

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

In the matter of an application in terms of Article 121 read with Article 120, of the Constitution to determine whether the Bill titled "Convention on the Suppression of Terrorist Financing (Amendment) Act No. of 2026" or any part thereof is inconsistent with the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC/SD/17/2026

Petitioner: Centre for Policy Alternatives
(Guarantee) Limited,
No. 6/5,
Lazard's Road,
Colombo 05.

Counsel: Mr. Viran Corea PC with
Shabnam Mohamed, Ms.
Michelle Handy Ms. Thahira
Cader and Luwie
Ganeshathasan.

Respondent: Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Counsel: Mr. Sudharashan De Silva PC
Additional Solicitor General with
Malik Azeez SC and Senal
Senevirathne SC

SC/SD/20/2026

Petitioner: Ambika Sathkunanathan,
No. 27,
Rudra Mawatha,
Colombo 06.

Counsel: Mr. Pulasthi Hewamanna with
Ms. Fadhila Fairoze & Ms. Linuri
Munasinghe

Respondent: Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Counsel: Mr. Sudharashan De Silva PC
Additional Solicitor General with
Malik Azeez SC and Senal
Senevirathne SC

SC/SD/24/2026

Petitioners:

1. Swasthika Arulingam,
President,
United Federation of Labour,
No. 17,
Barracks Lane,
Colombo 02.
2. Duminda Nagamuva,
Propaganda Secretary,
Front Line Socialist Party,
No. 22/1,
Melder Place,
Nugegoda.

Counsel:

Ermiza Tegal with Mark
Schubert, Nisara
Wickramasinghe and Vihangi
Liyanagamage.

Respondent:

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Counsel:

Mr. Sudharashan De Silva PC
Additional Solicitor General with
Malik Azeez SC and Senal
Senevirathne SC

Before:

P. PADMAN SURASENA, CJ.

ACHALA WENGAPPULI, J.
K.M.G.H. KULATUNGA, J.

The Bench assembled for hearing the petition on 28th April 2026.

The Bill titled "Convention on the Suppression of Terrorist Financing (Amendment) Act No. of 2026" (hereinafter sometimes referred to as the Bill) was published in the Gazette issued on 11th March 2026 and was placed on the Order Paper of Parliament on 09th April 2026.

The above-mentioned Petitioners have filed three Petitions bearing Nos. SC SD 17/2026, SC SD 20/2026 and SC SD 24/2026, invoking the jurisdiction vested in this Court by virtue of Article 120 read with Article 121(1) of the Constitution, in respect of the aforementioned Bill. The Petitioners have prayed for a determination from this Court under Article 123 of the Constitution.

Upon receipt of the said Petitions, Court took steps to list these Petitions on 28-04-2026 with notice to the Petitioners and the Hon. Attorney General as required under Article 134. This was with a view to enable Court to conduct and conclude the inquiries relating to these Petitions.

Court commenced and concluded the hearing of these Petitions on 28-04-2026.

The Bill consists of the following clauses:

- Clause 1 – Short title
- Clause 2 – General amendment to Act, No. 25 of 2005
- Clause 3 – Amendment of section 2A of the principal enactment
- Clause 4 – Amendment of section 3 of the principal enactment
- Clause 5 – Amendment of section 4 of the principal enactment
- Clause 6 – Amendment of section 4A of the principal enactment

- Clause 7 – Replacement of section 4C of the principal enactment
- Clause 8 – Replacement of section 4D of the principal enactment
- Clause 9 – Amendment of section 4E of the principal enactment
- Clause 10 – Amendment of section 4F of the principal enactment
- Clause 11 – Replacement of section 4H of the principal enactment
- Clause 12 – Insertion of new sections 4J and 4K in the principal enactment
- Clause 13 – Amendment of section 5 of the principal enactment
- Clause 14 – Amendment of section 8 of the principal enactment
- Clause 15 – Replacement of section 9 of the principal enactment
- Clause 16 – Amendment of section 16A of the principal enactment
- Clause 17 – Sinhala text to prevail in case of inconsistency.

Out of the above clauses in the Bill, the Petitioners of all these three Petitions have cumulatively challenged the Clauses 5, 6, 7, 12 and 16 of the Bill.

The Petitioners have prayed for a determination that Clauses 4, 5, 6, 7, 12 and 16 of the Bill and/or the Bill in its totality are inconsistent with Articles 1, 3, 4, 11, 12, 13, 14A, 15, 17 and/or any other provisions of the Constitution and therefore cannot be enacted into law, unless the appropriate procedure laid down in Articles 83 and/or Article 84 as read with Article 80 of the Constitution which requires that the number of votes cast in favour thereof amounts to not less than two-thirds of the whole number of Members of Parliament (including those not present), and is approved by the People at a Referendum.

Let us now proceed to determine whether any of the afore-said Clauses of this Bill is inconsistent with the Constitution. The first Clause the Petitioners have challenged is Clause 4 of the Bill.

CLAUSE 4 OF THE BILL

It is the position of the Petitioner in SC SD 24/2026 during oral submissions that certain aspects of Clause 4 of the Bill, specifically Clause 4(3), is inconsistent with Article 12(1) of the Constitution as it is vague and overbroad.

Clause 4 of the Bill seeks to amend Section 3 of the principal enactment. Section 3, as it presently stands, comprises of 5 Subsections [i.e. Subsections (1),(2),(2A),(3),(4)] of which Subsections (1),(2) and (2A) set out three offences pertaining to the financing of terrorist acts. Subsection (1) fleshes out the substantive offence of financing a terrorist act, while Subsection (2) criminalises the attempt to commit, the aiding or abetting and the acting with common purpose to commit the offence of financing a terrorist act. Subsection (2A) (introduced by amendment Act No. 41 of 2011), in short, criminalises the providing/conspiring to provide material support or resources to any terrorist organisation. Clause 4(3) of the Bill introduces the new Subsection (2B), which introduces a new offence as follows:

"(2B) Any person who unlawfully and willfully, by direct or indirect means, collects or conspires to collect from another person funds, property or other assets, material support or resources, or provides or conspires to provide another person funds, property or other assets, material support or resources, knowing or having reasons to believe that such funds, property or other assets, material support or resources will be used or are to be used to finance persons -

- (a) for the purpose of perpetration, planning or preparation of, or participation in, or providing or receiving **terrorist training** in Sri Lanka **to commit a terrorist act** in or outside Sri Lanka;*
- (b) for travelling or attempting to travel to another State or territory to commit a terrorist act in or outside Sri Lanka;*
- (c) for travelling or attempting to travel to another State or territory to become a foreign terrorist fighter;*
- (d) for travelling or attempting to travel to another State or territory for the purpose of -*

- (i) *perpetration, planning or preparation of, or participation in, a terrorist act in or outside Sri Lanka;*
 - (ii) *perpetration, planning or preparation of, or participation in, or providing or receiving **terrorist training** in one State or territory and to serve or fight for any terrorist organization in that State or territory or in another State or territory;*
 - (iii) *providing or receiving **terrorist training** including and in connection with armed conflicts or in connection with any resolution to address the threat associated with such armed conflict;*
 - (iv) *willfully recruiting, organizing, transporting or equipping persons who travel or attempt to travel to a State other than his State of residence or nationality for the purpose of perpetration, planning or preparation of, or participation in, a terrorist act or providing or receiving **terrorist training**;*
or
 - (v) *willful organization or other facilitation including acts of recruitment, of persons, who travel or attempt to travel to a State other than his State of residence or nationality for the purpose of perpetration, planning or preparation of, or participation in, a terrorist act or providing or receiving **terrorist training**; or*
- (e) *for engaging in trafficking of persons for **terrorist training**, commits an offence under this Act."*

The point of contention of the Petitioners in SC SD 24/2026, in respect of this new Subsection 2A, is that the term 'terrorist training' which has been used at certain instances in the said Subsection, has not been defined in the said Bill or in the existing principal enactment. The Petitioners submit that the failure to do so renders the said Subsection broad and vague and thus potentially opening it up to interpretation in an arbitrary manner by the executive, including ordinary police officers, in the exercise of their duties. Therefore, it is this potential to arbitrarily interpret what is considered 'terrorist training', that the Petitioners submit, is contrary to Article 12(1).

However, as conceded by the learned Counsel for the Petitioners in SC SD 24/2026, the term 'terrorist act' has been compendiously defined in the principal enactment. The initial instance at which the term 'terrorist training' is found in Subsection 2B (i.e. at paragraph (a) of Subsection 2B), is accompanied by the phrase 'to commit a terrorist act', and reads in full as "*(a) for the purpose of perpetration, planning or preparation of, or participation in, or providing or receiving **terrorist training in Sri Lanka to commit a terrorist act** in or outside Sri Lanka;*" The natural interpretation of this phrase is that terrorist training should be training for the purpose carrying out acts defined as 'terrorist acts' under the principal enactment. The use of the term 'terrorist training' subsequently, whether accompanied by the phrase 'to commit a terrorist act' or not, would naturally be interpreted as terrorist training for the purpose of carrying out acts defined as 'terrorist acts', in the event of any doubt arising as to its interpretation.

Thus, we are unable to uphold the contention of the Petitioners that the mere lack of a definition of the term 'terrorist training' would render Clause 4 of the Bill, vague and overbroad, so as to be inconsistent with Article 12(1) of the Constitution.

CLAUSE 5 OF THE BILL

Clause 5 of the Bill seeks to amend Section 4 of the principal enactment. Section 4(1) of the principal enactment has provided for taking certain actions in a situation where there are reasonable grounds to believe that a person is involved in the commission of any offence under section 3 of the Principal Act. This is when it has become necessary to prevent the commission of any further acts in connection with such offence. This provision of law has empowered any police officer not below the rank of an Assistant Superintendent of Police, to issue 'Freezing Orders' to freeze "*all funds or property provided or collected **in contravention of the provisions of section 3**, any income or profit earned on such funds or property or any instrumentalities used in the commission of such offence.*"

According to Section 4(3) of the principal enactment once such "Freezing Order" is issued under Section 4(1) it shall be in force for a period of **seven days**. This is however subject to the provisions of section 4A.

All what Clause 5 of the Bill seeks to do are:

- (i) Firstly, to amend the phrase "**in contravention of the provisions of section 3**" appearing in Section 4(1) of the principal enactment by replacing it with the phrase "**by the commission of an act under section 3,**".
- (ii) Secondly, to amend the phrase "**seven days**" appearing in Section 4(3) of the principal enactment by replacing it with the phrase "**fourteen working days**".

It must be noted here that only the Petitioner in SC SD 20/2026 has challenged the aforementioned second part of Clause 5 of the Bill. The argument advanced by the learned Counsel for the Petitioner in SC SD 20/2026 is that Clause 5 which seeks to amend section 4 of the principal enactment to increase the operational time period of a Freezing Order is inconsistent with the Fundamental Rights enshrined in the Constitution. He submitted that this would be so as it is vague, overbroad, and provide insufficient protection to protect such Fundamental Rights.

The Clause 5 of the Bill which seeks to amend the Principal Act would only increase the existing seven-day time period (i.e. the period specified as the period during which a Freezing Order shall be in force) to fourteen days. Thus, we are unable to accept the argument of the learned Counsel for the Petitioner in SC SD 20/2026 that this amendment proposed by Clause 5 of the Bill is inconsistent with the Fundamental rights enshrined in the Constitution on the above basis.

CLAUSE 6 OF THE BILL

Clause 6 of the Bill seeks to amend Section 4A of the principal enactment. It is only the Petitioner in SC SD 20/2026 who has challenged Clause 6 of the Bill.

Section 4A of the principal Act has specified the next step to be followed after a police officer has issued a Freezing Order in terms of Section 4(1) of the principal Act. According to Section 4A(1) the police officer issuing such Freezing Order, within the **seven days** during which such Order shall be in force, is required to make an *ex parte* application to the High Court seeking confirmation of such Freezing Order and also if the circumstances so necessitate, make a request for an extension of the original period of **seven days**.

It is clear that the afore-said period of **seven days** in Section 4A(1) is a reference to the same period of **seven days** found in Section 4(3) of the Principal Act which has provided that once such "Freezing Order " has been issued under Section 4(1) it shall be in force for a period of **seven days**. Section 4(3) itself has stated that the issuance of such Freezing Order under Section 4(1) would be subject to the provisions of section 4A.

Thus, when the Legislature amends Section 4(3) to increase the said time period from **seven days** to **fourteen days** it has also to necessarily amend Section 4A of the Principal Act. This is inevitable. We have already concluded that Clause 5 of the Bill which seeks to increase the time period of "**seven days**" specified in Section 4(3) of the Principal Act to "**fourteen working days**". Therefore, the proposed amendment of existing Section 4A(1) to make the same adjustment of the afore-said time period would also not be inconsistent with the provisions of the Constitution.

The Petitioners in SC SD 20/2026 have further challenged the proposed amendment to the proviso to Section 4A(2) of the Principal Act which is also found in Clause 6(2) of the Bill.

Section 4A(2) has specified the powers that could be exercised by a High Court when the police officer issuing a Freezing Order makes an *ex parte* application before it seeking

confirmation of such Freezing Order or requests an extension to the original period. According to Section 4A(2), the High Court is empowered to confirm the Freezing Order and also to grant the requested extension of the original operative period of such Freezing Order.

According to the first proviso to Section 4A(2), the maximum period of any extension so granted shall not exceed **three months** at any given time and in any event shall not in the aggregate exceed a period of two years from the date of the issuing of the Freezing Order by the police officer.

The amendment proposed by Clause 6(2) of the Bill is to increase the now existing ceiling on the time period of **three months** to a time period of **six months**.

The learned Counsel for the Petitioner in SC SD 20/2026 submitted that this amendment proposed by Clause 6(2) of the Bill is inconsistent with the Fundamental Rights enshrined in the Constitution as a person would be prevented from engaging in legitimate transactions which would be necessary for his day-to-day livelihood. He cited occasions such as a requirement to pay school fees of such person's children.

It was not in dispute that there is no change to the part of the section which states that the aggregate period shall not exceed a period of two years from the date of the issuing of the Freezing Order by the police officer. Therefore, whether it is **three months** at any given time or **six months** at any given time the aggregate period shall not exceed a period of two years from the date of the issuing of the Freezing Order by the police officer. We are unable to accept that this amendment proposed by Clause 6(2) of the Bill is inconsistent with the Fundamental Rights enshrined in the Constitution.

CLAUSE 7 OF THE BILL

Clause 7 of the Bill seeks to amend Section 4C of the Principal Act.

Section 4C, as it presently stands, reads as follows:

"High Court to sanction essential and legitimate transactions.

Where any legitimate business or other interests of any person affected by the Freezing Order could be damaged by the prohibition imposed thereby, such person may make an application to High Court stating such facts in support thereof, and the Court may, on a consideration of such application before it, if it is of opinion that such an Order could damage legitimate business or other interests of such person and that essential transactions relating to such funds, property, income, profit or instrumentalities as may have been prohibited by such Freezing Order may be legitimately carried out, confirm the Order made under section 4 and make further Order, sanctioning the carrying on of such transactions subject to the supervision and direction of, either a person appointed in that behalf by Court, or of a Receiver appointed in that behalf by Court under section 4D."

Clause 7 of the Bill reads as follows:

"Replacement of section 4C of the principal enactment

4c.

- (1) Where any legitimate business or other interests of any person affected by the Freezing Order could be damaged by the prohibition imposed thereby, such person may make an application to the High Court stating such facts in support thereof.*

- (2) Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined in accordance with the procedure laid down in section 127 of the Proceeds of Crime Act, No. 5 of 2025.*

(3) The High Court may, upon consideration of such application, if it is of the opinion that such Freezing Order could damage legitimate business or other interests of such person and that any essential transaction relating to the funds, property or other assets, income, profits or instrumentalities which are subject to prohibition by such Freezing Order may be legitimately carried out, confirm the Freezing Order made under section 4 and make further order, sanctioning the carrying out of such transaction-

- a. subject to the supervision of the High Court; and*
- b. in the case where a Receiver or Special Manager has been appointed or the Proceeds of Crime Management Authority has been directed, to take possession of such funds, property or other assets, income, profits or instrumentalities under section 4D, subject to the supervision of such Receiver, Special Manager or the Proceeds of Crime Management Authority, as the case may be."*

When one compares the provision of law contained in Section 4C, as it presently stands, with that in Clause 7 of the Bill, it can be seen that the latter has not sought to deviate from the main structure of the existing provision of law contained in present Section 4C. The only new addition is new Section 4C(2) in Clause 7 of the Bill.

On the other hand, this comparison also shows that Clause 7 of the Bill has sought to make the existing provision clearer than what it was. This has been achieved through breaking the solitary body of the now existing Section 4C into three sub sections which are proposed to be named as Section 4C(1) to 4C(3). Moreover, Section 4C(3) also has been further broken down again into two sub parts which are proposed to be named as Section 4C(3)(a) and 4C(3)(b).

We see that the new addition proposed by Section 4C(2) of the Bill only seeks to clarify and specify the procedure to be adopted when it has become necessary for any person affected by the Freezing Order to make an application to High Court seeking its permission to carry out any essential transaction relating to the funds, property or other assets, income, profits or instrumentalities which are subject to prohibition by such Freezing Order. The procedure sought to be adopted by proposed Section 4C(2) is the procedure laid down in section 127 of the Proceeds of Crime Act, No. 5 of 2025. Thus, it is a procedure that exists in another law. The Petitioners did not challenge the adoption of the said procedure.

The learned Counsel for the Petitioner in SC SD 20/2026 submitted that the amendment proposed by Clause 7(3) of the Bill is inconsistent with the Fundamental rights enshrined in the Constitution as a person would be prevented from engaging in legitimate transactions which would be necessary for his day-to-day livelihood. He cited occasions such as a requirement to pay school fees of such person's children. However, we observe that the provision of law in Clause 7(3) of the Bill is a provision of law which is already in existence in present Section 4C.

We are therefore unable to accept the argument advanced by the learned Counsel for the Petitioners in SC SD 20/2026 that Clause 7 which seeks to amend section 4C of the principal enactment is inconsistent with the Fundamental rights enshrined in the Constitution.

CLAUSE 12 OF THE BILL

Clause 12 of the Bill seeks to introduce two new sections to the Principal Act which it proposes to insert as Sections 4J and 4K.

The Petitioner in SC SD 17/2026 has challenged only the Clause 12 of the Bill which introduces two new sections to the Principal Act to be inserted as Section 4J and 4K.

These two proposed new Sections are as follows:

Section 4J

(1) Any police officer conducting an investigation under this Act may, in addition to the powers vested in such police officer by any other written law, use any investigation technique including the following when conducting the investigation:-

- (a) surveillance and observation;*
- (b) undercover operations;*
- (c) video recording;*
- (d) using listening devices;*
- (e) controlled deliveries; or*
- (f) accessing computer data and computer systems*

(2) A police officer not below the rank of an Assistant Superintendent of Police may make an ex parte application incamera along with sufficient material to the Magistrate's Court for an order for the purposes of paragraphs (c), (d), (e) and (f) of subsection (1).

(3) A police officer not below the rank of an Assistant Superintendent of Police may make an application in writing to the Magistrate for a warrant authorizing the covert monitoring of any conduct and recording of any communication if an officer conducting investigations under this Act has reasonable grounds to suspect or believe that a person has committed, or is committing or is about to commit an offence under this Act.

(4) It shall be the duty of the officer making the application under subsection (2) to ensure the protection and preservation of information received or collected by the officer conducting the investigation

Section 4K

(1) If the circumstances of the case so justify, a joint investigation team may be established for a specific period by an agreement between the Sri Lanka Police and any other authority empowered to conduct investigations, in Sri Lanka or in any other jurisdiction, as may be determined by the Sri Lanka Police for the purpose of conducting an investigation into-

(a) an offence under section 3; or

(b) an act alleged to have been committed in any jurisdiction outside Sri Lanka which would either constitute an offence corresponding to an offence referred to in section 3 in that jurisdiction or which would, if committed in Sri Lanka, amount to an offence referred to in section 3.

(2) Any evidence or material obtained during a joint investigation may be used by the court, when the persons who were investigated are tried before such court.”.

It is the position of the Petitioner in SC SD 17/2026 during oral submissions that several aspects of Clause 12 of the Bill are inconsistent with and/or impinge upon the provisions of Article 106 of the Constitution. It is on that basis that the learned President's Counsel sought to argue that Clause 12 is inconsistent with Article 12(1) of the Constitution.

The learned President's Counsel for the Petitioners in SC SD 17/2026 also sought to argue that Clause 12 is inconsistent with Article 14A(2) of the Constitution.

The learned President's Counsel submitted that the permitting any new investigation techniques as appearing in Section 4J(1) opens the door for unknown techniques to be utilized by police officers and these techniques would encroach upon the privacy of persons.

We are unable to accept that the techniques listed in Section 4J are new investigation techniques. Investigators in this country from time immemorial have been using investigating techniques such as surveillance and observation; undercover operations and controlled deliveries. From somewhat comparatively recent times, they also have started using investigating techniques such as: video recording; using listening devices; and accessing computer data and computer systems. Indeed, Parliament has already brought in laws to make video; audio recordings; and computer data taken from computers, admissible as evidence in both criminal and civil cases. The evidence gathered through techniques such as these have been successfully used in trials in criminal cases by the prosecution. Indeed, many a time such evidence is brought in by the accused persons also to negate the versions of the prosecution.

The method to be adopted by the investigating police officers to exercise these powers would depend on the facts and circumstances of each case. Therefore, we are unable to accept the argument that these powers as set out in the Bill are vague and overly broad; lack legal certainty; and have the potential to lead to arbitrary use and/or abuse of police powers.

The provision in Section 4J(3) of the Bill requires firstly, that these powers be exercised by a police officer not below the rank of an Assistant Superintendent of Police. Secondly, even such officer has to exercise these powers when it is in respect of techniques set out in paragraphs (c), (d), (e) and (f) of subsection (1), under judicial supervision, i.e., video recording; using listening devices; controlled deliveries; or accessing computer data and computer systems.

In the above circumstances, we are unable to accept that permitting such powers to be used by the investigators as set out in the Bill when conducting an investigation is inconsistent with Article 12(1) of the Constitution.

The learned President's Counsel also submitted that Clause 12 of the Bill is inconsistent with and/or impinge upon the provisions of Article 106 of the Constitution since it has provided for making of an *ex parte* application *in camera* to the Magistrate's Court for an order for the purposes of paragraphs (c), (d), (e) and (f) of subsection (1).

We observe firstly, that the Police officer is required under this section to produce before the Magistrate, sufficient material as basis for requesting such permission. Secondly, we also observe that if these applications are made before Magistrate in public, the whole purpose of making such application would be lost.

Moreover, Article 106 of the Constitution only relates to Public Sittings. It starts with the phrase "*The sittings of every court, tribunal or other institution, established under the Constitution or ordained and established by Parliament shall subject to the provisions of the Constitution be held in public, and all persons shall be entitled freely to attend such sittings.*" However, here the requirement under Section 4J is to make an application to the Magistrate *ex parte*. This does not pre-suppose a sitting in open Court. In those circumstances we are of the view that the provision in Section 4J(3) of the Bill would not be inconsistent with Article 106 of the Constitution.

The wording in Article 14A(2) of the Constitution "*No restrictions shall be placed on the right declared and recognized by this Article, other than such restrictions prescribed by law as are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals and of the reputation or the rights of others ...*" shows clearly that the guiding principle of Article 14A would be to make available information subject only to those that have been specified by law. What it has specifically taken into account is the importance of maintaining the public safety and the prevention of disorder or crime.

In the above circumstances, we are unable to accept that Clause 12 of the Bill is inconsistent with and/or impinge upon the provisions of Article 14A of the Constitution merely because it has provided for making of an *ex parte* application *in camera* to the Magistrate for an order for the purposes of paragraphs (c), (d), (e) and (f) of subsection (1).

CLAUSE 16 OF THE BILL

The Petitioner in SC SD 20/2026 has challenged the Clause 16(3) of the Bill which inserts a new definition for the term "funds, property or other assets" [Clause 16(3)] which replaces the term "funds or property", which is found in multiple clauses throughout the principal enactment.

The term "funds or property" as it presently stands in Section 16A, reads as follows:

"funds or property" means-

(a) any currency including also, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit; or

(b) any asset, whether-

(i) corporeal or incorporeal, movable or immovable, tangible or intangible;

(ii) kept or situated within or outside Sri Lanka, and where title or legal or equitable interest in such funds or property, or any income or proceeds of such funds or property, is evidenced by any legal document or instrument in any form whatsoever, including any electronic or digital form;"

The Clause 16(3) of the Bill seeks to repeal the existing definition of the expression "funds or property" and to substitute therefor, of the following definition: -

"funds, property or other assets" means-

(a) any currency lawfully or unlawfully acquired including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit and virtual assets;

(b) any property lawfully or unlawfully acquired, whether -

(i) corporeal or incorporeal, movable or immovable, tangible or intangible,

(ii) kept or situated within or outside Sri Lanka, or

(c) any other assets lawfully or unlawfully acquired, including any economic resource or other asset which may be used to collect funds, goods or services,

and includes any legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in, such funds, property or other assets and any interest, dividend or other income on, or value accruing from, or generated by such funds, property or other assets or investments made using such funds, property or other assets;"

The learned Counsel for the Petitioner in SC SD 20/2026 submitted that the term "funds, property or other assets" is defined under Clause 16(3)(c) could be taken as "*any other assets lawfully or unlawfully acquired... "*".

The International Convention on the Suppression of Terrorist Financing was adopted by the General Assembly of the United Nations on 09-12-1999; it was opened for signature on 10-01-2000; the Government of Sri Lanka became a signatory to this Convention on 10-01-2000 and ratified the same on 18-09-2000; the Convention entered into force in

respect of Sri Lanka on 10-04-2002. Thus, it became necessary for the Government of Sri Lanka to make legislative provision to give effect to Sri Lanka's obligations under this Convention. It was in those circumstances, that the Government of Sri Lanka took steps to enact the Convention on the Suppression of Terrorist Financing Act No. 25 of 2005. In the 2005 Act, the focus was to deal with persons who, by any means, directly or indirectly, unlawfully and wilfully provides or collect funds, with the intention of using such funds to commit the offence of financing of terrorists or terrorist organizations.¹ Section 4 and 5 of Act No. 25 of 2005 focussed only on "funds" in multiple places of the Act. There was no 'Interpretation Section' in Act No. 25 of 2005.

It was thereafter that the Convention on the Suppression of Terrorist Financing (Amendment) Act No. 41 of 2011 introduced a new Section to the principal enactment as Section 16A to serve as the 'Interpretation Section'. It is in that new Section 16A that the term "funds and property" was inserted and interpreted in the Act in 2011 for the first time. When one peruses Clause 16(3) of the Bill which inserts a new definition for the term "funds, property or other assets" to replace the term "funds or property", which was brought in by the (Amendment) Act No. 41 of 2011 it can be seen that this a requirement of the present time as the forms in which people maintain such funds to commit the offence of financing of terrorists or terrorist organizations have become diverse. The "funds, property or other assets" in Clause 16(3) of the Bill would therefore mean the "funds, property or other assets" which are directly or indirectly, unlawfully and wilfully provided or collected, with the intention of using such "funds, property or other assets" to commit the offence of financing of terrorists or terrorist organizations. Therefore, we are unable to see how Clause 16(3) of the Bill would be inconsistent with the provisions of the Constitution.

¹ Section 3 of Convention on the Suppression of Terrorist Financing Act No. of 2005 (as it stood in its original form in 2005)

For the fore-going reasons, we determine that the Bill titled "Convention on the Suppression of Terrorist Financing (Amendment) Act No. of 2026" or any provision thereof is not inconsistent with any provision of the Constitution.

We place on record our appreciation of the assistance given by the learned Counsel who appeared for the Petitioners, and the learned Additional Solicitor General who represented the Hon. Attorney-General, in this proceeding.

P. PADMAN SURASENA
CHIEF JUSTICE

ACHALA WENGAPPULI
JUDGE OF THE SUPREME COURT

K.M.G.H. KULATUNGA
JUDGE OF THE SUPREME COURT