

NATIONAL LAWS

Extradition Law

A LAW TO MAKE PROVISION FOR THE EXTRADITION OF FUGITIVE PERSONS TO AND FROM COMMONWEALTH COUNTRIES AND FOREIGN STATES, TO REGULATE THE TREATMENT OF PERSONS ACCUSED OR CONVICTED OF OFFENCES IN SRI LANKA WHO ARE EXTRADITED FROM COMMONWEALTH COUNTRIES OR FOREIGN STATES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Law Nos,

8 of 1977

Act Nos,

24 of 1982

[26th July , 1982]

70 of 1988

[17th December , 1988]

15 of 1991

[15th March , 1991]

31 of 1996

[12th November , 1996]

48 of 1999

[10th December , 1999]

[18th February , 1977]

1. Short title.

This Law may be cited as the Extradition Law.

PART I

PRELIMINARY

2. Application of the provisions of this Law in respect of Commonwealth countries.

- (1) The Minister may from time to time by Order published in the Gazette, declare that the provisions of this Law shall apply in respect of any country within the Commonwealth specified therein, subject to such modifications, limitations, or conditions as may be specified in such Order.
- (2) Every such Order shall come into force on the date of publication of such Order or on such later date as may be specified therein.
- (3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

- (4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.
- (5) Every country within the Commonwealth in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a “designated Commonwealth country”.
- (6) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.

3. Application of the provisions of this law in respect of foreign (sic) states.

- (1) Where any extradition arrangement has been made by the Government of Sri Lanka with any foreign State, whether before or after the commencement of this Law, then, subject to the provisions of section 4, the Minister may by Order published in the Gazette declare that the provisions of this Law shall apply in respect of such foreign State, subject to such modifications, limitations or conditions, as the Minister, having due regard to the terms of such arrangement, may deem expedient to specify in the Order for the purpose, and the purpose only, of implementing such terms.
- (2) Every Order made under this section shall recite or embody the terms of the extradition arrangement in consequence of which such Order was made, and shall come into force on the date of publication of such Order, or on such later date as may be specified therein, and shall remain in force for so long, and so long only, as the extradition arrangement in consequence of which such Order was made remains in force.
- (3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.
- (4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.
- (5) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.
- (6) Every foreign State in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a “treaty State”

4. Special provisions as to the making of an Order under section 3.

No Order shall be made under section 3 unless the extradition arrangement in consequence of which such Order is made-

- (a) is in conformity in all respects with the provisions of this Law restrictions on the containing restrictions extradition of persons ; and
- (b) is substantially in conformity with the other provisions of this Law, subject to the modifications, limitations or conditions, if any, specified in such Order for the purpose of implementing the terms of such arrangement.

5. Effect of Orders made under sections 2 and 3.

- (1) For so long, and so long only, as an Order under section 2 in respect of a designated Commonwealth country, or an Order under section 3 in respect of a treaty State is for the time being in force, the provisions of this Law shall apply in respect of and in relation to such country or State, as the case may be, subject to such modifications, limitations and conditions, if any, as are specified in such Order.
- (2) For so long, and so long only, as an Order under section 3 in respect of a treaty State is for the time being in force, such Order shall be conclusive evidence that the extradition arrangement in consequence of which such Order was made, complies with the provisions of section 4.

6. Extraditable offences.

- (1) For the purposes of this Law, any offence of which a person is accused or has been convicted in any designated Commonwealth country or any treaty State shall be an extraditable offence, if-
 - (a) in the case of an offence against the law of a treaty State it is an offence which is provided for in the extradition arrangement;
 - (b) in the case of an offence against the law of a designated Commonwealth country, it is an offence which, however described in that law, falls within any description set out in the Schedule hereto and is punishable under that law with imprisonment for a term of not less than twelve months; and
 - (c) in any case, the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Sri Lanka if it took place within Sri Lanka, or outside Sri Lanka.
- (2) In determining for the purposes of this section whether an offence against the law of any designated Commonwealth country falls within any description set out in the Schedule hereto, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under that law shall be disregarded.
- (3) Each offence described in the Schedule hereto shall be deemed to include the offence of attempting or conspiring to commit, of assisting, counselling or procuring the commission of, or being accessory before or after the act to, such offence, and of impeding the apprehension or prosecution of persons guilty of such offence.
- (4) Reference in this section to the law of any designated Commonwealth country or of any treaty State shall be deemed to include reference to the law of any part of such country or State, as the case may be.

7. General restrictions on extradition. [2,48 of 1999]

- (1) A person shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, if it appears to the Minister, to the court of committal, or to the Court of Appeal upon an application made to it for a mandate in the nature of a writ of habeas corpus-
 - (a) that the offence of which that person was accused or was convicted is an offence of a political character;

- (b) that the request for extradition, though purporting to be made on account of the extraditable offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, or political opinions ; or
 - (c) that he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.
- (2) A person accused of an offence shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purpose of his extradition, if it appears, as provided in subsection (1) of this section, that if charged with that offence in Sri Lanka he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (3) A person shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, unless provision is made by the law of that Commonwealth country, or, in the case of a treaty State, by the extradition arrangement with that State, for securing that he will not, unless he has first been restored, or had an opportunity of returning, to Sri Lanka, be arrested, detained, remanded or otherwise dealt with in that country or State, for or in respect of any offence committed before his extradition under this Law. other than -
- (a) the offence in respect of which the . extradition under this Law is requested;
 - (b) any lesser offence proved by the facts-established before the court of committal; or
 - (c) any other offence, being an extraditable offence in respect of which the Minister may consent to his being so dealt with.
- (4) The reference in this section to an offence of a political character does not include
- (a) an offences against the life or person of the head of any designated Commonwealth country or treaty state ;
 - (b) an offence which, under the terms of the extradition arrangement made by the Government of Sri Lanka with the requesting treaty state, is not regarded as a political offence ;
 - (c) an offence within the scope of an international convention relating to the suppression of international crime to which Sri Lanka and the requesting designated commonwealth country or treaty state are contracting parties and which obliges contracting parties to prosecute or grant extradition for such offence ; and
 - (d) any related offence described in subsection (3) of section 6.

PART II

EXTRADITION TO DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

8. Authority to proceed.

- (1) Subject to the provisions of this Law, no person shall be dealt with thereunder except in pursuance of an Order of the Minister (in this Law referred to as an “ authority to proceed “), issued in ‘ pursuance of a request made to the Minister by or on behalf of the Government of the designated Commonwealth country or treaty State in which the person to be extradited is accused or was convicted.
- (2) There shall be furnished with any request made for the purposes of this section by or on behalf of any designated Commonwealth country or treaty State-
 - (a) in the case of a person accused of an offence, a warrant for his arrest issued in that country or State;
 - (b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that country or State, and a statement of (he part, if any, of such sentence which has been served,

together with, in each case, the particulars of the person whose extradition is requested, and of the facts upon which and the law under which he is a accused or was convicted, and the evidence sufficient to justify the issue of a warrant for his arrest under section 9.

- (3) On receipt of such a request the Minister may issue an authority to proceed, unless it appears to him that an order for extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Law.

9. Arrest for the purposes of committal. [3,48 of 1999]

- (1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction, of such an offence, may be issued-
 - (a) on receipt, by any High Court Judge, of an authority to proceed; or
 - (b) without such an authority, by any High Court judge, upon information that such person
 - (i) is in, or
 - (ii) is believed to be on his way to, Sri Lanka.

Any warrant issued by virtue of paragraph (b) of this subsection is in this Law referred to as a “provisional warrant”.

- (2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the Judge, authorize the issue of a warrant, for the arrest of a person accused of committing a corresponding offence or of a person alleged to be unlawfully at large after conviction of an offence, as the case may be, within the jurisdiction of the court.

- (3) Where a provisional warrant is issued under this section, the Judge by whom it is issued shall forthwith give notice of its issue to the Minister, and transmit to him the information and evidence, if any, or certified copy of the information and evidence, upon which it was issued ; and the Minister may in any case, and shall if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.
- (4) Notwithstanding anything in the Code of Criminal Procedure Act a warrant of arrest issued under this section may, without an endorsement to that effect, be executed in any part of Sri Lanka, whether such part is within or outside the jurisdiction of the court by which it is so issued, and may be so executed by any person to whom it is directed, or by any police officer.
- (5) Where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving stolen property, or any other offence in respect of property, the Judge shall have the like power to issue a warrant to search for the property as if the offence has been committed within the jurisdiction of his court.

10. Proceedings for committal.

- (1) A person arrested in pursuance of a warrant issued under section 9 shall, unless he is previously discharged under subsection (3) of that section, be brought as soon as practicable before such High Court, in this Law referred to as the “court of committal”, as may be directed by the warrant.
- (2) For the purposes of proceedings under this section, a court of committal shall have the like jurisdiction and powers, including power to remand in custody or to release on bail as though the proceedings were in respect of an offence triable by that court.
- (3) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period, notice of which shall be given by the court to the Minister, after which he shall be discharged from custody unless such an authority has been received.
- (4) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the extradition of that person or on behalf of that person, that the offence to which the authority relates is an extraditable offence and is further satisfied,
 - (a) where that person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the court; or
 - (b) where that person is alleged to be unlawfully at large after the conviction of the offence, that he has been so convicted and appears to be so at large,

the court shall, unless his committal is prohibited by any other provision of this Law, commit him to custody to await his extradition thereunder but if the court is not so satisfied, or if the committal of that person is so prohibited, the court shall discharge him from custody.

11. Application for habeas corpus.

- (1) Where a person is committed to custody under section 10, the court shall inform him in ordinary language of his right to make an application to the Court of Appeal for a mandate in the nature of a writ of habeas corpus, and shall forthwith give notice of the committal to the Minister.
- (2) No person committed to custody under section 10, shall be extradited under this Law-
 - (a) in any case, until the expiration of a period of fifteen days commencing on the day on which the order for his committal is made; and
 - (b) if an application for habeas corpus is made to the Court of Appeal, so long as proceedings on that application are pending.
- (3) On any such application the Court of Appeal may, without prejudice to any other jurisdiction of the court, order the person committed to be discharged from custody if it appears to the court that-
 - (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
 - (b) by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be; or
 - (c) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to extradite him.
- (4) On any such application the Court of Appeal may receive additional evidence relevant to the exercise of its jurisdiction under section 7 or under subsection (3) of this section.

12. Order for extradition.

- (1) Where a person is committed to await his extradition and is not discharged by order of the Court of Appeal, the Minister may by warrant order him to be extradited to the country or State by which the request for his extradition was made unless the extradition of that person is prohibited, or prohibited for the time being, by section 7, or the Minister decides under this section to make no such order in his case.
- (2) The Minister shall not make an order under this section in the case of a person who is serving a sentence of imprisonment, or is charged with an offence, in Sri Lanka until after the expiration of the following period, that is to say,-
 - (a) in the case of a person serving such a sentence, until the sentence has been served; and
 - (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn and, if it results in a sentence of imprisonment not being a suspended sentence, until the sentence has been served.
- (3) The Minister may make no order under this section in the case of any person if it appears to the Minister, on any ground set out in paragraph (a) or paragraph (b) or paragraph (c) of subsection (3) of section 11, that it would be unjust or oppressive to extradite that person.

- (4) The Minister may make no order under this section in respect of a person who is accused or convicted of an extraditable offence which is not punishable with death in Sri Lanka, if that person could be, or has been, sentenced to death for that offence in the country or State by which the request for his extradition is made.
- (5) The Minister may make no order under this section for the extradition of a person committed in consequence of a request made by or on behalf of a designated Commonwealth country or treaty State if another request for his extradition under this Law has been made by or on behalf of another designated Commonwealth country or treaty State and it appears to the Minister, having regard to all the circumstances of the case, and in particular-
 - (a) the relative seriousness of the offences in question;
 - (b) the date on which each such request was made; and
 - (c) the nationality or citizenship of the person concerned and his ordinary residence, that preference be given to such other request.
- (6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be extradited thereunder.

13. Discharge in case of delay in extraditing.

- (1) If any person committed to await is extradition is in custody in Sri Lanka under this Law after the expiration of the following period, that is to say-
 - (a) in any case, the period of two months commencing on the first day on which, having regard to subsection (2) of section 11, he could have been extradited ; or
 - (b) where a warrant for his extradition has been issued under section 12, a period of one month commencing on the day on which that warrant was issued, he may apply to the Court of Appeal for his discharge.
- (2) If upon any such application being made the Court of Appeal is satisfied that reasonable notice of the proposed application has been given to the Minister, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his extradition has been issued under section 12, quash that warrant,

14. Evidence.

- (1) In any proceedings under this Law, including proceedings on an application for a mandate in the nature of a writ of habeas corpus in respect of a person in custody thereunder-
 - (a) a document, duly authenticated, which purports to set out evidence given on oath in a designated Commonwealth country or treaty State shall be admissible as evidence of the matters stated therein;
 - (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceedings in any such country or State shall be admissible in evidence;

- (c) a document, duly authenticated, which certifies that such person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such country or State shall be admissible as evidence of the fact and date of the conviction.
- (2) A document shall be deemed to be duly authenticated for the purposes of this section-
- (a) in the case of a document purporting to set out evidence given as aforesaid, if the document purports to be certified by a Judge or other officer in or of the country or State in question to be the original document containing or recording that evidence or a true copy of such document;
 - (b) in the case of a document which purports to have been received in evidence as aforesaid or to be a copy of a document so received, if the document purports to be certified as aforesaid to have been, or to be a true copy of a document which has been, so received;
 - (c) in the case of a document which certifies that a person was convicted as aforesaid, if the document purports to be certified as aforesaid,
- and in any such case the document is authenticated either by the oath of a witness, or by the official seal of a Minister, of the designated Commonwealth country or treaty State in question.
- (3) In the section “oath” includes affirmation or declaration; and nothing in this section shall be deemed or construed to affect or prejudice the admission in evidence of any document which is admissible in evidence otherwise than under, this section.

15. Custody.

- (1) Any person remanded or committed to custody under section 10 shall be committed to a like institution as a person charged with an offence before the court of committal.
- (2) If any person who is in custody by virtue of a warrant under this Law, escapes from custody, he may be taken in any part of Sri Lanka in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.
- (3) Where a person, being in custody in any part of Sri Lanka, whether under this Law or otherwise, is required to be removed in custody under this Law to another part of Sri Lanka and is so removed, he shall be deemed to continue to be in legal custody until he reaches the place to which he is required to be removed.
- (4) A warrant under section 12 for the extradition of any person to a designated Commonwealth country or treaty State shall be sufficient authority for all persons to whom it is directed and all police, prisons and other officers to receive that person, keep him in custody and convey him into the jurisdiction of that country or State.

16. Form of warrant and orders.

Any warrant or order required to be issued or made by the Minister under the foregoing provisions of this Law shall be in the prescribed form and shall be given under the hand of the Secretary to the Ministry.

PART III

EXTRADITION FROM DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

17. Extradition of persons to Sri Lanka and certain restrictions upon proceedings against them.

- (1) Where a person accused or convicted of an offence in Sri Lanka, whether committed before or after the commencement of this Law, is, or is suspected of being, in any designated Commonwealth country or treaty State or within the jurisdiction of, or of a part of, such country or State, the Minister may make a request to that country or State for the extradition of that person,
- (2) Where any person has been extradited to Sri Lanka upon a request for his extradition being made, such person shall not, during the period described in subsection (3) of this section, be arrested, detained, remanded or otherwise dealt with in Sri Lanka for or in respect of any offence committed before his extradition, other than-
 - (a) the offence in respect of which he was extradited;
 - (b) any lesser offence proved by the facts established for the purposes of securing his extradition; or
 - (c) any other offence in respect of which the Government of the designated Commonwealth country or the treaty State from which he was extradited has consented to his being dealt with.
- (3) The period referred to in subsection (2) of this section in relation to a person to whom this section applies is the period commencing on the day of his arrival in Sri Lanka on his extradition and ending forty-five days after the first subsequent day on which he has the opportunity to leave Sri Lanka.

18. Restoration of persons not tried or acquitted.

- (1) Where a person accused of an offence is extradited to Sri Lanka and-
 - (a) proceedings against him for the offence for which he was extradited are not begun within the period of six months commencing on the day of his arrival in Sri Lanka on being extradited; or
 - (b) on his trial for that offence, he is acquitted or discharged by any court in Sri Lanka,the Minister may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the designated Commonwealth country or treaty State from which he was extradited.

PART IV
MISCELLANEOUS

19. Regulations.

- (1) The Minister may make regulations under this Law in respect of all such matters as are necessary for giving full force and effect to the principles and provisions of this Law, and in particular, in respect of any matter required by this Law to be prescribed.
- (2) Every regulation shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) All regulations made under this Law shall as soon as convenient after their publication in the Gazette, be brought before 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 previously done thereunder.

20. Extradition from Sri Lanka applicable to offences committed before and after the commencement of this Law.

A person whose extradition is sought by a designated Commonwealth country or treaty State shall, subject to the provisions of this Law, be liable to be arrested and extradited whether the offence in respect of which he has been accused or convicted was committed before or after the commencement of this Law.

21. Property found on fugitive offenders.

Everything found in the possession of a person at the time of his arrest which may be material as evidence in proving the extraditable offence may be delivered up with such person when he is dealt with subject to the rights, if any, of third persons in respect thereto.

23. Interpretation. [4,48 of 1999]

In this Law, unless the context otherwise requires-

“designated Commonwealth country “ includes-

- (a) a colony, territory, protectorate or other dependency of such country ;
- (b) a territory for the international relations of which such country is responsible ;and
- (c) a ship or aircraft of, or registered in, such country ;

“extradition arrangement “ includes any treaty or agreement relating to the extradition of fugitive offenders made prior to February 4, 1948, which extends to, and is binding on, the Government of Sri Lanka ;

“foreign State “ means any State outside Sri Lanka other than a country within the Commonwealth and shall be deemed to include the Hong Kong Special Administrative Region of the People’s Republic of China;

“prescribed “ means prescribed by regulations made under this Law ;

“treaty State “ includes-

- (a) a colony, territory, protectorate or other dependency of such State ;
- (b) a territory for the international relations of which such State is responsible ; and
- (c) a ship or aircraft of, or registered in, such State.

(Section 22, repealing the Fugitive Persons Act, No. 29 of 1969, is omitted from this Edition.)

EXTRADITION

SCHEDULE

DESCRIPTION OF EXTRADITABLE OFFENCES

1. Murder
2. Culpable homicide not amounting to murder.
3. Causing death by doing a rash or negligent act.
4. Causing miscarriage.
5. Voluntarily causing grievous hurt.
6. Voluntarily causing hurt.
7. Rape
8. Carnal intercourse with a female between twelve and fourteen years
9. Unnatural offences
10. Procuring a girl or a woman to become a common prostitute.
11. Bigamy.
12. Kidnapping, abduction, wrongful confinement.
13. Exposure and abandonment of a child under twelve years.
14. Bribery.
15. Giving or fabricating false evidence.
16. Mischief by fire.
17. An offence concerning counterfeit currency.
18. Forgery.
19. Theft, criminal breach of trust, dishonest misappropriation of property, falsification of accounts, cheating, dishonestly receiving stolen property or any other offences in respect of property involving fraud.
20. House breaking or house trespass.
21. Robbery.
22. Extortion.
23. An offence against bankruptcy law or company law.
24. Mischief.
25. Acts done with the intention of endangering vehicles, vessels or aircrafts.

26. An offence against the law relating to dangerous drugs or narcotics.
27. Piracy.
28. Revolt against the authority of the master of a ship or the commander of an aircraft.
29. Jeopardising the safety of aircraft in flight or of the persons or property on board such aircraft.
30. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
31. An offence against the law relating to Exchange Control.

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

TRANSFER OF OFFENDERS ACT, No. 5 OF 1995

[Certified on 13th February, 1995]

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[Certified on 13th February, 1995]

L.D.—O. 17/92

AN ACT TO PROVIDE FOR THE TRANSFER TO A SPECIFIED COUNTRY OF A CITIZEN OF SUCH COUNTRY CONVICTED OF AN OFFENCE IN SRI LANKA; TO PROVIDE FOR THE TRANSFER TO SRI LANKA OF ANY CITIZEN OF SRI LANKA CONVICTED OF AN OFFENCE IN A SPECIFIED COUNTRY; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. **Short title.** This Act may be cited as the Transfer of Offenders Act, No. 5 of 1995.
2. **Application of the Act.** Where an agreement has been entered into between Sri Lanka and any other country, whether before or after the date of commencement of this Act, the Minister may by Order published in the Gazette declare that the provisions of this Act shall apply in respect of such country (in this Act referred to as a “specified country”).
3. **Minister to make an application requesting the transfer of an offender.**
 - (1) The Minister may make an application to an appropriate authority in a specified country, requesting the transfer to that country of any offender who is, or is suspected to be, a citizen of that country.
 - (2) Notwithstanding the provisions of subsection (1), any offender who claims to be a citizen of a specified country may, through the Commissioner of Prisons, make an application to the Minister, to be transferred to the specified country of which he claims to be a citizen and the Minister may where he considers it appropriate make a request on behalf of such offender under subsection (1) to the appropriate authority of such specified country.
 - (3) Every application for a request under this section shall be made in such form and be accompanied by such documents as may be prescribed for that purpose.

- (4) Where the Minister under subsection (2) makes an application at the request of any offender he shall inform such offender in writing if the action or decision taken by both the Minister and the appropriate authority of the specified country, in relation to his request for a transfer.
4. **Application to be made by a specified country.** (1) No application made to the Minister by an appropriate authority of a specified country for the transfer to Sri Lanka of an offender who claims to be a citizen of Sri Lanka, shall be entertained by the Minister, unless-
- (a) such application is made in the form prescribed for that purpose ; and
 - (b) a copy of the order, decision or judgment as the case may be, by which such offender was sentenced to the term of imprisonment, certified as correct by the appropriate authority of such specified country, is attached to the application.
- (2) Where the Minister by Order, allows an application made under subsection (1), the copy of the order, decision, or Judgment, as the case may be, attached to an application under subsection (1), shall be proof of the facts stated there-In and shall have effect as if it were an order, decision or judgment, as the case may be, imposed by a court of competent jurisdiction in Sri Lanka.
5. **Condition of transfer.** The transfer of any offender on an application made under this Act, shall be subject to the following conditions: —
- (a) that the offender is a citizen of Sri Lanka or of the specified country, notwithstanding he may also be a citizen of any other country ;
 - (b) that the order, decision or judgment, as the case may be, by which the sentence of imprisonment was imposed upon the offender, is a final order, decision or judgement;
 - (c) that at the time the application for the transfer is made, the offender concerned has more than six months left to serve of the term of imprisonment imposed upon him or that, the term of imprisonment imposed was for an unspecified period;
 - (d) that the offender consents to the transfer or where in view of the age or physical or mental status of the offender, he is unable to give his consent, the consent is given by any other person who is designated either by the Minister or the appropriate authority of a specified country as being competent to give consent on behalf of the offender;
 - (e) that both the Minister and the appropriate authority of the specified country, consent to the transfer.
6. **Issue of a warrant by the Minister.** (1) The Minister may, where he considers it appropriate and subject to the provisions of subsection (8), issue a warrant authorizing the transfer out of Sri Lanka to a specified country of any offender.
- (2) The warrant to be issued under subsection (1) shall be in the prescribed form under the hand of the Minister.
 - (3) The Minister shall not issue a warrant under subsection (1) unless he is satisfied that all reasonable steps have been taken to inform the offender being transferred; in writing, in his own language, of the effect and consequences of such transfer in relation to such offender.

- (4) The Minister shall on the date of issuing of a warrant under subsection (1) cause a copy thereof to be served on the Commissioner of Prisons.
- (5) A warrant issued under subsection (1), shall be deemed to be sufficient authority for the Commissioner of Prisons to deliver or cause the delivery of such offender to any person authorized to receive such offender and to keep him in custody and hand him into the custody of a person duly authorized by the appropriate authority of the specified country, to take the custody of such offender.
7. **No withdrawal of consent after issue of warrant.** On and after the issue of a warrant under section 6, the consent given under paragraph (d) of section 5 by the offender in respect of whom such warrant was issued, shall not be capable of being withdrawn and accordingly, any purported withdrawal of a consent given after the issue of a warrant shall not affect the validity of such warrant or any directions in relation to such warrant.
8. **Commissioners of prisons to have the custody of an offender transferred to Sri Lanka.** (1) Every offender being transferred to Sri Lanka from any specified country, upon an order under section 4 shall be formally handed over to the Commissioner of Prisons and the Commissioner of Prisons shall have the authority to keep such offender in custody in any place as may appear to him to be appropriate for giving effect to the sentence of imprisonment imposed upon such offender in such specified country, for the period of the sentence, as if it were a sentence imposed by a court in Sri Lanka.
- (2) The enforcement of the sentence of imprisonment imposed upon any offender who is transferred to Sri Lanka under subsection (1) shall be governed by the laws of Sri Lanka under subsection (1) shall be governed by the laws of Sri Lanka.
- (3) Notwithstanding the provisions of subsection (2), the Minister shall, unless otherwise specified in the agreement, be bound by the legal nature and duration of the sentence of imprisonment imposed upon any offender transferred to Sri Lanka under subsection (1).
- (4) Where the legal nature and duration of the sentence of imprisonment imposed upon any offender transferred under subsection (1), is incompatible with any law of Sri Lanka, it shall be lawful for a court of competent jurisdiction in Sri Lanka, to adapt such sentence to make it compatible with laws of Sri Lanka provided however that the sentence as adapted by such court of competent jurisdiction in Sri Lanka, corresponds as far as practicable to the sentence imposed upon such offender in the specified country from which such offender was transferred to Sri Lanka.
9. **The effect of any warrant issued by the Minister.** The effect of a warrant issued by the Minister under section 6, shall be to authorize-
- (a) the taking of the offender to any place within Sri Lanka and his delivery at a place of departure from Sri Lanka, into the custody of a person duly authorized by the appropriate authority of the specified country to which he is being transferred to take such custody of the offender ; and
- (b) the removal of the offender by the person into whose custody he was delivered, to any place outside Sri Lanka.

10. **Removal of an offender in custody to any other place in Sri Lanka.** (1) Any offender committed to custody under section 8 or 9 of this Act escapes from such custody, who may be arrested in any place in Sri Lanka in like manner as a person escaping from custody under a warrant for his arrest issued in that place in respect of an offence committed therein.
- (2) Where any offender being in custody under section 8 or 9 of this Act is required to be removed from the place where he is held in custody to any other place in Sri Lanka, he shall be deemed to continue to be in legal custody until he reaches the place to which he is required to be transferred
11. **Application of prisons ordinance.** The provisions of the Prisons ordinance (Chapter 54) shall apply, mutatis mutandis, in respect of every offender who is transferred to or out of Sri Lanka under the provisions of this Act.
12. **Remission and Presidents power to grant pardon.** (1) An offender who is transferred to Sri Lanka in terms of section 8 of this Act, shall be subject to any remission of the sentence of imprisonment imposed upon him in the specified country where he was convicted, to which he may have become entitled to, on the date of his transfer, in accordance with the law relating to remission of a sentence, in force specified country.
- (2) Nothing in this Act shall be so construed as to limit or take away the president's power to grant or remission of sentence to any offender under Article 34 of the Constitution.
13. **No appeal or revision of a sentence of imprisonment imposed upon an offender who is a citizen of Sri Lanka.** The sentence of imprisonment imposed in any specified country upon any offender who is a citizen of Sri Lanka shall not be subject to any appeal or revision in any court in Sri Lanka, notwithstanding the fact that the order, decision or judgment imposing such sentence is deemed to be an order, decision or judgment imposed by a court of competent jurisdiction in Sri Lanka.
14. **Regulation.** (1) The Minister may make regulations for or in respect of all matters stated or required by this Act to be prescribed or in respect of which regulations are authorised or required to be made.
- (2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the Date of such publication or upon such later as may be specified in the regulation.
- (3) Every regulation made by the Minister under sub-section (1), shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

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

“ agreement “ means any agreement entered into, whether before or after the date of commencement of this Act, between Sri Lanka and any other country, relating to the mutual transfer of offenders between the two countries ;

“ appropriate authority “ in relation to a specified country, means a person or body of persons in any specified country who is referred to in the agreement as being the authority responsible for administering the transfer of offenders to and from such specified country;

“ Commissioner of Prisons “ means the person who is for the time being holding office as the commissioner of Prisons and Probation Services appointed under section 6 of the Prisons Ordinance (Chapter 54) ;

“ offender “ means a person who is convicted of an offence whether committed before or after the date of commencement of this Act, and is for the time being serving a sentence of imprisonment by virtue of an order made either by any court in Sri Lanka or by a court or other institution exercising judicial powers which is empowered to make such order, in any specified country.

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

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

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT, No. 25
OF 2002**

[Certified on 22nd October, 2002]

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Mutual Assistance in Criminal Matters Act, No. 25 of 2002

[Certified on 22nd October, 2002 L.D.—0.43/95.

AN ACT TO PROVIDE FOR THE RENDERING OF ASSISTANCE IN CRIMINAL MATTERS BY SRI LANKA AND SPECIFIED COUNTRIES; 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. Short Title. This Act may be cited as the Mutual Assistance in Criminal Matters Act, No. 25 of 2002.

PART I

APPLICATION OF THE ACT AND REQUEST FOR ASSISTANCE

2. **Application of the Act.** (1) The Minister may, by Order published in the Gazette, declare that the provisions of this Act, shall apply in respect of any Commonwealth country specified therein.
 - (2) Every Order made under subsection (1) shall come into force on the date of publication of such Order in the Gazette or on such later date as may be specified therein.
 - (3) Where an agreement has been entered into between Sri Lanka and any Non-Commonwealth country, whether before or after the date of commencement of this Act, for mutual assistance in criminal matters, the Minister may, by Order published in the Gazette, declare that the provisions of this Act shall apply in respect of such Non-Commonwealth country, subject to such limitations and conditions as the Minister may, having regard to the terms of such agreement, deem expedient to specify in the Order, for the purpose only of giving effect to the terms of such agreement.

- (4) Every Order made under subsection (3) shall recite the terms of the agreement in consequence of which it was made, and shall come into force on the date of publication of the Order in the Gazette or on such later date as may be specified therein, and shall remain in force so long only as the agreement in consequence of which the Order was made remains in force.
 - (5) Every Order made under subsection (1) or subsection (3) shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded with effect from the date of its disapproval, but without prejudice to anything previously done thereunder.
 - (6) Notification of the date on which an Order under subsection (1) or subsection (3) is deemed to be rescinded shall be published in the Gazette.
 - (7) Every Commonwealth country or Non- Commonwealth country in respect of which an Order is made under subsection (1) or subsection (3) and is for the time being in force is hereinafter referred to as “a specified country”.
3. **Object of the Act.** The object of this Act is to facilitate the provision and obtaining, by Sri Lanka of assistance in criminal matters, including —
 - (a) the location and identification of witnesses or suspects ;
 - (b) the service of documents ;
 - (c) the examination of witnesses ;
 - (d) the obtaining of evidence, documents or other articles ;
 - (e) the execution of requests for search and seizure ;
 - (f) the effecting of a temporary transfer of a person in custody to appear as a witness ;
 - (g) the facilitation of the personal appearance of witnesses ;
 - (h) the provision of documents and other records ;
 - (i) the location, of the proceeds of any criminal activity ;
 - (j) the enforcement of orders for the payment of fines or for the forfeiture or freezing of property.
4. **Central Authority.** The Secretary to the Ministry of the Minister in charge of the subject of Justice shall be the Central Authority for the purposes of this Act (hereinafter referred to as “the Central Authority”).
5. **Application made by a specified country.** An application made to the Central Authority by the appropriate authority of a specified country requesting assistance in relation to a criminal matter falling within a jurisdiction of a criminal court in that country, shall not be entertained by the Central Authority, unless —
 - (a) such application is made substantially in the appropriate Form set out in the Schedule to this Act; and
 - (b) such application is accompanied by such documents as may be specified for that purpose by the Central Authority.

6. **Refusal of Assistance.** (1) A request by the appropriate authority of a specified country for assistance under this Act shall be refused, in whole or in part, if, in the opinion of the Central Authority —
- (a) the request relates to the prosecution or punishment of a person in respect of an act or omission which, if it had occurred in Sri Lanka would not have constituted an offence under the law of Sri Lanka;
 - (b) the request relates to the prosecution or punishment of a person for an offence of a political character;
 - (c) the request relates to the prosecution or punishment of a person in respect of an act or omission which, if it had occurred in Sri Lanka, would have constituted an offence only under the military law of Sri Lanka ;
 - (d) the request relates to the prosecution of a person for an offence where, such person has been acquitted or convicted in accordance with the law of Sri Lanka in respect of that offence or another offence constituted by the same act or omission as that constituting the offence ;
 - (e) compliance with the request would be contrary to the Constitution of Sri Lanka or prejudicial to national security, international relations or public policy ;
 - (f) based on substantial grounds, compliance with the request would facilitate the prosecution or punishment of, or cause prejudice to, any person on account of his race, religion, language, caste, sex, political opinions or place of birth:

Provided that it shall be lawful for the Central Authority to entertain a request relating to an act or omission which would not have constituted an offence under the law of Sri Lanka had it occurred in Sri Lanka, if, in the opinion of the Central Authority, such act or omission is of a serious nature, and is a criminal matter within the meaning of this Act.

- (2) For the purposes of subsection (1), an offence shall be deemed not to be an offence of a political character, if it is an offence within the scope of an International Convention to which both Sri Lanka and the specified country making the request are parties and which imposes on the parties thereto an obligation to extradite or prosecute a person accused of the commission of that offence.

PART II

ASSISTANCE IN RELATION TO LOCATING AND IDENTIFYING PERSONS

7. **Assistance in relation to locating and identifying persons.** (1) Where the Central Authority receives a request from the appropriate authority of a specified country, for his assistance in locating a person who —

- (a) is suspected to be involved in; or
- (b) is able to provide evidence or assistance in,

any criminal matter falling within the jurisdiction of a criminal court in such specified country and who is believed to be in Sri Lanka, or if the identity of such person is not known, his assistance in identifying and locating such person, the Central Authority may in his discretion, refer such request to the Secretary to the Ministry of the Minister in charge of the subject of Defence and request him to cause such inquiries to be made as may be necessary to comply with the request of the appropriate authority, and upon receipt of a report of the inquiries from such Secretary, shall cause such report to be sent to the appropriate authority of the specified country making the request.

(2) Where there are reasonable grounds to believe that a person who —

- (a) is suspected to be involved in ; or
- (b) is able to provide evidence or assistance in,

any criminal matter falling within the jurisdiction of a criminal court in Sri Lanka, is in a specified country, the Central Authority may in his discretion request the appropriate authority in such specified country to assist in locating such person and if his identity is not known, to assist in identifying and locating such person.

(3) A request under subsection (2), shall specify the purpose for which such assistance is required and shall provide any other information that may facilitate the identification or location of such person.

PART III

ASSISTANCE IN RELATION TO THE SERVICE OF SUMMONS AND OTHER DOCUMENTS

8. Request by a specified country for service of any process or documents in Sri Lanka. (1)
Where the Central Authority receives from the appropriate authority of a specified country —

- (a) a summons or other process requiring a person to appear as defendant or attend as a witness in criminal proceedings in that country ;
- (b) a document issued by a court exercising criminal jurisdiction in that country and recording a decision of the court made in the exercise of that jurisdiction.

together with a request that it be served on a person in Sri Lanka, the Central Authority may in his discretion, send such process or document to the Magistrate's Court within whose jurisdiction such person is residing.

- (2) Where the appropriate authority has, in his request to the Central Authority, specified the mode of service, the Magistrate of the Magistrate's Court to which such process or document has been sent under subsection (1), shall cause such process or document to be served, wherever practicable, in accordance with such request unless such mode is inconsistent with the laws of Sri Lanka. Where the mode of service specified in the request is inconsistent with the laws of Sri Lanka, the Magistrate shall cause such process or document to be served in accordance with the laws of Sri Lanka.
- (3) Where such process or document is served on the person to whom the request relates the Magistrate shall transmit to the Central Authority, a certificate setting out when and how it was served, and shall, where available, attach thereto, an acknowledgement signed by the person on whom it was served.
- (4) If such process or document cannot be duly served on the person to whom the request relates, the Magistrate's Court to which such process or document was sent under subsection (1) shall, subject to subsection (5), return such process or document to the Central Authority with a statement giving such information as the Court possesses as to the whereabouts of such person and unless the Central Authority is satisfied that such person is not residing in Sri Lanka, he shall deal with such process or document under subsection (1). Where the Central Authority is satisfied that such person is not residing in Sri Lanka, he shall return such process or document to the appropriate authority in the specified country making the request.
- (5) If the Magistrate of the Magistrate's Court to whom the process or document is sent under subsection (1), is satisfied that such person is residing within the jurisdiction of another Magistrate's Court in Sri Lanka, he shall send such process or document to the Magistrate of that other court and shall inform the Central Authority that he has done so.
- (6) The Magistrate of the Magistrate's Court to which the process or document is sent under subsection (5) shall proceed as if it had been sent to such court under subsection (1). The Magistrate shall after it has been served on the person to whom the request relates, transmit

to the Central Authority a certificate setting out when and how it was served and shall, where available, attach thereto, an acknowledgement signed by the person on whom it was served.

(7) The Central Authority shall on receipt of a certificate under subsection (3) or subsection (6), transmit the same to the appropriate authority of the specified country making the request.

(8) The Service of any such process referred to in paragraph (a) of subsection (1), on any person shall not impose any obligation on such person under the law of Sri Lanka to comply with it.

9. **Request by the Central Authority for service in a specified country.** (1) The Central Authority may, in the case of —

(a) a summons requiring a person charged with an offence to appear before a court in Sri Lanka ; and

(b) a summons or order requiring a person to attend before a court in Sri Lanka for the purpose of giving evidence in criminal proceedings,

issued or made by a court in Sri Lanka, request the appropriate authority of a specified country in which such person is resident to have such summons or order served on such person in the specified country, and may in such request, specify the mode of service of such summons or order.

(2) Where the appropriate authority of a specified country” to whom a request has been made under subsection (1) informs the Central Authority that the summons or order to which the request relates has been served on a person resident in such specified country and transmits a duly authenticated report of such service, the Central Authority shall cause such report to be sent to the court issuing or making such summons or order, and such report shall be admissible in evidence and the statements made therein shall be deemed to be correct, unless the contrary is proved.

PART IV

ASSISTANCE IN RELATION TO TAKING OF EVIDENCE AND PRODUCTION OF DOCUMENTS OR OTHER ARTICLES

10. **Request by a specified country for evidence to be taken and documents and to be produced in Sri Lanka.** (1) Where the appropriate authority of a specified country makes a request to the Central Authority that —

(a) evidence be taken in Sri Lanka ; or

(b) documents or other articles in Sri Lanka be produced,

for the purposes of a proceeding in relation to a criminal matter in the specified country, the Central Authority may in his discretion refer such request to a Magistrate, authorized by a general or specified order made by the President of the Court of Appeal to take such evidence or to receive such documents or articles, and shall, upon receipt of such evidence, documents or articles from such Magistrate, transmit the same to the appropriate authority of the specified country.

- (2) Every request made under sub section (1) by the appropriate authority of a specified country shall, so far as circumstances of the case permit, specify —
- (a) the names and addresses or the official designations of the witnesses to be examined;
 - (b) the questions to be put to the witnesses or the subject matter about which they are examined;
 - (c) whether it is desired that the witness be examined orally or in writing;
 - (d) any provision of the law of the specified country as to privileges or exemptions from giving evidence which appear relevant to the request; and
 - (e) any special requirements of the law of the specified country as to the manner of taking evidence relevant to its admissibility in that country;
 - (f) whether it is desired that the original of a document be produced or whether a certified copy of the document would be sufficient.
- (3) Where the taking of evidence or the production of documents or other articles under subsection (1) has been authorized-
- (a) the Magistrate specified in the authorization may take the evidence on oath of each witness appearing before such Magistrate to give evidence in relation to such matter, and such Magistrate shall —
 - (i) cause the evidence to be taken in writing and certify that the evidence was taken by such Magistrate ; and
 - (ii) cause the evidence so certified to be sent to the Central Authority ;
 - (b) a Magistrate may, require the production before him, of the documents or other articles and, where the documents or other articles are so produced, the Magistrate shall send the documents, or where it is impracticable to send such documents to the Central Authority or where the request relates only to copies of such documents, copies of such documents certified to be true copies by the Magistrate, or the other articles, as the case may be, to the Central Authority.
- (4) The evidence of any witness may be taken in the presence or absence of the person to whom the proceeding in the specified country relates or his legal representative, if any.
- (5) The Magistrate conducting a proceeding under subsection (3) shall permit—
- (a) the person to whom the proceeding in the specified country relates ;
 - (b) the appropriate authority of the specified country.

to have legal representation at the proceeding before the Magistrate.

- (6) The certificate of the Magistrate under subsection (3) shall state whether legal representation was permitted at the proceedings conducted under that subsection and whether any of the following persons were present at the time the evidence was taken or the documents or other articles were produced :—
- (a) the person to whom the proceeding in the specified country relates or his legal representative, if any;
 - (b) any other person giving evidence or producing documents or other articles or his legal representative, if any.
- (7) The provisions of the Code of Criminal Procedure Act. No. 15 of 1979 relating to the compelling of attendance of witnesses and the production of documents by witnesses shall apply in relation to a Magistrate's Court which is authorized to take such evidence.
- (8) The Central Authority shall cause the certificate of the Magistrate sent to him under subsection (3) to be transmitted to the appropriate authority of the specified country.
- (9) A person who is required to give evidence, or produce documents or other articles, for the purposes of a proceeding in relation to a criminal matter in a specified country shall not be compelled to answer a question, or produce a document or article, that the person is not compelled to answer or produce, as the case may be, in such proceeding in the specified country.
- (10) A duly authenticated foreign law immunity certificate shall be admissible in proceedings under this section as prima facie evidence of the matters stated in such certificate but shall not, without the consent of the appropriate authority, be used for any purpose other than for the purposes of the Criminal matter specified in the request.

11. Request by Central Authority for evidence to be taken in and documents &c. to be produced in a specified country.

- (1) The Central Authority may, at the request of a court exercising criminal jurisdiction in Sri Lanka, request the appropriate authority of a specified country to arrange for—
- (a) evidence to be taken in the specified country ; or
 - (b) documents or other articles to be produced in the specified country,
- for the purposes of a proceeding in relation to a criminal matter in that court.
- (2) Where the Central Authority receives, from the appropriate authority in a specified country, in response to a request made by him under subsection (1)—
- (a) any evidence taken in such specified country ;
 - (b) any document or other article produced in such specified country,

such evidence, document or article shall be admissible in any proceeding to which such request relates but shall not, without the consent of such appropriate authority, be used for the purpose other than for the purposes of the criminal matter specified in such request.

PART V
ARRANGEMENTS FOR PERSONS TO GIVE EVIDENCE OR ASSIST
INVESTIGATIONS

12. Request by a specified country for prisoner in Sri Lanka to give evidence or assist investigation.

(1) Where a proceeding or an investigation relating to a criminal matter has commenced in a specified country, and the appropriate authority of that specified country requests the removal of a prisoner who is in Sri Lanka, for the purposes of giving evidence at a hearing in connection with such proceeding or of giving assistance in relation to such investigation, as the case may be, being of the opinion that such prisoner is capable of giving evidence relevant to such proceeding, or of giving assistance in relation to such investigation, as the case may be, the Central Authority may, if he is satisfied that—

- (a) such person has consented to giving evidence in such proceeding or to being removed to such specified country for the purposes of giving assistance in relation to such investigation, as the case may be ; and
- (b) he specified country has given any undertakings required by the Central Authority, in respect of such prisoner, including undertakings as to meeting the costs of travel of the prisoner to the specified country and as to the period for which such prisoner shall be held in custody in the specified country,

direct in writing, the release of such prisoner from prison for the purposes of removal to the specified country and make arrangements for the travel of such prisoner to the specified country.

(2) A direction by the Central Authority under subsection(I) with respect to a prisoner shall be deemed to authorize—

- (a) the release of such prisoner from the prison in which he is held in custody and the delivery of such prisoner, in the custody of a prison officer, in or outside Sri Lanka, into the custody of a person representing the appropriate authority of the specified country requesting the removal of such prisoner ;
- (b) the bringing of the prisoner back to Sri Lanka and his delivery, in the custody of a prison officer, into the custody of the prison from which he was released for the purposes of removal to the specified country.

(3) Where a prisoner who is serving a term of imprisonment in Sri Lanka is released from prison pursuant to a request made by a specified country under subsection (I), any period during which such prisoner is held in custody in such specified country in connection with such request, shall be deemed to be a period spent in serving the term of imprisonment which he was serving prior to his release for removal to the specified country.

(4) Where—

- (a) a proceeding or an investigation relating to a criminal matter has commenced in a specified country;

- (b) the appropriate authority in the specified country requests the attendance, of a person (not being a prisoner) who is in Sri Lanka, at a hearing in connection with that proceeding or for the purposes of giving assistance in relation to such investigation, as the case may be ;
- (c) there are reasonable grounds to believe that the person, is capable of giving evidence relevant to such proceeding, or of giving assistance in relation to such investigation, as the case may be ; and
- (d) the Central Authority is satisfied that—
 - (i) such person has consented to travel to such specified country, to give evidence in such proceeding or to give assistance in relation to such investigation as the case may be ; and
 - (ii) the appropriate authority in the specified country has given any undertaking required by the Central Authority with respect to such person, including undertakings as to meeting the costs of travel of such person to the specified country,

the Central Authority may, in his discretion, make arrangements for the travel of that person to the specified country.

13. Request by the Central Authority for prisoner or other person in specified country to give evidence or assist an investigation. (1) Where a proceeding or investigation relating to a criminal matter has commenced in Sri Lanka and the Central Authority is of the opinion that a person who is in a specified country, is—

- (a) a prisoner in such specified country ;
- (b) capable of giving evidence relevant to that proceeding or of giving assistance in relation to such investigation as the case may be ; and.
- (c) has given, or is likely to give, his consent to being removed to Sri Lanka for the purposes of giving evidence in such proceeding or of giving assistance in relation to such investigation, as the case may be,

the Central Authority may, in his discretion, request the appropriate authority in the specified country to authorise the removal of such person to Sri Lanka, to give evidence at a hearing in connection with that proceeding or to give assistance in relation to such investigation, as the case may be.

- (2) A person removed to Sri Lanka from a specified country, pursuant to a request made by the Central Authority under subsection (1) shall, while such person is in Sri Lanka or travelling to or from Sri Lanka pursuant to such request, be held in such custody as the Central Authority may, in writing direct. A direction given under this subsection shall be deemed to authorize the holding in custody of the person to whom such direction relates.
- (3) The provisions of the Prisons Ordinance relating to the conditions of imprisonment of persons imprisoned in a prison in Sri Lanka, their treatment during imprisonment and their transfer from prison to prison shall apply so as far as they are capable of application, in relation to a person held in custody pursuant to a direction by the Central Authority under subsection (2).

(4) Where—

- (a) a person is held in custody pursuant to a direction made by the Central Authority under subsection (2); and
- (b) the appropriate authority in the specified country from which such person was removed to Sri Lanka requests the release of such person from custody,

the Central Authority shall direct that such person be released from custody.

(5) Any person who escapes from lawful custody while held in custody in Sri Lanka pursuant to a request made by the Central Authority under subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to rigorous imprisonment for a term not exceeding ten years.

(6) Where a proceeding or an investigation relating to a criminal matter has commenced in Sri Lanka and the Central Authority is of the opinion that a person (not being a prisoner) who is in a specified country—

- (a) is capable of giving evidence relevant to that proceeding or of giving assistance in relation to such investigation, as the case may be; and
- (b) has consented to travel to Sri Lanka, to give evidence in such proceeding or to give assistance in relation to such investigation, as the case may be,

the Central Authority may, in his discretion, request the appropriate authority of the specified country to make arrangements for the travel of that person to Sri Lanka.

14. Immunity from prosecution &c. of persons brought to Sri Lanka. Where—

- (a) a person is in Sri Lanka pursuant to a request made by the Central Authority to the appropriate authority of a specified country under subsection (6) of section 13; or
- (b) a person, being a prisoner, has been removed to Sri Lanka pursuant to a request made by the Central Authority to the appropriate authority of a specified country, under subsection (1) of section 13,

to give evidence in a proceeding relating to a criminal matter or to give assistance in an investigation relating to a criminal matter, such person shall not be detained prosecuted or punished in Sri Lanka for any offence that is alleged to have been committed or was committed, prior to that person's departure from such specified country pursuant to such request—

- (i) in the case of a person who, not being a prisoner, is in Sri Lanka for the purposes of giving evidence in a proceeding relating to a criminal matter or of assisting in a investigation relating to a criminal matter, unless such person has remained in Sri Lanka for a period of at least fifteen days after he had been notified by the Central Authority that his presence was no longer necessary for such proceeding or investigation and had an opportunity of leaving Sri Lanka ; and
- (ii) in the case of a person who being a prisoner, in Sri Lanka for the purposes of giving evidence in a proceeding relating to criminal matter or of assisting in a investigation relating to a criminal matter, until after he has returned to the specified country from which he was removed to Sri Lanka.

PART VI

ASSISTANCE IN RELATION TO SEARCH AND SEIZURE

15. Request by a specified country for search and seizure. (1) Where—

- (a) a proceeding or investigation relating to a criminal matter involving a serious offence has commenced in a specified country ;
- (b) there are reasonable grounds to believe that a thing relevant to the proceeding or investigation is located in Sri Lanka ; and
- (c) the appropriate authority of such specified country requests the Central Authority to arrange for the issue of a search warrant in relation to that thing,

the Central Authority may, in his discretion, authorise a police officer in writing, to make an application to the Magistrate within whose jurisdiction that thing is believed to be located, for the search warrant requested by the appropriate authority of such specified country.

(2) Where a police officer authorised under subsection (1) has reason to believe that the thing to which the request relates is, or shall, at a specified time, be—

- (a) in the clothing that is worn by a person ; or
- (b) otherwise in a person's immediate control ;

the police officer may—

- (i) lay before such Magistrate such information on oath setting out the grounds for such belief; and
- (ii) apply for the issue of a warrant under this section to search the person for that thing.

(3) Where an application is made under subsection (2), the Magistrate may, subject to subsection (6), issue a warrant authorising a police officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable—

- (a) to search the person for such thing ; and
- (b) to seize anything authorised to be seized by the warrant and found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceeding or investigation.

(4) Where a police officer authorised under subsection (1) has reason to believe that the thing to which the request relates is, or shall, at a specified time, be, upon any land, or upon or in any premises, the police officer may—

- (a) lay before such Magistrate such information on oath setting out the grounds for such belief; and
- (b) apply for the issue of a warrant under this section to search the land or premises for that thing.

- (5) Where an application is made under subsection (!). the Magistrate may, subject lo subsection (6). issue a warrant authorising a police officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable —
- (a) to enter upon the land, or upon or into the premises ;
 - (b) to search the land or premises for such thing ; and
 - (c) to seize anything authorized to be seized by the warrant and found in the course of the search that the police officer believes, on reasonable grounds, to be relevant lo the proceeding or investigation.
- (6) A Magistrate shall not issue a warrant under this section unless —
- (a) the informant or some other person has given to the Magistrate either orally or by affidavit, such further information if any, as the Magistrate requires concerning the grounds on which the issue of the warrant is sought; and
 - (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (7) There shall be stated in a warrant issued under this section —
- (a) the purpose for which the warrant is issued, including a reference to the nature of the criminal matter in relation to which the search is authorised ;
 - (b) whether the search is authorised at any time of the day or night or during specified hours of the day or night;
 - (c) a description of the kind of things authorised to he seized ; and
 - (d) the date (not being later than one month after the issue of the warrant) on which the warrant ceases to have effect.
- (8) If, during a search under a warrant issued under this section, for anything of the kind specified in the warrant, the police officer finds any other thing that such police officer believes on reasonable grounds —
- (a) to be relevant to the proceeding or investigation in the specified country or to afford evidence as to the commission of an offence in Sri Lanka : and
 - (b) is likely to be concealed, lost or destroyed if it is not seized,
- the warrant shall be deemed to authorise such police officer to seize such other thing.
- »
- (9) Where a police officer finds as a result of a search in accordance with a warrant issued under this section, any other thing which such police officer believes on reasonable grounds, to be relevant to the proceeding or investigation in the specified country, such police officer shall deliver such other thing into the custody and control of the Inspector - General of Police in Sri Lanka.
- (10)Where a thing is delivered into the custody and control of the Inspector-General of Police under subsection (9), the Inspector-General of police shall arrange for such thing to be kept

for a period not exceeding one month from the day on which the thing was seized, pending a direction in writing from the Central Authority as to the manner in which the thing is to be dealt with, which may include a direction that the thing be sent to an authority of a specified country.

(11) The provisions of the Criminal Procedure Code Act, No. 15 of 1979 relating to the execution of search warrants issued under that Act shall, in so far as they are not inconsistent with the preceding provisions of this section, apply to the execution of warrants issued under this section.

(12) The Magistrate issuing a warrant under this section shall, subject to the provisions of subsection (9), cause any thing seized in the course of a search in accordance with such warrant together with a certificate setting out the place and circumstances of the seizure and the custody of such things after its seizure, to be forwarded to the Central Authority for transmission to the appropriate authority of the specified country making the request for such search warrant.

16. **Request by Sri Lanka for search and seizure.** Where a proceeding or investigation relating to a criminal matter is commenced in Sri Lanka, and the Central Authority has reasonable grounds to believe that anything relevant to such proceeding or investigation is located in a specified country, he may request the appropriate authority of such specified country to apply for and obtain, a warrant or other authority authorizing the search for, and seizure of, such thing, or any other thing that is, or may be relevant to such proceeding or investigation, and to transmit to him anything seized in the course of any search authorized by such warrant.

PART VII

TRACING PROCEEDS OF CRIME AND ENFORCEMENT OF ORDERS

17. **Request by a specified country for tracing proceeds of crime.** Where —

- (a) a person has been charged with, or convicted of, or is suspected on reasonable grounds of having committed, a serious offence in a specified country ;
- (b) there are reasonable grounds to believe that any property derived or obtained, directly or indirectly, from the commission of that offence, is in Sri Lanka ;
- (c) the appropriate authority in such specified country requests the Central Authority for assistance in identifying, locating or assessing the value of such property,

the Central Authority may in his discretion, give the assistance requested wherever it is practicable to do so.

18. **Request by Sri Lanka for tracing proceeds of crime.** Where —

- (a) a person has been charged with, or convicted of, or is suspected on reasonable grounds of having committed, a serious offence in Sri Lanka ;
- (b) there are reasonable grounds to believe that any property derived or obtained, directly or indirectly, from the commission of that offence is in a specified country,

the Central Authority may, in his discretion, require the appropriate authority in such specified country for assistance in identifying, locating, or assessing the value, of such property.

19. Request by a specified country for enforcement of orders of court. (1) Where —

- (a) a court in a specified country has, in a proceeding relating to a criminal matter, made an order —
 - (i) forfeiting any property or having the effect of forfeiting or confiscating any property ;
 - (ii) imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person ;
 - (iii) restraining any person or all persons from dealing with any property ; and
- (b) there are reasonable grounds to believe that the property with respect to which such order is made is located in Sri Lanka or that any property located in Sri Lanka is available for the satisfaction of that order;
- (c) the appropriate authority of such specified country has requested the Central Authority for assistance in enforcing such order in Sri Lanka ; and
- (d) the Central Authority is satisfied that such order is in force and not subject to any further appeal in the specified country,

the Central Authority may, in his discretion, require the Attorney-General to apply for the registration of the order in the High Court established under Article I54P of the Constitution for the Province in which such property is located.

- (2) Where the Attorney-General applies to the High Court for the registration of an order in pursuance of an authorization under subsection (1), the court shall register such order.
- (3) Where an order is registered in the High Court in pursuance of an application under subsection (2) a copy of the amendments to the order (whether made before or alter the registration) shall be registered in the same manner as the order, and the amendments shall have effect only upon such registration.
- (4) An order or an amendment of an order shall he registered in the High Court, by the registrar in accordance with any rules of court made in that behalf, with a copy of that order or amendment duly authenticated in accordance with the provisions of section 21.
- (5) An order and any amendments thereto registered in the High Court under subsection (4) shall have effect, and may be enforced, in all respects, as if it were an order made by that court.
- (6) Where the High Court is satisfied that any order registered under subsection (2) has ceased to have effect in the specified country in which it was made, it shall cancel such registration.
- (7) Any property forfeited or confiscated, or any fine or pecuniary penalty or compensation recovered, by reason of the enforcement of an order registered under this section shall, notwithstanding anything in any other law, be dealt with in such manner as the Central Authority may specify for the purposes of giving effect to the request.

20. Request by Sri Lanka for enforcement of orders of court. Where—

- (a) a court in Sri Lanka has, in a proceeding relating to a criminal matter, made an order—
 - (i) forfeiting any property or having the effect of forfeiting or confiscating any property ;
 - (ii) imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person ;
 - (iii) restraining any person or all persons from dealing with any property ; and
- (b) the Central Authority has reasonable grounds to believe that the property with respect to which such order is made or the property available to satisfy such order is located in a specified country,

the Central Authority may, in his discretion, request the appropriate authority of such specified country to make arrangements for the enforcement of such order in such specified country.

PART VIII

GENERAL

- 21. Authentication of documents.** (1) In a proceeding under this Act, arising directly or indirectly from a request made under this Act, a document duly authenticated shall be admissible in evidence.
- (2) A document shall be deemed to be duly authenticated for the purposes of subsection (1), if—
- (a) it purports to be signed or certified by a Judge, Magistrate or Officer in, or of, a specified country; and
 - (b) it purports to be authenticated by the oath of a witness or an officer of the Government of the specified country or to be sealed with the official or public seal of the specified country or of a Minister of State or of a Department or officer of the Government of the specified country.
- 22. Regulations.** (1) The Minister may make regulations in respect of all matters, which are required by this Act to be prescribed or in respect of which regulations are authorized or required to be made.
- (2) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which a regulation is so deemed to be rescinded shall be published in the Gazette.
- 23. Sinhala text to prevail in case of inconsistency.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala text shall prevail.

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

“appropriate authority” in relation to a specified country which is —

- (a) a Commonwealth country means the person, howsoever described, designated to receive and transmit requests for assistance in criminal matters, by or under any law of that country ;
- (b) a Non-Commonwealth country means the person, howsoever described, designated it) receive and transmit requests for assistance in any agreement between Sri Lanka and such non-Commonwealth country for mutual assistance in criminal matters or in any law of such country giving effect to such agreement;

“Commonwealth Country” means a country within the Commonwealth, and includes a colony, territory, protectorate or other dependency of such country, or a ship or aircraft registered in such country;

“criminal mailer” means violations of any law, whether of Sri Lanka or of a specified country, and includes violations of the law of Sri Lanka or a specified country relating to taxation, exchange control or customs or securities or money laundering ;

“duly authenticated” in relation to a document, means a document authenticated as provided for in section 21 ;

“foreign law immunity certificate” means a certificate given or a declaration made, by the appropriate authority of a specified country or under the law of a specified country, certifying or declaring that, under the law of that specified country, persons generally or a specified person, could or could not either generally or in specified proceedings or either generally or in specified circumstances, be required to answer a specified question, or to produce a specified document;

“Non Commonwealth Country” means a country outside the Commonwealth and includes a colony, territory, protectorate or other dependency of such country, or a ship or aircraft registered in such country, and shall be deemed to include the Hong Kong Special Administration Region of the Peoples Republic of China;

“serious offence” means of offence punishable with death or with imprisonment for a term not less than one year.

SCHEDULE (section 5)
FORM A [section 7(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas (state name of suspect/witness/other person* if known): is suspected to be involved in/is able to provide evidence/assistance*in.....(state criminal matter failing within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that the aforesaid..... (State name of suspect/witness/other person* if known) is in Sri Lanka:

This is to request your assistance in locating the aforesaid (State name of Suspects/witness/other person* if known).

Appropriate Authority of Specified Country.

FORM B [Section 7(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas a person whose identity is not known and the available information about whom is specified hereunder, is suspected to be involved in/is able to provide evidence/assistance* in.....
(state criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that the aforesaid person is in Sri Lanka :

This is to request your assistance in identifying and locating such person.

Appropriate Authority of Specified Country.

FORM C | section 8(1)1
TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in(state name of court in specified country) in respect of..... (state criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas summons/process/document* has been issued in such proceedings for service on.....(state name of defendant/witness/other person)*:

And Whereas there are reasonable grounds to believe that the aforesaid..... (state name of defendant/witness/other person*) is in Sri Lanka :

This is to request your assistance to serve that summons/process/document* (a copy of which is attached hereto) on the aforesaid.....(state name of defendant/witness/other person*). Where mode service is specified in the manner specified hereunder.

Appropriate Authority of Specified Country.

FORM D [section 10(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of.....(state name of court in specified country) in respect of..... (state criminal matter falling within jurisdiction of criminal court in Specified Country):

And Whereas there are reasonable grounds to believe that(state name of witness) who is capable of giving evidence relevant to such proceedings/producing (state name of document or other thing) relevant to such proceedings* is in Sri Lanka :

This is to request you to arrange for:—

- (a) the taking of the evidence of the aforesaid..... (state name of witness required to be examined) : or
- (b) the production of the aforesaid..... (describe the document or other thing required to be produced).

in Sri Lanka for the purposes of the aforesaid proceedings and for the transmission of such evidence, document or other thing to me.

Appropriate Authority of Specified Country.

FORM E

(section 12(1))

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the Court of..... (state name of court) in specified country)/investigations have been commenced in (state name of specified country)* in respect of.....(state the criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that.....(state name of prisoner) who is currently serving a sentence of imprisonment in (state place of imprisonment in Sri Lanka) is capable of giving evidence relevant to such proceedings/giving assistance in relation to such investigation* :

This is to request you to arrange for the removal of the aforesaid (state name of prisoner) to..... (state name of specified country) for the purposes of giving evidence relevant to such proceedings/giving assistance in relation to such investigation* .

Appropriate Authority of Specified Country.

FORM F

[section 12(4)]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of (state name of court in specified country)/investigations have been commenced in(state name of specified country)* in respect of..... (state the criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that.....(state name of witness) who is presently in Sri Lanka is capable of giving evidence relevant to such proceedings/giving assistance in relation to such investigation*:

This is to request you to arrange for the removal of the aforesaid.....
(state name of witness) to..... (state name of specified country) for the purposes of
giving evidence relevant to such proceedings/ giving assistance in relation to such investigation* .

Appropriate Authority of Specified country.

FORM G

[section 15(1)]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of (state name of court in specified
country) /investigations have been commenced in (state name of specified country)* in respect
of.....(state the nature of the serious offence):

And whereas there are reasonable grounds to believe that..... (state the description or article
or thing) which is relevant to such proceedings/ investigation* is located in Sri Lanka :

This is to request you to arrange for the issue of a search warrant for the search and seizure
of..... (state the description of article or thing) and the transmission of the same to
me.

Appropriate Authority of Specified Country.

FORM H [Section 17]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas (state name of suspect/offender)* has been charged with/convicted of/suspected of
having committed* (state nature of serious offence) in..... (state name
of specified country :

And whereas there are reasonable grounds to believe that (describe property, if known) derived
or obtained, directly or indirectly, from the commission of that offence, is in Sri Lanka:

This is to request you for your assistance in locating/identifying/assessing the value
of* (describe property if known).

Appropriate Authority of Specified Country.

FORM I
[Section 19(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas (state name of court in specified country) has in proceedings instituted in respect of (state criminal matter) made order forfeiting/confiscating..... (describe property/imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person/restraining any person from dealing with (describe property):

And whereas there are reasonable grounds to believe that(describe property) with respect of which that order is made is located in Sri Lanka/ that property located in Sri Lanka is available for satisfaction of that order* :

This is to request your assistance in enforcing that order (a copy of which is attached hereto).

Appropriate Authority of Specified Country.

*Delete whatever is inapplicable.

Convention on the Suppression of Terrorist Financing

Act No 25 of 2005

AN ACT TO GIVE EFFECT TO THE CONVENTION ON THE SUPPRESSION OF TERRORIST FINANCING; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Preamble

WHEREAS an International Convention on the Suppression of Terrorist Financing (hereinafter referred to as “the Convention”) was adopted by the General Assembly of the United Nations on the Ninth day of December, Nineteen Ninety-Nine and opened for signature on the Tenth day of January Two Thousand:

AND WHEREAS the Government of Sri Lanka became a signatory to the aforesaid Convention on the Tenth day of January Two Thousand and ratified the same on the Eighth day of September Two Thousand:

AND WHEREAS the aforesaid Convention entered into force in respect of Sri Lanka on the Tenth day of April Two Thousand and Two:

AND WHEREAS it is necessary for the Government of Sri Lanka to make legislative provision to give effect to Sri Lanka’s obligations under the aforesaid Convention:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

[8th August, 2005]

1. Short title.

This Act may be cited as the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

2. Convention States

The Minister may, from time to time, by Order published in the Gazette certify the States which are parties to the Convention. A State in respect of which an Order is made under this section is hereinafter referred to as a “Convention State”.

3. Offences

(1) Any person who, by any means, directly or indirectly, unlawfully and wilfully provides or collects funds, with the intention that such funds should be used, or in the knowledge that they are to be used or having reason to believe that they are likely to be used, in full or in part, in order to commit,-

(a) an act which constitutes an offence within the scope of, or within the definition of any one of the Treaties specified in Schedule I hereto ;

- (b) any other act, intended to cause death or serious bodily injury, to civilians or to any other person not taking an active part in the hostilities, in a situation of armed conflict, and the purpose of such act, by its nature or context is to intimidate a population or to compel a government or an international organization, to do or to abstain from doing any act,

shall be guilty of the offence of financing of terrorists or terrorist organizations :

Provided that, for an act to constitute the offence set out above, it shall not be necessary to show that the funds collected were actually used in the commission of an offence.

- (2) Any person who-

- (a) attempts to commit;
- (b) aids or abets the commission of ; or
- (c) acting with a common purpose with another person

the offence of financing of terrorists or terrorist organizations, shall be guilty of an offence under this Act.

In this subsection “abet” has the same meaning as in sections 100 and 101 of the Penal Code.

- (3) Where an offence specified in subsection (1) or subsection (2) of this section is committed by a body of persons, then, every member, Director, Manager, Secretary, officer or servant of such body of persons shall be guilty of such offence, unless it can be proved that the offence was committed without their knowledge or that they exercised all due diligence to prevent the commission of such offence.
- (4) A person guilty of an offence under subsection (1) or subsection (2) of this section, shall on conviction after trial on indictment by the High Court, be punished with imprisonment for a term not less than fifteen years and not exceeding twenty years, and also be liable to a fine.

4. Freezing and seizure

- (1) On indictment to any person in the High Court, for an offence under this Act, all funds collected in contravention of the provisions of section 3, shall, with effect from the date of filing of such indictment-
 - (a) if such funds are lying in an account with any Bank, be subject to an order of freezing ; or
 - (b) if such funds are in the possession or control of any person be liable to seizure ;
- (2) The freezing or seizure of funds in terms of subsection (1) shall be in force until the conclusion of the trial.
- (3) On the filing of indictment, the Attorney-General shall notify the Central Bank of the freezing or seizure as the case may be.
- (4) The Central Bank shall thereupon take steps to give adequate publicity to the order of freezing or seizure as the case may be, as it shall think fit.

5. Forfeiture.

- (1) On the conviction of any person under subsection (4) of section 3, the Court may Order that any funds collected in pursuance of subsection (1) of section 3 shall be forfeited to the State.
- (2) Any funds forfeited to the State under subsection (1), shall vest absolutely in the State. Such vesting shall take effect-
 - (a) where no appeal is preferred to the Court of Appeal against the Order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Court of Appeal against such Order of forfeiture;
 - (b) where an appeal had been preferred to the Court of Appeal against such Order of forfeiture, and no appeal is preferred to the Supreme Court against the Order of the Court of Appeal affirming or upholding such Order of forfeiture, on the expiration of the period within which an Appeal may be preferred to the Supreme Court from such Order of the Court of Appeal;
 - (c) where an appeal had been preferred, to the Court of Appeal against such Order of forfeiture, and an appeal has been preferred to the Supreme Court from the determination of the Court of Appeal on the first mentioned' appeal, upon the determination of the Supreme Court affirming or upholding the Order of forfeiture.
- (3) Where the Court is satisfied on the evidence adduced at a trial for an offence under subsection (1) of section 3, that any funds standing to the credit of any account in any bank, are the proceeds of such offence, it may, by written order prohibit the Manager of such bank from permitting or allowing the withdrawal of any funds from the account, until the conclusion of the trial.

6. High Court to try offences under this Act.

- (1) The High Court of Sri Lanka holden in Colombo or the High Court established under Article 154P of the Constitution for the Western Province, holden in Colombo, shall, notwithstanding anything to the contrary in any other law, have exclusive jurisdiction to try offences under this Act.
- (2) Where an act constituting an offence under this Act is committed outside Sri Lanka, the High Court referred to in subsection (1) shall have jurisdiction to try such offence as if it were committed within Sri Lanka, if-
 - (a) the person who committed such act is present in Sri Lanka;
 - (b) such act is committed by a citizen of Sri Lanka, or by a national of another State which is a party to the convention, or by a stateless person who has his habitual residence in Sri Lanka;
 - (c) such act is committed against, or on board, a ship or aircraft registered in Sri Lanka at the time of the commission of the offence ;
 - (d) such act is committed against, or on board a ship or aircraft registered under the laws of another State which is a party to the convention, at the time of the commission of the offence ;

- (e) the person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka;
- (f) such act is committed in order to compel the Government of Sri Lanka, to do, or abstain from doing, any act;
- (g) such act is committed against a State or a government facility of that State situated in another country, including any diplomatic or consular premises of such State; or
- (h) such act is committed against any property owned, leased or used by the Government of Sri Lanka including an embassy or other diplomatic or consular premises of Sri Lanka.

7. Rights of certain persons arrested for offences under this Act.

Where a person who is not a citizen of Sri Lanka is arrested for an offence under this Act, such person shall be entitled-

- (a) to communicate without delay, with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights, or if he is a stateless person, with the nearest appropriate representative of the State in the territory of which he was habitually resident ; and
- (b) to be visited by a representative of that State ; and
- (c) be informed of his rights under paragraphs (a) and (b).

8. Minister to notify requesting State, of measures taken against persons for whose extradition request is made

Where a request is made to the Government of Sri Lanka, by or on behalf of the Government of a Convention State for the extradition of any person accused or convicted of an offence under section 3 or of an offence specified in Schedule II to this Act, the Minister shall on behalf of the Government of Sri Lanka, forthwith notify the Government of the requesting State of the measures which the Government of Sri Lanka has taken, or proposes to take, for the prosecution or extradition of that person for that offence.

9. Assistance to Convention States & c.,

- (1) The provisions of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 shall, wherever it is necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II to this Act, be applicable in respect of the providing of assistance as between the Government of Sri Lanka and other States who are either Commonwealth countries specified by the Minister by Order under section 2 of the aforesaid Act or non- Commonwealth countries with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act.
- (2) In the case of a country which is neither a Commonwealth country specified by the Minister by Order under section 2 of the aforesaid Act nor a non-Commonwealth country with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act, then it shall be the duty of the Government to afford all such assistance to, and may through

the Minister request all such assistance from, a Convention state, as may be necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II of this Act to the extent required for the discharge of its obligations under the United Nations Convention (including assistance relating to the taking of evidence and statements, the serving of process and the conduct of searches).

- (3) The grant of assistance to a Convention state may be made subject to such terms and conditions as the Minister thinks fit.

10. Existing extradition arrangements with Convention States deemed to provide for offences in Schedule II

Where there is an extradition arrangement made by the Government of Sri Lanka with any Convention State, in force on the date on which this Act comes into operation, such arrangement shall be deemed for the purposes for the Extradition Law, No. 8 of 1977, to include provision for extradition in respect of the offences specified in Schedule II to this Act.

11. Minister may treat Convention as an extradition arrangement between Sri Lanka and certain Convention States, in respect of offences in Schedule II.

Where there is no extradition arrangement made by the Government of Sri Lanka with any Convention State, the Minister may by Order published in the Gazette, treat the Convention, for the purposes of the Extradition Law, No. 8 of 1977 as an extradition arrangement, made by the Government of Sri Lanka with the Convention State providing for extradition in respect of the offences specified in Schedule II to this Act.

12. Amendment to the Extradition Law, No. 8 of 1977.

The Extradition Law, No. 8 of 1977 is hereby amended by the insertion immediately before Part B of the Schedule to that Law, of the following item :-

“(46) An offence within the scope of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.”.

13. Offences under this Act not to be political offences &c, for the purposes of the Extradition Law.

Notwithstanding anything in the Extradition Law, No. 8 of 1977, an offence specified in the Schedule to that Law and in Schedule II to this Act, shall for the purposes of that law be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives, for the purposes only of the extradition of any person accused or convicted of any such offence, as between the Government of Sri Lanka and any Convention State, or of affording assistance to a Convention State under section 9.

14. Measures to be taken for the prevention of any offence under this Act or the offence of money laundering.

For the furtherance of international co-operation in the prevention of the offences specified in section 3, the Minister in charge of the subject of Foreign Affairs may, in consultation with the Minister to

whom the subject of money laundering is assigned, make such regulations, issue such directions or take such action as is provided for by any other written law for the time being in force for the purpose of preventing and combating the commission of an offence under this Act or the offence of money laundering.

15. Minister to issue directions.

The Minister may from time to time issue such general or special directions as are necessary for the implementation of the principles and provisions of the Convention to such extent as they are embodied in this Act.

16. Regulations.

- (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act or any matter in respect of which regulations are required or authorized under this Act to be made.
- (2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) Every regulation made by the Minister, shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved, shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.
- (4) A Notification of the date of disapproval shall be published in the Gazette.

17. Sinhala text to prevail in case of inconsistency.

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