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SUPPLEMENT

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TRUSTS (AMENDMENT)

A

BILL

to amend the Trusts Ordinance (Chapter 87)

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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, 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.

Trusts (Amendment)

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: -

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

5 **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:- Amendment of section 3 of Chapter 87

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

10 (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”.

15 **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: - Insertion of new section 5A in the principal enactment

“Registration of instrument of trust.

20

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.

25

(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;
- 5 (iv) any business or activity in relation to such trust is commenced in Sri Lanka;
- 10 (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
- 15 (vi) providing trust services of such trust is established in Sri Lanka.
- 20 (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.
- 25 (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
- 30 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.

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

15 (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.”.

20 **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: -

Amendment of
section 6A of
the principal
enactment

25 “(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).

30 (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.”.

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: -

Amendment of section 6B of the principal enactment

“(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.

5 (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—

10 (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;

15 (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.

20 (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
25 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.”.

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 Section 19A of the principal enactment is hereby repealed, and the following section is substituted therefor: -

Replacement
of section 19A
of the principal
enactment

5 “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:—

- 10 (a) the trustee or authorised person;
- (b) the co-trustee, if any;
- (c) the author of the trust;
- 15 (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,
- 20 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;
- 25
- 30

5 (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

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

(2) The trustee shall take reasonable
measures to verify, by means of
reliable and independent source
documents, data or information, to the
25 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
30 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
35 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—

5

10

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

15

20

(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

25

30

(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.

5 (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,
10 of any change in the information
referred to in this section.

15 (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).

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

25 (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
30 relating to companies,
the information on the
identity of the natural

persons who are the
beneficial owners of such
company;

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

20 (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
25 interest of such firm,
partnership, trust or
unincorporated body for
the time being; or

30 (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)-

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

“effective control” includes a
situation where control is
exercised indirectly either
25 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
30 to take strategic decision
that affects the operation of
the company, its business
practices or general
direction of the company;

- 5 “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;
- 10 “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)
15 of subsection (6)” means-
- (a) the principal officers,
including the director
or secretary of such
body corporate;
 - 20 (b) the members of such
firm;
 - (c) the partners of such
partnership;
 - 25 (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
30 the time being,

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

10 (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.”.

15 **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. Amendment of section 19B of the principal enactment

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

20 “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.

25

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

5 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.

10 (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
15 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
20 offence.

(3)(a) Where a trustee who is a body corporate, firm, partnership, trust or unincorporated body which acts in
25 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
30 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-

- 5 (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;
- 10 (iii) if this a partnership, every partner of the partnership;
- (iv) if that is a trust, every trustee or an authorised person;
- 15 (v) if that is an unincorporated body other than a firm, partnership, or trust, every member of such unincorporated body,

20 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

25 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.”.

- 10 **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

15 “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.

30

(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 (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
10 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).

15 (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
20 was committed, and may either—

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

(b) disallow the appeal for
reasons stated therein.

(7) The Registrar-General shall,
within fourteen days from such
30 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.

5 (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
10 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.

15 (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
20 6A, or section 19A, where the trustee
or authorised person has admitted the
commission of such contravention and
paid such penalty.

25 (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
30 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

