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இலங்கை சட்ட உதவி ஆணைக்குழு
Legal Aid Commission of Sri Lanka



Consumer Rights



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Ministry of Justice



Consumer Rights

Legal Aid Commission of Sri Lanka

Contribution By
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Message from The Chairman

The Legal Aid Commission was established through Act No. 27 of 1978. Legal Aid Commission is a statutory legal institution which provides free legal consultations to an underprivileged community through a team of qualified lawyers. At the Commission, we provide legal assistance in multiple areas such as human rights, child rights, women's rights, elders' rights, family law, labor law to name a few. We have extended our scope of aid for awareness and guidance to provide relief in as many civil areas of law as possible.

Even though there are many organizations that deal with violation of rights, Legal Aid Commission is the only institution with the legal power to pursue legal proceedings as a statutory entity of the Sri Lankan Government.

The Legal Aid Commission provides legal consultations irrespective of income, social status, race, nationality, religion, gender or age. We are proud to serve deserving yet marginalized and vulnerable individuals with legal aid that has helped thousands island-wide obtain the equal access to justice.

I hope this series of booklets will further empower communities, officials and individuals to understand the law, to be aware of their rights and obligations, and to know that they can seek assistance from the committed team of legal officers of the Legal Aid Commission.

Rohan Sahabandu - PC
Chairman, Legal Aid Commission

The Legal Aid Commission of Sri Lanka

The Legal Aid Commission of Sri Lanka (LAC) was established by the Act No 27 of 1978, to provide legal assistance to vulnerable and needy communities and individuals whose access to justice is restricted or curtailed by social status, economic status, nature of their gender, cast, age or other criteria.

It is considered the foremost from amongst other institutions and organizations that provide legal aid, mainly due to its sustainability and stability.

The Legal Aid Commission is present in all 9 provinces across Sri Lanka in 84 centres educating, creating awareness and providing legal aid to all without prejudice. It consists of over 120 permanent legal officers and over 1000 panel lawyers from the regional Bar Associations.

The Commission's vision is to create a society where all deserving Sri Lankans must have equal access to justice.

The Legal Aid Commission has undertaken many ambitious projects to achieve this objective. The Act states that the Legal Aid Commission's mission is to provide Legal Aid to all the "Deserving Persons" in the Country.

Our Vision

EQUAL ACCESS TO JUSTICE

To create a society where all deserving Sri Lankans irrespective of their economic or social status, gender, caste, creed or nationality or the disabled have equal access to justice.

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Who are Consumers?

“ A consumer is a person who uses or expects to use the goods and services offered by traders or producers for money. ”

The consumer rights and responsibilities internationally accepted are summarized below;

- Right to health
- Right to information
- Right to choose
- Right to consumer education
- Right to relief known as compensation
- Right to fulfill basic facilities
- Right to environmental protection
- Right to form consumer societies to express and share opinions related to aspects that affect consumers

Consumer's Responsibilities

Be Vigilant

The consumer should be vigilant and cautious about the nature, goodness and prices of goods and services.

Be Active

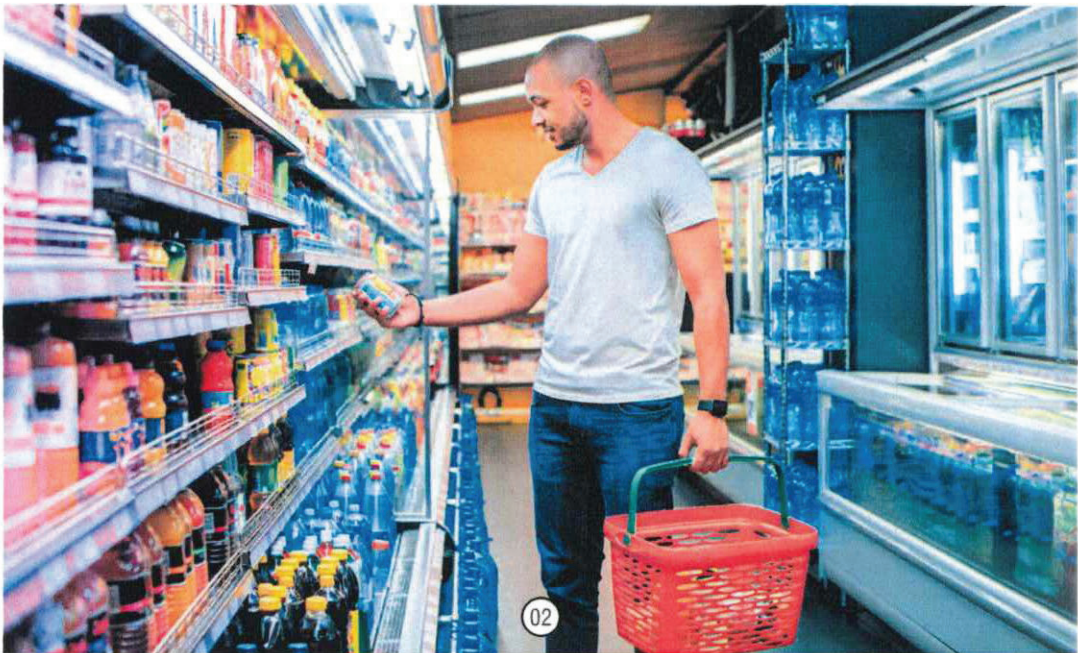
A consumer must be active to be treated in a fair manner as deserved.

Conscious About the Society

A consumer must be very conscious about the effects of his/her consumption on people who live locally, regionally or internationally.

Coordination

Consumers must coordinate with each other to form societies to fulfill, protect and to improve their rights and needs.



“ It is an offence to neglect the above orders under this Act. During such situations, steps could be taken through the relevant Magistrate Court ”

Unsatisfied consumers who feel that their rights are violated can forward complaints to the established Consumer Authority. It is recommended that complaints are made through consumer societies rather than by individual consumers, since the Consumer Authority Act contain provisions that provide many benefits to consumer societies. Approach the Consumer Affairs Authority for more details.

Another objective of this Act is to:

Develop competition and consumer relations

The objectives denote that the Authority is vested with power to investigate prevalence of any anti-competitive practices in the market. These investigations shall be completed within three months.

When the Authority engages in this respect, the Authority possesses judiciary power equivalent to that of the District Court. If a person neglects the orders of the Authority they shall be referred to the Court of Appeal.

What is the “Anti-Competitive” Mentioned in this Act?

When we consider one's business alone or separate one's business from others; the competitiveness means;

- Capturing production and distribution.
- Blocking the competitiveness in relation to goods supply and receiving goods within Sri Lanka.
- Making changes, or;
- Engaging in action that leads to a decision to avoid or expected to avoid purchases.

Once the anti-competitiveness is investigated, it should be notified in writing to the Consumer Affairs Authority to get a decision (Section 37).

In the same way, in cases where the matter was not referred to the Consumer Affairs Board after the investigations carried out by the Authority, the complaining parties have the right to demand the Authority to refer the matter to the Board (Section 38).

When the decision is given regarding the investigation, the Authority needs to consider the following matters;

The Authority shall consider whether the anti-competitive activity is harmful to the general public. If the activity is not harmful, encourage the activity by establishing systems in this regard.

In the same way, if the Authority decides that the activity is harmful to the general public, the Authority needs to establish measures to block the activity, to eliminate the harms associated with such activity or to find solutions to mitigate the harm that occurred. These steps must be completed within one month from the time in which the complaint was received (Section 41).

- To attain the objective of this Act, a “Consumer Affairs Council” has been established in addition to the “Consumer Affairs Authority”.

The members of this council shall be appointed by the minister and the composition of the council shall be as follows;

A A person who has had wide experience in the field of commercial law

B A person who has had wide experience in the management of business enterprises

C An economist with wide experience in trade practices and consumer affairs

A person among these members shall chair the council and a secretary shall be appointed to maintain reports regarding activities of the council and to look after miscellaneous matters.

What are the Functions of this Council ?

Taking decisions after investigating complaints submitted to the council under this Act. The council has power equivalent to a court to investigate complaints and to make decisions. A person who neglects the orders of the council shall be considered as an offender committing an offence equivalent to contempt of court. Hence, the chairman has the power to refer the matter to appeal.

1. Accepting and processing any complaints made by any person or traders' association.
2. Where it appears to the Director General that the market is not functioning properly, the complaint shall be referred to the council. After consultation with the council, within two months of this referral the Director General shall forward the decision of investigation to the Commissioner General (Section 19).
3. Making decisions regarding the warranty provided by the goods seller or service provider (Section 21)
4. Calling witnesses during the council investigations regarding the sale of goods or service provisions are being carried out at an excessive price.
5. Neglecting such calls shall be considered as contempt to the council and such instances are referred to the Court of Appeal.

What is the Role of the Government on the Protection of the Rights of Consumers? _____

“Consumer Protection” is a duty and a responsibility of the government. The Government enacts laws and regulations to protect consumers from time to time to fulfill this obligation.

The first post independent Act enacted by the government of Sri Lanka to protect consumers in the Price Act No. 29 of 1950.

The Price Act No. 29 of 1950

This Act was enacted to enforce trade restrictions and to prohibit selling goods at higher prices. The powers prescribed under this Act were given to the Food Commissioner. The Food Commissioner was also functioning as the Price Controller. Later, a price control department was established through a series of amendments to this Act with the intention of protecting consumers. As this did not achieve the desired outcomes in consumer protection, the National Price Commission Act No. 42 of 1975 was enacted.

With the introduction of the open economic policy in 1977, the need for consumer protections became very important.

The Act was passed with the below objectives:

- Organizing local trade
- Consumer protection
- Formation of policies for fair trade
- Amending the National Price Commission Act No. 42 of 1975
- Abolition of Licensing of Traders Act No. 62 of 1961
- Functioning on all related aspects

Passing this Act provided provisions for the consumers to establish consumer societies to express their opinions, to access consumer education and to obtain reparations for the injustices experienced by the consumers.

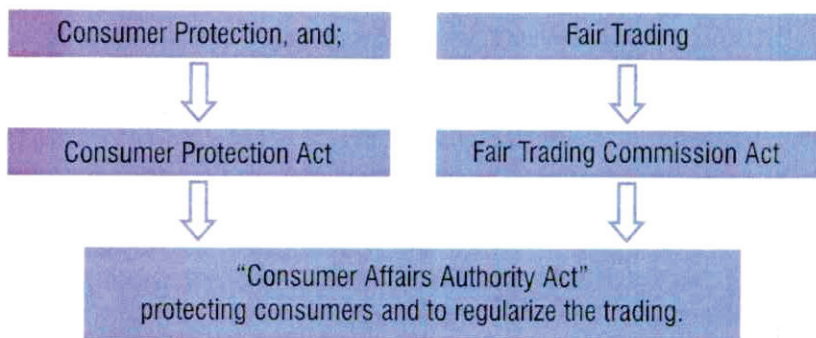
Apart from this Act, the United Nations passed a set of international guidelines that should be followed in relation to consumer protection with the consent of many countries on April 09, 1985. Many developed nations follow these guidelines. Sri Lanka, as a party to this convention, should abide by the regulations. Objectives of these guidelines are as follows;

1. Assisting countries to establish the consumer protection measures and to maintain these measures in necessary levels.
2. To create facilities necessary to produce and distribute goods and services according to the needs and preferences of consumers.
3. Encourage relevant parties to carry out these activities in a good and ethical manner.
4. To help countries to block unethical trading activities that affect consumers at local and global levels.
5. To extend cooperation in the formation of independent consumer societies.
6. To strengthen international cooperation in consumer protection.
7. To develop marketing opportunities that provide high quality products at low price levels to the consumers.

As consumer protection turned into one of the most important priorities in Sri Lanka, the Sri Lankan Parliament approved the Fair Trading Commission Act No. 01 of 1987 with the purpose of protecting rights of the consumers and to regularize local trade. This Act replaced the National Prices Commission Act No. 42 of 1975. The objectives of Fair Trading Commission Act are as follows;

1. To establish a Fair Trading Commission
2. Regularization of Sole Proprietorship, Associations and competitive activities
3. Establishing and implementing a national price policy

It is an important Act in relation to the legal proceedings related to consumer protection.



The following Acts were repealed after the enactment of the Consumer Affairs Authority Act;

- Fair Trading Commission Act No. 01 of 1987
- Consumer Protection Act No. 01 of 1979
- Price Control law (Chapter. 173)

The following provisions were made to perform the functions of this Act;

- Establishment of Consumer Affairs Authority
- Establishment of a center related to consumer affairs

The objectives of these Acts are as follows;

A

To protect consumers against the marketing of goods or the provision of services which are hazardous to life and property of consumers;

B

To protect consumers against unfair trade practices and guarantee that consumer interest shall be given due consideration;

C

To ensure that wherever possible consumers have adequate access to goods and services at competitive prices;

D

To seek redress against unfair trade practices, restrictive trade practices or any other forms of exploitation of consumers by traders.

What the functions of the Authority are;

1. I. Restrictive trade agreements among enterprises;
- II. Arrangements amongst enterprises with regard to prices;
- III. Abuse of a dominant position with regard to domestic trade or economic development within the market or in a substantial part of the market; or
- IV. Any restraint of competition adversely affecting domestic or international trade or economic development;

Promote

- Promote effective competition between persons supplying goods and services;
- Promote and protect the rights and interests of consumers, purchasers and other users of goods and services in respect of the price, availability and quality of such goods and services and the variety supplied;
- Promote competitive prices in markets where competition is less than effective;
- Promote consumer education with regard to good health, safety and security of consumers;
- Promote the exchange of information relating to market conditions and consumer affairs with other institutions;
- Promote, assist and encourage the establishment of consumer organizations;

Investigate

- Investigate or inquire into anti-competitive practices and abuse of a dominant position;
- Investigate and inquire in relation to any matter specified in this Act;

Publish

- Undertake studies, publish reports and provide information to the public relating to market conditions and consumer affairs;
- Undertake public sector and private sector efficiency studies;

Other

- To keep consumers informed about the quality, quantity, potency, purity, standards and price of goods and services made available for purchase;
- Appoint any such committee or committees as may be necessary to facilitate the discharge of the functions of the Authority;

How consumers are protected by the commission.

1.

- i. Studies undertaken during selling and distribution of goods
- ii. Promote, assist and encourage the State or other organizations including organizations of consumers.
- iii. Make regulations on price ceiling and to assist and encourage associations of traders to enter into agreements with the Authority (Section 09)

2. The Authority issue notifications through gazettes and newspapers to protect consumers on the following matters:

- i. Issue general directions to manufacturers or traders in respect of labeling, price marking, packeting, sale or manufacture of any goods (Section 10 (1)).
- ii. Announcing the times during which and the places at which, such goods may be sold; and any other conditions as to the manufacturing, importing, marketing, storing, selling and stocking, of any goods (Section 10 (1)).
- iii. The Authority ensures the quality of goods sold or services provided, determine such standards and specifications relating to the production, manufacture, supply, storage, transportation and sale of any goods, and to the supply of any services (Section 12).

3. The Authority shall enter into agreements with producers or sellers or the societies that represents them to determine maximum prices for goods and services, nature and quality of products and services.

In the same way, the parties shall enter into written agreements with the Authority in relation to all the relevant selling activities including production, import, distribution, storage, dividing, measuring, marketing, labeling.

Where the Authority thinks fit, it may cause any agreement made under Section 14 to be published in the Gazette.

4. Where the Minister is of opinion that any goods or any service is essential to the life of the community or part thereof, the Minister in consultation with the Authority may by order, publish in the Gazette prescribe such goods or such service as specified goods or specified service as the case may be.

“ No manufacturer or trader shall increase the retail or wholesale price of any goods or any service except with the prior written approval of the Authority. ”

5. Where it appears to the Director-General that any market manipulation or other market imperfection exists in respect of goods or services provided by such manufacturer or trader, the Director General refers such matter to the Council for investigation and report.
6. If the investigation revealed that there were market manipulation or other market imperfections existed, the situation will be brought to the attention of relevant officials. Thereafter, a price ceiling will be enforced to the relevant goods and the same should be notified the general public through a gazette notification.
7. Where goods are being sold or services are being provided at an excessive price and any member of the public or any association of persons or any organization wishes the Council to investigate into the matter, such member of the public, association or organization, as the case may be, may request the Director-General to refer the matter to the Council for investigation.

2. Every trader shall exhibit conspicuously in his place of business, a notice specifying the maximum retail or wholesale price, as the case may be, of goods available for sale in his place of business other than the price of any goods, the price of which is marked on the goods itself or on the wrapper or pack containing it or marked in any other manner as may be required by any law (Section 26).
3. All the trades shall be registered as per the charges stipulated by the Authority.
4. Every trader shall keep in a conspicuous place in his place of business, a notice board for the display of any notice, direction or warning issued by the Authority under this Act (Section 29).
5. No trader shall, in the course of a trade or business, engage in any type of conduct that is misleading or deceptive or is likely to mislead or deceive the consumer or any other trader (Sections 30 & 31).



6. Any person who sells any goods above the price set by the Authority (Section 11).
7. No trader who has in his possession or custody or under his control any goods for the purpose of trade within Sri Lanka, shall refuse to sell such goods (Section 15).
8. No trader who has in his possession or custody or under his control any goods for the purpose of trade within Sri Lanka, shall offer such goods for sale subject to a condition requiring for the purchase of such goods (Section 16).
9. No trader shall pile the goods for selling beyond his capacity.
10. No trader shall make false representation with the purpose of deceiving consumers or other traders.

Such false representation and deceiving consumers are punishable offences under this Act (Sections 30 & 31).

What are the Punishable Offences According to this Act?

- As per Section 10 (4), any person who removes, alters, obliterates, erases or defaces any label, description or price mark on any goods or any instructions given by the Authority shall be guilty of an offence under this Act.
- As per Section 11, any person who sells or offers to sell any goods above the price marked on the goods in accordance with the instructions given by the Authority, shall be guilty of an offence under this Act.
- As per Section 14 (3), breaching the agreement entered between the Authority and traders' association shall be a punishable offence.
- Denying to sell the goods that a trader possesses.
- Selling goods based on conditions (Section 16).
- No person or trader shall conceal any goods in such quantity as is in excess of the normal trading requirements of such person or trader.
- No trader shall breach the agreement he entered with the Authority.

- Any person who removes, alters, obliterates, erases or defaces such notice, direction or warning other than a person acting under the direction or authority of the Authority, shall be guilty of an offence under this Act.
- Deceiving customers or other traders through trading activities is a punishable offence (Sections 30 & 31).
- Neglecting the orders of the Authority, disrespecting or contempt against the Authority are punishable offences (Section 36).

Warranties in relation to the exchange of goods or services between sellers and purchasers (Section 32).

The Implied Agreement Terms between the Purchaser and Distributor of a Good or Services

1

- The goods and services shall be sold with due care and efficiency.
- The goods and services shall satisfy the requirements to which they were sold.
- As per the Section 12 of the Act, the quality characteristics agreed should match with the goods or services sold.
- The goods and services shall satisfy the use to which the goods or services are sold or distributed.

2

When consumers purchase goods and services, while they express the purpose of such purchase revealed to the seller directly or indirectly or when the consumer cannot depend on the efficiency of the distributor or when such dependency is not fair, the distributed goods or services shall be able to satisfy the objectives in a reasonable manner.

What Reliefs are Available for Unsatisfied Customers?

1. A complaint shall be made against the persons who breach the procedures established through the Authority within three months of such incidents.

As the Authority is vested with powers to inquire complaints and to make judgements, if the Authority satisfied that the regulations enforced were breached, the Authority can make the following orders to provide relief to the affected parties;

- /// To provide compensation, or;
- /// To repay the amount paid, or;
- /// To provide a replacement product.

2. A consumer aggrieved by the breach of an implied warranty may make a complaint to the Authority in writing against such breach within one month of the supply of such goods or provision of such services.

If the Authority satisfies that the warranty has been breached, the Authority may issue the following orders to the traders to comply within any specified time period;

- /// To issue compensation to the affected party
- /// To repay the money paid for the purchase

Neglecting the above orders is an offence. During such circumstances, the Authority is vested with powers to refer the case to a Magistrate Court.

3. Where goods are being sold or services are being provided above market prices and any member of the public or any organization wishes the Council to investigate into the matter, such members of the public, association or organization may request the Director General to refer the matter for investigation.

The unsatisfied customer due to the breach of a warranty, as such the warranty was breached within one month of the purchase of the good or service, can submit a complaint to the Authority in this regard.

If the Authority satisfied that the warranty was breached after an investigation, within a specified time period, the Authority may issue the following orders;

- To provide compensation for the affected parties
- To repay the money paid for the purchase

As per the Consumer Affairs Authority Act No. 09 of 2003:

Consumers

“Consumer” means any actual or potential user of any goods or services made available for a consideration by any trader or manufacturer.

Goods

“Goods” means any food, drink, pharmaceutical, fuel and all other merchandise.

Price

“Price” means a charge of any description.

Manufacturer

“Manufacturer” means any person who—

- I. Make any article or any goods.
- II. Assembles or joins any article or any goods whether by chemical process or otherwise; or
- III. Adapts for sale any article or any goods.

Service

“Service” means service of any description which is made available to actual or potential users, and includes—

- I. Banking, financing, insurance, shipping and entertainment.
- II. The construction, production, manufacture, supply, storage, maintenance, repair, treatment, cleaning, processing or alteration of goods.
- III. Services in connection with the import, export or distribution of goods.
- IV. The transportation of goods and passengers.
- V. The cleaning of buildings and building premises.
- VI. The sale and supply of any utility services including electricity, water, gas and telecommunication.
- VII. The provision of information technology and Communications.
- VIII. Professional services such as accounting, auditing, legal, medical and health, surveying, architecture and engineering.

Trader

“Trader” means any person who—

- I. Sells or supplies goods wholesale to other persons.
- II. Sells or supplies goods at retail rates to consumers.
- III. Imports goods for the purpose of sale or supply.
- IV. Provides services for a consideration.

The Present Address of the Authority


Consumer Affairs Authority,
1st and 2nd Floors,
Office Building of the Sathosa General Secretary,
27, Vauxhall Road,
Colombo 02.

LAC Locations


Head Office	011-2433618	Mannar	023-2222045
Akkaraipattu	067-2279462	Marawila	032-2254443
Ampara	063-2223495	Matale	066-2224828
Anuradhapura	025-2224465	Matara	041-2233815
Attanagalla	033-2297020	Mathugama	034-2249262
Awissawella	036-2233857	Mawanalla	035-2247272
Baddegama	091-2292051	Minuwangoda	011-2297790
Badulla	055-2225759	Monaragala	055-2276891
Balangoda	045-2289099	Mt.Lavinia	011-2718708
Balapitiya	091-2255753	Mullaithivu	021-2290077
Bandarawela	057-2224733	Muththur	026-2238777
Battaramulla	011-2877687	Nawalapitiya	054-2224227
Batticaloa	065-2225399	Negombo	031-2281080
Chawakachcheri	021-2270882	Nikaweratiya	037-2260203
Chilaw	032-2222175	Nugegoda	011-2809068
Dambulla	066-2284551	Nuwara Eliya	052-2235260
Deiyandara	041-2268077	Panadura	038-2244822
Deniyaya	041-2271128	Point Pedro	021-2260212
Embilipitiya	047-2230299	Polgahawela	037-2243039
Galgamuwa	037-2253290	Polonnaruwa	027-2226572
Galle	091-2226124	Pothuvil	063-2248485
Gampaha	033-2248804	Pugoda	011-2405333
Hambantota	047-2221092	Ratnapura	045-2226899
Hatton	051-2222390	Tangalle	047-2240122
Hingurakgoda	027-2245521	Thambuththegama	025-2276259
Homagama	011-2748813	Thissamaharama	047-2239611
Horana	034-2265244	Trincomalee	026-2226328
Jaffna	021-2224545	Valachchenei	065-2258349
Kadawatha	011-2922440	Vavuniya	024-2221863
Kaduwela	011-2548150	Walasmulla	047-2245566
Kakirawa	025-2263536	Wallawaya	055-2274466
Kalmunai	067-2223710	Warakapola	037-2277075
Kalutara	034-2222017	Wariyapola	037-2268199
Kandy	081-2388978	Welimada	057-2244860
Kanthale	026-2234521	Mallakam	021-2059170
Kebithigollawa	025-2298101	Puttalam	032-2266636
Kegalla	035-2231790	Siyabalanduwa	055-2279250
Kilinochchi	021-2285618	Dehiattakandiya	027-2250700
Kuliyapitiya	037-2284611	LT-Borella	011-2698003
Kurunegala	037-2229641	Galagedara	081-2061025
Mahiyanganaya	055-2258332	Wattala	011-2935907
Maho	037-2275075	Hettipola	037-2291915

Legal Aid Commission of Sri Lanka

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