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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

L.D.B. 11/79.

THE PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT, No. 48 OF 1979

REGULATIONS made by the President under section 27 of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 read with paragraph (2) of Article 44 of the Constitution.

MAHINDA RAJAPAKSA,
President.

Colombo,
29th August, 2011.

Regulations

1. These Regulations may be cited as the Prevention of Terrorism (Surrendees Care and Rehabilitation) Regulations No. 5 of 2011.

2. The objective of these regulations shall be to ensure, that any person who surrenders after the coming into operation of these regulations is dealt with in accordance with the provisions of the Prevention of Terrorism Act, No. 48 of 1979, and that persons who have surrendered in terms of any emergency regulation which was in force at any time prior to coming into operation of these regulations, continue in terms of these regulations, to enjoy the same care and protection which they were previously enjoying.

3. (1) The President may by Order appoint by name or by office, a person to be the Commissioner - General of Rehabilitation for the purposes of this regulation.

(2) Any person who surrenders (hereinafter referred to as the “surrendee”) in connection with any offence under the Explosives Act, the Offensive Weapons Act, No. 18 of 1966, the Firearms Ordinance, the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or under Chapter VI, Chapter VII or Chapter VIII of the Penal Code or under any emergency regulation which was in force prior to August 30, 2011, or through fear of terrorist activities, to any police officer, or any member of the armed forces, or to any public officer or any other person or body of persons authorized by the President by Order, shall be required to give a written statement to the officer or person authorized to the effect that he is surrendering voluntarily.

4. The Secretary to the Ministry of the Minister in-charge of the subject of Defence shall, from time to time approve Centres to be known as “Protective Accommodation and Rehabilitation Centres” (hereafter referred to as “the Centre”) for the purpose of receiving and keeping surrendees.

5. (1) The officer or person to whom a person surrenders in terms of paragraph (2) of regulation 3, shall, within ten (10) days of such surrender hand over the surrendee to the Commissioner-General of Rehabilitation who shall assign such surrendee to a Centre. The Commissioner-General of Rehabilitation shall upon assigning the surrendee to a Centre, endeavour to provide the surrendee with appropriate vocational, technical or other training during his stay at the Centre.

(2) The officer or any other person to whom a person surrenders in terms of paragraph (2) of regulation 3 shall inform the Secretary to the Ministry of the Minister in-charge of the subject of Defence, no later than ten (10) days of the surrender, that a voluntary surrender has been made and such person was handed over to the Commissioner-General of Rehabilitation in the manner set out in paragraph (1) of this regulation.

6. (1) The Secretary to the Ministry of the Minister to whom the subject of Defence is assigned, shall on being informed in terms of paragraph (2) of regulation 5 by the officer or person to whom the surrendee surrendered, that the surrendee has been handed over to the Commissioner-General of Rehabilitation, shall make an order authorizing the Commissioner-General of Rehabilitation to keep such surrendee for a period not exceeding twelve months in the first instance at the Centre to which he has been assigned. Such period will be computed from the date of handling over of such surrendee by the officer or person as the case may be, to the Commissioner-General of Rehabilitation.

(2) The Commissioner-General shall within a period of two months of the date of the surrendee being handed over to him, forward a Report to the Secretary to the Ministry of the Minister in-charge of the subject of Defence indicating the nature of the rehabilitation being carried out in respect of the surrendee.

7. A surrendee assigned to a Centre may with the permission of the officer in-charge of the Centre be entitled to meet his parents, or relations or guardian as the case may be, once in every two weeks.

8. (1) The Commissioner-General of Rehabilitation shall prior to the expiration of the aforesaid period of twelve months, forward to the Secretary to the Ministry of the Minister in-charge of the subject of Defence, a report stating whether in his opinion it is appropriate to release the surrendee or to extend for a further period the rehabilitation of such surrendee.

(2) At the end of the period of twelve months the Secretary to the Ministry of the Minister to whom the subject of Defence is assigned, may, after perusal of the report submitted to him under paragraph (1) of this regulation by the Commissioner-General of Rehabilitation,-

(a) order the release of such person; or

(b) extend the period of rehabilitation for periods of three months at a time, so however that the aggregate period of such extensions shall not exceed a further twelve months Each such extension shall be made on the recommendation of the Commissioner-General of Rehabilitation.

(3) The surrendee shall, at the end of the extended period of rehabilitation, be released.

9. (1) The Superintendent of Police of the Division in-charge of the division within which a person surrendered in terms of paragraph (2) of regulation 5 may, after the expiration of three months from the date of his being assigned to a Centre, with prior written approval of Secretary to the Ministry of the Minister in-charge of the subject of Defence, investigate the involvement of any surrendee who is suspected of being connected with, or concerned in, the commission of an offence set out in paragraph (2) of regulation 3 of these regulations.

(2) Where at the end of any trial a surrendee is found guilty of the offence in connection with which he is charged or indicted, the Court may in determining the sentence to be imposed on him take into consideration the fact of his surrender. The Court may where appropriate, order that such surrendee be subjected to a further period of rehabilitation as may be determined by Court, at a Centre.

(3) Where a surrendee found guilty of an offence and subjected to a further period of rehabilitation by the Order of Court in terms of paragraph (2) of regulation 8, acts in a manner detrimental to the rehabilitation programme or the interest of the other surrendeers at the Centre, the Commissioner-General of Rehabilitation may on production of such person before the Court which sentenced him present such facts to Court and the Court may after such summary inquiry as the Court thinks fit, make order sentencing him to imprisonment in lieu of such further period of rehabilitation.

10. (1) The Commissioner-General of Rehabilitation shall, in consultation with the District Secretary of any District, the relevant Provincial Commissioner of Probation and Child Care Services and the Chairman, National Child Protection Authority, take steps to indentify suitable locations for the establishment of-

- (a) Protective Child Accommodation Centres for the purpose of accommodating any person under eighteen years of age, (hereinafter referred to as a “child surrendee”) who surrenders or is arrested in terms of paragraph (3) of this regulation; and
- (b) Protective Child Rehabilitation Centres for the purpose of providing care, psychosocial support, and vocational and other training for the facilitation of the process of re-integration of a child surrendee into his family, community and into society.

(2) As and when such locations are identified as provided for in paragraph (1), the Commissioner-General shall by Notification published in the Gazette, specify the type of Centre being established and the location at which such Centre has been established.

(3) Where a person under eighteen years of age-

- (a) who has been subjected to debt bondage, forced or compulsory labour, or slavery, or has been forcibly recruited as a combatant in an armed conflict or has been subjected to an offence under section 360C of the Penal Code; or
- (b) who has committed or is suspected of having committed an offence during any period in which he was subjected to debt bondage, forced or compulsory labour, or slavery, or was forcibly recruited as a combatant in an armed conflict or was subjected to an offence under section 360C of the Penal Code; or
- (c) who through fear of threats or reprisals by any party to the said armed conflict, or who through fear of being subjected to debt bondage, forced or compulsory labour, or slavery, or being forcibly recruited as a combatant in an armed conflict or being subjected to an offence under section 360C of the Penal Code,

surrenders to, or is arrested by, any police officer or any member of the armed forces or surrenders to any public officer or any other person or body of persons authorized by the President in that behalf, such police officer or member of the armed forces or public officer or other person or body of person authorized by the President, shall record the statement of such child surrendee and the circumstances in which such child surrendee surrendered or was arrested.

11. Forthwith upon the recording of such information, the officer in charge of the police station or the unit of the armed forces to which such child surrendee has surrendered or by which he was arrested, or if he has surrendered to a public officer or any other person or body of person authorized by the President, a senior officer of the department, office, institution or organization to which such public officer belongs, or such other person or body of persons shall ensure the custody of such child surrendee-

- (a) in a place which is apart from the adult surrendeers or detainees, if any; and
- (b) where the child surrendee is a female,-
 - (i) in a place which is seperated from child or adult male surrendeers and detainees, if any;

- (ii) in the charge, care and custody of a female officer of the police or a female member of the armed forces who shall respectively be assigned for that purpose, by the officer in charge of the police station or of the unit of the armed forces to which he has surrendered, or where the child surrenderee has surrendered to a public officer, or any other person or body of persons authorized by the President, be in the charge, care and custody of a female officer of the department, office, institution or organization to which such public officer or other person or body of persons as the case may be, authorized by the President belongs, and specifically assigned for the purpose by a senior officer of such department, office, institution or organization.

12. (1) If the child surrenderee has surrendered to or is arrested by, any member of the armed forces or to any public officer or any person or body of persons authorized by the President, such member of the armed forces or such public officer or any such person or body of persons shall forthwith cause a record to be made substantially in Form No.1 set out in the Schedule to these regulations in duplicate, and shall and no later than twenty-four hours after such surrender, cause such child surrenderee to be produced at the nearest police station. The original copy of the record made in Form No. 1 shall be handed over to the officer in charge of the police station and the duplicate of such record shall be retained by the person making the record. The officer in charge of the police station shall record of the statement of such child surrenderee as well as the record of the circumstances in which such child surrenderee surrendered, shall be handed over to the police at the time of such production.

(2) The officer in charge of the Police Station shall maintain a record, substantially in Form No. 2 set out in the Schedule to these regulations, in respect of such child surrenderee.

13. (1) Where the child surrenderee has surrendered to or has been arrested by, the police, or has been produced at the police station by any member of the armed forces or by any public officer or any person or body of persons authorized by the President, the officer in charge of such police station shall forthwith take all measures to inform the parents or guardian of such child surrenderee, the Probation Officer and the Co-ordinator of the National Child Protection Authority for such area, of the fact of such surrender and shall within twenty four hours of such surrender produce such child surrenderee before the relevant Magistrate.

(2) The Magistrate before whom such child surrenderee is produced shall-

- (a) interview such child surrenderee in camera either in court or at such Magistrate's residence, in consultation with such Probation Officer, assisted where necessary by the police, the Child Rights Promotion Officer or the Co-ordinator of the National Child Protection Authority and, where possible, the parents of the child surrenderee.

Provided that the Magistrate shall take all necessary measures to ensure that the mother tongue of the child surrenderee is used for the conduct of such interview, or where it is not possible to do so, that an instantaneous translation of such interview is provided;

- (b) order a medical examination of such child surrenderee;
- (c) order such Probation Officer to prepare, in consultation with the Child Rights Promotion officer and the Co-ordinator of the National Child Protection Authority for the area, within one month of the date on which such child surrenderee was produced before him, a social inquiry report wherein the immediate and long term needs of the child surrenderee are clearly set out;
- (d) return the child surrenderee to the charge, care and custody of his parents or guardians or make order that the child surrenderee be placed in a Protective Child Accommodation Centre, for a period of one month, supported and monitored by the Provincial Commissioner of Probation and Child Care Services and forthwith communicate to the Commissioner/General of Rehabilitation the address at which such child surrenderee is to be accommodated:

Provided however that where there is evidence the child surrendee has engage in and armed conflict as a combatant, the magistrate shall refer him to a Protective Child Rehabilitation Centre for a period of one year for the purpose of assessment.

14. (1) Where the child surrendee has been accommodated in a Protective Child Accommodation Centre, the Magistrate shall, at the end of the period of one month referred to in sub-paragraph (d) of the paragraph (2) of regulation 13 determine, having regard to the results of such examination and interview, and the social inquiry report referred to in sub-paragraph (c) of paragraph (2) of regulation 13 and with the assistance of the police-

- (a) whether such child surrendee should be returned to the charge, care and custody of his parents or guardians;
- (b) whether such child surrendee should be accommodated for a period not exceeding one year in a Protective Child Accommodation Centre under the care and supervision of the Provincial Commissioner of Probation and Child care Services; or
- (c) whether such child surrendee should be places in a “Protective Child Rehabilitation Centre”, for a period not exceeding one year:

Provided that, where there is evidence that the child surrendee has committed an offence during any period in which he was recruited as a combatant, the Magistrate shall place him in a Protective Child Rehabilitation Centre for period not exceeding one year:

Provided further, the Magistrate may in the exercise of his powers of review referred to above, in respect of such child surrendee require the person in charge of the Protective Child accommodation Centre in which such child is placed, to forward to him quarterly reports in respect of such child.

(2) (a) In arriving at the determination referred to in paragraph (1) the Magistrate shall have regard-

- (i) to the necessity to ensure the protection and the best interests of the child surrendee; and
- (ii) the need to effect family reunification or placement within the extended family, taking into consideration the necessity to ensure at all times, the safety of the child surrendee and his family.

(b) Upon the making of his determination, the Magistrate shall forthwith cause a copy of his determination along with his recommendation as to the period for which the child surrendee is to be accommodated at the Protective Child Accommodation Centre or the Protective Child Rehabilitation Centre, as the case may be, and the address of the place where such child surrendee is accommodated, kept or resides, to be communicated to the Commissioner-General of Rehabilitation.

15. The Magistrate before whom a child surrendee is produced under the provisions of this regulation or who arrives at a determination under the provisions of paragraph (2) of regulation 13, shall direct that child friendly procedures are adopted-

- (a) at the medical examination and at the interview conducted under paragraph (2) of the regulation 13; and
- (b) at the Protective Child Accommodation Centre and the Protective Child Rehabilitation Centre to which the child surrendee may be sent,

and shall also ensure that the child surrendee is treated with courtesy, consideration and kindness.

16. (1) If the Magistrate orders that such child surrendee be returned to his parents or guardian he shall order that the Probation Officer supported by the Child Rights Promotion Officer or the Co-ordinator of the National Child Protection

Authority, monitor the process of re-integration of such child surrendee into his family and into society, along with his progress thereafter for a period of one year from the date of return to his parents or guardian. Such Probation Officer, Child Rights Promotion Officer or Co-ordinator of the National Child Protection Authority as the case may be, shall undertake monthly visits to such child surrendee and forward monthly reports on his progress to the Court, as well as to the Provincial Commissioner of Probation and Child Care Services.

(2) The Provincial Commissioner of Probation and Child Care Services shall take all measures to ensure that the child will benefit from the reintegration services available in the district. Such reintegration services shall be co-ordinated by the Chairman of the District Child Development Committee (DCDC) in collaboration with other child protection agencies in the District. The Provincial Commissioner of Probation and Child Care Services shall also maintain a record, substantially in the Form No. 3

(3) The Provincial Commissioner of Probation and Child Care Services shall forward quarterly reports on the progress of such child to the Commissioner-General of Rehabilitation.

17. Where the Magistrate orders that a child surrendee shall be accommodated at a Protective Child Accommodation Centre, such Magistrate shall, if such Protective Child Accommodation Centre is located in a judicial division other than the judicial division over which such Magistrate has jurisdiction, transfer the record relating to such child surrendee to the Magistrate having jurisdiction over the area in which such Protective Child Accommodation Centre is located.

18. (1) The officer in charge of the Protective Child Accommodation Centre at which such child surrendee is accommodated, shall-

- (a) cause such child surrendee to be examined by a medical officer and take necessary measures to provide him with necessary health care;
- (b) provide him with psychosocial counselling in accordance with the needs of such child surrendee identified in the social inquiry report, required under regulation 16;
- (c) facilitate and encourage visits by and contact with the family at least once in every two weeks;
- (d) provide the necessary physical care and sustenance for the child;
- (e) assist the child to obtain the necessary identification and other documents which he is lawfully entitled to obtain and which he does not presently possess;
- (f) provide the child with education or appropriate vocational, technical and other training with a view to equipping him to pursue a career of his choice;
- (g) prepare monthly reports and submit them to the Magistrate, the Probation Officer and the Commissioner General of Rehabilitation which reports shall contain information regarding any changes on the current status of the child surrendee, the training and facilities being accorded to him and the progress of such child surrendee;
- (h) the Provincial Commissioner of Probation and Child Care Services shall maintain a record substantially in Form No. 3 specified in the Schedule to these regulations in respect of each child surrendee.

(2) The officer in charge of the Protective Child Accommodation Centre shall maintain a record substantially in Form No. 4 specified in the Schedule to these regulations.

19. The Magistrate to whom the reports referred to in regulation 18 are submitted, shall take all such measures as may be necessary to monitor the progress of such child surrendee and, where he is of the opinion that it would be more appropriate for such child surrendee to be accommodated at a Protective Child Rehabilitation Centre or returned to the custody, care and control of his parents, or guardian, transfer such child surrendee to such Protective Child Rehabilitation Centre or return him to the custody, care and control of his parents.

20. Where the Magistrate orders that such child surrendee be accommodated at a Protective Child Rehabilitation Centre, or that such child surrendee be returned to the custody, care and control of his parents or guardian, he shall cause-

- (a) the Commissioner-General of Rehabilitation to be informed of the address of the place to which such child surrendee has been transferred or sent; and
- (b) a certified copy of his order to be issued to the parents or the guardian as the case may be and also to the police.

21. If the Magistrate orders that a child surrendee be placed in a Protective Child Rehabilitation Centre and if such Protective Child Rehabilitation Centre is located in a judicial division other than the judicial division over which such Magistrate has jurisdiction,

- (a) such Magistrate shall transfer the record relating to such child surrendee to the Magistrate having jurisdiction over the area in which such Protective Child Rehabilitation Centre is located; and
- (b) the probation officer who has been assigned to monitor the progress of such child surrendee shall transmit all relevant records and reports relating to such child surrendee to the relevant probation officer having jurisdiction over the area in which such Protective Child Rehabilitation Centre is located.

22. (1) The officer in charge of the Protective Child Rehabilitation Centre in which such child surrendee is placed shall-

- (a) cause such child surrendee to be examined by a medical officer and take necessary measures to provide him with the necessary health care;
- (b) provide him with psychosocial counseling in accordance with the needs of such child surrendee identified in the social inquiry report prepared under regulation 18;
- (c) facilitate and encourage visits by and contact with his family at least once a month;
- (d) provide the necessary sustenance and physical care for the child surrendee;
- (e) assist the child surrendee to obtain the necessary identification and other documents which he is lawfully entitled to obtain and which he does not presently possess;
- (f) provide a child surrendee with education or appropriate vocational, technical and other training with a view to equipping him to pursue a career of his choice;
- (g) prepare quarterly reports, and submit them to the Magistrate, the probation officer and the Commissioner General of Rehabilitation, which reports shall contain information regarding any changes on the current status of the child surrendee, the training and facilities being accorded to him and the progress of such child surrendee;
- (h) the Provincial Commissioner of Probation and Child Care Services shall maintain a record substantially in Form No. 3 specified in the Schedule to these regulations in respect of each child surrendee.

(2) The officer in charge of the Protective Child Rehabilitation Centre shall maintain a record substantially in Form 4 specified in the Schedule to these regulations.

23. (1) The Magistrate to whom the reports referred to in regulation 18 are submitted shall-

- (a) review his decision to accommodate or place as the case may be any such child surrendee at a Protective Child Accommodation Centre or a Protective Child Rehabilitation Centre once a month in

the case of a Protective Child Accommodation Centre and once in three months in the case of a Protective Child Rehabilitation Centre to ensure proper monitoring of the progress and security of the child surrendee; and

- (b) where he is of the opinion that it would be more appropriate for such child surrendee to be accommodated at another centre in another district or returned to the custody, care and control of his parents or guardian, shall transfer such child surrendee to such other centre, or hand the child surrendee to the custody, care and control of his parents or guardian.

(2) The officer in charge of the Protective Child Rehabilitation Centre shall maintain a record substantially in Form No. 4 specified in the Schedule to these regulations.

24. In these regulations, unless the context otherwise requires-

“debt bondage” “forces or compulsory labour” and “slavery” shall have the same meaning as assigned to it in the penal Code (Chapter 19);

“Probation Officer”, “Child Rights Promotion Officer” and “Co-ordinator for the National Child Protection Authority” means respectively the Probation Officer, the Child Rights Promotion Officer and the Co-ordinator for the National Child Protection Authority who has jurisdiction over the area in which a child surrendee surrendered or in which he is accommodated or kept in a Protective Child Accommodation Centre or a Protective Child Rehabilitation Centre;

“Officer-in-Charge of the Police Station” means the officer-in-charge of the Police station having jurisdiction over the area in which the surrender took place;

“Magistrate” means the Magistrate having jurisdiction over the area in which the child surrendee surrendered or over the area in which the child surrendee is accommodated at a Protective Child Accommodation Centre or placed in a Protective Child Rehabilitation Centre as provided for in this regulation.”

Serial No.:

SCHEDULE

(Regulation 12 (1))

FORM No. 1

FORM TO BE USED IN RESPECT OF EACH CHILD SURRENDEE BY THE PERSON TO WHOM A CHILD SURRENDEE SURRENDERS OR BY WHOM A CHILD IS ARRESTED
(To be filled in Duplicate)

1.	Name	
2.	Age	
3.	Sex	
4.	Address	
5.	Date, time and place of surrender-arrest	
6.	Circumstances of Surrendee	
7.	Date, time and place of handing over to Police	
8.	Name and signature of officer handing over child surrendee	
9.	Name and signature of police officer receiving child surrendee	

FORM No. 2

(Regulation 12 (2))

FORM TO BE USED IN RESPECT OF EACH CHILD SURRENDEE BY THE OFFICER IN CHARGE OF THE POLICE STATION

1.	Name	
2.	Age	
3.	Sex	
4.	Address	
5.	Date, time and place of surrender-arrest	
6.	Date and time of notice to parents	
7.	Date and time of notice to Probation Officer	
8.	Date and time of notice to NCPA Coordinator	
9.	Whether kept separate from adult detainees	
10.	If female whether custody given to a female officer-give name of officer	
11.	Date and time of production before Government Medical Officer	
12.	Date and time of production before Magistrate	
13.	Name of police officer accompanying the child	
14.	Date and time of medical examination	
15.	Interim order by Magistrate	
16.	Date and time of notice sent to Commissioner General of Rehabilitation	

FORM No. 3

(Regulation 16 (2), 22 (1) (h), 18 (1) (h))

FORM TO BE USED IN RESPECT OF EACH CHILD SURRENDEE BY THE PROVINCIAL COMMISSIONER OF PROBATION AND CHILD CARE SERVICES

1.	Name	
2.	Age	
3.	Sex	
4.	Address	
5.	Date and time of notice from Police	
6.	Name of allocated Probation Officer	
7.	Whether interim assessment carried out and when reported to Court	
8.	Interim Order by Magistrate-date and placement	
9.	Whether full social inquiry carried out and when reported to Court	
10.	Reintegration order by Magistrate-date and placement	
11.	Placement reports-if received from Probation Officer-OIC Accommodation Centre or Rehabilitation Centre and if submitted to Magistrate Month 1	
12.	Months 2	

13.	Months 3 - 1st quarter	
14.	Months 4	
15.	Months 5	
16.	Month 6 - 2nd quarter	
17.	Month 7	
18.	Month 8	
19.	Month 9 - 3rd quarter	
20.	Month 10	
21.	Month 11	
22.	Month 12 - 4th quarter	

Form No. 4

(Regulation 23 (2))

FORM TO BE FILLED BY THE OFFICER IN CHARGE OF THE PROTECTIVE CHILD ACOMMODATION CENTRE

1.	Name	
2.	Age	
3.	Address	
4.	Health Care (Whether arrested and provided for)	
	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
	(8)	
	(9)	
	(10)	
	(11)	
	(12)	
5.	Psychological Counselling (Monthly Reports)	
	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
	(8)	
	(9)	
	(10)	
	(11)	
	(12)	
6.	Visits by Family members (Dates visited and Remarks)	
7.	Identification and other documents (whether provided)	
8.	Education (Monthly Reports)	
	(1)	
	(2)	
	(3)	
	(4)	

Form No. 4 (Contd.)

	(5)	
	(6)	
	(7)	
	(8)	
	(9)	
	(10)	
	(11)	
	(12)	
9.	Vocational Training (Monthly Reports)	
	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
	(8)	
	(9)	
	(10)	
	(11)	
	(12)	
10.	Other Training (Monthly Reports)	
	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
	(8)	
	(9)	
	(10)	
	(11)	
	(12)	