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SOCIALIST REPUBLIC OF
SRI LANKA**

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SUPPLEMENT

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PROHIBITION OF ANTI-PERSONNEL MINES

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BILL

**to provide for the implementation of the Convention on the Prohibition of
the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines
and on Their Destruction; and to provide for matters connected therewith
or incidental thereto**

Ordered to be published by Minister of Justice

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Prohibition of Anti-Personnel Mines

L.D.—O. 40/2018

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE CONVENTION ON THE PROHIBITION OF THE USE, STOCKPILING, PRODUCTION AND TRANSFER OF ANTI-PERSONNEL MINES AND ON THEIR DESTRUCTION; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS a Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction was concluded by the Diplomatic Conference on an International Total Ban on Anti-Personnel Land Mines at Oslo on September 18, 1997: Preamble

WHEREAS the Convention was acceded to on behalf of the Government of Sri Lanka on December 13, 2017:

AND WHEREAS it has become necessary for the Government of Sri Lanka to make legislative provision to give effect to Sri Lanka's obligations under the aforesaid Convention:

NOW THEREFORE BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Prohibition of Anti-Personnel Mines Act, No. of 2021. Short title

PART I

PRELIMINARY

2. The provisions of this Act shall apply to the acts specified in section 3 done by- Application of this Act

(a) any person within Sri Lanka and on board any ship or aircraft registered in Sri Lanka; or

(b) any citizen of Sri Lanka, outside Sri Lanka.

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3. (1) Except as provided for in this Act, a person shall Offences
not-

5 (a) receive, use, develop, produce, import, export, sell,
 expose for sale, purchase, supply, transport, acquire,
 possess, retain, stockpile or transfer an anti-
 personnel mine; and

 (b) modify or convert an anti-personnel mine into any
 other form of an explosive.

 (2) Any person who acts in contravention of this section
10 commits an offence and shall be liable on conviction to a
 fine not exceeding five hundred thousand rupees or to
 imprisonment of either description for a term not exceeding
 ten years or to both such fine and imprisonment.

4. (1) A member of the armed forces or a police officer Exceptions
15 may, in the course of his employment or duties, receive, use,
 develop, produce, transport, acquire, possess, retain, or
 transfer an anti-personnel mine authorized under section 5
 for the purposes of developing, or training persons in,
 techniques of mine detection, mine clearance, mine
20 deactivation, or mine destruction.

 (2) Subject to the provisions of section 11, a member of
 the armed forces or a police officer may, in the course of his
 employment or duties, seize, receive, transfer, acquire or
25 or destroying such anti-personnel mine.

5. (1) For the purposes of developing, or training persons Minister may
authorize an
anti-
personnel
mine for
certain
purposes
30 in, techniques of mine detection, mine clearance, mine
 deactivation, or mine destruction, the Minister may from
 time to time, by notice published in the *Gazette* authorize
 the retention or transfer of a number of anti-personnel mines.

(2) The number of anti-personnel mines authorized under subsection (1) shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.

5 **6.** (1) A member of the armed forces or a police officer who receives, uses, develops, produces, transports, acquires, possesses, retains, or transfers an anti-personnel mine shall- Supply of information

 (a) as soon as practicable, send information on such activities to the Minister in such form and manner, as may be determined by the Minister;

10 (b) keep records in relation to such anti-personnel mine and the purpose to which such anti-personnel mine is put;

15 (c) prepare, from those records, periodic reports relating to such anti-personnel mine in a form determined by the Minister; and

 (d) send those periodic reports to the Secretary to the Ministry of the Minister at intervals as may be prescribed.

20 (2) The Minister may call for special reports from such member of the armed forces or police officer who has sent information to the Minister under paragraph (a) of subsection (1), in the prescribed circumstances.

25 (3) A member of the armed forces or a police officer who, without reasonable excuse, refuses or fails to comply with subsections (1) and (2) commits an offence.

7. A member of the armed forces or a police officer who knowingly, in the preparation of any document under section 6 makes a statement or omits any matter which misleads in material particulars in the document commits an offence. misleading statements and documents

PART II

DESTRUCTION OF AN ANTI-PERSONNEL MINE

5 **8.** The Secretary shall ensure the destruction of all the anti-personnel mines owned or possessed by the Government except the number of anti-personnel mines authorized under section 5.

Anti-personnel mines owned or possessed by the Government

10 **9.** (1) The Secretary shall make every effort to identify or cause the identification of areas within the land owned or controlled by the State or government institution where anti-personnel mines are known or suspected to be emplaced.

Anti-personnel mines in the State land.

15 (2) Upon the identification of areas under subsection (1), the Secretary shall make best endeavours to mark the perimeter and, monitor and protect by fencing or other means to ensure the effective exclusion of public, until all the anti-personnel mines are destroyed.

10. (1) Where any person finds an anti-personnel mine, such person shall inform a member of the armed forces or a police officer immediately.

Obligation to provide information

20 (2) The person referred to in subsection (1) shall take all reasonable steps to ensure that the anti-personnel mine will not be exploded before a member of the armed forces or police officer arrives at the relevant premises.

25 **11.** (1) Where a member of the armed forces or police officer has reasonable grounds to suspect that an anti-personnel mine is on any private premises, such officer may—

Anti-personnel mine in private premises

(a) with the consent of the person in charge of the premises, enter and search such premises at all reasonable times;

30 (b) make such anti-personnel mine safe from being an immediate danger;

- (c) affix a warning to the anti-personnel mine or in a conspicuous position to a thing or place near such anti-personnel mine;
- 5 (d) take into custody any article or document in relation to the anti-personnel mine found or suspected to be in such premises;
- (e) seize, remove and detain any anti-personnel mine, if it is reasonably practicable to do so;
- (f) question any person occupying such premises; or
- 10 (g) do any act or thing necessary or convenient to be done to carry out an investigation into the anti-personnel mine found or suspected to be in such premises.

(2) The duties referred to in subsection (1) shall be performed by the member of the armed forces or police officer in accordance with such manner and procedures as may be prescribed.

(3) Where a member of the armed forces or police officer has reasonable grounds to suspect that an anti-personnel mine is on any private premises, such member of armed forces or police officer shall as soon as practicable inform the Secretary of such suspicious.

(4) The person in charge of any private premises referred to in subsection (1) shall provide such assistance as may be required by such member of the armed forces or police officer in performance of his duties under paragraph (a) of subsection (1).

(5) Where the person in charge of any premises referred to in subsection (1) refuses to allow the member of the armed forces or a police officer to enter and search such premises, the member of the armed forces or the police officer shall

enter and search the premises referred to in subsection (1) under a warrant issued under section 13 in respect of that premises.

5 **12.** (1) A person who finds an anti-personnel mine and Offences fails to inform such matter to a member of the armed forces or a police officer commits an offence.

(2) A person who resists or obstructs a member of the armed forces or a police officer in the performance of duties under section 11 commits an offence.

10 (3) A person who fails to act in accordance with the warning given under paragraph (c) of subsection (1) of section 11 commits an offence.

PART III

GENERAL PROVISIONS

15 **13.** Where a Magistrate is satisfied by information on Warrant oath that there is reason to suspect that—

20 (a) an anti-personnel mine is received, used, developed, produced, imported, exported, sold, exposed for sale, purchased, supplied, transported, acquired, possessed, retained, stockpiled or transferred to any premises in contravention of the provisions of this Act; or

25 (b) any article or document directly or indirectly relating to or connected with any transaction or dealing which is, or any intended transaction or dealing which, if carried out, would be an offence under this Act, is in any premises,

30 he may grant a search warrant authorizing any member of armed forces or police officer named in the warrant, at any time or times within one month from the date of the warrant,

to enter, with or without his assistants, if need be by force, the premises named in the warrant, and to search the premises and any person found therein.

5 **14.** The High Court established by Article 154P of the Constitution for the Western Province holden in Colombo shall notwithstanding anything in any other law, have exclusive jurisdiction to hear, try and punish the offences under this Act. High Court to try offences under this Act

10 **15.** (1) Every person who contravenes or fails to comply with any provision of this Act or any regulation made thereunder, or any direction given under this Act commits an offence under this Act. General penalty

(2) Every person who attempts to commit or abet the commission of an offence under this Act commits the same offence and shall be liable to the same punishment.

15 (3) Every person who commits an offence under this Act for which no other punishment is expressly provided in this Act, shall on conviction be liable to a fine not exceeding five hundred thousand rupees or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

20 **16.** Where an offence under this Act is committed by a body of persons then- Offences committed by body of persons

25 (a) if the body of persons is a body corporate, every person who at the time of commission of the offence was a director, general manager, secretary or other similar officer of that body; or

30 (b) if that body of persons is not a body corporate, every person who at the time of commission of the offence was a member of that body,

commits that offence.

17. (1) The Court which convicts any person of an offence under this Act, may impose any of the penalties hereinbefore specified and may, if it thinks fit, order that all or any articles in respect of which the offence was committed, and any thing used for the conveyance of such articles are liable to be forfeited to the State.

(2) An order for forfeiture imposed under subsection (1) shall take effect-

(a) where no appeal is preferred to the Court of Appeal against the order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Court of Appeal against such order of forfeiture;

(b) where an appeal had been preferred to the Court of Appeal against such order of forfeiture, and no appeal is preferred to the Supreme Court against the order of the Court of Appeal affirming or upholding such order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Supreme Court from such order of the Court of Appeal; or

(c) where an appeal had been preferred, to the Court of Appeal against such order of forfeiture, and an appeal has been preferred to the Supreme Court from the determination of the Court of Appeal on the first mentioned appeal, upon the determination of the Supreme Court affirming or upholding the order of forfeiture.

(3) The provisions of Chapter XXXVIII of Part IX of the Code of Criminal Procedure Act, No 15 of 1979 shall apply in relation to the disposal of any article forfeited to the State under subsection (1).

18. (1) The Minister may make regulations in respect ^{Regulations} of matters for which regulations are authorized or required to be made or to be prescribed by this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for all or any of the following purposes-

- (a) the procedures to be complied with in relation to entering and searching premises suspected of containing an anti-personnel mine;
- 10 (b) the manner and procedures of detention, seizing, removal and destruction of an anti-personnel mine and document;
- (c) the manner and procedures to be followed to take into custody of any article or document in relation to the anti-personnel mine;
- 15 (d) the forms and content of records;
- (e) the period for which such records are to be kept;
- (f) the form and content of periodic reports to be provided;
- 20 (g) the circumstances in which special reports are required and the form and content of such special reports;
- (h) the time within which such periodic reports and special reports are to be made; and
- 25 (i) the persons who are to sign such periodic reports and special reports.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

5 (4) Every regulation made by the Minister, shall within a period of three months after its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved, shall be deemed to be rescinded as
10 anything previously done thereunder.

(5) A Notification of the date of disapproval shall be published in the *Gazette*.

19. The provisions of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 shall apply in respect of
15 providing assistance to any country or intergovernmental organization as declared under that Act for the purpose of investigation and prosecution of an offence under this Act.

Assistance to a Country etc.

20. In this Act unless the context otherwise requires- Interpretation

20 “anti-personnel mine” means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mine
25 designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped;

30 “armed forces” mean Army, Navy and Air Force raised and maintained under Army Act (Chapter 357), Navy Act (Chapter 358) and Air Force Act (Chapter 359) respectively;

5 “convention” means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction concluded by the Diplomatic Conference on an International Total Ban on Anti-Personnel Land Mines at Oslo on September 18, 1997;

10 “government institution” includes any Ministry, government department, public corporation, local authority, business or other undertaking within the meaning of Conversion of Government Owned Business Undertakings into Public Corporations Act, No. 22 of 1987, company registered or deemed to be registered under the Companies Act, No. 7 of 2007, in 15 which the Government, a public corporation, or any local authority holds more than fifty *per centum* of the shares and any Ministry or Department of any Provincial Council or any 20 Authority established by or created by a Provincial Council;

25 “mine” means ammunition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

“Minister” means the Minister to whom this Act is assigned under Article 44 or 45 of the Constitution;

30 “police officer” shall have same meaning as in the Police Ordinance (Chapter 53);

35 “public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

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“secretary” means the Secretary to the Ministry of the Minister; and

5 “transfer” involves, in addition to the physical movement of an anti-personnel mine into or from national territory, the transfer of title to and control over the mine, but does not involve the transfer of territory containing emplaced anti-personnel mine.

10 **21.** 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

