ws

Ww



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

*————————*

**CODE OF CRIMINAL PROCEDURE**   
**(AMENDMENT)**

**A**

**BILL**

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

*————————*

*Presented by the Minister of Justice, Prison Affairs and Constitutional Reformson 10th of July, 2024*

(Published in the Gazette on June 28, 2024)

*Ordered by Parliament to be printed*

*————————*

**[Bill No. 272]**

PRINTEDATTHEDEPARTMENTOFGOVERNMENTPRINTING, SRILANKA   
TOBEPURCHASEDATTHEGOVERNMENTPUBLICATIONSBUREAU, COLOMBO5

|  |  |  |
| --- | --- | --- |
| 2- | **Price : Rs. 30.00** | **Postage : Rs. 150.00** |
| *This Bill can be downloaded from* www.documents.gov.lk |  |

2-2d

*STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause amends section 183 of the Code of Criminal Procedure Act, No.15 of 1979 (hereinafter referred to as the “principal enactment”) and is consequential to the amendment made by clause 3.

*Clause 3* : This clause amends the principal enactment by inserting new section 183A in that enactment, and the legal effect of the amendment is to make provisions to enable the prosecutor and an accused who is charged in the Magistrate’s Court to enter into a plea agreement at any time before the sentence is passed.

*Clause 4* : This clause amends section 195A of the principal enactment and is consequential to the amendment made by clause 6.

*Clause 5* : This clause amends section 197 of the principal enactment and is consequential to the amendment made by clause 6.

*Clause 6* : This clause amends the principal enactment by inserting new section 197A in that enactment, and the legal effect of the amendment is to make provisions to enable the prosecutor and an accused who is charged in the High Court to enter into a plea agreement at any time before the sentence is passed.

*Clause 7* : This clause amends the Second Schedule to the principal enactment and the legal effect of the amendment is to insert new Form No. 23 in that Schedule, in order to specify the format of the plea agreement submitted to the court for the purpose of entering into a plea agreement.

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

L. D.- O 24/2023   
 AN ACTTOAMENDTHE CODEOF CRIMINAL PROCEDURE

ACT, NO. 15 OF 1979   
BE it enacted by the Parliament of the Democratic Socialist   
Republic of Sri Lanka as follows: -  
 **1.** This Act may be cited as the Code of Criminal Short title

Procedure (Amendment) Act, No. of 2024.

|  |  |  |
| --- | --- | --- |
| 5 | **2.** Section 183 of the Code of Criminal Procedure Act, | Amendment |
| No. 15 of 1979 (hereinafter referred to as the “principal | of section |
| 183 of Act, |
| enactment”) is hereby amended by the repeal of the marginal |
| No. 15 of |
| note to that section and the substitution therefor of the | 1979 |

following: -  
10 “Plea of

guilty and

sentencing

without

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | written plea | | Insertion of |
| agreement”. | |
| **3.** The following new section is hereby inserted | |
| 20 | new section |
| immediately after section 183 of the principal enactment | |
| 183A in the |
| and shall have effect as section 183A of the principal | |
| principal |
| enactment: - | | enactment |
| “Plea of | 183A. (1) A plea agreement may be entered |
| 25 | guilty and  sentencing  with written | into between the prosecutor and an accused who is charged in the Magistrates Court at any |
| plea  agreement | time before the sentence is passed, subject to the procedures specified in this section. |
| (2) Where the parties to a case intend to | |

negotiate a plea agreement under this section,   
the court shall be informed of the same:

2 *Code of Criminal Procedure (Amendment)*

Provided that, the court shall not participate   
in the negotiations for such plea agreement.

(3) The prosecutor, the Attorney-at-Law for the accused, or the accused, may initiate the 5 offer to enter into a plea agreement:

Provided that, the prosecutor shall maintain   
the sole discretion on whether or not to enter   
into a plea agreement with the accused.

(4) If the accused is charged with an offence 10 under the Schedule to the Prevention of Crimes Ordinance (Chapter 22), the Magistrate shall cause the accused to be fingerprinted and call for a fingerprint report.

(5) Negotiations for a plea agreement shall 15 be conducted between the prosecutor and the Attorney-at-Law representing the accused:

Provided that, where an accused who intends to enter into a plea agreement is not represented by an Attorney-at-Law, the court 20 shall, assign an Attorney-at-Law to negotiate on behalf of the accused if the accused on being asked by the court, so requests.

(6) As part of the plea negotiation process,   
the prosecutor may meet with the Attorney-at-

|  |  |
| --- | --- |
| 25 | Law for the accused, to ascertain to the satisfaction of the prosecution, a complete |

description of the criminal conduct engaged   
in by the accused, and the details of criminal   
conduct engaged in by others, which the

30 accused may provide as cooperation during the negotiation.

*Code of Criminal Procedure (Amendment)* 3

(7) During the plea negotiations, the   
prosecutor shall-

(*a*) consider the nature and the circumstances relating to the case, 5 the impact of the commission of the offence on the victim, the personal circumstances of the accused, the interests of the public, and the value of any information provided by the 10 accused including any cooperation provided by the accused as part of the negotiation;

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | not use the information obtained |
| from an accused during the course |
| of plea negotiations against him |

during the prosecution of the case if   
the plea negotiations are ultimately   
unsuccessful; and

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | (*c*) | afford- | |
| (i) | the victim; |
| (ii) | the Attorney-at-Law of the |

victim; or

(iii) the National Authority for the   
 Protection of Victims of

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 25 | Crimes | and | Witnesses | |
| established | | under | the |

Assistance to and Protection   
of Victims of Crime and   
Witnesses Act, No. 10 of 2023,

4 *Code of Criminal Procedure (Amendment)*

a reasonable opportunity to make a written representation to the prosecution regarding the impact of the crime, unless the circumstances 5 prevent such representation.

(8) (*a*) A prosecutor and the accused or the Attorney-at-Law for the accused, may each make a specific recommendation to the court as to the sentence to be imposed and include 10 the recommendation in writing in the final plea agreement.

(*b*) Notwithstanding the recommendation of   
the parties, the court shall retain sole discretion   
in sentencing.

15 (*c*) Where the prosecutor recommends to the court the imposition of a sentence that is more severe than the recommendation included in the plea agreement, the accused may withdraw the plea of guilty and set aside the plea 20 agreement.

(*d*) Where the accused recommends to the   
court the imposition of a sentence that is less   
severe than the recommendation in the plea   
agreement, the accused shall not be permitted

25 to withdraw his plea of guilty on that ground alone.

(*e*) Where the accused recommends to the court the imposition of a sentence that is less severe than the recommendation in the plea 30 agreement, the prosecutor may recommend to the court any other appropriate sentence.

*Code of Criminal Procedure (Amendment)* 5

(9) (*a*) The prosecutor shall present the court with the factual basis of the plea set out in the plea agreement between the prosecutor and the accused by presenting the court with the final 5 plea agreement at the hearing, where the accused pleads guilty in accordance with the terms of the plea agreement. The factual basis will be included in writing as part of the completed plea agreement.

10 (*b*) The plea agreement submitted to the court shall be in the format specified in Form 23 in the Second Schedule.

(*c*) Where the accused is a child, the plea agreement shall be signed by the child’s parent 15 or guardian.

(*d*) A plea agreement shall be finalized when   
the accused signs the agreement.

(10) Upon being satisfied that the accused signed the plea agreement knowingly and 20 voluntarily, the court may accept the plea agreement.

(11) Where the court accepts a plea agreement, the agreement shall become binding upon the parties and the court shall proceed to 25 convict the accused accordingly.

(12) An appeal shall not lie from a conviction   
imposed after the court has accepted the plea   
agreement and convicted the accused under   
subsection (11).

6 *Code of Criminal Procedure (Amendment)*

(13) An appeal shall not lie from a sentence   
imposed by the court which falls within the   
range of punishment recommended by the   
parties in the plea agreement.

5 (14) Where the court rejects a plea agreement–

(*a*) the reasons for such rejection shall   
be recorded and the parties shall be   
informed thereof; and

|  |  |  |
| --- | --- | --- |
| 10 | (*b*) | the plea agreement shall become |

null and void and the parties shall   
not be bound by such agreement.

(15) Upon rejection, or withdrawal, of a plea agreement, fresh plea negotiations in a 15 trial relating to the same facts may be considered with prior permission of the court.

(16) Where the court has rejected a plea agreement under this section, no party shall appeal against, or apply for a review of, the 20 order of the court rejecting the agreement.

(17) For the purposes of this section –

“child” means, a person under eighteen   
 years of age;

“prosecutor” shall have the same 25 meaning assigned to such expression in subsection (1) of section 191 of this Code and includes the Director-General of the Commission to Investigate 30   
 Allegations of Bribery or Corruption established under the

*Code of Criminal Procedure (Amendment)* 7

Anti-Corruption Act, No. 9 of   
2023, an officer of such   
Commission authorized by the   
Commission or any other

|  |  |  |
| --- | --- | --- |
| 5 | Attorney-at-Law | specially |

authorized by such Commission   
to conduct the prosecution at a   
trial of an offence held in the   
Magistrate Court on a charge

|  |  |  |
| --- | --- | --- |
| 10 | sheet.”. | Amendment |
| **4.** Section 195A of the principal enactment is hereby |
| 15 | amended in paragraph (*b*) of subsection (3) thereof, by the | of section |
| 195A of the |
| substitution for the words “to a lesser offence;”, of the words |
| principal |
| “to a lesser offence or whether he intends to negotiate for a | enactment |
| plea agreement under section 197A;”. |
| **5.** Section 197 of the principal enactment is hereby | Amendment |
| amended by the repeal of the marginal note to that section | of section |
| 197 of the |
| and the substitution therefor of the following: - |
| principal |

enactment

|  |  |
| --- | --- |
| 20 | “Plea of  guilty and  sentencing |

without   
written plea   
agreement”.

|  |  |  |
| --- | --- | --- |
| 25 | **6.** The following new section is hereby inserted | Insertion of |
| immediately after section 197 of the principal enactment | new section |
| 197A in the |
| and shall have effect as section 197A of that enactment: - |
| principal |

enactment

|  |  |  |
| --- | --- | --- |
| 30 | “Plea of | 197A. (1) A plea agreement may be entered |
| guilty and | into between the prosecutor and an accused |
| sentencing |
| who is indicted in the High Court, at any time |
| with written |
| plea | before the sentence is passed, subject to the |
| agreement | procedures specified in this section. |

8 *Code of Criminal Procedure (Amendment)*

(2) Where the parties to a case intend to   
negotiate a plea agreement under this section,   
the court shall be informed of the same:

Provided that, the court shall not participate 5 in the negotiations for such plea agreement.

(3) The prosecutor, the Attorney-at-Law for   
the accused, or the accused, may initiate the   
offer to enter into a plea agreement:

Provided that, the prosecutor shall maintain 10 the sole discretion on whether or not to enter into a plea agreement with the accused person.

(4) If the accused is indicted in the High Court, the court shall cause the accused to be fingerprinted and call for a fingerprint report 15 pursuant to the provisions of paragraph (*e*) of section 195.

(5) Negotiations for a plea agreement shall   
be conducted between the prosecutor and the   
Attorney-at-Law representing the accused:

20 Provided that, where an accused who intends to enter into a plea agreement is not represented by an Attorney-at-Law, the court shall, assign an Attorney-at-Law to negotiate on behalf of the accused if the accused on being 25 asked, so requests.

(6) As part of the plea negotiation process,   
the prosecutor may meet with the Attorney-at-  
Law for the accused to ascertain to the   
satisfaction of the prosecution, a complete

30 description of the criminal conduct engaged

*Code of Criminal Procedure (Amendment)* 9

in by the accused, and the details of criminal   
conduct engaged in by others, which the   
accused may provide as cooperation during   
the negotiation.

5 (7) During the plea negotiations with the Attorney-at-Law representing the accused, the prosecutor shall-

(*a*) consider the nature and the circumstances relating to the case, 10 the impact of the commission of the offence on the victim, the personal circumstances of the accused, and the interests of the public, and the value of any information provided 15 by the accused, including any cooperation provided by the accused as part of the negotiation;

(*b*) not use the information obtained from an accused during the course 20 of plea negotiations against him during the prosecution of the case if the plea negotiations are ultimately unsuccessful; and

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | (*c*) | afford- | |
| (i) | the victim; |
| (ii) | the victim’s Attorney-at-Law; |

or

(iii) the National Authority for the   
 Protection of Victims of

10 *Code of Criminal Procedure (Amendment)*

Crimes and Witnesses established under the Assistance to and Protection of Victims of Crime and 5 Witnesses Act, No. 10 of 2023,

a reasonable opportunity to make a written representation to the prosecution regarding the impact of the crime, unless the circumstances 10 prevent such representation.

(8) (*a*) A prosecutor and the accused person or his or her Attorney-at-Law may each make a specific recommendation to the court as to the sentence to be imposed and include the 15 recommendation in writing in the final plea agreement.

(*b*) Notwithstanding the recommendation of   
the parties, the court shall retain sole discretion   
in sentencing.

20 (*c*) Where the prosecutor recommends to the court the imposition of a sentence that is more severe than the recommendation included in the plea agreement, the accused person may withdraw his plea of guilty and set aside the 25 plea agreement.

(*d*) Where an accused has withdrawn the plea   
under paragraph (*c*), the Judge shall proceed to   
trial as if a conviction has not been entered.

*Code of Criminal Procedure (Amendment)* 11

(*e*) Where the accused person recommends to the court the imposition of a sentence that is less severe than the recommendation in the plea agreement the accused person shall not be 5 permitted to withdraw his or her plea of guilty on the ground alone.

(*f*) Where the accused person recommends to the court the imposition of a sentence that is less severe than the recommendation in the plea 10 agreement, the prosecutor may recommend to the court any other appropriate sentence.

(9) (*a*)) The prosecutor shall present the court with the factual basis of the plea set out in the plea agreement by presenting the court 15 with the final plea agreement at the hearing, where the accused person pleads guilty in accordance with the terms of the plea agreement. The factual basis shall be included in writing as part of the completed plea 20 agreement.

(*b*) The plea agreement submitted to the   
court shall be in the format specified in Form   
23 in the Second Schedule.

(*c*) Where the accused is a child, the plea 25 agreement shall be signed by the child’s parent or guardian.

(*d*) A plea agreement shall be finalized when   
the accused signs the agreement.

(10) Upon being satisfied that the accused 30 signed the plea agreement knowingly and voluntarily, the court may accept the plea agreement.

12 *Code of Criminal Procedure (Amendment)*

(11) Where the court accepts a plea   
agreement, the agreement shall become   
binding upon the parties and the court shall   
proceed to convict the accused accordingly.

5 (12) An appeal shall not lie from a conviction imposed after the court has accepted the plea agreement and convicted the accused under subsection (11).

(13) An appeal shall not lie from a sentence 10 imposed by the court which falls within the range of punishment recommended proposed by the parties in the plea agreement.

(14) Where the court rejects a plea   
agreement–

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | the reasons for such rejection shall |

be recorded and the parties shall be   
informed thereof; and

(*b*) the plea agreement shall become null and void and the parties shall 20 not be bound by such agreement.

(15) Upon rejection, or withdrawal, of a   
plea agreement, fresh plea negotiations in a   
trial relating to the same charge and facts may   
be considered.

25 (16) Where the court has rejected a plea agreement under this section, no party shall appeal against, or apply for a review of, the order of the court rejecting the agreement.

*Code of Criminal Procedure (Amendment)* 13

(17) For the purposes of this section –

“child” means, a person under eighteen   
years of age;

“prosecutor” shall have the same 5 meaning assigned to such expression in section 193 of this Code and includes the Director- General of the Commission to Investigate Allegations of 10   
 Bribery or Corruption established under the Anti-Corruption Act, No. 9 of 2023, an officer of such Commission authorized by the Commission or any other

|  |  |  |
| --- | --- | --- |
| 15 | Attorney-at-Law | specially |

authorized by such Commission to conduct the prosecution at a trial of an offence held in the High Court on an indictment signed by 20 the Director-General of such Commission.”.

|  |  |  |
| --- | --- | --- |
| 25 | **7.** The Second Schedule to the principal enactment is | Amendment |
| hereby amended by the insertion immediately after Form 22 | of the second |
| Schedule to |
| thereof, of the following new Form and shall have effect as | the principal |
| enactment |
| Form 23 of that Schedule: - |

14 *Code of Criminal Procedure (Amendment)*

“No. 23

(Sections 183A and 197A)

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

IN THE COURT \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CASE No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME OF THE ACCUSED: --------------------------------

**PLEA AGREEMENT**

Pursuant toSection 183A/197A of the Code of Criminal Procedure

Act, No. 15 of 1979, the Accused, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_agrees

as follows:–

|  |
| --- |
| 1. The Accused enters into this Plea Agreement and pleads guilty freely, voluntarily, without threat, force, intimidation, or coercion of any kind and without promise or benefit of any kind, other than as contained herein. |
| 2. The Accused knowingly, voluntarily and truthfully admits  the facts contained herein. |
| |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | 3. | The | Accused | pleads | guilty | to | the | offence | of |   **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** punishable under  **\_\_\_\_\_\_\_\_** |
| 4. The Accused understands every element of the offence to which the Accused is pleading guilty, and that the maximum penalty for that offense is **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

*Code of Criminal Procedure (Amendment)* 15

|  |
| --- |
| 5. Upon acceptance by the Court, and fulfillment by the Accused of all terms and conditions of the Plea Agreement, the Prosecution agrees that the Accused will face no other charges from the investigation which led to the present indictment. |
| 6. The Accused has been advised by his/her legal representative and the Court, of his/her Constitutional rights, including the right to trial, the right to examine and cross-examine witnesses, and the Accused being well informed, has knowingly and voluntarily waived these rights, including the right to appeal, and agrees to enter a plea of guilty as set forth in this Plea Agreement. |
| 7. The Accused understands that the sentence to be imposed  upon conviction on his/her plea of guilty is within the sole  discretion of the Court. At sentencing, the prosecutor will  recommend \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  At sentencing, the accused will recommend  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. |
| 8. The Accused understands and agrees no promises, agreements and conditions have been entered into regarding the charges herein other than those expressly set out in this Plea Agreement and none shall be entered into, or shall be binding upon the Accused and the Prosecution, unless expressly set forth herein, in writing. |
| I plead guilty to the offences covered by this Plea Agreement, and every element set out in the Plea Agreement, which has been explained to me in a language I understand. I do this knowingly, freely and voluntarily, and without any threat, force, intimidation, or coercion of any kind.  Accused: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”. |

|  |  |  |
| --- | --- | --- |
| 16 | *Code of Criminal Procedure (Amendment)* | Sinhala text to prevail in case of |
| **8.** In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail. | |

inconsistency

|  |  |
| --- | --- |
| *Code of Criminal Procedure (Amendment)* | 17 |

Department of Government Printing