

Protection of National Security from Terrorism Act

1. This Act may be cited as the Protection of National Security from Terrorism Act.

Acts of Terrorism

2. (1) Any person who commits an act of terrorism shall commit an offence under this Act.

(2) An act of terrorism shall mean;

(a) committing or threatening to commit any action that falls within subsection (3) with intent to threaten the unity, territorial integrity, security or sovereignty of Sri Lanka; or

(b) any action that falls within subsection (3); where the action or the threat of such action is designed and made to compel the government to do or abstain from doing any act or to intimidate the public or a section of the public;

(3) Action falls within this subsection if it—

(a) involves violence against a person;

(b) involves damage to property;

(c) endangers a person's life, other than that of the person committing the action;

(d) creates a risk to the health or safety of the public or a section of the public;

(e) is designed to interfere with or to seriously disrupt an electronic system.

(4) Any person guilty of an offence specified in this section shall on conviction be liable to imprisonment of either description for a period not exceeding twenty years, except where such person intentionally causes death, in which event such person shall on conviction be liable to a sentence of death.

Types of liability

3. Any person who

(1) attempts to commit;

- (2) abets, conspires, exhorts or incites the commission of; or
- (3) prepares to commit;
- (4) is an accessory after the fact to:

an offence under section (2) shall be guilty of an offence under this Act and shall on conviction be liable to imprisonment of either description for a period not exceeding twenty years.

Powers of arrest, entry, search and seizure.

4. (1) Any police officer not below the rank of Superintendent or any other police officer not below the rank of Sub-Inspector authorized in writing **by any police officer not below the rank of superintendent** in that regard may, without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary (a) arrest any person; (b) enter and search any premises; (c) stop and search any individual or any vehicle, train, aircraft or other vessel; and (d) seize any document or thing, connected with or concerned in or reasonably suspected of being connected with or concerned in any act of terrorism.
 - (2) A person arrested in terms of subsection (1) may be kept in custody for a period not exceeding seventy-two hours and shall be produced before a Magistrate before the expiry of such period.
 - (3) A person not produced before a Magistrate within a period of seventy-two hours shall be released forthwith.
 - (4) Where a person arrested in terms of subsection 1 is produced before a Magistrate, the Magistrate shall make an order releasing such person forthwith, unless an application is made in writing in that behalf by a police officer not below the rank of Superintendent that such person has committed or is reasonably suspected of having committed an offence under Section 2 of this Act, upon which the Magistrate may make order releasing such person, or order that such person be remanded or be granted bail on such terms as the Magistrate may deem fit.
 - (5) Any person who obstructs or hinders any police officer lawfully exercising any power conferred on him by or under subsection (1), shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a period not exceeding five years.
 - (6) Upon the arrest of any person under the provisions of this section, the police officer carrying out such arrest shall, within twenty-four hours of such arrest, issue a notice of arrest to an adult member of the immediate family of the person arrested, or if such

person cannot be identified or is absent, the Grama Niladhari of the division in which the person arrested resides. Such notice shall also be issued to the Officer in Charge of the Police Station nearest to where the arrested person resides, who shall on request by an immediate family member of the arrested person or an Attorney-at-Law, forthwith provide a copy of a notice of arrest in his possession to the person making such request.

(7) A notice of arrest in terms of subsection (6) shall specify the name of the person arrested, the fact that such arrest was in terms of this Act, and the name and rank of the police officer issuing such notice. The notice shall be signed by such police officer.¹

Order of Custody

5. (1) The Minister may, on reasonable grounds, issue an order of custody in respect of any person who he reasonably suspects of being involved in or connected with any act of terrorism where in his opinion the detention of such person is necessary to prevent or investigate such or other acts of terrorism. The order of custody issued by the Minister shall specify the number of days for which a person in respect of whom such order is made shall be detained in custody, provided that such period shall not exceed thirty days and may be upon such conditions as may be prescribed by the Minister.
 - (2) A person named in an order of custody issued in terms of subsection (1) shall be taken into custody forthwith by a police officer.
 - (3) The order of the Minister under subsection (1) shall be subject to judicial review including the writ jurisdiction in terms of Article 140 and Article 141 of the Constitution.
 - (4) The order of the Minister under subsection (1) shall also be subject to review by way of the jurisdiction of the Supreme Court in terms of Article 126 of the Constitution.
 - (5) At the expiry of the said 30 days such person shall be released unless produced before a Judge of the High Court.
 - (6) A person taken into custody in terms of preceding sub section may be released prior to expiry of 30 days
 - (7) A person taken into custody under the preceding subsections of this section may be produced before a Judge of the High Court prior to the lapse of the period specified in the order of custody issued by the Minister.

¹ Subsections 6 and 7 were inserted at the request of the Hon Attorney General's Department.

(8) The Judge of the High Court shall make an order releasing such person forthwith, unless an application is made in writing in that behalf by a police officer not below the rank of Inspector that such person has committed or is reasonably suspected of having committed an offence, upon which the Judge may make order releasing such person or order that such person be remanded or granted bail on such terms as the High Court Judge may deem fit.

(9) Where the Judge of the High Court remands a person in terms of subsection 8, he may, if he is satisfied that it is necessary in the circumstances to do so for the purposes of investigating or preventing the commission of a terrorist act or acts, order that the person remanded be held in the custody of the police for the period of remand, such period not exceeding two weeks at a time, provided that the entire period a person is remanded to police custody in terms of this subsection shall not exceed twenty-eight days.

(10) Upon any person being taken into custody by a police officer under the provisions of this section, the police officer taking such person into custody shall, within twenty-four hours of the person being taken into custody, issue a notice of detention to an adult member of the immediate family of the person arrested, or if such person cannot be identified or is absent, the Grama Niladhari of the division in which the person taken into custody resides. Such notice shall also be issued to the Officer in Charge of the Police Station nearest to where the person taken into custody resides, who shall on request by an immediate family member of the person taken into custody or an Attorney-at-Law, forthwith provide a copy of a notice of detention in his possession to the person making such request. ²

(11) A notice of detention in terms of subsection (10) shall specify the name of the person taken into custody, the fact that such arrest was in terms of this Act, and the name and rank of the police officer issuing such notice. The notice shall be signed by such police officer.

Trial

6. (1) Every person who is accused of committing an offence under Section 2 of this Act shall be tried without a preliminary inquiry, upon an indictment by the Attorney General before a Judge of the High Court sitting alone without a jury or before the High Court at Bar by three Judges without a jury, if so decided by the Chief Justice. The provisions of sections 450 and 451 of the Code of Criminal Procedure Act, No. 15 of 1979, shall, *mutatis mutandis*, apply to the trial of offences under this Act by the High Court at Bar

² Inserted at the request of the Hon Attorney General's Department.

and to appeals from judgments, sentences and orders pronounced at any such trial held by the High Court at Bar.

(2) Upon the indictment being received in the High Court against any person in respect of any offence under this Act, the court may remand such person or release him on bail pending the conclusion of the trial;

Provided that the Attorney General shall be entitled to be heard in any application by a person for bail after his indictment for any offence under this Act.

Confessions

7. (1) Any person subject to the process of Section 4 of Section 5 of this Act who is desirous of making a confession shall be produced before a Magistrate forthwith. Such Magistrate shall question such person in camera with a view to satisfying himself that the desire to make a confession is voluntary and is not made out of compulsion, force or threat.

(2) Prior to recording the confession of a person, the Magistrate shall explain to such person that a confession made in terms of this section shall be admissible in any judicial proceeding including criminal proceedings under the provisions of this Act notwithstanding any contrary provisions in any other law. The Magistrate shall in the recording of the confession also record that the Magistrate provided such explanations as required by this subsection and whether such person having heard such explanation, appeared to understand it.

(3) Upon satisfying himself that the desire to make a confession is voluntary and not made out of compulsion, force or threat, the Magistrate shall record his reasons for doing so and record the confession. Where the Magistrate does not satisfy himself that the confession must be recorded, the Magistrate shall record his reasons for not recording the confession. At the conclusion of such recording, the Magistrate shall read and explain the contents of the recording to the person concerned, who shall if he has made a confession, sign the document on which the recording is made.

(4) A confession recorded in terms of subsection (2) shall be admissible in any judicial proceeding notwithstanding any contrary provisions in any other law, provided the Magistrate recording the confession acted in terms of subsection (2) of this section and was of the view of that the person making the confession understood the explanation of the Magistrate provided under subsection (2).

(5) Notwithstanding the provisions of subsection (1) of section 5, the Magistrate shall transfer to judicial custody any person who has made a confession in the manner set out above while such person is subject to an order of custody under subsection (1) of section

5 for the remainder of the period specified in such order, prior to the expiration of which such person shall be produced before a Judge of the High Court for the making of an order in terms of subsection (8) of section 5.

(6) Notwithstanding the provisions of subsection (9) of section 5, the Magistrate shall transfer to judicial custody any person who has made a confession in the manner set out above while such person is subject to an order of remand in police custody under subsection (9) of section 5 for the remainder of the period specified in such order, prior to the expiration of which such person shall be produced before a Judge of the High Court, upon which the Judge of the High Court may make order releasing such person or order that such person be remanded or granted bail on such terms as the High Court Judge may deem fit.

Priority for trials and appeals under this Act.

8. Every court shall give priority to the trial of any person charged with, or indicted for, any offence under this Act and to the hearing of any appeal from the conviction of any such offence and sentence imposed on such conviction.

Corporate liability

9. Where an offence under this Act is committed by a body of persons, then if that body of persons is (a) a body corporate, every director and officer of that body corporate; or (b) a firm, every partner of that firm; or (c) a body unincorporate other than a firm, every officer of that body responsible for its management and control, shall be deemed to be guilty of such offence:

Provided that no such person shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Protection of officers

10. Subject to the provisions of this Act, no suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing done in good faith in pursuance of this Act.

Attorneys-at-Law

11. No person arrested and detained in terms of this Act shall be denied the advice and counsel of an Attorney-at-Law.

Proscription

12. (1) The Minister may, if he is satisfied that an organization is involved in or otherwise concerned in acts of terrorism, proscribe such organization.
- (2) Any organization proscribed in terms of subsection (1) shall not be permitted to carry out its activities or functions.
- (3) A person who works for an organization proscribed under subsection (1) after it is proscribed shall be guilty of an offence, and shall on conviction be liable to imprisonment for a period not exceeding twenty years.
- (4) The provisions of subsections (3) and (4) of section 5 shall mutatis mutandis apply to any order made in terms of the preceding provisions of this section.

Regulations.

13. (1) The Minister may make regulations under this Act for the purpose of carrying out or giving effect to the principles and provisions of this Act.
- (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 the regulation.
- (3) Every regulation made by the Minister shall within thirty days after its publication in the Gazette be brought before Parliament for its approval. Any 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 a regulation is deemed to be rescinded shall be published in the Gazette.
- (4) Every regulation so made if not brought before parliament as aforesaid within thirty days shall have no force or effect of law as from the lapse of such thirty days, but without prejudice to anything previously done thereunder

Withholding Information

14. Whoever wilfully withholds and fails to report to a police officer any information relating to the commission of or preparation to commit an act of terrorism, or having any information relating to the movements or whereabouts of any person who has committed or is making preparations to commit an act of terrorism shall be guilty of an offence and shall, upon conviction be liable to imprisonment of either description for a period not exceeding seven years.

15. The Prevention of Terrorism (Temporary Provisions) Act No 48 of 1979 as amended is hereby repealed.

16. In this Act, unless the context requires, all words and expressions used herein and defined in the Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code:

“High Court” shall mean a High Court established in terms of the Constitution holden in Colombo.

“Minister” means the Minister to whom the subject of Defence is assigned.

“organization ” includes any movement, society, party, association or body or group of persons;