

Piracy Act (No. 9 of 2001)

1. This Act may be cited as the Piracy Act, No 9 of 2001

2. (1) The Sri Lanka Ports Authority in consultation with the Director of Merchant Shipping shall be responsible for coordinating all measures for the suppression of piracy in Sri Lanka and for monitoring the implementation of such measures.

(2) It shall be the duty of the Sri Lanka Ports Authority to gather, collate and disseminate information relating to piracy, in Sri Lanka and out side Sri Lanka, and to provide such assistance as may be necessary for the implementation of measures for the suppression of piracy

Piracy

3. Any person who dishonestly takes or appropriates any, ship, by means of theft, force, intimidation, deception, fraud or by other similar means, shall be guilty of the offence of piracy and shall on conviction be punished, subject to the provisions of sections 8, 9 and 10 of this Act with imprisonment of either description for a term not less than five years and not exceeding ten years and shall also be liable to a fine not less than one million rupees and not exceeding ten million rupees or of an amount equal to the value of the ship in respect of which the offence is committed, whichever is the greater.

Taking of property from ship,

4. Any person who dishonestly takes or appropriates any property from any ship, by means of theft, force, intimidation, deception, fraud or other similar means shall be guilty of an offence under this Act and shall on conviction be liable, subject to the provision of sections 8, 9 and 10 of this Act, to imprisonment of either description for a term not less than three years and not exceeding seven years and to a fine not less than one million rupees and not exceeding five million rupees or of an amount equal to the value of the property in respect of which the offence is committed, whichever is the greater.

Boarding a ship without lawful authority

5. Any person who without due permission of the captain, master or person in charge of a ship or without lawful authority, enters or boards any ship, while at sea or while berthed at a port or harbour or on the sea-front, shall be guilty of an offence under this Act and shall on conviction be liable, subject to the provisions, of sections 8, 9, and 10 of this Act, to imprisonment for a term not exceeding two years and to a fine.

Retention possession, transportation, of pirated ship and property

6. Any person who dishonestly commandeers, receives, retains or transports any ship or property taken or appropriated by the commission of an offence under section 3 or section 4 of this Act shall be guilty of an offence, under this Act and shall on conviction be liable, subject to the provisions of sections 8, 9 and 10, of this Act, to imprisonment of either description for a term not exceeding three years and to a fine not exceeding one million rupees or the value of the property in respect-of which the offence is committed, whichever is the greater.

Attempts

7. (1) Any person who attempts to commit an offence under section 3 or 4 of this Act or who aids or abets the commission of such offence shall be guilty of an offence under this Act and shall on conviction be liable, subject to the provisions of sections 8,9 and 10 of this Act, to imprisonment of either description for a term not exceeding five years and to a fine not exceeding two million rupees.

(2) Any person who attempts to commit an offence under section 5 or 6 of this Act shall be guilty of an offence under this Act and shall on conviction be liable, subject to the provisions of sections 8, 9 and 10 of this Act, to imprisonment of either description for a term not exceeding one year and to a fine

Use of force or Intimidation while committing an offence

8. Where at the trial of any person for an offence under section 3 or section 4 or section 5 or section 6 of this Act, it is proved that such person used force or intimidation in the commission of such offence; he may be sentenced to, a term of imprisonment extending to twelve years.

Use of a weapon while committing an offence

9. Where at the trial of a person for an offence under section 3 or section 4 or section 5 or section 6 of this Act, it is proved that such person was armed with a deadly weapon when committing such offence, he may be sentenced to a term of imprisonment extending to fifteen years.

Causing hurt while committing an offence

10. Where at the trial of a person for an offence under section 3 or section 4 or section 5 or section 6 of this Act, it is proved that such person voluntarily caused hurt to any other person in the course of committing such offence, such person and any other person jointly concerned in committing such offence may be sentenced to a term of imprisonment extending to twenty years

Forfeiture,

11.

(1) Where any person is convicted of an offence under sections 3, 4 or 5 of this Act, the Court shall make order that any ship, motor vehicle or mode of conveyance or property, used in, or in connection with, the commission of such offence, be forfeited to the State, unless the owner of such ship, motor vehicle or mode of conveyance or property or the person legally entitled to the possession thereof, establishes to the satisfaction of court, that such ship, motor vehicle, or mode of conveyance or property was used in or in connection with the commission of such offence without his knowledge or connivance.

(2) Any ship, motor vehicle or mode of conveyance or property forfeited by an order made under subsection (1), shall vest absolutely in the State. Such vesting shall take effect

a) where no appeal has been made to the Court of Appeal or Supreme Court within the period allowed therefor, after the expiration of the period within which an appeal may be preferred to the Court of Appeal or the Supreme Court, as the case may be, against the order of forfeiture ; or

b) where an appeal has been preferred to the Court of Appeal or Supreme Court as the case may be, against the order of forfeiture, upon the final determination of such appeal affirming or upholding the order of forfeiture

(3) Where any ship, motor vehicle or mode of conveyance or property is vested in the State by an order made under subsection (1), the Court shall cause such ship, motor vehicle or mode of conveyance or property to be sold by public auction and the proceeds of sale credited to the Sri Lanka Ports Authority.

Offences under this Act to be cognizable and non-bailable

12.

(1) Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979, every offence under this Act shall be a cognizable offence and a non-bailable offence, within the meaning of that Act.

(2) A person suspected or accused of being concerned in committing, or having committed, an offence under sections 3, 4, 5, 6 or 7 of this Act shall not be released on bail except by a Judge of the High Court, on exceptional circumstances being shown to exist.

13. (1) Every police officer, officer of the Sri Lanka Customs, officer of the Armed Forces, or officer of the Sri Lanka Ports Authority with specialized knowledge specially designated in writing by the Minister, shall for the purposes of this Act, be an authorized officer,

(2) Every authorized officer shall be deemed to be a peace officer and an inquirer within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979, for exercising, for the purposes of this Act, any powers and duties conferred or imposed on a peace officer, or on an inquirer with respect to cognizable offences, by that Act.

Criminal Procedure Code to apply

14. Except as otherwise provided by this Act, all offences under this Act shall be investigated, tried or otherwise dealt with, in accordance with the provisions of the Code of Criminal Procedure Act, No. 15 of 1979.

Powers of an authorized officer

15. 1) Where an authorized officer has reasonable grounds to suspect that the offence of piracy has been committed, is being committed, or is likely to be committed, he may, in strict compliance with such procedures as may be laid down by regulations made by the Minister with the concurrence of the Sri Lanka Ports Authority and the Director of Merchant Shipping

(a) stop and board any ship, motor vehicle or other mode of conveyance,

(b) enter any premises,

(c) search any person or property found on any such ship, motor vehicle, mode of conveyance or premises,

(d) seize any ship, motor vehicle, mode of conveyance or property,

(2) In effecting the seizure of any ship, motor vehicle, mode of conveyance or property in the exercise of the powers conferred on him by subsection (1), an authorized officer may use such force as may reasonably be necessary

(3) (a) Where any ship, motor vehicle, mode of conveyance or property is seized by any authorized officer in the exercise of the powers conferred on him, by subsection (1), such authorized officer shall as soon as practicable, produce such ship, motor vehicle, mode of conveyance or property before, or make it available for inspection by, the Judge of the High Court, established by Article 154P of the Constitution for the Western Province

(b) Where a judge before whom any ship, motor vehicle, mode of conveyance or property is produced under paragraph (a) is satisfied after such inquiry as he may deem necessary, that such ship, motor vehicle mode of conveyance or property has been used in or in connection with the commission of an offence under section 3 or 4 of this Act he may make order that such ship motor vehicle, mode of conveyance or property be forfeited to the State

(c) The provisions of subsections (2) and (3) of section 11 shall, mutatis mutandis, apply to such order of forfeiture.

Jurisdiction of High Court to try offences under this Act

16. Notwithstanding anything to the contrary in any other law, the High Court established under Article 154P of the Constitution for the Western Province shall have jurisdiction to hear and determine any offence under sections 3,4,5,6 or 7 of this Act, where such offence was committed within the territorial waters of Sri Lanka or committed outside the territorial waters of Sri Lanka by a Sri Lankan or in respect of a ship registered in Sri Lanka.

Power of Attorney General to indict,

(1) Anything in the Code of Criminal Procedure Act No. 15 of 1979 or any other written law to the contrary notwithstanding, the Attorney General shall indict a person for an offence under this Act committed by reason of a contravention of any of the provisions of sections 3,4,5,6 or 7 of this Act before the relevant High Court, without a preliminary inquiry by a Magistrate's Court as provided in Chapter XV of that Act.

(2) The following provisions shall apply in any case where the Attorney General indicts a person before the High Court under subsection (1):

(a) An indictment prepared in the manner prescribed by section 162 of the Code of Criminal Procedure Act, No. 15 of 1979 shall be transmitted by the Attorney General to the High Court. The Attorney General shall at the same time transmit to the Fiscal of the Court in which the trial is to take place a copy or copies of the

indictment for service on the accused person or each of the accused persons who will be tried upon the indictment. The Fiscal shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused person or each of the accused persons, the copy or a copy of the indictment received by him from the Attorney General and shall make a return of such service to the High Court and to the Attorney General or any officer appointed by the Attorney General to represent him.

(b) The High Court shall forthwith upon the receipt of the indictment cause to be served on the accused person a notice specifying the date fixed for his trial.

(c) (i) Subject to the provisions of sub-paragraph (ii) of this paragraph service on an accused person of any indictment or notice of trial shall be effected in the manner prescribed for the service of summons in sections 45 and 46 of the Code of Criminal Procedure Act, No. 15 of 1979 and the provisions of section 49 of that Act shall apply accordingly for the purpose of proving such service ;

(ii) if service cannot be effected in the manner specified in subparagraph (i) of this paragraph, by the exercise of due diligence, the indictment or notice shall be affixed to some conspicuous part of the house in which the accused person ordinarily resides, and in such case the indictment or notice shall be deemed to have been duly served.

(d) The Attorney General shall, before the date of trial, cause to be furnished to the accused person

(i) a concise statement of the particulars of the charge and a list of witnesses who are likely to be called to give evidence and a list of documents that may be used by the prosecutor ; and

(ii) a summary or such of the facts as are proposed to be relied on by the prosecutor

e) At the trial or that person, the High Court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witness, or use or produce any such document, as is not specified in the indictment

Evidence

18.

(1) Notwithstanding anything to the contrary in the Evidence Ordinance or any other law, the provisions of this section shall apply with respect to proceedings for offences under sections 3, 4, 5, 6 or 7 of this Act

(2) Any statement not amounting to a confession made by any of officer, employee or passenger of any ship and recorded during an investigation or inquiry under this Act and touching any fact in issue or relevant matter in any proceeding for an offence under sections 3, 4, 5, 6 or 7 of this Act of which direct oral evidence by him would be admissible, shall be admissible as evidence in such proceeding

(3) Any statement made by any person in a document or other record touching any fact in issue or relevant matter in any proceeding for an offence under section 3 or 4 or 5 or 6 or 7 of this Act shall be admissible in such proceeding if

(a) direct oral evidence by such person of such fact in issue or relevant matter would be admissible in such proceeding , and

(b) the person who made the statement is dead or by reason of his bodily or mental condition is unfit to attend as a witness , or

(c) the person who made the statement is outside Sri Lanka or cannot be found after reasonable steps have been taken to find such person, or that there are reasonable grounds to believe that the person who made the statement is being prevented from giving evidence in such proceeding ; and

(d) the statement does not amount to a confession made by a person accused of the offence to which the proceeding relates.

(4) Any statement in a document or other record made, compiled, received or obtained during the course of any business, trade or profession or other regularly conducted activity and touching any fact in issue or relevant matter in any proceeding for an offence under section 3, 4, 6 or 7 of this Act shall be admissible in evidence in such proceeding if –

(a) direct oral evidence of the fact in issue or relevant matter would be admissible in such proceeding ;

(b) the statement does not amount to a confession made by a person accused of the offence to which the proceeding relates.

(5) Subject to the preceding provisions of this section, any statement amounting to a confession made by any person suspected of having committed an offence under sections 3, 4, 5, 6 or 7 of this Act shall be admissible against him in any proceeding for any offence under this Act if the statement is not made to a police officer and is not irrelevant under section 24 of the Evidence Ordinance.

Obstructing authorized officers & c

19. (1) Any person who, resists or obstructs any authorized officer in the exercise, by such authorized officer, of any power conferred on him by this Act, or fails to comply with any lawful order given to him by an authorized officer shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to imprisonment to a term not exceeding three years.

(2) Every person who contravenes any regulation made under this Act shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate, be liable to a fine not exceeding fifty thousand rupees.

Protection of authorized 20 officers

20. An authorized officer shall not be liable to any action or prosecution, civil or criminal, for anything done, or omitted to be done, by him, bonafide, under this Act,

Regulations,

21. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :

(a) the measures to be taken for the purpose of preventing, detecting and investigating offences under this Act ;

(b) (i) the determination of any zones as restricted or prohibited zones for any class of ship, and

(ii) the issue of permits to enter any restricted zones so determined ;

(c) the co-ordinating and monitoring functions of the Sri Lanka Ports Authority ;

(d) the establishment of a reward scheme for the granting of rewards to persons furnishing information leading to the detection of offences under this Act, and to persons implementing measures for the suppression of piracy ;

(e) the formulation of procedures for the exercise of powers by an authorized officer under section 15.

(3) The Minister shall not make any regulation in respect of the matters set out in paragraph (b) of subsection (2) except with the concurrence of the Minister in charge of the subject of Shipping and in conformity, as far as practicable, with the obligations of Sri Lanka under the United Nations Convention on the Law of the Sea

(4) 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 such regulation.

(5) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(6) Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

Sinhala text to prevail in cast of inconsistency

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

Interpretation

23. In this Act, unless the context otherwise requires. "confession" and "fact in issue" have the respective meanings assigned to them by the Evidence Ordinance ; "deadly weapon", "dishonestly", "force", "theft", "voluntarily causing hurt", shall have the same meanings as in the Penal Code ; "motor vehicle" has the same meaning as in the Motor Traffic Act; "ship" means every description of ship or vessel or boat, or any other description of vessel used in navigation and includes all equipment, apparel and appurtenances (excluding supplies for sustenance) which are necessary for the navigation and conduct of the business of the ship ; "Sri Lanka Ports Authority" means the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act, No. 51 of 1979.