; |
| to provide assistance and protection to victims of |

crime and witnesses;

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| 10 | (*e*) | to provide for a mechanism to enable the victims of |
| crime and witnesses to exercise and enforce their |

rights and entitlements and to obtain relief;

(*f*) to provide for the granting of redress including   
 compensation, restitution, reparation and   
 rehabilitation to victims of crime and witnesses;

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| 15 | (*g*) | to establish a National Authority for the Protection |

of Victims of Crime and Witnesses and a Victims of   
Crime and Witnesses Assistance and Protection   
Division;

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| 20 | (*h*) | to make provision for the victims of crime and |
| witnesses to testify through contemporaneous |

audio-visual means; and

(*i*) to recognize and implement internationally   
 recognized best practices relating to assistance and   
 protection of victims of crime and witnesses.

25 PART II

RIGHTSAND ENTITLEMENTSOF VICTIMSOF CRIMEAND WITNESSES

**3.** (1) A victim of crime shall have the right- Right of a victim of

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| 30 | (*a*) | to be treated with equality and with fairness and | crime to a |
| fair treatment |
| respect to the dignity and privacy of such victim of |
| crime; |

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(*b*) to receive prompt, adequate and fair redress   
 including reparation and restitution which is   
 commensurate with any injury, damage or loss   
 suffered as a victim of crime;

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| 5 | (*c*) | to be protected from any injury or potential injury, |

including threats, intimidation, reprisal or   
retaliation;

(*d*) to be treated for any physical, psychological,   
 emotional or mental harm, including impairment

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| 10 | (*e*) | or disability, suffered as a victim of crime; |
| where such victim of crime is a child, to be treated |

in a manner that ensures the best interest of such   
child;

|  |  |  |
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| 15 | (*f*) | where such victim of crime is a female who has to |
| be medically examined, to make a request to be so |

examined, by a female medical professional; and

(*g*) where the offence is of sexual nature, to specify the   
 gender of the officer who is to carry out the   
 investigation or inquiry into the offence.

20 (2) Whenever a victim of crime, in exercising the right under paragraph (*f*) or paragraph (*g*) of subsection (1), makes a request to be examined by a female medical professional or specifies the gender of the officer who is to carry out the investigation or inquiry, as the case may be,it shall be the

25 duty of the State to make all endeavors to ensure that such medical examination or investigation or inquiry is carried out by a medical professional or investigation or inquiring officer, as the case may be, of the gender requested or specified by the victim of crime.

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| 5 | **4.** A victim of crime shall have the right, upon a request | | | Right of a |
| made by such victim of crime, to be informed- | | | victim of |
| crime to |
| (*a*) | by the Authority or the Protection Division or any | | receive |
| information |
| law enforcement authority- | | | on assistance, |
| protection |
| (i) | | of the measures of protection available to | and remedies |
| available to |
| him |
| such victim of crime under this Act; | | |
| (ii) | | of the legal remedies including delictual |

remedies available for the redress of any injury   
which suchvictim of crime has suffered; and

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| 10 | (iii) | of the time periods within which legal action |

**s**hall be instituted to obtain legal remedies;   
and

(*b*) by the Authority or the Protection Division, of the medical services, social services and other assistance 15 available for the treatment of any harm caused to such victim of crime and the availability of any facilities to assist such victim of crime.

**5.** (1) A victim of crime shall have the right- Right of a victim of

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| 20 | (*a*) | to make a complaint or to cause a complaint to be | crime in |
| relation to |
| made in relation to any conduct constituting an |
| complaints, |
| (*b*) | offence under this Act in the manner provided for | inquiries, |
| investigations, |
| in this Act and to have such complaint recorded |
| &c |
| and investigated according to law; |
| 25 |
| without prejudice to any ongoing investigation |
| or inquiry, to make representations to the |

investigation authority or inquiring authority in   
person orthrough an attorney-at-law and receive a   
response within a reasonable period of time;

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(*c*) without prejudice to the prosecution and in   
 accordance with the provisions of this Act, to be   
 represented by an attorney-at-law at any stage of   
 any proceedings before a court or Commission;

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| 5 | (*d*) | to make a request, if necessary, for legal aid to be |

provided by the State;

(*e*) upon conviction of the offender and prior to the   
 determination of the sentence, to submit to the court   
 or Commissiona victim impact statement in

10 accordance with section 8, either personally or through an attorney-at-law;

(*f*) in the event of any person in authority considering the grant of a pardon or remission of sentence imposed on any person convicted of an offence, to 15 receive notice thereof and submit through the Authority to the person granting such pardon or remission, the manner in which the offence committed has impacted on such victim of crime physically, emotionally, psychologically,

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| 20 | (*g*) | financially, professionally or in any other manner; |
| at any stage of the investigation, inquiry or |

proceeding, to make representations to the Attorney-General, through an attorney-at-law or in writing by such victim of crime or any person 25 authorised by such victim of crime, as regards the manner in which the offence has impacted on him;

(*h*) to receive from the Authority any relevant information and assistance that facilitates the attendance and participation at any proceedings 30 before a court or Commission relating to the offence alleged to have been committed; and

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(*i*) to be present at anycivil or criminaljudicial or   
 quasi-judicial proceedings relating to an offence,   
 including at the non-summary inquiries, trials,

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| 5 | appeals and any applications in revision, unless the court, Commission or other tribunal determines, |

for reasons to be recorded, that future evidence of   
such victim of crimewould be materially affected   
if he hears other evidence at such proceedings or   
the due discharge of justice could be secured only

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| 10 | by the exclusion of such victim of crime from being present during the hearing of certain parts of such |

proceedings.

(2) A victim of crime shall have the right, upon a request made by such victim of crime, to be informed**-**

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| 15 | (*a*) | by the officer-in-charge of the relevant police |
| station or other authority conducting the |

investigation or inquiry into the alleged offence,   
of the progress of the investigation or inquiry:

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| 20 | (*b*) | Provided however, the release of such |
| information may be withheld for justifiable reasons. |
| by the officer-in-charge of the relevant |

police station, other authority conducting the   
investigation or inquiry into the alleged offence,   
the Attorney-General or the Registrar of the relevant

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| 25 | court, as the case may be, of the dates fixed for the hearing of the case or the progress or disposal of |

judicial proceedings relating to the alleged offence   
and the rights and entitlements of the victim of   
crime pertaining to such judicial proceedings;

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| 30 | (*c*) | by the officer-in-charge of the relevant police |
| station, other authority conducting an investigation |

or inquiry into the alleged offence, the Attorney- General, the Registrar of the relevant court or the Superintendent of Prisons, as the case may be, of 35 the date on which the proceedings in relation to any of the following is scheduled next: –

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(i) release on bail or discharge of the suspect;

(ii) institution of criminal proceedings against   
 the accused;

|  |  |  |
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| 5 | (iii) | the conviction, acquittal, discharge or |
| (iv) | sentence of the suspect or the accused, as the |
| case may be; or |
| the release from prison of the suspect or |

convicted person.

(3) (*a*) A victim of crime may make a request to the 10 Registrar of court in the prescribed form accompanied by the prescribed fee to obtain a copy of the order of court relating to the release on bail or otherwise of the suspect or the accused.

(*b*) Upon receipt of a request under paragraph (a), the

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| 15 | Registrar of court shall proceed with such request in an expeditious manner. |

(4)In the event the person in authority considering the grant of a pardon or remission of sentence referred to in paragraph (*f*) of subsection (1) is the President, the duty of

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| 20 | informing the Authority of such fact for the purpose of giving notice thereof to the victim of crime shall be on the Secretary |

to the President, and in the event such person in authority is the Governor of a Province, such duty shall be on the Secretary to the Governor of such Province.

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| 25 | **6.** (1) A victim of crime or other person on behalf a victim | Right of a |
| of crime shall have the right to make an application in the | victim of |
| crime to |
| prescribed form and on payment of the prescribed fee to any |
| obtain copies |
| court or Commission to obtain certified copies of- |
| of certain |

documents

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| 30 | (*a*) | the cause of death form; |
| (*b*) | the postmortem report; |

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| 5 | (*c*) | the medico-legal report; |
| (*d*) | the report of the Registrar of Finger Prints; |
| (*e*) | the report of the Government Analyst; or |
| (*f*) | any other report that may be useful to such victim |
| of crime, |

that may have been filed in such court or Commission in relation to the investigation, inquiry or trial of the offence alleged to have been committed.

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| 10 | (2) Where an application is made to obtain any report referred to in paragraph (*d*), (*e*) or (*f*) of subsection (1), a notice thereof shall also be given to the Attorney-General. |

(3) Where any court or Commission receives an application under subsection (1), such court or Commission-

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| 15 | (*a*) | shall issue such form or report, if the victim of crime |
| proves to the satisfaction of such court or |
| 20 | (*b*) | Commission of the necessity of such form or report; |
| shall not issue such form or report, if, in its opinion, |
| the issuance of the same may cause prejudice to |
| any ongoing investigation, inquiry, trial or |
| proceeding. |

(4) The onus of proving the necessity to obtain any form or report specified in subsection (1) shall be on the person who makes such application.

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| 25 | **7.** (1) A victim of crime shall be entitled to request and | | Entitlements |
| receive reasonable financial assistance from the Authority | | of a victim of |
| crime to |
| according to the availability of such assistance,in | |
| receive |
| consideration of the expenses incurred as a result of- | |
| financial |
| 30 | (*a*) | the offence alleged to have been committed; and | assistance |
| (*b*) | his participation in any proceedings before a court |
| or Commission in relation to such offence. | |

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(2) A victim of crime shall be entitled to request and receive from the State any medical treatment including appropriate medical services, medicines and other medical facilities, or psychological or social assistance in respect of 5 any harm suffered by him as a result of being a victim of crime.

(3) A victim of crime shall be entitled to request and receive necessary counseling or rehabilitation services from the State, through any means including through community-10 based organizations.

(4) A request for any medical treatment, services, facilities or assistance under subsection (2) or (3) may be made to the Authority in such manner as may be prescribed and the Authority shall proceed with such request and cause

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| 15 | appropriate treatment, services, facilities or assistance to be provided to such victim of crime in an expeditious manner. |

(5) The Authority may consider the grant of an interim award in relation to any request made under this section, under section 67of this Act.

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| 20 | **8.** (1) A victim of crime shall have the right to make a | Victim |
| statement in writing (in this Act referred to as the “victim | impact |
| impact statement”) to the court or Commission to describe | statement |

the manner in which the offence alleged to have been committed has impacted him physically, emotionally,

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| 25 | psychologically, financially, professionally or in any other manner. |

(2) Where any victim of crime is unable to make, or incapable of making, such victim impact statement due to any reason acceptable to the court or Commission, any other

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| 30 | person on behalf of the victim of crime as may be permitted by the court or Commission may make such statement. |

(3) The victim impact statement shall consist of –

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(*a*) a victim personal statement; and

(*b*) a victim impact report.

(4) A victim personal statement referred to in paragraph (*a*) of subsection (3) -

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| 5 | (*a*) | shall set out the physical, emotional, psychological, |

financial, professionalor other impact of the offence   
on the victim of crime;

(*b*) may contain a statement, where applicable, whether the offence has been motivated by the age, gender, 10 ethnicity, faith, religion, sexuality or disability of the victim of crime;

(*c*) may state whether the victim wishes to claim   
 compensation or requires any assistance as provided   
 for in this Act.

15 (5) A victim impact report referred to in paragraph (*b*) of subsection (3) shall be a report issued by a medical expert or psychologist and shall-

(*a*) contain an opinion on the traumatic impact of the   
 offence on the victim of crime; and

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| 20 | (*b*) | contain a report on needs assessment of the victim |
| of crime, consequent to the impact of the offence |

on the victim.

(6) The victim personal statement and victim impact report made by a victim of crime or any other person on his

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| 25 | behalf to a court or Commission shall be made available to the defence, and the victim of crime or other person who |

made such statement or the medical expert or psychologist who issued the victim impact report may be summoned to give evidence at any proceedings before such court or 30 Commission.

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(7) A court or Commission may, at any stage of the proceedings and with notice to the defence, call for a victim impact statement from the victim of crime or any other person on behalf of the victim of crime and the provisions of 5 subsection (6) shall apply in relation to such victim impact statement.

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| 10 | **9.** (1) A witness shall always be treated with respect to | Rights and |
| his dignity and privacy in a manner that is fair in all | entitlements |
| of a witness |
| circumstances. |
| (2) Every witness is entitled to protection and it shall be |
| the duty of the State to provide such protection. |

(3) (*a*) A witness shall be entitled to provide any information or make a statement freely and voluntarilyto any court, Commission or law enforcement authority relating 15 to the alleged commission of an offence or infringement of any fundamental right or violation of any right granted under the ICCPR Act.

(*b*) Subject to the provisions of the laws of evidence, and subject to the service of summons at the discretion of a 20 court or Commission on a witness, a witness shall be entitled to testify before any court or Commission freely and voluntarily.

(4) Where the participation of a witness is required prior

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| 25 | to, or during the course of, an investigation or inquiry, or during the pendency of any proceedings in any court or |

Commission, such witness shall not be harassed, intimidated, coerced or treated in a manner that violates his rights and entitlements set out in this Act.

(5) A witness shall be entitled to protection against any

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| 30 | real or possible harm, threat, intimidation, reprisal or retaliation resulting from such witness- |

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(*a*) having provided information or communication or   
 lodged a complaint;

(*b*) having made a statement or submitted an affidavit   
 to any law enforcement authority during an

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| 5 | (*c*) | investigation or inquiry; |
| having provided any testimony or given any |

evidence in any court or before any Commission;

(*d*) being a public officer, having been engaged in any   
 manner in the administration of justice; or

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| 10 | (*e*) | for instituting legal proceedings, |

in relation to the commission of an offence or infringement of any fundamental right or violation of any right granted under the ICCPR Act, by any person.

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| 15 | **10.** (1) A victim of crime or witness or any other person | Making |
| complaints |
| on behalf of a victim of crime or witness may make a |
| regarding |
| complaint regarding the violation or denial, or imminent |
| violation of |
| 20 | violation or denial, of any right or entitlement specified in | rights or |
| denial of |
| this Part of this Act either orally or in writing to the Authority |
| entitlements |
| within thirty days from the date of the alleged violation or | of victims of |
| denial, or imminent violation or denial, of such right or | crime or |
| witnesses |
| entitlement. |

(2) Where a complaint under subsection (1) has been made orally, it shall be recorded forthwith in writing by the officer receiving such complaint.

25 (3) The procedure applicable for investigation or inquiry of any complaint received by the Authority under subsection (1) shall be as specified in the First Schedule to this Act.

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| 5 | **11.** It shall be the duty of every public officer including | Duty of |
| every judicial officer and every member of the armed forces | public |
| officers to |
| and the police force to recognize, protect and promote the |
| respect the |
| rights and entitlements of victims of crime and witnesses set | rights and |
| out in this Part of this Act. | entitlements |
| of victims of |

crime and   
witnesses

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| **12.** Nothing in this Part of this Act shall be construed as- | | Limitation of rights and  entitlements |
| (*a*) | giving any person a right to require a public |

authority to incur specific expenditure in relation   
to rights and entitlements of victims of crime and

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| 10 | (*b*) | witnesses set out under this Part of this Act; or |
| requiring a public authority to incur expenditure |

in relation to rights and entitlements of victims of   
crime and witnesses set out under this Part of this   
Act.

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| 15 | **13.** (1) The Authority shall maintain a register called | Victim |
| “Victim Information Register” in such form and containing | Information |
| Register |
| such information relating to victims of crime, as may be |

determined by the Authority.

(2) A victim of crime may, on application made by himself

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| 20 | or through an attorney-at- law, request the Authority to register himself in the Victim Information Register by |

providing the information referred to in subsection (1).

(3) A victim of crime shall, after registration in the Victim Information Register, be entitled, upon a request made to

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| --- | --- | --- |
| 25 | the Authority, to receive information on any of the following matters in relation to the offender, from the Authority: - | |
| (*a*) | the punishment imposed on the offender; |
| (*b*) | any instance of escape from custody and recapture |

of the offender, if any;

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(*c*) the impending dates on which the offender is to be   
 released from custody; or

(*d*) details of appeals against the conviction and   
 sentence of the offender, if any.

5 (4) It shall be the duty of the Authority to provide the information requested by a victim of crime under subsection (3) in writing without delay.

(5) The Authority shall maintain confidentiality with regard to the information relating to victims of crime and 10 witnesses contained in the Victim Information Register and shall not share any such information except as required by law.

PART III

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| --- | --- | --- | --- |
| 15 | OFFENCES AGAINST VICTIMSOF | | Intimidation |
| CRIMEAND WITNESSES | |
| **14.** Any person who threatens a victim of crime or witness | |
| 20 | with any harm to his person, reputation or property, or to the | | to a victim of |
| crime or |
| person or reputation or property of any other person in whom | |
| witness |
| suchvictim of crime or witness has an interest, with the | |
| intention of – | |
| (*a*) | causing alarm to such victim of crime or witness; |
| (*b*) | causing such victim of crime or witness to refrain |

from –

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| 25 | (i) | lodging a complaint against such person with |
| (ii) | a law enforcement authority; or |
| testifying at any judicial or quasi-judicial |

proceedings against such person; or

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(*c*) compelling such victim of crime or witness to   
 withdraw a complaint lodged or legal action   
 instituted against such person,

commits an offence under this Act, and shall, on conviction, 5 by the High Court, be liable to a fine not exceeding one hundred and fifty thousand rupees or to imprisonment of either description for a period not exceeding three years or to both such fine and imprisonment. In addition, such person may also be ordered to pay compensation of an amount not

|  |  |  |  |
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| 10 | exceeding five hundred thousand rupees. | | Causing hurt |
| **15.** Any person whovoluntarily causes hurt or grievous | |
| hurt to a victim of crime or witness, with the intention of- | | to a victim of |
| crime or |
| (*a*) | causing such victim of crime or witness to refrain | witness |

from-

|  |  |  |
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| 15 | (i) | lodging a complaint against such person with |
| (ii) | a law enforcement authority; or |
| testifying at any judicial or quasi-judicial |

proceedings against such person;

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| 20 | (*b*) | compelling such victim of crime or witness to |
| (*c*) | withdraw a complaint lodged or legal action |
| instituted against such person; or |
| retaliating for a statement made or testimony |

provided by such victim of crime or witness in any   
court or before any Commission, against such

25 person,

commits an offence under this Act, and shall on conviction by the High Court, be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for a period not exceeding five years or to both 30 such fine and imprisonment.

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 *of Crime and Witnesses*

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| 5 | **16.** Any person who wrongfully restrains a victim of | | | Restraining a |
| crime or witness with the intention of- | | | victim of |
| crime or |
| (*a*) | preventing such victim of crime or witness from- | | witness |
| (i) | | lodging a complaint against such person with |
| a law enforcement authority; or | | |
| (ii) | | testifying at any judicial or quasi-judicial |

proceedings against such person;

(*b*) compelling such victim of crime or witness to   
 withdraw a complaint lodged or a legal action

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| 10 | (*c*) | instituted against such person; or |
| retaliating for a statement made or testimony |

provided by such victim of crime or witness in any   
court or before any Commission against such   
person,

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| --- | --- |
| 15 | commits an offence under this Act, and shall on conviction by the High Court, be liable to a fine not exceedingthree |

hundred thousand rupees or to imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **17.** Any person who— | | Compelling |
| or inducing a |
| 25 | (*a*) | compels, or by practice of deceitful means or by | victim of |
| crime or |
| abuse of authority or by any other means of illegal | | witness to |
| practice induces or forces any victim of crime or | | leave any |
| place, or |
| witness to leave any place; or | |
| causing loss |
| (*b*) | intentionally or knowingly causes any loss, damage | or damage to |
| the property |
| or destruction to a property in which a victim of | | of a victim of |
| crime or witness has a legitimate interest, | | crime or |
| witness |

with the intention of preventing such victim of crime or witness from lodging a complaint or making any statement 30 against such person to a law enforcement authority or

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 *of Crime and Witnesses*

testifying against such person at any judicial or quasi- judicial proceedings or in retaliation for a statement made to a law enforcement authority or due to the testimony made against such person in any judicial or quasi-judicial 5 proceedings by such victim of crime or witness, commits an offence under this Act, and shall on conviction by the High Court, be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for a period not exceeding five years or to both such fine and 10 imprisonment. In addition, such person shall also be liable to pay such compensation as the Court may order him to pay in relation to the loss, damage or destruction caused by him to the property of the victim of crime or witness.

|  |  |  |
| --- | --- | --- |
| 15 | **18.** Any person who causes any harassment, coercion, | Harassment |
| physical or mental suffering or an adverse change to the | to a person in |
| the place of |
| conditions of employment in the place of employment of |
| employment |
| another person, as a consequence of such other person |

having-

|  |  |  |
| --- | --- | --- |
| 20 | (*a*) | provided any information or lodged a complaint; |
| (*b*) | made a statement to any law enforcement authority, |

court or Commission;

(*c*) provided any testimony in any court or before any   
 Commission; or

(*d*) instituted legal proceedings,

25 in relation to the commission of an offence or infringement of any fundamental right or violation of any right under the ICCPR Act by such person, commits an offence under this Act, and shall on conviction by the High Court, be liable to a fine not exceedingthree hundred thousand rupees or to 30 imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment.

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 *of Crime and Witnesses*

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **19.** Any person who is alleged, suspected or accused of | | Providing |
| having committed an offence offers, provides or gives any | | gratification |
| gratification to any other person who is- | | to prevent |
| legal |
| (*a*) | intending or preparing to institute legal | proceedings, |
| &c |
| proceedings against such first mentioned person | |
| for having committed such offence; or | |
| (*b*) | likely to provide information or testimony against |

such first mentioned person to any law enforcement   
authority, court or Commission,

|  |  |
| --- | --- |
| 10 | with a view to preventing, discouraging or dissuading such other person from instituting legal proceedings or providing |

truthful information or testimony against such first mentioned person, commits an offence under this Act, and shall on conviction by the High Court, be liable to a fine not

|  |  |
| --- | --- |
| 15 | exceeding three hundred thousand rupees or to imprisonment of either description for a period not exceeding |

five years or to both such fine and imprisonment.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **20.** Any person who - | | Disclosure of |
| information |
| (*a*) | having received any information provided for the |
| purpose of commencing or conducting an | |
| investigation or inquiry into an alleged offence; | |
| (*b*) | having gathered any information in the course of |

an investigation or inquiry into an alleged offence;   
or

|  |  |  |
| --- | --- | --- |
| 25 | (*c*) | having received any information referred to in |
| paragraph (*a*) or (*b*) from another person, |

provides, issues or gives to a third person, publishes or otherwise disseminates any such information or part thereof, particularly as regards the identity of a victim of crime, 30 witness or informant and thereby places the life of such victim of crime, witness or informant in danger, commits an offence

*Assistance to and Protection of Victims*  19

*of Crime and Witnesses*

under this Act, and shall, on conviction by the High Court, be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for a period

|  |  |
| --- | --- |
| 5 | not exceeding five years or to both such fine and imprisonment: |

Provided however, the provision, issuance or giving out, publishing or dissemination of information in good faith and in accordance with or in compliance with-

|  |  |  |
| --- | --- | --- |
| 10 | (i) | any provision or procedure established by |
| (ii) | law; |
| an order made by a court; or |
| (iii) | a directive issued by a person duly authorised |

to do so by or under any written law,

shall not be an offence.

|  |  |  |
| --- | --- | --- |
| 15 | **21.**  Any person who, with the intention of obtaining any | Providing |
| assistance or protection from the Authority, the Police | false |
| including the Protection Division, a court or Commission, | information |

provides any information knowing or having reasonable grounds to believe that such information is false, commits 20 an offence under this Act and shall, on conviction by the High Court, be liable to a fine not exceeding five hundred thousand rupees or to imprisonment of either description for a period not exceeding six years or to both such fine and imprisonment.

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | **22.** Any person who- | | Disclosure of |
| information |
| (*a*) | is in charge of, or is providing protection or |
| by a person |
| providing |
| assisting in providing protection to a victim of | |
| protection |
| 30 | crime or witness; or | |
| (*b*) | is otherwise in possession of any information |
| relating to the protection being afforded to a victim | |
| of crime or witness, | |

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 *of Crime and Witnesses*

provides,issues or gives to another person such information and thereby places the life ofsuch victim of crime or witness in danger, commits an offence under this Act and shall, on

|  |  |
| --- | --- |
| 5 | conviction by the High Court, be liable to a fine not exceeding three hundred thousand rupees or to |

imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment:

Provided however, the provision, issuance or giving out of information in good faith and in accordance with or 10 in compliance with-

(i) any provision or procedure established by law;

(ii) an order made by a court; or

(iii) a directive issued by a person duly authorised to do so by or under any written law,

|  |  |  |
| --- | --- | --- |
| 15 | shall not be an offence. | Attempting, |
| **23.** Any person who attempts to commit, instigates or |
| 20 | intentionally aids or abets any other person to commit or | instigating, |
| aiding, etc., |
| engages in any conspiracy for the commission of any offence |
| in the |
| referred to in section 14, 15, 16, 17, 18, 19, 20, 21or 22 |
| commission |
| commits an offence and shall, on conviction by the High | of an offence |

Court, be liable to the same punishment provided for that offence in such section.

|  |  |  |
| --- | --- | --- |
| 25 | **24**. (1) (*a*) An offence under section 14, 15, 16, 17, 18, | An offence |
| 19, 20, 21, 22 or 23 shall be a cognizable offence within the | under section |
| 14, 15, 16, |
| meaning of the Code of Criminal Procedure Act and a |
| 17, 18, 19, |
| bailable offence within the meaning of the Bail Act, No. 30 |
| 20, 21, 22 or |
| of 1997. | 23 to be |
| cognizable |
| (*b*) When enlarging a person on bail, the Magistrate’s |
| and bailable |

Court shall have the power to stipulate a condition in the 30 order, prohibiting communication with or coming into close proximity with the victim of crime or witness or with such other person as may be specified in such order.

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(2) A trial against a person accused of having committed an offence under section 14, 15, 16, 17, 18, 19, 20, 21,22 or 23 shall be taken up before any other business of that court and shall be held on a day-to-day basis and not be postponed

|  |  |
| --- | --- |
| 5 | during the course of such trial, except due to unavoidable circumstances which shall be specifically recorded. |

(3) If, after an inquiry by a court, it is found that there exists *prima-facie* material to conclude that a person who, at the relevant point of time was on bail in respect

|  |  |
| --- | --- |
| 10 | of any offence alleged to have been committed by him, has committed an offence under section 14, 15, 16, 17, 18, |

19, 20, 21, 22 or 23 of this Act, the court that granted bail to such person shall cancel such bail and such person shall be placed on remand for such period as may be considered

|  |  |  |
| --- | --- | --- |
| 15 | reasonable by such court. | Determination |
| **25.** (1) In determining the appropriate sentence for any |
| offence under this Act, the court shall have regard to the | of sentence |

sentence prescribed for such offence in the Penal Code or any other law and the decisions laid down by courts of

|  |  |
| --- | --- |
| 20 | appellate jurisdiction with regard to the sentencing policies on the imposition of punishments. |

(2) Due regard shall also be given to aggravating and mitigating circumstances attending each offence.

(3) The Judicial Service Commission may issue

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | guidelines under this Act with respect to the sentencing | | Making |
| policy. | |
| **26.** (1) A complaint in relation to an offence under this | |
| 30 | Part of this Act shall be made in such form and manner as | | complaints in |
| may be prescribed, to- | | relation to |
| offences |
| (*a*) | the Protection Division; | under this |
| Part of this |
| (*b*) | the Authority; or | Act |
| (*c*) | any court, Commission or law enforcement |

authority.

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(2) Where any complaint under paragraph (*b*) or (*c*) of subsection (1) is received by the Authority or any court, Commission or law enforcement authority, such complaint shall forthwith be referred to the Protection Division for 5 investigation or inquiry.

PART IV

ENTITLEMENTOFA VICTIMOF CRIMEOR WITNESSES

TOSEEKPROTECTION

|  |  |  |
| --- | --- | --- |
| 10 | **27.**Where a victim of crime or witness or any other person | Entitlement |
| on behalf of a victim of crime or witness has reasonable | to seek |
| grounds to believe that such victim of crime or witness may | protection |

be subject to any harm, injury, intimidation, reprisal or retaliation as a consequence of the circumstances relating to his being a victim of crime or witness, such victim of crime 15 or witness or other personshall be entitled to apply for protection in terms of the provisions of this Part of this Act.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **28.** (1) The nature of protection that may be provided to | | Nature of |
| any victim of crime or witness under this Part of this Act may | | protection |
| that may be |
| include – | |
| sought by a |
| (*a*) | the providing of security to the person or property; | victim of |
| crime or |
| (*b*) | the provision of temporary accommodation | witness |

including facilities for sustenance;

(*c*) the permanent or temporary re-location with the   
 consent of the victim of crime or witness, as the

|  |  |  |
| --- | --- | --- |
| 25 | (*d*) | case may be; |
| the conducting of either the entirety or part of the |

proceedings in camera;

(*e*) the concealing of the identity of the victim of crime   
 or witness;

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*of Crime and Witnesses*

(*f*) in the case of a child victim of crime or witness, the   
 adoption of special measures to ensure his best   
 interest and to protect his rights including the right   
 to education;

|  |  |  |
| --- | --- | --- |
| 5 | (*g*) | the adoption of necessary measures to prevent the |
| victim of crime or witness from being harassed, |

intimidated, coerced, or influenced by encountering   
the presence of the accused at the venue of the trial,   
investigation or inquiry;

|  |  |  |
| --- | --- | --- |
| 10 | (*h*) | the prevention of the disclosure, including in the |
| print media or electronic media, of the identity and |

background information of the victim of crime or   
witness;

|  |  |  |
| --- | --- | --- |
| 15 | (*i*) | the adoption of appropriate measures to prevent |
| the disclosure of evidence that may be provided by |
| the victim of crime or witness save as permitted in |

law for the purposes of pre-trial disclosure;

(*j*) where appropriate, the provision of temporary or   
 permanent employment; and

|  |  |  |
| --- | --- | --- |
| 20 | (*k*) | the adoption ofany other measure a court, |
| Commission, the Authority or Protection Division |

may consider necessary.

(2) The Authority or Protection Division may request assistance from a public authority or public officer in

|  |  |
| --- | --- |
| 25 | providing any measure of protection or assistance referred to in subsection (1) toavictim of crime or witness, and |

where such request is made, it shall be the duty of such public authority or public officer, unless such public

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| --- | --- |
| 30 | authority or public officer is unable to do so for reasons to be stated, to assist the Authority or Protection Division as |

requested.

|  |  |
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| **29.** (1) A victim of crime or witness who seeks protection under this Part of this Act shall make a request in such form and manner as may be prescribed, to- | Application for  Protection |

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 *of Crime and Witnesses*

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | the Authority; |
| (*b*) | the Protection Division; |
| (*c*) | any police station; |
| (*d*) | any court or Commission; or |
| (*e*) | any law enforcement authority or public officer. |

(2) Where the request for protection received under paragraph (*c*), (*d*) or (*e*) of subsection (1) is in relation to an offence specified in the Second Schedule to this Act, such request shall be referred to the Authority or Protection 10 Division, without delay.

(3) Where the request for protection received under paragraph (*a*), (*b*), (*d*) or (*e*) of subsection (1) is in relation to an offence not specified in the Second Schedule to this Act, such request shall be referred to the relevant police station,

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | without delay. | | Threat |
| **30.** (1) Upon receipt or reference of a request for | |
| 20 | protection under section 29, in relation to an offence | | assessment in |
| specified in the Second Schedule to this Act- | | relation to |
| offences |
| (*a*) | where such request is received by or referred to the | specified in |
| the Second |
| Authority, the Authority shall take immediate | | Schedule |
| measures to cause a threat assessment to be made in | |

relation to the victim of crime or witness; or

(*b*) where such request is received or referred to the   
 Protection Division, the Protection Division shall

|  |  |
| --- | --- |
| 25 | take immediate measures to make a threat assessment in relation to the victim of crime or |

witness,

and based on the findings of such threat assessment, the Authority or Protection Division, as the case may be, shall

*Assistance to and Protection of Victims*  25   
 *of Crime and Witnesses*

take appropriate measures to provide the necessary protection forthwith.

(2) Any request for protection made under this Part of this Act shall be treated as confidential.

|  |  |  |
| --- | --- | --- |
| 5 | **31.** (1) Where, in the case of an offence not specified in | Protection |
| 10 | the Second Schedule to this Act, the request for protection is | with regard |
| to offences |
| received by or referred to a police station under section 29, |
| not specified |
| the Protection Officer assigned to such police station under |
| in the Second |
| section 38 shall immediately conduct a threat assessment | Schedule |
| and based on the findings of the threat assessment, and with |
| the concurrence of the Superintendent of Police of the area, |

provide the necessary protection to the victim of crime or witness.

(2) In the event that-

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | the Authority, the Protection Division or the officer- |
| in charge of the police station is of the opinion that |

there is a serious threat to a victim of crime or   
witness, in relation to an offence which is not   
specified in the Second Schedule; or

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | the victim of crime or witness alleges bias against |

the police station of the area,

the Protection Division shall proceed to provide appropriate protection to such victim of crime or witness.

|  |  |  |
| --- | --- | --- |
| 25 | **32.** (1) Whenever a court or Commission has | Duty of court |
| reasonable grounds to believe that a victim of crime or | or |
| witness in any legal proceedings requires protection from | Commission |
| in relation to |
| injury, intimidation, reprisal or retaliation or assistance to |
| proceedings |
| attend and participate in any legal proceedings, such |

court or Commission may direct the Authority, the 30 Protection Division, a police station or other law enforcement authority to take all necessary measures to provide or cause to be provided such protection to such victim of

26 *Assistance to and Protection of Victims*   
 *of Crime and Witnesses*

crime or witness and the Authority, the Protection Division, such police station or such law enforcement authority shall comply with such direction, without delay.

|  |  |
| --- | --- |
| 5 | (2) In complying with a direction issued by a court or Commission under subsection (1),the Authority, Protection |

Division, police station or law enforcement authority may make a preliminary needs assessment on the protection needed by such victim of crime or witness and provide such protection as may be necessary.

10 (3) Whenever the Authority, Protection Division, police station or law enforcement authority, after providing protection under subsection (2), is of the opinion that there exists any ground for termination of protection specified in paragraphs (*a*) and (*b*) of subsection (1) of section 36, the 15 Authority, Protection Division, police station or law enforcement authority, as the case may be, shall report such fact with reasons to such court or Commission and thereupon such court or Commission may order the termination of protection so granted.

|  |  |
| --- | --- |
| 20 | (4) The Authority, Protection Division, a police station or other law enforcement authority may provide necessary |

protection to any victim of crime or witness, immediately upon the receipt of any information or request or complaint from such victim of crime or witness that such victim of

|  |  |
| --- | --- |
| 25 | crime or witness is likely to be subject to any harm, injury, harassment, intimidation or retaliation, whether prior to, |

during orafter the conduct of any legal proceedings before any court or Commission.

|  |  |  |
| --- | --- | --- |
| 30 | **33. (**1) Where any law enforcement authority or public | Protection to |
| officer has reasonable grounds to believe that a victim of | be provided |
| by law |
| crime or witness requires protection from any possible injury, |
| enforcement |
| intimidation, reprisal or retaliation in attending and |
| authorities |
| participating in any proceedings under any law, such law |
| and public |
| 35 | enforcement authority or the public officer shall forthwith | officers |
| issue a communication to that effect to the Authority or to |
| the Protection Division. |

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 *of Crime and Witnesses*

(2) The provisions of sections 29, 30 and 31 shall *mutatis mutandis* apply to and in respect of providing protection in relation to any matter referred to in subsection (1).

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| 5 | **34.** (1) Notwithstanding anything to the contrary in any | Special |
| other written law, a court or Commission may, on application | measures for |
| vulnerable |
| made by or on behalf of any vulnerable victim of crime or |
| victims of |
| witness, order the Authority or the Protection Division the |
| crime or |
| grant of any special measures for the protection of such | witnesses |

victim of crime or witness, as may be prescribed.

|  |  |
| --- | --- |
| 10 | (2) The Minister shall, when prescribing special measures for the purposes ofsubsection (1), seek recommendations of |

the Authority.

(3) The court or Commission, in ordering the grant of any special measures under subsection (1), shall ensure that 15 the principles of fair trial are upheld in its proceedings.

(4) In determining the vulnerability of a victim of crime or witness, the following factors may also be considered: -

(*a*) the nature of the offence alleged to have been   
 committed and the attendant circumstances;

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | the nature of the evidence or statement the witness |

is expected to give or make;

(*c*) any relationship between the victim of crime or   
 witness and the accused;

|  |  |  |
| --- | --- | --- |
| 25 | (*d*) | the age and level of understanding of the victim of |
| (*e*) | crime or witness; |
| the accused’s behavior or attitudes towards the |

victim of crime or witness including the accused’s   
behavior or attitudes towards the family members   
or associates of, or any other person having a close

30 kinship to, the victim of crime or witness; and

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 *of Crime and Witnesses*

(*f*) any other relevant matter including the racial, social and cultural background of the victim of crime or witness, the gender including transgender, sexual orientation, possibility of being subject to social 5 marginalization, domestic or employment circumstances, religious or political beliefs, and any physical disability or impairment the victim of crime or witness suffers from.

(5) Notwithstanding anything to the contrary in any other 10 law, a court or Commission may-

(*a*) in proceedings relation to sexual offences or   
 violence, permit a child victim of crime or child   
 witness to give evidence or make a statement   
 through contemporaneous audio-visual linkage

|  |  |
| --- | --- |
| 15 | from a remote location, without requiring his personal attendance before such court or |

Commission; or

(*b*) on being satisfied that any vulnerable victim of crime or witness is unable to understand the nature 20 of an oath or an affirmation, permit such victim of crime or witness to give evidence or make a statement without an oath or an affirmation being administered, and such victim of crime or witness shall be informed that he is bound to state the truth

|  |  |
| --- | --- |
| 25 | on all matters to which his evidence or statement relates. |

(6) In this section, a “vulnerable victim of crime or witness” includes –

|  |  |  |
| --- | --- | --- |
| 30 | (*a*) | a victim of crime or witness under eighteen years of |
| (*b*) | age; |
| a person suffering from significant impairment of |

intelligence and social functioning;

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 *of Crime and Witnesses*

(*c*) a victim of any sexual offence;

(*d*) a person with disability;

(*e*) a person who is a victim of trafficking under section 360C of the Penal Code or a victim of domestic 5 violence within the meaning of the Prevention of Domestic Violence Act, No. 34 of 2005;

(*f*) any victim of crime or witness who is determined to be a vulnerable victim of crime or witness by a court or Commission, upon such victim of crime or 10 witness or a counsel on his behalf making an application to such court or Commission and satisfying such court or Commission that he should be treated as a vulnerable victim of crime or witness; and

|  |  |  |
| --- | --- | --- |
| 15 | (*g*) | any other person whom a court or Commission may |

determine to be a vulnerable victim of crime or   
witness, for reasons recorded.

|  |  |  |
| --- | --- | --- |
| 20 | **35.** (1) The Authority or the Protection Division shall | Continuous |
| require a Protection Officer to conduct a continuous needs | needs |
| assessment |
| assessment of victims of crime and witnesses who have |
| by Protection |
| received protection under the provisions of this Act. | Officer and |
| variation of |
| (2) A Protection Officer may, where he is of the opinion | protection |
| arrangement |
| that any protection arrangement made in respect of any victim |

of crime or witness needs to be varied, vary such protection 25 arrangementand shall report such fact, along with the reasons therefor, to the Protection Division through the officer-in- charge of the relevant police station.

(3) In deciding whether any protection arrangement shall be varied under this section, particular regard shall be had 30 to-

30 *Assistance to and Protection of Victims*   
 *of Crime and Witnesses*

(*a*) the nature and the extent of the risk to the safety of   
 the victim of crime or witness;

(*b*) the practical aspects and the costs involved in the   
 new arrangements; and

|  |  |  |
| --- | --- | --- |
| 5 | (*c*) | the ability of the victim of crime or witness or any |
| other person associated with him to adapt to the |

changes in the circumstances arising from such   
variation.

(4) Where there is an urgent need to protect a victim of 10 crime or witness in any police division, aProtection Officer shall make such arrangementas he considers appropriate for the purpose of providing such urgent protection to such victim of crime or witness.

|  |  |  |
| --- | --- | --- |
| 15 | **36.** (1) Subject to the provisions of subsection (3) of | Cessation of |
| section 32, the Authority, Protection Division or subject to | protection |
| the provisions of subsection (2), a Protection Officer may |

terminate the protection provided to any victim of crime or witness under this Act after recording the reasons therefor, whenever-

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | (*a*) | the need for such protection no longer exists; or | |
| 25 | (*b*) | the victim of crime or witness- | |
| (i) | requests thatsuch protection be terminated; |
| (ii) | refuses to receive such protection; |
| (iii) | abuses the protection granted; |
| (iv) | breaches any conditions agreed to; |
| (v) | is found to have provided any false |

information, statement, complaint or   
testimony to the Authority, the Protection

*Assistance to and Protection of Victims*  31   
 *of Crime and Witnesses*

Division, any court, Commission, police   
station or law enforcement authority, in order   
to obtain protection; or

|  |  |  |
| --- | --- | --- |
| 5 | (vi) | having obtained any protection in terms of |
| this Act, provides false information, statement, |

complaint or testimony to the Authority, the Protection Division, any court, Commission, police station or law enforcement authority, in order to continue to receive such 10 protection.

(2) A Protection Officer shall not terminate any protection arrangement except with the concurrence of the Head of the Protection Division.

(3) Where a victim of crime or witness is dissatisfied with 15 the decision to terminate protection granted to him, he may-

(*a*) if such decision was taken by the Protection Officer   
 or the Protection Division, appeal to the Authority   
 against such decision; or

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | if such decision was taken by the Authority, appeal |
| to the Advisory Board appointed under section 74 |

against such decision.

(4) The Authority or the Advisory Board, as the case may be, after considering such matters as may deem necessary, may vary in an appropriate manner, or confirm, the decision 25 referred to in subsection (1).

(5) In deciding whether any protection arrangement shall be terminated under this section, particular regard shall be had to the nature and the extent of the risk to the safety of the victim of crime or witness.

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*of Crime and Witnesses*

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **37.** (1) Any victim of crime or witness who has received | | Duties of a |
| any assistance or protection under this Act shall not – | | victim of |
| crime or |
| (*a*) | abuse such assistance or protection; |
| witness in |
| regard to |
| (*b*) | provide any false information or testimony to the | assistance |
| and |
| Authority, Protection Division, a court, | |
| protection |

Commission, police station or law enforcement   
authority; or

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | act contrary to the written advice or terms and |
| conditions agreed upon with the Authority or |
| Protection Division. |

(2) Where there is credible information that a victim of crime or witness is acting in a manner that contravenes subsection (1), the Authority or the Protection Division shall conduct an inquiry and the findings of such inquiry shall be

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| --- | --- |
| 15 | communicated to the court or Commission. The court or Commission shall, after a further inquiry, shall make an |

appropriate order in regard to the assistance or protection that has been provided to such victim of crime or witness.

|  |  |  |
| --- | --- | --- |
| 20 | **38.** (1) The Inspector General of Police shall, in | Victims and |
| consultation with the Authority, assign to each police station | Witnesses |
| such number of police officers to be designated as Victims | Protection |
| Officers |
| and Witnesses Protection Officers (in this Act referred to as |

“Protection Officers”) as may be necessary, for the purposes of this Part of this Act:

|  |  |
| --- | --- |
| 25 | Provided however, at least one of such officers shall be a female officer. |

(2) In deciding the number of Protection Officers required to be assigned to any police station, the Inspector General of Police shall take into account the population of the police

|  |  |
| --- | --- |
| 30 | division, the prevalence of serious crimes and the perceived vulnerability of special categories of persons including |

children, women or disabled persons in that police division and other relevant data and statistics related to that police division.

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 *of Crime and Witnesses*

(3) (*a*) The Head of the Protection Division, in consultation with the Authority, shall issue directives to be followed by the Protection Officers in performing and discharging their duties and functions, and such directives 5 shall, where necessary, be treated as confidential notwithstanding anything to the contrary in any other law.

(*b*) The Authority shall conduct special training programmes for the purpose of developing the competence of the Protection Officers.

10 (4) A Protection Officer shall maintain a confidential record of every action that he takes in providing protection to a victim of crime or witness under this Act.

PART V

ESTABLISHMENTOFTHE NATIONAL AUTHORITYFORTHE PROTECTION

|  |  |  |
| --- | --- | --- |
| 15 | OF VICTIMSOF CRIMEAND WITNESSES | National |
| **39.** (1) There shall be established an authority which |
| 20 | Authority for |
| shall be called the National Authority for the Protection of |
| the |
| Victims of Crime and Witnesses (in this Act referred to as the |
| Protection of |
| “Authority”). | Victims of |
| Crime and |
| (2) The Authority shall, by the name assigned to it by | Witnesses |

subsection (1), be a body corporate with perpetual succession and a common seal, and may sue and be sued in that name.

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | **40.** (1)The duties and functions of the Authority shall | | Duties and |
| be – | | functions of |
| the Authority |
| (*a*) | to protect and promote respect for, and recognition |

of, the rights and entitlements of victims of crime   
and witnesses as provided for in this Act;

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 *of Crime and Witnesses*

(*b*) to investigate and inquire into any complaint or   
 information received by the Authority regarding   
 any alleged violation or denial, or imminent   
 violation or denial, of rights and entitlements of

|  |  |  |
| --- | --- | --- |
| 5 | victims of crime and witnesses provided for inthis Act, and to- | |
| (i) | give directions or make recommendations to |

any person or authority to take corrective   
measures;

|  |  |  |
| --- | --- | --- |
| 10 | (ii) | grant such financial or other assistance; or |
| (iii) | take any other appropriate measures, |

that ensure the protection and promotion of the   
rights and entitlement of victims of crime and   
witnesses provided for inthis Act;

|  |  |  |
| --- | --- | --- |
| 15 | (*c)* | to take necessary steps to ensure security and |

protection of victims of crime andwitnesses, by   
way of providing or arranging the provision of,   
necessary medical treatment, counselling or   
rehabilitation services, or reparation or restitution

|  |  |  |
| --- | --- | --- |
| 20 | (*d*) | measures; |
| to formulate and implement a scheme for the |

purpose of granting any interim awards to victims of crime from the Protection Fund established under this Act and to grant interim awards to such victims 25 of crime as recommended by the Advisory Board under section 69 of this Act;

(*e*) to create awareness among the public on the rights and entitlements of victims of crime and witnesses and the relief or remedies available to them under 30 this Act;

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 *of Crime and Witnesses*

(*f*) to advise and make recommendations to the Department of Police, any other Government Department or statutory institution and public officers, on measures that should be implemented 5 to give effect to, protect and promote, the rights and entitlements of victims of crime and witnesses provided for in this Act;

(*g*) to review existing legislation, and the policies,   
 practices or procedures adopted and followed by

|  |  |
| --- | --- |
| 10 | the relevant institutions, relating to the protection and promotion of the rights and entitlements of |

victims of crime and witnesses and to make recommendations, if any, to amend or update such legislation, policies, practices or procedures to 15 ensureconformity with the latest recognized international standards and best practices relating to the same;

(*h*) upon request madeby any court or Commission, to provide necessary facilities to establish a 20 contemporaneous audio-visual linkage for recording of evidence or statement of a victim of crime or witness from a remote location;

(*i*) to develop and issue, in consultation with other relevant authorities, guidelines and procedures 25 which ensure the best interest of victims of crime and witnesses;

(*j*) to issue guidelines in regard to the independent   
 functioning of the Protection Division;

|  |  |  |
| --- | --- | --- |
| 30 | (*k*) | to take measures to sensitize public officers |
| including Government Medical Officers, officers |

of the Sri Lanka Police, the Department of Prisons   
or public officers associated with probation and   
social services-

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*of Crime and Witnesses*

(i) on the needs of any victim of crime or witness;   
 or

(ii) on any special needs of any such specific   
 category of victims of crime or witnesses as

|  |  |  |
| --- | --- | --- |
| 5 | (*l*) | may be specified by the Authority; |
| to conduct or promote the carrying out of research |

into ways and means through which –

|  |  |  |
| --- | --- | --- |
| 10 | (i) | the incidence of crime can be reduced; |
| (ii) | the impact of specific crimes on victims could |
| (iii) | be minimized or prevented; |
| victims of crime can be effectively |

treated, rehabilitated, counselled, assisted,   
compensated and protected;

|  |  |  |
| --- | --- | --- |
| 15 | (iv) | the causes that prevent victims of crime or |
| witnesses from seeking redress or relief |
| through the available criminal justice |

mechanisms may be identified and   
eliminated; and

|  |  |  |
| --- | --- | --- |
| 20 | (v) | a conducive environment could be created |
| for witnesses to make statements before the |
| law enforcement authorities or to testify |

fearlessly at any proceedings before any court   
or Commission;

|  |  |  |
| --- | --- | --- |
| 25 | (*m*) | to promote the application and observance of codes |
| of conduct and recognized norms and best practices |

relating to the protection of the rights and   
entitlements of victims of crime and witnesses, by   
courts, Commissions, any other tribunals, public

|  |  |
| --- | --- |
| 30 | officers and employees of statutory bodies involved in the enforcement of law, including officers of the |

Sri Lanka Police, the Prisons Department,   
Government Medical Officers and officers of the   
Government social service institutions;

*Assistance to and Protection of Victims*  37   
 *of Crime and Witnesses*

(*n*) to make recommendations to the Government and   
 other appropriate authorities on the development,   
 adoption and implementation of-

|  |  |  |
| --- | --- | --- |
| 5 | (i) | crime prevention policies in order to |
| (ii) | minimize the incidence of victimization; |
| measures of restitution of victims of crime; |

and

(iii) measures of restorative justice as an option   
 to sentencing;

|  |  |  |
| --- | --- | --- |
| 10 | (*o*) | having regard to the existing financial regulations, |
| to lay down the procedure and criteria for the |

granting of financial assistance to victims of crime   
and witnesses;

|  |  |  |
| --- | --- | --- |
| 15 | (*p*) | to organize training programmes on the treatment |
| of child victims of crime or child witnesses and |
| identify qualified personnel and proper procedures |

that may be employed to protect and meet any   
special needs of such child victims of crime or   
witnesses;

|  |  |  |
| --- | --- | --- |
| 20 | (*q*) | to promote the development, adoption and |
| implementation of measures of restitution to victims |

of crime as an option to sentencingin the criminal   
justice system; and

|  |  |  |
| --- | --- | --- |
| 25 | (*r*) | to perform or discharge any other duty or function |
| that may be necessary to achieve the objects of this |

Act.

(2) Where the Authority issues any directive or makes any recommendation to any person or authority, or requires any person or authority to carry out any measure under

|  |  |
| --- | --- |
| 30 | subsection (1), it shall be the duty of such person or authority – |

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*of Crime and Witnesses*

(*a*) to give effect to such directive or recommendations   
 or carry out such measure and report back to the   
 Authority of such fact; or

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | where such person or authority is unable to give |
| effect to such directive or recommendation, or carry |

out the measure, to report back to the Authority of   
such inability, giving reasons for the same.

(3) The Authority shall monitor the implementation of the directive or recommendations or carrying out the measure

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | referred to in subsection (2) by calling for periodical reports | | Powers of the |
| from such person, authority or any other relevant authority. | |
| **41. (**1) The Authority shall have the power – | |
| Authority |
| 15 |
| (*a*) | to receive any complaint or information on any |
| alleged violation or denial, or imminent violation | |
| or denial, of any right or entitlement of a victim of | |

crime or witness under this Act;

(*b*) for the purpose of conducting an investigation or   
 inquiry into any alleged violation or denial, or

|  |  |
| --- | --- |
| 20 | imminentviolation or denial, of any right or entitlement of a victim of crime or witness under |

this Act, to -

(i) require any person, other than a judicial   
 officer or Commissioner of a Commission, to   
 appear before the Authority and to participate

|  |  |  |
| --- | --- | --- |
| 25 | (ii) | in such investigation or inquiry; |
| require any person, other than a court or |

Commission, to produce before the Authority   
any document, a certified copy ofany   
document or any other material in the

|  |  |
| --- | --- |
| 30 | possession or custody of such person, including any report of investigation or |

inquiry, an extract of an information book   
and extract of Police Officers’ Visiting Book   
for examination and totake copies thereof;

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*of Crime and Witnesses*

(iii) require any person, other than a court or   
 Commission, to provide to the Authority in   
 writing any information which such person   
 possesses:

5 Provided however, if the disclosure of any information is detrimental to the national security, such person shall not be required to provide such information, and the onus of proving that the information is confidential

|  |  |  |
| --- | --- | --- |
| 10 | (iv) | shall lie with the person who so claims; |
| interview and record a statement of any |

person, other than a judicial officer or   
Commissioner of any Commission:

Provided however, anything stated during

|  |  |
| --- | --- |
| 15 | the course of recording ofsuch statement shall not be used against such person at any |

subsequent trial of any charge or indictment   
relating to an offence;

|  |  |  |
| --- | --- | --- |
| 20 | (v) | request any court or Commission to provide |
| to the Authority certified copies of the records |

of any proceedings, documents and other   
material filed of record in such court or   
Commission relating to any alleged offence   
against a victim of crime or witness or the

|  |  |
| --- | --- |
| 25 | alleged violation or denial, or imminent violation or denial, of any right or |

entitlement of a victim of crime or witness,   
without the payment of any fee, provided

|  |  |  |
| --- | --- | --- |
| 30 | (vi) | sufficient justification is shown for such |
| request; and |
| subject to prior approval of the relevant |

authorities, enter into, inspect or examine any   
place or location,or observe and record any   
event or process progressing in any place,

|  |  |
| --- | --- |
| 35 | including an investigation, inquiry, trial or other proceeding; |

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 *of Crime and Witnesses*

(*c*) for the purpose of providing redress to any victim   
 of crime or witness, to-

(i) make an appropriate order to remedy, or to   
 provide relief, or to take corrective measures

|  |  |
| --- | --- |
| 5 | on any damage caused as a result of the violation of rights or denial ofentitlements |

of any victim of crime or witness under this   
Act;

|  |  |  |
| --- | --- | --- |
| 10 | (ii) | direct, advise or recommend the relevant |
| authorities to adopt appropriate measure for |

the promotion or protection of the rights and   
entitlements of any victim of crime or witness   
under this Act; and

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | (*d*) | (iii) | use mechanisms including conciliation and |
| mediation in addition to other available legal | |
| mechanisms; | |
| to make representations to the Attorney-General or | |

any other authority on the basis of any investigation   
or inquiry into any alleged violation or denial, or

|  |  |
| --- | --- |
| 20 | imminent violation or denial, of any right or entitlement of a victim of crime or witness under |

this Act;

(*e*) to direct the Protection Division to take over an   
 investigation or inquiry into any offence under this

|  |  |  |
| --- | --- | --- |
| 25 | (*f*) | Act under paragraph (f) of subsection (1) of section |
| 56; |
| to acquire, hold, take or give on lease or hire, |

mortgage, pledge, sell or otherwise dispose of any   
movable or immovable property;

|  |  |  |
| --- | --- | --- |
| 30 | (*g*) | to enter into such contracts as may be necessary for |
| the performance and discharge of its duties and |

functions;

*Assistance to and Protection of Victims*  41   
 *of Crime and Witnesses*

(*h*) to invest monies lying to the credit of the   
 Protection Fund in an appropriate and secure manner   
 and open and maintain current, savings or deposit   
 accounts in banks;

|  |  |  |
| --- | --- | --- |
| 5 | (*i*) | to appoint, dismiss and exercise disciplinary control |

over officers and other employees, consultants and   
advisors of the Authority as may be necessary for   
the proper performance and discharge of its duties   
and functions;

|  |  |  |
| --- | --- | --- |
| 10 | (*j*) | subject to the provisions of subsection (2), to accept |

and receive donations, gifts, bequests and grants   
from any source within or outside Sri Lanka and to   
utilize the same for the proper performance and   
discharge of its duties and functions; and

|  |  |  |
| --- | --- | --- |
| 15 | (*k*) | to do all such other things as may be necessary for |

the proper performance and discharge of its duties   
and functions under this Act.

(2) The Authority or the Protection Division shall not obtain any assistance from any foreign government or foreign 20 or international organization in providing assistance or protection to a victim of crime or witness, without the prior approval of the Department of External Resources.

(3) Any person who, without justifiable reason, fails to comply with any requirement, direction or order made or 25 issued by the Authority in the exercise of the powers vested in the Authority under this section, commits an offence and shall, on conviction by a Magistrate, be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for a period not exceeding 30 five years or to both such fine and imprisonment.

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 *of Crime and Witnesses*

|  |  |
| --- | --- |
| **42.** (1) The administration and management of the affairs of the Authority shall be vested in a Board of Management (in this Act referred to as the “Board”). | Board of  Management of the  Authority |

(2) The Board shall, for the purpose of administering 5 and managing the affairs of the Authority, exercise, perform, and discharge the powers, duties and functions conferred on, assigned to, or imposed on, the Authority by this Act.

(3) The Board shall consist of-

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | (*a*) | the following *ex-officio* members – | |
| (i) | the Secretary to the Ministry of the Minister |

assigned the subject of Justice or an   
Additional Secretary to such Ministry,   
nominated by such Secretary;

|  |  |  |
| --- | --- | --- |
| 15 | (ii) | the Secretary to the Ministry of the Minister |
| assigned the Department of Police or an |

Additional Secretary to such Ministry,   
nominated by such Secretary;

(iii) the Secretary to the Ministry of the Minister assigned the subject of Women’s Affairs or 20 an Additional Secretary to such Ministry, nominated by such Secretary;

(iv) the Secretary to the Ministry of the Minister   
 assigned the subject of Children or an   
 Additional Secretary to such Ministry,

|  |  |  |
| --- | --- | --- |
| 25 | (v) | nominated by such Secretary; |
| a member of the Human Rights Commission |

of Sri Lanka established by the Human Rights   
Commission of Sri Lanka Act, No. 21 of 1996,   
nominated by such Commission;

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 *of Crime and Witnesses*

(vi) the Chairman of the Legal Aid Commission   
 established by the Legal Aid Law, No. 27 of   
 1978or a nominee of such Chairman not   
 below the rank of Commissioner;

|  |  |  |
| --- | --- | --- |
| 5 | (vii) | the Commissioner-General of Prisons or a |

nominee of such Commissioner-General not   
below the rank of Commissioner;

|  |  |  |
| --- | --- | --- |
| 10 | (viii) | a nominee of the Attorney- General; and |
| (ix) | a nominee of the Inspector General of Police |
| holding the rank of Senior Deputy Inspector |

General of Police:

Provided however, where two or more subjects specified in subparagraph (i), (ii), (iii), or (iv) of thisparagraph are assigned to a single Ministry, 15 the nomination of a member of that Ministry to the Authority shall be by the Secretary to the Ministry of the Minister assigned those subjects; and

(*b*) five members who are academically or professionally qualified and have experience in the 20 field of Law, Criminology, Human Rights or Medicine, or in social service or civil society activities appointed by the President (in this Act referred to as the“appointed members”).

|  |  |  |
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| 25 | **43.** (1) The President shall appoint one member of the | Chairman of |
| Board as the Chairman of the Board who shall also be the | the Authority |

Chairman of the Authority.

(2) The Chairman of the Authority shall be appointed for a period of three years and shall be eligible for re-appointment.

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 *of Crime and Witnesses*

(3) The Chairman of the Authority may, at any time, resign from the office of Chairman by a letter addressed to the President and such resignation shall take effect upon it being accepted by the President in writing.

5 (4) Where the Chairman of the Authority is, by reason of illness or absence from Sri Lanka, temporarily unable to perform the duties of his office, the President shall appoint another member of the Board to act in his place.

(5) The President may, for reasons assigned, remove the

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | Chairman of the Authority from the office of Chairman. | | Disqualifications |
| **44.**  A person shall be disqualified from being appointed | |
| or continuing as a member of the Board, if such person – | | for being a |
| member of the |
| (*a*) | is or becomes, a member of Parliament, a Provincial | Board |

Council or any local authority;

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | is not, or ceases to be, a citizen of Sri Lanka; |
| (*c*) | is, under any law in force in Sri Lanka or in any |

other country, found or declared to be of unsound   
mind; or

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | (*d*) | is serving or has served, a sentence of imprisonment | Resignation |
| imposed by any court in Sri Lanka or any other | |
| country. | |
| **45.** (1)An appointed member of the Board may, at any | |
| 25 | time, resign from his office by letter to that effect addressed | | and removal |
| of appointed |
| to the President and such resignation shall take effect upon | |
| members of |
| it being accepted in writing by the President. | |
| the Board |

(2) The President may, for reasons assigned, by Order published in the *Gazette*, remove an appointed member of the Board from officeandsuch member shall cease to hold office from and after the date of publication of such Order in

30 the *Gazette.*

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 *of Crime and Witnesses*

(3) In the event of any appointed member of the Board vacating office by death, resignation or removal from office, the President shall, having regard to the provisions of paragraph (*b*) of subsection (3) ofsection 42,appoint another 5 person to succeed such member.

(4) The member appointed under subsection (3) shall hold office for the unexpired period of the term of office of the member whom be succeeds.

(5) Where any appointed member of the Board, by reason 10 of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform the duties of the office, such member shall inform the President in writing, of such inability. Thereupon, the President may, having regard to the provisions of paragraph (*b*) of subsection 15   
 (3) ofsection 42, appoint another person to act in his place for such period.

|  |  |  |
| --- | --- | --- |
| 20 | **46.** Every appointed member of the Board shall, unless | Term of |
| such member vacates office earlier by death, resignation or | office of an |
| appointed |
| removal, hold office for a term of three years from the date of |
| member |
| his appointment and shall, unless he has been removed from |

office, be eligible for re-appointment.

|  |  |
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| **47.** The members of the Board may be paid such remuneration out of the Fund of the Authority, at such rates | Remuneration of members |

as may be determined by the President in consultation with

|  |  |  |
| --- | --- | --- |
| 25 | the Minister assigned the subject of Finance. | Meetings of |
| **48.** (1) The Chairman of the Board shall, if present, |
| preside at every meeting of the Board. In the absence of the | the Board |

Chairman from any such meeting, the members present shall elect one of the members present, to preside at such meeting.

|  |  |
| --- | --- |
| 30 | (2) The quorum for any meeting of the Board shall be five members. |

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 *of Crime and Witnesses*

(3) The Chairman or the member presiding at any meeting of the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(4) All matters for decision by the Board shall be dealt 5 with at a meeting of the Board and shall be determined by the majority of the members present and voting.

(5) In the event of an equality of votes on any matter considered at a meeting of the Board, the Chairman or the member presiding at such meeting shall have a casting vote

10 in addition to his original vote.

(6) Subject to the preceding provisions of this section, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

|  |  |  |
| --- | --- | --- |
| 15 | **49.** No act, decision or proceeding of the Board shall be | Any act not |
| deemed to be invalid by reason only of the existence of any | invalidated |
| by reason of |
| vacancy therein, or any defect in the appointment of any |
| a vacancy in |
| 20 | member thereof. | the Board |
| **50.** (1)The seal of the Authority shall be as determined | Seal of the |
| by the Board and may be altered in such manner as may be | Authority |
| determined by the Board**.** |

(2) The seal of the Authority shall be in the custody of such person as the Board may determine from time to time.

(3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board 25 and in the presence of two members of the Board, who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of instruments and documents to which the seal of the Authority has been affixed.

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PART VI

APPOINTMENTOFTHE DIRECTOR-GENERALAND STAFFOFTHE   
AUTHORITY

|  |  |  |
| --- | --- | --- |
| 5 | **51.** (1) There shall be a Director-General of the Authority | Director- |
| (in this Act referred to as the “Director-General”) who shall | General of |
| the |
| be a person with professional qualifications in the field of |
| Authority |
| Law, Administration or Criminology with at least fifteen |

yearsof experience in any of such fields.

(2) The Director-General shall be appointed by the Board 10 and shall be the Chief Executive Officer of the Authority.

(3) The Director-General shall, subject to the general or special directions and supervision of the Board–

(*a*) be charged with the administration and management   
 of the affairs of the Authority, including the

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | administration and control of the staff; and |
| be responsible for the performance and discharge |

of all such duties and functions assigned to him by   
the Board.

|  |  |
| --- | --- |
| 20 | (4) (*a*) The Board may, in writing and subject to such conditions as may be specified therein, delegate to the |

Director-General any of the powers, duties or functions of the Authority, and the Director-General shall exercise, perform or discharge such powers, duties or functions in the name and on behalf of the Authority.

25 (*b*) The Board may, notwithstanding any delegation made under paragraph (*a*), by itself exercise, perform or discharge any powers, duties or functions so delegated and may at any time revoke such delegation.

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 *Crime and Witnesses*

(5) The Director-General may, with the written approval of the Board, whenever he considers it necessary to do so, delegate in writing to any officer of the Authority any of his powers, duties or functions and such officer shall exercise, 5 perform or discharge such powers, duties or functions subject to the general or special direction of the Director-General.

(6) The term of office of the Director-General shall be three years from the date of appointment and he shall, unless removed from office under subsection (7), be eligible for re-10 appointment.

(7) The Board may, with reasons assigned therefor, remove the Director-General from office, if the Director-General-

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | becomes permanently incapable of performing his |
| (*b*) | duties; |
| commits any act which, in the opinion of the Board, |

is of a fraudulent or illegal character or is prejudicial   
to the interests of the Authority; or

|  |  |  |
| --- | --- | --- |
| 20 | (*c*) | fails to comply with any directionissued by the |
| Board. |

(8) The office of the Director-General shall become vacant upon the death, removal from office under subsection (7) or resignation by letter in that behalf addressed to the Board by the holder of that office.

25 (9) Where the office of the Director-General becomes vacant, the Board shall appoint another person to such office, having regard to the provisions of subsection (1).

(10) A member of the Board shall not be eligible to be appointed, whether permanently or temporarily, as the 30 Director-General.

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 *Crime and Witnesses*

|  |  |
| --- | --- |
| **52.** (1) The Authority may appoint as staff of the Authority such number of officers and other employees as | Staff of the  Authority |

may be necessary for the efficient discharge of its functions.

(2) The Authority may, in respect of the officers and other 5 employees appointed to the Authority under subsection (1) –

(*a*) determine the terms and conditions of employment   
 of such officers and employees;

(*b*) fix the rates at which such officers and employees   
 shall be remunerated in keeping with related

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | guidelines of the Government; |
| exercise disciplinary control over or dismiss such |

officers and employees; and

(*d*) establish staff welfare and social security schemes for the benefit of such officers and employees and 15 make contribution to any such schemes.

(3) The Board may make rules in respect of all or any of the matters referred to in subsection (2).

(4) The Authority shall not appoint as an officer or other employee of the Authority, any person who has been 20 dismissed from any previous position held by such person in the public or private sector.

|  |  |  |
| --- | --- | --- |
| 25 | **53.** (1) At the request of the Authority, any officer in | Appointment |
| the public service may, with the consent of that officer | of public |
| officers to |
| and the Secretary to the Ministry by or under which that |
| the staff of |
| officer is employed, and the Secretary to the Ministry of | the Authority |

the Minister assigned the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority or with like consent, be permanently appointed to the staff of the 30 Authority.

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*Crime and Witnesses*

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, 5 apply to and in relation to such officer.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport

|  |  |
| --- | --- |
| 10 | Commission Act, No. 37 of 1991 shall, *mutatis mutandis,* apply to and in relation to such officer. |

(4) Where the Authority employs any person, who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period,

|  |  |
| --- | --- |
| 15 | any period of service with the Authority by that person shall be regarded as service to the Government for the purpose of |

discharging the obligations of such contract.

PART VII

VICTIMSOF CRIMEAND WITNESSES ASSISTANCEAND   
PROTECTION DIVISION

|  |  |  |
| --- | --- | --- |
| 20 | **54.** (1) There shall be established a Victims of Crime and | Establishment |
| 25 | Witnesses Assistance and Protection Division (in this Act | of the |
| referred to as the “Protection Division”) consisting of such | Victims of |
| Crime and |
| number of police officers as may be determined by the |
| Witnesses |
| Authority, for the purpose of conducting investigations or |
| Assistance |
| inquiries in relation to offences under this Act and of | and |
| providing assistance and protection to victims of crime and | Protection |
| witnesses under this Act. | Division |

(2) The police officers to be appointed under subsection

|  |  |
| --- | --- |
| 30 | (1) shall be nominated by the Inspector General of Police, in consultation with the Authority. |

(3) The Inspector General of Police, in consultation with the Authority, shall determine the criteria for the selection of police officers to the Protection Division, and such criteria shall be published in the *Gazette*.

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(4) The Inspector General of Police, with the concurrence of the Authority, shall nominate a suitably qualified police officer not below the rank of Deputy Inspector General of Police as the Head of the Protection Division.

5 (5) All matters relating to the appointment, promotion, transfer, disciplinary control and dismissal of the police officers of the Protection Division shall, subject to the provisions of paragraph (3) of Article 55 of the Constitution, be under the purview of the Inspector General of Police. The 10 Inspector General of Police may seek the views of the Authority in relation to any such matter.

(6) (*a*) The Authority shall make rules to ensure the confidentiality of the affairs of the Protection Division and impartiality and accountability of the police officers of the 15 Protection Division in the performance and discharge of their duties and functions under this Act.

(*b*) Every police officer appointed to the Protection Division shall undertake in writing to abide by such rules.

(7) (*a*) The Authority shall refer any complaint with 20 regard to any wilful non-compliance with any relevant provision of this Act or any rule madeby the Authority under paragraph (*a*) of subsection (6), by any police officer of the Protection Division to the Inspector General of Police, who shall inquire into such complaint and take such 25   
 measures as may be deemed appropriate in the relevant circumstances.

(*b*) A certificate issued by the Authority stating that a police officer of the Protection Division has contravened any such provision or rule shall be *prima facie* evidence for 30 the purpose of initiating any action or inquiry against such police officer.

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 *Crime and Witnesses*

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **55**. (1) Notwithstanding anything to the contrary in any | | Protection |
| other written law, the Protection Division shall have | | Division to |
| islandwide jurisdiction to receive, investigate or inquire into | | have |
| islandwide |
| any complaint in relation to an offence under Part III of this | |
| jurisdiction |
| Act- | |
| (*a*) | made directly to the Protection Division; |
| (*b*) | made to the Authority and referred to the Protection |

Division; or

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | referred to the Protection Division by any court, |
| Commission or law enforcement authority. |

(2) Every police officer attached to any police station shall, whenever requested by the Protection Division, assist the Protection Division, in exercising, performing and discharging the powers, duties and functions of the Protection

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | Division. | | Powers, |
| **56.** (1) The powers, duties and functions of the Protection | |
| 20 | Division shall be – | | duties and |
| functions of |
| (*a*) | to investigate or inquire into complaints received | the |
| Protection |
| by the Protection Division or referred to the | | Division |
| Protection Division by the Authority, any court, | |

Commission or law enforcement authority under   
the provisions of this Act;

(*b*) to provide assistance and protection to victims of   
 crime and witnesses;

|  |  |  |
| --- | --- | --- |
| 25 | (*c*) | to lay down conditions for admitting a victim of |
| crime or witness into a specific programme referred |

to in section 59;

(*d*) in the case of imminent threat to any victim of crime or witness, provide immediate protection to such 30 victim of crime or witness;

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(*e*) to provide necessary guidance and advice, on   
 request by a police station, with regard to the   
 conduct of an investigation or inquiry into an   
 offence under this Act by such police station;

|  |  |  |
| --- | --- | --- |
| 5 | (*f*) | on receipt of a direction issued by the Authority |

based on the gravity and the seriousness of the   
circumstances, to take over any investigation or   
inquiry into any offence under this Act against any   
victim of crime or witness; and

|  |  |  |
| --- | --- | --- |
| 10 | (*g*) | where the Protection Division is of the opinion that |

the gravity and the seriousness of any alleged   
offence under this Act warrants its intervention in   
the conduct of the investigation or inquiry into   
such offence, to take over such investigation or

15 inquiry, with the concurrence of the Authority.

(2) The officers attached to the Protection Division shall maintain confidentiality with regard to matters relating to victims of crime and witnesses and shall not share any information on such matters except as required by law.

20 PART VIII

THE ASSISTANCEAND PROTECTION PROGRAMMEFOR VICTIMSOF   
CRIMEAND WITNESSES

|  |  |  |
| --- | --- | --- |
| 25 | **57**. (1) The Authority shall, in consultation with the | Assistance |
| Protection Division and based on the guidelines to be | and |
| Protection |
| developed by the Authority, draw up an Assistance and |
| General |
| Protection General Programme for Victims of Crime and | Programme |
| for Victims |
| Witnesses containing the procedure for the provision of |
| of Crime and |
| assistance and protection to victims of crime and witnesses | Witnesses |

**(**in this Act referred to as the “General Programme”).

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*Crime and Witnesses*

(2) In developing guidelines for the General Programme, the Authority shall have due regard to the international norms, standards, policies, procedures and best practices meant for granting assistance and protection to victims of

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 5 | crime and witnesses. | | | Duty of the |
| **58.** (1) The Authority shall- | | |
| 10 | Authority to |
| (*a*) | share information among the public about the | |
| share |
| information |
| General Programme; | | |
| on the |
| (*b*) | create awareness among the public on the General | | General |
| Programme |
| Programme including- | | |
| (i) | | the procedure to be followed in seeking |

assistance and protection, whenever any   
offence specified in Part III of this Act is

|  |  |  |
| --- | --- | --- |
| 15 | (ii) | committed in relation to a victim of crime or |
| witness; |
| the available methods in which any relevant |

authority may be contacted without delay for   
the purpose of obtaining assistance and   
protection for a victim of crime or witness

|  |  |  |
| --- | --- | --- |
| 20 | (iii) | under such General Programme;and |
| the nature of assistance and protection that |

may be sought under the General Programme.

(2) (*a*) The Authority shall formulate a manual containing the General Programme referred to in subsection (1), and

|  |  |
| --- | --- |
| 25 | shall ensure that such manual is made available to all relevant persons, authorities and institutions entrusted with the duty |

of providing assistance and protection tovictims of crimes and witnesses.

|  |  |
| --- | --- |
| 30 | (*b*) It shall be the duty of every person, authority or institution which has the responsibility of implementing |

the General Programme to comply with the guidelines issued in relation to such General Programme in providing assistance and protection to victims of crime and witnesses.

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*Crime and Witnesses*

|  |  |  |
| --- | --- | --- |
| 5 | **59.** (1) The Protection Division shall, based on the | Adopting a |
| General Programme drawn up by the Authority and the | specific |
| guidelines issued in that connection by the Authority, adopt | programme |
| for a victim |
| a specific programme for the purpose of providing assistance |
| of crime or |
| and protection to any victim of crime or witness (in this Act |
| witness |
| referred to as a “specific programme”). |

(2) The Protection Division may admit a victim of crime or witness to a specific programme on –

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | a request made by a victim of crime or witness; |
| (*b*) | a recommendation made by the Authority; |
| (*c*) | a report submitted by any law enforcement authority |

or a public officer; or

(*d*) a notification received from a court or   
 Commission.

15 (3) The Protection Division shall lay down the conditions to be complied with for admitting a victim of crime or witness into a specific programme.

(4) Prior to admitting a victim of crime or witness to any specific programme under subsection (1), the Protection 20 Division shall require such victim of crime or witness to express his consent in writing to avail himself of the protection or assistance under such specific programme and to abide by the conditions stipulated by the Authority or Protection Division in relation to such specific programme.

25 PART IX

COMPENSATIONAND INTERIM AWARDS

|  |  |
| --- | --- |
| **60.** The payment of any compensation or making an interim award to a victim of crime under this Part of this Act shall be based on just and equitable basis. | Compensation and interim  awards to be made on just and equitable |

basis

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 *Crime and Witnesses*

|  |  |  |
| --- | --- | --- |
| 5 | **61**. (1) Notwithstanding anything to the contrary in any | Court may |
| other written law, a court may, on conviction of an accused, | order |
| compensation |
| in addition to any penal sanction that may be imposed on |
| the convicted person in respect of the offence for which he is |
| convicted, order the convicted person to pay to the court |

such amount of compensation as may be determined by such court, under this Act.

(2) Where a court makes an order under subsection (1), the court may-

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | specify the time within which such compensation |

shall be paid; or

(*b*) order the compensation to be paid on instalment   
 basis, depending on the circumstances.

(3) Any sum ordered to be paid by the court under this 15 section shall be recoverable as if it were a fine imposed by such court, and the provisions relating to recovery of compensation contained in the Code of Criminal Procedure Act shall apply to the recovery of compensation under this section**.**

20 (4) Where the convicted person is impecunious or he has no assets to be forfeited to recover compensation, the court may order the Authority to pay, subject to the availability of resources and in accordance with the succeeding provisions

|  |  |
| --- | --- |
| 25 | of this Act, a sum of money as compensation that is commensurate to the victimization, not exceeding rupees |

one million to the victim of crime.

|  |  |  |  |
| --- | --- | --- | --- |
| 30 | **62.** Where a convicted person fails to pay the | | Default of |
| compensation ordered to be paid under section 61, he shall | | payment of |
| compensation |
| be liable- | |
| (*a*) | if such order was made by the Magistrate’s Court, |

to imprisonment of either description for a period   
not exceeding two years; or

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(*b*) if such order was made by the High Court, to   
 imprisonment of either description for a period not   
 exceeding five years:

|  |  |
| --- | --- |
| 5 | Provided however, if the court is satisfied upon inquiry that the convicted person does not have the necessary |

financial resources to pay the compensation, the court may enter a community based correction order, and where such order is entered, the provisions relating to community based correction orders contained in the Community Based 10 Corrections Act, No. 46 of 1999 shall, *mutatis mutandis*, apply in relation to that order.

|  |  |
| --- | --- |
| **63.** The court may, before making an order to pay compensation under section 61, take the following matters into consideration: - | Matters to be considered  before  ordering to |

pay

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | (*a*) | all information relating to the offence including | compensation |

the nature of the injury suffered by the victim of   
crime as a result of the offence;

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | any aggravating or mitigating factors; |
| (*c*) | the report of the Government Medical Officer who |
| (*d*) | has examined the victim of crime; |
| any evidence of psychological or emotional harm |

that may have been caused to the victim of crime;

(*e*) any loss of earnings suffered by the victim of crime on account of the injury;

|  |  |  |
| --- | --- | --- |
| 25 | (*f*) | any expenses including medical expenses incurred |
| (*g*) | by the victim of crime; |
| the victim impact statement referred to in |

section 8;

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(*h*) any other compensation that has already been paid to such victim of crime by the convicted person, or any other compensation recovered from the convicted person by any other court, Commission, 5 body or person, or any other award that may have already been made to such victim of crime; and

(*i*) any other information that may assist the court or   
 the Authority to determine the nature and the extent   
 of injury, damage or loss that such victim of crime

|  |  |  |
| --- | --- | --- |
| 10 | may have suffered as a result of the offence. | Onus of |
| **64.** (1) The onus of proving a claim for compensation or |
| interim award under this Part of this Act shall lie with the | proving the |
| person who makes the claim. | claim |

(2) Notwithstanding any rule of evidence or any 15 prohibition in respect of the admissibility of evidence, a court determining the payment of compensation under this Act or the Authority determining on the payment of an interim award under this Act**,** may take into account any statement of a victim of crime or witness or any other person

|  |  |  |
| --- | --- | --- |
| 20 | relevant to the proceedings. | Receipt of |
| **65.** (1) Where a court recovers any amount as |
| 25 | compensation from a convicted person under section 61, | compensation |
| not to be a |
| such court shall remit twenty *per centum* of the money so |
| bar to civil |
| recovered to the Protection Fund and the balance amount |
| proceedings |
| shall be paid to the victim of crime, his next of kin, |

dependents or heirs as the case may be.

(2) The receipt of compensation by a victim of crime under this section shall not prejudice the right of such victim of crime to claim any damages in any civil proceedings, 30 provided that when determining the quantum of damages to be awarded, such civil court may take into consideration the compensation already received by such victim of crimeunder this section.

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**66.** (1) Any person aggrieved by the decision of the court Appeals under this Act in regard to the quantum of compensation   
awarded or the refusal to award compensation by the court,   
shall have a right to seek a review of such decision-

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | where such decision has been taken by a |
| Magistrate’s Court, in the High Court of the Province |

having jurisdiction; or

(*b*) where such decision has been taken by a High Court,   
 in the Court of Appeal.

10 (2) The provisions relating to the procedure for seeking review of decisions contained in Part VII of the Code of Criminal Procedure Act shall *mutatismutandis* apply to the filing of applications for review of decisions under this section.

|  |  |  |
| --- | --- | --- |
| 15 | **67**. (1) The Authority may consider paying an interim | Authority |
| award of money to a victim of crime in exceptional | may make an |
| interim |
| circumstances in the case of a serious offence, on the |
| award of |
| recommendation of the Advisory Board as set out in |
| money in |
| 20 |
| section 69. | exceptional |
| circumstances |
| (2) The interim award referred to in subsection (1) may |

be made, depending on the availability of resources-

(*a*) on the application of a victim of crime or any other   
 person on his behalf, as provided for in section 68;   
 and

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | irrespective of the final outcome of the proceedings |

relating to the offence alleged to have been   
committed.

(3) For the purposes of this section, a “serious offence”means an offence which is punishable with a sentence of

|  |  |
| --- | --- |
| 30 | minimum of five years of imprisonment, with or without a fine. |

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| --- | --- | --- |
| 5 | **68.** (1) (*a*) A victim of crime or any other person on his | Application |
| behalf may make an application to the Authority for interim | for interim |
| award of |
| award of money supported by an affidavit, along with any |
| money from |
| other document as may be specified by the Authority. The |
| the Authority |
| affidavit shall contain a true declaration of all sources of |
| income of the victim of crime. |

(*b*) Where the application, affidavit and other documents are submitted by another person on behalf of the victim of crime under paragraph (*a*), such person shall clearly state the

|  |  |
| --- | --- |
| 10 | reasons as to why the victim of crime cannot submit such application, affidavit and other documents by himself. |

(2) The Authority shall refer any application, affidavit and other documents received under subsection (1) to the Advisory Board, for recommendations.

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | **69.** (1) Upon receipt of a reference under subsection (2) | | Advisory |
| 20 | of section 68, the Advisory Board shall- | | Board to |
| recommend |
| (*a*) | consider each application for interim award on just | granting of |
| interim |
| and equitable basis; and | |
| awards |
| (*b*) | make its recommendations to the Authority |
| whether to grant an interim award to the victim of | |
| crime, | |

within fourteen days from the receipt of the reference.

(2) In making recommendations on an application under subsection (1), the Advisory Board shall-

|  |  |  |
| --- | --- | --- |
| 25 | (*a*) | take into account all attendant circumstances of |
| the offence committed against the victim of crime |

and the injuries suffered by the victim of crime;

(*b*) consider all relevant evidence, documents and material that would establish the authenticity of 30 the claim for interim award; and

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(*c*) take into account any compensation that has already   
 been paid to the victim of crime by the accusedor   
 convicted person or that has already been recovered

|  |  |
| --- | --- |
| 5 | from the accused or convicted person by any **c**ourt, Commission, body or person, in respect of the |

offence alleged to have been committed.

|  |  |  |
| --- | --- | --- |
| 10 | **70**. (1) Upon receipt of recommendations of the Advisory | Grant of |
| Board under section 69, the Authority may, in accordance | interim |
| award |
| with the guidelines issued by the Authority, make an interim |
| award to a victim of crime. |

(2) The sum of money awarded to a victim of crime as interim award shall, on an order of the Authority which shall be made subject to the provisions of subsection (3), be repaid by him to the Authority as per the scheme of repayment 15 referred to in subsection (4).

(3) (*a*) Any order made by the Authority for the repayment of the interim award shall be dependent on the earing capacity of the victim of crime as declared by him in his affidavit.

|  |  |
| --- | --- |
| 20 | (*b*) If the victim of crime is unemployed or has no means of income to repay the interim award, an order shall not be |

made for the repayment of the interim award.

(4) Where an order is made for the repayment of an interim award, the Authority shall enter into a scheme of repayment 25 with the victim of crime.

(5) The Authority may periodically assess the level of earning capacity of a victim of crime and vary an order made for the repayment of an interim award.

|  |  |  |
| --- | --- | --- |
| 30 | **71**. (1) Where a person fails, on an order made by the | Failure to |
| Authority, to repay any sum of money received as interim | repay the |
| award under section 70, the Magistrate’s Court having | interim |
| award |
| jurisdiction shall- |

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(*a*) on application made to such Court by the Authority;   
 and

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | upon a certificate issued to the Magistrate under |
| the hand of the Chairman of the Authority that such |
| sum of money has not been repaid, |

recover such sum of money as a fine imposed by the Court.

(2) A certificate issued under paragraph (*b*) of subsection (1) shall be *prima facie* evidence of the fact of such non-payment.

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| 10 | **72.** The Authority shall, in consultation with the Advisory | | Authority to |
| 15 | Board, issue guidelines in relation to the following matters | | issue |
| guidelines |
| pertaining to interim awards under this Part of this Act:- | |
| relating to |
| (*a*) | the form and manner of application for aninterim | interim |
| awards |
| award; | |
| (*b*) | the time within which an application may be made |

for the payment of aninterim award;

(*c*) the circumstances under which aninterim award   
 may be paid;

|  |  |  |
| --- | --- | --- |
| 20 | (*d*) | the procedure and manner of payment of aninterim |
| (*e*) | award; |
| the conditions under which an interim award may |

be made;

(*f*) the circumstances under which an interim award   
 may be repaid;

|  |  |  |
| --- | --- | --- |
| 25 | (*g*) | the procedure for repayment of an interim award; |
| (*h*) | and |
| the circumstances under which an interim award |

may be withheld or the amount of award reduced.

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|  |  |
| --- | --- |
| **73.** (1) A person shall not be entitled to receive any compensation from a court or an interim award from the Authority under this Act, if- | Non- entitlement  for  compensation |

or interim

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 5 | (*a*) | it is established that the act constituting the alleged | | award |
| offence - | |
| (i) | has not occurred; |
| (ii) | is not covered under the criminal law; or |
| (iii) | has been committed in self defence against |

an attack by the victim of crime;

|  |  |  |
| --- | --- | --- |
| 10 | (*b*) | the victim of crime is proved to be a member of an |

organized criminal group, at the time of or after, the

commissionof the offence; or

(*c*) at the end of or during the course of proceedings, as

the case may be, the victim of crime is found to be

15 guilty of any offence specified in the Second

Schedule to this Act.

(2) Only a Sri Lanka citizen shall be eligible to make a

claim for and receive an interim award from the Authority

under this Act.

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| --- | --- | --- |
| 20 | **74.** (1) The Minister shall, in consultation with the | Advisory |
| Board on |
| Authority, appoint an Advisory Board on Awards (in this |
| Awards |
| Act referred to as the “Advisory Board”), to make |

recommendations to the Authorit**y** onthe payment of any

interim award of money under section 67.

25 (2) The Advisory Board shall consist of-

(*a*) a retired Judicial Officer**,** appointed by the

Minister;

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(*b*) a representative of the Ministry of the Minister   
 assigned the subject of Finance, not below the rank   
 of Senior Assistant Secretary, nominated by the   
 Secretary to such Ministry;

|  |  |  |
| --- | --- | --- |
| 5 | (*c*) | a representative of the Ministry of the Minister |

assigned the subject of Justice, not below the rank   
of Senior Assistant Secretary, nominated by the   
Secretary to such Ministry;

|  |  |  |
| --- | --- | --- |
| 10 | (*d*) | a representative of the Auditor-General, nominated |
| (*e*) | by the Auditor-General; and |
| an attorney-at-law having not less than twenty years |

of experience in the field of Law of Delict,   
appointed by the Minister.

|  |  |  |
| --- | --- | --- |
| 15 | **75.** (1) The Minister shall appoint the retired Judicial | Chairman of |
| Advisory |
| Officer referred to in paragraph (*a*) of subsection (2) section |
| Board |
| 74 as the Chairman of the Advisory Board. |

(2) The Chairman of the Advisory Board shall be appointed for a period of three years and shall be eligible for re-appointment.

20 (3) The Chairman of the Advisory Board may, at any time, resign from the office by a letter addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.

(4) Where the Chairman of the Advisory Board is, by 25 reason of illness or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister shall appoint another member of the Advisory Board to act in his place.

(5) The Minister may, for reasons assigned, remove the 30 Chairman of the Advisory Board from the office of Chairman.

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|  |  |
| --- | --- |
| **76.** A person shall be disqualified from being appointed or continuing as a member of the Advisory Board, if such person – | Disqualifications for being a  member of  the Advisory |

Board

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | is or becomes, a member of Parliament, a Provincial |
| (*b*) | Council or any local authority; |
| is not, or ceases to be, a citizen of Sri Lanka; |
| (*c*) | is, under any law in force in Sri Lanka or in any |

other country, found or declared to be of unsound   
mind; or

|  |  |  |
| --- | --- | --- |
| 10 | (*d*) | is serving or has served, a sentence of imprisonment |

imposed by any court in Sri Lanka or any other   
country.

|  |  |  |
| --- | --- | --- |
| 15 | **77.** (1) A member of the Advisory Board may, at any | Resignation |
| time, resign from his office by letter to that effect addressed | and removal |
| of a member |
| to the Minister and such resignation shall take effect upon it |
| of the |
| being accepted in writing by the Minister. | Advisory |
| Board |

(2) The Minister may, for reasons assigned, by Order published in the *Gazette*, remove a member of the Advisory Board from office in consultation with any person who 20 nominated such member to the Advisory Board under subsection (2) of section 74 of this Act, if he is found guilty of-

(*a*) misconduct in the performance of his duties; or

(*b*) an offence involving fraud or dishonesty.

25 (3) A member of the Advisory Board who is removed from office under subsection (2), shall cease to hold office from and after the date of publication of such Order in the *Gazette*.

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(4) In the event of any member of the Advisory Board vacating office by death, resignation or removal from office, the Minister shall, having regard to the provisions of subsection (2) of section 74, appoint another person to 5 succeed such member.

(5) The member appointed under subsection (4) shall hold office for the unexpired period of the term of office of the member whom be succeeds.

(6) Where any member of the Advisory Board, by reason 10 of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform the duties of the office, such member shall inform the Minister in writing, of such inability. Thereupon, the Minister may, having regard to the provisions of subsection (2) of section

|  |  |  |
| --- | --- | --- |
| 15 | 74, appoint another person to act in his place for such period. | Term of |
| **78.** Every member of the Advisory Board shall, unless |
| 20 | such member vacates office earlier by death, resignation or | office of a |
| member of |
| removal, hold office for a term of three years from the date of |
| the Advisory |
| his appointment and shall, unless he has been removed from |
| Board |
| office, be eligible for re-appointment. |
| **79.** The members of the Advisory Board may be paid | Remuneration |
| of members |
| such remuneration out of the Fund of the Authority, at such |

rates as may be determined by the Minister in consultation with the Minister assigned the subject of Finance.

|  |  |  |
| --- | --- | --- |
| 25 | **80.**  ( 1) The Chairman of the Advisory Board shall, if | Meetings of |
| present, preside at every meeting of the Advisory Board. In | the Advisory |
| Board |
| the absence of the Chairman from any such meeting, the |

members present shall elect one of the members present, to preside at such meeting.

30 (2) The quorum for any meeting of the Advisory Board shall be three members.

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(3) The Chairman or the member presiding at any meeting of the Advisory Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

5 (4) All matters for decision by the Advisory Board shall be dealt with at a meeting of the Advisory Board and shall be determined by the majority of the members present and voting.

(5) In the event of an equality of votes on any matter 10 considered at a meeting of the Advisory Board, the Chairman or the member presiding at such meeting shall have a casting vote in addition to his original vote.

(6) Subject to the preceding provisions of this section, the Advisory Board may regulate the procedure in regard 15 to its meetings and the transaction of business at such meetings.

|  |  |  |
| --- | --- | --- |
| 20 | **81.** No act, decision or proceeding of the Advisory Board | Any act not |
| invalidated |
| shall be deemed to be invalid by reason only of the existence |
| by reason of |
| of any vacancy therein, or any defect in the appointment of |
| a vacancy in |
| any member thereof. | the Advisory |

Board

PART X

TESTIMONY THROUGH CONTEMPORANEOUS AUDIO-VISUAL LINKAGE

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | **82.** (1) Notwithstanding anything to the contrary in any | | Contemporaneous |
| audio-visual |
| other written law, any victim of crime, witness or law | |
| linkage |
| enforcement authority who wishes to- | |
| (*a*) | give evidence; |
| (*b*) | obtain evidence;or |

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(*c*) make a statement,

as the case may be, in relation to any investigation, inquiry or proceedings conducted by any court or Commission, may make an application to such court or Commission to give or 5 obtain such evidence or make such statement through contemporaneous audio-visual linkage from a remote location within or outside Sri Lanka.

(2)(*a*) Upon receipt of an application under subsection (1), the court or Commission may, in the best interests of 10 justice and as a measure of protection to be afforded to a victim of crime or witness, and subject to the provisions of sections 84 and 85, permit such victim of crime, witness or law enforcement authority to give or obtain such evidence or make such statement, as the case may be,by using

|  |  |
| --- | --- |
| 15 | contemporaneous audio-visual linkage between such court or Commission and a specified remote location within or |

outside Sri Lanka (in this Act referred to as a “remote location”) as deemed appropriate.

(*b*) Where an application is made under subsection (1), it 20 shall be competent for the court or Commission to hold or authorise the holding of an identification parade under section 124 of the Code of Criminal Procedure Act through contemporaneous audio-visual linkage from a remote location.

|  |  |
| --- | --- |
| 25 | (3) The court or Commission may, on its own motion based on the attendant circumstances, obtain and record |

any evidence or statement of any victim of crime or witness through contemporaneous audio-visual linkage between the court or Commission and such remote location as may be

|  |  |
| --- | --- |
| 30 | determined by such court or Commission, subject to the provisions of sections 84 and 85. |

(4) Where the court or Commission grants permission to give or obtain any evidence or make any statement, or decides to obtain and record any evidence or statement under

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subsection (2) or (3), as the case may be, the Authority shall, at the request of such court or Commission, to the greatest extent possible, ensure provision of financial and other

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| --- | --- |
| 5 | resources that may be necessary to establish and maintain an effective linkage, subject to the availability of its |

resources.

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | **83**. (1) (*a*) Where a victim of crime or witness intends to | | Supporting |
| make an application under subsection (1) of section 82 to | | an |
| application |
| give evidence or make a statement through contemporaneous | |
| and giving |
| audio-visual linkage from- | | notice of an |
| (i) | a remote location within Sri Lanka, such application | application |

shall be supported before the court or Commission   
at least thirty days before such evidence or statement   
is required to be given or made, as the case may be;

|  |  |  |
| --- | --- | --- |
| 15 | (ii) | a remote location outside Sri Lanka, such |

application shall be supported before the court or   
Commissionat least sixty days before such evidence   
or statement is required to be given or made, as the   
case may be.

20 (*b*) Where a law enforcement authority intends to make an application under subsection (1) of section 82, such law enforcement authority shall, before making the application to the relevant court or Commission, make an application to

|  |  |
| --- | --- |
| 25 | the Magistrate’s Court having jurisdiction for permission for such purpose. |

(2) Where any victim of crime, witness or law enforcement authority intends to make an application under subsection (1) of section 82, such victim of crime, witness or law enforcement authority shall, before making such application, 30 give reasonable prior notice of such application to the Attorney-General andall relevant parties to such investigation, inquiry or proceedings:

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 *Crime and Witnesses*

Provided however, if, during the course of an investigation conducted in terms of Chapter XI of the Code of Criminal Procedure Act, an accused has not yet been identified or named, or an accused cannot be found or 5 absconding, or if it is necessary to maintain the confidentiality of the investigation, a statement of a victim of crime or witness may be recorded by any law enfacement authority without giving notice to any party, with the permission of the court or Commission. Where the accused

|  |  |
| --- | --- |
| 10 | is identified, named, found or arrested, such law enforcement authority shall disclose the availability of such statement to |

the accused and provide a transcript of such statement or a data storage device containing such statement to him prior to the commencement of the trial.

|  |  |
| --- | --- |
| 15 | (3) The Attorney-General or any party who receives notice of an application referred to in subsection (2), may make his |

representations to the court or Commission before which the investigation, inquiry or proceeding is to be conducted, within fifteen working days of the receipt of the notice of

|  |  |
| --- | --- |
| 20 | such application, and such court or Commission shall make and notify its decision on such representations along with |

the reasons therefor, within fifteen working days of the receipt of such representations.

(4) Where any victim of crime, witness or law enforcement 25 authority no longer requires to give, obtain or make such evidence or statement, as the case may be**,** through contemporaneous audio-visual linkage from a remote location, such victim of crime, witness or law enforcement authority shall notify suchfact in writing to the Registrar or

|  |  |  |
| --- | --- | --- |
| 30 | the Secretary, as the case may be, of the respective court or | Court or |
| Commission. |
| **84.** A court or Commission may permitto give or obtain |
| 35 | any evidence or make any statement, or obtain and record | Commission |
| to be |
| any evidence or statement through contemporaneous audio- |
| satisfied with |
| visual linkagefrom a remote location,only if it is satisfied | technical and |
| other |
| that the technical requirements specified below are met: - |
| requirements |

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(*a*) the premises in which the court or Commission sits   
 and the remote location are equipped with adequate   
 facilities that-

|  |  |  |
| --- | --- | --- |
| 5 | (i) | enable the persons who are directly relevant |
| to the proceedings and present at such |

premises, to see and hear the persons who are   
directly relevant to the proceedings and   
present at such remote location; and

|  |  |  |
| --- | --- | --- |
| 10 | (ii) | enable the persons who are directly relevant |
| to the proceedings and present at such remote |

location, to see and hear the persons who are   
directly relevant to the proceedings and   
present at such premises;

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | (*b*) | any requirement that may be prescribed by rules of | |
| the court or Commission, for or with respect to - | |
| (i) | the form of audio-visual linkage; |
| (ii) | the equipment or class of equipment used to |

establish the linkage;

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | (*c*) | (iii) | the layout of cameras; |
| (iv) | the standard or speed of transmission; |
| (v) | the quality of communication; and |
| (vi) | any other matter relating to the linkage; and |
| any other requirement thatthe presiding judge, | |

Magistrate, or Commission may deem necessary:

25 Provided however, the requirements that may be imposed by the presiding judge, Magistrate or Commission under this paragraph shall not be inconsistent with any provision contained in this section.

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|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **85.** (1) A court or Commission, prior to commencing the | | Court or |
| recording of evidence or statement of a victim of crime or | | Commission |
| to satisfy |
| witness through contemporaneous audio-visual linkage from | |
| itself of |
| any remote location, shall, on the day and at the time fixed | |
| accuracy of |
| for such purpose- | | the linkage, |
| &c. |
| (*a*) | satisfy itself that such contemporaneous audio- |

visual linkage is technically accurate and reliable;   
and

|  |  |  |
| --- | --- | --- |
| 10 | (*b*) | ensure that a judicial officer or public officer who |
| shall be designated by such court or Commission is |

present at such remote location.

(2) The court or Commission may require the judicial officeror public officer designated under paragraph (*b*) of subsection (1) to-

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | interview, before or after recording of statement, |

the victim of crime or witness and any other person   
directly relevant to the proceedings and present at   
such remote location; and

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | submit a report along with his observations, to such |
| court or Commission stating whether the victim of |

crime or witness isor was making the statement   
voluntarily and without any coercion, duress or   
influence or as a result of any reward or gratification,

and such officer shall comply with such requirement.

25 (3) For the purposes of this section “public officer” includes an officer serving in the Sri Lanka Foreign Service.

|  |  |  |
| --- | --- | --- |
| 30 | **86.** A court or Commission shall,before granting | An accused’s |
| permission to a victim of crime, witness or law enforcement | right to a fair |
| trial |
| authority, to give or obtain evidence, or to make a statement, |
| as the case may be, through contemporaneous audio-visual |

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linkage from a remote location under this Act, determine whether the obtaining and recording of such evidence or

statement through such means from such location-

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | serves the best interests of justice; and |
| (*b*) | would not be detrimental to the right of an accused |

to a fair trial.

|  |  |  |
| --- | --- | --- |
| 10 | **87.** Where any evidence or statement of any victim of | Sri Lankan |
| crime or witness is to be given or obtained or madefrom any | diplomatic |
| mission to be |
| remote location outside Sri Lanka under this Act, it shall be |
| the remote |
| so given or obtainedor madethrough contemporaneous | location |
| outside |
| audio-visual linkage from the Sri Lankan diplomatic mission |
| Sri Lanka |
| in the country from where such evidence or statement is to |

be given or obtained or made.

|  |  |  |
| --- | --- | --- |
| 15 | **88.** The court or Commission may, in the best interest of | Order to vary |
| justice and for reasons to be recorded, make an order varying | or revoke |
| permission |
| or revoking a permission granted torecord evidence or |
| for audio- |
| statement in relation to any proceedings through | visual |
| linkage |
| contemporaneous audio-visual linkage from a remote |

location, with notice to the relevant parties to such

|  |  |  |
| --- | --- | --- |
| 20 | proceedings. | A witness |
| **89.** (1) A victim of crime or witness giving evidence or |
| 25 | making a statement through contemporaneous audio-visual | deemed to be |
| a witness of |
| linkage from a remote location under this Part of this Act |
| the court |
| shall be deemed for all purposes to be a victim of crime or |
| witness giving evidence or making a statement before the |

court.

(2) For the purposes of this Part of this Act, “court” means

a court before which any criminal proceedings are being conducted.

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PART XI

FINANCE

|  |  |
| --- | --- |
| **90.** (1) The Authority shall have its own Fund. | Fund of the  Authority |

(2) There shall be paid into the Fund of the Authority-

|  |  |  |
| --- | --- | --- |
| 5 | (*a*) | all such sums of money as may be voted upon from |

time to time by Parliament for the use of the   
Authority;and

(*b*) all such sums of money as may be received by the Authority by way of gifts, donations, contributions, 10 bequests or grants from any source within or outside Sri Lanka.

(3) There shall be paid out of the Fund of the Authority all such sums of money required to defray the expenditure incurred by the Authority in the exercise, performance and

|  |  |  |
| --- | --- | --- |
| 15 | discharge of its powers, duties and functions under this Act. | Protection |
| **91**. (1) There shall be a fund called the Victims of Crime |
| and Witnesses Assistance and Protection Fund (in this Act | Fund |

referred to as the “Protection Fund”).

(2) The Protection Fund shall be administered and 20 managed by the Authority.

(3) There shall be paid into the Protection Fund –

(*a*) all such sums of money as may be voted from time   
 to time by Parliament for such Protection Fund;

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | all such sums of money as may be received by the |
| Authority to be remitted to the Protection Fund by |

way of gifts, donations, contributions, bequests or   
grants from any source within or outside Sri Lanka;   
and

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(*c*) all such sums of money remitted by a court under   
 subsection (1) of section 65.

(4) There shall be paid out of the Protection Fund all

|  |  |  |
| --- | --- | --- |
| 5 | such sums of money as may be determined by the Authority for the payment of - | |
| (*a*) | compensation to victims of crime for any bodily |

harm or damage to their property;

(*b*) interim awards of money granted to victims of crime   
 under section 70; and

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | compensation to dependent family members, |

dependent next of kin and any other person   
dependent on a victim of crime who has died or   
been physically or mentally incapacitated as a result   
of being a victim of crime.

15 (5) The Director-General shall be the principal accounting officer of the Protection Fund and shall cause proper books ofaccounts to be kept of the income and expenditure and assets and liabilities of the Protection Fund.

|  |  |  |
| --- | --- | --- |
| 20 | **92.** (1)The financial year of the Authority shall be the | Financial |
| calendar year. | year and |
| audit of |
| (2) The Board shall cause proper books of accounts to be | accounts |

kept of the income, expenditure, assets and liabilities and all other financial transactions of the Authority.

(3) The provisions of Article 154 of the Constitution 25 relating to the audit of the accounts of public corporations shall apply to and in relation to the audit of the accounts of the Fund of the Authority and theProtection Fund.

(4) The provisions of Part II of the Finance Act, No. 38 of

|  |  |
| --- | --- |
| 30 | 1971 shall, *mutatis mutandis* apply to the financial control and accounts of the Fund of the Authority and the Protection |

Fund.

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 *Crime and Witnesses*

PART XII

GENERAL

|  |  |  |
| --- | --- | --- |
| 5 | **93.** (1) The Authority shall, within six months of the end | Annual |
| of each financial year, submit to the Minister an annual | report |
| report of the activities carried out by the Authority during |

that financial year and cause a copy of each of the following documents relating to that year to be attached to the report:-

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | the audited accounts of the Authority for the year |
| (*b*) | along with the Auditor-General’s report; and |
| a report of proposed activities for the year |

immediately following the year to which such report   
and accounts relate, including proposals for   
necessary policy and legislative reforms.

15 (2) The Minister shall lay copies of the report and documents submitted under subsection (1) before Parliament, within two months from the date of receipt thereof.

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| 20 | **94.** Any person who, without lawful authority, | Interference |
| interferes or obstructs or attempts to interfere or obstruct | in the |
| any court, Commission, the Authority, Board, Protection | exercise of |
| powers, &c. |
| Division, Advisory Board, law enforcement authority or any |

public or judicial officer, in the exercise, performance or discharge of any power, duty or function under this Act, 25 commits an offence under this Act and shall, on conviction by the High Court, be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for a period not exceeding five years or to both such fine and imprisonment.

|  |  |  |
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| 30 | **95.** Where an offence under this Act is committed by a | Offences by |
| body of persons, then, if that body of persons is— | a body of |
| persons |

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(*a*) a body corporate, then every person who, at the   
 time of the commission of the offence, was a director,   
 manager, officer or servant of such body corporate;

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | a firm, then every person who was a partner of that |
| firm and its chief executive officer, at the time of |

the commission of the offence;

(*c*) an unincorporated body other than a firm, then every   
 individual who was a member of such body and

|  |  |
| --- | --- |
| 10 | every officer who was responsible for the management and control of such body, at the time |

of the commission of the offence; or

(*d*) a local authority or any other authority appointed   
 by or under any law relating to a local authority to   
 act on behalf of such local authority, then the

|  |  |
| --- | --- |
| 15 | person who was the Chairman of such authority, at the time of the commission of the offence, |

shall be deemed to have committed that offence, unless such person, individual, officer or Chairman, as the case may be, proves to the satisfaction of the court that the offence was 20 committed without his knowledge or that such person exercised all due diligence to prevent the commission of that offence.

**96.** (1) No person shall, in any proceedings, be compelled Secrecy to divulge whether a victim of crime or witness is receiving   
25 or has received assistance or protection under this Act, unless   
 it becomes necessary for the purpose of giving effect to the   
 provisions of this Act or any other written law.

(2) No person shall, otherwise than for the purpose of giving effect to the provisions of this Act or in compliance 30 with the provisions of any other written law, divulge to any other person whether a victim of crime or witness is receiving or has received assistance or protection under this Act.

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 *Crime and Witnesses*

|  |  |  |
| --- | --- | --- |
| 5 | **97.** In assessing the credibility of a testimony given by a | Assessment |
| victim of crime or witness in any court or Commission, the | of credibility |
| of a |
| fact that a victim of crime or witness is receiving or has |
| testimony |
| received any assistance or protection under this Act, shall |
| not be relevant. |
| **98.** The Members of the Board, the Director-General and | Officers and |
| all other officers and employees of the Authority, and | other |
| 10 | employees of |
| consultants and advisors appointed by the Authority shall |
| the Authority |
| be deemed to be public servants within the meaning and for |
| deemed to be |
| the purposes of the Penal Code (Chapter 19) and of the Code | public |
| of Criminal Procedure Act. | servants |
| 15 | **99.** Every officer of or above the rank of Assistant Director | Officers of |
| of the Authority shall be a peace officer for the purposes of | the Authority |
| to be peace |
| the Code of Criminal Procedure Act. |
| officers |
| **100.** The Authority shall be deemed to be a Scheduled |
| Authority |
| deemed to be |
| Institution within the meaning of the Bribery Act (Chapter |
| a Scheduled |
| 52), and the provisions of that Act shall be construed |
| Institution |
| accordingly. |
| within the |

meaning of   
the Bribery   
Act

|  |  |  |
| --- | --- | --- |
| 20 | **101.** (1) The Authority may make rules in respect of | Rules |
| matters for which rules are required to be made under this |

Act including the following matters: -

(*a*) terms and conditions of employment, remuneration and disciplinary control of officers and other employees of the Authority, and welfare and social 25 security schemes for such officers and employees under section 52; and

(*b*) ensuring the confidentiality of the affairs of the Protection Division and impartiality and accountability of the police officers of the Protection 30 Division under section54.

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(2) Every rule made by the Authority under subsection (1) shall, as soon as may be practicable, be published in the *Gazette.*

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| 5 | **102.** (1) The Minister may make regulations under this | Regulations |
| Act in respect of all matters which are required by this Act to |

be prescribed or in respect of which regulations are authorised to be made under this Act.

(2) Every regulation made by the Minister shall be

|  |  |
| --- | --- |
| 10 | published in the *Gazette* and shall come into operation on the date of such publication, or on such later date as may be |

specified therein.

(3) (*a*) Every regulation made by the Minister shall, within three months after its publication in the *Gazette*, be brought before Parliament for approval.

15 (*b*) Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made

|  |  |  |
| --- | --- | --- |
| 20 | by the Minister is deemed to be so rescinded shall be | Repeal and |
| published in the *Gazette.* |
| **103.** (1) The Assistance to and Protection of Victims of |
| Crime and Witnesses Act, No. 4 of 2015 is hereby repealed. | savings |

(2) Notwithstanding the repeal of the Assistance to and 25 Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 (in this section referred to as the “repealed Act”)-

(*a*) every appointed member of the Board of Management of the National Authority for the Protection of Victims of Crime and Witnesses 30 established under the repealed Act holding office on the day immediately preceding the appointed

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 *Crime and Witnesses*

date shall, with effect from the appointed date, be deemed to be a member of the Board of Management of the Authority established under this Act and shall, unless he earlier resigns, dies or removed from 5 office, continue to hold office as such member until the expiration of his term of office for which he has been appointed;

(*b*) all employees who were in the employment of the National Authority for the Protection of Victims of 10 Crime and Witnesses established under the repealed Act on the day immediately preceding the appointed date shall, with effect from the appointed date, be deemed to be employees of the Authority established under this Act;

|  |  |  |
| --- | --- | --- |
| 15 | (*c*) | all suits, prosecutions, actions, proceedings, matters |

or things which have been instituted by or against the National Authority for the Protection of Victims of Crime and Witnesses established under the repealed Act and which are pending on the day 20 immediately preceding the appointed date shall, with effect from the appointed date, be deemed to be suits, prosecutions, actions, proceedings, matters or things which have been instituted by or against the Authority established under this Act;

|  |  |  |
| --- | --- | --- |
| 25 | (*d*) | any decree, order or award entered or made in favour |

of or against the National Authority for the   
Protection of Victims of Crime and Witnesses   
established under the repealed Act by any court or   
tribunal or other body in any action, matter,

|  |  |
| --- | --- |
| 30 | proceeding or thing shall, with effect from the appointed date, be deemed to be a decree, order or |

award entered or made in favour of or against the   
Authority established under this Act and may be   
enforced accordingly;

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(*e*) all property movable or immovable, belonging to   
 the National Authority for the Protection of Victims   
 of Crime and Witnesses established under the

|  |  |
| --- | --- |
| 5 | repealed Act on the day immediately preceding the appointed date shall, with effect from the appointed |

date, vest in and be deemed to be the property of   
the Authority established under this Act;

(*f*) all monies lying to the credit of the Victims of Crime   
 and Witnesses Assistance and Protection Fund

|  |  |
| --- | --- |
| 10 | established under the repealed Act on the day immediately preceding the appointed date, shall, |

with effect from the appointed date, stand transferred   
to the Protection Fund established under this Act;

|  |  |  |
| --- | --- | --- |
| 15 | (*g*) | all monies lying to the credit of the Fund of the |
| National Authority for the Protection of Victims of |

Crime and Witnesses established under the repealed   
Act on the day immediately preceding the   
appointed date, shall, with effect from the appointed

|  |  |  |
| --- | --- | --- |
| 20 | (*h*) | date, stand transferredto the Fund of the Authority |
| established under this Act; |
| all contracts and agreements entered into by and |

with the National Authority for the Protection of   
Victims of Crime and Witnesses established under   
the repealed Act and subsisting on the day

|  |  |
| --- | --- |
| 25 | immediately preceding the appointed date, shall be deemed to be contracts and agreements entered |

into by and with the Authority established under   
this Act; and

|  |  |  |
| --- | --- | --- |
| 30 | (*i*) | all debts, obligations and liabilities of the National |
| Authority for the Protection of Victims of Crime |
| and Witnesses established under the repealed Act |

and subsisting on the day immediately preceding   
the appointed date shall, with effect from the   
appointed date, be deemed to be debts, obligations

|  |  |
| --- | --- |
| 35 | and liabilities of the Authority established under this Act. |

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 *Crime and Witnesses*

**104.** In this Act, unless the context otherwise requires– Interpretation

“child victim of crime” and “child witness” respectively mean, a person who is less than eighteen years of age and who is either a victim of crime or is a

5 witness;

“Code of Criminal Procedure Act” means the Code of Criminal Procedure Act, No. 15 of 1979;

“Commission” includes-

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | a Commission of Inquiry appointed under the |
| (*b*) | Commissions of Inquiry Act (Chapter 393); |
| a Special Presidential Commission of Inquiry |

established under the Special Presidential   
Commissions of Inquiry Law, No. 7 of 1978;

|  |  |  |
| --- | --- | --- |
| 15 | (*c*) | the Commission to Investigate Allegations of |
| Bribery and Corruption established by the |

Commission to Investigate Allegations of   
Bribery or Corruption Act, No. 19 of 1994;

|  |  |  |
| --- | --- | --- |
| 20 | (*d*) | the Human Rights Commission of Sri Lanka |
| (*e*) | established by the Human Rights Commission |
| of Sri Lanka Act, No. 21 of 1996;and |
| any other Commission empowered by law to |

conduct inquiries;

“ICCPR Act” means the International Covenant on Civil and Political Rights Act, No. 56 of 2007;

25 “injury” means any harm whatever illegally caused to thebody, mind, reputation or property ofany person and includes any impairment or disability, emotional suffering, economic or other loss caused

|  |  |
| --- | --- |
| 30 | as a result of an act or omission constituting an alleged- |

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(*a*) offence under any law;

(*b*) infringement of any fundamental right   
 guaranteed under Article 11 or paragraph (1)   
 or (2) of Article 13 of the Constitution; or

|  |  |  |
| --- | --- | --- |
| 5 | (*c*) | violation of any right granted under the |

ICCPR Act;

“law enforcement authority” means a police officer or any other person authorised by or under any written law to investigate into the commission of an 10 offence;

“Minister” means the Minister assigned the subject of Justice;

“organised criminal group” means a group of persons who have organised themselves to commit crime;

15 “public authority” means any authority, corporation, board or other body established by or under any written law other than the Companies Act, No. 7 of 2007 with funds or capital wholly or partially provided by the Government by way of grant, loan 20 or otherwise;

“relevant authority” means a law enforcement authority or public authority which lawfully interacts with the victim of crime or witness depending on the circumstances of each case;

25 “restorative justice” means the evolvement of a procedure through which all parties to a dispute would be engaged in a conciliatory process for the purpose of achieving the goals of justice;

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“victim of crime” means a person who has suffered any injury and includes, where appropriate-

(*a*) a member of the family of the victim of crime   
 or a dependent of the victim of crime;

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | a person of significant importance to a victim |

of crime;

(*c*) a person who suffers injury in intervening to   
 assist a victim of crime;

|  |  |  |
| --- | --- | --- |
| 10 | (*d*) | a person who suffers injury in preventing |
| (*e*) | another person from victimization; and |
| a child victim of crime; and |

“witness” means any person who-

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | has provided any information or lodged a |
| complaint with any law enforcement |
| authority and based upon such information |

or complaint, an investigation or inquiry is likely to commence or has commenced, in connection with the alleged commission of an offence or infringement of any 20 fundamental right or violation of any right granted under the ICCPR Act;

(*b*) has provided anyinformation or made a   
 statement in the course of an investigation or

|  |  |
| --- | --- |
| 25 | inquiry conducted by a law enforcement authority into the alleged commission of an |

offence or infringement of anyfundamental   
right or violation of any right granted under   
the ICCPR Act;

|  |  |  |
| --- | --- | --- |
| 30 | (*c*) | has made a statement, submitted an affidavit |
| or has testified, in relation to a complaint |

made by a victim of crime orin any legal   
action instituted by, or on behalf, of a victim   
of crime;

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|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (*d*) | has | provided | any | information | or |

communication to a Commission or has   
given evidence before a Commission;

|  |  |  |
| --- | --- | --- |
| 5 | (*e*) | has reasonable grounds to believe that he may |
| be summoned by a court or Commission to |
| participate in any manner in any proceedings, |

investigation or inquiry against any other   
person based on any information provided or   
a statement made to a law enforcement

|  |  |  |
| --- | --- | --- |
| 10 | (*f*) | authority, court or Commission, or based on |
| a deposition or an affidavit submitted by him; |
| has received summons from a court or |

Commission to make a statement, submit an   
affidavit, testify or produce any document,

|  |  |  |
| --- | --- | --- |
| 15 | (*g*) | report or object relating to any proceedings |
| before such court or Commission; or |
| being a public officer, has been involved in |

any manner in the administration of justice in relation to the alleged commission of an 20 offence or infringement of any fundamental right or violation of any right granted under the ICCPR Act,

and includes-

|  |  |  |
| --- | --- | --- |
| 25 | (i) | a victim of crime; |
| (ii) | a child witness; |
| (iii) | a parent or guardian of a child witness; |
| (iv) | a family member or a dependent, of such |

witness;

|  |  |  |
| --- | --- | --- |
| 30 | (v) | any other person of significant |
| importance to any witness; |

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(vi) an expert witness; and

(vii) any person who has been summoned to   
 testify before a court or Commission

|  |  |
| --- | --- |
| 5 | on behalf of a person suspected or accused of the alleged commission of |

an offence or infringement of any   
fundamental rightor violation of any   
right granted under the ICCPR Act.

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | **105.** In the event of any inconsistency between the | | Sinhala text |
| to prevail in |
| Sinhala and Tamil texts of this Act, the Sinhala text shall | |
| case of |
| prevail. | |
| inconsistency**.** |
| FIRST SCHEDULE | (section 10) |

PROCEDUREAPPLICABLEFORTHEINVESTIGATIONANDINQUIRYOFCOMPLAINTSON

VIOLATIONORDENIALOFRIGHTSORENTITLEMENTS

**1.**  (1) Every complaint received by the Authority under section 10 of this Act shall be categorized as follows: -

(*a*) complaints regarding the violation or denial, or imminent   
 violation or denial, of any right or entitlement of a victim   
 of crime or witness under this Act which shall be dealt with   
 by the Authority;

(*b*) complaints regarding the commission of an offence under   
 this Actwhich shall be referred to the Protection Division;   
 and

(*c*) matters on which no action is required to be taken in terms   
 ofthis Act.

(2) Any decision undersub-paragraph (1)(c) shall be taken with the approval of the Director (Legal) of the Authority (in this Schedule referred to as the “Director (Legal”), who shall be appointed by the Authority.

(3) The Authority shall formulate a procedure for dealing with complaints within a specified time period, and such procedure shall be published in the *Gazette*.

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**2.** An investigation or inquiry into any complaint referred to in paragraph 1(1)(*a*) of this Scheduleshall be carried out by an officer of the Authority who shall be nominated by the Director (Legal).

**3.**  The officer referred to in paragraph 2 of this Scheduleshall have the powers set out in paragraph (*b*) of subsection (1) of section 41 of this Act.

**4.**  **(**1) The officer carrying out the investigation or inquiry shall take notes of the investigation or inquiry in writing and shall arrive at a finding within a period of four weeks whether-

(*a*) the evidence discloses aviolation or denial, or imminent   
 violation or denial, of any right or entitlement of the victim   
 of crime or witness; or

(*b*) the evidence is not sufficient to substantiate the complaint.

(2) Where the investigation or inquiry cannot be concluded within a period of four weeks, such officer shall obtain permission from the Director (Legal) for an extension of time.

**5.** (1) Where the officer carrying out the investigation or inquiry arrives at a finding that there has been a violation or denial, or imminent violation or denial, of any right or entitlement of a victim of crime or witness, he shall submit a report to the Director (Legal) with his recommendationsalong with any material used during the course of the investigation or inquiry and the notes of evidence.

(2) Where such officer arrives at a finding that the evidence is insufficient to proceed with the investigation or inquiry, he shall stop the investigation or inquiry with the approval of the Director (Legal) and the Director-General.

**6.** The Director (Legal) shall consider the report of the investigation or inquiry received by him under paragraph 5 of this Schedule and direct the relevant persons to remedy or redress the violation or denial, or imminent violation or denial, of the right or entitlement complained of and such persons shall comply with such direction within the time specified in the direction.

**7**. (1) Where the relevant matter cannot be resolved by way of directions or, where the directions are not complied with, the Director (Legal) shall, in consultation with the Director-General, report such fact to the Board and request the Board to appoint a Panel to conduct an investigation or inquiry into the matter.

(2) Upon receipt of such request, the Board shall appoint, by consensus, a Panel consisting of three members of the Board and nominate one of the members of the Panel to be its Chairman.

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(3) The Panel conducting an investigationor inquiry into an alleged violation or denial, or imminent violation or denial, of any right orentitlement of a victim of crime or witness shall have the powers set out in paragraph (*b*) of subsection (1) of section 41 of this Act.

(4) In the case of a division of opinion among the members of the Panel regarding any matter being investigated or inquired into by it, the opinion of the majority of the members shall prevail.

(5) At the conclusion of the investigation or inquiry under this paragraph, the Panel shall submit a report on the same along with its recommendations, to the Board.

(6) On receipt of the report of the Panel, the Board shall take such

action on the matter as it shall deem fit and appropriate.

SECOND SCHEDULE

(sections 29, 30, 31 and 73)

Offences in relation to which protection to victims of crime and witnesses is to be provided by the Authority or Protection Division

|  |  |  |  |
| --- | --- | --- | --- |
|  | *Act* | *Section* | *Offence* |
| 1 | Penal Code  (Chapter 19) | 296 | murder |
| 2 |  | 297 | culpable homicide not amounting to murder |
| 3 |  | 300 | attempt to murder |
| 4 |  | 316 | voluntarily causing grievous hurt |
| 5 |  | 354 | kidnapping |
| 6 |  | 355 | kidnapping or abducting in order to murder |
| 7 |  | 356 | kidnapping or abducting with intent secretly and wrongfully to confine a person |
| 8 |  | 357 | kidnapping or abducting a woman to compel her marriage, &c. |

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|  |  |  |  |
| --- | --- | --- | --- |
|  | *Act* | *Section* | *Offence* |
| 9 |  | 358 | kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c. |
| 10 |  | 360 | kidnapping or abducting a child with intent to steal movable property from the person of such child |
| 11 |  | 360A | procuration |
| 12 |  | 360B | sexual exploitation of children |
| 13 |  | 360C | trafficking |
| 14 |  | 362A | cohabitation caused by a man deceitfully inducing a belief of lawful marriage |
| 15 |  | 362B | bigamy |
| 16 |  | 362C | bigamy with concealment of the former marriage |
| 17 |  | 362D | going through marriage ceremony with fraudulent intention without lawful marriage |
| 18 |  | 364 | rape |
| 19 |  | 364A | incest |
| 20 |  | 365B | grave sexual abuse |
| 21 |  | 373 | extortion |
| 22 |  | 374 | putting or attempting to put a person in fear of injury, in order to commit extortion |
| 23 |  | 375 | extortion by putting a person in fear of death or grievous hurt |
| 24 |  | 376 | putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion |
| 25 |  | 377 | extortion by threat of accusation of an offence punishable with death or imprisonment for ten years |

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|  |  |  |  |
| --- | --- | --- | --- |
|  | *Act* | *Section* | *Offence* |
| 26 |  | 378 | putting a person in fear of accusation of an offence punishable with death or with imprisonment for ten years, in order to commit extortion |
| 27 |  | 380 | robbery |
| 28 |  | 381 | attempt to commit robbery |
| 29 |  | 382 | voluntarily causing hurt in  committing or attempting to commit robbery |
| 30 |  | 383 | robbery, with attempt to cause death or grievous hurt |
| 31 |  | 384 | attempt to commit robbery when armed with deadly weapon |
| 32 |  | 385 | belonging to a wandering gang of persons associated for the purpose of habitually committing theft |
| 33 |  | 418 | mischief by fire or explosive substance, with intent to cause damage of an amount of one hundred rupees or upwards |
| 34 |  | 419 | mischief by fire or explosive  substance with intent to destroy a house, &c. |
| 35 |  | 420 | mischief with intent to destroy or make unsafe a decked vessel or vessel of a burden of ten tons or upwards |
| 36 |  | 421 | mischief referred to in section 420 when committed by fire or any explosive substance |
| 37 |  | 435 | house-trespass in order to commit an offence punishable with death |
| 38 |  | 437 | house-trespass in order to commit an offence punishable with  imprisonment forless than ten years |

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|  |  |  |  |
| --- | --- | --- | --- |
|  | *Act* | *Section* | *Offence* |
| 39 |  | 438 | house-trespass, having made  preparation for causing hurt, assault &c. |
| 40 |  | 440 | lurking house-trespass or house-breaking in order to commit an offence punishable with  imprisonment |
| 41 |  | 441 | lurking house-trespass or  house-breaking after preparation made for causing hurt, assault &c. |
| 42 |  | 444 | lurking house-trespass or house-breaking by night after making preparation for causing hurt, &c. |
| 43 |  | 445 | grievous hurt caused whilst  committing lurking house-trespass or house-breaking |

|  |  |
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