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SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of February 02, 2018

SUPPLEMENT

(Issued on 06.02.2018)



JUDICATURE (AMENDMENT)

A

BILL

to amend the Judicature Act, No. 2 of 1978.

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STATEMENT OF LEGAL EFFECT

Clause 2: This clause amends the Judicature Act, No. 2 of 1978 (hereinafter referred to as the “principal enactment”) by the insertion immediately after section 12, of the new sections 12A, 12B and 12C and the legal effect of the new sections is to —

- (a) make provisions for the Permanent High Court at Bar to try, hear and determine the trials of the offences specified in the Sixth Schedule to the principal enactment and any other offence committed in the course of the same transaction of any such offence;
- (b) specify the composition of the Permanent High Court at Bar;
- (c) enable the Minister to specify the location or locations of the Permanent High Court at Bar;
- (d) enable the Attorney General and the Director General for the Prevention of Bribery and Corruption to institute criminal proceedings in the Permanent High Court at Bar;
- (e) make certain other provisions which shall apply for the trials of the Permanent High Court at Bar;
- (f) make provision for an appeal from the Permanent High Court at Bar to be heard by a Bench of not less than five judges of the Supreme Court; and
- (g) make provision for the construction of other written law, in consistent with the provisions of this amendment.

Clause 3: This clause amends section 63 of the principal enactment by the insertion of the definition of the expression “Director General for the Prevention of Bribery and Corruption”.

Clause 4: This clause amends the principal enactment by the addition of the Sixth Schedule immediately after the Fifth Schedule of that enactment.

Judicature (Amendment)

L. D.—O. 59/ 2017

AN ACT TO AMEND THE JUDICATURE ACT, NO. 2 OF 1978

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Judicature (Amendment) Act, No. of 2018. Short title.

5 **2.** Judicature Act , No. 2 of 1978 (hereinafter referred to as the “principal enactment”) is hereby amended by the insertion immediately after section 12 thereof, of the following new sections which shall have effect as sections 12A, 12B and 12C of that enactment:— Insertion of new sections 12A, 12B and 12C in Act, No. 2 of 1978.

10 “Permanent High Court at Bar. 12A. (1) Notwithstanding anything to the contrary in this Act or any other written law, the Permanent High Court at Bar shall hear, try and determine in the manner provided for by written law, subject to the provisions of subsection (7), all prosecutions on indictment against any person, in respect of offences specified in the Sixth Schedule to this Act, and any other offence committed in the course of the same transaction of any such offence.

20 (2) Such Permanent High Court at Bar shall consist of three Judges sitting together, nominated by the Judicial Service Commission from among the Judges of the High Court of the Republic of Sri Lanka of which one Judge shall be nominated by the Judicial Service Commission as the Chairman of such Court.

25 (3) Notwithstanding anything to the contrary in subsection (2) of section 9, the

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Judicature (Amendment)

Permanent High Court at Bar shall have jurisdiction in respect of offences referred to in subsection (1)—

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(a) committed by any person wholly or partly in Sri Lanka ; or

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(b) wherever committed by a citizen of Sri Lanka in any place outside the territory of Sri Lanka or on board or in relation to any ship or aircraft of whatever category.

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(4) (a) Notwithstanding the provisions of any other written law to the contrary, the Minister may specify by Order published in the *Gazette*, the location or locations of Permanent High Courts at Bar.

(b) The Minister shall, in specifying the location or locations of the Permanent High Courts at Bar, consult the Judicial Service Commission.

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(5) (a) The Minister may, by Order published in the *Gazette*, increase the number of such Courts of the Permanent High Court at Bar.

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(b) The Minister shall, in increasing the number of such Courts, consult the Judicial Service Commission.

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(6) (a) Where any Judge of the Permanent High Court at Bar, dies or resigns or requests to be discharged from hearing the whole or part of any trial, before or after its commencement,

5 or refuses or becomes unable to act, or
otherwise ceases to be a Judge of the High
Court, the Judicial Service Commission shall,
not later than two weeks of such death,
resignation, discharge, refusal, inability or other
cause, which causes such Judge to cease to be
a Judge of such High Court, nominate another
Judge of the High Court of the Republic of Sri
Lanka in his place, to hear the whole or any
10 part of such trial.

(b) Where a new Judge has been nominated
under paragraph (a), it shall not be necessary
for any evidence taken prior to such nomination
to be retaken and the Permanent High Court at
15 Bar shall be entitled to continue the trial from
the stage at which it was immediately prior to
such nomination.

(7) The Attorney General or the Director
General for the Prevention of Bribery and
Corruption, as the case may be, shall, taking
20 into consideration—

- (a) the nature and circumstances;
- (b) the gravity;
- (c) the complexity;
- 25 (d) the impact on the victim; or
- (e) the impact on the State,

of the offence, referred to in subsection (1), in
the interest of justice and the public and national
interest, institute criminal proceedings in the
30 Permanent High Court at Bar.

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Judicature (Amendment)

(8) A trial before a Permanent High Court at Bar shall—

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(a) be held upon indictment by the Attorney General or the Director General for the Prevention of Bribery and Corruption;

(b) be held and concluded expeditiously; and

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(c) unless exceptional circumstances require which shall be recorded, be heard from day to day, to ensure the expeditious disposal. The inability of a particular Attorney-at-Law to appear before the Permanent High Court at Bar on a particular date for any reason including engagement to appear on that date in any other court or tribunal, shall not be a ground for postponing the date of commencement of the trial or be regarded as an exceptional circumstance which requires the postponement of the trial.

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(9) The provisions of the Code of Criminal Procedure Act, No.15 of 1979 and the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 or any other written law, shall, *mutatis mutandis*, apply to the institution of proceedings and trials before the Permanent High Court at Bar.

30 Right of Appeal.

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12B. (1) An appeal from any judgment, sentence or order pronounced at a trial held by a Permanent High Court at Bar under section 12A, shall be made within twenty eight days from the pronouncement of such judgment, sentence or order to the Supreme Court and shall be heard by a Bench of not less than five

Judges of that Court nominated by the Chief Justice. It shall be lawful for the Chief Justice to nominate himself to such Bench.

5 (2) The provisions of the Code of Criminal Procedure Act, No. 15 of 1979 and the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994, or of any other written law governing appeals to the Court of Appeal from judgments, sentences or orders of the High Court in cases tried without a Jury shall, *mutatis mutandis*, apply to the appeals to the Supreme Court under subsection (1) from judgments, sentences or orders pronounced at a trial held before the Permanent High Court at Bar under section 12A.

(3) Any appeal made under this section shall be heard and disposed of, expeditiously.

20 Construction of written law in relation to the offences prosecuted against, in the permanent High Court at Bar. 25 12C. Where criminal proceedings have been instituted in terms of subsection (8) of section 12A, in the Permanent High Court at Bar, in respect of an offence referred to in subsection (1) of section 12A, a reference to any other court in the relevant law, shall be deemed to be a reference to the Permanent High Court at Bar, with effect from the date on which the indictment is filed in the Permanent High Court at Bar.”.

30 3. Section 63 of the principal enactment is hereby amended by the insertion immediately after the definition of the expressions “District Courts” and “Magistrate Courts” of the following definition:— Amendment of section 63 of the principal enactment.

35 “ “Director General for the Prevention of Bribery and Corruption” means the Director General for the Prevention of Bribery and Corruption appointed under section 16 of the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994;”.

4. The principal enactment is hereby amended by the addition immediately after the Fifth Schedule thereof, of the following Schedule:-

Addition of the Sixth Schedule in the principal enactment.

“SIXTH SCHEDULE

[section 12A (1)]

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| <i>Column I</i> | <i>Column II</i> |
|----------------------------|---|
| The law | Section and the offence |
| 10 Penal Code (Chapter 19) | 366 - Theft. |
| | 386 - Dishonest misappropriation of Property. |
| | 387 - Dishonest misappropriation of property possessed by a deceased person at the time of his death. |
| 15 | 388 - Criminal breach of trust. |
| | 390 - Criminal breach of trust by a carrier. |
| | 391 - Criminal breach of trust by a clerk or Servant. |
| 20 | 392 - Criminal breach of trust by public servant, or by banker, merchant, or agent. |
| | 392A- Criminal breach of a trust by public servant in respect of money or balance of money. |
| 25 | 392B- Criminal breach of trust by agent in respect of postal articles. |
| | 394 - Dishonestly receiving stolen property. |
| | 395 - Habitually dealing in stolen property. |
| 30 | 396 - Assisting in concealment of stolen property. |
| | 398 - Cheating. |
| | 399 - Cheating by personation. |

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| 5 | 401 - Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect. |
| | 403 - Cheating and dishonestly inducing a delivery of property. |
| | 404 - Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors. |
| 10 | 405 - Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender. |
| 15 | 406 - Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration. |
| | 407 - Dishonest or fraudulent removal or concealment of property or release of claim. |
| 20 | 452 - Forgery. |
| | 453 - Making a false document. |
| | 455 - Forgery of a record of a Court of Justice or of a public register of births, etc. |
| | 456 - Forgery of a valuable security or will. |
| 25 | 457 - Forgery of the purpose of cheating. |
| | 459 - Using as genuine a forged document. |
| 30 | 460 - Making or possessing a counterfeit seal, plate, and etc, with intent to commit a forgery punishable under section 456. |
| | 461 - Making or possessing a counterfeit seal, plate and etc. with intent to commit a forgery punishable otherwise. |

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| 5 10 15 20 | <p>462 - Having possession of a forged record or valuable security or will, known to be forged, with intent to use it as genuine.</p> <p>463 - Counterfeiting a device or mark used for authenticating documents described in section 456 or possessing counterfeit marked material.</p> <p>464 - Counterfeiting a device or mark used for authenticating documents other than those described in section 456, or possessing counterfeit marked material.</p> <p>467 - Falsification of accounts.</p> <p>468 - Possession of any imitation of any currency note, bank note or coin.</p> <p>100, - Conspiracy and Abetment to commit the offences of the Penal Code set out in this Schedule. 101, 101A, 102, 113A, 113B</p> |
| 25 30 | <p>3 - Offence of Money Laundering.</p> <p>4 - An act amounting to an Offence under this section.</p> <p>Conspiracy and Abetment to commit the offences under the Prevention of Money Laundering Act set out in this Schedule.</p> |
| 35 40 | <p>14 - Bribery of Judicial Officers and Members of Parliament.</p> <p>15 - Acceptance of gratification by Members of Parliament for interviewing public officers.</p> <p>16 - Bribery of police officers, peace officers and other public officers.</p> <p>17 - Bribery for giving assistance or using influence in regard to contracts.</p> |

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| 5 | 18 | - Bribery for procuring withdrawal of tenders. |
| | 19 | - Bribery in respect of government business. |
| | 20 | - Bribery in connection with payment of claims, appointments, employments, grants, leases, and other benefits. |
| 10 | 21 | - Bribery of public officers by persons having dealings with the Government. |
| 15 | 22 | - Bribery of member of local authority, or of scheduled institution, or of governing body of scheduled institution, and bribery of officer or employee of local authority or such institution. |
| 20 | 23 | - Use of threats or fraud to influence vote of member of local authority, or of scheduled institution, or of governing body of scheduled institution. |
| 25 | 23A | - To own or to have owned property deemed under this section to be property acquired by bribery or property to which property acquired by bribery has or had been converted. |
| | 24 | - Accept of gratification. |
| 30 | 25 | - Attempt to commit and abetment of an offence under Part II of the Bribery Act. |
| | 70 | - Corruption. |
| 35 | | Conspiracy and Abetment to commit the offences under the Bribery Act, set out in this Schedule. |

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| 5 | Offences Against Public Property Act, No. 12 of 1982 | 3 - Theft of public property. 5 - Dishonest misappropriation, criminal breach of trust, cheating, forgery and falsification of Accounts. Conspiracy and Abetment to commit the offences under the offences against Public Property Act, set out in this Schedule. |
| 10 | | |
| 15 | Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 | 3 - offences under the Convention on the Suppression of Terrorist Financing Act. Conspiracy and Abetment to commit the offences under the Convention on the Suppression of Terrorist Financing Act set out in this Schedule. |
| 20 | Banking Act, No. 30 of 1988 | Any act constituting an offence under Banking Act. |
| | Foreign Exchange Act, No. 12 of 2017 | Any act constituting an offence under Foreign Exchange Act. |
| 25 | Registered Stocks and Securities Ordinance (Chapter 420) | Any act constituting an offence under Registered Stocks and Securities Ordinance. |
| 30 | Local Treasury Bills Act (Chapter 417) | Any act constituting an offence under Local Treasury Bills Act. |
| 35 | Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 | Any act constituting an offence under Securities and Exchange Commission of Sri Lanka Act. |
| | Regulation of Insurance Industry Act, No. 43 of 2000 | Any act constituting an offence under Regulation of Insurance Industry Act. |

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| 5 | Finance Business Act, No.42 of 2011 | Any act constituting an offence under Finance Business Act. |
| | Payment Devices and Frauds Act, No. 30 of 2006 | Any act constituting an offence under Payment Devices and Frauds Act. |
| | Computer Crime Act, No. 24 of 2007 | Any act constituting an offence under Computer Crime Act. |
| 10 | Offences under any law for the time being in force relating to transnational organized crime. | |
| | An offence under any other law for time being in force which is punishable with imprisonment for a term of five years or more.”. | |

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

Sinhala text to prevail in case of inconsistency.
