



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

**CHILDREN AND YOUNG PERSONS (AMENDMENT)
ACT, No. 39 OF 2022**

[Certified on 17th of November, 2022]

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Children and Young Persons (Amendment)
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L.D.—O. 26/2019

AN ACT TO AMEND THE CHILDREN AND YOUNG PERSONS
ORDINANCE (CHAPTER 23)

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 Children and Young Persons (Amendment) Act, No. 39 of 2022.

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.

(3) Different dates may be appointed for bringing into operation of different provisions of this Act.

(4) The provisions of this section shall come into operation on the date on which this Bill becomes an Act of Parliament.

2. (1) In the Children and Young Persons Ordinance (Chapter 23) (hereinafter referred to as the “principal enactment”) there shall be substituted—

Amendment of
Chapter 23 and
written law &
etc.

(a) for the words “Children and Young Persons Ordinance”, the words “Children’s Ordinance”;

(b) for the words “children and young persons”, the word “children”;

(c) for the words “child or young person”, the word “child”; and

(d) for the words “age of sixteen years”, the words “age of eighteen years”,

wherever such words appear in the principal enactment.

(2) In any other written law, there shall be substituted for the words “Children and Young Persons Ordinance”, “children and young persons” and “child or young person”, the words “Children’s Ordinance”, “children” and “child”, respectively, wherever those words occur in relation to the principal enactment.

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(3) Every reference to “Children and Young Persons Ordinance”, “children and young persons”, “child or young person” and “age of sixteen years” in any regulation or rule made under the principal enactment or notice, notification, contract, communication or other document issued under the principal enactment shall be read and construed as a reference respectively, to “Children’s Ordinance”, “children”, “child” and “age of eighteen years”.

Amendment of
section 9 of the
principal
enactment

3. Section 9 of the principal enactment is hereby amended as follows:—

(1) by the repeal of subsection (3) of that section; and

(2) in subsection (4) of that section-

(a) by the substitution, for the words “Where a young person is brought”, of the words “Where a child who is above the age of fourteen years is brought”; and

(b) by the substitution, for the words “the young person”, of the words “such child”, wherever those words appear in that subsection.

Amendment of
section 13 of the
principal
enactment

4. Section 13 of the principal enactment is hereby amended in the marginal note to that section, by the substitution for the words “children and young offenders”, of the word “children”.

Amendment of
section 15 of the
principal
enactment

5. Section 15 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section-

(a) by the substitution for the words “in due course of law:” of the words “in due course.”; and

(b) by the repeal of the proviso to that subsection; and

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- (2) by the substitution, in subsection (2) of that section, for the words “in the case of a young person” and “the young person may be committed to prison.”, of the words “in the case of a child who is above the age of sixteen years” and “such child who is above the age of sixteen years shall be placed in a remand home”, respectively.

6. The sub-heading appearing immediately before section 22 of Part II of the principal enactment is hereby repealed and the following sub-heading is substituted therefor:—

Amendment of
sub-heading of
Part II of the
principal
enactment

“CHILD OFFENDERS”.

7. Section 23 of the principal enactment is hereby repealed and the following section is substituted therefor: -

Replacement of
section 23 of the
principal
enactment

“Restrictions on punishment of children. 23. (1) A child shall not be ordered to be imprisoned for any offence or be committed to prison in default of payment of a fine.

(2) In the case of a child who has attained the age of sixteen years or above, where the probation officer is of the opinion that such child is so unruly a character and cannot be detained in a remand home or certified school or if such child is of so depraved a character that such child is not a fit person to be so detained, the court shall direct the probation officer to cause a psychological assessment to be made of such child by the medical experts and report to court.

(3) Where the report of a psychological assessment referred to in subsection (2) confirms that the child is not fit to be detained in a remand home, the court shall order such child to be detained in a training school for

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youthful offenders, notwithstanding the provisions relating to age and the period of detention specified in the Youthful Offenders (Training Schools) Ordinance (Chapter 25).”.

Amendment of
section 24 of the
principal
enactment

8. Section 24 of the principal enactment is hereby amended as follows:-

- (1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:-

“(1) Where in lieu of sentence of death, a sentence of detention has been passed by any court under section 53 of the Penal Code in respect of a person who is under the age of eighteen years at the time of the commission of an offence by such person, the court may order such person to be detained in a remand home for such period as may be specified in the sentence.”; and

- (2) by the repeal of subsection (3) of that section and the substitution therefor of the following subsection:-

“(3) A person detained pursuant to an order made by a court under section 53 of the Penal Code as referred to in subsection (1) or a direction made by the Minister under subsection (2) shall, while so detained be deemed to be in legal custody.”.

Amendment of
section 25 of the
principal
enactment

9. Section 25 of the principal enactment is hereby amended as follows:-

- (1) by the substitution, in subsection (1) of that section, for all the words from “may be specified in the order,” to the words “exceeding one month.”, of the following words:-

“may be specified in the Order:

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Provided however, in the case of a child who has attained the age of sixteen years or above, the provisions of subsection (2) and (3) of section 23 shall *mutatis mutandis* apply to and in relation to such child.”; and

- (2) by the substitution, in subsection (2) of that section, for the words and figures “under section 28(1) or section 29(1).”, of the words and figures “under section 28(1).”.

10. Section 26 of the principal enactment is hereby amended as follows:-

Amendment of
section 26 of the
principal
enactment

- (1) by the substitution, in subsection (1) of that section, for the words “a child who has attained the age of twelve years or a young person”, of the words “a child who has attained the age of twelve years”;
- (2) by the substitution, in subsection (2) of that section, for the words and figures “under section 28(1) or section 29(1).”, of the words and figures “under section 28(1).”; and
- (3) by the substitution, in the marginal note to that section, for the words “a child or young offender” of the words “a child offender”.

11. Section 27 of the principal enactment is hereby amended as follows:-

Amendment of
section 27 of the
principal
enactment

- (1) by the substitution, in subsection (2) of that section, for the words and figures “under section 28(1) or section 29(1).”, of the words and figures “under section 28(1).”; and
- (2) by the substitution, in the marginal note to that section, for the words “child or young offender” of the words “child offender”.

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Amendment of
section 28 of the
principal
enactment

12. Section 28 of the principal enactment is hereby amended, by the repeal of subsection (2) of that section.

Repeal of
section 29 of the
principal
enactment

13. Section 29 of the principal enactment is hereby repealed.

Amendment of
section 30 of the
principal
enactment

14. Section 30 of the principal enactment is hereby amended, by the substitution for the words and figures “sections 25 to 29,” of the words and figures “sections 25 to 28,”.

Amendment of
section 31 of the
principal
enactment

15. Section 31 of the principal enactment is hereby amended in the marginal note to that section, by the substitution for the words “child or young offender” of the words “child offender”.

Amendment of
section 32 of the
principal
enactment

16. Section 32 of the principal enactment is hereby amended as follows:-

(1) by the repeal of paragraph (b) of that section and the substitution therefor of the following paragraph:-

“(b) a child who has attained the age of sixteen years or above who has been ordered to be detained in a training school for youthful offenders and pardoned by the President on condition of his agreeing to undergo training in a school,”;

(2) in the proviso to that section-

(a) by the substitution, in paragraph (a) of that proviso, for the word “person”, of the word “child”; and

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(b) by the substitution, in paragraph (b) of that proviso, for the words “a young person”, of the words “a child”; and

(3) in the marginal note to that section, by the substitution for the words “children and young offenders”, of the words “child offenders”.

17. Section 42 of the principal enactment is hereby repealed and the following section is substituted therefor: -

Replacement of
section 42 of the
principal
enactment

“Duration of approved or certified school orders 42. Where a court orders a child to be sent to an approved or certified school, the order shall specify the duration of stay which shall not be more than three years and be an authority for such child’s detention in such approved or certified school, as the case may be, until the expiration of such period as is specified in such order.”.

18. Section 43 of the principal enactment is hereby amended in the marginal note to that section, by the substitution for the words “children or young persons”, of the word “children”.

Amendment of
section 43 of the
principal
enactment

19. Section 44 of the principal enactment is hereby amended, by the substitution for the words “age of nineteen years:”, of the words “age of twenty one years:”.

Amendment of
section 44 of the
principal
enactment

20. Section 45 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “not attained the age of fourteen years, until he attains the age of sixteen years.”, of the words “not attained the age of eighteen years, until he attains the age of twenty years.”.

Amendment of
section 45 of the
principal
enactment

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Insertion of new
section 51A in
the principal
enactment

21. The following new section is hereby inserted immediately after section 51 of the principal enactment and shall have effect as section 51A of the principal enactment:-

“Every new approved or certified school to have primary and secondary sections

51A. (1) In every approved or certified school, there shall be-

(a) a “primary section” in which children who have not attained the age of fifteen years shall be detained; and

(b) a “secondary section” in which children who have attained the age of fifteen years but not attained the age of eighteen years shall be detained.

(2) Where-

(a) a Magistrate makes an order under section 26; or

(b) the Minister makes an Order under section 32,

committing a child to an approved or certified school, such order under section 26 or order under section 32 shall, at the time of commitment, specify whether the child should be committed to the primary section or the secondary section of such school, depending on the age of the child:

Provided however, the manager of such school shall transfer a child who is in the primary section, to the secondary section upon such child reaching the age of fifteen years.”.

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- 22.** Section 55 of the principal enactment is hereby amended in subsection (1) of that section as follows:-
- Amendment of
section 55 of the
principal
enactment
- (1) by the substitution, in paragraph (a) of that subsection, for the words “(a) if he is”, of the words “(i) if he is”; and
 - (2) by the substitution, in paragraph (b) of that subsection, for the words “(b) if he has”, of the words “(ii) if he has”.
- 23.** Section 57 of the principal enactment is hereby amended, by the substitution for the words “the expressions “child” and “young person” mean”, of the words “the expression “child” means”.
- Amendment of
section 57 of the
principal
enactment
- 24.** Section 71 of the principal enactment is hereby amended, by the repeal of subsection (6) of that section.
- Amendment of
section 71 of the
principal
enactment
- 25.** Section 72 of the principal enactment is hereby amended as follows:-
- Amendment of
section 72 of the
principal
enactment
- (1) by the substitution, in subsection (1) of that section, for all the words from “of a young person” to the words “Penal Code,”, of the words “of a child, causes or encourages the commission in respect of such child of any offence under section 345, 360A, 363, 364, 364A, 365 or 365B of the Penal Code or any offence under the Obscene Publications Ordinance (Chapter 30),”;
 - (2) by the substitution, in subsection (2) of that section, for the words “in respect of a child or young person being a female, a person shall, if he has knowingly allowed her to consort with,” of the words “in respect of a child, a person shall, if he has knowingly allowed such child to consort with,”; and

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- (3) by the substitution, in the marginal note to that section, for the words “of girl under sixteen.”, of the words “of a child.”.

Amendment of
section 73 of the
principal
enactment

26. Section 73 of the principal enactment is hereby amended as follows:-

- (1) by the substitution for all the words from “care of a child” to the words “to reside”, of the words “care of a child allows that child to reside”; and
- (2) by the repeal of the marginal note to that section and the substitution therefor, of the following marginal note: -

“Allowing children
to be in brothels.”.

Amendment of
section 74 of the
principal
enactment

27. Section 74 of the principal enactment is hereby amended by the repeal of the marginal note to that section and the substitution therefor, of the following marginal note:-

“Causing or procuring
children to beg.”.

Repeal of
section 76 of the
principal
enactment

28. Section 76 of the principal enactment is hereby repealed.

Amendment of
section 80 of the
principal
enactment

29. Section 80 of the principal enactment is hereby amended by the repeal of subsection (3) of that section.

Amendment of
section 88 of the
principal
enactment

30. Section 88 of the principal enactment is hereby amended as follows:-

- (1) by the repeal of the definition of the expression “child” and the substitution therefor of the following definition: -

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

- (2) by the insertion, immediately after the definition of the expression “scheduled offence”, of the following definition: -

“ “training school for youthful offenders” means a training school established under the Youthful Offenders (Training Schools) Ordinance (Chapter 25);” and

- (3) by the repeal of the definition of the expression “young person”.

31. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency

