



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

L.D.-O. 38/2019

AN ACT 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.

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

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

(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”).

(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

OBJECTS OF THE ACT

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;

- (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;
- 5 (c) to stipulate conduct that constitute offences against victims of crime and witnesses;
- (d) to provide assistance and protection to victims of crime and witnesses;
- 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;
- 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;
- 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.

RIGHTS AND ENTITLEMENTS OF VICTIMS OF CRIME AND WITNESSES

- 30 3. (1) A victim of crime shall have the right-
- | | |
|---|--|
| (a) to be treated with equality and with fairness and respect to the dignity and privacy of such victim of crime; | Right of a victim of crime to a fair treatment |
|---|--|

- (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;
 - 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 or disability, suffered as a victim of crime;
 - 10 (e) where such victim of crime is a child, to be treated in a manner that ensures the best interest of such child;
 - (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
 - 15 (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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 of Crime and Witnesses*

4. A victim of crime shall have the right, upon a request made by such victim of crime, to be informed-

Right of a
victim of
crime to
receive
information
on assistance,
protection
and remedies
available to
him

(a) by the Authority or the Protection Division or any law enforcement authority-

5 (i) of the measures of protection available to such victim of crime under this Act;

(ii) of the legal remedies including delictual remedies available for the redress of any injury which such victim of crime has suffered; and

10 (iii) of the time periods within which legal action shall be instituted to obtain legal remedies; and

15 (b) by the Authority or the Protection Division, of the medical services, social services and other assistance 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
crime in
relation to
complaints,
inquiries,
investigations,
&c

20 (a) to make a complaint or to cause a complaint to be made in relation to any conduct constituting an offence under this Act in the manner provided for in this Act and to have such complaint recorded and investigated according to law;

25 (b) without prejudice to any ongoing investigation or inquiry, to make representations to the investigation authority or inquiring authority in person or through an attorney-at-law and receive a response within a reasonable period of time;

- (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;
- 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 Commission a 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,
20 financially, professionally or in any other manner;
- (g) 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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 of Crime and Witnesses*

- 5 (i) to be present at any civil or criminal judicial or
 quasi-judicial proceedings relating to an offence,
 including at the non-summary inquiries, trials,
 appeals and any applications in revision, unless
10 the court, Commission or other tribunal determines,
 for reasons to be recorded, that future evidence of
 such victim of crime would be materially affected
 if he hears other evidence at such proceedings or
 the due discharge of justice could be secured only
 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-

- 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:

20 Provided however, the release of such
 information may be withheld for justifiable reasons.

- 25 (b) 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
 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;

- 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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of Crime and Witnesses* 7

- (i) release on bail or discharge of the suspect;
- (ii) institution of criminal proceedings against the accused;
- 5 (iii) the conviction, acquittal, discharge or sentence of the suspect or the accused, as the case may be; or
- (iv) 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
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
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.

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

Right of a victim of crime to obtain copies of certain documents

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

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 of Crime and Witnesses*

- (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
5 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.

- (2) Where an application is made to obtain any report
10 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-

- (a) shall issue such form or report, if the victim of crime
15 proves to the satisfaction of such court or Commission of the necessity of such form or report;
- (b) shall not issue such form or report, if, in its opinion,
20 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.

- 7. (1) A victim of crime shall be entitled to request and
25 receive reasonable financial assistance from the Authority according to the availability of such assistance, in consideration of the expenses incurred as a result of-

Entitlements
of a victim of
crime to
receive
financial
assistance

- (a) the offence alleged to have been committed; and
- (b) his participation in any proceedings before a court
30 or Commission in relation to such offence.

(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
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 67 of this Act.

20 **8.** (1) A victim of crime shall have the right to make a statement in writing (in this Act referred to as the “victim impact statement”) to the court or Commission to describe the manner in which the offence alleged to have been committed has impacted him physically, emotionally,
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
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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 of Crime and Witnesses*

(a) a victim personal statement; and

(b) a victim impact report.

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

5 (a) shall set out the physical, emotional, psychological,
 financial, professional or other impact of the offence
 on the victim of crime;

 (b) may contain a statement, where applicable, whether
10 the offence has been motivated by the age, gender,
 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

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
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.

(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 subsection (6) shall apply in relation to such victim impact statement.

9. (1) A witness shall always be treated with respect to his dignity and privacy in a manner that is fair in all circumstances. Rights and entitlements of a witness

10 (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 voluntarily to any court, Commission or law enforcement authority relating 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 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 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 real or possible harm, threat, intimidation, reprisal or retaliation resulting from such witness-

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 of Crime and Witnesses*

- (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 investigation or inquiry;
- (c) 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
- 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.

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

Making
complaints
regarding
violation of
rights or
denial of
entitlements
of victims of
crime or
witnesses

- (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.

- 5 **11.** It shall be the duty of every public officer including every judicial officer and every member of the armed forces and the police force to recognize, protect and promote the rights and entitlements of victims of crime and witnesses set out in this Part of this Act.
- Duty of public officers to respect the rights and entitlements of victims of crime and witnesses
- 10 **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 witnesses set out under this Part of this Act; or
- (b) 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.
- 15 **13.** (1) The Authority shall maintain a register called “Victim Information Register” in such form and containing such information relating to victims of crime, as may be determined by the Authority.
- Victim Information Register
- 20 (2) A victim of crime may, on application made by himself 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).
- 25 (3) A victim of crime shall, after registration in the Victim Information Register, be entitled, upon a request made to 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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 of Crime and Witnesses*

- (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

OFFENCES AGAINST VICTIMS OF
CRIME AND WITNESSES

15

14. Any person who threatens a victim of crime or witness with any harm to his person, reputation or property, or to the person or reputation or property of any other person in whom such victim of crime or witness has an interest, with the
20 intention of –

Intimidation
to a victim of
crime or
witness

- (a) causing alarm to such victim of crime or witness;
- (b) causing such victim of crime or witness to refrain from –

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

- (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
10 exceeding five hundred thousand rupees.

15. Any person who voluntarily causes hurt or grievous hurt to a victim of crime or witness, with the intention of-

Causing hurt to a victim of crime or witness

- (a) causing such victim of crime or witness to refrain from-
- 15 (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 legal action
20 instituted against such person; or
- (c) 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*

16. Any person who wrongfully restrains a victim of crime or witness with the intention of-

Restraining a
victim of
crime or
witness

(a) preventing such victim of crime or witness from-

5 (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;

10 (b) compelling such victim of crime or witness to
withdraw a complaint lodged or a legal action
instituted against such person; or

(c) 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,

15 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.

20 **17.** Any person who—

Compelling
or inducing a
victim of
crime or
witness to
leave any
place, or
causing loss
or damage to
the property
of a victim of
crime or
witness

(a) compels, or by practice of deceitful means or by
abuse of authority or by any other means of illegal
practice induces or forces any victim of crime or
witness to leave any place; or

25 (b) intentionally or knowingly causes any loss, damage
or destruction to a property in which a victim of
crime or witness has a legitimate interest,

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

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.

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

- (a) provided any information or lodged a complaint;
- 20 (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 exceeding three 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*

19. Any person who is alleged, suspected or accused of having committed an offence offers, provides or gives any gratification to any other person who is-

Providing
gratification
to prevent
legal
proceedings,
&c

5 (a) intending or preparing to institute legal 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. Any person who -

Disclosure of
information

20 (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

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
5 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
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,

shall not be an offence.

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

Providing
false
information

25 **22.** Any person who-

(a) is in charge of, or is providing protection or
assisting in providing protection to a victim of
crime or witness; or

(b) is otherwise in possession of any information
30 relating to the protection being afforded to a victim
of crime or witness,

Disclosure of
information
by a person
providing
protection

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 of Crime and Witnesses*

provides, issues or gives to another person such information
and thereby places the life of such victim of crime or witness
in danger, commits an offence under this Act and shall, on
conviction by the High Court, be liable to a fine not
5 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.

23. Any person who attempts to commit, instigates or
intentionally aids or abets any other person to commit or
engages in any conspiracy for the commission of any offence
referred to in section 14, 15, 16, 17, 18, 19, 20, 21 or 22
20 commits an offence and shall, on conviction by the High
Court, be liable to the same punishment provided for that
offence in such section.

Attempting,
instigating,
aiding, etc.,
in the
commission
of an offence

24. (1) (a) An offence under section 14, 15, 16, 17, 18,
19, 20, 21, 22 or 23 shall be a cognizable offence within the
25 meaning of the Code of Criminal Procedure Act and a
bailable offence within the meaning of the Bail Act, No. 30
of 1997.

An offence
under section
14, 15, 16,
17, 18, 19,
20, 21, 22 or
23 to be
cognizable
and bailable

(b) When enlarging a person on bail, the Magistrate's
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.

(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.

25. (1) In determining the appropriate sentence for any
offence under this Act, the court shall have regard to the
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.

Determination
of sentence

(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 policy.

26. (1) A complaint in relation to an offence under this Part of this Act shall be made in such form and manner as may be prescribed, to-

30 (a) the Protection Division;

(b) the Authority; or

(c) any court, Commission or law enforcement authority.

Making
complaints in
relation to
offences
under this
Part of this
Act

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 of Crime and Witnesses*

(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

ENTITLEMENT OF A VICTIM OF CRIME OR WITNESSES
TO SEEK PROTECTION

10 **27.** Where a victim of crime or witness or any other person on behalf of a victim of crime or witness has reasonable grounds to believe that such victim of crime or witness may 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 person shall be entitled to apply for protection in terms of the provisions of this Part of this Act.

Entitlement
to seek
protection

28. (1) The nature of protection that may be provided to any victim of crime or witness under this Part of this Act may include –

Nature of
protection
that may be
sought by a
victim of
crime or
witness

- 20 (a) the providing of security to the person or property;
- (b) the provision of temporary accommodation including facilities for sustenance;
- (c) the permanent or temporary re-location with the consent of the victim of crime or witness, as the
25 case may be;
- (d) 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;

- (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 of any 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) to a victim 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 authority or public officer is unable to do so for reasons to
30 be stated, to assist the Authority or Protection Division as requested.

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*

- (a) the Authority;
- (b) the Protection Division;
- (c) any police station;
- (d) any court or Commission; or

5 (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.

30. (1) Upon receipt or reference of a request for protection under section 29, in relation to an offence specified in the Second Schedule to this Act-

20 (a) where such request is received by or referred to the Authority, the Authority shall take immediate measures to cause a threat assessment to be made in relation to the victim of crime or witness; or

25 (b) where such request is received or referred to the Protection Division, the Protection Division shall take immediate measures to make a threat assessment in relation to the victim of crime or witness,

Threat
assessment in
relation to
offences
specified in
the Second
Schedule

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

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 the Second Schedule to this Act, the request for protection is received by or referred to a police station under section 29, the Protection Officer assigned to such police station under section 38 shall immediately conduct a threat assessment
10 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.
- Protection with regard to offences not specified in the Second Schedule

(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 reasonable grounds to believe that a victim of crime or witness in any legal proceedings requires protection from injury, intimidation, reprisal or retaliation or assistance to 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
- Duty of court or Commission in relation to proceedings

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 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 or after the conduct of any legal proceedings before
any court or Commission.

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

Protection to
be provided
by law
enforcement
authorities
and public
officers

(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).

- 5 **34.** (1) Notwithstanding anything to the contrary in any other written law, a court or Commission may, on application made by or on behalf of any vulnerable victim of crime or witness, order the Authority or the Protection Division the grant of any special measures for the protection of such victim of crime or witness, as may be prescribed. Special measures for vulnerable victims of crime or witnesses
- 10 (2) The Minister shall, when prescribing special measures for the purposes of subsection (1), seek recommendations of the Authority.
- 15 (3) The court or Commission, in ordering the grant of any special measures under subsection (1), shall ensure that 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 crime or witness;
- (e) 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 kinship to, the victim of crime or witness; and
- 30

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 of Crime and Witnesses*

5 (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
 marginalization, domestic or employment
 circumstances, religious or political beliefs, and any
 physical disability or impairment the victim of crime
 or witness suffers from.

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

15 (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
 from a remote location, without requiring his
 personal attendance before such court or
 Commission; or

20 (b) on being satisfied that any vulnerable victim of
 crime or witness is unable to understand the nature
 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
25 shall be informed that he is bound to state the truth
 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
 age;

 (b) a person suffering from significant impairment of
 intelligence and social functioning;

- (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 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 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
- (g) any other person whom a court or Commission may determine to be a vulnerable victim of crime or witness, for reasons recorded.

35. (1) The Authority or the Protection Division shall require a Protection Officer to conduct a continuous needs assessment of victims of crime and witnesses who have received protection under the provisions of this Act.

Continuous
needs
assessment
by Protection
Officer and
variation of
protection
arrangement

(2) A Protection Officer may, where he is of the opinion that any protection arrangement made in respect of any victim of crime or witness needs to be varied, vary such protection arrangement and 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 to-

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 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, a Protection Officer shall make such arrangement as he considers appropriate for the purpose of providing such urgent protection to such victim of crime or witness.
- 36.** (1) Subject to the provisions of subsection (3) of Cessation of
15 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
- (b) the victim of crime or witness-
- (i) requests that such protection be terminated;
 - (ii) refuses to receive such protection;
 - (iii) abuses the protection granted;
 - 25 (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.

- 15 (3) Where a victim of crime or witness is dissatisfied with 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*

37. (1) Any victim of crime or witness who has received any assistance or protection under this Act shall not –

Duties of a
victim of
crime or
witness in
regard to
assistance
and
protection

- (a) abuse such assistance or protection;
- 5 (b) provide any false information or testimony to the Authority, Protection Division, a court, 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

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.

38. (1) The Inspector General of Police shall, in

20 consultation with the Authority, assign to each police station such number of police officers to be designated as Victims 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:

Victims and
Witnesses
Protection
Officers

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.

(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 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.

(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

ESTABLISHMENT OF THE NATIONAL AUTHORITY FOR THE PROTECTION OF VICTIMS OF CRIME AND WITNESSES

39. (1) There shall be established an authority which shall be called the National Authority for the Protection of Victims of Crime and Witnesses (in this Act referred to as the “Authority”).

National
Authority for
the
Protection of
Victims of
Crime and
Witnesses

(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal, and may sue and be sued in that name.

40. (1) The duties and functions of the Authority shall be –

Duties and
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*

- 5 (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 victims of crime and witnesses provided for in this 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 in this Act;
- 15 (c) to take necessary steps to ensure security and protection of victims of crime and witnesses, by way of providing or arranging the provision of, necessary medical treatment, counselling or rehabilitation services, or reparation or restitution
- 20 measures;
- (d) 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;

- 5 (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 to give effect to, protect and promote, the rights and entitlements of victims of crime and witnesses provided for in this Act;
- 10 (g) to review existing legislation, and the policies, practices or procedures adopted and followed by 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 ensure conformity with the latest recognized international standards and best practices relating to the same;
- 15 (h) upon request made by any court or Commission, to provide necessary facilities to establish a contemporaneous audio-visual linkage for recording of evidence or statement of a victim of crime or witness from a remote location;
- 20 (i) to develop and issue, in consultation with other relevant authorities, guidelines and procedures which ensure the best interest of victims of crime and witnesses;
- 25 (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
may be specified by the Authority;
- 5 (l) to conduct or promote the carrying out of research
into ways and means through which –
 - (i) the incidence of crime can be reduced;
 - 10 (ii) the impact of specific crimes on victims could
be minimized or prevented;
 - (iii) 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
officers and employees of statutory bodies involved
30 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;

- (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 minimize the incidence of victimization;
- (ii) 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 sentencing in 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 from such person, authority or any other relevant authority.

41. (1) The Authority shall have the power –

Powers of the
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;
- 20 (b) for the purpose of conducting an investigation or inquiry into 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, to –
- 25 (i) require any person, other than a judicial officer or Commissioner of a Commission, to appear before the Authority and to participate in such investigation or inquiry;
- 30 (ii) require any person, other than a court or Commission, to produce before the Authority any document, a certified copy of any document or any other material in the 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 to take copies thereof;

- (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
10 proving that the information is confidential
shall lie with the person who so claims;

- (iv) interview and record a statement of any person, other than a judicial officer or Commissioner of any Commission:

15 Provided however, anything stated during
the course of recording of such 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
25 against a victim of crime or witness or the
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 sufficient justification is shown for such
request; and

- (vi) 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-
- 5 (i) make an appropriate order to remedy, or to provide relief, or to take corrective measures on any damage caused as a result of the violation of rights or denial of entitlements 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 (iii) use mechanisms including conciliation and mediation in addition to other available legal mechanisms;
- 20 (d) 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 imminent violation or denial, of any right or entitlement of a victim of crime or witness under this Act;
- 25 (e) to direct the Protection Division to take over an investigation or inquiry into any offence under this Act under paragraph (f) of subsection (1) of section 56;
- (f) 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;

- (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
25 comply with any requirement, direction or order made or 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.

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

5 (2) The Board shall, for the purpose of administering 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-

(a) the following *ex-officio* members –

- 10 (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;
- 20 (iii) the Secretary to the Ministry of the Minister assigned the subject of Women’s Affairs or an Additional Secretary to such Ministry, nominated by such Secretary;
- 25 (iv) the Secretary to the Ministry of the Minister assigned the subject of Children or an Additional Secretary to such Ministry, nominated by such Secretary;
- (v) 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* 43

- (vi) the Chairman of the Legal Aid Commission established by the Legal Aid Law, No. 27 of 1978 or 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;
- (viii) a nominee of the Attorney- General; and
- 10 (ix) a nominee of the Inspector General of Police holding the rank of Senior Deputy Inspector General of Police:

15 Provided however, where two or more subjects specified in subparagraph (i), (ii), (iii), or (iv) of this paragraph are assigned to a single Ministry, 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

- 20 (b) five members who are academically or professionally qualified and have experience in the 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”).

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

44. A person shall be disqualified from being appointed or continuing as a member of the Board, if such person –

Disqualifications
for being a
member of the
Board

(a) is or becomes, a member of Parliament, a Provincial 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

(d) is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other
20 country.

45. (1) An appointed member of the Board may, at any time, resign from his office by letter to that effect addressed to the President and such resignation shall take effect upon
25 it being accepted in writing by the President.

Resignation
and removal
of appointed
members of
the Board

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

(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) of section 42, appoint another 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 he succeeds.

(5) Where any appointed member of the Board, by reason 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 (3) of section 42, appoint another person to act in his place for such period.

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

Term of
office of an
appointed
member

47. The members of the Board may be paid such remuneration out of the Fund of the Authority, at such rates as may be determined by the President in consultation with the Minister assigned the subject of Finance.

Remuneration
of members

48. (1) The Chairman of the Board shall, if present, preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members present, to preside at such meeting.

Meetings of
the Board

(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.

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

10 (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 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 deemed to be invalid by reason only of the existence of any vacancy therein, or any defect in the appointment of any member thereof. Any act not invalidated by reason of a vacancy in the Board

20 **50.** (1) The seal of the Authority shall be as determined by the Board and may be altered in such manner as may be determined by the Board. Seal of the Authority

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

25 (3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board 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.

PART VI

APPOINTMENT OF THE DIRECTOR-GENERAL AND STAFF OF THE
AUTHORITY

51. (1) There shall be a Director-General of the Authority Director-General of the Authority
5 (in this Act referred to as the “Director-General”) who shall be a person with professional qualifications in the field of Law, Administration or Criminology with at least fifteen years of 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—
- 15 (a) be charged with the administration and management of the affairs of the Authority, including the administration and control of the staff; and
- (b) 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.

(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, 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 duties;

(b) 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 direction issued 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.

52. (1) The Authority may appoint as staff of the Authority such number of officers and other employees as may be necessary for the efficient discharge of its functions.

Staff of the
Authority

(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 guidelines of the Government;

(c) 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.

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

Appointment
of public
officers to
the staff of
the 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 Commission Act, No. 37 of 1991 shall, *mutatis mutandis*,
10 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, any period of service with the Authority by that person shall
15 be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART VII

VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND
PROTECTION DIVISION

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

(2) The police officers to be appointed under subsection (1) shall be nominated by the Inspector General of Police, in
30 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*.

(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 made by 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*

55. (1) Notwithstanding anything to the contrary in any other written law, the Protection Division shall have islandwide jurisdiction to receive, investigate or inquire into any complaint in relation to an offence under Part III of this Act- Protection Division to have islandwide jurisdiction

- (a) made directly to the Protection Division;
- (b) made to the Authority and referred to the Protection Division; or
- (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 Division.

56. (1) The powers, duties and functions of the Protection Division shall be – Powers, duties and functions of the Protection Division

- (a) to investigate or inquire into complaints received by the Protection Division or referred to the 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;
- (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 victim of crime or witness;

- (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 inquiry, with the concurrence of the Authority.
- 15

(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 ASSISTANCE AND PROTECTION PROGRAMME FOR VICTIMS OF
CRIME AND WITNESSES

- 25 57. (1) The Authority shall, in consultation with the Assistance and Protection General Programme for Victims of Crime and Witnesses containing the procedure for the provision of assistance and protection to victims of crime and 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.

58. (1) The Authority shall-

Duty of the
Authority to
share
information
on the
General
Programme

(a) share information among the public about the General Programme;

10 (b) create awareness among the public on the General Programme including-

15 (i) the procedure to be followed in seeking assistance and protection, whenever any offence specified in Part III of this Act is committed in relation to a victim of crime or witness;

20 (ii) 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 under such General Programme; and

 (iii) the nature of assistance and protection that may be sought under the General Programme.

25 (2) (a) The Authority shall formulate a manual containing the General Programme referred to in subsection (1), and shall ensure that such manual is made available to all relevant persons, authorities and institutions entrusted with the duty of providing assistance and protection to victims 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.

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

Adopting a specific programme for a victim of crime or witness

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

- (a) a request made by a victim of crime or witness;
- 10 (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 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

COMPENSATION AND 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 other written law, a court may, on conviction of an accused, 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.

Court may
order
compensation

(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.

15 (3) Any sum ordered to be paid by the court under this 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 of this Act, a sum of money as compensation that is
25 commensurate to the victimization, not exceeding rupees one million to the victim of crime.

62. Where a convicted person fails to pay the compensation ordered to be paid under section 61, he shall be liable-

Default of
payment of
compensation

30 (a) if such order was made by the Magistrate's Court, to imprisonment of either description for a period not exceeding two years; or

- (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
10 correction orders contained in the Community Based
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: -

- 15 (a) all information relating to the offence including
the nature of the injury suffered by the victim of
crime as a result of the offence;
- (b) any aggravating or mitigating factors;
- 20 (c) the report of the Government Medical Officer who
has examined the victim of crime;
- (d) 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
by the victim of crime;
- (g) the victim impact statement referred to in
section 8;

Matters to be
considered
before
ordering to
pay
compensation

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Crime and Witnesses*

- 5 (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, body or person, or any other award that may have already been made to such victim of crime; and
- 10 (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 may have suffered as a result of the offence.

64. (1) The onus of proving a claim for compensation or interim award under this Part of this Act shall lie with the person who makes the claim. Onus of proving the claim

- 15 (2) Notwithstanding any rule of evidence or any 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.

65. (1) Where a court recovers any amount as compensation from a convicted person under section 61, such court shall remit twenty *per centum* of the money so recovered to the Protection Fund and the balance amount

25 shall be paid to the victim of crime, his next of kin, dependents or heirs as the case may be. Receipt of compensation not to be a bar to civil proceedings

- 30 (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, 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 crime under this section.

66. (1) Any person aggrieved by the decision of the court 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-

Appeals

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 *mutatis mutandis* apply to the filing of applications for review of decisions under this section.

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

Authority may make an interim award of money in exceptional circumstances

20 (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 minimum of five years of imprisonment, with or without a fine.

30

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 Crime and Witnesses*

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

Application
for interim
award of
money from
the Authority

(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) of section 68, the Advisory Board shall-

Advisory
Board to
recommend
granting of
interim
awards

(a) consider each application for interim award on just and equitable basis; and

(b) make its recommendations to the Authority whether to grant an interim award to the victim of
20 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

- 5 (c) take into account any compensation that has already been paid to the victim of crime by the accused or convicted person or that has already been recovered from the accused or convicted person by any court, Commission, body or person, in respect of the offence alleged to have been committed.

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

15 (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 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 earning 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.

25 (4) Where an order is made for the repayment of an interim award, the Authority shall enter into a scheme of repayment 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 Authority, to repay any sum of money received as interim award under section 70, the Magistrate's Court having jurisdiction shall- Failure to repay the interim award

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 Crime and Witnesses*

- (a) on application made to such Court by the Authority;
and
- (b) upon a certificate issued to the Magistrate under
the hand of the Chairman of the Authority that such
5 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.

10 **72.** The Authority shall, in consultation with the Advisory Board, issue guidelines in relation to the following matters
pertaining to interim awards under this Part of this Act:-

Authority to
issue
guidelines
relating to
interim
awards

- (a) the form and manner of application for an interim
award;
- 15 (b) the time within which an application may be made
for the payment of an interim award;
- (c) the circumstances under which an interim award
may be paid;
- 20 (d) the procedure and manner of payment of an interim
award;
- (e) 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;
and
- (h) the circumstances under which an interim award
may be withheld or the amount of award reduced.

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 award

5 (a) it is established that the act constituting the alleged 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 commission of the offence; or

15 (c) at the end of or during the course of proceedings, as the case may be, the victim of crime is found to be 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.

20 **74.** (1) The Minister shall, in consultation with the Authority, appoint an Advisory Board on Awards (in this Act referred to as the “Advisory Board”), to make recommendations to the Authority on the payment of any interim award of money under section 67.

Advisory Board on Awards

25 (2) The Advisory Board shall consist of-

(a) a retired Judicial Officer, appointed by the Minister;

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 Crime and Witnesses*

- (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 by the Auditor-General; and
- (e) 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 Officer referred to in paragraph (a) of subsection (2) section 74 as the Chairman of the Advisory Board. Chairman of 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.
- 25 (4) Where the Chairman of the Advisory Board is, by 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.
- 30 (5) The Minister may, for reasons assigned, remove the Chairman of the Advisory Board from the office of Chairman.

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 Council or any local authority;
- (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
- 10 (d) is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other country.

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

Resignation
and removal
of a member
of the
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 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*.

(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 he 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.

78. Every member of the Advisory Board shall, unless such member vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall, unless he has been removed from
20 office, be eligible for re-appointment. Term of
office of a
member of
the Advisory
Board

79. The members of the Advisory Board may be paid 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. Remuneration
of members

80. (1) The Chairman of the Advisory Board shall, if present, preside at every meeting of the Advisory Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members present, to
25 preside at such meeting. Meetings of
the Advisory
Board

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

(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,
15 the Advisory Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

20 **81.** No act, decision or proceeding of the Advisory Board shall be deemed to be invalid by reason only of the existence of any vacancy therein, or any defect in the appointment of any member thereof.

Any act not
invalidated
by reason of
a vacancy in
the Advisory
Board

PART X

TESTIMONY THROUGH CONTEMPORANEOUS AUDIO-VISUAL LINKAGE

25 **82.** (1) Notwithstanding anything to the contrary in any other written law, any victim of crime, witness or law enforcement authority who wishes to-

Contemporaneous
audio-visual
linkage

(a) give evidence;

(b) obtain evidence; or

(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.

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

(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

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

83. (1) (a) Where a victim of crime or witness intends to make an application under subsection (1) of section 82 to give evidence or make a statement through contemporaneous
10 audio-visual linkage from-

Supporting
an
application
and giving
notice of an
application

- (i) a remote location within Sri Lanka, such 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 Commission at 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 the Magistrate's Court having jurisdiction for permission
25 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 and all relevant parties to such investigation, inquiry or proceedings:

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 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 enforcement authority without giving notice to any party, with the permission of the court or Commission. Where the accused 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.

(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 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 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 such fact in writing to the Registrar or the Secretary, as the case may be, of the respective court or Commission.

84. A court or Commission may permit to give or obtain any evidence or make any statement, or obtain and record any evidence or statement through contemporaneous audio-visual linkage from a remote location, only if it is satisfied that the technical requirements specified below are met: -

Court or Commission to be satisfied with technical and other requirements

- (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;
- (iii) the layout of cameras;
- 20 (iv) the standard or speed of transmission;
- (v) the quality of communication; and
- (vi) any other matter relating to the linkage; and
- (c) any other requirement that the 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 recording of evidence or statement of a victim of crime or witness through contemporaneous audio-visual linkage from any remote location, shall, on the day and at the time fixed for such purpose- Court or Commission to satisfy itself of accuracy of 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 officer or 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 is or 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 permission to a victim of crime, witness or law enforcement authority, to give or obtain evidence, or to make a statement, as the case may be, through contemporaneous audio-visual An accused’s right to a fair trial

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-

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

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

Sri Lankan diplomatic mission to be the remote location outside Sri Lanka

88. The court or Commission may, in the best interest of
15 justice and for reasons to be recorded, make an order varying or revoking a permission granted to record evidence or statement in relation to any proceedings through contemporaneous audio-visual linkage from a remote location, with notice to the relevant parties to such
20 proceedings.

Order to vary or revoke permission for audio-visual linkage

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

A witness deemed to be a witness of the court

(2) For the purposes of this Part of this Act, "court" means a court before which any criminal proceedings are being conducted.

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

10 (b) all such sums of money as may be received by the
Authority by way of gifts, donations, contributions,
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.

91. (1) There shall be a fund called the Victims of Crime Protection
and Witnesses Assistance and Protection Fund (in this Act Fund
referred to as the "Protection Fund").

20 (2) The Protection Fund shall be administered and
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

(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 such sums of money as may be determined by the Authority
5 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 of accounts 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 calendar year.

Financial
year and
audit of
accounts

(2) The Board shall cause proper books of accounts to be kept of the income, expenditure, assets and liabilities and all other financial transactions of the Authority.

25 (3) The provisions of Article 154 of the Constitution 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 the Protection Fund.

30 (4) The provisions of Part II of the Finance Act, No. 38 of 1971 shall, *mutatis mutandis* apply to the financial control and accounts of the Fund of the Authority and the Protection Fund.

PART XII

GENERAL

- 5 **93.** (1) The Authority shall, within six months of the end of each financial year, submit to the Minister an annual 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 along with the Auditor-General's report; and
- (b) 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.
- 20 **94.** Any person who, without lawful authority, interferes or obstructs or attempts to interfere or obstruct any court, Commission, the Authority, Board, Protection 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.
- 30 **95.** Where an offence under this Act is committed by a body of persons, then, if that body of persons is—
- Annual report
- Interference in the exercise of powers, &c.
- Offences by a body of persons

- (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;
- 10 (c) an unincorporated body other than a firm, then every individual who was a member of such body and every officer who was responsible for the management and control of such body, at the time of the commission of the offence; or
- 15 (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 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
25 to divulge whether a victim of crime or witness is receiving 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. Secrecy

(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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- 5 **97.** In assessing the credibility of a testimony given by a victim of crime or witness in any court or Commission, the fact that a victim of crime or witness is receiving or has received any assistance or protection under this Act, shall not be relevant. Assessment of credibility of a testimony
- 10 **98.** The Members of the Board, the Director-General and all other officers and employees of the Authority, and consultants and advisors appointed by the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code (Chapter 19) and of the Code of Criminal Procedure Act. Officers and other employees of the Authority deemed to be public servants
- 15 **99.** Every officer of or above the rank of Assistant Director of the Authority shall be a peace officer for the purposes of the Code of Criminal Procedure Act. Officers of the Authority to be peace officers
- 15 **100.** The Authority shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act (Chapter 52), and the provisions of that Act shall be construed accordingly. Authority deemed to be a Scheduled Institution within the meaning of the Bribery Act
- 20 **101.** (1) The Authority may make rules in respect of matters for which rules are required to be made under this Act including the following matters: - Rules
- 25 (a) terms and conditions of employment, remuneration and disciplinary control of officers and other employees of the Authority, and welfare and social security schemes for such officers and employees under section 52; and
- 30 (b) ensuring the confidentiality of the affairs of the Protection Division and impartiality and accountability of the police officers of the Protection Division under section 54.

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

5 **102.** (1) The Minister may make regulations under this 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. Regulations

(2) Every regulation made by the Minister shall be 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. 10

(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 by the Minister is deemed to be so rescinded shall be published in the *Gazette*. 20

103. (1) The Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 is hereby repealed. Repeal and savings

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

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

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 office, continue to hold office as such member until the expiration of his term of office for which he has been appointed;

10 (b) all employees who were in the employment 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 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;

- 5 (e) all property movable or immovable, belonging to 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 date, vest in and be deemed to be the property of the Authority established under this Act;
- 10 (f) all monies lying to the credit of the Victims of Crime and Witnesses Assistance and Protection Fund 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 date, stand transferred to the Fund of the Authority established under this Act;
- 20
- 25 (h) 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 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 and liabilities of the Authority established under this Act.
- 35

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

5 “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 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 Commissions of Inquiry Act (Chapter 393);
- (b) 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;
- (d) the Human Rights Commission of Sri Lanka established by the Human Rights Commission of Sri Lanka Act, No. 21 of 1996; and
- 20 (e) 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 the body, mind, reputation or property of any person and includes any impairment or disability, emotional suffering, economic or other loss caused as a result of an act or omission constituting an

30 alleged-

- (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 another person from victimization; and
- (e) 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 fundamental right or violation of any right granted under the ICCPR Act;
- 20 (b) has provided any information or made a statement in the course of an investigation or inquiry conducted by a law enforcement authority into the alleged commission of an offence or infringement of any fundamental right or violation of any right granted under the ICCPR Act;
- 25 (c) has made a statement, submitted an affidavit or has testified, in relation to a complaint made by a victim of crime or in any legal action instituted by, or on behalf, of a victim of crime;
- 30

- (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 authority, court or Commission, or based on a deposition or an affidavit submitted by him;
 - (f) has received summons from a court or Commission to make a statement, submit an affidavit, testify or produce any document,
15 report or object relating to any proceedings before such court or Commission; or
 - (g) 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-
- (i) a victim of crime;
 - 25 (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

5 (vii) any person who has been summoned to
testify before a court or Commission
on behalf of a person suspected or
accused of the alleged commission of
an offence or infringement of any
fundamental right or violation of any
right granted under the ICCPR Act.

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

FIRST SCHEDULE

(section 10)

PROCEDURE APPLICABLE FOR THE INVESTIGATION AND INQUIRY OF COMPLAINTS ON
VIOLATION OR DENIAL OF RIGHTS OR ENTITLEMENTS

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 Act which shall be referred to the Protection Division;
and
- (c) matters on which no action is required to be taken in terms
of this Act.

(2) Any decision under sub-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 Schedule shall 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 Schedule shall 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 a violation 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 recommendations along 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 investigation or inquiry into an alleged violation or denial, or imminent violation or denial, of any right or entitlement 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

	<i>Act</i>	<i>Section</i>	<i>Offence</i>
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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	<i>Act</i>	<i>Section</i>	<i>Offence</i>
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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	<i>Act</i>	<i>Section</i>	<i>Offence</i>
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 for less than ten years

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	<i>Act</i>	<i>Section</i>	<i>Offence</i>
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

