



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

**CODE OF CRIMINAL PROCEDURE
(AMENDMENT)**

A

BILL

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

*Presented by the Minister of Justice, Prison Affairs and Constitutional
Reforms 05th of March, 2024*

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 185 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to make provision for the Magistrate to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence.

Clause 3 : This clause amends section 203 of the principal enactment and the legal effect of the section as amended is to make provision for the Judge to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence.

Clause 4 : This clause inserts new section 238A to the principal enactment and the legal effect of the section is to make provision for the Judge to consider, the time spent by an accused in custody prior to the conviction of the offence he is convicted of, as part of his sentence at the time of passing the sentence after trial by jury.

Clause 5 : This clause amends section 323 of the principal enactment and the legal effect of the section as amended is to make provision to consider in an appeal preferred from Magistrates’ Court to the Court of Appeal, the time spent by an appellant in custody pending the determination of his appeal as part of his sentence ordered at the conclusion of his appeal.

Clause 6 : This clause amends section 333 of the principal enactment and the legal effect of the section as amended is to make provision to consider in appropriate cases where an appeal is made from the High Court to the Court of Appeal, the time spent by an appellant in custody pending the determination of his appeal as part of his sentence ordered at the conclusion of his appeal.

Code of Criminal Procedure (Amendment)

L. D.- O. 29/2022

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 2024. Short title

5 **2.** Section 185 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
185 of Act,
No. 15 of
1979

(1) by the renumbering of that section as subsection (1) of that section; and

10 (2) by the addition immediately after the renumbered subsection (1), of the following new subsections: -

15 “(2) At the time of passing the sentence, the Magistrate may, after considering all relevant facts take into cognizance the time spent by such accused in custody prior to the conviction of the offence he is convicted of, and in such cases the time so spent in custody shall be considered to be part of his sentence:

20 Provided that, where the time spent by such accused in custody is not considered to be part of his sentence, the Magistrate shall record reasons therefor:

Provided further, the time so spent in custody by the accused prior to the conviction shall not

2 *Code of Criminal Procedure (Amendment)*

be taken into consideration where a mandatory minimum sentence is stipulated by law in respect the offence the accused is charged with.”.

5 (3) For the purpose of this section, “custody” means the time spent in remand custody.”.

3. Section 203 of the principal enactment is hereby amended as follows: -

Amendment
of section
203 of the
principal
enactment

(1) by the renumbering of that section as subsection (1) of that section; and

10 (2) by the addition immediately after the renumbered subsection (1), of the following new subsections:-

15 “(2) At the time of passing the sentence, the Judge may, after considering all relevant facts take into cognizance the time spent by such accused in custody prior to the conviction of the offence he is convicted of, and in such cases the time so spent in custody, shall be considered to be part of his sentence:

20 Provided that, where the time spent by such accused in custody is not considered to be part of his sentence, the Judge shall record reasons therefor:

25 Provided further, the time so spent in custody by the accused prior to the conviction shall not be taken into consideration where a mandatory minimum sentence is stipulated by law in respect of the offence the accused is charged with.

(3) For the purpose of this section, “custody” means the time spent in remand custody.”.

4. The following new section is hereby inserted immediately after section 238 of the principal enactment and shall have effect as section 238A of that enactment: -

Insertion of new section 238A in the principal enactment

“Passing the sentence” 238A. (1) At the time of passing the sentence, the Judge may, after considering all relevant facts take into cognizance the time spent by such accused in custody prior to the conviction of the offence he is convicted of, and in such cases the time so spent in custody, shall be considered to be part of his sentence:

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Provided that, where the time spent by such accused in custody is not considered to be part of his sentence, the Judge shall record reasons therefor:

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Provided further, the time so spent in custody by the accused prior to the conviction shall not be taken into consideration where a mandatory minimum sentence is stipulated by law in respect of the offence the accused is charged with.

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(2) For the purpose of this section, “custody” means the time spent in remand custody.”.

5. Section 323 of the principal enactment is hereby amended in subsection (5) thereof, by the substitution for the words “the time so spent”, of the words “the time spent”.

Amendment of section 323 of the principal enactment

6. Section 333 of the principal enactment is hereby amended in subsection (5) thereof, by the substitution for the words “received into prison under the sentence.”, of the following:-

Amendment
of section
333 of the
principal
enactment

5 “received into prison under the sentence:

10 Provided that, the Court of Appeal may, in appropriate cases, order that the time spent by an appellant in custody pending the determination of his appeal and any time spent in custody prior to the conviction, such time not having been considered as part of his sentence passed at the time of his conviction by the court of first instance, be considered as part of his sentence ordered at the conclusion of his appeal.”.

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

Sinhala text
to prevail in
case of
inconsistency

