

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

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**CODE OF CRIMINAL PROCEDURE (AMENDMENT)**

**A**

**BILL**

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

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*Presented by the Minister of Justice, Prison Affairs andConstitutional Reforms 05th of March, 2024*

(Published in the Gazette on February 13, 2024)

*Ordered by Parliament to be printed*

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**[Bill No. 245]**

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*STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause amends section 185 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to make provision for the Magistrate to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence.

*Clause 3* : This clause amends section 203 of the principal enactment and the legal effect of the section as amended is to make provision for the Judge to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence.

*Clause 4* : This clause inserts new section 238A to the principal enactment and the legal effect of the section is to make provision for the Judge to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence after trial by jury.

*Clause 5* : This clause amends section 323 of the principal enactment and the legal effect of the section as amended is to make provision to consider in an appeal preferred from Magistrates’ Court to the Court of Appeal, the time spent by an appellant in custody pending the determination of his appeal as part of his sentence ordered at the conclusion of his appeal.

*Clause 6* : This clause amends section 333 of the principal enactment and the legal effect of the section as amended is to make provision to consider in appropriate cases where an appeal is made from the High Court to the Court of Appeal, the time spent by an appellant in custody pending the determination of his appeal as part of his sentence ordered at the conclusion of his appeal.

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

L. D.- O. 29/2022

AN ACTTOAMENDTHE CODEOF CRIMINAL PROCEDURE   
ACT, NO. 15 OF 1979

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

**1.** This Act may be cited as the Code of Criminal Short title Procedure (Amendment) Act, No. of 2024.

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| 5 | **2.** Section 185 of the Code of Criminal Procedure | Amendment |
| Act, No. 15 of 1979 (hereinafter referred to as the | of section |
| 185 of Act, |
| “principal enactment”) is hereby amended as follows: - |
| No. 15 of |

1979

(1) by the renumbering of that section as   
 subsection (1) of that section; and

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| 10 | (2) | by the addition immediately after the renumbered |

subsection (1), of the following new subsections: -

“(2) At the time of passing the sentence, the Magistrate may, after considering all relevant facts take into cognizance the time spent by such 15 accused in custody prior to the conviction of the offence he is convicted of, and in such cases the time so spent in custody shall be considered to be part of his sentence:

Provided that, where the time spent by such 20 accused in custody is not considered to be part of his sentence, the Magistrate shall record reasons therefor:

Provided further, the time so spent in custody   
by the accused prior to the conviction shall not

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be taken into consideration where a mandatory   
minimum sentence is stipulated by law in respect   
the offence the accused is charged with.”.

(3) For the purpose of this section, “custody”

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| 5 | means the time spent in remand custody.”. | Amendment |
| **3.** Section 203 of the principal enactment is hereby |
| amended as follows: - | of section |
| 203 of the |

principal

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| (1) | by the renumbering of that section as subsection | enactment |

(1) of that section; and

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| 10 | (2) | by the addition immediately after the renumbered |

subsection (1), of the following new subsections:-

“(2) At the time of passing the sentence, the Judge may, after considering all relevant facts take into cognizance the time spent by such 15 accused in custody prior to the conviction of the offence he is convicted of, and in such cases the time so spent in custody, shall be considered to be part of his sentence:

Provided that, where the time spent by such 20 accused in custody is not considered to be part of his sentence, the Judge shall record reasons therefor:

Provided further, the time so spent in custody by the accused prior to the conviction shall not 25 be taken into consideration where a mandatory minimum sentence is stipulated by law in respect of the offence the accused is charged with.

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(3) For the purpose of this section, “custody”  
means the time spent in remand custody.”.

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| 5 | **4.** The following new section is hereby inserted | Insertion of |
| immediately after section 238 of the principal enactment | new section |
| 238A in the |
| and shall have effect as section 238A of that enactment: - |
| principal |

enactment

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| “Passing the  sentence | 238A. (1) At the time of passing the sentence, the Judge may, after considering all relevant |

facts take into cognizance the time spent by such accused in custody prior to the conviction 10 of the offence he is convicted of, and in such cases the time so spent in custody, shall be considered to be part of his sentence:

Provided that, where the time spent by such accused in custody is not considered to be part 15 of his sentence, the Judge shall record reasons therefor:

Provided further, the time so spent in custody by the accused prior to the conviction shall not be taken into consideration where a 20 mandatory minimum sentence is stipulated by law in respect of the offence the accused is charged with.

(2) For the purpose of this section,  
“custody” means the time spent in remand

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| 25 | custody.”. | Amendment |
| **5.** Section 323 of the principal enactment is hereby |
| amended in subsection (5) thereof, by the substitution for | of section |
| 323 of the |
| the words “the time so spent”, of the words “the time spent”. |
| principal |

enactment

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| 5 | 4 | *Code of Criminal Procedure (Amendment)* | Amendment |
| **6.** Section 333 of the principal enactment is hereby | |
| amended in subsection (5) thereof, by the substitution for | | of section |
| 333 of the |
| the words “received into prison under the sentence.”, of the | |
| principal |
| following:- | | enactment |
| “received into prison under the sentence: | |

Provided that, the Court of Appeal may, in appropriate cases, order that the time spent by an appellant in custody pending the determination of his appeal and any time spent in custody prior to the 10 conviction, such time not having been considered as part of his sentence passed at the time of his conviction by the court of first instance, be considered as part of his sentence ordered at the conclusion of his appeal.”.

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| 15 | **7.** In the event of any inconsistency between the Sinhala | Sinhala text |
| and the Tamil texts of this Act, the Sinhala text shall prevail. | to prevail in |
| case of |

inconsistency

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| *Code of Criminal Procedure (Amendment)* | 5 |

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