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SOCIALIST REPUBLIC OF
SRI LANKA**

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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”), by the inclusion of the definitions of the expressions “beneficiary” and “prescribed” in that section.

Clause 3 : This clause inserts new sections 6A and 6B in the principal enactment and the legal effect of—

- (a) the new section 6A is to make provisions for the Registrar General to maintain a register of trusts and to require the trustees to provide information relating to trusts to the Registrar General; and
- (b) the new section 6B is to make provisions for enabling the Registrar General to provide information of trusts to relevant authorities.

Clause 4 : This clause inserts new sections 19A, 19B and 19C in the principal enactment and the legal effect of—

- (a) the new section 19A is to require the trustees to keep updated information in record on the identity of the persons connected with trusts;
- (b) the new section 19B is to require the trustees to provide information to relevant authorities; and
- (c) the new section 19C is to impose penalties for offences committed under sections 6A, 19, 19A and 19B of the principal enactment.

Clause 5 : This clause amends section 72 of the principal enactment, and is consequential to the amendment made by inserting section 19C in the principal enactment.

Clause 6 : This clause amends section 75 of the principal enactment, and is consequential to the amendment made by inserting section 19C in the principal enactment.

Clause 7 : This clause inserts new section 115A in the principal enactment, and the legal effect of the section is to provide for the Minister to make regulations under the principal enactment.

Trusts (Amendment)

L.D.—O. 24/2016

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, No. of 2017. Short title.

5 2. Section 3 of the Trusts Ordinance (Chapter 87) (hereinafter referred to as the “principal enactment”) is hereby amended by the repeal of paragraph (e) of that section and the substitution therefor of the following paragraphs:- Amendment of section 3 of Chapter 87.

10 “(e) “beneficiary” means a person, or a defined or definitely ascertainable class of persons, for whose benefit the confidence is accepted;

(ee) “prescribed” means prescribed by regulations made under this Act;” .

15 3. The following new sections are hereby inserted immediately after section 6 of the principal enactment and shall have effect as sections 6A and 6B of that enactment:- Insertion of new sections 6A and 6B in the principal enactment.

20 “Registrar-General to maintain a register of trusts. 6A. (1) The Registrar-General shall prepare and maintain a register containing such information as may be prescribed of every trust, created in compliance with section 5.

25 (2) The trustee of any immovable or movable property shall forward to the Registrar-General for the purpose of subsection (1), all such information relating to the trust, as may be prescribed.

- Duty of the Registrar-General to provide information of trusts. 5
- 6B. (1) The Registrar-General shall, on a request made by the Financial Intelligence Unit, or by any other authority with the written sanction of the Financial Intelligence Unit, provide to the Financial Intelligence Unit or such other authority any information relating to any trust, kept in the register maintained under section 6A.
- 10
- (2) For the purpose of subsection (1), the Financial Intelligence Unit shall be the Financial Intelligence Unit that may be designated under the Financial Transactions Reporting Act, No. 6 of 2006.”.
- 15
4. The following new sections are hereby inserted immediately after section 19 of the principal enactment and shall have effect as sections 19A, 19B and 19C of that enactment:—
- Insertion of new sections 19A, 19B and 19C in the principal enactment.
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- “Trustee to keep updated information on identity in 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 the trust under section 6:—
- (a) the trustee himself;
- (b) the co-trustees, if any;
- (c) the author of the trust;
- 25
- (d) the beneficiary, to the greatest extent possible; and
- 30
- (e) any other person engaged in the execution of the trust in the capacity of an agent, a legal representative, a manager, an investment advisor or a tax advisor, an accountant or otherwise.

(2) The information under subsection (1) shall be verified and updated every three months, to the greatest extent possible.

5 (3) Where a 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).

10 (4) Where a trust has been created for the benefit of a person other than a natural person, the information on the identity of the natural person who is the beneficial owner of the trust, shall be kept in record under subsection (1).

15 (5) A trustee shall maintain records of information of any person referred to in subsections (1), (2), (3) and (4), at least for a period of six years from the date on which such person's involvement with the trust ceases to exist.
20

(6) For the purposes of this section, "beneficial owner" means a natural person or persons who ultimately own the benefits of the trust or control the trust property or the person or persons on whose behalf a trust is being created and includes the person or persons who exercise ultimate effective control over a person or a body of persons, whether incorporated or unincorporated.
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30 Trustee to provide updated information of identity to relevant authorities.
35 19B. (1) (a) A trustee and a co-trustee, if any, shall provide to any relevant authority, any information in the record maintained under section 19A in respect of any person referred to in that section whenever such trustee is required to provide such information by such authority.

(b) For the purpose of paragraph (a), the “relevant authority” means –

- 5 (i) any public authority assigned with the responsibility of preventing money laundering and suppression of terrorist financing; or
- 10 (ii) any authority that performs the function of investigating and prosecuting money laundering and terrorist financing associated offences and seizing or freezing and confiscating assets relating to such offences.

15 (2) (a) A trustee shall, when entering into a continuing business relationship or conducting any transaction or carrying out any occasional transaction, exceeding a financial limit as may be prescribed, with any institution carrying out financial business or designated non-finance business, provide updated information on the identity of any person referred to in section 19A or of the trust property which is subject to the business relationship, as is required by such institution.

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25 (b) For the purpose of paragraph (a), the expressions “designated non-finance business”, “finance business” and “occasional transaction”, shall have the same meanings as in the Financial Transactions Reporting Act, No. 6 of 2006.

30

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

19C. A trustee who acts in contravention of the provisions of sections 6A, 19, 19A and 19B shall be guilty of an offence under this Act and shall, on conviction by a Magistrate, be liable

to a fine not exceeding two hundred thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”.

5 **5.** Section 72 of the principal enactment is hereby amended by the substitution for the words “by his discharge from his office.” of the words and figure “by his discharge from his office or on such trustee being convicted of an offence under section 19c.”. Amendment of section 72 of the principal enactment.

10 **6.** Section 75 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution for the words “or accepts an inconsistent trust,” of the words and figure “or accepts an inconsistent trust, or is convicted of an offence under section 19c.”. Amendment of section 75 of the principal enactment.

15 **7.** The following new section is hereby inserted immediately after section 115 of the principal enactment and shall have effect as section 115A of that enactment:- Insertion of new section 115A in the principal enactment.

“Regulations. 115A. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

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(2) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.

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(3) Every regulation made by the Minister shall, as soon as convenient, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.

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(4) Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.”

8. 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.

