

Code Of Criminal Procedure (Amendment)

Act No 21 of 1988

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

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

Short title. **1.** This Act may be cited as the Code of Criminal Procedure (Amendment) Act, No. 21 of 1988.

Replacement of
section 450 of Act
No. 15 of 1979. **2.** Section 450 of the Code of Criminal Procedure Act, No. 15 of 1979 (hereinafter referred to as the " principal enactment") is hereby repealed and the following section substituted therefor

"Three 450.
Judges of
High Court
may try
without jury.

(1) Notwithstanding anything to the contrary in any other written law or any other provision of this Code, the trial of any person for any offence punishable under section 114, 115 or 116 of the Penal Code shall be held before the High Court at Bar by three Judges without a jury.

(2) Where the Chief Justice is of the opinion that owing to the nature of the offence or the circumstances of and relating to the commission of the offence, in the interests of justice, a trial at Bar should be held, the Chief Justice may by order under his hand direct that the trial of any person for that offence shall be held before the High Court at Bar by three Judges without a jury.

(3) A trial before the High Court under this section may be held either upon indictment, or upon information exhibited by the Attorney-General,

(4) Notwithstanding anything to the contrary in this Code or any other law, the Attorney-General may exhibit to the High Court information in respect of any offence to be tried before the High Court at Bar by three Judges without a jury.

(5)

(a) A trial before the High Court at Bar under this section shall be held as speedily as possible and shall proceed nearly as possible in the manner provided for trials before the High Court without a jury, subject to such modifications as may be ordered by the Court or as may be prescribed by rules made under this Code.

(b) A trial by the High Court at Bar shall, unless exceptional circumstances so warrant be heard from day to day to ensure the expeditious disposal of the same. The inability of a particular attorney-at-law to appear before the High Court at Bar on a particular date for personal reasons (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 warranting the postponement of the trial.

(c) The provisions of paragraph (b) of this subsection shall, *mutatis mutandis*, apply to the hearing and disposal of any appeal from any judgement, sentence or order pronounced at a trial held before the High Court at Bar under this section.

(d) Where any Judge of the 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, or refuses or becomes unable to act, the Chief Justice may nominate another Judge of the High Court of Sri Lanka in his place, to hear whole or any part of such trial.

(e) Until such nomination is made the trial may be continued before the remaining Judge or Judges of the High Court at Bar and if no such nomination is made within one week of the death, resignation, discharge, refusal or inability to act referred to in paragraph (d), the trial shall be continued and concluded before the remaining Judge or Judges, of such High Court at Bar.

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

(6) At any trial before the High Court at Bar under this section, the court or the presiding Judge thereof, may give directions for the summoning, arrest, custody or bail of all persons charged before the court on indictment or by information exhibited under this section:

Provided, however, that any such person shall not be admitted to bail except with the consent of the Attorney-General.

(7) Any person indicted or charged on an information before the High Court under this section may at least two weeks before the commencement of such trial, by application in writing to the High Court request that he be furnished with copies of the statements made by the witnesses whom the prosecution intends to produce at the trial and the court may direct that copies of all such statements or documents, or of only such statements and documents as the court in its discretion thinks fit, be given by the Attorney-General to such person.

(8) The trial of any person before the High Court under this section may commence or continue in the absence of such person if the court is satisfied that he is absconding or feigning illness, has left the Island or is otherwise avoiding attendance before Court, or being present in court, obstructs or impedes the progress of the trial".

Replacement of

3. Section 451 of the principal enactment is hereby repealed and the following section

section 451 of the substituted therefor:
principal enactment.

Nomination 451,
of Judges
and appeals.

(1) In every case of a trial at Bar before the High Court under section 450, the relevant provisions of the Judicature Act shall apply on the question of the nomination of the Judges of the Court and the place where such trial shall be held.

(2) The Chief Justice may nominate more than one Bench of Judges to constitute High Courts at Bar to hear trials in the same zone or province, and the benches so nominated may commence and continue their hearings at the same time.

(3) Any thing to the contrary in this Code or any other law notwithstanding an appeal shall lie from any judgement, sentence or order pronounced at a trial under section 450. Such appeal shall be 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,

(4) The provisions in this Code and of any other written law governing appeals to the Court of Appeal from judgments, sentences and orders of the High Court in cases tried without a jury shall, mutatis mutandis, apply to appeals to the Supreme Court, under sub section (3) from judgments, sentences and orders pronounced at a trial held before the High Court at Bar under section 450."