



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

ONLINE SAFETY ACT, No. 9 OF 2024

[Certified on 01st of February, 2024]

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Online Safety Act, No. 9 of 2024

[Certified on 01st of February, 2024]

L.D.-O. 34/2021

AN ACT TO ESTABLISH THE ONLINE SAFETY COMMISSION; TO PROVIDE SAFETY FROM PROHIBITED STATEMENTS MADE ONLINE; TO PREVENT THE USE OF ONLINE ACCOUNTS AND INAUTHENTIC ONLINE ACCOUNTS FOR PROHIBITED PURPOSES; TO MAKE PROVISIONS TO IDENTIFY AND DECLARE ONLINE LOCATIONS USED FOR PROHIBITED PURPOSES IN SRI LANKA; TO SUPPRESS THE FINANCING AND OTHER SUPPORT OF COMMUNICATION OF PROHIBITED STATEMENTS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Online Safety Act, No. 9 of 2024. Short title

2. The provisions of this Act shall apply where – Application of the Act

- (a) a person commits an offence under this Act in respect of a citizen of Sri Lanka, while being present in Sri Lanka or outside Sri Lanka;
- (b) a loss, damage or harm is caused within or outside Sri Lanka by the commission of an offence under this Act, to the State or to a person resident in Sri Lanka; or
- (c) an offence under this Act, wherever committed, is committed by a person who is a citizen of Sri Lanka.

3. The objectives of this Act shall be- Objectives of the Act

- (a) to protect persons against harm caused by communication of prohibited statements, by way of an online account or through an online location;

- (b) to ensure protection from communication of statements in contempt of court or prejudicial to the maintenance of the authority and impartiality of the judiciary, by way of an online account or through an online location;
- (c) to introduce measures to detect, prevent and safeguard against the misuses of online accounts and bots to commit offences under this Act; and
- (d) to prevent the financing, promotion and other support of online locations which repeatedly communicate prohibited statements in Sri Lanka, by way of online account or through an online location.

PART I

ESTABLISHMENT OF THE ONLINE SAFETY COMMISSION

Establishment of
the Online
Safety
Commission

4. (1) There shall be established a Commission, which shall be called the Online Safety Commission (hereinafter referred to as the “Commission”).

(2) The Commission shall, by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal, and may sue and be sued in such name.

(3) The Commission shall exercise and perform the powers and functions assigned to it under this Act for the purpose of achieving the objectives of this Act.

Appointment of
the members of
the Commission

5. (1) The Commission shall consist of five members appointed by the President, subject to the approval of the Constitutional Council, from among the persons having

qualifications and experience in one or more of the fields of information technology, law, governance, social services, journalism, science and technology or management.

(2) Subject to the provisions of section 6, the President shall recommend the names of five persons to be appointed as members of the Commission under subsection (1), to the Constitutional Council for approval.

(3) The President shall, within a period of fourteen days of receiving the approval of the Constitutional Council, appoint the persons approved by the Constitutional Council under subsection (2) as members of the Commission.

(4) Where the Constitutional Council refuses to approve the name of a person referred to in subsection (2), the President shall make a fresh nomination, and the provisions of subsections (1), (2), and (3) shall apply to such nomination accordingly.

(5) In the event of the President failing to make the necessary appointments within the period of fourteen days as specified in subsection (3), the persons approved by the Constitutional Council shall be deemed to have been appointed as the members of the Commission, with effect from the date of the expiry of such period.

6. A person shall be disqualified from being appointed or continuing as a member of the Commission, if such person-

Disqualification
for being
appointed as a
member

- (a) is elected or appointed as a Member of Parliament, a Member of a Provincial Council or a Member of a local authority;

- (b) is not or ceases to be a citizen of Sri Lanka;
- (c) directly or indirectly holds or enjoys an entitlement or benefit under an agreement entered by or on behalf of the Commission;
- (d) has any financial or other interest that may adversely impact the implementation of the functions as a member of the Commission;
- (e) absents himself from attending three consecutive meetings of the Commission, without a valid reason;
- (f) has been discovered or declared as a person of unsound mind under any law effective in Sri Lanka or in any other country;
- (g) a person who, having been declared an insolvent or a bankrupt under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or
- (h) has been sentenced or received an order for a term of imprisonment imposed by any court in Sri Lanka or in any other country.

Resignation,
removal and
term of office of
members of the
Commission

7. (1) A member of the Commission may resign from office by letter in that behalf addressed to the President, and such resignation shall take effect from the date on which the resignation is accepted in writing by the President.

(2) A member of the Commission may be removed from his office by the President, subject to the approval of the Constitutional Council following a hearing of the relevant member where such person—

- (a) is unable to exercise, perform and discharge the powers, duties and functions of such office because of an infirmity of body or mind that has lasted for more than a period of three months;
- (b) has failed to exercise, perform and discharge the powers, duties and functions of such office for a consecutive period of more than three months without the approval of the Commission; or
- (c) is disqualified in terms of the provisions of section 6.

(3) Any hearing under subsection (2) shall be concluded within three months from the date of commencement of such hearing.

(4) Upon the receipt of the approval of the Constitutional Council, the President shall, in writing, remove such member of the Commission, and shall state in the letter of removal-

- (a) the date on which the removal shall take effect which shall not be a date earlier than the date on which the letter of removal is received; and
- (b) the reasons for the removal.

(5) Any member of the Commission may be suspended from the office by the President prior to the commencement of the hearing or during the course of the hearing under subsection (2).

(6) The term of office of a member of the Commission shall be three years from the date of appointment.

(7) Where a member of the Commission vacates office by death, resignation or other cause, the President shall appoint, having regard to the provisions of sections 5 and 6, another eligible person in such member's place, and the person so appointed shall hold office for the unexpired period of the term of office of the member whom such person succeeds.

(8) A member of the Commission whose term of office is due to end otherwise than by removal, shall be eligible for reappointment for not more than one further term of office, whether consecutive or otherwise.

(9) Members of the Commission shall be paid such remuneration as may be determined by a resolution of Parliament and such remuneration shall be charged to the Fund of the Commission.

Chairman of the
Commission

8. (1) The President shall appoint one of the members of the Commission to be the Chairman of the Commission (hereinafter referred to as the "Chairman").

(2) The Chairman may resign from the office of Chairman by letter in that behalf addressed to the President and the resignation shall take effect from the date on which it is accepted, in writing, by the President.

(3) The Chairman shall cease to be the Chairman, if disqualified to be a member of the Commission in terms of section 6.

(4) The term of office of the Chairman shall be three years.

(5) The Chairman shall not, on vacation of the office of Chairman, be eligible for reappointment as Chairman.

(6) Without prejudice to the provisions of this section, the Chairman shall, within one month of being appointed as the Chairman, nominate a member in writing, to be the Deputy Chairman to discharge the functions of the Chairman during his absence from office due to illness or any other cause.

9. (1) The Chairman shall summon all meetings of the Commission. Any member of the Commission may, by written notice, request the Chairman to call a meeting of the Commission and the Chairman shall not otherwise than for good reason, refuse to do so.

Meetings of the
Commission

(2) The Commission may decide any matter, which is determined by the Chairman to be urgent with the agreement of the majority of the members.

(3) The Chairman shall preside at all meetings of the Commission and in the absence of the Chairman at any meeting, the Deputy Chairman shall preside at such meeting.

(4) The quorum for a meeting of the Commission shall be three members including the Chairman. In the absence of the Chairman, the quorum shall be three members including the Deputy Chairman.

(5) All matters for decision by the Commission shall be decided by a majority of the votes of the members of the Commission present and voting at the meeting at which the decision is taken. The decision so supported by the votes of a majority of the members of the Commission on any matter shall be deemed to be the decision of the Commission on that matter.

(6) All decisions of the Commission, supported by reasons, shall be in writing and the seal of the Commission affixed thereto in accordance with paragraph (c) of section 10.

(7) In case there is an equality of votes on any matter to be decided by the Commission, the Chairman shall have a casting vote.

(8) Subject to the preceding provisions of this section, the Commission may regulate the procedure in regard to the meetings of the Commission and the transaction of business at such meetings.

(9) No act, decision or proceeding of the Commission shall be deemed to be invalid by reason only of the existence of any vacancy in its membership or defect in the appointment of any member thereof.

Seal of the
Commission

10. The Seal of the Commission-

- (a) shall be determined by the Commission and may be altered in such manner as may be determined by the Commission;
- (b) shall be in the custody of such person as the Commission may determine from time to time; and
- (c) shall not be affixed to any instrument or document except with the sanction of the Commission and in the presence of two members of the Commission who shall sign the instrument or document in token of their presence.

PART II

POWERS AND FUNCTIONS OF THE COMMISSION

11. The Commission shall have the following powers and functions: -

Powers and
functions of the
Commission

- (a) to issue directives to persons, internet service providers or internet intermediaries, who have published or communicated or whose service has been used to communicate any prohibited statement, requiring them to provide to persons who have been adversely affected by any prohibited statement, an opportunity of responding to such prohibited statement;
- (b) to issue notices to persons who communicate prohibited statements, to stop the communication of such statements;
- (c) to issue notices to any internet service provider or internet intermediary to disable access to an online location which contains a prohibited statement by the end users in Sri Lanka or to remove such prohibited statement from such online location;
- (d) to refer to the appropriate court as provided for in paragraph (3) of Article 105 of the Constitution or any other relevant written law for its consideration any communications that may be in contempt of court or prejudicial to the maintenance of the authority and impartiality of the judiciary, and to provide such assistance as may be required from any court in respect of any matter so referred to such court;

- (e) to make recommendations to internet service providers and internet intermediaries to remove prohibited statements;
- (f) to maintain an online portal containing information to enlighten the public of the falsity of any statement;
- (g) to specify declared online locations in terms of the provisions of this Act, and make recommendations to disable access to the information disseminated through such online location;
- (h) to carry out such investigations as may be necessary to exercise and perform the powers and functions of the Commission;
- (i) to issue codes of practice by way of rules for internet service providers and internet intermediaries who provide internet based communication services to the end users in Sri Lanka;
- (j) to register, in such manner as may be specified by rules made under this Act, the websites providing social media platforms to the end users in Sri Lanka;
- (k) to consult, to the extent the Commission considers appropriate, any person or group of persons who or which may be affected, or likely to be affected, in the discharge of its powers and functions;
- (l) to advise the Government, as the Commission deems appropriate, on all matters concerning online safety in Sri Lanka, within the purview of this Act;

- (m) to acquire and hold property movable and immovable, and to sell, lease, mortgage, exchange, or otherwise dispose of the same;
- (n) to enter into such contracts as may be necessary for the exercise, performance and discharge of its powers, duties and functions;
- (o) to obtain the assistance of the police in the conduct of any investigation undertaken by the Commission;
- (p) to appoint, employ and dismiss members of the staff of the Commission and to exercise disciplinary control over such staff; and
- (q) generally, to do all such other acts and things as are incidental to or consequential in the exercise, performance and discharge of its powers, duties and functions under this Act.

PART III

PROHIBITION OF ONLINE COMMUNICATION OF FALSE STATEMENTS

12. Any person, whether in or outside Sri Lanka, who poses a threat to national security, public health or public order or promotes feelings of ill-will and hostility between different classes of people, by communicating a false statement, commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand rupees or to both such imprisonment and fine.

Prohibition of
communication
of false
statements in Sri
Lanka

Communication
of false
statement
amounting to
contempt

13. Any person, whether in or outside Sri Lanka who communicates a false statement by way of an online account or through an online location which amounts to contempt of court, in the opinion of any court which exercises the special jurisdiction to punish the offence of contempt of court, in terms of paragraph (3) of Article 105 of the Constitution or any other relevant written law, commits an offence and the provisions of that Article and relevant written law shall, *mutatis mutandis*, apply in sentencing such person.

Wantonly giving
provocation by
false statement
to cause riot

14. Any person, whether in or outside Sri Lanka who maliciously or wantonly, by way of an online account or through an online location, by communicating a false statement, gives provocation to any person or incites any person intending or knowing it to be likely that such provocation or incitement, will cause the offence of rioting to be committed, shall-

- (a) if the offence of rioting be committed in consequence of such provocation, be liable to imprisonment of either description for a term not exceeding five years, or to a fine not exceeding five hundred thousand rupees or to both such imprisonment and fine; and
- (b) if the offence of rioting be not committed, be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three hundred thousand rupees, or to both such imprisonment and fine.

Disturbing a
religious
assembly by a
false statement

15. Any person, whether in or outside Sri Lanka who by communicating a false statement, voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies,

commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three hundred thousand rupees, or to both such imprisonment and fine.

16. Any person, whether in or outside Sri Lanka who with the deliberate and malicious intention of outraging the religious feelings of any class of persons by way of an online account or through an online location by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class by communicating a false statement, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding three hundred thousand rupees or to both such imprisonment and fine.

Deliberate and malicious communication of false statement to outrage religious feelings

17. Any person, whether in or outside Sri Lanka who deceives any person by communicating a false statement, by way of an online account or through an online location-

Online cheating

- (a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property; or
- (b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit, if he was not so deceived, and which act or omission causes or is likely to cause harm to that person in body, mind, reputation, or property, or damage or loss to the Government,

commits the offence of “online cheating” and shall on conviction be liable to imprisonment for a term which may extend to seven years or to a fine not exceeding seven hundred thousand rupees, or to both such imprisonment and fine.

Online cheating
by personation

18. Any person, whether in or outside Sri Lanka who, by means of an online account, cheats by -

- (a) pretending to be some other person;
- (b) knowingly substituting one person for another; or
- (c) representing that such person or any other person is a person other than the person really is,

commits the offence of “online cheating by personation” and shall on conviction be liable to imprisonment of either description for a term which may extend to three years or to a fine not exceeding three hundred thousand rupees, or to both such imprisonment and fine.

Circulating false
report with
intent to cause
mutiny or an
offence against
the State, & c.

19. Any person, whether in or outside Sri Lanka who communicates any false statement, with intent to cause any officer, sailor, soldier, or airman in the navy, army or air force of Sri Lanka to mutiny, or with intent to cause fear or alarm to the public, induces any other person to commit an offence against the State or against the public tranquillity, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding seven years, or to a fine not exceeding seven hundred thousand rupees, or to both such imprisonment and fine.

Communicating
statements to
cause harassment
& c.

20. (1) Any person, whether in or outside Sri Lanka who wilfully makes or communicates a statement, with intention to cause harassment to another person (in this section referred to as the “target person”), by publishing any private information of the target person or a related person of the target person, and as a result causes the target person or any other person harassment, commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred

thousand rupees and in the event of a second or subsequent conviction, such term of imprisonment or fine or both such imprisonment and fine may be doubled.

(2) For the purpose of this section-

- (a) “private information” means personal information, including any image, audio or video details, that any person may reasonably expect to remain private, but does not include any information that may be evidence of the commission of any other offence; and
- (b) “harassment” means an act or behaviour which has the effect of threatening, alarming or distressing a person or violating a person’s dignity or creating an intimidating, degrading, hostile, humiliating or offensive environment or, which has all such effects.

Illustrations-

- (a) X and Y were formerly in a relationship which has since ended. X writes a post on a social media platform including Y’s photographs and personal mobile number, intending to cause harassment to Y by facilitating the identification or enabling others to contact Y. Y did not see the post, but receives and is harassed by telephone calls and short messages via short message service from strangers (who have read the post) propositioning Y for sex. X is guilty of an offence under this section in relation to such post.
- (b) X and Y were formerly in a relationship which has since ended. X posts a photograph of Y in the possession of X which Y could reasonably have expected to remain private. X is guilty of an offence under this section in relation to such post.

Child abuse & c.

21. (1) Any person, whether in or outside Sri Lanka, who, by way of an online account or through an online location commits or aids and abets an act upon a child, which constitutes an offence within the meaning of section 286A, 288, 288A, 288B, 308A, 360A, 360B, 360C, 363, 364A, 365, 365A or 365B of the Penal Code commits an offence and shall on conviction be liable to the punishment for each such offence as specified in the Schedule hereto:

Provided however, in the case of aiding and abetting to commit an offence under section 363 of the Penal Code in respect of a child, every reference to a “woman” in subsection (2) of section 364 of the Penal Code shall be read and construed as a reference to a “child” for the purpose of this section.

(2) Any person, whether in or outside Sri Lanka, who, by way of an online account or through an online location, publishes any photograph, audio or video of abusive or pornographic nature relating to a child, commits an offence and shall on conviction be liable to imprisonment for a term not less than two years and not exceeding twenty years or to a fine not exceeding one million rupees, or to both such imprisonment and fine.

(3) Where any person is convicted for an offence under subsection (1), such person shall, in addition to the penalty specified therein, be liable to pay such compensation as may be ordered by court, to the child or group of children in respect of whom such offence was committed.

Making or
altering bots to
commit an
offence

22. Any person, whether in or outside Sri Lanka, who makes or alters a bot with the intention of communicating or enabling any other person to communicate, by means of a

bot, a statement which constitutes an offence under this Act, commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand rupees, or to both such imprisonment and fine.

PART IV

MEASURES AGAINST ONLINE COMMUNICATION OF PROHIBITED STATEMENTS IN SRI LANKA

23. (1) A person aggrieved by the communication of a prohibited statement which is seen, heard or otherwise perceived by the users of internet based communication services (in this Act referred to as the “end users”) in Sri Lanka, by any other person, may either in writing or in electronic form, make a complaint providing information pertaining to such communication to the Commission.

Providing
information to
the Commission
on
communication
of prohibited
statement

(2) The Commission shall designate such number of information officers from among the staff of the Commission as the Commission may deem necessary, from time to time, to receive information in relation to communication of a prohibited statement for the purpose of subsection (1).

(3) (a) Every complaint shall set out all available details of the person or persons responsible for the making or communicating the prohibited statement, including, where available, details pertaining to the Universal Resource Locator (hereinafter referred to as the “URL”) or other identifying features of the location or number from which the prohibited statement was communicated or published, and such other details as may be prescribed.

(b) Where it is possible to do so, the complainant shall serve a copy of the complaint to the person or persons making or communicating the prohibited statement and any internet service provider or internet intermediary.

(c) In the event, the information necessary to give such notice as aforesaid is not available, the complainant shall specify the absence of such information in the complaint.

(4) A written acknowledgement of the receipt, including a receipt in electronic form, of such information shall be immediately issued by the information officer on behalf of the Commission.

(5) Where the Commission is of the opinion that sufficient material exists that a prohibited statement has been communicated, the Commission shall carry out investigations through the officers of the Commission. During such investigations, an opportunity to be heard shall be given to the person alleged to have communicated such prohibited statement.

(6) (a) If the Commission is satisfied, that sufficient material exists that a prohibited statement has been communicated, it may, taking into consideration the seriousness of the matter and the likelihood of damage or harm caused by such prohibited statement, issue notice to the person who communicated such prohibited statement, to take measures to prevent the circulation of such prohibited statement.

(b) A person to whom a notice has been issued under paragraph (a) shall comply with such notice immediately but not later than twenty four hours from such notice.

(c) Notice referred to in paragraph (a), shall be deemed to be served, where it is served by personal service, sent by post to the last known address of the person who communicated such prohibited statement, or served by electronic means to such person, or served by such other appropriate method adopted by the Commission depending on the nature of the case.

(d) Notice referred to in paragraph (a) shall be deemed to be served by electronic means where such notice is sent to such person's email address or social media account, or internet service provider or internet intermediary on whose online location such prohibited statement has been communicated.

(7) Where any person fails to comply with a notice issued under subsection (6) within twenty four hours of such notice, the Commission shall issue a notice to the internet service provider or internet intermediary on whose online location such prohibited statement has been communicated-

- (a) to disable access by the end users in Sri Lanka to such prohibited statement; or
- (b) to remove such prohibited statement from such online location,

as the case may be, for the period specified in such notice.

(8) The internet service provider or internet intermediary to whom a notice has been issued under subsection (7) shall comply with such notice within twenty four hours from the issuance of such notice.

(9) Where-

- (a) a person fails to act in accordance with the provisions of paragraph (b) of subsection (6); or
- (b) an internet service provider or internet intermediary fails to act in accordance with the provisions of subsection (8),

the Commission may apply to the Magistrate's Court by way of petition and affidavit to obtain an order directing such person or internet service provider or internet

intermediary, as the case may be, to comply with such provisions and the provisions of section 24, shall *mutatis mutandis*, apply in relation to such application.

Applying for a court order to prevent circulation of prohibited statements

24. (1) Any person affected by the communication of any prohibited statement may apply to the Magistrate's Court by way of petition and affidavit to obtain an order to prevent the circulation of such information.

(2) Upon considering such application, the Magistrate may issue a conditional order to such person or the internet service provider or internet intermediary on whose online location such prohibited statement has been communicated.

(3) The order made under subsection (2) may contain, *inter alia*-

(a) the name of the person who is required to stop communication of the prohibited statement with immediate effect; and

(b) any other order as the Magistrate deems fit.

(4) (a) The order made under subsection (2) shall be deemed to be served, where it is served by personal service, sent by post to the last known address of such person, or served by electronic means to such person, or by such other appropriate method ordered by the Magistrate depending on the nature of the case.

(b) The order made under subsection (2) shall be deemed to be served by electronic means where such order is sent to such person's email address or social media account, or internet service provider or internet intermediary on whose online location such prohibited statement has been communicated.

(5) The person against whom a conditional order is made under subsection (2) shall either comply with such order or appear before the Magistrate as specified in subsection (6) to show cause as to why the order shall not be made absolute.

(6) Where the person against whom a conditional order is made under subsection (2) intends to show cause, such person shall appear before the Magistrate making that order within a period of two weeks of making such order and move to have the order set aside or modified in the manner hereinafter provided.

(7) If the person against whom an order is made under subsection (2) neither complies with the order nor appears before the Magistrate under subsection (6), such person shall be liable to the penalty specified in subsection (9) and the order shall be made absolute.

(8) (a) Where such person appears before the Magistrate in terms of subsection (6), to show cause by way of petition and affidavit, the Magistrate shall hold an inquiry which shall be concluded within two weeks of the date of commencement of the inquiry.

(b) The Magistrate may, having regard to the facts stated by the person against whom the conditional order is made under subsection (2), either move to have the order set aside or modified, if the Magistrate is satisfied that the order made under this section is not reasonable and proper, and make an appropriate order subject to the provisions of this Act.

(c) If the Magistrate is not so satisfied, the order made under subsection (2) shall be made absolute.

(d) Where the order under subsection (2) is modified under paragraph (b), such order shall be made absolute.

(9) Where the person against whom any order is made under this section fails to comply with such order within the period and in the manner ordered by the Magistrate, such person commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding two million rupees and the Magistrate may order the Commission to take steps to -

- (a) disable access by end users in Sri Lanka to the online location containing such communication of the prohibited statement in Sri Lanka; or
- (b) remove the relevant communication of the prohibited statement in Sri Lanka from the online location containing such communication.

Disclosure of
identity
information

25. (1) Where any person is aggrieved by the communication of a prohibited statement and the information necessary to serve a copy of the complaint under subsection (3) of section 23 is not available, such person shall specify the absence of such information in the complaint made under subsection (1) of section 23.

(2) In the event of the receipt of a complaint referred to in subsection (1), the Commission shall make an application to the Magistrate's Court by way of petition and affidavit seeking a conditional order directing the internet intermediary on whose online location such prohibited statement was communicated, to disclose the information regarding the identity of the person who communicated the prohibited statement.

(3) The Magistrate may upon being satisfied that –

- (a) the statement was a prohibited statement;
- (b) the order is sought for the sole purpose of identifying the person who communicated such prohibited statement; and
- (c) the order is a proportionate and necessary response in all of the circumstances of the matter before the Court, taking into consideration whether the petitioner's right to disclosure of the information is outweighed by any countervailing right or interest of the person sought to be identified,

issue the order sought by the Commission.

(4) The order made under subsection (3) may contain, *inter alia*-

- (a) the name of the internet intermediary which is required to disclose the information sought; and
- (b) any other order as the Magistrate deems fit.

(5) (a) The order made under subsection (3) shall be deemed to be served, where it is served by personal service, sent by post to the last known address of the internet intermediary, or served by electronic means to such internet intermediary, or by such other appropriate method ordered by the Magistrate depending on the nature of the case.

(b) The order made under subsection (3) shall be deemed to be served by electronic means where such order is sent to the email address or social media account, of the internet intermediary on whose online location such prohibited statement has been communicated.

(6) The internet intermediary against whom a conditional order is made under subsection (3) shall either comply with such order or appear before the Magistrate as specified in subsection (7) to show cause as to why the order shall not be made absolute.

(7) Where the internet intermediary against whom a conditional order is made under subsection (3) intends to show cause, it shall appear before the Magistrate making that order within a period of two weeks of making such order and move to have the order set aside or modified in the manner hereinafter provided.

(8) If the internet intermediary against whom an order is made under subsection (3) neither complies with the order nor appears before the Magistrate under subsection (7), it shall be liable to the fine specified in subsection (10) and the order shall be made absolute.

(9) (a) Where such internet intermediary appears before the court in terms of subsection (7) to show cause by way of petition and affidavit, the Magistrate shall hold an inquiry which shall be concluded within two weeks of the date of commencement of the inquiry.

(b) The Magistrate may, having regard to the facts stated by the internet intermediary against whom the conditional order is made under subsection (3), either move to have the order set aside or modified, if the Magistrate is satisfied that the order under this section is not reasonable and proper, make an appropriate order subject to the provisions of this Act.

(c) If the Magistrate is not so satisfied, the order made under subsection (3) shall be made absolute.

(d) Where the order under subsection (3) is modified under paragraph (b), such order shall be made absolute.

(10) Where the internet intermediary against whom any order is made under this section fails to comply with such order within the period and in the manner ordered by the Magistrate, such person shall be liable to a fine not exceeding ten million rupees.

26. (1) Any person who is aggrieved by the communication of a prohibited statement may, by way of a civil action instituted in the District Court within the jurisdiction of which such aggrieved person resides, apply for an order directing the internet intermediary of the online location on which such prohibited statement communicated to disclose any information regarding the identity or the location of the person who used such online location to communicate such statement using the inauthentic online account or bot.

Aggrieved person to seek disclosure of identity information

(2) Upon the receipt of an application under subsection (1), the court may, if-

- (a) the prohibited statement was communicated by a person whose identity cannot be traced by the person who is aggrieved by such statement;
- (b) the internet intermediary against whom the order is sought was involved in the communication of such statement whether innocently or not;

- (c) the information sought is necessary for the aggrieved person to initiate legal proceedings to seek redress in relation to the damage or harm caused by the communication of such statement; and
- (d) the aggrieved person's right to get such information disclosed is outweighed by any countervailing right or interest of the person sought to be identified,

order an internet intermediary to disclose the information as requested by the aggrieved person.

Exemption from liability of internet service providers in certain cases

27. (1) Subject to the provisions of any other written law and the provisions of subsection (2), a person who engages in providing the following services shall have no liability in relation to the communication of a prohibited statement circulated through the online location owned, operated or controlled by such person, or for making available to the end users through such online location a communication link which contains any prohibited statement by any other party, which amounts to an offence under this Act or for any compensation payable for any wrongful loss caused to any person by such communication:-

- (a) an internet intermediary service;
- (b) a telecommunication service;
- (c) a service of giving public access to the internet;
- (d) a computing resource service;
- (e) an email service, if emails are the only user-generated content enabled by such service;
- (f) a short message service or multimedia messaging service -

- (i) if such short messages are the only user-generated content enabled by such service;
 - (ii) if such multimedia messages are the only user-generated content enabled by such service; or
 - (iii) if such short messages and multimedia messages are the only user-generated content enabled by such service; or
- (g) one-to-one live aural communication service, if such one-to-one live aural communications are the only user-generated content enabled by such service.

(2) Where-

- (a) a false statement, prohibited statement or material communicated on any service referred to in subsection (1) has been removed within six months from the date of coming in to operation of this Act; or
- (b) any material has been uploaded or interfered with by third parties,

the owner of an online account or the internet service provider shall have no liability in relation to the statement or the material referred to in paragraph (a) or (b).

(3) The exemption from liability granted under subsection (1) shall not apply, if such person –

- (a) has initiated the communication;
- (b) has selected the end user of the communication;
- (c) has selected or modified the content of the communication; or

- (d) has not complied with the provisions of this Act, any regulation or rule made thereunder or any code of practice issued by the Commission by way of rules made under this Act, in providing such service.

(4) Any person who fails to adhere to the relevant code of practice issued by the Commission by way of rules made under this Act, and thereby causes wrongful loss to any other person, shall be liable to pay damages by way of compensation to the person who suffered such loss.

(5) For the purpose of this section-

“computing resource service” includes any internet service provided by a person to the public using any means except by the use of an internet intermediary service, a telecommunications service or a service of giving public access to the internet;

“telecommunication service” shall have the same meaning assigned to such term in the Sri Lanka Telecommunications Act, No. 25 of 1991.

PART V

DECLARED ONLINE LOCATIONS

Declared online
locations

28. (1) The Commission may declare an online location as a “declared online location”, if-

- (a) three or more different prohibited statements have been communicated to the end users in Sri Lanka on such online location in respect of which conditional orders were made absolute by the Magistrate under section 24; and

- (b) at least three of such statements had first been communicated to the end users in Sri Lanka on such online location within six months prior to the date of a declaration under this section is made.

(2) For the purposes of paragraph (a) of subsection (1), a statement is different from another if it is different in a material particular from that other statement.

(3) A declaration made under this section shall contain-

- (a) the URL, domain name, or any other unique identifier of the online location;
- (b) the relevant orders made by the Magistrate's Court;
- (c) the date on which the declaration comes into effect;
- (d) the date on which the declaration expires which must not be later than two years after the date referred to in paragraph (c);
- (e) a notice for the owner or operator of the online location whether in or outside Sri Lanka to communicate in such manner as may be specified in the declaration, to any end user in Sri Lanka who accesses the online location, a notice in such form as may be specified in such declaration, that the online location is the subject of a declaration; and
- (f) such other particulars as may be prescribed.

(4) A declaration made under this section may expire-

- (a) on the date specified therein, in accordance with paragraph (d) of subsection (3); or

- (b) on the date it is cancelled or set aside by the Commission,

whichever is earlier.

(5) As soon as possible after a declaration is made and before the date it comes into effect, the Commission shall publish, in such form and manner as may be prescribed, a notice in the *Gazette* -

- (a) stating that a declaration has been issued under this section; and
- (b) setting out the URL, domain name, or any other unique identifier of the online location, to which the declaration relates.

(6) (a) The declaration shall be deemed to be served, if the declaration is served by personal service, sent by post to the last known address of such owner or operator of the online location, or served by electronic means to such person, or by such other appropriate method adopted by the Commission, depending on the nature of the case.

(b) The declaration shall be deemed to be served by electronic means where such declaration is sent to the email address or social media account of the owner or operator of the online location through which such prohibited statement has been communicated.

(7) Where any owner or operator of a declared online location fails to comply with the notice to communicate a notice as referred to in paragraph (e) of subsection (3), the Commission or any person authorised by the Commission may apply to the Magistrate for an order directing owner or operator to-

- (a) disable access by the end users in Sri Lanka to such declared online location;
- (b) to communicate to all end users in Sri Lanka who access such declared online location, a notice declaring that the online location is the subject of a declaration; and
- (c) any other order as the Magistrate deems fit.

(8) Upon considering such application, the Magistrate may make a conditional order on the owner or operator of a declared online location containing the directions applied by the Commission under subsection (7).

(9) The order made under subsection (8) may contain, *inter alia*-

- (a) the name of the owner or operator of a declared online location who is required to disable access by the end users in Sri Lanka to the declared online location;
- (b) the manner of communicating the notice referred to in paragraph (e) of subsection (3); and
- (c) the period within which such notice shall be published after the service of the order.

(10) The order made under subsection (8) shall be deemed to be served on the owner or operator of a declared online location against whom the order is made, if the order is served by personal service, sent by registered post to the last known address of such person, or served by electronic means to such person, or by any other method deemed proper by the Magistrate depending on the nature of the case and in accordance with the provisions of this Act.

(11) The owner or operator of a declared online location against whom a conditional order is made under subsection (8) shall either comply with such order or appear before the Magistrate as specified in subsection (12) to show cause as to why the order shall not be made absolute.

(12) Where the owner or operator of a declared online location against whom a conditional order is made under subsection (8) intends to show cause, such person shall appear before the Magistrate making that order within a period of two weeks of making such order and move to have the order set aside or modified in the manner hereinafter provided:

Provided however, any owner or operator of a declared online location against whom a conditional order is made under subsection (8) shall be bound to comply with the order with effect from the date of making such order until such order is set aside or modified by the Magistrate in terms of the provisions of this section.

(13) If the owner or operator of a declared online location against whom an order is made under subsection (8) neither complies with the order nor appears before the Magistrate under subsection (12) such person shall be liable to the penalty specified in subsection (15) and the order shall be made absolute.

(14) (a) Where such owner or operator of a declared online location appears before the Magistrate in terms of subsection (12) to show cause by way of petition and affidavit, the Magistrate shall hold an inquiry which shall be concluded within two weeks of the date of commencement of the inquiry.

(b) The Magistrate may, having regard to the facts stated by the owner or operator of a declared online location against whom the conditional order is made under subsection (8), either move to have the order set aside or modified, if the Magistrate is satisfied that the order under this section is not reasonable and proper, and make an appropriate order, subject to the provisions of this Act.

(c) If the Magistrate is not so satisfied, the order made under subsection (8) shall be made absolute.

(d) Where the order under subsection (8) is modified under paragraph (b), such order shall be made absolute.

(15) Where the owner or operator of a declared online location against whom the order is made under this section fails to comply with such order within the period and in the manner ordered by the Magistrate's Court, such owner or operator of a declared online location commits an offence and shall on conviction be liable to imprisonment for a term not exceeding six years or to a fine not exceeding ten million rupees and Magistrate's Court may make an order directing the Commission to take steps to disable access by the end users in Sri Lanka to the declared online location.

(16) The Commission may at any time suspend, vary or cancel a declaration made under subsection (1) for such period as the Commission may determine-

(a) on its own initiative; or

(b) on an application by-

(i) the owner or operator of the declared online location; or

(ii) any person with editorial control over the online location.

(17) For the purpose of subsection (16), a person has “editorial control over an online location” if the person is able to decide-

- (a) whether any statement may be included or excluded on the online location; or
- (b) where to place any statement on the online location.

(18) Upon a declaration being suspended, varied or cancelled under subsection (16), the Commission shall-

- (a) publish, in such form and manner as may be prescribed, a notice of the suspension, variation or cancellation in the *Gazette*; and
- (b) make reasonable efforts to give a copy of such notice to the owner or operator of the declared online location.

Certain persons not to communicate in Sri Lanka, paid content on declared online locations, & c.

29. (1) An internet service provider must take reasonable steps (both in and outside Sri Lanka) to ensure that, after a prescribed period commencing on the date a declaration made under section 28 comes into effect, any paid content that it includes or causes to be included on a declared online location, is not communicated in Sri Lanka on the declared online location.

(2) An internet intermediary must take reasonable steps (both in and outside Sri Lanka) to ensure that, after a prescribed period commencing on the date a declaration made under section 28 comes into effect, any paid content that it includes or causes to be included on a declared online location is not communicated in Sri Lanka on the declared online location.

(3) An internet intermediary must take reasonable steps (both in and outside Sri Lanka) to ensure that, after a prescribed period commencing on the date on the declaration made under section 28 comes into effect, it does not, when acting as an internet intermediary, facilitate the communication in Sri Lanka of any paid content that gives publicity to, or otherwise promotes, a declared online location.

(4) An internet service provider or internet intermediary shall be treated for the purposes of subsection (1) or (2), as the case may be, as having taken reasonable steps to ensure that any paid content that it includes or causes to be included on a declared online location is not communicated in Sri Lanka on the declared online location, if it has taken such steps as may be prescribed.

(5) An internet intermediary is treated for the purposes of subsection (3), as having taken reasonable steps to ensure that it does not facilitate the communication in Sri Lanka of any paid content mentioned in that subsection if it has taken such steps as may be prescribed.

(6) A person who fails to comply with the provisions of subsection (1), (2) or (3) commits an offence and shall on conviction be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding ten million rupees and in the event of a second or subsequent conviction, such term of imprisonment or fine or both such imprisonment and fine may be doubled.

30. (1) Any person, whether in or outside Sri Lanka, who solicits, receives or agrees to receive any financial or other material benefit as an inducement or reward for operating a declared online location commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five million rupees and in the event of a second or subsequent conviction, such term of imprisonment or fine or both such imprisonment and fine may be doubled.

Prohibition on
deriving benefits
from operating a
declared online
location

(2) Where a court convicts any person of an offence under this section, the court shall order, in addition to imposing on that person the punishment in subsection (1), the forfeiture of any assets acquired through the commission of an offence under this section.

Prohibition on
providing
financial support
to declared
online locations

31. (1) A person, whether in or outside Sri Lanka, who expends or applies any property knowing or having reason to believe that the expenditure or application supports, helps or promotes the communication of prohibited statements to the end users in Sri Lanka on a declared online location commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five million rupees and in the event of a second or subsequent conviction, such term of imprisonment or fine or both such imprisonment and fine may be doubled.

(2) The provisions of subsection (1) shall not apply to an internet service provider or an internet intermediary which gives any consideration for the purpose of communicating any paid content in Sri Lanka on the declared online location.

(3) Where a court convicts any person of an offence under this section, the court shall order, in addition to imposing on that person the punishment in subsection (1), the forfeiture of any property acquired through expending or applying any property by the commission of an offence under this section.

(4) For the purpose of this section, “property” means money and all other property, movable or immovable, including things in action and other intangible or incorporeal property.

PART VI

COUNTERACTING INAUTHENTIC ONLINE ACCOUNTS AND
COORDINATED INAUTHENTIC BEHAVIOUR

32. (1) If the conditions in subsection (2) are satisfied, the Commission may issue a notice in writing to an internet intermediary, requiring it to do one or both of the following, for the period specified in such notice: -

Counteracting
inauthentic
online accounts
and coordinated
inauthentic
behaviour

- (a) to refrain from permitting its services from being used to communicate any prohibited statement in Sri Lanka through one or more specified online accounts; or
- (b) to refrain from permitting any person from using one or more specified online accounts to interact with any end user of its internet intermediary service in Sri Lanka.

(2) The conditions referred to in subsection (1) shall be, as follows:-

- (a) such online account or accounts shall have been created with the internet intermediary in respect of which the notice under subsection (1) is issued;
- (b) either a prohibited statement has been communicated in Sri Lanka using the specified online account or coordinated inauthentic behaviour has been carried out in Sri Lanka using the specified online account; and
- (c) the Commission has determined that the online account is an inauthentic online account or is controlled by a bot.

(3) The notice shall be deemed to be served on the internet intermediary, if it is served by personal service, sent by post to the last known address of such internet intermediary, or served by electronic means to such person, or by any other method deemed proper by the Commission depending on the nature of the case.

(4) Where a notice issued under subsection (1) has not been complied with, the Commission shall submit an application to the Magistrate's Court. Upon considering such application the Magistrate may issue a conditional order on the internet intermediary containing the directions applied for by the Commission under subsection (1).

(5) An Order made under subsection (4) shall specify that it has effect-

(a) indefinitely; or

(b) for a specified period not exceeding three months.

(6) The order made under subsection (4) shall be deemed to be served on the internet intermediary against whom the order is made, if the order is served by personal service, sent by registered post to the last known address of such person, or served by electronic means to such person, or by any other method deemed proper by the Magistrate depending on the nature of the case and in accordance with the provisions of this Act.

(7) The internet intermediary against whom a conditional order is made under subsection (4) shall either comply with such order or appear before the Magistrate as specified in subsection (8) to show cause as to why the order shall not be made absolute.

(8) Where the internet intermediary against whom a conditional order is made under subsection (4) intends to show cause, it shall appear before the Magistrate making that order, within a period of two weeks of making such order and move to have the order set aside or modified in the manner hereinafter provided:

Provided however, any internet intermediary against whom a conditional order is made under subsection (4) shall be bound to comply with the order with effect from the date of making such order until such order is set aside or modified by the Magistrate in terms of the provisions of this section.

(9) If the internet intermediary against whom an order is made under subsection (4) neither complies with the order nor appears before the Magistrate under subsection (8) he shall be liable to the penalty specified in subsection (11) and the order shall be made absolute.

(10) (a) Where such internet intermediary appears before the Magistrate in terms of subsection (8) to show cause by way of petition and affidavit, the Magistrate shall hold an inquiry which shall be concluded within two weeks of the date of commencement of the inquiry.

(b) The Magistrate may having regard to the facts stated by the internet intermediary against whom the conditional order is made under subsection (4), either move to have the order set aside or modified, if the Magistrate is satisfied that the order under this section is not reasonable and proper, make an appropriate order subject to the provisions of this Act.

(c) If the Magistrate is not so satisfied, the order made under subsection (4) shall be made absolute.

(d) Where the order under subsection (4) is modified under paragraph (b), such order shall be made absolute.

(11) Where the internet intermediary against whom the order is made under this section fails to comply with such order within the period and in the manner ordered by the Magistrate, such person commits an offence and shall on conviction be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding ten million rupees, and the Magistrate may make an order directing the Commission to take steps to enforce such order by preventing access to the prohibited statement within Sri Lanka, notwithstanding anything contrary in any other law.

PART VII

APPOINTMENT OF EXPERTS TO ASSIST INVESTIGATIONS AND THEIR POWERS

Appointment of
experts to assist
investigations

33. (1) The Minister may, in consultation with the Minister assigned the subject of Justice, appoint, by Order published in the *Gazette*, any public officer or an employee of a Government department, public corporation or a Government company, having the required qualification and experience in electronic engineering or software technology (hereinafter referred to as an “expert”) to assist the Commission in the investigation of an offence under this Act.

(2) For the purposes of this section-

“expert” includes-

- (a) any member of the staff of any university who possesses the prescribed qualification and, who is nominated by the Vice-Chancellor of the relevant university;

- (b) any public institution which in the opinion of the relevant university possesses the prescribed qualification and is nominated by the Vice-Chancellor of such university:

Provided that where an “expert” cannot be identified in terms of paragraph (a) or (b) above the Minister may, in consultation with the Vice-Chancellor of the relevant university appoint any other institution which satisfies the prescribed qualification;

“Government company” means a company registered or deemed to be registered under the Companies Act, No. 07 of 2007 in which the Government or a public corporation or local authority holds fifty *per centum* or more of the shares of that company;

“university” means any university established under the Universities Act, No. 16 of 1978.

(3) The qualification and experience (having regard to the specific areas of expertise) required to be fulfilled by an officer appointed under subsection (1) and the manner and mode of appointment and the conditions of appointment of such officer shall be as prescribed.

(4) For the purpose of an investigation under this Act, an expert called upon to assist the Commission shall, have the power to-

- (a) enter upon any premises along with a police officer not below the rank of a sub-inspector;

- (b) access any information system, computer or computer system or any programme, data or information held in such computer to perform any function or to do any such other thing;
- (c) require any person to disclose any traffic data;
- (d) orally examine any person; and
- (e) do such other things as may be reasonably required, for the purposes of this Act.

(5) An expert shall be paid such remuneration as may be determined by the Minister in consultation with the Minister assigned the subject of Finance.

(6) An expert may be called upon to assist the Commission or any police officer in the investigation of an offence under this Act and it shall be duty of the expert to render all such assistance as may be required for the purposes of such investigation. Where any proceedings have been commenced consequent to the findings of an investigation, it shall be the duty of the expert to make available for the purposes of such proceedings, any information, data, material or other matter that may be obtained by him in the course of such investigation.

Duty to assist
investigations

34. Any person who is required by an expert, under the authority of a police officer, to make any disclosure or to assist in an investigation in respect of an offence under this Act shall comply with such requirement.

Powers of search
and seizure with
warrant

35. (1) An expert who assists a police officer, for an investigation in respect of an offence under this Act, under the authority of a warrant issued in that behalf by a Magistrate, on application made for such purpose by the police officer, may -

- (a) obtain any information including subscriber information and traffic data in the possession of any internet service provider; or
- (b) intercept any wire or electronic communication including subscriber information and traffic data, at any stage of such communication.

(2) The Minister may, by regulations prescribe the manner in which, and the procedures required to be followed in respect of, the retention and interception of data and information including traffic data, for the purposes of any investigation in respect of an offence under this Act.

PART VIII

FINANCE

36. (1) The Commission shall have its own Fund.

Fund of the
Commission

(2) There shall be credited to the Fund of the Commission all such sums of money as may be voted from time to time by Parliament for the use of the Commission.

(3) All sums of money required to defray expenditure incurred by the Commission in the exercise and performance of its duties and functions under this Act, shall be paid out of the Fund of the Commission, and such other expenditure to be charged on the Fund in terms of this Act.

(4) The Commission shall cause proper accounts to be kept of the receipts and expenditure, assets and liabilities and all other transactions of the Commission.

(5) The financial year of the Commission shall be the calendar year.

Audit of
accounts

37. The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to and in relation to the audit of the accounts of the Fund of the Commission.

PART IX

GENERAL

Provisions of the
Code of
Criminal
Procedure Act to
apply

38. (1) Save as expressly provided in this Act, the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, shall, *mutatis mutandis*, apply to investigations, institution of proceedings, the trial of offences and to appeals from judgments, sentences and orders pronounced at any such trial under this Act.

(2) Where the Commission, on consideration of material collected in the course of investigations conducted under this Act, is satisfied that any person has committed an offence under the provisions of this Act, it may take steps to institute criminal proceedings in terms of section 136 of the Code of Criminal Procedure Act, No. 15 of 1979.

Jurisdiction

39. (1) The jurisdiction to hear, try and determine all offences under this Act shall be vested with the Magistrate's Court.

(2) Notwithstanding anything contained in subsection (1), where there are aggravating circumstances or circumstances that give rise to public disquiet in connection with the commission of an offence, it shall be lawful for the Attorney-General to forward indictment directly to the High Court.

- 40.** Any person who attempts to commit an offence under this Act or to cause such an offence to be committed, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding one half of the maximum term provided for each of such offences or to a fine not exceeding one half of the maximum fine provided for each of such offences or to both such imprisonment and fine.
- Attempt to commit an offence
- 41.** A person who abets an offence under this Act commits an offence and shall be tried in the same manner, and shall on conviction be liable to the same punishment, provided for in this Act for the first-mentioned offence. In this subsection the expression “abet” shall have the same meaning as in sections 100 and 101 of the Penal Code.
- Abetment of an offence
- 42.** A person who conspires with any other person to commit an offence under this Act commits an offence and shall be tried in the same manner and shall on conviction be liable to the same punishment provided for in this Act for the first-mentioned offence. In this section, the expression “conspire” shall have the same meaning as in section 113A of the Penal Code.
- Conspiring to commit an offence
- 43.** Every offence under this Act shall be –
- Offences under this Act to be non-cognizable and bailable
- (a) a non-cognizable offence within the meaning of and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979; and
- (b) a bailable offence within the meaning of the Bail Act, No. 30 of 1997.
- 44.** Where an offence under this Act is committed by a body of persons, then, if that body of persons is-
- Offences by body of persons

- (a) a body corporate, every director, or other principal officer of that body corporate;
- (b) a firm, every partner of that firm; and
- (c) an unincorporated body, every individual who is a controlling member of such body and every principal officer of that body responsible for its management and control,

commits an offence:

Provided however, that no such person shall be deemed to have committed an offence if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Protection from
action

45. (1) A suit or prosecution shall not lie against-

- (a) the Commission for any act which in good faith is done or omitted to be done, by the Commission under this Act; or
- (b) any member, staff of the Commission or an expert appointed under section 33 for any act which in good faith is done or omitted to be done, by such person under this Act or any other Act.

(2) Any expenses incurred by the Commission in any suit or prosecution brought by, or against, the Commission before any court, shall be paid out of the Fund of the Commission and any costs paid to, or recovered by, the Commission in any such suit or prosecution, shall be credited to the Fund of the Commission.

(3) Any expenses incurred by any member, staff of the Commission or an expert assisting the Commission, in any suit or prosecution brought against such person in any court in respect of any act which is done, or purported to be done, by such person under this Act or on the direction of the Commission shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Commission, unless such expense is recovered by such person in such suit or prosecution.

46. (1) The Commission shall within three months of the end of each financial year, prepare a report of its activities during that year and its proposed activities in the following year, and shall transmit a copy of such report together with a copy of the audited accounts of the Commission for that year, to the Minister.

Annual reports
of the
Commission

(2) The Minister on receipt of a report prepared under subsection (1)-

- (a) shall cause a copy of such report to be placed before Parliament;
- (b) may require the members of the Commission to clarify any matter arising from such report to Parliament or a Committee of Parliament; and
- (c) may require the Commission to publish such report and accounts in such manner as the Commission considers appropriate to bring them to the attention of the public.

(3) Without prejudice to the generality of subsection (1), every annual report shall contain-

- (a) a general survey of developments during the year to which the report relates in respect of matters falling within the scope of the Commission's function and in particular, ensuring online safety; and

- (b) details of the measures taken by the Commission to ensure online safety during that year.

Members and staff of the Commission deemed to be public servants

47. All members and staff of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Commission deemed to be a scheduled institution for the purpose of the Anti-Corruption Act

48. The Commission shall be deemed to be a scheduled institution within the meaning of the Anti-Corruption Act, No. 9 of 2023, and the provisions of that Act shall be construed accordingly.

Commission to make rules

49. (1) The Commission shall make rules for the purpose of the following matters:-

- (a) to issue the codes of practice applicable for internet service providers and internet intermediaries who provide internet based communication services, specifying security practices and procedures required to be followed by them; and
- (b) to specify the manner in which the websites providing social media platforms to the end users in Sri Lanka shall be registered under this Act.

(2) The Commission shall make the first rules under subsection (1), within twenty four months from the date of commencement of this Act.

(3) The Commission shall, prior to making rules under subsection (1), hold public consultations for a period of not less than two weeks.

(4) The period of public consultation referred to in subsection (3) may be extended for a further period as may be specified by the Commission.

(5) Every rule made under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.

(6) Every rule made under subsection (1) shall, within three months from the date of its publication in the *Gazette*, be placed before Parliament for approval and any rule, which is not so approved, shall be deemed to be rescinded with effect from the date of such disapproval, but without prejudice to anything previously done thereunder.

50. (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

Regulations

(2) Every regulation made under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.

(3) Every regulation made under subsection (1) shall, within three months from the date of its publication in the *Gazette*, be placed before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

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

51. In the event of any inconsistency or conflict between the provisions of this Act and any other written law, the provisions of this Act shall prevail.

This Act to
prevail over
other written law

Interpretation

52. (1) In this Act unless the context otherwise requires—

“bot” means a computer program made or altered for the purpose of running automated tasks;

“Chairman” includes the Deputy Chairman appointed under subsection (6) of section 8;

“child” means a person under the age of eighteen years;

“coordinated inauthentic behaviour” means any coordinated activity carried out using two or more online accounts, in order to mislead the end users in Sri Lanka of any internet intermediary service as to any matter, but excludes any activity carried out using online accounts-

(a) that are controlled by the same person; and

(b) none of which is an inauthentic online account or is controlled by a bot;

“communicate” means communicating to one or more end users in Sri Lanka on or through the internet, a false statement or private information and includes transmitting, distributing, sharing, generating, propagating, publishing or tagging and the term “communication” shall be construed accordingly;

“computer” means an electronic or similar device having information processing capabilities;

“computer system” means a computer or group of interconnected computers, including the internet;

“declared online location” means an online location declared under section 28;

“false statement” means a statement that is known or believed by its maker to be incorrect or untrue and is made especially with intent to deceive or mislead but does not include a caution, an opinion or imputation made in good faith;

“inauthentic online account” means an online account that is controlled by a person other than the person represented (whether by its user, unique identifier or other information) as its holder, and the representation is made for the purpose of misleading the end users in Sri Lanka of any internet intermediary service as to the holder’s identity;

“internet service provider” means an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user’s choosing, without modification to the content of the material as sent or received, including those offering telecommunication services under the Telecommunications Act, No. 25 of 1991;

“internet intermediary” means a person who provides any internet intermediary service;

“internet intermediary service” means-

- (a) a service that allows end users to access materials originating from third parties on or through the internet;
- (b) a service of transmitting such materials to end users on or through the internet;

- (c) a service of displaying, to an end user who uses the service to make an online search, an index of search results, each of which links that end user to content hosted or stored at a location which is separate from the location of the index of search results; or
- (d) a service which facilitates the communication of paid content in any place by acting as the link or part of the link between the owners or operators of online locations and advertisers and internet service providers, through the means of an internet based service,

but excludes any act done for the purpose of, or that is incidental to, the provision of a service of giving the public access to the internet or a computing resource service;

“material” means anything that consists of or contains a statement;

“Minister” means the Minister to whom the function of administering the provisions of this Act is assigned in terms of Article 44 or 45 of the Constitution;

“online account” means an account created with an internet intermediary for the use of an internet intermediary service;

“online location” means any website, webpage, chatroom or forum, or any other thing that is hosted on a computer and can be seen, heard or otherwise perceived by means of the internet;

“paid content” means any statement that is communicated in any place upon payment of a consideration;

“Penal Code” means the Penal Code (Chapter 19);

“person” means a natural or legal person;

“prescribe” means prescribe by regulations;

“prohibited statement” means a statement specified in section 12, 13, 14, 15, 16, 17, 19 or 20;

“publish” means making available to the public on or through the internet;

“social media platform” means a service provided by an internet intermediary-

(a) solely for the purpose of enabling online social interaction between two or more end users in Sri Lanka;

(b) which allows end users in Sri Lanka to link to some or all of the other end users; or

(c) which allows the end users in Sri Lanka to post material on the service,

but does not include any such service of which any information communicated through the service is not accessible by the end users in Sri Lanka;

“statement” means any word including abbreviation and initial, number, image (moving or otherwise), sound, symbol or other representation, or a combination of any of these.

(2) Any word or expression used in this Act and defined in the Penal Code but not defined in this Act shall have the same meaning assigned to such word or expression in the Penal Code.

53. 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 inconsistency

SCHEDULE

(section 21(1))

Section of the Penal Code	Offence under the Penal Code	Punishment
286A	Obscene publication & c. relating to Children	Imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine
288	Causing or procuring children to beg	Imprisonment of either description for a term not exceeding five years and may also be liable to a fine
288A	Hiring or employing children to act as procurers for sexual intercourse	Imprisonment of either description for a term not less than two years and not exceeding five years and may also be liable to a fine
288B	Hiring or employing children to traffic in restricted articles	Imprisonment of either description for a term not less than five years and not exceeding seven years and may also be liable to a fine
308A	Cruelty to children	Imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine and be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person

Section of the Penal Code	Offence under the Penal Code	Punishment
360A	Procuration	Imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine
360B	Sexual exploitation of children	Imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with fine
360c	Trafficking	Imprisonment of either description for a term not less than three years and not exceeding twenty years and may also be punished with fine
363	Rape	Rigorous imprisonment for a term not less than seven years and not exceeding twenty years and fine and shall in addition be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person and further term of imprisonment which may extend up to two years in case of failure to pay compensation

Section of the Penal Code	Offence under the Penal Code	Punishment
	<p>Rape</p> <p>(a) by a public officer on a woman in his custody</p> <p>(b) by a person being on the management or staff of a remand home, women's or children's institution & c. on any woman inmate</p> <p>(c) by a person being on the management or staff of a hospital on a woman in that hospital</p> <p>(d) on a pregnant woman</p> <p>(e) on a woman under eighteen years</p> <p>(f) on a mentally or physically disabled woman</p> <p>(g) by a gang of persons</p>	<p>Rigorous imprisonment for a term not less than ten years and not exceeding twenty years and fine and shall in addition be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person and further term of imprisonment which may extend up to two years in case of failure to pay compensation</p>
	Rape on a woman under sixteen years of age and where such woman stands	Rigorous imprisonment for a term not less than fifteen years and not exceeding twenty years and fine

Section of the Penal Code	Offence under the Penal Code	Punishment
	towards the man in any of the degrees of relationship enumerated in section 364A	
364A	Incest	Rigorous imprisonment for a term not less than seven years and not exceeding twenty years and fine
365	Unnatural offence	Rigorous imprisonment for a term not less than ten years and not exceeding twenty years and fine and shall be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person
365A	Acts of gross indecency between persons	Rigorous imprisonment for a term not less than ten years and not exceeding twenty years and fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person

Section of the Penal Code	Offence under the Penal Code	Punishment
365B	Grave sexual abuse	Rigorous imprisonment for a term not less than seven years and not exceeding twenty years and fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

