



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

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS
(AMENDMENT)**

A

BILL

to amend the Mutual Assistance in Criminal Matters Act, No. 25 of 2002

*Presented by the Minister of Justice and Prison Reforms on
05th of June, 2018*

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STATEMENT OF LEGAL EFFECT

Clause 2: This clause replaces section 2 of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as replaced is to broaden the application of the principal enactment to-

- (a) countries that are parties to an international or regional Convention or other international agreement which is in the interest of mutual assistance in criminal matters, to which Sri Lanka has become a party;
- (b) a country which has entered into an agreement with Sri Lanka for mutual assistance in criminal matters;
- (c) a country which has not entered into any agreement with Sri Lanka, where the Minister may determine that it is in the best interest of sovereign nations;
- (d) an organization associated with combating international criminal matters.

Clause 3: This clause replaces section 3 of the principal enactment and the legal effect of the section as replaced is to expand the objects and not to restrict assistance.

Clause 4: This clause replaces section 4 of the principal enactment and the legal effect of the section as replaced is to provide for the efficient administration of the Act. This clause also inserts a new section 4A to the principal enactment to specify the duties and functions of the Central Authority.

Clause 5: This clause replaces section 5 of the principal enactment and the legal effect of the section as replaced is to specify the procedure relating to an application of a request. This clause also inserts new sections 5A and 5B to the principal enactment and the legal effect of the said sections are to provide for the prompt response to requests and transmission of information spontaneously.

Clause 6: This clause amends section 6 of the principal enactment and the legal effect of the section as amended is to expand the grounds of refusing assistance by including instances where the criminal investigations or proceedings has commenced in Sri Lanka.

Clause 7: This clause inserts a new section 6A to the principal enactment. The new section provides for confidentiality to be upheld.

Clause 8: This clause amends section 7 of the principal enactment and the legal effect of the section as amended is to include the procedure of assistance where the identity of a person is not known and specifies the authorities who have the power to interview and record a statement.

Clause 9: This clause amends section 8 of the principal enactment and the legal effect of the section as amended is to remove the discretion vested in the Central Authority in sending a document or other process to the Magistrate's Court.

Clause 10: This clause amends section 10 of the principal enactment and the legal effect of the section as amended is to expedite the process of taking evidence or receiving documents or articles.

Clause 11: This clause replaces section 11 of the principal enactment and the legal effect of the section as replaced is to expand sources of evidence for investigation.

Clause 12: This clause amends section 12 of the principal enactment and the legal effect of the section as amended is to give certainty to orders made by the Central Authority.

Clause 13: This clause amends section 13 of the principal enactment and the legal effect of the section as amended is to give certainty to orders made by the Central Authority in respect to prisoners.

Clause 14: This clause inserts new sections 13A and 13B to the principal enactment. The new sections provide for the facilitation of video conferencing technology and the Joint investigations.

Clause 15: This clause inserts a new Part VA in the principal enactment. The new part provides for the assistance in relation to findings of bribery of foreign public officials or officials of public international organizations.

Clause 16: This clause replaces section 17 of the principal enactment and the legal effect of the section as replaced is to direct the relevant law enforcement authority to provide assistance to identify, locate a person or assist in assessing the value of the property.

Clause 17: This clause amends section 19 of the principal enactment and the legal effect of the section as amended is to extend the application to include criminal related matters.

Clause 18: This clause inserts a new Part VIIA to the principal enactment. The new part provides for the expedited preservation of stored data in relation to computer crimes.

Clause 19: This clause inserts new sections 21A and 21B to the principal enactment. The new sections provide for the principles of mutuality and reciprocity in providing assistance and the receipt of requests in the English language.

Clause 20: This clause replaces section 24 of the principal enactment and the legal effect of the section as replaced is to-

- (a) repeal the definition for the expressions “Commonwealth Country” and “Non Commonwealth Country”;
- (b) amend the definition for the expressions “appropriate authority” and “criminal matter”; and
- (c) insert the new definitions for the expressions “blockchain technology”, “competent authority”, “computer data”, “computer system”, “controlled operations”, “country” or “foreign State”, “digital currency”, “document”, “foreign public official”, “freezing”, “Minister”, “official of a public international organization”, “proceeds of crime”, “property”, “public international organization” and “traffic data”.

Clause 21: This clause amends the principal enactment, any other written law, any notice, notification, contract, communication or other document relating to mutual assistance in criminal matters and the legal effect of the amendment is to extend the application of the Act to construe “specified country” to mean “specified country and specified organization”.

Clause 22: This clause replaces the Schedule to the principal enactment and the legal effect of the Schedule as replaced is to introduce a new common Form for mutual assistance requests.

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L.D.—O. 67/2016

AN ACT TO AMEND THE MUTUAL ASSISTANCE IN CRIMINAL
MATTERS ACT, NO. 25 OF 2002

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

1. This Act may be cited as the Mutual Assistance in Criminal Matters (Amendment) Act, No. of 2018. Short title.

5 2. Section 2 of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 (hereinafter referred to as the “principal enactment”) is hereby repealed and the following section substituted therefor:- Replacement of section 2 of Act, No. 25 of 2002.

10 “Application of the Act. 2. (1) The Minister may by Order published in the *Gazette* declare that the provisions of this Act shall apply to –

15 (a) every country that is a party to an international or a regional Convention or other agreement which is in the interest of mutual assistance in criminal matters, to which Sri Lanka has become a party, whether before or after the date of commencement of this Act;

20 (b) a country which has entered into an agreement with Sri Lanka for mutual assistance in criminal matters;

25 (c) a country which has not entered into any agreement with Sri Lanka, where the Minister may determine that it is in the best interests of the sovereign nations that Sri Lanka extends and obtains assistance;

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(d) an organization associated with combating international criminal matters, on such terms and conditions as may be necessary and on the assurance of reciprocity.

(2) Every Order made under this section shall recite the terms of the agreement, if any, in consequence of which it was made. Such Order shall come into operation on the date of publication of such Order in the *Gazette* or on such later date as may be specified therein and shall remain in force so long as may be specified in such Order or for such period as the agreement in consequence of which it was made, remains in force.

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

(4) A notification of the date on which an Order is rescinded shall be published in the *Gazette*.

(5) Every country or organization in respect of which an Order is made and is for the time being in force shall hereinafter be referred to as the “specified country or specified organization.”.

3. Section 3 of the principal enactment is hereby repealed and the following section substituted therefor:-

“Object of the Act. 3. (1) The object of this Act is to facilitate the provision and obtaining by Sri Lanka of

assistance in criminal and related matters,
including-

- (a) the locations and identification of witnesses or suspects;
- 5 (b) the service of documents;
- (c) the examination and interviewing of witnesses or suspected persons;
- (d) the provision and obtaining of evidence, documents, other articles or
10 information;
- (e) the execution of requests for search and seizure;
- (f) the effecting of temporary transfer of a person in custody to appear as a witness;
- 15 (g) the facilitation of the personal appearance of witnesses;
- (h) the criminal infringement of intellectual property including copyright infringement;
- 20 (i) the information relating to the location of a computer system or any other property connected with any criminal activity;
- (j) the enforcement of any orders for the
25 payment of fines;
- (k) the forfeiture or freezing of property pursuant to the relevant laws on such matters;

(l) the tracing of crimes committed *via* internet, information communications technology, cloud computing, blockchain technology and other computer networks including the trading in of any digital currencies;

(m) the bribery of any foreign public official or official of a public international organization and their respective proxies and beneficiaries;

(n) the expedited preservation of stored computer data and expedited disclosure of preserved traffic data and data retention;

(o) the location of proceeds of a criminal activity;

(p) the use of documentary evidence obtained in a specified country through specific authorization to be made admissible in a judicial proceeding; and

(q) the admissibility and applicability of evidence led from a specified country through video conferencing technology.

(2) Nothing in this Act shall preclude the granting of any other form or nature of assistance for investigation in connection with judicial proceedings, connected with criminal matters to foreign States or organizations. Such assistance may include controlled operations, joint investigations, the use of other special investigative techniques including the use of diverse search engines and the transfer of criminal proceedings.”.

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4. Section 4 of the principal enactment is hereby repealed and the following new sections are substituted therefor:-

Replacement
of section 4 of
the principal
enactment.

5 “Central
Authority to
administer the
Act.

4. (1) The Secretary to the Ministry of the Minister, shall be the Central Authority for the purposes of this Act (hereinafter referred to as the “Central Authority”).

10

(2) The Central Authority may authorize any other officer not below the rank of a Senior Assistant Secretary, in writing to act on behalf of the Central Authority for the purpose of this Act.

15

(3) The Central Authority shall designate competent authorities who shall process information to requests as directed by the Central Authority.

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(4) Where the Central Authority is unable to carry out his duties on account of being absent from Sri Lanka, ill health or being convicted of an offence, the Minister shall appoint an officer not below the rank of a Senior Assistant Secretary to administer the Act, within three days of such inability.

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Duties and
functions of
the Central
Authority.

4A. The Central Authority-

(a) shall take all reasonable steps to ensure prompt action in respect of all requests, together with the assistance of such other entities or persons, as may be necessary;

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(b) may direct a request received under section 5, to a competent authority to provide necessary information or assistance;

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- 5
- (c) shall prioritize the execution of urgent requests;
 - (d) shall maintain contact details of relevant local and foreign authorities;
 - (e) shall have a dedicated unit to maintain a proper system to manage incoming and outgoing requests; and
 - (f) may issue guidelines and circulars to administer the provisions of the Act.”.
- 10

5. Section 5 of the principal enactment is hereby repealed and the following new sections are substituted therefor: -

Replacement
of section 5 of
the principal
enactment.

15 “Application made by a specified country or specified organization.

5. (1) An application shall be made to the Central Authority by the appropriate authority of a specified country or specified organization requesting for information or assistance in respect of such criminal and related matters referred to in this Act. Such information shall be obtained to prevent, detect, investigate or institute proceedings in respect of a criminal activity within or outside that country.

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(2) The Application shall be made substantially in the Form set out in the Schedule hereto and shall be accompanied by such documents as may be specified for that purpose by the Central Authority to enable prompt action under section 5A.

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(3) Notwithstanding the provisions of subsection (1), a request which conforms to the provisions of subsection (2) may be forwarded through electronic means directly to the relevant

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5 competent authority through the appropriate
authority of a specified country or specified
organization. Such competent authority shall,
subject to subsection (4), immediately proceed
to implement the request.

10 (4) Where a request is made directly to a
competent authority under subsection (3), the
said competent authority shall immediately
inform the Central Authority by forwarding a
copy of the relevant request.

15 (5) Assistance or information on a request
made under this section referred to the
competent authority by the Central Authority
shall be transmitted to the appropriate authority
of a specified country or specified organization
directly-

(a) by the Central Authority; or

(b) by the relevant competent authority,

20 and the said competent authority shall report to
the Central Authority on the progress made or
on the completion of the request.

25 (6) No court in Sri Lanka may reject a
request on the grounds that the Central
Authority did not receive such request
directly from the appropriate authority
of a specified country or specified organization.

Prompt
response to
requests.
30 5A. (1) The Central Authority, on receiving
a request may as soon as possible either approve,
approve partially, approve subject to such
conditions as may be necessary, postpone or
refuse such request.

Authority shall promptly—

(a) direct a competent authority to process the information in respect of the request;

5

(i) of the outcome of the execution of the request, with reasons;

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“(d) a request relates to the prosecution of a person in connection with a criminal matter, where-

(i) criminal investigations or proceedings has commenced in Sri Lanka; or

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in respect of that offence or another offence constituted by the same act or omission as that which constituted the offence;”.

7. The following new section is hereby inserted
5 immediately after section 6 of the principal enactment and shall have effect as section 6A of that enactment:-
- Insertion of new section 6A in the principal enactment.

“Confidentiality. 6A. (1) Every officer referred to under section 4 shall consider all matters strictly confidential.

10 (2) Unless otherwise authorized by law, a person who, because of his official capacity or office, and being aware of the confidential nature of the request, has knowledge of-

(a) the contents of such request made under this Act;

15 (b) the fact that such request has been, or is about to be made; or

(c) the fact that such request has been granted or refused,

20 shall not disclose such content or facts except to the extent that the disclosure is necessary to execute the foreign request.

25 (3) In order to comply with a request, if confidentiality cannot be upheld as specified in subsection (2), the Central Authority shall be promptly informed and the Central Authority shall in turn inform the appropriate authority of a specified country or specified organization, which shall then determine whether the request should nevertheless be executed.

authority, request the appropriate authority of a specified country or specified organization to-

(i) interview;

5 (ii) record statements;

(iii) obtain documents or articles,

from such persons believed to be connected with such person and forward such information to the Central Authority. The Central Authority shall where necessary, forward the same to the relevant competent authority. Documents or articles obtained shall be clearly marked by the appropriate authority.”;

10
15 (2) by the insertion immediately after subsection (3) of that section, of the following new subsection:-

“ (4) Subject to sections 10 and 21, the interviewing and recording of a statement of a person as specified in subsection (2), shall be done by a law enforcement authority in Sri Lanka or a law enforcement authority as may be assigned by an appropriate authority or by a combined team of the said law enforcement authorities.”;

20
25 (3) by the repeal of the marginal note to that section and the substitution of the following marginal note therefor:-

“Reciprocating assistance in relation to locating and identifying persons.”.

9. Section 8 of the principal enactment is hereby amended by the repeal of subsection (1) thereof and the substitution thereof of the following subsection:-
30

Amendment of section 8 of the principal enactment.

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 “(1) Where the Central Authority approves a request from the appropriate authority of a specified country or a specified organization for the service of-

- 5 (a) summons or other process requiring a person to appear as a defendant or attend as a witness in criminal proceedings in that country;
- (b) a document issued by a court exercising criminal jurisdiction in that country and recording a decision of the court made in the exercise of that
- 10 jurisdiction,

the Central Authority shall promptly forward such request together with the decision of that court to the Magistrate in Sri Lanka within whose jurisdiction such person is residing, for service.”.

- 15 **10.** Section 10 of the principal enactment is hereby amended in subsection (1) thereof by the repeal of all the words from “for the purpose of proceeding” to the end of that paragraph and the substitution therefor of the following:-
- Amendment of section 10 of the principal enactment.

- 20 “for the purposes of a proceeding in relation to a criminal matter in the specified country or specified organization, the Central Authority shall promptly refer such request to a competent authority or where necessary, to the Chief Magistrate of the Colombo Magistrate’s Court to take such evidence or to receive such documents
- 25 or articles, and shall, upon receipt of such evidence, documents or articles from such Magistrate or competent authority, as the case may be, transmit the same to the appropriate authority of the specified country or specified organization.”.

- 30 **11.** Section 11 of the principal enactment is hereby repealed and the following section substituted therefor:-
- Replacement of section 11 of the principal enactment.

- “Request by
Central
Authority for
evidence to be
taken in and
documents
5 &c. to be
produced in a
specified
country or
specified
organization.
11. (1) The Central Authority may, on the request of a court or a competent authority, request the appropriate authority of a specified country or specified organization to arrange for-
- (a) evidence including computer evidence to be taken;
- (b) investigative material to be produced;
- (c) bank statement to be produced; or
- (d) any other documents or other articles to be produced,
- 10 for the purposes of investigating a criminal matter and a proceeding of a criminal matter.
- (2) Where the Central Authority receives from the appropriate authority of a specified country or specified organization, in response to a request made by him under subsection (1),-
- 15 (a) any evidence taken, and where such evidence is in relation to computer evidence, being certified as a true copy by any judicial authority or the appropriate authority, such evidence;
- 20 (b) investigative material, bank statement produced, any other document or other article produced in such specified country or specified organization, duly authenticated under section 21,
- 25 shall be admissible in any proceeding to which such request relates.
- (3) Any information received under this section shall not be used for any purpose other than the criminal matter specified in such request, without the written consent of such appropriate authority.”.
- 30

12. Section 12 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “shall be deemed to authorize-”, of the words “shall be sufficient authorization for-”.

Amendment
of section 12
of the
principal
enactment.

5 **13.** Section 13 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “shall be deemed to authorize the”, of the words “shall be sufficient authorization for”.

13. Section 13 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “shall be deemed to authorize the”, of the words “shall be sufficient authorization for”.

Amendment
of section 13
of the
principal
enactment.

14. The following new sections are hereby inserted immediately after section 13 of the principal enactment and shall have effect as sections 13A and 13B of that enactment:-

Insertion of new sections 13A and 13B in the principal enactment.

14. The following new sections are hereby inserted immediately after section 13 of the principal enactment and shall have effect as sections 13A and 13B of that enactment:-

Insertion of
new sections
13A and 13B in
the principal
enactment.

“Facilitation of video conferencing technology.

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13A. Where a court or competent authority considers that oral evidence is necessary for identification of a person or thing or any other form of assistance under this Act, such court or competent authority may use video or audio transmission technology to lead evidence in such manner as may be prescribed, from a witness who is physically present in a foreign State and unable to attend court in Sri Lanka. The hearing shall be conducted directly by a judicial officer or law enforcement officer.

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Joint investigations.

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13B. When a request is made where an offence is committed involving persons or property in multiple countries, the Central Authority shall facilitate provisions to establish a joint investigation, comprising of investigators from Sri Lanka and any specified countries or specified organizations.”.

30 **15.** The following new Part (sections 14A and 14B) is hereby inserted immediately after section 14 of the principal enactment and shall have effect as PART VA of that enactment: -

Insertion of new Part VA in the principal enactment.

15. The following new Part (sections 14A and 14B) is hereby inserted immediately after section 14 of the principal enactment and shall have effect as PART VA of that enactment: -

Insertion of
new Part VA
in the
principal
enactment.

“PART VA

ASSISTANCE IN RELATION TO FINDINGS OF BRIBERY OF FOREIGN
PUBLIC OFFICIAL OR OFFICIAL OF A PUBLIC INTERNATIONAL
ORGANIZATION

5 Request by a 14A. Where an appropriate authority of a
specified country or specified organization
for identifying &c. of bribery
10 of a foreign official. has been involved in bribery, the provisions of
this Act shall apply in order to identify or locate
the said official or to assess the value and locate
the proceeds of bribery relating to the said
foreign official, his proxies and beneficiaries.

15 Request by 14B. Where there are reasonable grounds to
Sri Lanka for believe that an offence under the Bribery Act
identifying &c. of bribery (Chapter 26) has been committed in which a
20 of a foreign official. foreign public official or an official of a public
international organization is involved, the
Central Authority may request the appropriate
authority of a specified country or specified
organization in which such foreign official is
resident to identify and locate such official and
25 assess the value and locate the proceeds of
bribery, relating to the said foreign official, his
proxies and beneficiaries.”.

16. Section 17 of the principal enactment hereby repealed and the following section substituted therefor:-

“Request by a 17. Where—
specified country or
30 specified organization
for tracing proceeds of crime.
(a) a person has been charged with,
or convicted of, or is suspected
on reasonable grounds of having
committed a serious offence in
a specified country;

Replacement
of section 17
of the
principal
enactment.

5 (b) there are reasonable grounds to believe that any property derived or obtained, directly or indirectly, from the commission of that offence, is in Sri Lanka,

and the appropriate authority requests assistance from the Central Authority, the Central Authority may require the relevant law enforcement authority to provide assistance to identify, locate a person or assist in assessing the value of the property.”.

17. Section 19 of the principal enactment is hereby amended in paragraph (a) of subsection (1) thereof, by the substitution for the words “criminal matter,” of the words “criminal or related matter.”

18. The following new Part (sections 20A to 20F) is hereby inserted immediately after section 20 of the principal enactment and shall have effect as PART VIIIA of that enactment:-

20 "PART VIIA

EXPEDITED PRESERVATION OF STORED DATA IN RELATION TO
COMPUTER CRIMES

Relevant
Secretary to a
Ministry to
make order to
preserve data.

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20A. Where the Central Authority is of the opinion that expedited preservation is required of stored computer data or traffic data, the Central Authority shall inform the Secretary to the Ministry of the Minister assigned the relevant subject to make an order for the expedited preservation of stored computer data or traffic data, as the case may be, or to both such data, for the period specified under section 20B.

Period of preservation of data.	20B. All data for which an order is made under section 20A shall be preserved for a minimum period of six years.
5 Mode of preservation.	20C. (1) Records of data preserved under this Part shall be maintained in a manner and form that will enable an institution to immediately comply with the request for information in the form in which it is requested.
	(2) A copy of the record may–
10	(a) be kept in a machine readable form to conveniently obtain a print thereof;
15	(b) be kept in an electronic form, to enable a readable copy to be readily obtained and an electronic signature of the person who keeps the records is inserted for purposes of verification;
20	(c) where necessary, entail freezing of the stored computer data; or
	(d) be updated, if necessary.
25 Release of preserved data.	20D. (1) Preserved data shall be released for the purpose of criminal investigation or judicial proceedings on a request duly made by the appropriate authority for such period as specified in the request.

(2) Every order made under section 20A shall lapse on the expiry of the time period specified under section 20B or on the expiry of the period specified in the request.

5 (3) Where in the course of granting a request
to preserve traffic data concerning a specific
communication, the Central Authority is
informed that a service provider in another
country was involved in the transmission of the
10 communication, the Central Authority shall
instruct the relevant competent authority to
disclose, such amount of traffic data as is
sufficient to identify that service provider and
the path through which the communication was
15 transmitted, prior to receipt of the request for
production.

Production of stored computer data.

20E. Subject to any written law on admissibility of computer data and notwithstanding the provisions of Part VI of this Act, upon the request of an appropriate authority of a specified country or specified organization, for computer data or information to investigate the criminal matter, the Magistrate may issue an order to enable the production of-

25 (a) specified computer data in the possession or control of a person stored in a computer system or a computer data storage medium; and

(b) the necessary subscriber information in the possession or control of a service provider.

5 Search and seizure of computer data. 20F. (1) Upon the request by an appropriate authority of a specified country or specified organization, a warrant may be issued under section 15, *mutatis mutandis*, to search or otherwise access any computer system or part thereof as well as any computer storage medium in which computer data may be stored.

10 (2) The search warrant issued by the Magistrate within whose jurisdiction such computer or computer system is believed to be located, may authorize the police officer or any other designated person, where necessary, to-

15 (a) seize or otherwise secure a computer system or part thereof, or a computer data storage medium;

20 (b) make and retain a copy of that computer data;

25 (c) maintain the integrity of the relevant stored computer data; and

 (d) render inaccessible or remove that computer data in the accessed computer system.”.

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19. The following new sections are hereby inserted immediately after section 21 of the principal enactment and shall have effect as sections 21A and 21B respectively, of that enactment-

Insertion of new sections 21A and 21B in the principal enactment.

5 “Principles of mutuality and reciprocity. 21A. For the purposes of this Act, the principles of mutuality and reciprocity shall at all times be upheld.

 Language. 21B. The request and the accompanying documents for assistance under this Act shall be in the English language.”.

10

20. Section 24 of the principal enactment is hereby repealed and the following section substituted therefor:-

Replacement of section 24 of the principal enactment.

 “Interpretation. 24. In this Act, unless the context otherwise requires-

15 “appropriate authority” in relation to-

 (a) a specified country means the person, howsoever described, designated to receive and transmit requests for assistance in criminal matters, by or under any law of that country;

20

 (b) a specified organization means the person howsoever described, designated to receive and transmit requests for assistance in criminal matters;

25

 “blockchain technology” means distributed ledger technology that uses a distributed, decentralized, shared and replicated ledger, which may be public or private, with

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5 necessary permission or without
permission, or driven by crypto
economics or not. The data on the
ledger shall be protected with
cryptography, be immutable and
auditable and shall provide true
information;

“competent authority” includes a law
enforcement authority;

10 “computer data” means any
representation of facts, information
or concepts in a form suitable for
processing in a computer system
including a program suitable to
15 cause a computer system to perform
a function;

“computer system” shall have the same
meaning as in the Computer Crime
Act, No. 24 of 2007;

20 “controlled operation” includes an
operation that-

(a) involves the participation of
law enforcement officers;

(b) is conducted for the purpose of-

25 (i) obtaining evidence that
may lead to the
prosecution of a person for
a serious offence;

30 (ii) arresting any person
involved in criminal
activity or corrupt conduct;

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(iii) frustrating criminal activity or corrupt conduct;

5 (iv) carrying out an activity that is reasonably necessary to facilitate the achievement of any purpose referred to in sub-paragraph (i), (ii) or (iii);

10 (c) may involve the supervision of a law enforcement officer or any other authorized person, where such conduct constitutes an offence in Sri Lanka;

15 “country” or “foreign State” includes a colony, territory, protectorate or other dependency of such country or foreign State, or a ship or a aircraft registered in such country or foreign State, and shall be deemed to
20 include the Hong Kong Special Administration Region of the Peoples Republic of China;

“criminal matter” means-

25 (a) violation of any law relating to a criminal offence; and

(b) an investigation, prosecution or judicial proceedings related to a criminal offence and includes-

30 (i) the forfeiture or confiscation of any property or proceeds of crime upon conviction or non conviction basis;

- (ii) the imposition or recovery of a pecuniary penalty;
- (iii) the tracing, freezing and restraint of property that may be forfeited or confiscated;

“digital currency”-

- (a) includes a digital representation of value that-
 - (i) is used as a medium of exchange, unit of account or store of value; and
 - (ii) may not be denominated in legal tender; and
- (b) does not include-
 - (i) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit or digital currency; or
 - (ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform;

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“document” includes-

- (a) any of, or any part of any of, the following things:-
 - 5 (i) any paper or other material on which there is writing;
 - (ii) a map, plan, drawing, photograph or similar thing;
 - 10 (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
 - 15 (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other
 - 20 article or device;
 - (v) any article on which information has been stored or recorded, either mechanically or
 - 25 electronically;
 - (vi) any other record of information; or
- (b) any copy, reproduction or duplicate of such a thing; or
- 30 (c) any part of such a copy, reproduction or duplicate;

“duly authenticated” in relation to a document, means a document authenticated as provided for in section 21;

5 “foreign law immunity certificate” means
a certificate given or declaration
made, by the appropriate authority
of a specified country or under the
10 law of a specified country, certifying
or declaring that under the law of
that specified country, persons
referred to generally or specifically,
could or could not, either generally
15 or in specified proceedings or either
generally or under specified
circumstances, be required to answer
a specified question, or to produce a
specified document;

“foreign public official ” means-

- 20 (a) an employee or official of a
foreign government body; or
- (b) an individual who performs
work for a foreign government
body under a contract; or
- 25 (c) an individual who holds or
performs the duties of an
appointment, office or a
position under a law of a foreign
State or of a part of a foreign
30 State; or

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- 5 (d) an individual who holds or performs the duties of his appointment, office or position created by custom or convention of a foreign State or of a part of a foreign State; or
- 10 (e) an individual who is otherwise in the service of a foreign government body including service as a member of a military force or police force; or
- 15 (f) a member of the executive, judiciary or magistracy of a foreign State or of part of a foreign State; or
- (g) a member or officer of the legislature of a foreign State or of a part of a foreign State; or
- 20 (h) an individual who-
- (i) is an authorized intermediary of a foreign public official covered by any of the above paragraphs; or
- 25 (ii) holds himself or herself out to be the authorized intermediary of a foreign public official covered by any of the above
- 30 paragraphs;

5 “freezing” means to prohibit the transfer,
conversion, disposition or
movement of property, any assets or
computer data on the basis of, and
for the duration of the action
initiated by the appropriate
authority or a court;

10 “Minister” means the Minister appointed
under Article 43 or Article 44 of the
Constitution, to whom the subject
of Justice is assigned;

“official of a public international
organization” means-

15 (a) an employee of a public
international organization; or

(b) an individual who performs
work for a public international
organization under a contract;
or

20 (c) an individual who holds or
performs the duties of an office
or position in a public
international organization; or

25 (d) an individual who is otherwise
in the service of a public
international organization; or

(e) an individual who-

30 (i) is an authorized
intermediary of an official
of a public international
organization covered by
any of the above
paragraphs; or

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5 (ii) holds himself or herself out
 to be the authorized
 intermediary of an official
 of a public international
 organization covered by
 any of the above
 paragraphs;

10 “proceeds of crime” includes any
 property, benefit or advantage that
 is wholly or partly obtained, derived
 or realized directly or indirectly as a
 result of the commission of a
 criminal act or omission;

15 “property” means any currency, and
 includes any asset of any kind,
 whether corporeal or incorporeal,
 movable or immovable, tangible or
 intangible whether situated in Sri
20 Lanka or elsewhere, and legal
 documents or instruments in any
 form whatsoever including
 electronic or digital form,
 evidencing title to, or interest in,
 such assets, including but not limited
25 to bank credits, travelers’ cheques,
 bank cheques, money orders, shares,
 securities, bonds, drafts, letters of
 credit and includes any legal or
 equitable interest in any such
30 property;

 “public international organization”
 means-

(a) an organization-

5 (i) of which two or more
countries, or the
governments of two or
more countries, are
members; or

10 (ii) that is constituted by
persons representing two
or more countries,
or representing the
governments of two or
more countries; or

15 (b) an organization established by,
or a group of organizations
constituted by-

20 (i) organizations of which two
or more countries, or the
governments of two or
more countries, are
members; or

25 (ii) organizations that are
constituted by the
representatives of two or
more countries, or the
governments of two or
more countries; or

(c) an organization that is-

30 (i) an organ of, or office
within, an organization
described in paragraph (a)
or (b); or

(ii) a commission, council or other body established by an organization so described or such an organ; or

(iii) a committee, or subcommittee of a committee, of an organization described in paragraph (a) or (b), or of such an organ, council or body;

“serious offence” means an offence punishable with death or with imprisonment for a term not less than one year; and

“traffic data” shall have the same meaning as in the Computer Crime Act, No.24 of 2007.”.

20 **21.** (1) In the principal enactment and in any other written law relating to mutual assistance in criminal matters there shall be substituted for the words “specified country” the words “specified country or specified organization”.

(2) Every reference to the “specified country” in any
25 notice, notification, contract, communication or other
document relating to mutual assistance in criminal matters,
shall be read and construed as a reference to the “specified
country or specified organization”.

22. The Schedule to the principal enactment is hereby
30 repealed and the following Schedule substituted therefor:-

“SCHEDULE

[Section 5(2)]

MUTUAL ASSISTANCE REQUEST FORM

TO THE CENTRAL AUTHORITY OF SRI LANKA

1. Name of the Country or Organization :.....

2. Details of the Appropriate Authority:

2.1 Name:.....

2.2 Title or Function:.....

2.3 Ministry, Institution or Department:.....

2.4 Address:.....

2.5 Telephone:.....

2.6 Fax:.....

2.7 Email:.....

2.8 Website:.....

3. Legal basis of the request:

3.1 Mention the legal basis of the request:*

☐ International or Regional Convention (Please specify)

☐ Agreement(Please specify).....

☐ Organization (Please specify).....

☐ Other (Please specify).....

*Please tick “✓” in the relevant box

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3.2 Statement of reciprocity: [If space is insufficient, please provide necessary attachments.]

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3.3 Any other additional information required under the Convention or Agreement: [If space is insufficient, please provide necessary attachments.]

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.....

4. Assistance type:

4.1 Mention the assistance type:*

- ☐ Locating and identifying suspects/witnesses/other persons.
- ☐ Arrangement for obtaining of the evidence, documents, other articles or information.
- ☐ Service of summons.
- ☐ Arrangement for the removal of prisoner or witness for the purposes of giving evidence.
- ☐ Arrangement for the issue of a search warrant for the search and seizure.
- ☐ Enforcement of orders.
- ☐ Forfeiture or freezing of property.
- ☐ Locating, identifying and assessing the value of property.
- ☐ Expedited preservation of computer data or traffic data.
- ☐ Releasing of preserved data.
- ☐ Other. (Please specify).....

*Please tick “✓” in the relevant box(es)

4.2 Full description of important information: [If space is insufficient please provide necessary attachments]

5. Relevant Competent Authority:

5.1 Mention the category of the relevant competent authority:*

- ☐ Law Enforcement or Investigating Authority
- ☐ Prosecuting Authority
- ☐ Judicial Authority
- ☐ Other (Please specify).....

*Please tick (“✓”) in the relevant box(es)

5.2 Provide the name and the other relevant details (including functions, the main responsibilities and contact details) of the relevant competent authority: [If space is insufficient please provide necessary attachments.]

.....

6. Prior Contacts:

Please provide details of prior contacts concerning this request made with any person or competent authority in Sri Lanka: [If space is insufficient please provide necessary attachments.]

.....

7. List of Offences:

Please provide the following details of offence(s). [If space is insufficient please provide necessary attachments.]

7.1 Offence:

.....
.....
.....

7.1.1 Details of national legislation(s) related to the offence:

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.....

7.1.2 Relevant provisions:

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7.1.3 Maximum penalties for the offence:

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8. Details of person(s):

8.1 Suspects/Offenders:

If known please provide the information on identification of the person or persons who are the subject of the request including Full Name, aliases, Gender, Address(es), Date of Birth, Place of Birth, Nationality at birth, Passport Number and location, Citizenship(s), Language(s), etc. [If space is insufficient please provide necessary attachments.]

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8.2 Company/Organization:

If known please provide the information on identification of the company or organization who are connected with the request including Name, Place of Incorporation, Date of Incorporation, Address(es), Director's/Principal's/Controller's details including Officer's identification information, Full Name, Title/Position, Address, History. [If space is insufficient please provide necessary attachments.]

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9. Provide a short summary of all relevant facts including details:

- Leading to the arrest, charging or conviction of persons involved;
 - Leading to making of any restraining or forfeiture order;
 - Leading to any seizure of property for evidentiary purposes;
 - Indicating the connection of the criminal behavior in issue and the assistance requested;
 - Showing clearly how execution of the request will contribute to the case outcomes;
 - Any other information.
- [If space is insufficient please provide necessary attachments.]

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10. Provide a short summary of the current status of the case including, if appropriate:

- Investigations (Commenced, Continuing, Concluded);
- Relevant properties (restrained, freezed, seized, confiscated);
- Arrests (date, warrants, etc.);
- Charges laid;
- Prosecution (Commenced, Continuing, Concluded);
- Trial (Commenced, Continuing, Concluded);
- Convicted/ Condemned and the date;

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- Appeal(s);
 - Any other information.
- [If space is insufficient please provide necessary attachments.]
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11. Urgency:

- 11.1 Is the request urgent? (Yes/ No)***
*delete whatever is inapplicable.
- 11.2 Please provide the reason(s) for urgency and provide relevant deadlines:**
- [If space is insufficient please provide necessary attachments.]
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12. Provide any other particular information to process the request:

- [If space is insufficient please provide necessary attachments.]
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13. List of Annexures:

- [If space is insufficient please provide necessary attachments.]
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14. Instructions:

- (1) Translations of documents to be sent in English, translated by a sworn or authorized translator.
- (2) A document shall be deemed to be duly authenticated if-
 - (a) signed or certified by a Judge, Magistrate or Officer in, or of, the respective country; and
 - (b) authenticated by the oath of a witness or an officer of the Government of the respective country or to be sealed with the official or public seal of the respective country or of a Minister of State or of a Department or officer of the Government of the respective country.
- (3) All documents forwarded with the request shall be comprehensive, precise and easily understandable manner.

15. Declaration:

**I, (Full Name)....., am signing
this request at (City/Place)
(Code)....., (Country).....on (Date)
..... under the power to make such requests vested
directly in me/ as the Appropriate Authority.***

.....
Signature

Appropriate Authority of the Specified Country/Organization*

.....
Official Seal

*delete whatever is inapplicable.”.

23. 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 any inconsistency.

