

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

—————————

PREVENTION OF MONEY LAUNDERING

ACT, NO. 5 OF 2006

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[Certified on 06th March, 2006]

Printed on the Order of Government

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Prevention of Money Laundering 1

Act, No. 5 of 2006

[Certified on 6th March, 2006]

L.D. — O. 15/2005.

ANACT TO PROHIBIT MONEY LAUNDERING IN SRI LANKA ; TO PROVIDE

THE NECESSARY MEASURES TO COMBAT AND PREVENT MONEY

LAUNDERING ; AND TO PROVIDE FORMATTERSCONNECTED THEREWITH

OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:—

1. This Act may be cited as the Prevention of Money Short title and

Laundering Act, No. 5 of 2006. date of

operation.

2. The provisions of the Act shall apply in relation to— Applicability of

the provisions of

the Act.

(a) a person who commits an offence under the

provisions of this Act whilst being resident in

Sri Lanka;

(b) an Institution which is used for the commission of

an offence under the provisions of this Act, which

Institution is carrying on business in Sri Lanka and

is either incorporated or registered in Sri Lanka or is

either incorporated or registered as a branch of a

bank incorporated or registered outside Sri Lanka;

(c) an Act which constitutes an offence under this Act,

which is committed in Sri Lanka.

PART I

MONEY LAUNDERING

3. (1) Any person, who— Offence of

money

laundering.

(a) engages directly or indirectly in any transaction in

relation to any property which is derived or realised,

2 Prevention of Money Laundering

Act, No. 5 of 2006

directly or indirectly, from any unlawful activity or

from the proceeds of any unlawful activity;

(b) receives, possesses, conceals, disposes of, or brings

into Sri Lanka, transfers out of Sri Lanka, or invests

in Sri Lanka, any property which is derived or

realised, directly or indirectly, from any unlawful

activity or from the proceeds of any unlawful

activity,

knowing or having reason to believe that such property is

derived or realised, directly or indirectly from any unlawful

activity or from the proceeds of any unlawful activity, shall

be guilty of the offence of money laundering and shall on

conviction after trial before the High Court be liable to a fine

not less than the value of the property in respect of which the

offence is committed and not more than three times the value

of the property in respect of which the offence is committed

or to rigorous imprisonment for a period of not less than five

years and not exceeding twenty years, or to both such fine

and imprisonment. The assets of any person found guilty of

the offence of money laundering under this section shall be

liable to forfeiture in terms of Part II, of this Act.

(2) Any person who attempts or conspires to commit the

offence of money laundering, or aids or abets, the commission

of the offence of money laundering shall be guilty of an

offence under this Act and shall be liable after trial before the

High Court to be punished with the same punishment as is

specified for the offence of money laundering.

In this subsection “abet” shall have the same meaning as

in sections 100 and 101 of the Penal Code.

(3) For the avoidance of doubts, it is hereby declared that

a conviction for the commission by the accused of the

unlawful activity shall not be necessary for the proof of the

offence under the provisions of this Act.

Prevention of Money Laundering 3

Act, No. 5 of 2006

4. For the purposes of any proceedings under this Act, it Presumption.

shall be deemed until the contrary is proved, that any movable

or immovable property acquired by a person has been derived

or realized directly or indirectly from any unlawful activity,

or are the proceeds of any unlawful activity, if such property—

(a) being money, cannot be or could not have been—

(i) part of the known income or receipts of such

person; or

(ii) money to which his known income or receipts

has or had been converted; or

(b) being property other than money, cannot be or could

not have been—

(i) property acquired with any part of his known

income or receipts; and

(ii) property which is or was part of his known

income or receipts; and

(iii) property to which is any part of his known

income or receipts has or had been converted.

5. (1) Any person who knows or has reason to believe Duty of certain

from information or other matter obtained by him in the course persons to

of any trade, profession, business or employment carried on disclose

knowledge or

by such person, that any property has been derived or realised belief of acts

from any unlawful activity, shall disclose his knowledge or constituting the

belief as soon as is practicable, to the Financial Intelligence offence of

Unit. money

laundering.

(2) Any person who fails to comply with the provisions

of subsection (1) shall be guilty of an offence under this Act,

and shall on conviction after trial before the High Court be

liable to a fine not exceeding fifty thousand rupees or to

imprisonment of either description for a period not exceeding

six months or to both such fine and imprisonment.

4 Prevention of Money Laundering

Act, No. 5 of 2006

(3) The disclosure by a director or officer or servant of an

Institution in terms of the provisions of the Financial

Transactions Reporting Act, No. 6 of 2006 of his knowledge

and belief that any property has been derived or realized

from any unlawful activity, shall be sufficient compliance

by such director, officer or servant, of the duty imposed on

him by subsection (1).

(4) The provisions of subsection (1) shall have effect

notwithstanding any obligation as to secrecy or other

restriction upon the disclosure of information, imposed by

any written law or otherwise, and accordingly any disclosure

by any person in compliance with the provisions of

subsection (1) shall be deemed not to be a contravention of

such obligation or restriction.

(5) In a prosecution for an offence under subsection (2) it

shall be a defence for the accused to prove to Court, on a

balance of probabilities that he had reasonable grounds for

not disclosing his knowledge or belief.

Divulging &c. of 6. Any person who knows or has reason to believe that

information an an investigation into the commission of the offence of money

offence.

laundering has been, is being, or is about to be made, and

who—

(a) divulges, other than in the performance of his duties

under this Act, that fact or other information relating

to such investigation to any Court or to any other

person, knowing that the investigation is likely to

be prejudiced thereby; or

(b) discloses, other than in the performance of his duties

under this Act, the identity of the person against

whom such investigation has been, is being, or is

about to, be made;

(c) knowingly falsifies, conceals, destroys or otherwise

disposes of, or causes or permits the falsification,

Prevention of Money Laundering 5

Act, No. 5 of 2006

concealment, destruction or disposal of, any

document or material which is, or is likely to be,

relevant to that investigation,

shall be guilty of an offence under this Act, and shall on

conviction after trial before the High Court, be liable to a fine

not exceeding fifty thousand rupees or to imprisonment of

either description for a period not exceeding six months, or

to both such fine and imprisonment,

PART II

FREEZING AND FORFEITURE OFASSETS INRELATION TO THE OFFENCE

OFMONEY LAUNDERING

7. (1) A Police Officer not below the rank of Freezing of

Superintendent of Police or in the absence of such an officer property.

an Assistant Superintendent of Police may, where there are

reasonable grounds to believe that any person is involved in

any activity relating to the offence of money laundering and

it is necessary for preventing further acts being committed in

relation to such offence, issue an order (hereinafter referred

to as a “Freezing Order”) prohibiting any transaction in

relation to any account, property or investment which may

have been used or which may be intended to be used in

connection with such offence.

(2) The Freezing Order obtained under subsection (1) shall

be issued on—

(a) the person who is believed to be involved in the

activity referred to subsection (1); and

(b) on any other person or institution who or which

may be required to give effect to such Order.

(3) Subject to the provisions of section 8, a Freezing

Order made under subsection (1) shall be in force for a period

of seven days of the making thereof.

6 Prevention of Money Laundering

Act, No. 5 of 2006

(4) Any person who acts in contravention of a Freezing

Order issued on him, shall be guilty of an offence and shall

on conviction after trial before the High Court be liable to a

fine not exceeding one hundred thousand rupees or one and

a half times the value of the money in such account, property

or investment which has been dealt with in contravention of

the Freezing Order, whichever is higher or to imprisonment

of either description for a period not exceeding one year or to

both such fine and imprisonment.

Confirming of 8. (1) The Police Officer issuing the Freezing Order under

Freezing Order

the provisions of section 6 shall, with in the seven days during

by Court.

which such Order shall be in force, make an application to

the High Court seeking confirmation of such Freezing Order

and also if the circumstances so necessitate, request an

extension of the original period of seven days.

(2) Where the High Court is satisfied that there are

sufficient reasons for the making of such Freezing Order, the

Court may confirm the Freezing Order and also grant the

application made for the extension thereof for such periods

as it considers necessary, subject however—

(a) to any Orders which may be made under section 12;

and

(b) to the requirement that the maximum period of any

extension so granted shall not exceed one year from

the date of the making of the Freezing Order by the

Police Officer:

Provided that where indictment is filed for the offence of

money laundering in respect of the account, property or

investment which is subject to the Freezing Order, such

Freezing Order shall unless vacated by Court for reasons to

be recorded, remain in force until the conclusion of the trial

in respect of such offence, or where an appeal is preferred

against a conviction for such offence, until the determination

of the appeal.

Prevention of Money Laundering 7

Act, No. 5 of 2006

(3) Where the High Court confirms a Freezing Order under

subsection (2) it shall cause to be published in at least one

newspaper circulating in the Sinhala, Tamil and English

languages, Notice of such Order, in order to facilitate bona

fide third parties to make application to Court in support of

their claims to the account, property or investment which is

subject to the Order of freezing.

9. No transaction shall be effected in relation to such Transactions in

account, property or investment while the Freezing Order is contravention of

the Freezing

in force and any transaction so effected shall be null and Order to be null

void. and void.

10. In confirming a Freezing Order made under section High Court to

7, the High Court may on an application made in that behalf, permit essential

and legitimate

if it is of opinion that such an Order could damage legitimate

transactions.

business or other interests of any person affected thereby,

and that essential transactions relating to such account,

property or investment as may have been prohibited by such

Freezing Order may be legitimately carried out, make order

permitting the carrying on of such transactions subject to

supervision by and under the direction of a person appointed

in that behalf by Court or of a receiver appointed in that

behalf under section 11.

11. Upon an application made in that behalf by a police Appointment of

officer not below the rank of a Superintendent of Police or in a Receiver.

the absence of such an officer an Assistant Superintendent of

Police, the High Court may appoint a Receiver to take

possession of and otherwise deal with the account, property

or investment which has been subjected to the Freezing Order,

in accordance with such directions as may be given by Court

in that behalf.

12. (1) Any Police Officer not below the rank of a Property

Superintendent of Police shall take possession of, and tracking and

otherwise deal with, any account, property or investment, monitoring.

which is subject to a Freezing Order, and the Court may on

8 Prevention of Money Laundering

Act, No. 5 of 2006

application of the said Police Officer and for the purpose of

determining in whom the ownership, possession or control of

any property to which the Freezing Order relates, lies, Order:—

(a) that any document relevant to—

(i) identifying, locating or quantifying that

property;

(ii) establishing the ownership, possession or

control of that property,

be delivered forthwith to the Police Officer; and

(b) that a named institution furnish to the Receiver all

information obtained by the institution about any

business transaction conducted by or for that person

with the institution during such period before or

after the date of the Order as the Court may direct.

(2) The Court making an Order under subsection (1) shall

upon being satisfied that any person is failing to comply

with, is delaying or is otherwise obstructing the execution

of, an order made under subsection (1) make Order

authorising the Police Officer to enter and search any premises

of that person, and remove any document, material or other

thing therein for the purpose of executing such Order.

(3) Upon determining in whom the ownership, possession

or control of any property to which the Freezing Order relates,

lies, the Police Officer shall report the same to the Court

making the Freezing Order, along with all documents

establishing and supporting such ownership, possession or

control, as the case may be.

Forfeiture of 13. (1) Where a person is convicted of the offence of

property in money laundering, the Court convicting such person shall,

relation to which

offence of subject to the provision of subsections (2) make Order that

money any movable or immovable property of such person derived

laundering has or realised, directly or indirectly from any unlawful activity,

been committed.

be forfeited to the State free from all encumbrances.

Prevention of Money Laundering 9

Act, No. 5 of 2006

(2) In determining whether an Order of forfeiture should

be made under subsection (1), the Court shall be entitled to

take into consideration the fact whether such an Order is

likely to prejudice the rights of a bona fide purchaser for

value or any other person who has acquired, for value, a bona

fide interest in such property.

(3) An Order made under subsection (1) shall take effect—

(a) where an appeal has been preferred to the Court of

Appeal or the Supreme Court against the Order of

forfeiture, upon the determination of such appeal

confirming or upholding the Order of Forfeiture;

(b) where no appeal has been preferred to the Court of

Appeal against the Order of Forfeiture within the

period allowed therefor, after the expiration of the

period within which an appeal may be preferred to

the Court of Appeal, against such Order of Forfeiture.

(4) For the purposes of subsection (1), the Court making

the Order of Forfeiture may presume that any movable or

immovable property belonging to the person convicted of

the offence of money laundering, is derived or realised,

directly or indirectly from any unlawful activity if such

property is not commensurate with the known sources of

income of such person, and the holding of which cannot be

explained on a balance of probabilities, to the satisfaction of

the Court.

14. (1) Any person affected by an Order of Forfeiture Rights of bona

made under section 13 of this Act, may make an application fide claimants.

to Court making the Order of Forfeiture within a period of

thirty days of the making of such Order stating that he has

suffered loss as a result of the making of such Order.

(2) Where an application is made under subsection (1) to

the Court making the Order of Forfeiture, the Court may,

upon being satisfied that the applicant has suffered loss as a

result of its Order, order compensation to be paid to such

person from the property forfeited.

10 Prevention of Money Laundering

Act, No. 5 of 2006

Appointment of 15. Where any property has been forfeited to the State

a Receiver upon under section 13 of this Act, the Court making the order of

confiscation.

Forfeiture may, appoint a Receiver to be in charge of the

property so forfeited.

Secrecy 16. The provisions of this Part of this Act shall have

obligation effect notwithstanding any obligation as to secrecy or other

overridden. restriction upon the disclosure of information imposed by

any written law or otherwise and accordingly any disclosure

of information by any person in compliance with the

provisions of this Part of this Act shall be deemed not to be a

contravention of such obligation or restriction.

PART III

GENERAL

Offences under 17. An offence under this Act shall be a cognisable and

this Act to be non-bailable offence, within the meaning, and for the purpose,

cognisable and of the Code of Criminal Procedure Act, No. 15 of 1979.

non-bailable.

Offences by 18. Where an offence under this Act is committed by a

body of persons. body of persons, then, if that body of persons is—

(a) a body corporate, every director, or other officer of

that body corporate; and

(b) a firm, every partner of that firm; and

(c) an unincorporated body other than a firm, every

individual who is a member of such body and every

officer of that body responsible for its management

and control,

shall be guilty of an offence:

Provided however, that no such person shall be deemed to

be guilty of an offence if he proves that the offence was

committed without his knowledge or that he exercised all

due diligence to prevent the commission of the offence.

Prevention of Money Laundering 11

Act, No. 5 of 2006

19. (1) No suit or prosecution shall lie— Protection for

action taken

under this Act or

(a) against the Financial Intelligence Unit or any person on direction of

authorised to act on behalf of the Financial Authority.

Intelligence Unit for any lawful act which in good

faith is done or purported to be done by the Financial

Intelligence Unit or such person under this Act;

(b) against an Institution or any director, officer, servant

or agent of any such Institution, acting in the course

of his employment or agency or any person referred

to in subsection (1) of section 3, for any lawful act

which in good faith is done or purported to be done

by such Institution, director, officer, servant, agent

or person in the performance of any duty imposed

by this Act, or on the directions of the Authority.

(2) No proceedings, civil or criminal, shall be instituted

in any Court or tribunal against the Financial Intelligence

Unit or any person authorised to act on behalf of the Authority

in respect of any report, made in good faith, by the said

Financial Intelligence Unit or such person under this Act.

(3) Any expenses incurred by the Financial Intelligence

Unit in any suit or prosecution brought by, or against, the

said Financial Intelligence Unit or any person authorized to

act on behalf of the said Financial Intelligence Unit, before

any Court or tribunal in respect of any lawful act done or

purported to be done by the said Financial Intelligence Unit

or a person authorised to act on behalf of the said Financial

Intelligence Unit, under this Act, and any costs paid to, or

recovered by, the said Financial Intelligance Unit or such

person in any such suit or prosecution shall be paid out of, or

credited to, as the case may be, the account of the said

Financial Intelligence Unit.

(4) Any expenses incurred by an Institution or officer,

servant, agent or person referred to in paragraph (b) of

subsection (1) in any suit, prosecution, brought by or against

such Institution or such officer, servant, agent or person before

12 Prevention of Money Laundering

Act, No. 5 of 2006

any court or tribunal in respect of any act which is done or

purported to be done by such Institution or such officer,

servant, agent or person under this Act, or on the direction of

the Financial Intelligence Unit, shall, if the Court or tribunal

holds that the act was done in good faith, be paid by the said

Financial Intelligence Unit, unless such expense is recovered

by such Institution or officer, servant, agent or person, in

such suit or prosecution.

Falsification of 20. (1) No person shall falsify, conceal, unlawfully

documents. destroy or otherwise dispose of, or cause or permit the

falsification, concealment, unlawful destruction or disposal

of any document, material or thing which is, or is likely to be

relevant to the exercise, performance or discharge of any

power, duty or function under this Act.

(2) Any person who contravenes the provisions of

subsection (1) shall be guilty of an offence under this Act and

shall on conviction after trial before the High Court be liable

to a fine not exceeding fifty thousand rupees or to

imprisonment of either description for a period not exceeding

one year or to both such fine and imprisonment.

Offences. 21. (1) No person shall —

(a) falsify, conceal, destroy or otherwise dispose of, or

cause or permit the falsification concealment,

destruction or disposal of, any document or material

or thing which is or is likely to be relevant to the

execution of any Order made in accordance with

the provisions of this Act.

(b) divulge, the fact that an investigation into an offence

of money laundering or an offence under the law of

any foreign State corresponding to the offence of

money laundering, is being, or is about to be made,

or divulge any other information to another person

whereby such investigation is likely to be

prejudiced.

Prevention of Money Laundering 13

Act, No. 5 of 2006

(2) Any person who contravenes the provisions of

subsection (1) shall be guilty of an offence under this Act and

shall on conviction after trial before the High Court be liable

to a fine not exceeding one hundred thousand rupees or to

imprisonment of either description for a period not exceeding

one year or to both such fine and imprisonment.

22. Where the Minister in consultation with the Minister Asset sharing.

of Finance considers it appropriate, either because an

international arrangement so requires or permits, or in the

interests of comity, he may order that the whole or any part of

any property forfeited under the provisions of this Part of this

Act, or the value thereof, be given or remitted to the requesting

State.

23. Where any officer or servant of an Institution Dealing with

discloses as hereinbefore provided his knowledge or belief property by

Institution &c.

that any property is derived or realized by means of any

not to constitute

illegal activity, any subsequent dealing by such Institution, an offence.

officer or servant with the owner of such property, shall be

deemed not to constitute the aiding or abetment by such

Institution, officer or servant, of an offence under this Act.

PART IV

PROVISIONS RELATING TO EXTRADITION AND MUTUALASSISTANCE IN

RELATION TO THE OFFENCE OF MONEY LAUNDERING

24. The Schedule to the Extradition Law, No. 8 of 1977 Amendment of

the Extradition

is hereby amended by the insertion immediately before Part

Law, No. 8 of

B thereof, of the following:— 1977.

“(47) An offence of Money Laundering within the

meaning of the Prevention of Money Laundering

Act, No. 5 of 2006.”.

25. Notwithstanding anything contained in the Interpretation in

Extradition Law, No. 8 of 1977 an offence in terms of this Act relation to the

Extradition Law.

shall for the purpose only of extradition under that Law, be

14 Prevention of Money Laundering

Act, No. 5 of 2006

deemed not to be a fiscal offence, or an offence of a political

character, or an offence connected with a political offence or

an offence inspired by political motives.

Duty of Minister 26. Where a request is made to the Government of Sri

to notify Lanka by or on behalf of the Government of another country

requesting State

of measures for the extradition of any person accused or convicted of an

taken against offence, under this Act, the Minister shall, on behalf of the

persons for Government of Sri Lanka forthwith notify the Government

whose

of the requesting State of the measures that Government of

extradition a

request is made. Sri Lanka has taken, or proposes to take, for the prosecution

or extradition of that person for that offence.

Assistance to 27. (1) The provisions of the Mutual Assistance in

Commonwealth Criminal Matters Act, No. 25 of 2002 shall, wherever it is

countries &c,.

necessary for the investigation and prosecution of an offence

under section 2 of this Act, be applicable in respect of the

providing of assistance as between the Government of Sri

Lanka and other States who are either Commonwealth

countries specified by the Minister by Order under section 2

of the aforesaid Act or Non-Commonwealth countries with

which the Government of Sri Lanka entered into an

agreement in terms of the aforesaid Act.

(2) In the case of a country which is neither a

Commonwealth country specified by the Minister by Order

under section 2 of the aforesaid Act nor a No-Commonwealth

country with which the Government of Sri Lanka has entered

into an agreement in terms of the aforesaid Act, then it shall

be the duty of the Government to afford all such assistance

to, and may through the Minister request all such assistance

from such country, as may be necessary for the investigation

and prosecution of an offence under section 3 to the extent

required for the discharge of its obligations under the United

Nations Convention (including assistance relating to the

taking of evidence and statements, the serving of process

and the conduct of searches).

Prevention of Money Laundering 15

Act, No. 5 of 2006

(3) The grant of assistance to such country may be made

subject to such terms and conditions as the Minister thinks

fit.

28. (1) Where a person who is not a citizen of Sri Lanka Rights of persons

is arrested for an offence under this Act, such person shall be arrested under

entitled to communicate without delay with the nearest this Act.

appropriate representative of the State of which he is a

national or if he is a stateless person, the nearest appropriate

representative of the State where he usually resides.

(2) A request under section 26 shall be deemed not to be

invalidated for the purposes of any legal proceedings by

reason of any failure to comply with the provisions of section

27, provided the Financial Intelligence Unit is satisfied that

there is sufficient compliance with those provisions to enable

it to properly execute the request.

29. (1) Where a person is arrested for an offence of Duty of Minister

money laundering, the Minister to whom the administration to inform other

States having

of this Act is assigned shall request the Minister in charge of

jurisdiction over

the subject of Foreign Affairs to inform the relevant authorities an offence.

in any other State which has made a request under section 26

in respect of such person, of the measures which the

Government of Sri Lanka has taken or proposes to take for

the prosecution or extradition of that person.

(2) Where a request is made to the Government of Sri

Lanka, by or on behalf of the Government of any State for the

extradition of any person accused or convicted of an offence

corresponding to the offence of money laundering, the

Minister in charge of the subject of Foreign Affairs shall, on

behalf of the Government of Sri Lanka, forthwith inform the

Government of the requesting State, of the measures which

the Government of Sri Lanka has taken, or proposes to take,

for the prosecution or extradition of that person.

(3) Where it is decided that no order should be made under

the Extradition Law, No. 8 of 1977, for the extradition of any

person accused or convicted of an offence corresponding to

16 Prevention of Money Laundering

Act, No. 5 of 2006

the offence of money laundering pursuant to a request for his

extradition made under that Law, by the Government of any

State, the case shall be submitted to the law enforcement

authorities, so that prosecution for the offence under the law

of Sri Lanka, or any other appropriate action may be

considered.

Requirements for 30. (1) A request for assistance under section 27 shall:—

assistance.

(a) confirm either that an investigation or prosecution

is being conducted into an offence under the law of

the requesting State corresponding to an offence of

money laundering or that a person has been

convicted of such an offence;

(b) state the grounds on which any person is being

investigated or prosecuted for such offence or give

details of the conviction of such person;

(c) give particulars sufficient to identify any person

referred to in the request;

(d) give particulars sufficient to identify an Institution

or other person believed to have information,

documents or material or thing relevant to the

investigation or prosecution referred to paragraph

(a) ;

(e) request the Authority to whom the request is

addressed to obtain from the Institution or other

person referred to in paragraph (d) all or any of the

information, documents or material or thing referred

to in paragraph (d);

(f) specify the manner in which and the person to whom,

any information, document, material or thing

obtained pursuant to the request, is to be transmitted;

(g) state whether or not an order of freezing or order of

Forfeiture required;

Prevention of Money Laundering 17

Act, No. 5 of 2006

(h) contain such other information as may assist the

execution of the request.

(2) The Financial Intelligence Unit shall cause to be

transmitted to the person referred to in paragraph (f) of

subsection (1) of this section, any information, document,

material or thing seized by, or delivered or produced to the

Financial Intelligence Unit, pursuant to an Order made in

accordance with the provisions of this Act.

31. Where there is an extradition arrangement in force Provision

between the Government of Sri Lanka and the Government regarding

extradition

of any other State, such arrangement shall be deemed, for the arrangement.

purposes of the Extradition Law, No. 8 of 1977, to include

provision for extradition in respect of the offence of money

laundering as defined in this Act, and of attempting or

conspiring to commit, aiding and abetting the commission

of, or conspiring to commit, such offence.

32. The Government shall afford such assistance Duty of

(including the supply of any relevant evidence at its disposal) Government to

afford assistance

to the relevant authorities of any foreign State as may be to other States.

necessary in connection with criminal proceedings instituted

in the State against any person, in respect of an offence under

the law of that State corresponding to the offence of money

laundering.

33. (1) The Minister may make regulations under this Regulations.

Act for any matter authorized or required to be made under

this Act, or for the purpose of carrying out or giving effect to

the principles and provisions of this Act.

(2) Every regulation made by the Minister 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 in the regulation.

18 Prevention of Money Laundering

Act, No. 5 of 2006

(3) Every regulation made by the Minister shall as soon

as convenient after its publication in the Gazette be brought

before Parliament for its approval. Any regulation which is

not so approved shall be deemed to be rescinded as from the

date of disapproval but without prejudice to anything

previously done thereunder.

(4) Notification of the date on which a regulation is

deemed to be rescinded shall be published in the Gazette.

Sinhala text 34. In the event of any inconsistency between the Sinhala

to prevail in and Tamil texts of this Act, the Sinhala text shall prevail.

case of

inconsistancy.

Interpretation. 35. In this Act unless the context otherwise requires—

“designated non-finance business” includes—

(a) individual and collective portfolio

management;

(b) investing administering or managing funds

or money on behalf of other person;

(c) safekeeping and administration of cash or

liquid securities on behalf of other persons;

(d) safe custody services;

(e) under - writing and placement of insurance,

as well as insurance intermediation by agents

and brokers;

(f) trustee administration or investment

management or a superannuation scheme;

(g) casinos, gambling houses or conducting of

a lottery, including a person who carries on

such a business through the internet when

their customers engage in financial

transactions equal to or above the prescribed

threshold;

Prevention of Money Laundering 19

Act, No. 5 of 2006

(h) real estate agents, when they are involved in

transactions for their clients in relation to

the buying and selling of real estate;

(i) dealers in precious metals and dealers in

precious and semi-precious stones, including

but not limited to metals and stones covered

by the Gem and Jewellery Act, No. 50 of

1993, when they engage in cash transactions

with a customer equal to or above the

prescribed threshold;

(j) lawyers, notaries, other independent legal

professionals and accountants when they

prepare for, or carry out, transactions for their

clients in relation to any of the following

activities:—

(i) buying and selling of real estate;

(ii) managing of client money, securities

or other assets;

(iii) management of bank, savings or

securities accounts;

(iv) organization of contributions for the

creation, operation or management

of companies; and

(v) creation, operation or management

of legal persons or arrangements and

the buying and selling of business

entities;

(k) a trust or company service provider not

otherwise covered by this definition, which

as a business provides one or more of the

following services to third parties:—

(i) formation or management of legal

persons;

20 Prevention of Money Laundering

Act, No. 5 of 2006

(ii) acting as or arranging for another

person to act as, a director or secretary

of a company, a partner of a

partnership or a similar position in

relation to other legal persons;

(iii) providing a registered office,

business address or accommodation,

correspondence or administrative

address for a company, a partnership

or for any other legal person or

arrangement;

(iv) acting as or arranging for another

person to act as, a trustee of an express

trust;

(v) acting as or arranging for another

person to act as, a nominee

shareholder for another person;

(l) offshore business in accordance with the

definitions provided for the same in other

written laws; and

(m) such other business as may be prescribed

from time to time by the Minister taking into

consideration the interests of the national

economy;

“Financial Intelligence Unit (FIU)” means the Financial

Intelligence Unit established under section of the

Financial Transactions Reporting Act, No. 6 of

2006;

“finance business” includes any one of the following

businesses or activities:—

(a) banking, as defined in the Banking Act, No.

30 of 1988, including the acceptance of

deposits or other repayable funds from

members of the public;

Prevention of Money Laundering 21

Act, No. 5 of 2006

(b) finance business as defined in the Finance

Companies Act, No. 78 of 1988 (irrespective

of whether the person is licensed or registered

under the Act);

(c) lending, including consumer credit,

mortgage credit, factoring (with or without

recourse) and financing of commercial

transactions;

(d) financial leasing other than transactions

relating to consumer products;

(e) the transfer of money or value;

(f) money and currency changing services;

(g) issuing and managing means of payment (i.e

credit cards, travellers’ cheques, money

orders and bankers’ drafts and electronic

money);

(h) issuing financial guarantees and

commitments, including but not limited to,

consumer credit, factoring with or without

recourse and financing of commercial

transactions including forfeiting;

(i) trading for its own account or for the account

of customers in money market instruments

(i.e. cheques, bills of exchange, certificates

of deposit and derivatives), foreign

exchange, exchange, interest rate and index

instruments, commodity futures trading and

transferable securities;

(j) participating in securities issues and the

provision of financial services related to

such issues; and

22 Prevention of Money Laundering

Act, No. 5 of 2006

(k) such other business as may be prescribed

from time to time by the Minister taking into

consideration the interests of the national

economy.

“Institution” means any person or body of persons

engaged in or carrying out any finance business or

designated non-finance business within the

meaning of this Act;

“Offshore Unit” means a unit or department of a

licensed commercial bank carrying on banking

business, subject to the provisions of Part IV of the

Banking Act, No. 30 of 1988, dealing with Offshore

Banking;

“person” includes a body of persons;

“property” means any currency, and includes any asset

of any kind, whether corporeal or incorporeal,

movable or immovable, tangible or intangible

whether situated in Sri Lanka or elsewhere, and

legal documents or instruments in any form

whatsoever including electronic or digital form,

evidencing title to, or interest in, such assets,

including but not limited to bank credits, travellers

cheques, bank cheques, money orders, shares,

securities, bonds, drafts, letters of credit and includes

any legal or equitable interest in any such property;

“transaction” means any activity connected with

finance business or designated non-finance

business;

“transaction” in relation to property includes—

(a) a purchase, sale, loan, charge, mortgage, lien,

pledge, transfer, delivery, assignment,

subrogation, transmission, gift, donation,

Prevention of Money Laundering 23

Act, No. 5 of 2006

creation of a trust, settlement, deposit

including any deposit of any article,

withdrawal, transfer between assets,

extension of credit;

(b) any agency or grant of power of attorney;

(c) any other disposition or dealing of property

in whatever form, or whatsoever description

or nature, howsoever described, which results

in any right, title, interest or privilege,

whether present or future, or whether vested

or contingent, in the whole or any part of

such property being conferred on any

person; and

“unlawful activity” means any act which constitutes

and offence under —

(a) the Poisons, Opium and Dangerous Drugs

Ordinance (Chapter 218);

(b) any law or regulation for the time being in

force relating to the prevention and

suppression of terrorism;

(c) the Bribery Act (Chapter 26);

(d) the Firearms Ordinance (Chapter 182), the

Explosives Ordinance (Chapter 183) or the

Offensive Weapons Act, No. 18 of 1966.

(e) the Exchange Control Act (Chapter 423);

(f) an offence under section 83C of the Banking

Act, No. 30 of 1988;

(g) any law for the time being in force relating

to transnational organised crime;

(h) any law for the time being in force relating

24 Prevention of Money Laundering

Act, No. 5 of 2006

to cyber crime;

(i) any law for the time being in force relating

to offences against children;

(j) any law for the time being in force relating

to offences connected with the trafficking

of persons; and

(k) an offence under any other law for the time

being in force which is punishable by death

or with imprisonment for a term of seven

years or more.

Prevention of Money Laundering 25

Act, No. 5 of 2006

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