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இலங்கை தகவலறியும் உரிமைக்கான ஆணைக்குழு  
RIGHT TO INFORMATION COMMISSION OF SRI LANKA

## STATEMENT BY RIGHT TO INFORMATION COMMISSION ON PROPOSED AUDIT BILL

June 1<sup>st</sup> 2018

In accordance with its duty to secure the effective implementation of Sri Lanka's Right to Information Act, No 12 of 2016 (RTI Act) in Sri Lanka, the Right to Information Commission (RTIC) emphasizes the importance of upholding the public right to know which is a core principle of the RTI Act.

It is reminded in this regard that the RTI Act is premised on the principle of maximum disclosure while protecting specific interests (national security, privacy, law and order etc). These interests are, in turn, subjected to an overriding public interest test. As such, the RTI Act does not place specific categories or classes of documents or the functioning of specific offices beyond the reach of information requesters.

Consequently draft laws currently in the public domain that proposes to place selected state offices on an advantaged position as against others and enforce general prohibitions on citizens asking for information on the due and proper functioning of such offices raise legitimate concerns as to whether this will create exclusive domains of privilege for those offices.

In this regard, the Commission expresses its particular concern in reference to clause 9 (1) (b) of the proposed Audit Bill (gazette issued on 16.03.2018) and presently before Parliament which stipulates that members of the Audit Service Commission, any person appointed to any office under the Audit Act or any other person assisting any such person for the purpose of carrying out the provisions under this Act or a qualified auditor engaged by the Auditor General shall not disclose any information received in the performance of duties until documentation in that regard is placed before Parliament and prior consent is given in writing of the person or institution providing the information. The only exception is where there is a request of Parliament or an order of court.

The Bill proposed to afford this protection unconditionally, without any assessment as to whether such a wide prohibition is necessary in a democratic society, without due regard as to whether grave prejudice will be caused by the release of information thereby and without any time period being specified in regard to the potential presentation of such report or statement before Parliament.

The RTIC is concerned that a 'chilling effect' may be created by this general prohibition. This concern is reinforced by the fact that the Bill provides that any 'member or person or qualified auditor who communicates any such matter to any person or suffers or permits any unauthorized person to have access to any books, papers or other records relating to any such matter, commits an offence.' General prohibitions on information and the criminalization of information disclosure that is in disobedience thereto are contrary to the letter and spirit of the RTI Act.

The RTIC emphasizes the fact that the precedent set by shielding some offices and individuals from RTI in this manner will dilute the victories gained for Sri Lankans through the enactment of a globally recognized law, risk a gravely negative impact on the embryonic development of the country's Right to Information regime and discourage largely positive tendencies evidenced so far by Public Authorities in dismantling a decades-old culture of secrecy and denial of legitimate information.

Issued on Order of the RTI Commission

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