



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

**ASSISTANCE TO AND PROTECTION OF
VICTIMS OF CRIME AND WITNESSES
ACT, No. 4 OF 2015**

[Certified on 07th March, 2015]

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*Assistance to and Protection of Victims of
Crime and Witnesses Act, No. 4 of 2015*

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L.D.—O. 46/2007.

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 PROTECTION OF VICTIMS OF CRIME AND WITNESSES ; THE ESTABLISHMENT OF THE NATIONAL AUTHORITY FOR THE PROTECTION OF VICTIMS OF CRIME AND WITNESSES; CONSTITUTION OF A BOARD OF MANAGEMENT; THE VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND PROTECTION DIVISION OF THE SRI LANKA POLICE DEPARTMENT; PAYMENT OF COMPENSATION TO VICTIMS OF CRIME; ESTABLISHMENT OF THE VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND PROTECTION FUND AND 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. 4 of 2015.

Short title.

(2) The provisions of this Act, other than this section, shall come into operation on such date or dates as the Minister may appoint by Order published in the *Gazette*. Different dates may be appointed by the Minister for the coming into operation of different Parts of this Act.

PART I

OBJECTS OF THE ACT

2. The objects of this Act shall be to-

Objects of the Act.

(a) set out, uphold and enforce the rights and entitlements of victims of crime and witnesses and to provide for a mechanism to promote, protect, enforce and exercise such rights and entitlements ;

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- (b) provide assistance and protection to victims of crime and witnesses ;
- (c) enable victims of crime to obtain compensation from persons convicted of having committed offences against them ;
- (d) provide for obtaining redress by victims of crime, including restitution, compensation, reparation and rehabilitation of such victims ;
- (e) set out duties and responsibilities of the State, judicial officers and public officers towards the promotion and protection of the rights and entitlements of victims of crime and witnesses ;
- (f) stipulate offences that may be committed against victims of crime and witnesses and the penal sanctions that may be imposed on persons who commit such offences ; and
- (g) provide for the adoption and implementation of best practices relating to the protection of victims of crime and witnesses.

PART II

RIGHTS AND ENTITLEMENTS OF VICTIMS OF CRIME AND WITNESSES

Rights of
Victims of
Crime.

- 3.** A victim of crime shall have the right :—
- (a) to be treated with equality, fairness and with respect to the dignity and privacy of such victim ;
 - (b) where the victim is a child victim, to be treated in a manner which ensures the best interests of such child ;
 - (c) in accordance with procedures as may be prescribed, to receive prompt, appropriate and fair redress, including reparation and restitution, for and in consideration of any harm, damage or loss suffered as a result of being a victim of a crime ;

- (d) to be appropriately protected from any possible harm, including threats, intimidations, reprisals or retaliations ;
- (e) to be medically treated for any mental or physical injury, harm, impairment or disability suffered as a victim of a crime ;
- (f) upon a request made by such victim, to be informed—
 - (i) by the Authority or the Division, of the legal remedies available for the redress of any harm which he has suffered including civil remedies available for obtaining damages and relevant periods of prescription applicable thereto ;
 - (ii) without prejudice to any on-going investigations being carried out by the officer-in-charge of the relevant police station or other authority conducting the investigation, of the progress of the investigation being conducted into the complaint presented by the victim of crime, to such police station or other authority conducting the investigation ;
 - (iii) by the officer-in-charge of the relevant police station or other authority conducting an investigation, the Attorney-General or the Registrar of the Court, as the case may be, of the dates fixed for hearing and the progress and the disposal of judicial proceedings relating to the offence complained of by the victim of crime, including the non-summary inquiry, trial, appeal and application in revision and by the Authority of the rights and entitlements of the victim of crime pertaining to such proceedings ;
 - (iv) by the officer-in-charge of the relevant police station or other authority conducting

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an investigation, the Attorney-General, the Registrar of the Court or the Superintendent of Prisons, as the case may be, of the dates fixed for the—

- (a) release on bail ;
 - (b) discharge of the suspect ;
 - (c) institution of criminal proceedings against the accused ;
 - (d) the conviction, sentence or acquittal of the suspect or the accused; and
 - (e) the release from prison of the convict, who has committed or is alleged to have committed and offence against the victim of crime and the reasons therefore ; and
 - (v) by the Authority of the medical, social services and any other assistance that is or may be available for the treatment or amelioration of any harm caused to such victim of crime.
- (g) to present, either orally or in writing, a complaint pertaining to the commission of an offence and to have such complaint recorded by any police officer, in any police station or other unit or division of the Police Department and to have such complaint impartially and comprehensively investigated by the relevant investigating authority ;
- (h) without prejudice to any on-going investigation, to be represented by an Attorney-at-Law during an investigation, including criminal and forensic investigations and magisterial inquiries into the alleged offence committed against such victim and make necessary representations to the appropriate competent authorities who are conducting such investigations ;

- (i) without prejudice to any on-going or concluded investigation, to obtain certified copies of Cause of Death forms, Post Mortem Reports, Medico-Legal Reports, Reports of the Registrar of Finger Prints, Reports of the Government Analyst and any other report of an expert and reports filed in the Magistrate's Court by the Police, as required by sections 115, 116 and 120 of the Code of Criminal Procedure Act :

Provided however, where an application is made for the purpose of obtaining certified copies of reports referred to in this paragraph, the Magistrate to whom such application is made shall inquire from the police, whether the issue of such Reports would prejudice the on-going investigations, to which those Reports relate and where the release of any one or more of the Reports is likely to prejudice the on-going investigation, the Magistrate shall refuse the issue of such Report or Reports ;

- (j) to present written communications or make representations through legal counsel to the Attorney-General, before, during and after the investigation into the offence alleged to have been committed against such victim, and before and during the conduct of judicial proceedings, including at the non-summary inquiry, trial and appeal ;
- (k) to present written communications or make representations through legal counsel to an investigator, who is conducting an investigation into the offence committed against such victim of crime, and to be entitled to receive a response in regard to such communications or representations made ;
- (l) to be present at all judicial or quasi-judicial proceedings relating to an offence, including at the non-summary inquiry, trial, appeals and any application in revision, unless the court, Commission or other tribunal determines, for reasons to be recorded that such victims evidence would be

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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 from being present during the hearing of certain parts of such proceedings ;

- (m) to receive any assistance and information required to attend and participate at judicial or quasi-judicial proceedings pertaining to the offence committed against him ;
- (n) without prejudice to the prosecution, to be represented by legal counsel at the several stages of the criminal proceedings relating to the offence, including at the non- summary inquiry, trial, appeal and application in revision, and where a request is made, to be provided where available with legal assistance for such purposes ;
- (o) following the conviction of the offender and prior to the determination of the sentence, either personally or through legal counsel, to submit to court the manner in which the offence concerned had impacted on his life, including his body, state of mind, employment, profession or occupation, income, quality of life, property and any other aspects concerning his life ;
- (p) in the event of an appeal or application in revision being presented by a person convicted of having committed an offence, either personally or through legal counsel, to submit to court that adjudicates upon such appeal or application in revision, the manner in which the offence concerned had impacted on his life, including his body, state of mind, employment, profession or occupation, income, quality of life and property and any other aspects concerning his life ; and

- (q) in the event of any person in authority considering the grant of a pardon or remission of sentence imposed on any person convicted of having committed an offence, to receive notice thereof and submit through the Authority to the person granting such pardon or remission, the manner in which the offence committed had impacted on his life including his body, state of mind, employment, profession or occupation, income, quality of life, property and any other aspects concerning his life.

4. (1) A victim of crime shall be entitled to receive a sum of money from the Authority, in consideration of the expenses incurred as a result of the offence committed and his participation in any judicial or quasi-judicial proceedings before a court or Commission, pertaining to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.

Entitlements of
a victim of
crime.

(2) Where necessary resources are available with the State, a victim of crime shall be entitled to claim and obtain from the State any required medical treatment, including appropriate medical services, medicine and other medical facilities, in respect of physical or mental injury, harm, impairment or disability suffered as a result of being a victim of crime and for necessary rehabilitation and counseling services.

(3) Where due to absence or lack of necessary resources the State is unable to provide the services claimed by a victim of crime under subsection (2), such victim shall be entitled to apply to the Authority for financial assistance for the purpose of obtaining the required medical treatment for any physical or mental harm, injury or impairment suffered as a result of being a victim of crime and for any necessary rehabilitation and counseling services.

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Entitlements of
witnesses.

5. (1) A witness shall be entitled to receive from investigational, quasi-judicial and judicial authorities fair and respectful treatment, with due regard to the dignity and privacy of such witness.

(2) A witness shall not be harassed or intimidated, coerced or violated during or thereafter, due to or as a consequence of-

- (a) providing information relating to the commission of an offence or to the infringement of any fundamental right or the violation of any human right ;
- (b) volunteering to make a statement during an investigation into any offence or an investigation or inquiry into the infringement of any fundamental right or the violation of any human right ; or
- (c) providing testimony in a court or before a Commission relating to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.

(3) A witness shall be entitled to protection against any real or possible harm, threat, intimidation, reprisal or retaliation resulting from such witness having provided information or lodged a complaint or made a statement to any law enforcement authority or for having provided any testimony in any Court or before a Commission or for instituting legal proceedings, pertaining to the commission of an offence or for the infringement of a fundamental right or for a violation of a human right, by any person.

Persons to be
entitled to
protection in
certain
circumstances.

6. A person who is neither a victim nor a witness, shall be entitled to claim protection against :

- (a) any harassment, intimidation, coercion, violation or suffering from loss or damage in mind, body or reputation ; or

(b) any adverse change to his condition of employment,

due to or as a result of such person having provided information, lodged a complaint or made a statement to any law enforcement authority or to any Court or Commission or of having given a testimony in any Court or before a Commission, pertaining to the commission of an offence or an infringement of any fundamental right or the violation of a human right, at such persons' place of employment or in the employment environment of such person.

7. It shall be the duty of every public officer including the members of the armed forces and police officers and every judicial officer, to recognize, protect and promote rights and entitlements referred to in sections 3, 4, 5 and 6 of this Act.

Duty of public and judicial officers to respect etc. rights and entitlements.

PART III

OFFENCES AGAINST VICTIMS OF CRIME AND WITNESSES

8. (1) Any person who-

Offences against victims of crime and witnesses.

(a) threatens a victim of crime or a witness with injury to his person, reputation or property or to the person or reputation or property of any other in whom such victim of crime or witness has an interest, with the intention of causing alarm to such victim of crime or witness or to cause such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement authority or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person ; or

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- (b) voluntarily causes hurt to a victim of crime or a witness, with the intention of causing such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement authority, or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in any court of law or before a Commission, against such person,

commits an offence, and shall on conviction by a High Court, be sentenced to a term of imprisonment not exceeding ten years and to a fine of rupees twenty thousand.

(2) Any person who—

- (a) voluntarily causes grievous hurt to a victim of crime or a witness ; or
- (b) wrongfully restrains a victim of crime or a witness,

with the intention of preventing such victim of crime or witness from lodging a complaint against such person with a law enforcement authority or from testifying in any judicial or quasi-judicial proceedings against such person, or compelling such victim of crime or witness to withdraw a complaint lodged or a legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in a Court of law or before a Commission against such person, commits an offence,

and shall on conviction by a High Court be sentenced to a term of imprisonment not exceeding twelve years and to a fine of rupees thirty thousand.

(3) Any person who—

- (a) by force compels or by any deceitful means, abuse of authority or by any other means of compulsion, induces any victim of crime or a witness to leave any place ; or
- (b) intends to cause or knowing that he is likely to cause wrongful loss, damage or destruction to the property of a victim of crime or a witness, causes such loss, damage or destruction to the property of that victim of crime or witness,

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 in any judicial or quasi-judicial proceedings or in retaliation for a statement made to a law enforcement authority or the testimony made against such person in any judicial or quasi-judicial proceedings by such victim of crime or witness, commits an offence, and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding twelve years and to a fine of rupees thirty thousand.

(4) A person who causes—

- (a) any harassment, intimidation, coercion, violation, physical or mental suffering, loss or damage to the reputation of another person ; or

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- (b) an adverse change being made to the conditions of employment in the place of employment of such other person,

due to or as a result or consequence of such other person having provided any information or lodged a complaint or made a statement to any law enforcement authority or to any Court or Commission or having provided testimony in any Court or before a Commission or instituted legal proceedings pertaining to the commission of an offence or the infringement of a fundamental right or the violation of human rights of such person, commits an offence and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of rupees fifteen thousand.

(5) Any person who—

- (a) having received information given for the purpose of commencing or conducting an investigation into an offence ;
- (b) having gathered information in the course of an investigation into an offence ; or
- (c) having received such information referred to in paragraphs (a) and (b) from any other person,

provides, issues or gives to a third person or publishes or otherwise disseminates any such information or part thereof regarding the identity of the relevant victim of crime or a possible witness or informant who provided such information and thereby places the life of such victim of crime,

witness or informant in danger, other than in good faith and in accordance with or in compliance with—

- (a) any provisions or procedures established by law ;
- (b) an order made by a judicial officer ; or
- (c) a directive issued by a person duly authorized to do so by or under any law,

commits an offence, and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of rupees fifteen thousand.

(6) 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—

- (a) intending or preparing to institute legal proceedings against such person for having committed such offence ; or
- (b) likely to provide information or testimony against such person to any law enforcement authority, Commission or court,

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 who is alleged, suspected or accused of having committed the offence, commits an offence, and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of rupees fifteen thousand.

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(7) Any person who with the intention of obtaining any protection or assistance from the Authority, the police including the Division, a Court or a Commission, provides any information knowing or having reasonable grounds to believe that such information is false, commits an offence, and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of rupees fifteen thousand.

(8) Any person who is in charge of or participating or assisting in providing protection to a victim of crime or to a witness or who otherwise is in possession of information relating to the protection being afforded to a victim of crime or a witness, provides, issues or gives to another person such information and thereby places the life of such victim of crime or witness in danger, other than in good faith and in accordance with or in compliance with—

- (i) any provisions or procedures established by law ;
- (ii) an order made by a judicial officer ; or
- (iii) a directive issued by a person duly authorized to do so by or under any law,

commits an offence, and shall on conviction by the High Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of rupees fifteen thousand.

Attempting or instigating the commission of an offence under section 8, to be an offence.

9. Any person who attempts to commit, instigates or intentionally aids any other person to commit or engages in any conspiracy for the commission of any offence referred to in section 8, shall be guilty of an offence and shall on conviction by the High Court be sentenced to the same punishment provided for that offence, by that section.

10. (1) (a) An offence under section 8 or 9 shall be cognizable and non-bailable and no person suspected, accused or convicted of such and offence shall be enlarged on bail, unless under exceptional circumstances by the Court of Appeal.

An offence under section 8 and 9 to be cognizable and non-bailable.

(b) When enlarging a person on bail, the Court of Appeal shall have the power to impose a condition prohibiting communication with or coming into close proximity with the person in respect of whom the suspect is alleged to have committed the offence, and with any other persons who may be specified in the order granting such bail.

(2) A trial against a person accused of having committed any offence under section 8 or under section 9 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 during the course of such trial, except due to unavoidable circumstance 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 of any offence alleged to have been committed by him, has committed an offence under section 8 or section 9, the bail granted to such person by the Court which conducted the inquiry shall be cancelled and such person shall be placed on remand till the end of the trial in respect of the offence which he had been enlarged on bail.

PART IV

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

11. (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.

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

Board of
Management of
the Authority.

12. (1) The administration and management of the affairs of the Authority shall be vested in a Board of Management (hereinafter referred to as the “Board”) which shall consist of:—

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

- (i) the Secretary to the Ministry of the Minister in charge of the subject of justice or an Additional Secretary to the said Ministry, nominated by such Secretary;
- (ii) the Secretary to the Ministry of the Minister in charge of the Police Department or an Additional Secretary to the said Ministry, nominated by such Secretary;
- (iii) the Secretary to the Ministry of the Minister in charge of the subject of Women’s Affairs or an Additional Secretary to the said Ministry, nominated by such Secretary;
- (iv) the Secretary to the Ministry of the Minister in charge of the subject of Children or an Additional Secretary to the said 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;
- (vi) a nominee of the Attorney-General; and

- (vii) a nominee of the Inspector General of Police holding the rank of a Senior Deputy Inspector General of Police:

Provided that where the subjects specified in sub-paragraphs (iii) and (iv) of this paragraph are assigned to or remain in charge of a single Minister, the Secretary to the Ministry of that Minister alone shall be eligible to become a member of the Board under this paragraph;

- (b) five appointed members, selected from among persons who are academically or professionally qualified and have experience in professions or fields of professional activity associated with criminology, the criminal justice system, the promotion and protection of human rights or medicine appointed by the President.

(2) The President shall, designate as the Chairman of the Board, a member from among the members of the Board who shall also be the chairman of the Authority.

(3) The provisions of the Schedule to this Act shall apply to and in relation to the appointment of the members of the Board, the meetings of the Board, remuneration payable to the members and the seal of the Board.

13. (1) The duties and functions of the Authority shall be to—

Duties and
functions of the
Authority.

- (a) promote the recognition of and respect for the rights of victims of crime;
- (b) promote the recognition of and respect for the entitlements of witnesses;

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- (c) protect or cause to be protected the rights of victims of crime and entitlements of witnesses;
 - (d) on receiving a complaint or any information regarding an alleged infringement or imminent infringement of any right or entitlement of a victim of crime or a witness, investigate and inquire into such alleged infringement or imminent infringement and to require any relevant authority to take such appropriate corrective measures in that regard, in order to ensure the protection and promotion of the rights and entitlements of victims of crime and witnesses provided by this Act;
 - (e) provide necessary assistance to victims of crime and witnesses, including appropriate measures for their treatment, reparation, restitution and rehabilitation;
 - (f) make an award for payment of compensation to a victim and for that purpose develop and implement a scheme for the grant of compensation to victims of crime from the Victims of Crime and Witnesses Assistance and Protection Fund established under section 29 of this Act;
 - (g) create awareness among the public regarding the rights and entitlements of victims of crime and witnesses provided by this Act;
 - (h) advice and make recommendations to the Sri Lanka Police Department and any other government department, statutory institution and to public officers, either generally or on a case by case basis, on appropriate and specific measures that should be adopted or implemented to give effect to the rights and entitlements of victims of crime and witnesses and in particular regarding the provision of—
 - (i) effective protection;

- (ii) necessary treatment, rehabilitation and counseling; and
 - (iii) other appropriate assistance,
- to victims of crime and witnesses.
- (i) review existing policies, legislation and the practices and procedures being adopted and followed by various authorities, to ensure their conformity with recognized standards and best practices relating to the promotion and protection of the rights and entitlements of victims of crime and witnesses, and based on such review, to make recommendations regarding the adoption, amendment and application of appropriate policies, legislation and practices;
 - (j) make available on request to any Court or a Commission or any other person information on best practices pertaining to the reception of evidence of victims of crime or witnesses through contemporaneous or near contemporaneous audio-visual linkage;
 - (k) take measures to sensitize public officers involved in the enforcement of the law, including officers of the Sri Lanka Police, the Prisons Department, government medical officers and public officers associated with probation and social services, on the needs of victims of crime and witnesses and on any special needs of particular categories of victims of crime, arising as a result of the harm inflicted or possible harm that may be inflicted on them due to their age, gender, religion, language, cultural beliefs and practices, ethnic or social origins or disabilities or any other reason;
 - (l) promote and ensure the observance and application of codes of conduct and recognized norms and best practices relating to the protection of the rights and

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entitlements of victims of crime and witnesses, by Courts, Commissions, any other tribunals, public officers and employees of statutory bodies involved in the enforcement of the law, including officers of the Sri Lanka Police, the Prisons Department, government medical officers and officers of government social service institutions;

- (m) conduct or promote the conduct of research into ways and means in which—
- (i) incidents of crime can be reduced;
 - (ii) impact of specific crimes on victims could be minimized or prevented;
 - (iii) victims of crime can be effectively treated, rehabilitated, counseled, assisted, compensated and protected;
 - (iv) a conducive environment could be created for witnesses to make statements before the law enforcement authorities or to testify fearlessly at proceedings before courts, any Commissions and other tribunals; and
 - (v) assistance and protection could be provided to victims of crime and witnesses;
- (n) recommend to appropriate government institutions, social, health, educational, economic and crime prevention policies that may be adopted by such institutions for the reduction of incidents of crime and for facilitating assistance and protection being provided to victims of crime and witnesses;

- (o) promote the development, adoption and implementation of measures of restitution to victims of crime as a sentencing option in the criminal justice system;
- (p) promote the development and implementation of measures of restorative justice as a method of administering criminal justice and as a sentencing option in the criminal justice system;
- (q) develop, adopt and implement a scheme for providing assistance and protection to victims of crime and witnesses;
- (r) issue guidelines pertaining to the establishment and maintenance of the Victims of Crime and Witnesses Assistance and Protection Division;
- (s) present annually to Parliament, a report on the:—
 - (i) manner in which the Authority has given effect to the objects of this Act;
 - (ii) performance and discharge of the duties and functions of the Authority; and
 - (iii) proposals for necessary policy and legislative reforms.
- (t) do or perform any further functions and activities that may be necessary to achieve the objects of this Act.

(2) Where the Authority makes any recommendations to any person or authority or requires any person or authority to carry out any measures under subsection (1), it shall be the duty of such person or authority:—

- (a) to give effect to such recommendation or carry out such measure and report back to the Authority of such fact; or

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- (b) where the person or the authority concerned is unable to give effect to the recommendations or carry out the measures, to report back to the Authority of such inability, giving reasons for the same.

(3) For the purpose of ensuring that any recommendations or the measures are given effect to or carried out adequately and in a proper manner by the person or authority concerned under paragraph (a) of subsection (2), the Authority shall monitor all activities performed by such person or authority in giving effect to the recommendations or carrying out the measures concerned.

Powers of the
Authority.

14. (1) The Authority shall have the power—

- (a) for the purpose of conducting an investigation or an inquiry into an alleged or an imminent infringement of a right or entitlement of a victim of crime or witness, to:—

- (i) require any person other than a judicial officer or a Commissioner of a Commission to appear before the Authority and to participate in an investigation or inquiry;
- (ii) require any person other than a court or a Commission, to produce before the Authority any document, a certified copy thereof or other material in his or its possession or custody, including the reports of investigations, information book, extracts and officers visiting book extracts of the police, for examination and copying;

- (iii) require any person other than a court or a Commission to provide to the Authority in writing, any information which it or he is likely to possess;
- (iv) interview and record the statement of any person other than that of a judicial officer or a Commissioner of any Commission;
- (v) make an application to any court or Commission and be entitled to obtain certified copies of any proceedings of any case, action or other proceedings of such Court or Commission and documents and other material that may be filed of record in a case record or a file of such court or Commission;
- (vi) enter into, inspect, examine or observe and record any event, location or process taking place in any place, including an investigation, inquiry, trial or other proceeding;
- (vii) make an appropriate order and to direct, advice or recommend the adoption of such measures for the promotion or protection of the rights and entitlements of the victim of crime or a witness or for remedying any damage caused as a result of the infringement of the rights or entitlement of the relevant victim of crime or the witness;

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- (b) acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any movable or immovable property;
- (c) enter into such contracts as may be necessary for the performance and discharge of its duties and functions;
- (d) invest monies lying to the credit of its Fund in an appropriate and secure manner and open and maintain current, savings or deposit accounts in banks;
- (e) appoint, dismiss and exercise disciplinary control over officers, consultants and advisors as may be necessary for the proper performance and discharge of its duties and functions;
- (f) subject to the provisions of section 24(3), solicit, accept and receive donations, gifts, bequests and grants from sources within or outside Sri Lanka and to apply the same for the proper discharge of its duties and functions;
- (g) exercise all such other and further powers as may be necessary for the proper performance and discharge of its duties and functions under this Act.

(2) Any person who fails to comply with any requirement imposed by the Authority under paragraph (a) of subsection (1) shall be guilty of an offence of contempt of the Authority.

(3) Every offence of contempt committed against the Authority shall be punishable by the Supreme Court as though it were an offence of contempt committed against the authority of that Court and the Supreme Court is hereby vested with jurisdiction to try every such offence.

(4) Where the Authority determines that a person is guilty of an offence of contempt under subsection (2), against the Authority, the Authority may transmit to the Supreme Court, a certificate setting out such determination. Every such Certificate shall be signed by the chairman of the Authority.

(5) In any proceedings for the punishment of an offence of contempt which the Supreme Court may think fit to take cognizance of, as provided in this section, any document purporting to be a certificate signed and transmitted to the Court under subsection (4) shall—

- (a) be received in evidence, and be deemed to be such a certificate without further proof, unless the contrary is proved; and
- (b) be evidence that the determination set out in the certificate was made by the Authority and of the facts stated in the determination.

(6) In any proceeding taken as provided in this section for the punishment of any alleged offence of contempt against the Authority no member of the Authority shall, except with his own consent and notwithstanding anything to the contrary in this Act, be summoned or examined as a witness.

15. (1) There shall be a Director-General of the Authority who shall be a person professionally qualified and experienced in professional activity associated with the criminal justice system or law enforcement.

Appointment of
Director-
General.

(2) The Director-General shall be appointed by the Board.

(3) The Director-General shall be the chief executive officer of the Authority and shall be responsible for carrying out all such duties necessary for the management and administration of the affairs of the Authority.

(4) The Board may delegate to the Director-General any of the duties and functions of the Authority and such of its powers as may become necessary, to perform and discharge the duties and functions so delegated.

Investigations
and Inquiries.

16. (1) An investigation by the Authority into any complaint or information regarding an alleged infringement or imminent infringement of a right or entitlement of a victim of crime or of a witness, shall be carried out on its behalf by an officer of the Authority, nominated by the Authority who shall submit the report of such investigation including the notes of such investigation to the Board.

(2) (a) where the Board is of the opinion that such report discloses an alleged infringement or imminent infringement of a right or entitlement of a victim of crime or of a witness, the Board shall appoint a Panel consisting of three members of the Board, elected by the members from among themselves to conduct an inquiry;

(b) the Board shall nominate one of the members of the Panel to be its Chairman.

(3) The provisions of sub-paragraphs (i) to (iv) of paragraph (a) of section 14 shall apply to and in respect of the conduct of an inquiry by a Panel.

(4) In the case of a division of opinion among the members of the Panel regarding any matter being inquired into by it, the opinion of the majority shall prevail.

(5) At the conclusion of an inquiry under this section, the Panel shall submit to the Board a report on the same, along with its recommendations on the matter inquired into.

(6) On receipt of the report of a Panel, the Board shall take such action on the same as to it shall deem fit and appropriate.

- 17.** In the conduct of an inquiry under this Act, the panel may be assisted by the Director-General.
- Director-General to assist in the inquiry.
- 18.** (1) The Authority shall have its own Fund.
- Fund of the Authority and its financial year.
- (2) There shall be credited to the Fund of the Authority:—
- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Authority; and
- (b) all such sums of money as may be received by the Authority by way of donations, gifts, bequests and grants from sources within or outside Sri Lanka.
- (3) All sums of money required to defray expenditure incurred by the Authority in the exercise and performance of its duties and functions under this Act, shall be paid out of the Fund of the Authority.
- (4) The Board shall cause proper accounts to be kept of the receipts and expenditure, assets and liabilities and all other transactions of the Authority.
- (5) The financial year of the Authority shall be the calendar year.

PART V

VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND PROTECTION DIVISION.

- 19.** (1) The Inspector General of Police shall, in consultation with and following such guidelines as shall be issued by the Authority for the purpose, establish and maintain a Division to be called the '*Victims of Crime and Witnesses Assistance and Protection Division*' (in this Act referred to as the "Division"), for the purpose of providing assistance and protection to victims of crime and witnesses.
- Victims of Crime and Witnesses Assistance and Protection Division.

(2) A Senior Superintendent of Police, who comes under the supervision of the nominee of the Inspector General of Police appointed as a member of the Board referred to in section 12(1) (a) (vii) shall be placed in charge of the Division.

(3) The duties of the Division shall be to—

- (a) provide effective and necessary protection to victims of crime and witnesses ; and
- (b) investigate by itself or with the assistance of any other police officer, into, complaints, allegations or information pertaining to threats, reprisals, intimidations, retaliations or any harm, harassment, coercion or violation being committed on victims of crime and witnesses and their property and any offence committed under section 8 or section 9 of this Act.

Victims of Crime
and Witnesses
Assistance and
Protection
programme.

20. (1) The Division shall draw up and implement in compliance with the guidelines issued by the Authority for that purpose, a '*Victims of Crime and Witnesses Assistance and Protection Programme*' which shall provide for taking effective measures necessary to assist and protect victims of crime and witnesses, from potential or existing threats, harm, reprisals, retaliations and intimidations.

(2) It shall be the duty of the Division to take all such steps as may be necessary to create awareness among the public about the Victims of Crime and witnesses Assistance and Protection Programme drawn up by it under subsection (1), including what action may be taken by a victim of crime or a witness in the event of facing any threat, harm, reprisal, retaliation, intimidation and the manner in which victims of crime or witnesses may apply for and obtain assistance and protection under such Programme.

(3) The Division may undertake the admission of a victim of crime or witness into its Victims of Crime and Witnesses Assistance and Protection Programme, on:—

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

(4) The provision of assistance and protection to a victim of crime or witness shall be effected by the Division after the conduct of a threat assessment and with the consent of the victim of crime or witness concerned.

(5) Prior to the implementation of the Victims of Crime and Witnesses Assistance and Protection Programme, the Division may require the victim of crime or witness concerned, to enter into a memorandum of understanding with the Division.

PART VI

ENTITLEMENT OF A VICTIM OF CRIME OR WITNESS TO OBTAIN PROTECTION

21. (1) A victim of crime or a witness who has reasonable grounds to believe that any harm may be inflicted on him due to his cooperation with, or participation in, any investigation or inquiry into an offence or into the infringement of a fundamental right or the violation of a human right being conducted or his intended attendance at or participation in any judicial or quasi-judicial proceeding, shall be entitled to seek protection from such real or anticipatory harm.

Duty to provide protection to victims of crime and witnesses.

(2) A request for protection under subsection (1), may be made to the Authority, the Division, a Court before which the relevant judicial proceedings are scheduled to commence or where proceedings are pending or have been conducted, to a Commission or to the officer-in-charge of any police station.

Nature,
commencement,
duration and
termination of
the grant of
protection.

22. (1) Upon a consideration of the need for protection, the availability of necessary resources and subject to the prevailing laws, the measures that the Authority, the Division or a Commission, may provide to a victim of crime or a witness may include—

- (a) security to the person and property;
- (b) temporary accommodation including shelters;
- (c) permanent re-location with the consent of the victim of crime or witness as the case may be;
- (d) temporary or permanent employment;
- (e) re-identification;
- (f) any other measure which the Authority, the Division or a Commission, shall consider necessary.

(2) The Authority, the Division or a Commission, may provide protection to any victim of crime or any witness immediately upon the receipt of any information or complaint from such person, whether during or after the conduct of a criminal investigation, before, during or after any investigation or inquiry by a Commission and before, during or after any judicial proceedings.

(3) When providing protection or assistance to any victim of crime or witness, the Division shall act in accordance with the advice and recommendations made by the Authority.

(4) Where a request is made by the Division to any Ministry, Government Department, statutory institution or any public officer for assistance in providing protection or assistance to any victim of crime or a witness, it shall be the duty of such Ministry, Government Department or statutory institution or such public officer, unless unable to do so for reasons assigned, to provide the protection or assistance directly to the victim of crime or the witness concerned or to provide the assistance requested for by the Division.

(5) The Authority, the Senior Superintendent of Police in charge of the Division or a Commission shall cease to provide protection or assistance to any victim of crime or witness, where—

- (a) the need for such protection or assistance no longer exists; or
- (b) such victim of crime or witness—
 - (i) requests that such protection or assistance be terminated;
 - (ii) refuses to receive such protection or assistance;
 - (iii) abuses the protection or assistance granted;
 - (iv) commits any breach of the peace or commits an indictable offence;
 - (v) acts contrary to the terms of the memorandum of understanding entered into; or
 - (vi) is found to have provided any false information, statement, complaint or testimony in order to obtain protection or assistance or having obtained assistance or protection in terms of this Act, provides false information, statement, complaint or testimony to any law enforcement Authority, Court or Commission.

Officer in charge of a police station to take necessary steps on receipt of a request by a victim of crime or a witness.

23. An officer-in-charge of a police station who is in receipt of a request made under section 21, shall take necessary steps to forthwith investigate or inquire into the request received and if circumstances so require, immediately provide any necessary protection and communicate the receipt of such request and information pertaining to action taken by him following the receipt of such request, including his findings pertaining to the information received, to the Authority and to the Division.

Authority or a Commission to protect vulnerable victims and witnesses.

24. (1) With the view to protecting the interests of vulnerable victims of crime or witnesses under exceptional circumstances, the Authority may, either acting on a notification received from a Court or from a Commission or on its own motion, by itself or with the assistance of any designated public officer or any other person or organization, directly provide protection to such a victim of crime or a witness.

(2) (a) With the view to protecting the interest of vulnerable victims of crime or witnesses, a Commission may, after prior notice to the Authority, acting on a request by a victim of a crime or a witness or on its own motion by itself or with the assistance of any designated public officer, directly provide protection to such a victim of crime or a witness, whose statement or testimony the Commission intends to record or has already recorded.

(b) In the situation referred to in paragraph (a), the Division shall provide protection to the victim of crime or witness, only with the prior approval of the Commission concerned and after the issue to the Authority of a notice pertaining to the same.

- (c) In a situation where a Commission decides by itself or with the assistance of a designated public officer to provide protection to a victim of crime or witness, the Commission shall not obtain for such purpose the advice, services or assistance, including resources, from any person other than a public officer:

Provided however, the Commission may at any time transfer the responsibility of providing protection to such a victim of crime or a witness, to either the Authority or the Division, and where the responsibility is so transferred, it shall be the duty of the Authority or the Division, to undertake to provide the necessary protection to such a victim of crime or witness.

(3) The Authority, the Division or a Commission shall not solicit or obtain any assistance from any foreign government or national, foreign or international organization, in providing assistance or protection to a victim of crime or a witness, without the prior sanction of the Attorney-General and the Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs the grant of which shall be considered and decided upon by the Attorney-General and such secretary as expeditiously as possible.

25. (1) A Court or a Commission which has reasonable grounds to believe that a victim of crime or a witness in any judicial or quasi-judicial proceeding before such court or before such Commission, requires assistance or protection from harm, threat, reprisal, retaliation or intimidation or assistance to attend and participate in such judicial or quasi-judicial proceedings, such Court or the Commission shall, subject to the provisions of subsection (2), take all necessary steps to cause such assistance and protection to be provided to such victim of crime or witness.

Protection to be prescribed by Courts and Commissions.

(2) The protection and assistance that may be provided to any victim of crime or witness under subsection (1), shall not cause any prejudice to the rights and entitlements of the person suspected or accused of the offence concerned or the infringement of the fundamental right or the violation of the human right, of the victim of crime or witness concerned.

(3) The protection and assistance that may be provided under subsection (1), may include:—

- (a) the adoption of special measures to protect the rights of children and to ensure the best interests of child victims of crime and child witnesses.
- (b) the conduct of either the entirety or part of the judicial or quasi- judicial proceedings in camera;
- (c) the adoption of measures necessary to prevent the victim of crime or the witness concerned from being unnecessarily harassed, intimidated, coerced, violated or influenced by seeing the accused present at the venue of the trial or inquiry;
- (d) the prevention of the identity of and the background information pertaining to the victim of crime or the witness from being disclosed; and
- (e) the adoption of appropriate measures to prevent disclosure of the identity and the entirety or part of the testimony of such victim of crime or witness, to persons other than the accused concerned and his legal representative. The measures adopted shall include the power to direct media institutions, media personnel and other specified persons from publishing, broadcasting, telecasting or otherwise disseminating information pertaining to the identity of the victim of crime or the witness concerned.

(4) Notwithstanding the provisions of subsection (1), a Court or a Commission may by a notification issued in that behalf, request the Authority or the Division to provide to a victim of crime or a witness the protection referred to therein. On receipt of such a request, it shall be the duty of the Authority or the Division to take all necessary measures to provide the protection requested for to the victim of crime or the witness concerned, where after conducting any necessary inquiries it is of the view that the need to provide such protection, is well founded.

26. A law enforcement authority or any public officer, who has reasonable grounds to believe that a victim of crime or a witness requires assistance or protection from any possible harm, threat, reprisal, retaliation or intimidation in attending and participating in any judicial or quasi-judicial proceedings, such law enforcement authority or the public officer shall forthwith issue a communication to that effect to the Authority and to the Division.

Protection to be provided by law enforcement authorities and public officers.

27. (1) Any victim of crime or a witness who has received any assistance or protection under this Act, shall not—

Duties of victims of crime and witnesses receiving protection and assistance.

- (a) abuse such assistance or protection granted;
- (b) provide false information or testimony to any investigating agency, a Court or a Commission; or
- (c) act contrary to the terms of the memorandum of understanding entered into with the Authority, the Division or the Commission, which provided the assistance or protection concerned.

(2) Where a victim of crime or witness acts in contravention of the provisions of subsection (1), any officer or authority who or which provided assistance or protection under this Act to such victim of crime shall discontinue the assistance or protection provided to such victim of crime or witness under this Act.

PART VII

COMPENSATION

Compensation. **28.** (1) Notwithstanding anything to the contrary in the Judicature Act and the Code of Criminal Procedure Act, every High Court and every Magistrate's Court may upon conviction of a person by such Court, in addition to any penal sanction that may be imposed on such person in respect of the offence for which he is convicted, order the convicted person to pay to Court—

- (a) (i) an amount not exceeding one million rupees to be paid as compensation to the victim of crime or witness concerned; or
- (ii) a sum of money not exceeding twenty per centum of the maximum fine payable for that offence; or
- (b) both the compensation and the sum of money referred to in paragraph (a).

(2) Prior to arriving at a determination on the quantum of compensation to be imposed under sub paragraph (i) of paragraph (a) of subsection (1), the High Court or the Magistrate's Court shall call for, examine and consider:—

- (a) all relevant information relating to the victim of crime, including the report of the Government Medical Officer who has examined the victim, that may enable the Court to determine the nature and the extent of the damage, loss or harm that the victim of crime may have suffered as a result of being subjected to the offence the person convicted of had been charged with;

- (b) representations or submissions made by the victim of crime or his legal representative, relating to the impact of the crime on such victim; and
- (c) information pertaining to any compensation that may have already been paid to such victim of crime by any court, by the Authority or otherwise received by him from any other source.

(3) The presiding Judge of the High Court or the Magistrate shall, remit the money paid under:—

- (a) sub paragraph (i) of paragraph (a) of sub section (1) as compensation to the victim of crime concerned or to his next of kin or dependents;
- (b) sub paragraph (ii) of paragraph (a) of sub section (1) to the Victims of Crime and Witnesses Assistance and Protection Fund established under section 29 of this Act;
- (c) paragraph (b) of subsection (1), in the corresponding manner provided in paragraph (a) and (b) of this subsection.

(4) In the event of a person convicted of failing to make any payments imposed under subsection (1), the Presiding Judge of the High Court or the Magistrate shall, determine and pronounce a default term of imprisonment the convict shall be required to serve, in lieu of the non-payment of such sums of money:

Provided that, where the Presiding judge of the High Court or the Magistrate upon inquiry is satisfied that the person convicted does not have necessary financial resources to make the payment imposed under subsection (1), such Presiding Judge or the Magistrate shall, enter a community

based correction order and where such an order is entered, the provisions relating to community based correction orders contained in the Community Based Corrections Act, No. 46 of 1999, shall *mutatis mutandis*, apply in regard to that order.

(5) The receipt of compensation by a victim under subsection (1)(a) (i) of this section shall not prejudice such victim from claiming damages in any civil proceedings, provided that when determining the quantum of damages to be awarded, such civil court shall take into consideration the compensation received by such victim, under subsection (1)(a) (i) of this section.

Victims of Crime
and Witnesses
Assistance and
Protection Fund.

29. (1) There shall be a fund called the Victims of Crime and Witnesses Assistance and Protection Fund (hereinafter referred to as the “Protection Fund”).

(2) The Protection Fund shall be administered and managed by the Board.

(3) There shall be paid into the Protection Fund—

- (a) all such sums as may be voted by the parliament for such Fund;
- (b) all such sums as may be received by the Authority to be remitted to the Protection Fund by way of any gift, donation, contribution, bequest and grant from any local or foreign sources; and
- (c) all such monies remitted by a Court under subsection (1)(a) (ii) of section 28 :

Provided that any money collected by a Court in the form of a fine, shall not be remitted to the Protection Fund.

(4) There shall be paid out of the Protection Fund all such sums as may be determined by the Board for the payment of—

- (a) compensation to victims of crime for any physical or mental harm or loss or damage to property;

- (b) compensation to dependent family members, dependent next of kin and any other person dependent on a victim of crime who had died or been physically or mentally incapacitated as a result of being a victim of crime.

(5) The Director-General shall be the principal accounting officer of the Protection Fund and shall cause proper accounts to be kept of the income and expenditure and assets and liabilities of such Fund.

(6) The financial year of the Protection Fund shall be the calendar year.

30. (1) A victim of crime shall be entitled to apply to the Authority—

Entitlement to apply for compensation and assistance.

- (a) for the payment of compensation in respect of any physical or mental injury or impairment caused and for any loss or damage to property, suffered as a result of being a victim of a crime; and
- (b) for the payment of monies required to obtain medical treatment or rehabilitation or counseling services, in relation to any physical or mental injury or impairment suffered by such victim as a result of being a victim of crime.

(2) In determining whether compensation should be paid to a victim of crime who makes an application under subsection (1), the Authority shall take into consideration any sum of money already received by such victim of crime as compensation under section 28 or received by him on an order made by any Court or otherwise received by him from any other source.

(3) Where any compensation or expense is paid to a victim of crime under subsection (1) prior to an award being made by a Court for the payment of compensation to such victim of crime, the payment made by the Authority under subsection (1) shall be deemed to be an interim relief being granted to such victim of crime, pending the award of compensation by a Court.

(4) In the grant of compensation and any expenses to a victim of crime under subsection (1) of this section, it shall be the duty of the Authority to comply with the requirements of any regulation that may be made in that behalf.

PART VIII

TESTIMONY THROUGH AUDIO-VISUAL LINKAGE

Recording of
evidence or
statement
through
contempor-
aneous audio-
visual linkage.

31. (1) Notwithstanding anything to the contrary in any other law a Court conducting an identification parade, a non summary inquiry or any other inquiry or a trial, or a Commission conducting an investigation or inquiry or any law enforcement authority conducting an investigation, may, if it be in the best interest of justice and is found necessary:—

- (a) as a measure of protection to be afforded to a victim of crime or witness; or
- (b) on grounds of expediency,

Record any evidence or a statement of such victim of crime or witness, by securing such testimony or statement without his personal attendance before such Court, Commission or law enforcement authority through technical means by which contemporaneous or near contemporaneous audio-visual linkage between the Court, the Commission or the law enforcement authority,

and any other location (hereinafter referred to as the “remote location”) within Sri Lanka, from where such person testifies or makes the statement, could be established.

(2) Subject to the provision of section 32 the Court, the Commission or the law enforcement authority shall, prior to the reception and recording of the testimony or statement in terms of subsection (1), satisfy itself that the audio-visual linkage concerned is technically accurate and reliable and a judicial officer or a public officer designated by the Court, the Commission or the law enforcement authority concerned is present at such remote location, from where the victim of crime or witness seeks to testify or make the statement.

(3) Prior to commencing the reception and recording of the testimony or statement of the victim of crime or witness from the remote location designated under subsection (2), the Court, the Commission or the law enforcement authority concerned shall, on the recommendation of the Attorney-General and the Secretary to the Ministry of the Minister and subject to the provisions of section 32, obtain from the Authority financial and other resources necessary for the establishment and the functioning of the relevant audio-visual linkage.

(4) For the purposes of this section “Court” means a Court before which any criminal proceedings are being conducted.

- 32.** (1) (a) Where the Attorney-General and the Secretary to the Ministry of the Minister recommends, that :-
- (i) it is not in the national interest including national security, to obtain the testimony or statement of the victim of crime or witness concerned from the remote location ;

Authority not required to provide assistance under section 31 in certain circumstances.

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- (ii) it would not be feasible to secure the testimony or the statement of the relevant victim of crime or witness from the remote location,

identified under subsection (1) of section 31, the Attorney-General shall convey his opinion to the Court, Commission or the law enforcement authority concerned.

- (b) Where the Attorney-General is of the opinion that it would be in the interest of justice to secure such testimony or statement from any other appropriate alternate remote location, the Attorney-General may recommend to the court, the Commission or the law enforcement authority of such alternate location.

- (2) (a) Where the Attorney-General has expressed an opinion that the recording of evidence or the securing of a statement of any victim of crime or witness from a particular remote location is inappropriate, the Court, the Commission or law enforcement authority concerned, shall not proceed to receive and record the testimony or statement of the relevant victim of crime or witness through contemporaneous audio-visual linkage from such remote location, and consequently the Authority shall not be required to provide any necessary assistance and financial or other resources to the Court, the Commission or the law enforcement authority under subsection (3) of section 31.

- (b) where the Court, the Commission or the law enforcement authority, decides to change the

remote location to the location recommended by the Attorney-General under subsection (1), such Court, Commission or the law enforcement authority, may proceed to obtain the assistance of the Authority under subsection (3) of section 31.

33. (1) A Court or a Commission intending to record the testimony of a victim of crime or witness under the provisions of section 31, shall initially cause the statement to be recorded and serve such statement on the Attorney-General, the victim of crime or witness and on any person whose legal rights may be affected by such testimony or on their legal representatives and issue not less than thirty days notice, to all such parties concerned, of the scheduled date of recording of the testimony of the victim of crime or witness concerned.

Procedure in recording testimony or statement.

(2) The judicial officer or the person designated by a Court or Commission under subsection (2) of section 31, to be present at the remote location concerned from which the victim of crime or witness proposes to testify or make the statement, shall be required to make his observations, where necessary by interviewing the victim of crime or witness concerned and any other relevant person and submit a report to the Court or the Commission containing such matters as may be prescribed.

(3) The Court or the Commission shall upon considering the contents of the report submitted under subsection (2), and any other relevant material before such court or Commission, reach its decision as to whether it would be in the best interests of justice to receive the evidence or statement concerned given through such contemporaneous audio-visual linkage, and on the admissibility and use of such evidence or statement recorded.

Receiving or recording testimony through audio-visual linkage to be according to this part.

34. No Court, Commission or law enforcement authority shall receive or record the testimony or statement of any victim of crime or witness through contemporaneous audio-visual linkage, save and except in accordance with requirements laid down for the same by the provisions of this part of this Act.

PART IX

GENERAL

Interference in the discharge of duties etc.

35. Any person who without lawful authority interferes or obstructs or attempts to interfere or obstruct any Court, Commission, Authority, Board, Division or any public or judicial officer, in the exercise, discharge or performance of any power, function or duty, under this Act, shall be guilty of an offence under this Act and shall on conviction by the High Court be liable to a term of imprisonment not exceeding seven years and to a fine not exceeding rupees twenty thousand.

Secrecy.

36. (1) Unless it becomes necessary for the purposes of giving effect to the provisions of this Act, no person shall in any judicial or quasi-judicial proceedings, be compelled to divulge whether a victim of crime or a witness is receiving or has received assistance or protection under this Act.

(2) No person shall otherwise than for the purpose of giving effect to the provisions of this Act or in compliance with the provisions of any other law, divulge to any other person whether a victim of crime or a witness is receiving or has received assistance or protection under this Act.

Assessment of credibility of a testimony.

37. 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 a witness is receiving or has received any assistance or protection under this Act, shall not be relevant.

38. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

Provisions of this Act to prevail over other laws.

39. (1) 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.

Audit of Accounts.

(2) 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 Funds referred to in subsection (1).

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

Appointment of public officers to the staff of the Authority.

(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*, apply to and in relation to him.

(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*, apply to and in relation to him.

(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 to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Officials of the Authority deemed to be public officers.

41. Members of the Board, the Director-General and all other officers and employees of the Authority, consultants and advisors appointed by the Authority, shall be deemed to be public officers within the meaning and for the purposes of the Penal Code and of the Code of Criminal Procedure Act respectively.

The Authority deemed to be a Scheduled Institution within the meaning of the Bribery Act.

42. The Authority shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Action against bodies of persons.

43. Where an offence under this Act is committed by a body of persons, then:—

- (a) if that body of persons is a body corporate, every director, manager, chief executive officer and secretary of that body corporate ;
- (b) if that body of persons is a firm, every partner of that firm and its chief executive officer ;
- (c) if that body of persons is an unincorporated body, every individual who is a member of such body and its chief executive officer ; and
- (d) if that body of persons is 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, the Chairman of such local authority,

shall be guilty of an offence :

Provided however, any director, manager, chief executive officer and secretary of any body corporate or every partner and the chief executive officer of any firm or every

member and the chief executive officer of an unincorporated body or the Chairman of a local authority, as the case may be, shall not be guilty of an offence under this section, if he proves to the satisfaction of the Court that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

44. (1) The Minister on the recommendation of the Authority, may make regulations under this Act in respect of all matters that are prescribed and on such matters as may become necessary to be provided for in order to give effect to the provisions of this Act. Regulations.

(2) Every regulation made under subsection (1) shall be published in the *Gazette* and shall come into force on the date of such publication or on such later date as may be specified in such regulation.

(3) All regulations made under this section shall as soon as convenient after their publication in the *Gazette*, be brought before the Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything done thereunder.

(4) Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

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

46. In this Act, unless the context otherwise requires- Interpretation.

“child victim of crime” and “child witness” respectively means, a person who is less than eighteen years of age and who is either a victim of crime or is a witness ;

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“Code of Criminal Procedure Act, means the Code of Criminal Procedure Act, No. 15 of 1979 ;

“Commission” means—

- (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 ;
- (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 ; and
- (d) the Human Rights Commission of Sri Lanka established by the Human Rights Commission of Sri Lanka Act, No. 21 of 1996.

“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 offence ;

“Judicature Act” means the Judicature Act, No. 2 of 1978 ;

“victim of crime” means a person including a child victim who has suffered any injury, harm, impairment or disability whether physical or mental, emotional, economic or other loss, as a result of an act or omission which constitutes an alleged—

- (a) offence under any law ; or
- (b) infringement of a fundamental right guaranteed under Articles 13(1) or (2) of the Constitution,

and includes a person who suffers harm as a result of intervening to assist such a person or to prevent the commission of an offence, and the parent or guardian of a child victim of crime and any member of the family and next of kin of such person, dependents and any other person of significant importance to that person ;

“witness” means any person who—

- (a) has provided information or lodged a complaint with any law enforcement officer and based upon such information or complaint, an investigation or inquiry could or has commenced or is likely to commence, in connection with the alleged commission of an offence or the infringement of a fundamental right or the violation of a human right ;
- (b) in the course of an investigation or inquiry conducted by a law enforcement authority into the alleged commission of an offence or infringement of a fundamental right or the violation of a human right, has provided information or made a statement containing an account of matters in respect to which such person had been questioned ;
- (c) has provided an affidavit or submitted a statement in support of a complaint made or any legal action instituted by a victim of crime ;
- (d) has provided information or any communication to a Commission ;
- (e) has reasonable grounds to believe that he shall be summoned by a Court or a Commission to make a statement or testify in any judicial or

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quasi-judicial proceedings against a person, based on information provided or a statement made to a law enforcement authority or a Commission by such person ;

(f) has received summons from a court or a Commission to make a statement, testify or produce any document, report or object in any judicial or quasi-judicial proceeding before such Court or Commission ; or

(g) being a public officer, has investigated into the alleged commission of an offence or an alleged infringement of a fundamental right or the violation of a human right,

and includes a victim of crime, a child witness, the parent or guardian of a child witness, a family member or dependent of such witness or any other person of significant importance to such person, an expert witness and a person who has been summoned to testify before a Court or a Commission on behalf of a person suspected or accused of the alleged commission of an offence or the infringement of a fundamental right or the violation of a human right ;
and

“written communication” includes a letter transmitted in any medium whatsoever, such as by ordinary or registered post, by facsimile and electronic mail.

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SCHEDULE

[section 11(3)]

1. A person shall be disqualified from being appointed or continuing as an appointed member of the Board—

- (a) if he is or becomes a member of Parliament, a Provincial Council or any local authority ;
- (b) if he is not or ceases to be a citizen of Sri Lanka ;
- (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind ; or
- (d) if he is serving or has served, a sentence of imprisonment imposed by any Court in Sri Lanka or any other country.

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

Provided that a member appointed in place of a member who had vacated office by death, resignation or removal, shall hold office for the unexpired term of office of the member whom he succeeds.

3. The Minister may, by Order published in the *Gazette*, remove from office an appointed member of the Board for misconduct in the performance of his duties or where such member has been found guilty of an offence involving fraud or dishonesty, in consultation with those persons who are required to be consulted for the appointment of such appointed member under paragraph (b) of subsection (1) of section 11. An appointed member who is removed, shall cease to hold office from and after the date of publication of such Order in the *Gazette*.

4. An appointed member of the 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 by the Minister in writing.

5. In the event of the vacation of office by death, resignation or removal of an appointed member of the Board, having regard to the provisions of paragraph (b) of subsection (1) of section 11 another person may be appointed to succeed such member. Any person so appointed in place of such member, shall hold office during the unexpired part of the term of office of the member whom he succeeds.

6. Where an 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 his duties, it shall be the

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duty of such member to inform the appointing authority in writing, of such inability. Thereupon, having regard to the provisions of paragraph (b) of subsection (1) of section 11 another person may be appointed to act in his place during such period.

7. The members of the Board may be paid such remuneration out of the Fund of the Authority as the Minister may determine.

8. (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.

(2) The quorum for any meeting of the Board, shall be five members.

(3) The person presiding at any meeting of the Board, shall, in addition to his own vote have a casting vote.

(4) Subject to the provisions of this paragraph, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

9. 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.

10. (1) The seal of the Authority may be determined and devised by the Board, and may be altered in such manner as may be determined by the Board.

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

(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 the instruments and documents to which the seal of the Board has been affixed.

11. (1) If the Chairman of the Board is, by reason of illness or absence from Sri Lanka temporarily unable to perform the duties of his office, having regard to the provisions of subsection (2) of section 11, another member of the Board shall be appointed to act in his place.

(2) The Chairman of the Board may at any time resign from the office of Chairman by a letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

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