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SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of September 15, 2023

SUPPLEMENT

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ONLINE SAFETY

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BILL

to establish the Online Safety Commission; to make provisions to prohibit online communication of certain statements of fact in Sri Lanka; 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 false statements of fact and for matters connected therewith or incidental thereto

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Online Safety

L.D.-O 34/2021

AN ACT TO ESTABLISH THE ONLINE SAFETY COMMISSION; TO MAKE PROVISIONS TO PROHIBIT ONLINE COMMUNICATION OF CERTAIN STATEMENTS OF FACT IN SRI LANKA; 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 FALSE STATEMENTS OF FACT 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. Short title of 2023.

5 **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;

10 (b) a loss or damage 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.

15	3. The objectives of this Act shall be-	Objectives of the Act
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(a) to protect persons against damage caused by communication of false statements or threatening, alarming or distressing statements;

- (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;
- 5 (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
10 communicate false statements of fact in Sri Lanka.

PART I

ESTABLISHMENT OF THE ONLINE SAFETY COMMISSION

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

Establishment
of the Online
Safety
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
20 and functions assigned to it under this Act for the purpose of achieving the objectives of this Act.

5. Subject to the provisions of section 6, the Commission shall consist of five members appointed by the President having qualifications and experience in one or more of the
25 fields of information technology, law, governance, social services, journalism, science and technology or management.

Members of
the
Commission

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

- 5 (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;
- 10 (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;
- 15 (f) has been discovered or declared as a person of unsound mind under any law effective in Sri Lanka or in any other country;
- 20 (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.

25 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.

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

(2) The President may, for reasons assigned, remove a member of the Commission from his office.

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

5 (4) 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 members' place, and the person so appointed shall hold office for the unexpired period
10 of the term of office of the member whom such person succeeds.

(5) 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,
15 whether consecutive or otherwise.

(6) 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.

20 **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").

Chairman of
the
Commission

(2) The Chairman may resign from the office of Chairman by letter in that behalf addressed to the President and the
25 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.

5 (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.

10 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

15 (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.

20 (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.

25 (5) All matters for decision by the Commission shall be decided by a majority of the votes of the members of the Commission. The decision 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
30 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.

5 (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
10 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
15 appointment of any member thereof.

10. The seal of the Commission-

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;
- 20 (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
25 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

- 5 (a) to issue directives to persons, 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;
- 10
- 15 (b) to issue notices to persons who communicate false statements that constitute offences under this Act, to stop the communication of such statements;
- 20 (c) to issue directives to persons who communicate prohibited statements under this Act, to stop the communication of any such statements;
- 25 (d) to issue notices to any internet access service providers 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;
- 30 (e) to refer to the appropriate court 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;

- (f) to make recommendations to service providers, internet intermediaries and internet access service providers to remove prohibited statements;
- 5 (g) to maintain an online portal containing information to enlighten the public of the falsity of any statement;
- (h) 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;
- 10 (i) to carry out such investigations and provide such services upon being directed by any court;
- (j) to issue codes of practice by way of rules for service providers and internet intermediaries who provide internet based communication services to the end users in Sri Lanka;
- 15 (k) 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;
- 20 (l) 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;
- 25 (m) to advise the Government, as the Commission deems appropriate, on all matters concerning online safety in Sri Lanka, within the purview of this Act;

- (n) to acquire and hold property movable and immovable, and to sell, lease, mortgage, exchange, or otherwise dispose of the same;
- 5 (o) to enter into such contracts as may be necessary for the exercise, performance and discharge of its powers, duties and functions;
- (p) to obtain the assistance of the police in the conduct of any investigation undertaken by the Commission; and
- 10 (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

15 PROHIBITION OF ONLINE COMMUNICATION OF CERTAIN STATEMENTS OF FACT

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

Prohibition
of
communication
of false
statements of
fact in Sri
Lanka

13. Any person, whether in or outside Sri Lanka who communicates a false statement which amounts to contempt of court, in the opinion of any court which exercises the special jurisdiction to punish the offence of contempt of

Communication
of false
statement
amounting to
contempt

court, in terms of paragraph (3) of Article 105 of the Constitution, commits an offence and the provisions of that Article and sections 18 and 55 of the Judicature Act, No.2 of 1978 shall apply in sentencing such person.

- 5 **14.** Any person, whether in or outside Sri Lanka who maliciously or wantonly, by communicating a false statement gives provocation to any person intending or knowing it to be likely that such provocation, will cause the offence of rioting to be committed, shall, -
- 10 (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 with fine or with both such imprisonment and fine; and
- 15 (b) if the offence of rioting be not committed, be liable to imprisonment of either description for a term not exceeding three years, or with fine, or with both such imprisonment and fine.
- 20 **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
- 25 three years, or to a fine, or to both such imprisonment and fine 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.

Wantonly giving provocation by false statement to cause riot

Disturbing a religious assembly by a false statement

16. Any person, whether in or outside Sri Lanka who, with the deliberate intention of wounding the religious feelings of any other person (in this section referred to as the “target person”), communicates a false statement to the target person, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding two years, or to a fine, or to both such imprisonment and fine 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.
- Communicating a false statement with deliberate intent to wound religious feelings
17. 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, 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, or to both such imprisonment and fine 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.
- Deliberate and malicious communication of false statement to outrage religious feelings
18. 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-
- 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 damage or

harm to that person in body, mind, reputation, or property, or damage or loss to the Government,

commits the offence of “cheating” and shall on conviction be liable to imprisonment for a term not exceeding one year or to a fine, or to both such imprisonment and fine 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.

19. Any person, whether in or outside Sri Lanka who, by means of an online account - Cheating by personation

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

commits the offence of “cheating by personation” and shall on conviction be liable to imprisonment of either description for a term not exceeding five years, or to a fine, or to both such imprisonment and fine 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.

20. Any person, whether in or outside Sri Lanka who intentionally insults by communicating a false statement, and thereby gives provocation to any other person (in this section referred to as the “target person”), intending or knowing it to be likely, that such provocation will cause such target person to break the public peace, or to commit any other offence, commits an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding five years, or to a fine, or to both

Intentional insult by false statement with intent to provoke a breach of peace

such imprisonment and fine 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.

- 21.** Any person, whether in or outside Sri Lanka who
 5 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,
 10 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, or to both such imprisonment and fine and in the event of a second or subsequent conviction, such term of imprisonment or fine or both such imprisonment
 15 and fine may be doubled.

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

- 22.** (1) Any person, whether in or outside Sri Lanka who wilfully makes or communicates a statement of fact, with intention to cause harassment to another person (in this section referred to as the “target person”), by publishing
 20 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
 25 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.

Communicating statements of fact to cause harassment & c.

(2) For the purpose of this section-

- (a) “private information” means personal information,
 30 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.
 10 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 SMS messages from strangers
 15 (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
 20 offence under this section in relation to such post.

23. (1) Any person, whether in or outside Sri Lanka, who, Child abuse
 by way of an online account or through an online location- &c.

- (a) commits or aids and abets an act 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 upon a child;
 25 or

- (b) publishes any photograph, audio or video of abusive or phonographic nature relating to a child,

commits an offence and shall on conviction be liable to imprisonment for a term not exceeding twenty years or to a fine, or to both such imprisonment and fine 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) 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.

24. 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 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.

Making or altering bots to commit an offence

25. Any person who fails to comply with any directive issued in respect of such person by the Commission under paragraph (c) of section 11 within twenty four hours of its receipt commits an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one 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.

Failure to comply with a directive issued by the Commission

PART IV

MEASURES AGAINST COMMUNICATION OF CERTAIN STATEMENTS
OF FACT IN SRI LANKA

26. (1) A person aggrieved by the communication of a
 5 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 orally, in writing or
 in electronic form, make a complaint providing information
 10 pertaining to such communication to the Commission.

Providing
 information
 to the
 Commission
 on
 communication
 of prohibited
 statements

(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
 15 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
 20 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
 25 serve a copy of the complaint to the person or persons
 making or communicating the prohibited statement and any
 internet access service provider or internet intermediary.

(c) In the event, the information necessary to give such
 notice as aforesaid is not available, the complainant shall
 30 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 (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.

10 (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 prejudice caused by such prohibited statement, issue notice to the person who communicated such prohibited statement,
15 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.

20 (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
25 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
30 internet access 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 access service provider or internet intermediary on whose online
5 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,

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

(8) The internet access 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.

15 **27.** (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.

Applying for a court order to prevent circulation of prohibited statements

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

(3) The order made under subsection (2) may contain,
25 *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
5 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
10 internet access 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
15 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
20 a period of one week 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
25 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
30 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
5 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
10 paragraph (b), such order shall be made absolute.

(9) (a) 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
15 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 -

(i) disable access by end users in Sri Lanka to the online location containing such communication of the
20 statement of fact in Sri Lanka; or

(ii) remove the relevant communication of the prohibited statement in Sri Lanka from the online location containing such communication.

(b) Where the offence under paragraph (a) is a continuing
25 offence, such person shall be liable to an additional fine of five hundred thousand rupees for each day during which such offence is continued.

28. (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 26 is not available, such person
5 shall specify the absence of such information in the complaint made under subsection (1) of section 26.

Disclosure of
identity
information

(2) In the event of the receipt of a complaint referred to in subsection (1), the Commission shall file a petition with the Magistrate's Court seeking a conditional order directing
10 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 –

- 15 (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
- 20 (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,

25 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

5 (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
10 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
15 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
20 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
25 that order within a period of one week 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 penalty 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) (a) 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 penalty not exceeding ten million rupees.

(b) Where the offence under paragraph (a) is a continuing offence, such internet intermediary shall be liable to an additional fine of one million rupees for each day during which such offence is continued.

29. (1) Any person who is aggrieved by the communication of a prohibited statement may, by way of a civil action, 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 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.

30. Where a person who engages in providing the following services 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

Liability of service providers in relation to communication

person, such person shall be liable to pay damages by way of compensation to the person who suffered the loss: -

- (a) an internet intermediary service;
- (b) a telecommunication service;
- 5 (c) a service of giving public access to the internet; or
- (d) a computer resource service.

31. (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
 10 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
 15 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:-

Exemption
from liability
of service
providers in
certain cases

- (a) an internet intermediary service;
- (b) a telecommunication service;
- 20 (c) a service of giving public access to the internet; or
- (d) a computer resource service.

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

- (a) has initiated the communication;
- 25 (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 and any regulation or rule made thereunder, in
 30 providing the service.

PART V

DECLARED ONLINE LOCATIONS

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

Declared
online
locations

- 5 (a) three or more different prohibited statements have been or are being communicated to the end users in Sri Lanka on such online location which have been held to be a prohibited statement by the Magistrate’s Court; and
- 10 (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
15 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;
- 20 (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 or a formula by which that date may be worked out, which must not be later than two years after the
25 date referred to in paragraph (c);

- 5 (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-
- 10 (a) on the date specified therein, or worked out 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.
- 15 (5) As soon as possible after a declaration is made and before the date it comes into effect, the Commission shall-
- (a) publish, in such form and manner as may be prescribed, a notice in the *Gazette* -
- 20 (i) stating that a declaration has been issued under this section; and
- (ii) setting out the URL, domain name, or any other unique identifier of the online location, to which the declaration relates; and
- 25 (b) make reasonable efforts to serve a copy of the declaration to the owner or operator of the declared online location.

(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-

- 5 (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
- 10 (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
15 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
20 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
25 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
one week 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
5 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
10 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
15 (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
20 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
25 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) (a) 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
5 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 rupees ten million and Magistrate's Court may make an order directing the Commission to take steps to disable access by the end
10 users in Sri Lanka to the declared online location.

(b) Where the offence under paragraph (a) is a continuing offence, such owner or operator of a declared online location shall be liable to an additional fine of five hundred thousand rupees for each day during which such offence is continued.

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

(a) on its own initiative; or

(b) on an application by-

20 (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
25 "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.

- 33.** (1) A 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 32 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) A digital advertising 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 32 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) A digital advertising intermediary or 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 32 comes into effect, it does not, when acting as a digital advertising intermediary or an internet intermediary, facilitate the communication in Sri Lanka of any paid content that gives publicity to, or otherwise promotes, a declared online location.

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

(4) A service provider or digital advertising 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
 5 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 by regulations.

(5) A digital advertising intermediary or an internet intermediary is treated for the purposes of subsection (3), as
 10 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 by regulations.

(6) A person who fails to comply with the provisions of
 15 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
 20 and fine may be doubled.

34. (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
 25 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

30 (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.

35. (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
 5 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
 10 or both such imprisonment and fine may be doubled.

Prohibition
 on providing
 financial
 support to
 declared
 online
 locations

(2) The provisions of subsection (1) shall not apply to a
 service provider or a digital advertising intermediary which
 gives any consideration for the purpose of communicating
 any paid content in Sri Lanka on the declared online
 15 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
 20 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
 25 incorporeal property.

PART VI

COUNTERACTING INAUTHENTIC ONLINE ACCOUNTS AND
COORDINATED INAUTHENTIC BEHAVIOUR

- 36.** (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
5 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
10 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-

15 (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
20 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.

25 (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 one week of making such order
5 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
10 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
15 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
20 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
25 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
30 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) (a) 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
 5 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
 10 access to the prohibited statement within Sri Lanka, notwithstanding anything contrary in any other law.

(b) Where the offence under paragraph (a) is a continuing offence, such internet intermediary shall be liable to an additional fine of five hundred thousand rupees for each day during which such offence is continued.

15

PART VII

APPOINTMENT OF EXPERTS TO ASSIST INVESTIGATIONS AND THEIR POWERS

37. (1) Where the court deems necessary, the Minister may by Order published in the *Gazette* appoint a person, an
 20 institution or a body of persons having the specified qualifications and experience in information technology (hereinafter referred to as “an expert”), to assist any police officer in any investigation in respect of an offence under this Act.

Appointment
of experts to
assist
investigations

25 (2) The Order made by the Minister under subsection (1) shall specify the qualifications of experts in various fields of expertise in information technology and the manner and mode of appointment and the conditions of appointment of such experts.

30 (3) It shall be the duty of an expert to render all such assistance as may be required for the purposes of such investigation.

(4) An expert may, for the purpose of an investigation under this Act, under the authority of a warrant issued in that behalf by a Magistrate on application made for such purpose by a police officer not below the rank of a sub-inspector-

- 5 (a) enter upon any premises along with a police officer not below the rank of a sub-inspector; and
- (b) access any information system, computer or computer system or any programme, data or information held in such computer and to cause
- 10 any computer to perform any function or to do any such other thing.

(5) For the purposes of an investigation under this Act, an expert who has been called upon to assist the police may, with the authority granted by a police officer not below the

15 rank of sub-inspector-

- (a) require any person to produce any document, information, device or other thing as is necessary for the purpose of such investigation;
- (b) require any person to disclose any traffic data;
- 20 (c) orally examine any person; and
- (d) do such other things as may be reasonably required, for the purposes of this Act.

(6) Where any proceedings have been commenced consequent to the findings of an investigation, it shall be

25 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 such person in the course of such investigation.

(7) Any information, data, material or other matter made available by an expert under subsection (6) shall be admissible in evidence in relation to the prosecution in respect of any offence under this Act and shall be *prima*
 5 *facie* proof of the facts stated therein.

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

38. Any person who is required by an expert, under the
 10 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. Duty to assist investigations

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

(a) obtain any information including subscriber information and traffic data in the possession of
 20 any 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
 25 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

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

Fund of the
Commission

5 (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
10 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.

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

41. 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
20 the Fund of the Commission.

Audit of
accounts

PART IX

GENERAL

42. Save as expressly provided in this Act, the provisions
of the Code of Criminal Procedure Act, No. 15 of 1979,
25 shall, *mutatis mutandis* apply to investigations, the trial of
offences and to appeals from judgements, sentences and
orders pronounced at any such trial under this Act.

Provisions of
the Code of
Criminal
Procedure
Act to apply

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

(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.

44. 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

45. (1) A person who attempts to commit or to cause the commission of an offence under this Act and in such attempt does any act towards the commission of that offence commits an offence and shall be tried in the same manner, and shall on conviction be liable to the same punishment, as is prescribed by this Act for the first-mentioned offence. Abetment of an offence

(2) 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, as is prescribed by 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.

46. A person who conspires with any other person to commit an offence under this Act commits an offence and Conspiring to commit an offence

shall be tried in the same manner and shall on conviction be liable to the same punishment as is prescribed by this Act for the first-mentioned offence. In this section, the expression “conspire” shall have the same meaning as in section 113A
5 of the Penal Code.

47. 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

- 10 (b) a bailable offence within the meaning of the Bail Act, No. 30 of 1997.

48. 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

- 15 (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
20 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
25 all due diligence to prevent the commission of the offence.

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

Protection
from action

(a) the Commission for any act which in good faith is done or omitted to be done, by the Commission under this Act; or

5 (b) any member, staff of the Commission or an expert appointed under section 37 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
10 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.

15 (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
20 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.

50. (1) The Commission shall within three months of the
25 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;
- 5 (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
- 10 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-

- 15 (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
- 20 (b) details of the measures taken by the Commission to ensure online safety during that year.

51. 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.

Members and staff of the Commission deemed to be public servants

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

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

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

5 (a) to issue the codes of practice applicable for service providers and internet intermediaries who provide internet based communication services, specifying security practices and procedures required to be followed by them; and

10 (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.

15 (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.

20 (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.

25 (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.

54. (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

5 (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, 10 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.

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

55. 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

56. In this Act unless the context otherwise requires— Interpretation

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

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

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

- 5 “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;
- 10 “communicate” means communicating to one or more end users in Sri Lanka on or through the internet a statement of fact or private information and includes transmitting, distributing, sharing, generating, propagating, publishing or tagging and
- 15 the term “communication” shall be construed accordingly;
- “computer” means an electronic or similar device having information processing capabilities;
- 20 “computer system” means a computer or group of inter-connected computers, including the internet;
- “declared online location” means an online location declared under Section 32;
- 25 “digital advertising intermediary” means any person who, in the ordinary course of business, facilitates the communication of paid content in any place by acting as the link or part of the link between-
- (a) the owners or operators of online locations; and
 - (b) advertisers and service providers, by means
- 30 of an internet based service;

“fact” includes anything or state of things which are seen, heard or otherwise perceived by the users of internet based communication services;

5 “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;

10 “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
15 intermediary service as to the holder’s identity;

“internet access 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
20 material of the user’s choosing, without modification to the content of the material as sent or received;

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

25 “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
30 users on or through the internet; or

5 (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,

10 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;

15 “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;

20 “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;

25 “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, 18, 19, 20, 21, 22 or 23;

5 “service provider” means any person other than a digital advertising intermediary who, in the ordinary course of business, provides advisory or other services relating to the communication of paid content in any place;

10 “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;

15 (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,

20 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.

25 **57.** 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

