PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

TRUSTS (AMENDMENT)

A

BILL

to amend the Trusts Ordinance (Chapter 87)

Presented by the Minister of Justice and National Integration on 21st of October, 2026

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STATEMENT OF LEGAL EFFECT

Clause 2: This clause amends section 3 of the Trusts Ordinance (Chapter 87) (hereinafter referred to as the "principal enactment") and the legal effect of the section as amended is to repeal the definition of expression for "court" since the jurisdiction has been given to the Magistrate's Court.

Clause 3: This clause inserts a new section 5A in the principal enactment and the legal effect of the new section is to-

(a) provide a procedure for registration of instruments of trusts created under subsections (1) and (2) of section 5 of the principal enactment;
(b) provide for the registration of trusts created under law of a foreign country;
(c) to interpret the date of operation of a trust under different circumstances; and
(d) provide for a period for existing trusts to be registered.

Clause 4: This clause amends section 6A of the principal enactment and the legal effect of the section as amended is to enhance existing provisions regarding information relating to a trust.

Clause 5: This clause amends section 6B of the principal enactment and the legal effect of the section as amended is to enhance existing provisions regarding the sharing of information relating to trusts by the Registrar-General.

Clause 6: This clause replaces section 19A of the principal enactment and the legal effect of the new section is to cast a duty upon the trustee of an express trust to keep records of such trust, including information of beneficiaries.

Clause 7: This clause amends section 19B of the principal enactment and the legal effect of the section as amended is to enable an authorised person to provide information relating to the trust to a relevant authority.

Clause 8: This clause replaces section 19C of the principal enactment and the legal effect of the new section is to impose penalties for the contravention of provisions of sections 5A, 6A,19,19A and 19B.

Clause 9: This clause inserts new sections, 19D and 19E in the principal enactment and the legal effect of the new sections are-

(a) to provide for the imposition of administrative penalties by the Registrar-General; and
(b) to provide a procedure for the recovery of such penalties.

L.D.- O. 1/2025

AN ACT TO AMEND THE TRUSTS ORDINANCE (CHAPTER 87)

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

Short title

1. This Act may be cited as the Trusts (Amendment) Act, No. of 2026.

Amendment of section 3 of Chapter 87

2. Section 3 of the Trusts Ordinance (Chapter 87) (in this Act referred to as the "principal enactment") as last amended by Act, No. 6 of 2018, is hereby further amended as follows:-

(1) by the repeal of paragraph (n) of that section; and

(2) in paragraph (p) of that section, by the substitution in the definition of "express trust", for the words "trust generally in the form", of the words "trust in the form".

Insertion of new section 5A in the principal enactment

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

"Registration of instrument of trust.

5A. (1) A trustee of a trust created under subsection (1) or (2) of section 5 shall, within one month from the date of the execution of the instrument creating such trust, cause such instrument of trust to be registered with the Registrar-General.

(2)(a) Where a trust relating to immovable property is declared by a last will, any subsequent instrument

executed in pursuance of such last will, by which immovable property is transferred or vested, shall be registered with the Registrar-General within one month from the date of such transfer or vesting.

(b) Where a trust relating to movable property is declared by last will, the probate together with the last will shall be registered with the Registrar-General within one month from the date of the grant of such probate.

(3)(a) A trustee or a person authorised by the trustee of a trust (in this Ordinance referred to as the "authorised person") which is created under and governed by the law of a foreign country shall, within three months from the date of operation of the trust in Sri Lanka, register such instrument of trust with the Registrar-General.

(b) For the purpose of this subsection, the date of operation of the trust in Sri Lanka includes the day on which –

(i) an account is opened in any financial institution in Sri Lanka;

(ii) an investment is made in Sri Lanka;

(iii) a payment of beneficial interest is made in Sri Lanka;

(iv) any business or activity in relation to such trust is commenced in Sri Lanka;

(v) a trustee or an authorised person providing trust services of such trust becomes resident or domiciled in Sri Lanka, if such person is a foreigner, or

(vi) providing trust services of such trust is established in Sri Lanka.

(4) A trustee of a trust created under subsection (1) or (2) of section 5 before the date of commencement of this section shall, within six months from the date of commencement of this section, register such instrument of trust with the Registrar-General.

(5) Every application for the registration of an instrument of trust shall be made to the Registrar-General in such form as may be prescribed, together with a copy of the instrument of trust or the documents referred to in subsection (2), as the case may be, and shall be accompanied by such fee

as may be prescribed. The Registrar-General may, where necessary, require the applicant to furnish such further information.

(6) Upon the registration of the instrument of trust, the Registrar-General shall issue a certificate of registration to the applicant. Every certificate of registration shall be valid for five years from the date of issue.

(7) A certificate of registration shall be renewable on an application being made in that behalf in a form as may be prescribed to the Registrar-General not later than three months before the expiry of the certificate of registration and be accompanied by a fee as may be prescribed.".

Amendment of section 6A of the principal enactment

4. Section 6A of the principal enactment is hereby amended by the repeal of subsection (2) of that section, and the substitution therefor, of the following subsections: -

"(2) A trustee or an authorised person of any immovable or movable property in respect of an express trust shall, within the period specified in subsections (1), (2), (3), and (4) of section 5A, as the case may be, forward all such information to the Registrar-General for the purpose of preparing and maintaining a register under subsection (1).

(3) A trustee or an authorised person shall, in addition to the information furnished or required at the time of registration of the trust instrument under the provisions of subsections (4) and (5) of section 5A, provide such other information relating to the trust, as may be prescribed.

(4) A trustee or an authorised person shall, within fourteen working days from the date on which such subsequent change of information has been recorded, forward such subsequent change of information given under subsection (2) to the Registrar-General.".

Amendment of section 6B of the principal enactment

5. Section 6B of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor, of the following subsections: -

"(1) The Registrar-General shall, upon a request made by-

(a) the Attorney/ General;

(b) the Financial Intelligence Unit established under the Financial Transactions Reporting Act, No. 6 of 2006;

(c) the Auditor-General's Department;

(d) the Director/ General of Customs;

(e) the Commissioner/ General of Inland Revenue;

(f) any public authority having the responsibility of investigating or prosecuting money laundering, terrorist financing or any other criminal offence;

(g) any public procurement authority; or

(h) any regulatory authority which is required to supervise or monitor the anti-money laundering

or countering the financing of terrorism under any written law,

make available the information relating to any express trust kept in the register maintained under section 6A.

(1A) For the purposes of subsection (1), the information to be made available shall include, to the extent such information is held by the Registrar-General—

(a) the basic information relating to the express trust, including the date of creation of the trust, the law governing the trust, and the place of residence of the trustee;

(b) the information referred to in section 19A, including information relating to beneficiaries or classes of beneficiaries; and

(c) particulars of any account, investment or other asset reported under any written law.

(1B) The information referred to in subsection (1) of section 6A shall, upon a request for inspection by a member of the public, be made available by the Registrar-General, whether electronically or physically, but the information shall be limited to full names of the author of the trust, trustee and beneficiary, and the nature and extent of the beneficial interest of such beneficiary:

Provided, however, any member of the public seeking any further information may make an application for information in terms of the provisions of the Right to Information Act, No. 12 of 2016.".

Replacement of section 19A of the principal enactment

6. Section 19A of the principal enactment is hereby repealed, and the following section is substituted therefor: -

"Trustee to keep updated information on identity in the record.

19A. (1) A trustee shall keep records of all such information as may be prescribed, on the identity of the following persons at the time of creation of an express trust under the provisions of subsection (1) or (2) of section 5, read with section 6:—

(a) the trustee or authorised person;

(b) the co-trustee, if any;

(c) the author of the trust;

(d) the beneficiary of the trust or, where the beneficiaries constitute a defined or definitely ascertainable class of persons, each such beneficiary to the extent reasonably ascertainable, or, where individual identification is not reasonably practicable, a clear description of the class, including its defining characteristics, together with information sufficient, to the extent reasonably practicable, to identify the beneficiaries within that class;

(e) any other natural person who may exercise effective control over the trust or disposition of trust property, including but not limited to a guardian or other third party; and

(f) any other natural person in the capacity of an agent, a legal representative, a manager, an investment advisor, a tax advisor, an accountant or otherwise who may have any decision-making authority or who acts on behalf of a decision-maker in relation to the trust.

(2) The trustee shall take reasonable measures to verify, by means of reliable and independent source documents, data or information, to the extent available, that the information referred to in subsection (1), including information relating to beneficiaries or classes of beneficiaries, is adequate, accurate and up to date, and shall review and update such information at appropriate intervals, having regard to the level of risk of money laundering, terrorist financing or proliferation financing associated with the express trust.

(3) A trustee shall, when establishing a business relationship or carrying out any transaction on behalf of an express trust with any financial institution or designated non-financial business or profession within the meaning of the Financial Transactions Reporting Act, No. 6 of 2006—

(a) disclose to such institution, business or profession that he is acting in the capacity of a trustee of a trust;

(b) confirm to such institution, business or profession whether the trust is required to be registered under section 5A and, where such registration is required, provide proof of such registration; and

(c) upon request, provide without undue delay the information maintained under this section, together with any supporting documents necessary to enable such institution, business or profession to comply with its obligations relating to customer due diligence

and beneficial ownership under any written law.

(4) A trustee shall ensure that any financial institution or designated non-financial business or profession with which the trustee maintains a business relationship in relation to an express trust is informed, without undue delay, of any change in the information referred to in this section.

(5) Where an express trust has been created for the benefit of a class of persons, all such information as may be prescribed, on the identity of every person belonging to such class of persons, to the greatest extent possible, shall be kept in record under subsection (1).

(6) The information on the identity of the persons specified in subsection (1) shall be kept in a record in the following manner: -

(a) if such person is a company incorporated or registered under the provisions of the Companies Act, No. 07 of 2007 or any former written law relating to companies, the information on the identity of the natural

persons who are the beneficial owners of such company;

(b) if such person is a body corporate established under any written law other than the provisions of the Companies Act, No. 07 of 2007 or any former written law relating to companies, the information on the identity of the natural persons who are the owners of the beneficial interest of such body corporate;

(c) if such person is a firm, partnership, trust or unincorporated body, the information on the identity of the natural persons who are the owners of the beneficial interest of such firm, partnership, trust or unincorporated body for the time being; or

(d) if such person does not fall under any category specified in paragraph (a), (b), or (c), the information on whose

behalf a transaction in relation to an entity or trust is being conducted.

(7) For the purpose of subsection (6)-

"beneficial owner" means a natural person who ultimately owns or controls ten *per cent* or more of a company, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that company, and also includes a natural person who exercises effective control through other means, and beneficial ownership is to be construed accordingly;

"effective control" includes a situation where control is exercised indirectly either through a chain of ownership or by appointment or removal of a director or by any other means of indirect control, such as the ability to take strategic decision that affects the operation of the company, its business practices or general direction of the company;

"former written law relating to companies" means any written law repealed by the Companies Ordinance (Chapter 145) or the Companies Act, No. 17 of 1982 or the Companies Act, No. 07 of 2007;

"owners of the beneficial interest of a body corporate under paragraph (b) of subsection (6), or firm, partnership, trust or unincorporated body under paragraph (C) of subsection (6)" means-

(a) the principal officers, including the director or secretary of such body corporate;

(b) the members of such firm;

(c) the partners of such partnership;

(d) in the case of trust, the persons specified in subsection (1); or

(e) the members of the unincorporated body, as the case may be, for the time being,

and includes any other natural person exercising effective control over such body corporate, firm, partnership, trust or unincorporated body.

(8) A trustee or an authorised person shall maintain records of information of any person referred to in subsections (1), (2), (5) and (6), at least for a period of six years from the date on which such person's involvement with the trust ceases to exist.".

Amendment of section 19B of the principal enactment

7. Section 19B of the principal enactment is hereby amended in subsection (1)(a) for the words "A trustee and a co-trustee, if any," and "such trustee", of the words "A trustee or authorised person" and "such trustee or authorised person" respectively.

Replacement section 19C of the principal enactment

8. Section 19C of the principal enactment is hereby repealed, and the following section is substituted therefor: -

"Penalty for contravention of sections 5A, 6A, 19, 19A and 19B.

19C. (1) A trustee or an authorised person who acts in contravention of the provisions of sections 5A, 6A, 19, 19A and 19B shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine not exceeding three million rupees or to imprisonment of either description for a period not exceeding ten years or to both such fine and imprisonment.

(2)(a) Where a trustee who is a company which acts in contravention

of the provisions of sections 5A, 6A, 19, 19A and 19B shall be guilty of an offence and be liable on conviction by a Magistrate, to a fine not exceeding three million rupees or to imprisonment of either description for a period not exceeding ten years or to both such fine and imprisonment.

(b) Where an offence under this subsection is committed, then every person who at the time of the commission of the offence was a director or an officer of such company shall be deemed to have committed that offence unless such person proves that the offence was committed without such person's knowledge, or that such person exercised all due diligence to prevent the commission of such offence.

(3)(a) Where a trustee who is a body corporate, firm, partnership, trust or unincorporated body which acts in contravention of the provisions of sections 5A, 6A, 19, 19A and 19B shall be guilty of an offence and be liable on conviction by a Magistrate, to a fine not exceeding three million rupees or to imprisonment of either description for a period not exceeding ten years or to both such fine and imprisonment.

(b) Where an offence under this subsection is committed by a body

corporate, firm, partnership, trust or unincorporated body, then-

(i) if that is a body corporate, every director, manager or secretary of that body corporate;

(ii) if that is a firm, every member of the firm;

(iii) if this a partnership, every partner of the partnership;

(iv) if that is a trust, every trustee or an authorised person;

(v) if that is an unincorporated body other than a firm, partnership, or trust, every member of such unincorporated body,

shall be deemed to have committed that offence and be liable on conviction to a fine not exceeding one million rupees or to imprisonment of either description for a period not exceeding ten years or to both such fine and imprisonment:

Provided that, every director, manager or secretary of that body corporate, every member of the firm, every partner of the partnership, every

author, trustee and beneficiary of the trust, authorised person or every member of such unincorporated body shall not be deemed to have committed such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.".

9. The following new sections are hereby inserted immediately after section 19C of the principal enactment, which shall have effect as sections 19D and 19E of the principal enactment: - Insertion of new sections 19D and 19E in the principal enactment

"Imposition of a penalty by Registrar-General.

19D. (1) Where the Registrar-General has sufficient evidence to believe that any trustee or an authorised person has acted in contravention of the provisions of subsection (7) of section 5A, subsections (2) and (3) of section 6A, or section 19A, the Registrar-General may, having regard to the circumstances in which the contravention was committed, if it is appropriate to impose a penalty, cause a notice to be served in a form as may be prescribed on such trustee, requiring such trustee to appear within one month of the date of the receipt of such notice and show cause why a penalty should not be imposed on him.

(2) Where the trustee or authorised person on whom the notice is served admits that such trustee or authorised

person acted in contravention of the provisions of subsection (7) of section 5A, subsections (2) and (3) of section 6A, or section 19A, within one month of the date of receipt of such notice, the Registrar-General shall impose on such trustee or authorised person a monetary penalty not exceeding one third of the maximum fine that could be imposed under section 19C to which such trustee or authorised person would be liable, if convicted by a Magistrate.

(3)(a) Where the trustee or authorised person on whom the notice is served appears within one month of the date of receipt of such notice and states that such trustee or authorised person has a cause to show against the imposition of the penalty, the Registrar-General may proceed forthwith to hear and decide the matter.

(b) Where the Registrar-General is not satisfied with the reasons given, the Registrar-General may, after assigning reasons therefor, impose the penalty specified in subsection (2) of this section.

(4) Where the Registrar-General imposes a monetary penalty on any trustee or authorised person under this section for any contravention of the provisions of subsection (7) of section 5A, subsections (2) and (3) of section

6A, or section 19A, the Registrar-General shall cause the decision to be served on such trustee or authorised person, in a form as may be prescribed.

(5) Any trustee or authorised person aggrieved by the decision of the Registrar-General may appeal to the Secretary of the Ministry of the Minister to whom implementation of the provisions of this Ordinance is assigned (hereinafter referred to as the "Secretary") within thirty days from the date of receipt of such decision made under subsection (3).

(6) The Secretary shall make a decision on any such appeal, taking into consideration the decision of the Registrar-General and the circumstances in which the offence was committed, and may either–

(a) allow, alter or vary the decision of the Registrar-General and direct the Registrar-General to act accordingly; or

(b) disallow the appeal for reasons stated therein.

(7) The Registrar-General shall, within fourteen days from such direction, comply with any direction issued by the Secretary and shall

communicate the direction of the Secretary to the trustee or authorised person aggrieved by the decision of the Registrar-General.

(8) Notwithstanding anything contained in this Ordinance, every notice under this section shall be sent by registered post or exhibited at the last known place of residence of the trustee or the authorised person, and a notice so sent or exhibited shall be deemed to have been duly communicated to such trustee or authorised person.

(9) Notwithstanding anything contained in this Ordinance, no suit or prosecution shall lie in any court regarding the same contravention of the provisions of subsection (7) of section 5A, subsections (2) and (3) of section 6A, or section 19A, where the trustee or authorised person has admitted the commission of such contravention and paid such penalty.

(10) (a) Any trustee or authorised person aggrieved by the decision of the Secretary may prefer an appeal to the Court of Appeal within thirty days from the date on which the decision is deemed to have been communicated under subsection (8), on a question of law.

(b) Until rules are made under Article 136 of the Constitution pertaining to appeals under this subsection, the rules made under that Article pertaining to an application by way of revision to the Court of Appeal shall apply in respect of every appeal made under subsection (1) of this section.

Recovery of penalty.

19E. (1) Upon the lapse of one month of the decision made under subsections (4) or (7) of section 19D, where the trustee or authorised person on whom such decision is made makes default in the payment of penalty, the Registrar-General shall issue a certificate in a form as may be prescribed, together with a certified copy of the notice and decision served on such person to the Magistrate having jurisdiction in the division in which the violation had occurred.

(2) A certificate issued by the Registrar-General under subsection (1) shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein.

(3) The Magistrate shall, thereupon, summon such trustee or authorised person who makes default in the payment of penalty under subsection (1) before him to show cause as to why further proceedings for the recovery of the sum due under section 19D should

not be taken against such trustee or authorised person, and in default of sufficient cause being shown, such sum shall be deemed to be a fine imposed by a sentence of the Magistrate on such person for an offence punishable with imprisonment and the provisions of section 291 (except paragraphs (a), (d) and (i) of subsection (1) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979 relating to the default of payment of a fine imposed for such an offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.".

10. 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

Department of Government Printing, Sri Lanka.