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SRI LANKA**

Part II of July 16, 2021

SUPPLEMENT

(Issued on 20.07.2021)



**CODE OF CRIMINAL PROCEDURE
(AMENDMENT)**

A

BILL

to amend the Code of Criminal Procedure Act, No. 15 of 1979

Ordered to be published by the Minister of Justice

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 195 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the principal enactment) and is consequential to the amendment made by clause 3.

Clause 3 : This clause amends the principal enactment by inserting new section 195A in that enactment, and the legal effect of the amendment is to make provision to hold pre-trial conferences at the High Court in order to conclude trials expeditiously.

Code of Criminal Procedure (Amendment)

L.D.—O. 2/2018

AN ACT TO AMEND THE CODE OF CRIMINAL PROCEDURE
ACT, No. 15 OF 1979

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

1. This Act may be cited as the Code of Criminal Procedure (Amendment) Act, No. of 2021. Short title

5 **2.** Section 195 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended as follows:- Amendment
of section
195 of Act,
No. 15 of
1979

(1) by the substitution for paragraph (c) thereof of the following paragraph: -

10 “(c) inform the accused and the aggrieved party of the date of the pre-trial conference to be held under section 195A;”;

(2) by the repeal of paragraph (ee) thereof.

15 **3.** The principal enactment is hereby amended by the insertion immediately after section 195 thereof, of the following new section which shall have effect as section 195A of that enactment: - Insertion of
new section
195A in the
principal
enactment

“A-1- PRE-TRIAL CONFERENCES

20 Pre-trial conferences to be held at the High Court 195A. (1) A pre-trial conference shall be held-

(a) upon indictment being served on the accused in terms of section 195, in the presence of the accused; or

5 (b) where the accused is not present due to any reason specified in paragraph (a) of subsection (1) of section 241, or where it is not possible to serve the indictment on the accused due to the reasons specified in paragraph (b) of subsection (1) of section 241, in the absence of the accused.

10 (2) A pre-trial conference shall be held with the participation of-

15 (a) the Attorney-General with regard to proceedings instituted by the Attorney-General or the Director-General for the Prevention of Bribery and Corruption with regard to proceedings instituted by such Director-General, or an officer authorized by either the Attorney-General or the Director-General (hereinafter referred to as the "prosecuting counsel") as the case may be;

20

(b) counsel, if any, appearing on behalf of the accused;

25 (c) the aggrieved party or the counsel, if any, appearing on behalf of the aggrieved party, on the application of such aggrieved party or such counsel to participate in the pre-trial conference;

30 (d) the officer in charge for the time being of the police station in which the investigation in respect of the offence has been conducted or an officer representing him; and

(e) an Attorney-at-Law or any other officer permitted by the Presiding Judge to participate.

5 (3) A pre-trial conference shall be held for the purposes of-

10 (a) ascertaining whether the prosecution has handed over to the accused, all material, the accused is legally entitled to receive, and for the purpose of making appropriate orders, by Court in that regard;

15 (b) ascertaining whether the accused intends to plead guilty to any one or more of the charges in the indictment, or to a lesser offence;

(c) providing an opportunity to the accused to give advance notice of his mitigatory or exculpatory defence and that of an *alibi*;

20 (d) inquiring from the accused whether or not he elects to be tried by a jury, if the indictment relates to an offence triable by a jury;

25 (e) ascertaining whether reports of expert witnesses have been received by court and served on the accused, and if not making appropriate orders in that regard;

30 (f) recording admissions of the accused, if any, including the admissions relating to the reports of expert witnesses and the content of such reports, having regard to the provisions of section 420;

- (g) ascertaining whether pre-conditions have been fulfilled to make certain items of evidence admissible and for making orders in that regard;
- 5 (h) ascertaining from prosecuting and defence counsel, the approximate duration of time that the respective parties may require for presentation of their respective cases including examination of witnesses in order to conduct a day to day trial as specified in section 263;
- 10 (i) ascertaining whether the presentation of the cases of the prosecution and the defence, may require additional facilities which may not be ordinarily available in court and for making appropriate orders in that regard;
- 15 (j) ascertaining the availability of productions, exhibits, any other real evidence, reports, books, records, or any other material, which may be required by the prosecution and the defence at the trial, and for making necessary orders in that regard;
- 20 (k) ascertaining whether the evidence of one or more witnesses is to be led through contemporaneous audio-visual linkage, and if so, for making appropriate orders and arrangements in that regard;
- 25 (l) fixing a date as expeditiously as possible for the commencement of a day to day trial as specified in section 263;
- 30 (l) fixing a date as expeditiously as possible for the commencement of a day to day trial as specified in section 263;
- 35 (l) fixing a date as expeditiously as possible for the commencement of a day to day trial as specified in section 263;

5 (m) considering and making orders relating to any other matter that may be required to be attended to, prior to the commencement of the trial and that may facilitate the conduct of the day to day trial; and

(n) taking any other decisions or steps as may be necessary to ensure the conduct of a lawful, fair and expeditious trial.

10 (4) A pre-trial conference shall be presided over by the High Court Judge or the Recorder-Judge as specified in section 5c of the Judicature Act, No. 2 of 1978.

15 (5) Every endeavor shall be made to conclude a pre-trial conference as expeditiously as possible:

20 Provided however, a pre-trial conference shall be concluded within a period not exceeding three months from the date on which the accused appeared before the court or was required to appear before the court.

(6) A pre-trial conference relating to a trial at bar shall be held, only before the three judges appointed to hear the relevant case.

25 (7) At the conclusion of a pre-trial conference the Presiding judge shall-

30 (a) read out and explain the decisions taken at the pre-trial conference and record the fact that the parties do understand the contents of such decisions which decisions shall be signed by the Judge;

6 *Code of Criminal Procedure (Amendment)*

(b) require the officer referred to in paragraph (d) of subsection (2) to submit a report on the availability of the witnesses.

5 (8) For the purpose of this section-

10 “aggrieved party” means, a person who has suffered any injury, harm, impairment or disability whether physical, mental or emotional or any loss economical or otherwise, as a result of the commission of an offence, and if the aggrieved party is a child, the parent or guardian of such child and if such
15 aggrieved party be dead, include his next of kin namely his surviving spouse, children, parents, brothers, sisters or further descendants;

20 “child” means, a person under eighteen years of age.”.

4. 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

