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SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of May 18, 2018

SUPPLEMENT

(Issued on 18.05.2018)



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

A

BILL

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

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STATEMENT OF LEGAL EFFECT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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L.D.—O. 67/2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

assistance in criminal and related matters,
including-

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

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- 5 (l) the tracing of crimes committed *via* internet, information communications technology, cloud computing, blockchain technology and other computer networks including the trading in of any digital currencies;
 - 10 (m) the bribery of any foreign public official or official of a public international organization and their respective proxies and beneficiaries;
 - (n) the expedited preservation of stored computer data and expedited disclosure of preserved traffic data and data retention;
 - 15 (o) the location of proceeds of a criminal activity;
 - (p) the use of documentary evidence obtained in a specified country through specific authorization to be made admissible in a judicial proceeding; and
 - 20 (q) the admissibility and applicability of evidence led from a specified country through video conferencing technology.
- 25 (2) Nothing in this Act shall preclude the granting of any other form or nature of assistance for investigation in connection with judicial proceedings, connected with criminal matters to foreign States or organizations. Such assistance may include controlled operations,
- 30 joint investigations, the use of other special investigative techniques including the use of diverse search engines and the transfer of criminal proceedings.”.

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

Replacement of section 4 of the principal enactment.

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

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

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

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

25 Duties and functions of the Central Authority. 4A. The Central Authority- (a) shall take all reasonable steps to ensure prompt action in respect of all requests, together with the assistance of such other entities or persons, as may be necessary;

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

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

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

Replacement of section 5 of the principal enactment.

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

20 5. (1) An application shall be made to the Central Authority by the appropriate authority of a specified country or specified organization requesting for information or assistance in respect of such criminal and related matters referred to in this Act. Such information shall be obtained to prevent, detect, investigate or institute proceedings in respect of a criminal activity within or outside that country.

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

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

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

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

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

(a) by the Central Authority; or

(b) by the relevant competent authority,

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

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

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

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(2) Upon receipt of a request the Central Authority shall promptly—

- (a) direct a competent authority to process the information in respect of the request;
- 5 (b) inform the appropriate authority of a specified country or specified organization -
- (i) of the outcome of the execution of the request, with reasons;
- 10 (ii) of any reasons that render impossible the execution of the request or are likely to delay it significantly.

15 Transmission of information spontaneously.

20 5B. Nothing in this Act shall prevent the Central Authority from directing a competent authority to spontaneously transmit the information requested relating to a criminal matter to an appropriate authority of a specified country or specified organization on the assurance of reciprocity and on such conditions as may be necessary for the purposes of confidentiality.”.

25 6. Section 6 of the principal enactment is hereby amended by the repeal of paragraph (d) of subsection (1) thereof and the substitution therefor, of the following paragraph:-

Amendment of section 6 of the principal enactment.

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

- (i) criminal investigations or proceedings has commenced in Sri Lanka; or
- 30 (ii) such person has been acquitted or convicted in accordance with the laws of Sri Lanka,

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

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

Insertion of new section 6A in the principal enactment.

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

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

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

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

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

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

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

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5 (4) Any person who fails to comply with this section, commits an offence and shall be liable on conviction by the High Court of the Province to a fine exceeding one hundred thousand rupees taking into consideration the nature and gravity of the non-compliance. Provided, however, such fine shall not exceed a sum of five million rupees in any given case.

10 (5) For the purposes of this Act, a request for information relating to a criminal matter may be granted after ensuring the authenticity of the requesting person.”.

8. Section 7 of the principal enactment is hereby amended as follows:- Amendment of section 7 of the principal enactment.

15 (1) by the repeal of subsection (2) of that section and the substitution of the following subsection therefor:-

20 “(2) Where there are reasonable grounds to believe that a person who is suspected to be involved in or is able to provide evidence or assistance in any criminal matter within the jurisdiction of a criminal court in Sri Lanka,-

25 (a) is in a specified country, the Central Authority shall on his own volition or on the request of a competent authority, request the appropriate authority of a specified country or specified organization in such specified country to assist in locating such person;

30 (b) where the identity of such person is not known, the Central Authority may in his discretion or on the request of a competent

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

(i) interview;

5 (ii) record statements;

(iii) obtain documents or articles,

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

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

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

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

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

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

Amendment of section 8 of the principal enactment.

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

5 (a) summons or other process requiring a person to appear as a defendant or attend as a witness in criminal proceedings in that country;

 (b) a document issued by a court exercising criminal jurisdiction in that country and recording a decision of the court made in the exercise of that jurisdiction,

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

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

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

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

“Request by
Central
Authority for
evidence to be
taken in and
documents
5 &c. to be
produced in a
specified
country or
specified
organization.

11. (1) The Central Authority may, on the request of a court or a competent authority, request the appropriate authority of a specified country or specified organization to arrange for-

(a) evidence including computer evidence to be taken;

(b) investigative material to be produced;

(c) bank statement to be produced; or

(d) any other documents or other articles to be produced,

10

for the purposes of investigating a criminal matter and a proceeding of a criminal matter.

(2) Where the Central Authority receives from the appropriate authority of a specified country or specified organization, in response to a request made by him under subsection (1),-

15

(a) any evidence taken, and where such evidence is in relation to computer evidence, being certified as a true copy by any judicial authority or the appropriate authority, such evidence;

20

(b) investigative material, bank statement produced, any other document or other article produced in such specified country or specified organization, duly authenticated under section 21,

25

shall be admissible in any proceeding to which such request relates.

(3) Any information received under this section shall not be used for any purpose other than the criminal matter specified in such request, without the written consent of such appropriate authority.”.

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12. Section 12 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “shall be deemed to authorize-”, of the words “shall be sufficient authorization for-”.
- Amendment of section 12 of the principal enactment.
- 5 13. Section 13 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “shall be deemed to authorize the”, of the words “shall be sufficient authorization for”.
- Amendment of section 13 of the principal enactment.
- 10 14. The following new sections are hereby inserted immediately after section 13 of the principal enactment and shall have effect as sections 13A and 13B of that enactment:-
- Insertion of new sections 13A and 13B in the principal enactment.
- 15 “Facilitation of video conferencing technology.
- 13A. Where a court or competent authority considers that oral evidence is necessary for identification of a person or thing or any other form of assistance under this Act, such court or competent authority may use video or audio transmission technology to lead evidence in such manner as may be prescribed, from a witness who is physically present in a foreign State and unable to attend court in Sri Lanka. The hearing shall be conducted directly by a judicial officer or law enforcement officer.
- 20
- Joint investigations.
- 13B. When a request is made where an offence is committed involving persons or property in multiple countries, the Central Authority shall facilitate provisions to establish a joint investigation, comprising of investigators from Sri Lanka and any specified countries or specified organizations.”.
- 25
- 30 15. The following new Part (sections 14A and 14B) is hereby inserted immediately after section 14 of the principal enactment and shall have effect as PART VA of that enactment: -
- Insertion of new Part VA in the principal enactment.

“PART VA

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

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

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

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

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

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

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

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

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

20 “PART VIIA

EXPEDITED PRESERVATION OF STORED DATA IN RELATION TO
COMPUTER CRIMES

25 Relevant Secretary to a Ministry to make order to preserve data. 20A. Where the Central Authority is of the opinion that expedited preservation is required of stored computer data or traffic data, the Central Authority shall inform the Secretary to the Ministry of the Minister assigned the relevant subject to make an order for the expedited preservation of stored computer data or traffic data, as the case may be, or to both such data, for the period specified under section 30 20B.

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

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

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

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

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

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

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

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

- 15
- (a) seize or otherwise secure a computer system or part thereof, or a computer data storage medium;
 - 20 (b) make and retain a copy of that computer data;
 - (c) maintain the integrity of the relevant stored computer data; and
 - 25 (d) render inaccessible or remove that computer data in the accessed computer system.”.

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

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

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

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

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

Replacement of section 24 of the principal enactment.

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

15 “appropriate authority” in relation to-

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

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

25
30 “blockchain technology” means distributed ledger technology that uses a distributed, decentralized, shared and replicated ledger, which may be public or private, with

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

“competent authority” includes a law enforcement authority;

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

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

20 “controlled operation” includes an operation that-

(a) involves the participation of law enforcement officers;

(b) is conducted for the purpose of-

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

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

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(iii) frustrating criminal activity or corrupt conduct;

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

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

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

20

“criminal matter” means-

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

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

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

(ii) the imposition or recovery of a pecuniary penalty;

5 (iii) the tracing, freezing and restraint of property that may be forfeited or confiscated;

“digital currency”-

(a) includes a digital representation of value that-

10 (i) is used as a medium of exchange, unit of account or store of value; and

(ii) may not be denominated in legal tender; and

15 (b) does not include-

20 (i) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit or digital currency; or

25 (ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the
30 same game platform;

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“document” includes-

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

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

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

“foreign public official ” means-

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

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

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

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

“official of a public international organization” means-

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

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

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

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

(e) an individual who-

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

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

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

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

“public international organization”
means-

(a) an organization-

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

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

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

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

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

(c) an organization that is-

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

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

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

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

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

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

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

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

“SCHEDULE

[Section 5(2)]

MUTUAL ASSISTANCE REQUEST FORM

TO THE CENTRAL AUTHORITY OF SRI LANKA

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

2. Details of the Appropriate Authority:

2.1 Name:.....

2.2 Title or Function:.....

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

2.4 Address:.....

2.5 Telephone:.....

2.6 Fax:.....

2.7 Email:.....

2.8 Website:.....

3. Legal basis of the request:

3.1 Mention the legal basis of the request:*

International or Regional Convention (Please specify)

Agreement(Please specify).....

Organization (Please specify).....

Other (Please specify).....

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

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

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

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4. Assistance type:

4.1 Mention the assistance type:*

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

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

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

5. Relevant Competent Authority:

5.1 Mention the category of the relevant competent authority:*

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

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

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

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6. Prior Contacts:

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

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7. List of Offences:

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

7.1 Offence:

.....
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.....

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

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.....

7.1.2 Relevant provisions:

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7.1.3 Maximum penalties for the offence:

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8. Details of person(s):

8.1 Suspects/Offenders:

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

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8.2 Company/Organization:

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

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

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

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

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

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

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

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

15. Declaration:

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

.....
Signature

Appropriate Authority of the Specified Country/Organization*

.....
Official Seal

*delete whatever is inapplicable.”.

23. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of any inconsistency.

