

GENDER EQUALITY ACT, NO. OF 2023
WORKING DRAFT

DECEMBER 15TH 2022

<p>Long Title.</p>	<p>AN ACT TO PROVIDE FOR THE PROMOTION, ENCOURAGEMENT AND FACILITATION OF THE ACHIEVEMENT OF GENDER EQUALITY; TO SUPPORT THE IDENTIFICATION AND ELIMINATION OF SYSTEMIC CAUSES OF GENDER INEQUALITY IN POLICY; TO RECOGNIZE THAT GENDER INEQUALITY MAY BE COMPOUNDED BY OTHER FORMS OF DISADVANTAGE OR DISCRIMINATION THAT A PERSON MAY EXPERIENCE; TO ESTABLISH MECHANISMS MANDATED TO ADDRESS PROBLEMS RELATED TO GENDER EQUALITY; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR CONNECTED THERETO.</p>
<p>Preamble</p>	<p>WHEREAS the Constitution of the Democratic Socialist Republic of Sri Lanka recognizes that all human beings are born free and equal in dignity and rights and are entitled to all rights and freedoms without distinction, including distinctions based on gender, and provides that the State shall ensure equal opportunity to all persons irrespective of such person’s gender, sexual identity or orientation: The State is also obligated to recognize and implement the provisions of the Sri Lanka Policy on Gender Equality and Women’s Empowerment 2023 (hereinafter referred to as “the National Policy”) and to ensure the application and implementation of the principles of the United Nations Charter and applicable Conventions, Treaties, Agreements and other relevant international instruments:</p> <p>WHEREAS Gender Equality being a fundamental human right, is essential to achieve peaceful societies, with full human potential and sustainable development. It is therefore necessary to recognize that there is still a long way to go to achieve full equality of rights and opportunities between men, women and persons of transgender minorities:</p> <p>AND WHEREAS it is of paramount importance to end the multiple forms of gender violence and secure equal access to quality education and health, economic resources and participation in political life for men, women and persons of transgender minorities. To this end it is essential to achieve equal opportunities in access to employment and to positions of leadership and decision-making at all levels by gender mainstreaming:</p> <p>AND WHEREAS it is the intention of the State to enact legislation to achieve necessary powers to realize the achievement of the obligations set out in this Act in order to ensure the empowerment of women:</p>

	NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-
Short Title and date of operation	<p>1. (1) This Act may be cited as the Gender Equality Act No. of 2023.</p> <p>(2) The provisions of this Act shall come into operation on such date as the Minister may appoint by Order published in the <i>Gazette</i> (hereinafter in this Act referred to as the “appointed date”).</p>
Objectives of the Act.	<p>2. The objectives of this Act are to provide for gender equality by—</p> <ul style="list-style-type: none"> (a) the promotion, encouragement and facilitation of, the achievement of gender equality and improvement in the status of men, women and persons of transgender minorities; (b) being supportive of measures taken for the identification and elimination of systemic causes of gender inequality in policy, programmes and delivery of services; (c) the recognising that gender inequality may be compounded by other forms of disadvantage or discrimination that men, women and persons of transgender minorities may experience on the basis of age, disability, ethnicity, gender identity, race, religion, sexual orientation and other attributes; (d) taking measures including gender mainstreaming, to redress disadvantage, address stigma, categorising, prejudice and violence, and to accommodate men, women and persons of transgender minorities by way of structural change; (e) seeking to enhance economic and social participation of men, women and persons of transgender minorities.; and (f) the promotion of the right to equality as set out in the United Nations Charter and enforce the obligations undertaken in relation to the Convention on the Elimination of All Forms Discrimination against Women and other applicable Conventions, Treaties, Agreements and other relevant international instruments:

	<p>(g) to require Ministries, departments, government institutions and statutory bodies, local authorities, universities and other educational institutions and the private sector to promote gender equality in their policies, programmes and services; and to take positive action towards achieving workplace gender equality; and</p> <p>(h) to establish the office of a Gender Equality Commissioner. within the Ministry of the Minister to whom the implementation of this Act has been assigned.</p>
<p>Power of Minister in ensuring implementation of this Act.</p>	<p>3. (1) The Minister shall in order to promote gender equality, have the following powers and be responsible for –</p> <p>(a) the development of frameworks in consultation with the National Commission for Women, in relation to the promotion of gender equality among men, women and persons of transgender minorities;</p> <p>(b) the issuing directions for the development and implementation of plans and measures by both Ministries, Departments and statutory bodies and other institutions and organisations for the promotion of gender equality in compliance with this Act;</p> <p>(c) the collection and analysis of information on the plans and measures submitted by Ministries, Departments and statutory bodies and other institutions and organisations in terms of this Act;</p> <p>(d) calling for updates and reports in relation to matters set out in (b) and (c) above and upon review to specify procedures and measures required to ensure compliance;</p> <p>(e) collaborate with Ministries, Departments and statutory bodies and other institutions and organisations to maximize the effectiveness of this Act;</p> <p>(f) undertake research, educational programmes and other measures including gender mainstreaming, for the purpose of promoting equality, both socially and in the workplace;</p> <p>(g) making Regulations from time to time, in consultation with the National Commission for Women—</p> <p>(i) to establish mechanisms acceptable for the promotion of</p>

	<p>initiatives relating to gender equity and gender equality among men, women and persons of transgender minorities;</p> <p>(ii) to establish mechanisms to support and strengthen the implementation of applicable legislation;</p> <p>(iii) to issue an integrated, co-ordinated and uniform framework to promote the achievement of gender equality; and</p> <p>(iv) and in respect of any other matter for which regulations are required to be made under this Act;</p> <p>(h) to issue whenever the need to do so arises, directions and guidelines in consultation with relevant Ministries and Departments in relation to any matter dealt with in this section. Such directions and guidelines shall be published in the Newspapers in the Sinhala, Tamil and English languages.</p> <p>(2) Any person to whom the Minister issues directions relating to the exercise of the powers specified in subsection (1) who fails to comply with the same within the periods specified therefor, shall be guilty of non-compliance and be required to furnish reasons therefor. If the Minister is satisfied with the reasons adduced the Minister may extend the period for compliance.</p> <p>(3) The Minister may if it is so required, use dispute resolution mechanisms to address issues of non-compliance.</p> <p>(4) Regulations may be made providing dispute resolution mechanisms and procedures for the purposes of this section.</p>
Facilitation of empowerment of women by the National commission for Women.	<p>4. (1) In furtherance of the objectives stated above, the National Commission for Women, shall be vested with the exercise and discharge of the following powers and functions in order to facilitate more fully the processes and mechanisms to achieve gender equality in terms of the provisions of this Act.</p> <p>(2) The exercise and discharge of powers and functions under this section shall be done in consultation with the Minister.</p>
	<p>(3) The National Commission for Women shall facilitate–</p> <p>(a) the enjoyment of all fundamental rights by among men, women</p>

	<p>and persons of transgender minorities on an equal and equitable basis in all political, economic, social, cultural and civil sectors of life including equal access to participate in decision making in such sectors;</p> <ul style="list-style-type: none"> (b) a process including gender mainstreaming, for the recognition of measures being adopted for addressing and redressing circumstances of discrimination on the grounds of gender and of non-compliance with measures introduced, including legislative measures; (c) equal and equitable access of men, women and persons of transgender minorities to public office, healthcare, education, career opportunities and vocational guidance, employment and equal remuneration and occupational health and safety; (d) identify by a process of gender mainstreaming, changes to prevalent discriminatory attitudes and community practices which hinder the achievement of gender equality; (e) the building and strengthening of partnerships with all relevant stakeholders both at national and international levels for strengthening and achieving gender equality; (f) the realization of the commitments to gender equality contained in the National Policy by timely interventions for strengthening and achieving gender equality at all levels across all sectors.
<p>Appointment of Gender Equality Commissioner and Gender Units.</p>	<p>5. (1) There shall be appointed to the staff of Ministry, a person who shall be called and known as the Gender Equality Commissioner who shall be charged with the responsibility of entertaining in the first instance, any complaint connected to gender based inequality or to a complaint concerning the infringement or imminent infringement of the rights of men, women and persons of transgender minorities.</p> <p>(2) There shall be established such number of Gender Units as the Minister may determine, to assist the minister in the implementation of the provisions of this Act.</p> <p>(3) The person appointed to hold the office of Gender Equality Commissioner in terms of subsection (1) shall be a person of good repute with proven ability in the areas of law, human rights, mediation and dispute</p>

	<p>resolution.</p> <p>(4) Any person who is subjected to, or who is aware of the occurrence of, gender based violence or to the infringement or imminent infringement of the rights of men, women and persons of transgender minorities, may make a complaint to the Gender Equality Commissioner.</p> <p>(5) The Gender Equality Commissioner shall maintain a record of all complaints received and shall in the order that such complaints are received, make inquiries into the facts of each complaint.</p> <p>(6) On the conclusion of an inquiry into a complaint, the Gender Equality Commissioner shall forward to the Minister a Report containing recommendations and possible avenues of relief available to the complainant in terms of the provisions of this Act. The Minister shall take cognizance of the recommendations made by the Gender Equality Commissioner in determining action to be taken of this Act.</p> <p>(7) Regulations may be made specifying the terms of reference applicable to the Gender Equality Commissioner, the Gender Units and the remuneration payable, the term of office including manner of removal therefrom and Code of Conduct to be adhered to by the Gender Equality Commissioner.</p>
<p>Delegation of the powers of the Minister.</p>	<p>6 (1) The Minister may delegate all or any of the powers assigned to the Minister to the Secretary to the Ministry or to any senior official of the Ministry.</p> <p>(2) Every such delegation shall be in writing and may be subject to such limitations and directions as may be stated therein and may if it is deemed necessary be revoked by the Minister.</p> <p>(3) Notwithstanding the delegation of any aforesaid power, the Minister may continue to exercise such power, if the need to do so arises.</p>
<p>Provisions of the Act to prevail.</p>	<p>7. The provisions of this Act and regulations made thereunder shall be deemed to be valid and shall prevail in all matters relating to the achievement and enhancement of gender equality.</p>
<p>Codes of Conduct</p>	<p>8. The Minister may from time to time prepare and publish Codes of Conduct containing guidelines relating to men, women and persons of</p>

	<p>transgender minorities across different sectors. The Codes of Conduct should be reflective of the policy and the framework developed for the achievement of gender equality. The Minister should ensure that such Codes of conduct be reviewed and updated once in every five years.</p>
Regulations.	<p>9. (1) The Minister may make regulations for giving effect to the principles and provisions of this Act and for matters in respect of which regulations are required to be prescribed or authorized by this Act to be made.</p>
	<p>(2) Without prejudice to the generality of powers conferred by subsection (1) regulations may also be made in respect of all or any of the following matters:-</p> <ul style="list-style-type: none"> (a) specifying the matters which are to be included in the framework on gender equality; (b) specifying measures which need to be adopted to ensure that the gender balance between men, women and persons of transgender minorities are maintained at an accepted ratio; (c) identifying areas in which economic empowerment is required to be made, targets to be met and specifying processes to ensure maintaining the economic gender balance between men, women and persons of transgender minorities at not less than fifty percent, in relation to the national economy; (d) identifying matters to be addressed in relation to socio economic gender balance between men, women and persons of transgender minorities; (e) identifying support systems for assisting men, women and persons of transgender minorities to access judicial processes for obtaining redress for gender based violence and discrimination and the infringement or imminent infringement of their fundamental rights.
	<p>(3) Every regulation made under this Act shall be published in the <i>Gazette</i> and shall come into force on the date of such publication or on such date as may</p>

	<p>be specified in such regulation.</p> <p>(4) Every regulation made under this Act shall within a period of three months of the publication thereof in the <i>Gazette</i>, be brought before parliament for approval, unless prevented from doing so by Parliament not being in session, in which event it shall be placed before Parliament at its earliest.</p> <p>(5) Any regulation which is not approved by Parliament shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.</p>
Interpretation.	<p>10. Unless the context otherwise requires –</p> <p>“Minister” shall mean the Minister to whom the implementation of this Act has been assigned in terms of the Constitution;</p> <p>“prescribed” means the making of regulation in terms of this Act;</p> <p>“gender” means and includes men, women and persons belonging to transgender minorities and would include any new identities which may emerge in the future;</p> <p>“gender mainstreaming” means the process of identifying gender gaps and making the concerns and experiences of men, women and persons of transgender minorities integral to the design, implementation monitoring and evaluation of policies and programmes in all sectors of life to ensure equal benefit to all.</p>
Sinhala text to prevail in the event of inconsistency.	<p>11. In the event of an inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.</p>