



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**PROCEEDS OF CRIME
ACT, NO. 5 OF 2025**

[Certified on 30th of April 2025]

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Proceeds of Crime Act, No. 5 of 2025

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AN ACT TO PROVIDE FOR THE RECOVERY OF PROCEEDS OF CRIME, TO PROVIDE FOR THE INVESTIGATION, RESTRAINT, FORFEITURE AND DISPOSAL OF PROCEEDS OF CRIME, TO PROVIDE FOR THE PROTECTION, PRESERVATION, MANAGEMENT OF RESTRAINED PROCEEDS OF CRIME, TO ESTABLISH THE PROCEEDS OF CRIME MANAGEMENT AUTHORITY, TO PROVIDE FOR INTER-AGENCY COOPERATION AND INTERNATIONAL COLLABORATION RELATING TO THE RECOVERY OF PROCEEDS OF CRIME, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

WHEREAS the committing of unlawful activities results in serious consequences and in certain circumstances causes pecuniary and other losses and the deprivation of the enjoyment of property rights by victims of such unlawful activities, the public at large and the state:

Preamble

AND WHEREAS those who commit unlawful activities do not possess any legal right or other entitlement to enjoy and benefit from proceeds of such unlawful activities, and those who receive or derive proprietary rights to proceeds of such unlawful activities also do not possess any legal right to such property:

AND WHEREAS it is the responsibility of the state to take necessary measures to deprive perpetrators benefitting from proceeds of such unlawful activities and to have such proceeds returned to those who shall otherwise have received the entitlement to benefit from such proceeds:

AND WHEREAS the existing legislation including the Penal Code, Code of Criminal Procedure Act, Offences Against Public Property Act, Convention on the Suppression of Terrorist Financing Act, Prevention of Money Laundering Act, Financial Transactions Reporting Act and the Anti-

Corruption Act need to be supplemented by new legislation for the purpose of providing an efficacious legislative framework for the effective identifying, tracing, detecting, investigating, restraining, seizure, preserving, protecting, managing, judicial freezing, forfeiting and returning proceeds of crime to those who are legitimately entitled to such property:

AND WHEREAS for the purpose of realizing the objectives of this Act, it is necessary to vest duties and responsibilities on certain law enforcement officers and to suitably empower them to perform such duties and responsibilities, and also to establish certain statutory bodies including the Proceeds of Crime Management Authority:

AND WHEREAS it is necessary to provide for a legislative mechanism to enable law enforcement authorities of Sri Lanka to cooperate with law enforcement, administrative and judicial authorities of other countries with regard to proceeds of crime located both within and outside Sri Lanka, and to cause the return to Sri Lanka or repatriate from Sri Lanka such proceeds of crime or value thereof to those who are legitimately entitled to such property:

AND WHEREAS it is necessary to provide restitution and repatriation to victims of crime and to the community or the general public who have been affected by unlawful activities, and for such purpose provide for the creation and establishment of the Victims of Crime Reparation Trust Fund:

AND WHEREAS it is also necessary to give full effect to Sri Lanka's obligations under the United Nations Convention Against Corruption, the United Nations Convention Against Transnational Organized Crime, and the United Nations

Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances and to enact legislation relating to proceeds of crime, compatible with contemporary international norms and best practices:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. (1) This Act may be cited as the Proceeds of Crime Act, No. 5 of 2025.

Short title
and date of
operation

(2) The provisions of this Act other than this section, shall come into operation on such date as the Minister may by Order published in the *Gazette* appoint:

Provided however, every provision of this Act shall come into operation not later than twelve months from the date of coming into operation of this section.

(3) The provisions of this section shall come into operation on the date on which the Bill becomes an Act of Parliament.

2. The objectives of this Act shall be to —

Objectives of the
Act

- (a) disincentivize the committing of unlawful activities for the purpose of benefitting from the proceeds of such unlawful activities;
- (b) prevent and deprive any person from benefitting from the proceeds of unlawful activities committed by such person or by any other person;
- (c) facilitate the investigation into the committing of unlawful activities including bribery and corruption, drug trafficking, terrorist financing and other organized and financial crimes;

- (d) provide for the recognition, adoption and enforcement of special investigation techniques and cooperation between domestic law enforcement and administrative authorities pertaining to investigation of proceeds of crime;
- (e) facilitate and provide for the tracing, identification and recovery of proceeds of crime;
- (f) provide for restraining the use and seizure of proceeds of crime;
- (g) provide for the issuance of judicial orders for the judicial freezing of proceeds of crime;
- (h) provide for protection, preservation and management of proceeds of crime including the disposal of proceeds of crime under certain circumstances pending the conduct and completion of forfeiture proceedings;
- (i) deter the committing of unlawful activities which yield proceeds of crime;
- (p) provide for legislative mechanisms for the conduct of judicial proceedings and the issuance of judicial orders for the forfeiture of proceeds of crime –
 - (i) following the conviction of a person for having committed an unlawful activity which yielded such proceeds of crime (hereinafter referred to as the ‘post-conviction forfeiture proceedings’); and

- (ii) independent of prosecuting a person for having committed the unlawful activity which yielded such proceeds of crimes (hereinafter referred to as the ‘non-conviction based forfeiture proceedings’);
- (k) recognize and provide a cause of action in civil law to enable victims of crime to recover loss or damage through civil litigation;
- (l) establish a statutory authority for the protection, preservation, management and disposal of restrained, seized or frozen proceeds of crime;
- (m) provide a mechanism for the management and the use of the realized value of the disposal of forfeited proceeds of crime;
- (n) establish a Trust Fund to provide for restitution and reparation to victims of crime;
- (o) provide a mechanism for cooperation, mutual assistance and reciprocity with judicial, law enforcement and administrative authorities of other countries pertaining to the recovery of proceeds of crime or value located overseas and for repatriation of the value of proceeds of crime located in Sri Lanka; and
- (p) give effect to Sri Lanka’s obligations under the United Nations Convention Against Corruption, the United Nations Convention Against Transnational Organized Crime and international standards and best practices

pertaining to anti-money laundering and countering the financing of terrorist activities.

Applicability of
the Act

3. (1) This Act shall apply to -

- (a) any person who commits any unlawful activity or any part thereof in Sri Lanka including in its territorial waters, air space, on board an aircraft or a vessel registered in Sri Lanka or chartered by any person in Sri Lanka, including any unlawful activity committed prior to coming into operation of this Act provided at the time of committing such unlawful activity it was an offence;
- (b) any person who is a Sri Lankan citizen or is resident in Sri Lanka who commits any unlawful activity or part thereof outside Sri Lanka;
- (c) any diplomatic or consular officer of Sri Lanka notwithstanding the provisions of the Diplomatic Privileges Act, No. 9 of 1996 and any immunity that may have been conferred on such officer by any foreign state;
- (d) any person who commits an unlawful activity or part thereof in or outside Sri Lanka with regard to public property of Sri Lanka whether proceeds of such unlawful activity are found within or outside Sri Lanka;
- (e) any person who commits an unlawful activity or part thereof in or outside Sri Lanka with regard to or in respect of a citizen of Sri Lanka whether proceeds of such unlawful activity are found within or outside Sri Lanka;

- (f) any person who commits an unlawful activity or part thereof in or outside Sri Lanka which has an adverse impact or any potential of such impact on the legitimate interests of Sri Lanka or its citizen whether proceeds of such unlawful activity are found within or outside Sri Lanka;
- (g) any person who commits an unlawful activity or part thereof from within the premises of any diplomatic or consular mission of Sri Lanka or the place of residence of a diplomatic or consular officer of Sri Lanka, independent of whether or not such place of residence has been procured using public funds of Sri Lanka;
- (h) any person who commits an unlawful activity or part thereof within the premises occupied on behalf of or under the control of the Government of Sri Lanka or a statutory body established by any law of Sri Lanka, or within the place of residence of an employee of such statutory body situated outside Sri Lanka;
- (i) any person who commits an offence under this Act within or outside Sri Lanka, including in its territorial waters, air space, on board an aircraft or a vessel registered in Sri Lanka or chartered or otherwise used by any person in Sri Lanka;
- (j) any proceeds of crime found in Sri Lanka or on board an aircraft or a vessel registered in Sri Lanka or aircraft or a vessel chartered by a citizen or a resident of Sri Lanka;

- (k) any proceeds of crime found in or outside Sri Lanka, of an unlawful activity committed in Sri Lanka;
- (l) any proceeds of crime found in or outside Sri Lanka, of an unlawful activity committed outside Sri Lanka by a citizen or a resident of Sri Lanka;
- (m) any proceeds of crime brought into, in transit, bound for, passing through or taken out of Sri Lanka.

(2) The provisions of this Act shall not apply where the proceeds of an unlawful activity have been forfeited in terms of the applicable law prior to the coming into operation of this Act, or in the alternative of such forfeiture, a penalty or other sanction has been imposed in terms of the applicable law and complied with.

Temporal
Applicability of
the Act

4. (1) Subject to the provisions of section 3, provisions of this Act shall apply to proceeds of crime located in or outside Sri Lanka, notwithstanding the corresponding unlawful activity, which yielded such proceeds, being committed prior to the coming into operation of this Act.

(2) No person shall be punished for having committed any offence under this Act, unless such offence was committed after the coming into operation of this Act:

Provided however, if an act which constitutes an offence under this Act shall have been continued to be perpetrated at the time of this Act coming into operation, it shall be possible to deal with such perpetrator as having committed the relevant offence under this Act.

5. The provisions of this Act shall prevail over the provisions of the Anti-Corruption Act relating to proceeds of crime that are obtained, derived out of or realized by committing an offence under the Anti-Corruption Act, and the investigation, tracing, identification, detection, restraining, seizure, judicial freezing, sentencing, protection, preservation, management, disposal pending forfeiture or release, forfeiture, release and disbursement of proceeds of crime shall be conducted in terms of the provisions of this Act:

Application of the Act with regard to proceeds of crime derived out of committing offences in the Anti-Corruption Act.

Provided however, nothing in this Act shall, in any manner, prevent or preclude the investigation of offences under the Anti-Corruption Act being conducted in the manner provided for in that Act.

PART I

GENERAL PROVISIONS AND OFFENCES

6. Any person who knowing or having reasonable grounds to believe that any property is proceeds of crime, directly or indirectly does any act by himself or with the participation of others, including the carrying out of any transaction or giving advice relating to any act for the purpose of converting, transferring, concealing or disguising –

Concealment or disguising of proceeds of crime, etc. to be an offence.

- (a) the origin, true nature, source, location, disposition, movement, ownership, acquisition, possession, use of, or value of such property or part thereof;
- (b) the identities of persons who may have committed the unlawful activity which

gave rise to such property; or

- (c) the identities of persons who possess beneficial interests relating to such property,

commits an offence.

Acquisition,
possession
etc. of proceeds
of crime to be
an offence

7. Any person who knowing or having reasonable grounds to believe that a property is proceeds of crime, acquires, possesses, uses, has custody, exercises dominion over, controls, or retains such property commits an offence.

Destruction.
of evidence of
proceeds of crime
to be
an offence.

8. Any person who knowingly destroys any evidence relating to any property which is proceeds of crime commits an offence.

Breach or
obstruction
of the
enforcement or
implementation
of orders to be
an offence.

9. Any person who breaches or obstructs the enforcement or implementation of any-

- (a) restraining order, seizure, judicial freezing order;
- (b) notice or order issued by a law enforcement officer under this Act;
- (c) judicial order issued in respect of an investigation into proceeds of crime; or
- (d) judicial order made under this Act relating to proceeds of crime,

commits an offence.

10. Any person served with a notice under section 68 of this Act who-

Failure to accept a notice or provision of false response to a notice to be an offence.

(a) refuses to accept;

(b) fails to respond truthfully to; or

(c) provides knowingly a false or inaccurate response or wilfully makes a misrepresentation or act of deception to,

such notice commits an offence.

11. Any person who intentionally aids, advises, induces, influences, or threatens another to whom a notice under section 68 has been served to provide a false or misleading or deceptive response to such notice, commits an offence.

Aiding the provision of false response to a notice to be an offence.

12. Any person who presents a false or misleading claim, description or representation to the High Court for the purpose of preventing the judicial freezing of any property, discharge of any property, or having a judicial freezing order varied or vacated, commits an offence.

Presenting a false or misleading claim to prevent judicial freezing to be an offence.

13. Any person who presents a false or misleading claim, description, representation or an affidavit containing a false or misleading description or a false document to the High Court for the purpose of preventing the forfeiture of or the release of any property, commits an offence.

Presenting a false or misleading claim to prevent forfeiture to be an offence.

14. (1) Any person, who attempts or conspires to commit any offence under section 6, 7, 8, 9, 10, 11, 12, or 13, or aids or abets the commission of such offence commits an offence.

Aiding and abetting an offence under section 6, 7, 8, 9, 10, 11, 12, or 13 to be an offence.

(2) In this section “abet”, “aid” and “conspiracy” shall have the same meaning as in sections 100, 111 and 113 of the Penal Code.

High Court to try offences under section 6, 7, 8, 9, 10, 11, 12, 13 or 14 and penalty for such offences.

15. (1) The High Court shall have jurisdiction to try and punish a person on indictment by the Attorney-General for having committed any offence under section 6, 7, 8, 9, 10, 11, 12, 13 or 14:

Provided however, if such offence had been committed in respect of proceeds of crime which had been derived out of the committing of an offence contained in the Anti-Corruption Act, the Director-General of the Commission to Investigate Allegations of Bribery or Corruption acting on a direction issued by the Commission shall have the authority to prefer indictment and prosecute the accused.

(2) Any person who commits an offence specified in section 6, 7, 8, 9, 10, 11, 12, 13 or 14 shall on conviction after trial by the High Court be liable to a fine not exceeding rupees ten million and to imprisonment for a period not exceeding fifteen years. The provisions of sections 303 and 306 of the Code of Criminal Procedure Act, shall not be applicable with regard to such sentence of imprisonment.

Failure to disclose knowledge or information to be an offence.

16. (1) Any person who has knowledge or information which he believes to be true pertaining to-

- (a) proceeds of crime, including the location, and nature of such proceeds of crime;
- (b) the concealment or disguise of proceeds of crime;
- (c) any transactions relating to proceeds of crime; or
- (d) committing of any offence contained in this Act,

and fails to disclose such information to the Police Designated

Officer or to the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption, commits an offence:

Provided however, an Attorney-at-Law who in the course of the performance of his professional duties receives information pertaining to the existence of or any information relating to proceeds of crime, he shall not be required to provide such information to the Police Designated Officer or to the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption, if he is required in terms of professional ethics to maintain confidentiality relating to such information:

Provided further, any person who in the course of his employment or providing professional services receives or becomes aware of any information pertaining to any proceeds of crime, and provides such information to the compliance officer appointed in terms of section 14 of the Financial Transactions Reporting Act or in the absence of a compliance officer to the supervisory authority recognized for the purposes of the Financial Transactions Reporting Act and where there is no such supervisory authority, to the principal executive officer of his employer, shall not be required to comply with such disclosure:

Provided further, where any person fails to disclose such information as provided in this section, if it appears that the purpose for failure to disclose information by such person was in good faith and for the purpose of facilitating the advancement of the objectives of this Act, such person who fails to disclose such information shall be deemed not to have committed an offence.

- (2) Where any knowledge or information under subsection (1) relates to proceeds of crime pertaining to an offence

contained in the Anti-Corruption Act such knowledge or information shall be disclosed to the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption. Such knowledge or information pertaining to all such other proceeds of crime shall be disclosed to the Police Designated Officer.

Dissuading, preventing etc. of disclosing information pertaining to proceeds of crime to be an offence.

17. Any person who dissuades, prevents, obstructs or advises any other person from disclosing information pertaining to proceeds of crime to a Designated Officer, or an Investigation Officer, commits an offence:

Provided however, an Attorney-at-Law providing professional service in accordance with the professional ethics shall not be accused of having committed this offence.

Obstructing persons empowered under this Act to be an offence.

18. Any person, who intentionally interferes, instructs, advises, obstructs, prevents, dissuades or takes any other measure to prevent, dissuade, or obstruct any person who is empowered under this Act to perform any function, from the performance of such function commits an offence:

Provided however, it shall not be an offence for a person duly authorized or empowered under this Act in good faith for a purpose which is not inconsistent with the objectives of this Act to issue instructions or give advice in the manner provided by this Act.

Conduct which is not provided by law with the object of causing any detrimental effect to a person authorized under this Act to be an offence.

19. Any person who in his official capacity or otherwise takes any decision or engages in any act which is not provided by law, administrative regulations or rules, which amounts to-

- (a) an adverse change in a condition, entitlement or a privilege of employment;
- (b) reprisal;
- (c) coercion;

- (d) intimidation;
- (e) retaliation;
- (f) harassment; or
- (g) deprivation of any entitlement,

with the object of causing any detrimental effect or pain of mind to any other person in relation to any action taken in good faith and in a lawful manner by such other person who had been authorized under this Act to perform such action, commits an offence.

20. Any person who is not authorized or empowered by this Act or by any other law to issue instructions or give advice to a Designated Officer or to an Investigation Officer to perform any function or exercise any power under this Act, issues any direction, gives advice, influences the performance of any function or exercise of any power, solicits or obtains any information or material, with the view to defeating the objectives of this Act, commits an offence.

Unauthorized issuing of direction etc. with the view to defeating the objectives of this Act to be an offence.

21. Any person –

- (a) from whom information, documents or other material has been called for by a Designated Officer or an Investigation Officer;
- (b) who has been required by a duly authorized person under this Act to perform any function or provide any information or material; or
- (c) who has been directed by an order of any Court to provide any information, document or any other material, or render any service or conduct any activity,

Unauthorized disclosure of information to be an offence.

unless it is necessary for the purpose of giving effect to the objectives of this Act, provides information in respect of such matter to any other person who is not authorized under this Act to receive such information, commits an offence.

Explanation:

Where an Investigation Officer has issued a notice to a bank either directly or through an order issued by a Magistrate requiring such bank to provide details of a particular bank account and to submit certain documents relating to such account, an employee of such bank who reveals such requirement imposed on the bank to the account holder or to any third party, commits an offence under this section.

Direction
to disclose
information by
an unauthorized
person to be
an offence.

22. Any person being a Designated Officer, an Investigation Officer or any other person who is superior, parallel, or subordinate to a Designated Officer or an Investigation Officer including any person who may possess managerial, supervisory or administrative authority in respect of a Designated Officer or an Investigation Officer who discloses, causes the release of or directs the disclosure or release of the information that –

- (a) any person is being investigated into under this Act;
- (b) any property is being investigated on suspicion that it is proceeds of crime;
- (c) a person named or otherwise described is conducting an investigation under this Act or is advising in the conduct of investigation under this Act or is otherwise assisting in the conduct of an investigation;

- (d) an application is being made under this Act to a court of law; or
- (e) an order of restraint, seizure, judicial freezing, forfeiture is to be made in respect of any property,

commits an offence:

Provided however, it shall not be an offence, if such information is provided by reason of -

- (a) his being required or authorized by this Act or any other law;
- (b) his acting for the purpose of giving effect to the provisions of this Act; or
- (c) his having done so in response to an order made by a court of law.

23. Any person who fails to comply with a duty conferred on him by this Act commits an offence:

Failure to perform a duty to be an offence.

Provided however, if such person can establish that he has in good faith attempted to fulfil the relevant duty and the failure to perform such duty was for reasons beyond his control, he shall not be liable for prosecution or conviction.

24. (1) Any person, who attempts or conspires to commit any offence under section 16, 17, 18, 19, 20, 21, 22, or 23, or aids or abets the commission of such offence commits an offence.

Aiding and abetting an offence under section 16, 17, 18, 19, 20, 21, 22, or 23 to be an offence

(2) In this section “abet”, “aid” and “conspiracy” shall have the same meaning as in sections 100, 111 and 113 of the Penal Code.

Magistrate's Court
to try offences
under section 16,
17, 18, 19, 20, 21,
22, 23, or 24 and
penalty for such
offences

25. (1) Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, the Magistrate's court shall have jurisdiction to try a person against whom criminal proceedings have been instituted in such court for having committed offences contained in section 16, 17, 18, 19, 20, 21, 22, 23, or 24 with the sanction of the Attorney-General and punish such person in terms of this Act.

(2) If an offence contained in section 16, 17, 18, 19, 20, 21, 22, 23, or 24 has been committed in respect of any property obtained, derived or realized out of committing of an offence under the Anti-Corruption Act, the Director-General of the Commission to Investigate Allegations of Bribery or Corruption acting on a direction of the Commission shall be entitled to investigate the committing of such offence, institute criminal proceedings and prosecute the accused.

(3) Any person convicted of having committed an offence under section 16, 17, 18, 19, 20, 21, 22, 23, or 24 shall be punished with imprisonment for a period not exceeding five years and with a fine not exceeding one million rupees. The provisions of section 306 of the Code of Criminal Procedure Act shall not be applicable with regard to such sentence of imprisonment.

Offences
committed by an
incorporated body

26. (1) Where an offence under this Act is committed by an incorporated body of persons all Directors of such body at the time of committing such offence shall, in addition to the incorporated body of persons, be individually liable for the committing of such offence, notwithstanding each such Director not being responsible for committing the act which constitute the relevant offence:

Provided however, that no such Director shall be –

(a) prosecuted if he satisfies the Investigation

Officer who conducted the investigation; or

- (b) deemed to be guilty for having committed an offence if he on a balance of probability proves before court,

that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) For the purpose of instituting criminal proceedings against Directors of an incorporated body of persons, it shall not be necessary to first prosecute and obtain a conviction against the corresponding incorporated body of persons.

27. (1) Where an offence under this Act is committed by an unincorporated body of persons all office bearers of such body at the time of committing such offence shall, in addition to the unincorporated body of persons be individually liable for the committing of such offence, notwithstanding each such office bearer not being responsible for committing the act which constitute the relevant offence:

Offences
committed by
an unincorporated
body

Provided however, that no such office bearer shall be -

- (a) prosecuted if he satisfies the Investigation Officer who conducted the investigation; or
- (b) deemed to be guilty for having committed an offence if he on a balance of probability proves before court,

that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) For the purpose of instituting criminal proceedings against any office bearer of an unincorporated body of persons, it shall not be necessary to first prosecute and obtain a conviction against the corresponding unincorporated body of persons.

Offences
committed by a
partnership

28. Where an offence under this Act is committed by in the name and style of a partnership, its partners at the time of committing such offence shall be individually liable for the committing of such offence, notwithstanding each such partner not being responsible for committing the act which constitute the relevant offence:

Provided however, that no such partner shall be-

- (a) prosecuted if he satisfies the Investigation Officer who conducted the investigation; or
- (b) deemed to be guilty for having committed an offence if he on a balance of probability proves before court,

that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

All offences
under this Act
to be cognizable
offences

29. All offences under this Act shall be cognizable offences for the purposes of the Code of Criminal Procedure Act.

Offences under
this Act to be
investigated
under the
provisions of the
Code of Criminal
Procedure Act

30. Subject to the provisions of this Act, an investigation into the committing of an offence under this Act shall be conducted in the manner provided in the Code of Criminal Procedure Act and where applicable in terms of any other written law.

31. Any person who in the course of his employment, profession, trade, business, occupation or in the discharge of contractual duties comes across or has knowledge or information pertaining to-

Duty
to disclose
information

(a) proceeds of crime, including the location, nature, value, the identity of the person having possession, custody, dominion of such proceeds of crime, concealment or disguising of proceeds of crime or any transactions relating to proceeds of crime; or

(b) committing of any offence under this Act,

shall disclose such information to the Police Designated Officer or the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption, who shall issue an acknowledgement of such information to the person who provided such information:

Provided however, an Attorney-at-Law who in the course of his professional duties receives such knowledge or information shall not be obliged to discharge this statutory duty if he is required in terms of professional ethics to maintain confidentiality of the information he has received, unless the person who provides such information has consented to the release of such information as provided in this Act:

Provided further, any person who in the course of his employment or providing professional services receives or becomes aware of any information pertaining to any proceeds of crime, and provides such information to the compliance officer appointed in terms of section 14 of the Financial Transactions Reporting Act or in the absence of a compliance officer to the supervisory authority recognized

for the purposes of the Financial Transactions Reporting Act and where there is no such supervisory authority, to the principal executive officer of his employer, shall not be required to comply with such disclosure:

Provided further, where any person fails to disclose such information as provided in this section, if it appears that the purpose for failure to disclose information by such person was in good faith and for the purpose of facilitating the advancement of the objectives of this Act, such person who fails to disclose such information shall be deemed not to have committed an offence.

Protection
of informants
and
whistleblowers

32. (1) A person who has discharged his statutory duty under and in terms of section 31 or a whistleblower, shall be entitled to claim from the Police Designated Officer or the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption to whom the information was provided that his identity shall not be disclosed.

(2) A person who has discharged his statutory duty in terms of section 31 or a whistleblower shall, if he perceives or receives any threat or harm to his person, family or property, or damage to his reputation, be entitled to receive protection under and in terms of the Assistance to and Protection of Victims of Crime and Witnesses Act.

(3) No person who has discharged his duty in terms of section 31 or a whistleblower shall by virtue of such discharge of statutory duty or being a whistleblower be subject to disciplinary action or an adverse change in the terms and conditions of his employment.

(4) Notwithstanding any prohibition of or restriction on the disclosure of information under any other law, contract,

oath, or practice, a person who has provided information under section 31 or a whistleblower shall not be subject to detrimental action on account of having provided such information.

(5) No person shall be subject to any civil or criminal liability as a result of providing such information under section 31 or as a whistleblower.

(6) An Investigation Officer or any other person who may be called to testify in any judicial proceedings shall not be compelled to reveal the identity of any person who has discharged his statutory duty in terms of section 31 or a whistleblower.

(7) Any provision in a letter of appointment issued to an employee or any direction issued to an employee or any clause in a contract of or for services or any other agreement between an employer, an employee, independent contractor or any other service provider, is void in so far as it -

- (a) excludes or purports to exclude any provision of this Act;
- (b) prohibits, prevents, or obstructs the fulfilment of any duty contained in this Act; or
- (c) purports to preclude or discourage the performance of any act to the extent required by this Act.

(8) Any person who wilfully acts in contravention of the provisions of subsections (3) and (4) of this section commits an offence and shall be punished on conviction before a Magistrate with imprisonment for a period not exceeding five years and with a fine not exceeding one million rupees.

The provisions of section 306 of the Code of Criminal Procedure Act shall not be applicable with regard to such sentence of imprisonment.

Statutory duty of certain officers to provide information pertaining to proceeds of crime

33. (1) Notwithstanding any provision of any law which requires a person or an institution to maintain confidentiality of certain information, the officers specified in subsection (2) shall, upon information pertaining to any one or more of the following coming to his knowledge, provide such information in writing to the Designated Officer under whose purview the investigation of the relevant proceeds of crime or the offence has been vested by this Act:-

- (a) the possible existence of proceeds of crime;
- (b) the identity of persons who may be possessing, having custody, exercising dominion or control of proceeds of crime;
- (c) the possible committing of an unlawful activity and the person who had been complicit in such offence; or
- (d) the committing of an offence under this Act.

(2) For the purpose of subsection (1) the officers required by this Act to provide information shall be-

- (a) the Director of the Financial Intelligence Unit appointed in terms of the Financial Transactions Reporting Act;
- (b) the Auditor-General appointed under Article 153 of the Constitution;
- (c) the Commissioner General of Inland Revenue

appointed under section 97 of the Inland Revenue Act, No. 24 of 2017;

- (d) the Director-General of the Commission to Investigate Allegations of Bribery or Corruption appointed under section 17 of the Anti-Corruption Act in so far as such information may relate to an offence or proceeds of crime falling within the purview of the Police Designated Officer;
- (e) the Police Designated Officer in so far as such information may relate to an offence or proceeds of crime falling within the purview of the Commission to Investigate Allegations of Bribery or Corruption;
- (f) the Commissioner-General of Excise appointed under section 7 of the Excise Ordinance (Chapter 52);
- (g) the Director-General of Customs appointed under section 2 of the Customs Ordinance (Chapter 235);
- (h) the Commander of Sri Lanka Army raised and maintained under the Army Act, (Chapter 357);
- (i) the Commander of Sri Lanka Navy raised and maintained under section 2 of the Navy Act, (Chapter 358);
- (j) the Commander of Sri Lanka Air Force raised

and maintained under section 2 of the Air Force Act, (Chapter 359);

- (k) the Head of any government Department;
- (l) the Director-General of the Securities and Exchange Commission of Sri Lanka appointed under section 19 of the Securities and Exchange Commission of Sri Lanka Act, No. 19 of 2021;
- (m) the Chief Executive Officer of any statutory authority or body corporate;
- (n) the Commissioner General of Motor Traffic appointed under section 204 of the Motor Traffic Act, (Chapter 203);
- (o) the Registrar-General of Lands appointed under section 2 of the Registration of Documents Ordinance (Chapter 117);
- (p) Registrar General of Title and Registrars of Title appointed under section 3 of the Registration of Title Act, No. 21 of 1998;
- (q) the Mayor or Chairman of a Municipal Council, Urban Council or Pradeshiya Sabha;
- (r) a Secretary, Special Commissioner or a Chief administrator of a local authority;
- (s) a District Secretary, a Divisional Secretary or a Grama Niladhari;

- (t) a secretary to a ministry of a Minister appointed under Article 44 or 45 of the Constitution;
- (u) a secretary to a ministry of a Provincial Council;
- (v) the Registrar General of Companies appointed under section 47 of the Companies Act, No. 07 of 2007;
- (w) the officer designated as head of the Department of Foreign Exchange for the purposes of Foreign Exchange Act, No. 12 of 2017 referred to in section 3 of that Act;
- (x) the National Secretariate established under the Voluntary Social Service Organizations (Registration and Supervision) Act, No.31 of 1980;
- (y) the Commissioner General for the Registration of Persons appointed under section 3 of the Registration of Persons Act, No. 32 of 1968;
- (z) the Election Commission;
- (aa) the Chief executive officer or general manager of any bank of which the majority shareholding shall be either directly or otherwise held by the Secretary to the Treasury;
- (bb) the Chief Executive officer or the general manager of any institution which has been recognized for the purposes of the

Financial Transaction Reporting Act as either a Finance Business or as a Designated Non Finance Business;

- (cc) the Secretary General of the Parliament of Sri Lanka appointed under Article 65 of the Constitution;
- (dd) the Chairman of Credit Information Bureau appointed under section 5 of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990;
- (ee) the Controller of Immigration and Emigration appointed under section 4 of the Immigrants and Emigrants Act (Chapter 351);
- (ff) the Controller of Imports and Exports appointed under section 2 of the Imports and Exports (Control) Act, No. 1 of 1969;
- (gg) the Commissioner of Land appointed under section 3 of the Land Development Ordinance (Chapter 464);
- (hh) the principal executive officer of the Colombo Stock Exchange;
- (ii) the Governing Board of the Central Bank of Sri Lanka established under section 8 of the Central Bank of Sri Lanka Act, No. 16 of 2023;

- (jj) Chairman of the Board of Investment established under the Board of Investment of Sri Lanka Law, No. 4 of 1978;
- (kk) Director-General of Intellectual Property appointed under section 2 of the Intellectual Property Act, No. 36 of 2003;
- (ll) Chairperson of the Colombo Port City Economic Commission established under section 3 of the Colombo Port City Economic Commission Act;
- (mm) any other person holding public office who may be designated by the Minister, in consultation with the Police Designated Officer and the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption.

(3) It shall be the duty of all officers specified in subsection (2), within a period of one year of this Act coming into operation, to put in place internal administrative mechanisms to ensure that if the institution of which he is the principal executive officer receives any information referred to in subsection (1) of this section, that such information be forthwith brought to his attention.

(4) Upon receipt of information provided under this section by a Designated Officer, a written acknowledgement shall be issued and the information shall be forthwith presented to the relevant officers for action in terms of this Act.

Presumption

34. (1) For the purposes set out in subsection (2), it shall be lawful to presume until the contrary is proven, that any property acquired, received, possessed, has dominion over or controlled by a person is, proceeds of any unlawful activity, property procured using proceeds of any unlawful activity or has been derived or realized directly or indirectly from committing an unlawful activity, if such property or part thereof-

(a) is money, cannot be or could not have been -

(i) part of the known lawful income, receipts or entrustments of such person; or

(ii) money to which his known lawful income, receipts or entrustments has or had been converted; or

(b) is not money, which cannot be or could not have been -

(i) property lawfully acquired with any part of his known lawful income, receipts or entrustments;

(ii) property which is or was part of his known lawful income, receipts or entrustments; or

(iii) property to which any part of his known income, receipts or entrustments has or had been converted.

(2) The purposes referred to in subsection (1) shall be -

(a) making an order restraining the use of suspected proceeds of crime;

- (b) making an order for the preservation of suspected proceeds of crime;
- (c) seizure of suspected proceeds of crime;
- (d) judicial freezing of suspected proceeds of crime;
and
- (e) forfeiture of proceeds of crime,

under this Act.

(3) The burden shall lie on the person claiming that a particular property is not proceeds of crime, property procured using proceeds of any unlawful activity or has been derived or realized directly or indirectly from committing an unlawful activity, to prove on a balance of probability that such property was derived out of his lawful income, receipts or property.

(4) Where in the circumstances the presumption may be applied and no person proves on a balance of probability that the property in issue is not proceeds of crime, property procured using proceeds of any unlawful activity or has been derived or realized directly or indirectly from committing an unlawful activity, this presumption may be used by the High Court to conclude that there exists *prima-facie* evidence that the property in issue is proceeds of any unlawful activity, property procured using proceeds of crime, or has been derived or realized directly or indirectly from committing an unlawful activity.

35. (1) Subject to the prohibition contained in section 25 of the Evidence Ordinance, and notwithstanding anything to the contrary in the Code of Criminal Procedure Act, a statement made or response given in the form of an affidavit

Admissibility
of response to a
notice calling for
explanation

or a written or oral statement to an Investigation Officer in response to a notice served on such person under section 68 of this Act, shall be admissible against the maker of such affidavit or statement or against any third party -

- (a) when deciding whether or not to restrain or seize suspected proceeds of crime;
- (b) in judicial proceedings instituted under this Act for judicial freezing and forfeiture of proceeds of crime; or
- (c) in respect of applications for the release of restrained, seized or frozen proceeds of crime or any part thereof.

(2) Any party whose interests that may be affected by the use or proving of the contents of such affidavit or statement, shall be entitled to present evidence to establish the contrary.

(3) Where a person makes a statement or gives a response in the form of an affidavit or written or oral statement in response to a notice served on such person under section 68 of this Act, and such person is prosecuted for having committed an unlawful activity, the contents of such statement or response shall not be admissible against such person as substantive evidence:

Provided however, if such person in his defence chooses to give or tender evidence on his behalf, the contents of such statement or response shall be admissible to-

- (a) prove that he made a different statement at a different time, and therefor for the purpose of assessment of credibility of such person; and

- (b) to rebut evidence placed on behalf of the accused.

36. A statement made by any person to a police officer who has exercised a function under this Act to interview and record a statement of such person, shall not be used against the maker of such statement in any criminal proceedings against such person, unless subject to section 25 of the Evidence Ordinance the content of such statement is used for the purpose of proving that he made a different statement at a different point of time:

Admissibility of a statement made to a police officer under this Act

Provided however, such a statement shall be used to proving the contents of a statement which resulted in the recovery of proceeds of crime, and in judicial freezing and forfeiture proceedings to establish that the property in respect of which proceedings are been conducted is proceeds of crime.

37. Any statement made by any person to a person who is not a police officer who is duly authorized to perform any function under this Act, shall be admissible against the maker of such statement, subject to the provisions of sections 17, 18, 19, 20, 21, 22, 23 and 24 of the Evidence Ordinance.

Admissibility of a statement made to a person who is not a police officer under this Act

38. In prosecutions and in actions under this Act, the provisions of the Electronic Transactions Act, No. 19 of 2006 shall apply to and in relation to the admissibility of evidence of electronic records or other electronic documents.

Admissibility of evidence of electronic records or other electronic documents

39. Notwithstanding anything to the contrary in the Evidence Ordinance, a certificate from a foreign competent authority certified by the Attorney-General as amounting to a certificate from a foreign competent authority, regarding a property located in the country of such competent authority

Admissibility of a certificate from a foreign competent authority

certifying that such property is proceeds of crime together with supporting documentary evidence in support of such claim, shall be prima-facie evidence of the relevant property being proceeds of crime, without the foreign competent authority being called to testify.

Avoidance of
doubt

40. (1) For the avoidance of doubt, it is hereby declared that a conviction for the commission of any specific unlawful activity by any person, shall not be required as proof that proceeds of crime have been derived or realized from such unlawful activity.

(2) For the purpose of proving a charge of ‘Concealment or disguising of proceeds of crime, etc.’ proving or presenting evidence regarding any one or more of the following shall not be necessary :-

- (a) that the person being prosecuted committed the corresponding unlawful activity;
- (b) that the person being prosecuted benefited from either the relevant proceeds of crime or the corresponding unlawful activity;
- (c) the date or place of the committing of the corresponding unlawful activity; or
- (d) that the corresponding unlawful activity was committed within Sri Lanka.

Jurisdiction and
powers of the
Magistrate’s Court

41. (1) The Magistrate’s court shall in addition to the jurisdiction and the powers vested in it by the Judicature Act and the Code of Criminal Procedure Act have the power to –

- (a) make orders as provided in this Act to enable Investigation Officers to conduct investigations,

gather information, documents and material for investigation purposes and the search of premises, other locations and devices;

- (b) make orders as provided in this Act authorizing the conduct of special investigation techniques;
- (c) take note of restraining orders issued by Investigation Officers and seizure of property;
- (d) take note of judicial freezing of suspected proceeds of crime by the High Court;
- (e) record the statement of any person on the application of an Investigation Officer. Such application shall be made during the course of an investigation into any suspected proceeds of crime and having first recorded a statement of such person by an Investigation Officer;
- (f) make any other necessary order for the purpose of achieving the objectives of this Act; and
- (g) subject to the provisions of this Act, adopt a fair *sui generis* procedure for the conduct of proceedings, for the purpose of achieving the objectives of this Act.

(2) Any reference in this Act to a Magistrate shall mean the Magistrate in whose jurisdiction the property believed to be proceeds of crime is located, and where –

- (a) the location of the property cannot be traced;
- (b) the property is in parts located within the jurisdiction of more than one Magistrate;

- (c) the property has a virtual presence or is in cyber space;
- (d) the property is intangible; or
- (e) the property is located overseas,

shall mean the Magistrate of Colombo.

Jurisdiction and
powers of the
High Court

42. The High Court shall in addition to the jurisdiction and powers vested in it by the Judicature Act and the Code of Criminal Procedure Act have the power to –

- (a) issue, extend, vary, and vacate judicial freezing orders and in that regard entertain and carry out necessary proceedings;
- (b) make orders for the protection, preservation and management of proceeds of crime;
- (c) as provided in this Act, conduct proceedings and make orders for the forfeiture of proceeds of crime, including making of a proceeds of crime forfeiture order, substituted property forfeiture order, and substituted money forfeiture order;
- (d) make orders for the disposal and release of proceeds of crime;
- (e) make any other order which would be necessary to achieve the objectives of this Act; and
- (f) subject to the provisions of this Act, adopt a fair *sui generis* procedure for the conduct of proceedings, for the purpose of achieving the objectives of this Act.

43. (1) The Commission to Investigate Allegations of Bribery or Corruption shall have the power to authorize either generally or on a case-by-case basis, the performance of duties and the exercise of powers conferred on the Director-General of the Commission as the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption for the purposes of this Act.

Powers of the Commission to Investigate Allegations of Bribery or Corruption under this Act

(2) The Commission to Investigate Allegations of Bribery or Corruption shall have the power to –

- (a) authorize the making of applications to the High Court to obtain orders for judicial freezing of proceeds of crime;
- (b) direct the institution of criminal proceedings for offences committed under this Act;
- (c) authorize the making of applications for forfeiture of proceeds of crime;
- (d) take necessary steps to make any applications in terms of this Act and any applications ancillary thereto in any court ;
- (e) instruct an Attorney-at-Law of the Commission, request the Attorney-General to appoint an Attorney-at-Law of the Attorney-General's Department or retain the services of any Attorney-at-Law to appear on behalf of the Director-General and represent the Commission with regard to matters stated in paragraphs (a), (b), (c) and (d) of this subsection; and
- (f) obtain and act upon legal advice of the Attorney-General with regard to the performance of the

functions of the Commission under this Act and with regard to the functions of the Designated Officer and Investigation Officers of the Commission.

(3) For the purposes of this Act, the Commission shall have power to designate any officer of the Commission as an Investigation Officer, who shall thereafter perform functions and exercise powers under this Act vested in Investigation Officers.

(4) For the purposes of achieving the objectives of this Act including the due performance of the functions of the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption and the Investigation Officers of the Commission, the Commission shall in consultation with the Designated Officer appoint such other officers of the Commission to advise and assist the Designated Officer and Investigation Officers.

(5) The designation of an officer of the Commission as an Investigation Officer for the purposes of this Act shall not preclude such officer from performing any functions and powers entrusted to him by the Anti-Corruption Act or administratively vested in him by the Commission.

(6) The Commission shall have the power to refer any matter to the Attorney- General, and in such situations, the Attorney-General shall exercise powers conferred on him by this Act and by the Code of Criminal Procedure Act subject to general or case specific instructions issued by the Commission.

(7) If in the course of conducting an investigation into proceeds of crime or taking any step under this Act

pertaining to such proceeds of crime, the committing of an offence which is not contained in the Anti-Corruption Act is disclosed, the Commission shall refer the alleged committing of such offence to the Inspector General of Police to take action in terms of the law:

Provided however, if the committing of an offence under this Act is disclosed the Commission shall take necessary actions in that regard in terms of this Act.

(8) The quorum of the Commission to exercise its powers and discharge its functions under this Act shall be two members of whom one shall be a Commissioner who is an Attorney-at-Law.

(9) In this Act wherever there is a reference to the functions and powers of the Attorney-General such reference shall be read as a reference to the Director-General of the Commission to Investigate Allegations of Bribery or Corruption where such powers and functions relate to proceeds of crime emanating from unlawful activities which come within the investigative and prosecutorial competence of the Commission to Investigate Allegations of Bribery or Corruption. The Director-General of the Commission to Investigate Allegations of Bribery or Corruption shall discharge such functions and exercise powers subject to general or case specific directions of the Commission.

(10) In this Act where there is a reference to the functions and powers of a Designated Officer such reference shall be read as a reference to the Director-General of the Commission to Investigate Allegations of Bribery or Corruption, where such powers and functions relate to proceeds of crime emanating from unlawful activities which come within the investigative and prosecutorial

competence of the Commission to Investigate Allegations of Bribery or Corruption.

(11) In this Act where there is a reference to the functions and powers of an Investigation Officer such reference shall be read as a reference to an authorized officer of the Commission to Investigate Allegations of Bribery or Corruption, where such powers and functions relate to proceeds of crime emanating from unlawful activities which come within the investigative and prosecutorial competence of the Commission to Investigate Allegations of Bribery or Corruption.

Powers of
the Attorney-
General under
this Act

44. (1) The Attorney-General shall have the power to advise-

- (a) the Commission to Investigate Allegations of Bribery or Corruption and its officers when advice is sought;
- (b) either *ex-mero motu* or when sought, the Police Designated Officer and Police Investigation Officers regarding the conduct of investigations and the exercise of duties and powers conferred on such officers by this Act; and
- (c) the Authority regarding its duties and functions under this Act.

(2) The Attorney- General shall have the power to-

- (a) present indictments to the High Court and conduct prosecutions regarding the committing of offences under this Act;
- (b) sanction the institution of criminal proceedings,

undertake, conduct and carry-on criminal proceedings in the Magistrate's court pertaining to the committing of offences contained in this Act;

- (c) on behalf of the Police Designated Officer or Police Investigation Officer make any application to the Magistrate's Court;
- (d) make applications referred to in this Act to the High Court in respect of proceeds of crime and matters incidental thereto including applications for judicial freezing of proceeds of crime and forfeiture of proceeds of crime; and
- (e) call for and examine any record, file or document of the Police or the Authority.

(3) The Attorney-General shall have the power to make recommendations to the High Court pertaining to –

- (a) the protection, management and preservation of proceeds of crime in respect of which an application for judicial freezing to the High Court has been made or an order of judicial freezing has been made by the High Court;
- (b) restraining or preservation order which has been made by an Investigation Officer; or
- (c) property suspected to be proceeds of crime which has been seized by an Investigation Officer.

(4) The Attorney-General shall by himself or by an officer of the Attorney-General's Department or by an Attorney-at-Law authorized by the Attorney-General be entitled to intervene, appear, and make representations on behalf of the state in any court of law in any proceedings instituted under this Act.

(5) The powers and functions of the Attorney-General conferred on him by this Act shall be performed by the Attorney-General himself or by an officer generally or specially authorized in that regard by the Attorney-General.

Proceeds of Crime
Investigation
Division of
Sri Lanka Police

45. (1) There shall be a Division of the Sri Lanka Police which shall be called the Proceeds of Crime Investigation Division (hereinafter referred to as the "PCID") of the Sri Lanka Police, consisting of a Director-General who shall be the head of the PCID, a Deputy Director-General and such number of officers, for the purpose of this Act.

(2) The Police Designated Officer referred to in this Act shall be the Director-General of the PCID.

(3) The Police Deputy Designated Officer referred to in this Act shall be the Deputy Director-General of the PCID.

(4) The Police Investigation Officers referred to in this Act shall be officers attached to the PCID. They shall perform their functions in terms of this Act under the directions of the Director-General of the PCID. They may be assigned to another Division, Bureau, Unit or to a Police Station for the purposes of effectively carrying out their duties and functions under this Act.

(5) The National Police Commission shall be empowered to appoint on a recommendation of the Inspector General of Police a suitable number of police officers to the PCID to assist the Police Designated Officer and the Police Investigation Officers.

(6) Subject to administrative directions issued by the Inspector General of Police and the Director-General of the PCID, any police officer attached to the PCID shall be empowered to conduct investigation into any unlawful activity related to proceeds of crime being investigated into by such officer, provided he is authorized to do so in terms of the Police Ordinance, Code of Criminal Procedure Act, and any other applicable law.

(7) Any police officer not below the rank of an Inspector of Police shall subject to case specific approval given by the Director-General of the PCID, be entitled to exercise the powers and functions conferred on a Police Investigation Officer by this Act and conduct investigations, and take action as provided in this Act with regard to any proceeds of crime.

(8) For the purpose of facilitating and providing necessary expertise to enable the carrying out of the objectives of this Act and the due performance of the duties and functions of the Police Designated Officer and Police Investigation Officers, the National Police Commission shall on a recommendation of the Inspector General of Police be empowered to appoint either on a full or part-time basis or on an assignment basis experts possessing necessary knowledge, qualifications, experience and expertise to the PCID.

(9) Upon a consideration of the qualifications, experience and expertise of the relevant expert and the assignments to be entrusted to such experts, the National Police Commission shall on an individual basis determine the remuneration payable to such experts.

(10) Where in the view of the Director-General of the PCID, an investigation into suspected proceeds of crime is

complex, unusual, long-drawn, or multi-jurisdictional, and the funds assigned to the PCID is insufficient to duly carry out the investigation, the Director-General of the PCID may make a request together with reasons therefor to the Authority to assign necessary financial resources required for the efficient conduct of such investigation.

Police Designated
Officer and
Police Deputy
Designated
Officer

46. (1) For the purposes of this Act, there shall be a Police Designated Officer and a Police Deputy Designated Officer.

(2) The Police Designated Officer shall be a Police officer holding a rank not below the rank of Deputy Inspector General of Police and may be a Senior Deputy Inspector General of Police. The Police Deputy Designated Officer shall be a Police officer holding a rank not below the rank of Senior Superintendent of Police.

(3) The Police Deputy Designated Officer shall be entitled to perform all such duties, functions and powers vested by this Act on the Police Designated Officer, subject to such duties, functions and powers having been delegated to him by the Police Designated Officer either generally or on an investigation specific basis:

Provided however, subject to provisions of this section in situations where the Police Designated Officer is unable to perform his duties, functions and powers under this Act due to illness, incapacity or any other reason, the Police Deputy Designated Officer shall be entitled to perform the Police Designated Officer's duties, functions and powers for a period not exceeding seven days, notwithstanding the absence of general or specific delegation.

(4) The Police Designated Officer and the Police Deputy Designated Officer shall be appointed by the National Police Commission based on three nominations each made in that regard by the Inspector General of Police.

(5) The Police Designated Officer and the Police Deputy Designated Officer shall be appointed for a period of three years each, and may be re-appointed for another term of three years, only:

Provided however, the first Police Deputy Designated Officer shall be entitled to hold office for a period not exceeding four years.

(6) Where the National Police Commission is unable to appoint a Police Designated Officer within seventy two hours following a vacancy arising in such position, for reasons to be recorded, the National Police Commission shall appoint the Police Deputy Designated Officer to act for the Police Designated Officer for a period not exceeding three months. The period of the acting Police Designated Officer shall not be extended.

(7) Where due to reasons of illness, incapacity or any other circumstances the Police Designated Officer is unable to perform his duties and functions for a period exceeding seven days, the National Police Commission shall appoint the Police Deputy Designated Officer to act for the Police Designated Officer for a period not exceeding three months. The period of the acting Police Designated Officer shall not be extended.

(8) The Police Designated Officer shall be subject to the superintendence of the Inspector General of Police and the National Police Commission with regard to the performance of his duties, functions and exercise of powers under this Act:

Provided however, for the purposes of this Act, the Inspector General of Police and the National Police Commission shall not be empowered to issue investigation-specific directions to the Police Designated Officer.

(9) The Police Designated Officer and the Police Deputy Designated Officer may be removed by the National Police Commission in consultation with the Inspector General of Police on grounds of-

- (a) acting contrary to the provisions of this Act or any other law;
- (b) committing of an offence in respect of any property or any part thereof which has been entrusted to him in terms of this Act;
- (c) acting contrary to an order of a court made under this Act;
- (d) acting in a manner which amounts to abuse of power;
- (e) acting in bad faith or otherwise conducting himself in a disreputable, corrupt, or any other manner which gives rise to questionable integrity or misconduct; or
- (f) acting in a manner defeating the objectives of this Act or failing to realize the objectives in an efficient manner.

Designated Officer and Deputy Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption

47. (1) For the purposes of this Act, there shall be a Designated Officer and a Deputy Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption, who shall perform the duties, functions and exercise powers conferred on him by this Act with the approval of the Commission.

(2) The Director-General of the Commission to Investigate Allegations of Bribery or Corruption shall be the Designated

Officer of the Commission to Investigate Allegations of Bribery or Corruption.

(3) The Commission to Investigate Allegations of Bribery or Corruption shall from among senior authorized officers of the Commission authorized to conduct investigations under the Anti-Corruption Act appoint an officer to function as the Deputy Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption for the purposes of this Act.

(4) The Designated Officer and the Deputy Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption shall be responsible to the Commission as regards the performance of his duties, functions and the exercise of powers conferred on him by this Act.

(5) The Deputy Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption shall be entitled to perform all such duties, functions and powers vested by this Act on the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption, subject to such duties, functions and powers having been delegated to him by the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption either generally or on an investigation specific basis with the approval of the Commission.

(6) Where the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption is unable to perform duties and powers under this Act due to illness, incapacity or any other reason, the Deputy Designated Officer of such Commission shall be entitled to perform the Designated Officers duties, functions and powers for a period not exceeding seven days, notwithstanding the absence of general or specific delegation.

(7) Where there exists a vacancy in the post of Director-General of the Commission to Investigate Allegations of Bribery or Corruption and the President acting in terms of subsection (2) of section 25 of the Anti-Corruption Act has empowered any other officer of the Commission to perform the duties and functions of the Director-General, such other officer during the pendency of such empowerment shall be entitled to perform the functions of the Designated officer of the Commission in the manner provided in this Act.

Functions to
be discharged
by Designated
Officers jointly

48. The Police Designated Officer and the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption shall –

- (a) regularly discuss and agree on the manner in which mutual cooperation may be extended between their respective institutions towards effectively achieving the objectives of this Act;
- (b) at a minimum of once in two months, jointly chair a meeting of Investigation Officers to discuss and agree on effective enforcement of provisions of this Act, and the manner in which the objectives of this Act may be achieved;
- (c) at a minimum of once in six months, jointly chair a meeting of the principal executive officers of public and statutory institutions which in terms of this Act are required to submit information pertaining to suspected proceeds of crime, to ensure that information specified in this Act is received;
- (d) develop and enforce-

- (i) pre-restraint and pre-seizure planning protocols to be applied by Investigation Officers prior to restraining and seizing suspected proceeds of crime; and
 - (ii) protection, preservation and management protocols following seizure of suspected proceeds of crime, pending an order for protection, preservation and management being made by the High Court;
- (e) at a minimum of once in six months, conduct a meeting with the Authority regarding the effective enforcement of the provisions of this Act; and
- (f) prepare and submit to Parliament an Annual Report setting out the manner in which the two institutions have given effect to provisions of this Act and achieved the objectives of this Act and publish such annual report in their respective websites.

49. (1) The duties, functions and powers of a Designated Officer under this Act shall be to-

Duties, functions
and powers of
a Designated
Officer

- (a) supervise the conduct of investigations into suspected proceeds of crime;
- (b) supervise the conduct of investigations into the committing of offences under this Act;
- (c) provide necessary direction to the Investigation Officer conducting such investigations and assign necessary resources for such investigations;

- (d) receive information pertaining to proceeds of crime submitted by institutions referred to in this Act;
- (e) authorize the issuing of seizing orders;
- (f) authorize the filing of action in the High Court to obtain judicial freezing orders;
- (g) provide training to Investigation Officers regarding the objectives of this Act, duties, functions and powers of Investigation Officers, and methodologies to be adopted in the conduct of investigations including special investigative techniques;
- (h) obtain advice from the Attorney-General pertaining to the performance of duties and functions, the exercise of powers and any other matter under this Act;
- (i) obtain the assistance of the Attorney-General with regard to court proceedings under this Act including making applications for judicial freezing and forfeiture of proceeds of crime;
- (j) obtain the assistance of the Attorney-General for the presentation of requests for mutual assistance pertaining to investigations into proceeds of crime from competent authorities of other jurisdictions and to represent the Designated Officer before foreign judicial, administrative, and law enforcement authorities;
- (k) obtain or procure the professional services of any local or foreign competent person,

institution or organization pertaining to money flow investigations, financial analysis, forensic accounting, forensic auditing, accessing of commercial data bases, tracing, identification, search, and examination of property suspected to be or containing proceeds of crime;

- (l) receive and process requests from foreign competent authorities pertaining to suspected proceeds of crime situated in Sri Lanka;
- (m) disseminate requests to foreign competent authorities pertaining to proceeds of unlawful activities committed in Sri Lanka believed to be located overseas;
- (n) maintain individually or in collaboration with the other Designated Officer a database containing information and statistics relating to action taken in terms of this Act towards the achieving of the objectives of this Act, and such information shall include properties under investigation, search of premises, tracing and locating of suspected proceeds of crime, imposition of preservation orders, seizures, judicial freezing of suspected proceeds of crime, institution of post-conviction and non - conviction based forfeiture proceedings and their outcome, arrest, remand, bail and prosecution of offenders.

(2) The duties, functions and powers of a Designated Officer specified in subsection (1) shall not derogate a Police Officer in his capacity as a Designated Officer under this Act from the duties, powers and functions as conferred on him by the Police Ordinance and the Code of Criminal Procedure Act.

(3) The duties, functions and powers of a Designated Officer specified in subsection (1) shall not derogate the Director-General of Commission to Investigate Allegations of Bribery or Corruption in his capacity as a Designated Officer under this Act from his duties, powers and functions under the Anti-Corruption Act.

Investigation
Officers

50. (1) A Police Investigating Officer shall be a police officer holding a rank not less than the rank of an Inspector of Police, who shall perform his duties, functions and powers conferred on him by this Act under the general supervision of the Police Designated Officer.

(2) An officer of the Commission to Investigate Allegations of Bribery or Corruption appointed by such Commission in consultation with the Director-General of that Commission shall be an Investigation Officer for the purposes of this Act, and he shall perform his duties, functions and powers conferred on him by this Act with the approval of the Designated Officer.

Duties and
powers of
Investigation
Officer

51. (1) An Investigation Officer shall have the duty and power to conduct investigations into the following: -

- (a) suspected proceeds of crime;
- (b) if in the course of an investigation into suspected proceeds of crime, information relating to the unlawful activity that yielded the proceeds of crime transpires, conduct investigation into such unlawful activity;
- (c) committing of offences contained in this Act.

(2) Nothing in paragraph (b) of subsection (1) shall prevent a law enforcement officer who is duly authorized

by law to conduct an investigation into the committing of an unlawful activity.

(3) Any investigation into unlawful activities which constitute offences under the Anti-Corruption Act shall be conducted only by authorized officers of the Commission to Investigate Allegations of Bribery or Corruption, unless such unlawful activity comes within the investigative purview of the Police as well.

(4) If in the course of an investigation conducted by a Police Investigation Officer into suspected proceeds of crime, information relating to the committing of an offence under the Anti-Corruption Act transpires, it shall be the duty of such Police Investigation Officer to transmit such information promptly to the Director-General of the Commission to Investigate Allegations of Bribery or Corruption through the Police Designated Officer.

(5) If in the course of an investigation conducted by an Investigation Officer of the Commission to Investigate Allegations of Bribery or Corruption into suspected proceeds of crime, information relating to the committing of an offence which comes within the investigative purview of Police transpires, it shall be the duty of such Investigation Officer of the Commission to Investigate Allegations of Bribery or Corruption to transmit such information promptly to the Police Designated Officer through the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption.

(6) When a matter is referred to the Police Designated Officer by the Commission to Investigate Allegations of

Bribery or Corruption, it shall be the duty of the Police Designated Officer to cause the conduct of investigations into such alleged offence and take necessary further action in terms of this Act.

(7) When a matter is referred to the Commission to Investigate Allegations of Bribery or Corruption by the Police Designated Officer, it shall be the duty of the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption to cause the conduct of investigation into alleged offence and to take necessary further action in terms of this Act.

(8) For the purpose of conducting investigations into the committing of unlawful activities, it shall be lawful for the Investigation Officer to use powers of investigations contained in this Act, in addition to the generality of powers of investigations vested in such Investigation Officer contained in the Code of Criminal Procedure Act and the Police Ordinance or the Anti-Corruption Act as the case may be.

(9) The duties, functions and powers of an Investigation Officer specified in this section shall not derogate the duties, powers and functions of a Police Investigation Officer conferred on him by the Police Ordinance and the Code of Criminal Procedure Act.

(10) The duties, functions and powers of an Investigation Officer specified in this section shall not derogate the duties, functions and powers of an Investigation Officer of the Commission to Investigate Allegations of Bribery or Corruption, from his duties, powers and functions under the Anti-Corruption Act.

PART II

INVESTIGATION INTO PROCEEDS OF CRIME, RESTRAINT AND SEIZURE

52. Subject to any administrative directions that may be given by a Designated Officer, an Investigation Officer may commence an investigation under this Act into suspected proceeds of crime, in one of the following ways:-

The manner in which an investigation into suspected proceeds of crime may commence

- (a) where in the course of an investigation conducted by himself or by any other person authorized by law to conduct an investigation into the committing of an unlawful activity, suspicion arises that any property is proceeds of crime of such unlawful activity;
- (b) upon the receipt of a report from an intelligence agency relating to suspected proceeds of crime;
- (c) upon the receipt of information provided by a person who has discharged his statutory duty in terms of this Act to provide information pertaining to proceeds of crime;
- (d) upon the receipt of a complaint or a petition from any person relating to proceeds of crime;
- (e) upon receipt of an order of a court of law to conduct an investigation into suspected proceeds of crime;
- (f) on the advice of the Attorney-General that an investigation in terms of this Act be conducted;
- (g) where an Investigation Officer or a Designated

Officer based on information or material available, forms a view that suspicion exist for him to be of the opinion that an identified property is proceeds of crime;

- (h) based on a report submitted to the Police Designated Officer by the Director-General of the Commission to Investigate Allegations of Bribery or Corruption relating to suspected proceeds of crime believed to have been derived by the committing of an unlawful activity which in terms of the Anti-Corruption Act does not come within the investigative purview of the Commission to Investigate Allegations of Bribery or Corruption;
- (i) based on a report submitted to the Director-General of the Commission to Investigate Allegations of Bribery or Corruption by the Police Designated Officer relating to suspected proceeds of crime believed to have been derived by the committing of an unlawful activity which comes within the investigative purview of the Commission to Investigate Allegations of Bribery or Corruption in terms of the Anti-Corruption Act;
- (j) on a report submitted to the Police Designated Officer or the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption by any other law enforcement authority pertaining to suspected proceeds of crime derived out of the committing of any unlawful activity which comes within the investigative purview of the Police or the Commission to Investigate Allegations of

Bribery or Corruption or such law enforcement authority, as the case may be;

- (k) on a report or information submitted to either the Police Designated Officer or the Designated Officer of Commission to Investigate Allegations of Bribery or Corruption by –
 - (i) a legislative, executive, judicial, regulatory, supervisory or administrative authority of a foreign country;
 - (ii) law enforcement or intelligence agency of a foreign country;
 - (iii) an international, regional, or multilateral organization or agency; or
 - (iv) by a mechanism or organization established under an international or regional arrangement to which Sri Lanka is party to;
- (l) following the receipt of a request from a foreign law enforcement authority including a request under the Mutual Assistance in Criminal Matters Act;
- (m) based on a report received from the International Criminal Police Organization (INTERPOL);
- (n) following the receipt of a suspicious transaction report or other report or communication from the Financial Intelligence Unit;
- (o) on a report including an interim report from a Commission of Inquiry appointed under the

Commissions of Inquiry Act (Chapter 393) or from a Commission appointed under the Special Presidential Commissions of Inquiry Law, No. 7 of 1978;

- (p) on information provided in terms of this Act by a person who has been vested with the duty to provide information;
- (q) on the receipt of a report or a communication by Parliament or a committee thereof which discloses reasonable grounds to believe that a particular property is proceeds of crime;
- (r) upon a report from the Public Service commission;
- (s) on a report from the National Police Commission;
- (t) based on a report of or a communication from the Auditor-General;
- (u) on a report from a lawfully established disciplinary body;
- (v) on a report of the Director (Bank supervision) appointed under the Banking Act, No. 30 of 1988;
- (w) on a report of the Director (Non-Banking Financial supervision of the central Bank of Sri Lanka) appointed under the Finance Business Act, No. 42 of 2011;
- (x) on a report of National Gem and Jewellery Authority established under the National Gem and Jewellery Authority Act, No. 50 of 1993;

- (y) on a report or information submitted by any other person conferred with a duty under this Act to provide information pertaining to proceeds of crime;
- (z) on a report or information submitted by the principal investigation officer who has conducted either wholly or partly an investigation of an offence under the Prevention of Offences relating to Sports Act, No. 24 of 2019;
- (aa) on a report or information submitted by any Organization recognized as a National Sports Association in terms of the Sports Law, No.25 of 1973;
- (bb) on a report by any Local Authority, the Urban Development Authority established under the Urban Development Authority Law, No. 41 of 1978 or the Construction Industry Development Authority established under the Construction Industry Development Authority Act, No. 33 of 2014 and the Condominium Management Authority established under the Apartment Ownership Law, No. 11 of 1973; and
- (cc) upon any observation of a Designated Officer or an Investigation Officer regarding the existence of proceeds of crime, or such observation by any peace officer which is conveyed by such peace officer to a Designated Officer or an Investigation Officer.

The manner of
conducting an
investigation
under this Act

53. (1) Upon receipt of an information in any one of the ways specified in section 52, the Investigation Officer shall, where necessary, take steps to conduct a fact finding. The objective of conducting a fact finding shall be the determination of the veracity of the information received in any one of the ways specified under section 52:

Provided however, if upon an examination of the information received in the ways specified under section 52, any observation of a Designated Officer or an Investigation Officer regarding the existence of proceeds of crime or the receipt of any observation regarding the existence of proceeds of crime by a Peace Officer conveyed to a Designated Officer or an Investigation Officer which the latter shall deemed to be credible, the Investigation Officer has reasonable grounds to believe the truth of the information contained therein, he may without conducting a fact finding, for such reasons to be recorded, commence the conduct of an investigation as provided in this Act:

Provided however, the commencement of such investigation shall be subject to subsection (4) of this section:

Provided further, if the information received in the ways specified under section 52 reveals reasonable grounds for the Investigation Officer to believe the identity and the location of proceeds of crime, it shall not be necessary for the Investigation Officer to conduct investigations under this section to validate the facts, trace and identify the property, or conduct investigations, as stated herein before, and shall be entitled to take necessary action to -

- (a) serve a notice calling for explanation;
- (b) restrain the use of the property, issue a direction for the preservation of the property; or

- (c) seize such property,

as provided under this Act.

(2) For the purposes of this Act, a ‘fact finding’ shall mean a preliminary examination of available information and material, and engaging in a process of verification of the information received in the ways specified under section 52, without conducting any activity that would have the effect of infringing any rights of any person for the purpose of determining whether the information contained therein is credible and relates to proceeds of crime.

(3) An Investigation Officer conducting a fact finding under this Act shall for the purpose of verification of the information received in the ways specified under section 52, be entitled to exercise any power of investigation provided in this Act in a manner that would not infringe any right or privilege of any person recognized by written law:

Provided however, a fact finding shall not be conducted in a manner that would adversely affect the conduct of legitimate trade, commerce, financial activity or any profession or occupation.

(4) Upon the completion of the fact finding referred to in subsection (1), the Investigation Officer shall consult the Designated Officer for the purpose of determining -

- (a) whether it would be necessary to commence the conduct of an investigation into the suspected proceeds of crime; and
- (b) whether the monetary value of the suspected proceeds of crime will be sufficiently high so as to justify and necessitate the conduct of an

investigation into the suspected proceeds of crime under this Act; and

the determination arrived at shall be recorded. The reasons for such determinations shall be recorded and signed by both the Investigation Officer and the corresponding Designated Officer.

(5) Where upon verification, the information or part thereof received in any one of the ways specified under section 52 is found to be credible and that it relates to proceeds of crime, and therefore the commencement of an investigation under this Act is necessary, an Investigation Officer shall subject to the approval of and general or special directions issued by such Designated Officer, commence and conduct an investigation under this Act:

Provided however, where, given the attendant circumstances, obtaining the prior approval of the Designated Officer may not be practicable or may defeat the objectives of this Act, an Investigation Officer may for reasons to be recorded, on his own motion commence the investigation and thereafter as soon as possible obtain approval of the Designated Officer.

(6) Upon a report being presented to the Designated Officer by an Investigation Officer under this section, he may approve or refuse to approve the commencement of an investigation. Where the Designated Officer refuses to approve the commencement of an investigation, he shall record reasons therefor, and if he is the Police Designated Officer submit to the Inspector General of Police a report in respect of such decision not to approve the conduct of an investigation. Where the Designated Officer be the Director-General of the Commission to Investigate Allegations of Bribery or Corruption, he shall submit such report to the Commission.

(7) Where necessary, the Investigation Officer shall take steps to trace and identify the property which is believed to be proceeds of crime.

54. Following the commencement of an investigation under this Act, an Investigation Officer shall have the following powers of investigation: -

Powers of
Investigation of
an Investigation
Officer

- (a) require any person believed to be acquainted with information or any fact relating to suspected proceeds of crime including the committing of an unlawful activity, to answer questions put to him by such Investigation Officer, and to provide a written statement on matters specified by such Investigation Officer;
- (b) video record the conduct of an interview with any person and the making of his statement;
- (c) issue notice in terms of section 68 of this Act, and call for any information to facilitate the conduct of an investigation into suspected proceeds of crime;
- (d) take steps that may be necessary for the identification, tracing, recovery and examination of suspected proceeds of crime;
- (e) provide necessary protection and preservation to restrained, seized or frozen proceeds of crime;
- (f) conduct of financial analysis including analysis that may involve the use of specialized digital and other programmes;

- (g) obtain a valuation of suspected proceeds of crime;
- (h) obtain a certified copy of a declaration of assets and liabilities submitted in terms of the Anti-Corruption Act;
- (i) examine and take into custody documents, material and information contained in any file, record, digital storage device or in any other location, believed to contain material, data and information pertaining to proceeds of crime being investigated into.

Powers of
Investigation of
an Investigation
Officer with
the sanction of
the Designated
Officer

55. (1) Following the commencement of an investigation under this Act, an Investigation Officer shall with the sanction of the Designated Officer have the power to :-

- (a) as provided in the subsequent provisions of this Act, restrain any person from using or transacting with a property and requiring any person to preserve such property which the Investigation Officer has reasonable grounds to suspect to be proceeds of crime in a manner specified by him in a written restraining order;
- (b) to issue a restraining and preservation order, on any person having possession of, dominion, custody or control over proceeds of crime, which shall contain a direction of what action in respect of such property has been restrained;
- (c) as provided in the subsequent provisions of this Act, seize any property which the Investigation Officer has reasonable grounds to suspect to be proceeds of crime:

Provided however, prior to seizing any suspected proceeds of crime, the Investigation Officer shall consider-

- (i) the approximate monetary value of the suspected proceeds of crime;
- (ii) whether that value exceeds the value specified by the Authority as being the minimum value of the property that may be seized; and
- (iii) whether it would be economically viable to protect, preserve and manage the seized property, pending an order for protection, preservation and management being obtained from the High Court:

Provided further, notwithstanding the value of the property to be seized being minimal or less than the amount specified by the Authority, if the Investigation Officer in consultation with the Designated Officer forms the opinion that public interest demands the seizure of the suspected proceeds of crime, the Investigation Officer shall for reasons to be recorded in that regard, seize such property in terms of this Act;

- (d) take possession of seized proceeds of crime;
- (e) apply for, obtain, serve and enforce a judicial freezing order relating to a restrained or seized proceeds of crime;
- (f) conduct an investigation into proceeds of crime either jointly or with the assistance of a local or foreign law enforcement authority;

- (g) request the Attorney-General to consider the institution of proceedings for judicial freezing or forfeiture of suspected proceeds of crime; and
 - (h) conduct or cause the conduct of surveillance through intelligence gathering agencies of the Sri Lanka Police and gather information pertaining to –
 - (i) suspected proceeds of crime;
 - (ii) committing of an unlawful activity;
 - (iii) transactions pertaining to suspected proceeds of crime; and
 - (iv) the possession, dominion, custody, control and use of suspected proceeds of crime.
- (2) Where surveillance under paragraph (h) of subsection (1) involves -
- (a) interception of private communication with or without recording;
 - (b) digital surveillance within private premises of a person under surveillance; or
 - (c) any other surveillance, which would relate to the personal life of any person, which is not in public,

such surveillance shall be conducted only with the prior authorization obtained from the Magistrate to whom the commencement or the conduct of the investigation has already been reported and if no such report has been

presented, to the Magistrate having territorial jurisdiction of the place of such surveillance:

Provided however, if based on grounds of urgency or for grounds beyond the control of the Investigation Officer, obtaining the prior authorization from the Magistrate may defeat the objectives of this Act, having the reasons for taking such action be recorded contemporaneously by the Investigation Officer, the surveillance may be carried out without obtaining such prior authorization:

Provided further such Investigation Officer shall notify the relevant Magistrate by a confidential communication within twenty four hours of the conduct of such surveillance.

(3) An application for the authorization of the Magistrate for surveillance under subsection (2) shall be made by a confidential application in that regard, which shall be considered by the Magistrate in *ex-parte* and *in-camera* proceedings. The Magistrate shall take every reasonable step to hold such application and the order made in that regard in confidence.

(4) The Magistrate shall prior to granting authorization for surveillance under subsection (2) consider the legality, necessity and justification based on the principle of proportionality for such investigative measure to be carried out.

56. (1) Following the commencement of an investigation under this Act, an Investigation Officer shall, subject to compliance with administrative directions, have the entitlement to make a confidential application to the Magistrate's Court having territorial jurisdiction to the relevant location where the suspected proceeds of crime are believed to be located or where such location is

Judicial
authorization
to conduct the
investigations

outside Sri Lanka or unknown to the Investigation Officer to the Magistrate's Court of Colombo, and following an *ex-parte in-camera* hearing, be entitled to obtain a Magisterial authorization or order to facilitate the conduct of the investigations.

(2) Upon the receipt of an application from an Investigation Officer under this section, the Magistrate shall *in-camera* and in *ex-parte* proceedings forthwith consider the application, and upon being satisfied that the granting of the authorization shall be necessary to realize the objectives of the Act, grant such authorization or issue an order subject where necessary to any conditions which the Magistrate shall deem necessary.

Entry, Search
and Examine

57. (1) Subject to the provisions of section 56, an Investigation Officer shall have the power to enter, search and examine and where necessary take possession of any premises, location, facility, network, digital data storage device, any other property or thing, or person for the tracing, location, identification or ascertaining the nature and the existence of suspected proceeds of crime and its connection with the committing of any unlawful activity:

Provided however, if based on grounds of urgency or for grounds beyond the control of the Investigation Officer obtaining the prior authorization from the Magistrate may defeat the objectives of this Act, having the reasons for taking such action be recorded contemporaneously by the Investigation Officer, the search may be carried out without obtaining such prior authorization. Such Investigation Officer shall report the conduct of such search to the relevant Magistrate, within twenty four hours of the conduct of such search.

(2) It shall be the duty of any person having control, possession or dominion of any premises, location, facility, network, digital data storage device, any other property or thing, or person, to permit an Investigation Officer exercising the power of search in terms of this section and to facilitate such search.

(3) If entry or access into any premises, location, facility, network, digital data storage device, any other property or thing, or access to a person is not possible or has been obstructed, it shall be lawful for an Investigation Officer exercising the power of search to take necessary measures which may include the use of necessary force, to gain entry or access into such premises, location, facility, network, digital data storage device, any other property or thing, or person for the purpose of searching such premises or location.

58. Subject to the provisions of section 56, an investigation officer shall have the power to:-

Power to
obtain information

- (a) obtain details pertaining to banking relationships including bank accounts, deposits, loans, other facilities and other similar banking instruments, and information relating to the use of online banking facilities;
- (b) obtain details pertaining to financial instruments or products and services from any other financial institution or designated non-financial businesses and professions or virtual assets service provider;
- (c) obtain details relating to access and the use and carrying out of transactions pertaining to or using crypto currency, bitcoins, block chain transactions and other similar transactions using digital media;

- (d) obtain details pertaining to financial instruments or products and services from any financial institution unregistered and non-regulated;
- (e) obtain details pertaining to virtual trading such as forex, futures and commodity trading;
- (f) obtain copies of and information contained in declarations made to the Commissioner-General of Inland Revenue;
- (g) obtain copies of and information contained in and relating to declarations made to the Director-General of Customs;
- (h) obtain declarations and information provided to the Registrar General or to the Registrar General of titles;
- (i) obtain copies of deeds and other conveyances filed in land or title registries;
- (j) obtain information available at the head of the department of foreign exchange;
- (k) obtain telephone and mobile phone call records, transmission details, call termination details, use of digital data services, traffic data, access to internet portals and gateways;
- (l) obtain details pertaining to equity ownership, share and other equity transactions;
- (m) obtain the extraction of data and information from any digital device including digital data storage devices:

Provided however, it shall be lawful for an Investigation Officer to take custody of such device and retain it until obtaining a Magisterial order;

- (n) obtain a direction on any person who is believed to possess the username and password or any other information to gain access to a digital device, digitized application, website, server, or any other cyber or networked environment;
- (o) take steps necessary to unencrypt any digital device or digital storage or to break or bypass its access codes;
- (p) require any principal or chief executive officer of any institution or any other person of such institution to notwithstanding any provision of any law, contractual or other obligation that demand such institution or other person to maintain confidentiality relating to data and information that they may have in possession or to which they have access to provide -
 - (i) such information;
 - (ii) certified copy of documents, files and registers; or
 - (iii) any digital device,to the investigation officer;
- (q) obtain any information sought directly by an Investigation Officer and not made available to him by the person possessing such information or material;

- (r) obtain an order on any person not referred to above to provide any data or information in such form and manner as may be specified in such order including a certified copy of any existing document or any other information not referred to above which may be necessary for the conduct of investigations;
- (s) access any public or private repository of data and information relating to any property, and information relating to persons claiming ownership, possession, having custody, dominion or control over such property.

Preservation of
information

59. (1) Where an Investigation Officer is satisfied -

- (a) that any information or data stored in any electronic device is reasonably required for the purposes of an investigation under this Act; and
- (b) that there is a risk that such information or data may be lost, destroyed, modified or rendered inaccessible,

such Investigation Officer may by written notice require the person in control of such electronic device to ensure that the information or data be preserved for such a period not exceeding thirty days as may be specified in such notice.

(2) On an application made to a Magistrate, the period for which the information or data is to be preserved may be extended for such further period.

60. (1) An investigation officer shall have the power to conduct the following special investigative techniques subject to the judicial authorization from a Magistrate as specified in section 56 :-

Judicial
authorization
for special
investigative
techniques

- (a) controlled delivery;
- (b) digital surveillance which includes the interception and recording of digital, voice, video communication;
- (c) undercover operations including those involving the use of decoys;
- (d) laying of traps; and
- (e) forensic extraction of data, information and images, from computers, mobile phones, digital data storage devices, and other digital equipment.

(2) Upon the receipt of an application as afore-stated from an Investigation Officer the Magistrate shall without delay consider the said application and upon being satisfied grant authorization for the conduct of necessary special investigations. Where necessary the Magistrate may in the interest of justice impose conditions to be complied with.

(3) The Magistrate shall prior to granting authorization for the conduct of a special investigative technique consider the necessity and justification for its conduct based on the principle of proportionality for such investigative technique to be carried out.

(4) Following the obtaining of authorization as referred to above, the Investigation Officer shall once in fourteen

days report progress of such investigation using the special investigative technique for which authorization has been obtained to the relevant Magistrate.

Judicial order
on any person to
conduct activity
necessary for
investigations

61. An investigation officer shall have the power to obtain a judicial order on any person requiring to conduct any activity that may be necessary for the conduct of investigations into suspected proceeds of crime, including the conduct of-

- (a) a forensic audit;
- (b) digital forensic extraction of data and information;
- (c) valuation of the property;
- (d) copying and storage of data and information in digital storage devices;
- (e) forensic analysis of any transaction relating to property; and
- (f) any other activity that is necessary to achieve the objectives of this Act:

Provided however, where such activity is directed to be conducted by a private party, the Magistrate shall in consultation with the relevant service provider determine fees to be payable and require the relevant law enforcement authority to pay such fees.

Professional
services may
be used for
investigations

62. Where a Designated Officer has obtained or procured the professional services of local or foreign competent person or an institution or organization pertaining to money flow investigations, financial analysis, forensic accounting, forensic auditing, accessing of commercial data bases,

tracing, identification, search, and examination of property suspected to be or containing proceeds of crime, it shall be lawful for an Investigation Officer to act upon the material and information collected through such process for the purposes of –

- (a) carrying out further investigations;
- (b) forming an opinion regarding property under investigation; and
- (c) taking any action in terms of this Act.

63. (1) An Investigation Officer shall, for the purpose of achieving the objectives of this Act, conduct further investigations, and shall in particular-

Further
investigations

- (a) take necessary steps to identify, search, trace, recover and examine the suspected proceeds of crime;
- (b) determine whether the identified property or part thereof is proceeds of crime or has been derived out of the committing of an unlawful activity;
- (c) collect evidence relating to the committing of such unlawful activity, including the identity of the person who committed such unlawful activity;
- (d) collect evidence relating to both the past and present possession, custody, control, use and dominion of the property;

- (e) identify the person who may have beneficial interest in such property;
- (f) determine the unlawful activity which yielded the identified proceeds of crime;
- (g) determine the nature and the approximate value of such property;
- (h) ascertain any information as may be necessary to cause the restraint, seizure and judicial freezing of such property;
- (i) gather such other and further information as may be necessary to achieve the objectives of this Act; and
- (j) take such further action as may be necessary to achieve the objectives of this Act.

(2) For the purposes of achieving the objectives set-out in subsection (1), an Investigation Officer shall be entitled to exercise the powers of investigation vested on him under this Act.

(3) Where at any point of time reasonable grounds exist that a property being investigated into is proceeds of crime, steps with regard to the restraint, preservation or seizure of such property as provided in this Act may be carried out by an Investigation Officer notwithstanding further investigations as provided in subsection (1) not been completed.

Objectives of
conducting
investigation
and further
investigation

64. The objectives of conducting any investigation or further investigation as provided in this Act, shall *inter-alia* be –

- (a) to determine whether the property being investigated into is proceeds of crime;
- (b) to determine whether any offence as contained in this Act pertaining to such property has been committed, and if so to identify the person who committed such offence and to gather evidence for the prosecution of such offender; and
- (c) for the purpose of identifying the unlawful activity which yielded such property and gathering evidence relating to such unlawful activity that may enable successful prosecution of judicial proceedings for the forfeiture of such proceeds of crime.

65. (1) An investigation into suspected proceeds of crime may continue notwithstanding the seizure or judicial freezing of such suspected proceeds of crime.

General provisions relating to investigations

(2) An Investigation Officer conducting an investigation in terms of this Act shall be entitled to take into consideration and act upon material and information contained in notes of investigations pertaining to an investigation conducted with regard to the committing of any unlawful activity.

(3) A Police Investigation Officer shall be entitled to take into consideration and act upon material and information contained in notes of investigation pertaining to an investigation conducted in whole or part by the Commission to Investigate Allegations of Bribery or Corruption into an offence contained in Anti-Corruption Act:

Provided however, he shall make an application for such notes of investigation through the Police Designated Officer who shall convey such request to the Designated

Officer of the Commission to Investigate Allegations of Bribery or Corruption. Upon receipt of a request from the Police Designated Officer, notwithstanding anything to the contrary in Anti-corruption Act, the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption shall make available the required material to the Police Designated Officer.

(4) The Police Designated Officer and the Police Investigation Officer shall be obliged to maintain confidentiality relating to information contained in material so received unless for the purpose of giving effect to the provisions of this Act.

(5) The Commission to Investigate Allegations of Bribery or Corruption and its officers who are empowered to act in terms of this Act shall if made available or received through lawful means notes of investigations relating to investigations conducted in terms of this Act by a Police Investigation Officer take into consideration and act upon information and material contained in the said notes of investigations with or without any further investigations being conducted by an Investigation Officer of the Commission to Investigate Allegations of Bribery or Corruption.

(6) It shall be lawful for the Commission to Investigate Allegations of Bribery or Corruption and the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption to act in terms of this Act and make applications for forfeiture of proceeds of crime based on a consideration of the said material and where necessary on any further material that may be collected in the course of any further investigations conducted by the Commission to Investigate Allegations of Bribery or Corruption.

(7) Notwithstanding anything to the contrary in this Act, where in the course of an investigation into any offence being conducted in terms of any other law, a police officer conducting such investigation or any other police officer acting on the instructions of such officer conducting the investigation, finds in the course of such investigation the proceeds of such offence, he shall have the power to seize such proceeds of crime, and take action in terms of this Act or deal with such property in terms of any such other law under which such investigation was being conducted.

Example-

A police officer who receives information regarding an instance of theft commences the conduct of an investigation in to such theft in terms of the Code of Criminal Procedure Act. In the course of the investigation during the conduct of a search he locates property which he has reasonable grounds to believe is proceeds of committing theft. Notwithstanding anything to the contrary in this Act, he shall be entitled to take action in terms of Code of Criminal Procedure Act to take such property into his possession and take further action in terms of the law.

(8) It shall be lawful for the Attorney-General, the Commission to Investigate Allegations of Bribery or Corruption, a Designated Officer and an Investigation Officer to take into consideration and act upon any information and material contained in proceedings of inquiry and investigations conducted by a Commission appointed under Special Presidential Commission of Inquiry Law No. 7 of 1978 or a Commission of Inquiry appointed under Commission of Inquiry Act (Chapter 393) so far as such information or material relates to proceeds of an unlawful activity.

(9) Subject to necessary authorization that may have to be obtained from the competent authorities of a foreign country and subject to administrative approval, an Investigation Officer shall be entitled to carry out the entire or part of an investigation under this Act in a foreign country. For such purpose, an Investigation Officer may obtain the assistance of a law enforcement officer of such foreign country.

(10) Where a law enforcement officer of a foreign country provides assistance to an Investigation Officer and therefor conducts any investigation pertaining to suspected proceeds of crime, it shall be deemed that such investigation or part thereof was conducted by an Investigation Officer, and evidence may be presented in judicial proceedings founded upon material collected by such foreign law enforcement officer.

Clarification:

For the purpose of obtaining the assistance of a foreign law enforcement officer in the conduct of an investigation in a foreign country, an Investigation Officer need not have been present in such foreign country when the relevant part of the investigation was being conducted.

(11) The Designated Officers and Investigation Officers of Sri Lanka Police and the Commission to Investigate Allegations of Bribery or Corruption shall take appropriate measures for the protection and preservation of information and other material received by such officers under this Act and gathered in the course of an investigation. Such information and material shall be used only under the provisions of this Act for the purposes set out in the Act.

66. A Designated Officer or an Investigation Officer may take any other appropriate steps not inconsistent with the provisions of this Act to achieve the objectives of this Act and to facilitate the carrying out of the powers and functions vested in such officers under this Act or by any other written law.

Designated Officer or Investigation Officer may take steps not inconsistent with the provisions of this Act

67. As regards matters of procedure for which special provisions have not been made by this Act or by any other law for the time being in force, such procedure as the justice of the case may require and as is not inconsistent with the provisions of this Act may be followed.

Cases not provided for in any other law

68. (1) If upon the information available pertaining to suspected proceeds of crime, and where necessary, following a fact finding or an investigation, if there is reasonable grounds to believe that an identified property is proceeds of crime, an Investigation Officer may following a contemporaneous recording of reasons and with the approval of the corresponding Designated Officer, serve on-

Notice calling for explanation

- (a) the person having possession, custody, control, or dominion of such property;
- (b) the person who is registered or is known to claim, the ownership of such property;
- (c) any person having beneficial interests in such property;
- (d) the agent, nominee, representative, manager, principal officer, or attorney of the persons referred to in paragraphs (a), (b) or (c) of this subsection; or

- (e) any one of the persons set out in paragraphs (a), (b), (c) or (d) of this subsection,

a notice in the form specified in Schedule I to this Act.

(2) The Notice under subsection (1) shall require the person to whom the Notice is served to provide accurate information regarding the -

- (a) manner in which he acquired, came into possession, is owning, controlling, having dominium or using such property;
- (b) the lawfulness of his acquisition, possession, owning, controlling, having dominium or using such property, including the sources of the consideration provided for such acquisition, possession, control, dominium, or use;
- (c) identity of the person from whom he received the property and the circumstances pertaining to such receipt; and
- (d) any other information pertaining to such property as may be specified in such notice.

(3) Such notice shall be served for the purpose of obtaining explanation and information pertaining to the property described in such notice, and specifically for the purpose of ascertaining *inter alia*-

- (a) whether the identified property is proceeds of crime;
- (b) whether the property has been derived out of the committing of one or more specific unlawful

activities, and if so that identity of such unlawful activity that yielded such proceeds of crime and evidence relating to such unlawful activities;

- (c) whether any person has committed an offence under this Act in respect of such property;
- (d) the identity of the person who had committed the corresponding unlawful activity; and
- (e) the evidence relating to such unlawful activity and the proceeds of crime.

(4) For the purpose of this section “serve” mean manually, transmitted through registered post or electronically, and includes situations where the acceptance was rejected by the recipient.

(5) Nothing in this Act shall prevent an Investigation Officer from serving an Order in terms of subsection (1) of section 71 at the time of or soon after serving a notice calling for explanation under subsection (1) of this section or upon receiving an explanatory statement under subsection (1) of section 69.

69. (1) Upon receipt of a notice under section 68, it shall be the duty of the person who receives such notice to not later than three working days from the receipt of such notice provide a true and descriptive response thereto (referred to in this Act as the ‘explanatory statement’) in writing in the form of a sworn or affirmed statement:

Explanatory
statement

Provided however, the person to whom the Notice is served, may for sufficient reasons to be given to the Investigation Officer, seek in writing, and where such reasons are found to be *bona fide*, obtain a further extendable

period which shall not exceed a period of fourteen days for the submission of the explanatory statement:

Provided further, the Investigation Officer may in such circumstances issue a restraining order, in addition to other circumstances in which a restraining order may be issued under this Act for the purpose of ensuring that the objectives of this Act are not defeated, which shall be valid only for a period of seventy-two hours from the time the explanatory statement is received by him.

(2) Upon receipt of the explanatory statement, the Investigation Officer shall consider and determine whether reasonable grounds exists that the property being investigated into is proceeds of crime. For such purpose where necessary, he may conduct further investigations which shall include interviewing and recording a statement of the person who submitted the explanatory statement and statements of such other and further persons.

(3) Where a notice under section 68 is to be served on a sole proprietorship, the notice shall be served on the proprietor. It shall be the duty of such proprietor to respond to such notice in the manner provided herein before.

(4) Where notice under section 68 is to be served on a partnership the notice shall be served on any partner thereof and it shall be the duty of such partner to respond to such notice in the manner provided hereinbefore. Following compliance with such notice such partner shall obtain a memorandum signed by all partners of the partnership, ratifying the contents of the explanation provided or setting out their individual explanation, and submit it to

the Investigation Officer within three weeks. It shall be the duty of all partners of a partnership to either ratify the afore-stated memorandum or provide to the relevant Investigation Officer his own explanation.

(5) Where notice under section 68 is to be served on an unincorporated body of persons, the notice shall be served on a principal office bearer or in the absence of such officer on any other office bearer thereof and it shall be the duty of such office bearer to respond to such notice in the manner provided herein before. Following compliance with such notice such office bearer shall obtain a memorandum signed by all office bearers of the unincorporated body of persons ratifying the contents of the explanation provided or setting out their individual explanation, and submit it to the Investigation Officer within three weeks. It shall be the duty of all office bearers to either ratify the afore-stated memorandum or provide to the relevant Investigation Officer his own explanation.

(6) Where notice under section 68 is to be served on an incorporated body of persons, the notice shall be served on the Managing Director or in his absence any Director thereof and it shall be the duty of such Director to respond to such notice in the manner provided herein before. Following compliance with such notice such Director shall obtain a memorandum signed by the Board of Directors of the incorporated body of persons ratifying the contents of the explanation provided or setting out their individual explanation and submit it to the investigation officer within three weeks. It shall be the duty of all Directors to either ratify the afore-stated memorandum or provide to the relevant Investigation Officer his own explanation.

Termination of
investigation

70. (1) Any person who has made a complaint, provided information or submitted a report to a Designated Officer or an Investigation Officer under any provision of this Act shall be provided with an acknowledgment of the receipt of such complaint, information, or report.

(2) Upon a request by any person, who has made a complaint, provided information or submitted a report to a Designated Officer or an Investigation Officer under any provision of this Act, for information relating to the commencement or progression of such investigation, it shall be the duty of the corresponding Designated Officer to provide the information sought, provided the release of such information does not prejudice the investigation being conducted. The provisions of subsection (1) of section 5 of the Right to Information Act shall apply to any complaint, information, report, or investigation being conducted.

(3) Following the conduct of investigations and necessary further investigations as provided herein before, if the Designated Officer on a report by the Investigation Officer and upon consideration of the notes of such investigations conclude that reasonable grounds do not exist that the property investigated into is proceeds of crime, he shall for reasons to be recorded therefor, direct the termination of the conduct of investigations. Where the identity of the person who submitted the relevant information, complaint, petition, or report be known, convey to such person the decision to terminate investigations and reasons therefor.

The manner and
circumstances
of issuing
restraining order
or preservation
order

71. (1) If at any point of time, an Investigation Officer forms reasonable grounds for him to believe and such opinion is endorsed by the Designated Officer that –

- (a) the objectives of this Act can be achieved without seizing such property which is reasonably

believed to be proceeds of crime or a property to the corresponding value of such proceeds of crime; and

- (b) it would for reasons to be recorded be necessary to direct the person who is in possession, has custody, control or dominion of the property not to engage in any particular transaction relating to such property and to take necessary steps to preserve the property,

the Investigation Officer shall serve an order on the person who is having possession, control, custody or dominion over the property requiring such person to refrain from engaging in any activity specified by him (in this Act referred to as the “restraining order”) or to take necessary steps to preserve the property (in this Act referred to as the “preservation order”).

(2) A restraining order and a preservation order shall be in the form specified in Schedule II, and Schedule III respectively to this Act.

(3) A restraining order or preservation order shall not include a prohibition on the regular bona-fide use of such property in a manner that may not result in a significant depreciation of its value or otherwise handling such property in a manner that may not defeat the objectives of this Act.

(4) A restraining order and preservation order unless vacated earlier, shall remain in force for a period specified in such order which shall not exceed thirty days.

(5) An Investigation Officer shall for reasons to be recorded, be entitled to extend the operational period of a restraining order or a preservation order for a period of another thirty days at a time on two more occasions, so as not to exceed a total period of such an order to ninety days.

(6) Any restraining order shall require the person to whom such order is imposed not to engage in any activity prohibited by such restraining order, or other activity that would defeat the objectives of this Act being carried out without the approval of the relevant Investigation Officer, unless the same is vacated earlier or a period of thirty days have lapsed since the serving of such restraining order.

(7) Any preservation order shall require the person to whom such order is imposed to take necessary measures so as to preserve the value and present condition of the relevant property in the manner in which it exists and not engage in any activity which may result in the property decaying, getting destroyed or otherwise its value getting depreciated, or engage in any other activity that may defeat the objectives of this Act being carried out without the approval of the relevant Investigation Officer, unless the same is vacated earlier or a period of thirty days have lapsed since the serving of such preservation order.

(8) Where necessary, a restraining order or a preservation order may be issued by an Investigation Officer on any person or institution that is capable of restraining any transaction in respect of or preserving the value of the property suspected to be proceeds of crime, and in which event, it shall be the duty of such person or institution to act in terms of the relevant order.

Clarification:

An Investigation Officer acting in terms of this section may issue a preservation order on a bank which has a bank account being maintained by a third party, which the Investigation Officer reasonably believes to contain a specified amount of proceeds of crime. When such order is received, it shall be the duty of such bank to preserve in the account the sum of money

stipulated in such order which is believed to be proceeds of crime, and subject thereto permit the account holder to operate the account.

(9) If the Investigation Officer for reasons to be recorded is satisfied that it shall not be necessary to seize the property in respect of which the restraining order or a preservation order has been issued, he shall directly make an application to the High Court in terms of section 75 for the judicial freezing of the said property.

72. (1) An Investigation Officer may seize a property which he has reasonable grounds to believe is proceeds of crime, or a property to the corresponding value of such proceeds of crime where the proceeds of crime cannot be identified or is not available, including any property which has been subjected to a restraining order or a preservation order.

Seizure of
suspected
proceeds of
crime

(2) Where a notice calling for explanation has been served on any person under section 68 in respect of any property, such property shall not be seized, unless –

- (a) such person has not provided a truthful explanation within the time frame stipulated;
- (b) the explanation provided is found to be false, inaccurate, insufficient or misleading; or
- (c) it transpires that the property in issue had been received by gift, procured or derived in a fraudulent manner.

(3) Upon seizure of a suspected proceeds of crime or a property of the corresponding value of the proceeds of crime, the Investigation Officer shall take possession, control,

custody or dominion of such property, by serving on the person who is in possession, control, custody or dominion of such property a notice of seizure in the form specified in Schedule IV to this Act and thereby take effective possession, control, custody or dominion of such property:

Provided however, if the person who is in possession, control, custody or dominion of such property presents credible material to the Investigation Officer to satisfy him that the property in issue had been inherited by him a minimum of thirty years prior to such date on which the notice calling for explanation has been served, no further action shall be taken by the Investigation Officer under this Act:

Provided further, notwithstanding anything to the contrary in the above proviso, if there exists *prima facie* material that the property in issue had been originally procured by the committing of an unlawful activity that had an adverse impact on public finance or public property as defined in the Offences Against the Public Property Act, notwithstanding the lapse of thirty years from the point of inheritance of such property, it shall be lawful for an Investigation Officer to seize such property.

(4) If based on the material available there exists reasonable grounds for the Investigation Officer to believe that a property is proceeds of crime or is a property to the corresponding value of proceeds of crime and that unless immediate steps are taken to seize such property the objectives of this Act would be defeated, he shall be entitled after obtaining the approval of the Designated Officer, to take steps to temporarily seize the property at the time a notice calling for explanation under section 68 is served:

Provided however, if any suspected proceeds of crime or a property to the corresponding value of proceeds of crime is temporarily seized at the time a notice calling for explanation is served, such seizure shall remain valid only till the explanatory statement to the notice calling for explanation is received by the Investigation Officer, and until he has had reasonable time to consider the explanation provided in the explanatory statement and either accept or reject such explanation, and take a decision thereon.

(5) If the Investigation Officer upon a consideration of the explanatory statement decides to accept the explanation, he shall vacate the order of temporary seizure and return possession of the property to the party from whom its possession was obtained. If the Investigation Officer decides to reject the explanation provided in the explanatory statement, he shall be entitled to make a further order in terms of this Act to seize the property and thereby retain possession of the property.

(6) Unless as provided in subsection (2), a property shall not be seized unless an opportunity had been provided to the person who claims ownership, possession, or has custody, control or dominion of such property to explain that such property is not proceeds of crime, and the explanation provided in the explanatory statement had been rejected by the Investigation Officer for reasons to be recorded therefor:

Provided however, if in the circumstances,

- (a) providing an opportunity as aforesaid was not practicable; or
- (b) any delay in affording such opportunity or time that may be taken for the verification

of the information contained in the explanatory statement would defeat the objectives of this Act; and

- (c) there exist reasonable grounds for the Investigation Officer to believe that the property is proceeds of crime or is a property of the corresponding value of such proceeds of crime,

he shall forthwith with the approval of the Designated Officer seize such property.

(7) Following an order for the restraint or the seizure thereof, the property suspected to be proceeds of crime or is property of the corresponding value of such proceeds of crime, the Investigation Officer shall be entitled to examine such property and documents, records, or information relating to such property, for the purpose of determining whether either the entirety or any part of such property or any other property within or connected with the restrained or seized property shall be excluded from seizure or a judicial freezing order as the case may be.

(8) When serving the notice of seizure, the relevant Investigation Officer shall forthwith take possession of the relevant property:

Provided however, even if an Investigation Officer shall seize any of the following items of property, he shall not take possession and control of such property unless there are reasons to conclude that the possessor or any other party on his behest is acting in a manner to prevent the realization of or defeat the objectives of this Act -

- (a) actual sole residence of the person in possession in such property;
- (b) essential wearing apparels;
- (c) essential furniture, fixtures and fittings, and cooking utensils at such residence;
- (d) a vehicle used for the daily transportation of the person concerned and for the transportation of the utensils and equipment which he regularly uses for his occupation and the proceeds of his occupation; and
- (e) any other items that are essential for his living and occupation:

Provided further, this provision shall not apply to seizures under the provisions of the Prevention of Money Laundering Act and the Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218).

(9) Where any investigation officer seizes any of the property referred to in subsection (8) and permits its possession to remain with the person who possessed it, he shall require such person to enter into a bond requiring such person to submit the property to the High Court in the event of the High Court making an order for judicial freezing of such property.

Clarification:

An Investigation Officer may subject to the provisions of this Act make a restraining order or a preservation order in respect of any of the items of property referred to in subsection (8).

(10) Pending an order from the High Court for the protection, preservation and management of the seized property, it shall be the duty of the relevant Investigation Officer to provide necessary protection and take necessary measures for the protection and preservation of the seized property. For such purpose, an Investigation Officer shall be entitled to obtain the services of any state agency.

(11) Within seventy two hours of the seizure of any suspected proceeds of crime or a property of the corresponding value of such proceeds of crime, the relevant Investigation Officer shall, report such seizure to the Magistrate's Court within whose jurisdiction the seizure took place. The purpose of such notification shall be to apprise the Magistrate of the action taken in terms of this Act and to enable the Investigation Officer to obtain orders to facilitate the conduct of further investigations.

(12) The afore-stated seizure of the suspected proceeds of crime or a property of the corresponding value of such proceeds of crime, shall be in force for a period of up to thirty days, and unless earlier vacated by the Investigation Officer, shall lapse unless within such period a judge of the High Court issues an order for judicial freezing under and in terms of this Act or refuses to issue a judicial freezing order.

(13) Where upon the examination of the property or any material, and the representations that may have been made to him, an Investigation Officer forms the view that the restraining order issued or the seizure carried out shall be varied or vacated, he shall with the approval of the Designated Officer make such variation or vacation, and where necessary serve such revised restraining order or notice of seizure to the party who previously possessed, controlled, had custody, or held dominion over such property and, where necessary release the relevant property. He shall forthwith file a report

in the relevant Magistrate's Court informing the action taken in that regard.

(14) Where, given the attendant circumstances, obtaining the prior approval of the Designated Officer may not be practicable or may defeat the objectives of this Act, an Investigation Officer may for reasons to be recorded, on his own motion serve such restraining order or carry out the Seizure of such proceeds of crime as the case may be, and thereafter as soon as possible obtain the approval of the Designated Officer.

73. (1) Upon the completion of an investigation into suspected proceeds of crime, the Investigation Officer shall submit the notes of such investigation along with the copies of documents and records collected and a list containing a description of the material gathered in the course of such investigation to the Designated Officer. He shall also submit a report containing his findings.

Upon the
completion of an
investigation

(2) Following a consideration of the documents, records, and material submitted and the report of the Investigation Officer, the Designated Officer shall if he is of the opinion that the property is proceeds of crime, which therefor necessitate action being taken in the High Court for the judicial freezing and subsequent forfeiture of such property, submit a request to the Attorney-General to consider taking action in terms of this Act to institute and prosecute legal action in the High Court for the judicial freezing and forfeiture of property.

(3) If following the consideration of the available material the Designated Officer forms the view that the property in issue is not proceeds of crime, he shall if such property has not been frozen, make an application through the relevant

Investigation Officer to the relevant Magistrate's Court notifying the Magistrate of the decision taken not to take any further action with regard to the property in issue:

Provided however, prior to taking an action as stipulated above, the Designated Officer shall be entitled to seek and obtain the advice of the Attorney-General.

(4) If following a consideration of material collected in the course of the investigation the Designated Officer on his own motion or having obtained the advice of the Attorney-General forms the opinion that a property in respect of which a restraint order has been issued or a seizure made shall be released as no sufficient grounds exist that such property is proceeds of crime or the property is of the corresponding value of such proceeds of crime, he shall for reasons to be recorded and conveyed to the Investigation Officer, direct the Investigation Officer to forthwith take necessary action to vacate such order.

(5) The Investigation Officer shall, having complied with the said directive, report such fact to the relevant Magistrate's Court and notify the reasons received from the Designated Officer or the Attorney-General as the case may be, notify the party to whom the restraint order or the notice of seizure was served, and where relevant return custody of the property.

(6) Nothing in this section shall preclude the Attorney-General from instituting legal action in terms of this Act for the forfeiture of the relevant property under post-conviction forfeiture or non-conviction based forfeiture of proceeds of crime:

Provided however, if the Designated Officer is the Director-General of the Commission to Investigate Allegations of Bribery or Corruption, Attorney-General shall act on the instructions of the Commission.

(7) If an Investigation Officer, upon the conduct of further investigations, forms the opinion that the released property is proceeds of crime, he may within one year of the previous release of the property, with the prior approval of the Designated Officer make an application to the High Court having served prior notice to the party who may be affected by a fresh restraining and seizure, seek from the High Court an order for the restraining and seizing of the previously released property.

(8) An order for the issuance of restraining and seizure of the property in terms of this provision, shall be made by the High Court following inquiry, or *ex-parte* if it is satisfied that the notice to the affected party has been duly served.

(9) No order for the restraint or seizure of property shall be made by the High Court unless in the view of the court there exists reasonable grounds to believe that the property in question is proceeds of crime.

74. Nothing in this Act shall prevent seizure of property in terms of any law which authorizes seizure of property, including the following –

Provisions of this Act relating to seizure not to apply in certain other laws

(a) Prevention of Money Laundering Act;

(b) Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218);

- (c) Forest Conservation Ordinance (Chapter 451);
- (d) Customs Ordinance (Chapter 235);
- (e) Excise Ordinance (Chapter 52); and
- (f) Antiquities Ordinance (Chapter 188):

Provided however, if a property is seized in terms of such law, such property following the seizure shall also be dealt with in terms of that law.

PART III

JUDICIAL FREEZING OF PROCEEDS OF CRIME

Issue of a judicial freezing order by the High Court

75. (1) If an Investigation Officer is of the view that, it shall be necessary to have the seized property to be frozen, he shall within seven working days from the seizing of such property, with the approval of the Designated Officer, having given notice in the form of Schedule V to this Act to any person-

- (a) from whom the property was seized;
- (b) on whom the restraining order was served;
- (c) whose identity has been revealed to him as a person affected by the seizing or restraining of the property; and
- (d) whom he believes would have been directly affected by the restraining order or the seizing order if previously issued,

make an application, either by himself or with the assistance of any other police officer or the Attorney-General or an Attorney-at-Law appointed by the Attorney-General, to the High Court within the judicial zone in which the seized property or part thereof is situated or if the location of the property cannot be located to the High Court of the judicial zone of Colombo, seeking an order for judicial freezing of such property which is believed by him to be proceeds of crime or corresponding value of such proceeds of crime:

Provided however, if the seizure or restraining of the property was by an Investigation Officer of Commission to Investigate Allegations of Bribery or Corruption, the afore-stated application to the High Court shall be made by an officer of such Commission, an officer appointed by the Attorney-General on a request by the Commission, or by an Attorney-at-Law appointed by the Commission.

(2) Upon the making of such application by an Investigation Officer, the High Court shall consider -

- (a) the material presented to court by the Investigation Officer;
- (b) such other relevant material the court may in the interest of justice permit;
- (c) any party who has interest or claim in the property seized or restrained;
- (d) any such further material the court may in the interest of justice call for and examine; and
- (e) representations made on behalf of parties before court,

and make an order for the judicial freezing of the property, if the court is satisfied that –

- (i) the Investigation Officer has served notice of his intention to make an application to the High Court for the judicial freezing of the property to the parties hereinbefore listed;
- (ii) there exist reasonable grounds to believe that the property is proceeds of crime, or is property the value of which corresponds to the proceeds of crime, where the proceeds of crime is not available; and
- (iii) the making of such an order is in the interests of justice.

(3) Such judicial freezing order shall be issued by the High Court in the form specified in Schedule VI to this Act.

(4) If at the time the application for a judicial freezing order is made, the property in issue was not subject to a seizure, the High Court shall on the motion of the Attorney-General, pending an order being made in respect of the application for judicial freezing of the property, make suitable orders for the temporary protection, preservation and management of the property.

(5) The High Court shall, having due regard to the nature of the property seized and the likelihood of persons being unaware of the making of the judicial freezing order engaging or attempting to engage in any transaction relating to the frozen property, direct the Investigation Officer to

publish the judicial freezing order or any part thereof in the manner specified in the order of court. The Court may also direct any public officer to take steps as may be specified in a further order with regard to the frozen property.

(6) If an Investigation Officer is of the view that a period of time exceeding seven working days is necessary to carry out further investigations for the purpose of making an application for an order from the High Court to freeze the seized property, he shall with the approval of the Designated Officer, within seven working days from the seizure of the property make an application setting out the reasons for such application to the High Court seeking an extension of time which shall not extend beyond another seven working days from the expiry of the seven working days from the seizure to make an application to freeze the seized property.

(7) If an application is made by an Investigation Officer under subsection (6), the restraining of the property and the seizure shall remain in force till the High Court makes an order thereon.

(8) When making an order for the judicial freezing of property, the Court shall where necessary make orders in terms of this Act for the protection, preservation, and management of the frozen property.

(9) If following the restraining or seizure of a property, the High Court on an application by an Investigation Officer, does not make an order judicially freezing the seized or restrained property, the seizure of the property and the restraining order made in respect of the seized property shall stand vacated. Where necessary the High Court shall make

order to return the property to the person from whom it was seized or to any other person to whom it appears to court that such property shall be returned.

(10) If following an application to the High Court for the judicial freezing of a property and the High Court decides to release such property and the property has been so released, an Investigation Officer upon conduct of further investigations forms the opinion based on reasonable grounds that the released property is proceeds of crime, he may within one year of such order for the release of the property, and with the approval of the Designated Officer make one further application to the High Court having served notice to the party to whom the property was previously released by the High Court and to any other party who may be affected by a judicial freezing order, seeking the judicial freezing of the previously released property.

(11) An order for the judicial freezing of such property in terms of the provisions of subsection (10) shall be made only if the High Court is satisfied that the notice to the affected party has been duly served and there exists reasonable grounds to believe that such property in question is proceeds of crime.

(12) (a) Upon an application by an Investigation Officer to the High Court for the judicial freezing of a property that is believed to be proceeds of crime, and the High Court is satisfied that there exist reasonable grounds to believe that the property is proceeds of crime and therefore it shall be frozen, the court may on an application by a party from whose possession, control or dominion the property had been seized or restrained, shall conduct an inquiry.

(b) The High Court may after necessary inquiry, in the interest of the public and for the effective protection, preservation and management of such property, in addition to making an order for judicial freezing of such property, make a further order at the same time or any time thereafter for the temporary release of such property or part thereof to the party who made the afore-stated application:

Provided however such temporary release shall be subject to such party submitting to court reasonable security in the form and nature as specified by court and subject to conditions that may be imposed by court including conditions restraining specified transactions.

(13) Such order for temporary release of property shall be made only if the High Court is satisfied that the temporary release of the property shall not defeat the objectives of this Act, and the court is satisfied that the property shall remain available without diminishing of its value due to wilful conduct of any party, to be subject to forfeiture proceeding under this Act.

(14) An order of the High Court for judicial freezing of any suspected proceeds of crime shall be forthwith served on the parties who had previously possessed, controlled or held dominion over such property and is likely to be directly affected by such judicial freezing order. It shall also be published in the manner directed by the High Court.

(15) A judicial freezing order shall initially be valid for a period not exceeding six months.

(16) A judicial freezing order may be extended by the High Court for periods of six months at a time not exceeding a period of twenty-four months on an application by the

Attorney-General or the Director-General of the Commission to Investigate Allegations of Bribery or Corruption as the case may be, for reasons to be recorded by the High Court.

(17) If following the judicial freezing of a property by the High Court, and if proceedings are instituted in the High Court or the Magistrate's Court as the case may be for the committing of the unlawful activity which is alleged to have yielded the frozen property, the judicial freezing order made by the High Court shall remain in force for a period not exceeding three months following the delivery of judgement.

(18) Where the accused is convicted under the proceedings referred to in subsection (17) and an appeal is filed in respect of such conviction, the judicial freezing order shall remain in force till the completion of the appeal, judgment being delivered and a period of three months lapsing following the judgment being delivered:

Provided however, if the accused is acquitted by such High Court or the Magistrate's Court and an appeal against such acquittal is filed, the judicial freezing order shall remain in force till the completion of the appeal and three months lapsing following the judgment being delivered.

(19) Following the making of a judicial freezing order, any person directly affected by the making of such judicial freezing order, may make an application to the High Court, seeking a variation of the judicial freezing order and the Court may grant such variation provided that the Court is satisfied that the variation sought does not relate to proceeds of crime:

Provided however, the Court shall not permit carrying out of transactions that may even be legitimate, if such transaction relates to proceeds of crime.

(20) Upon issuing a judicial freezing order, the High Court shall make necessary orders for the protection, preservation, and management of the frozen proceeds of crime applicable for the operational period of the judicial freezing order and such extended period during which forfeiture proceedings shall be conducted. Such order for the judicial freezing, protection, preservation and management of the property shall be made as provided in Part IV of this Act.

(21) Following a judicial freezing of suspected proceeds of crime by the High Court, the court may, pending the conduct of forfeiture proceedings or the making of a forfeiture order, on application by a party entitled to such property, if the court is satisfied that the claimant is –

- (a) acting in good faith and is entitled to such property if found to be proceeds of crime; and
- (b) willing to submit security to the value of such property in the manner directed by court,

after obtaining a valuation of the property, and subject to any further conditions and the submission of a bond, temporarily release such property or part thereof to the claimant. Such security shall be deposited as directed by the High Court with the court itself or with the Authority.

(22) The property temporarily released on a bond as provided in the subsection (21) of this section, shall be used by the party to whom such property was released, only for the purposes directed by court, and shall be returned to Court or to the Authority whenever recalled by the High Court.

(23) Such party to whom such property was released shall be required in terms of this Act to furnish such temporarily released property to the High Court to be subject to

forfeiture proceedings as provided in this Act or upon the order of forfeiture for disposal in the manner specified by the forfeiture proceedings. Upon submission of the property back to Court, the claimant shall be entitled to claim the security submitted:

Provided however, if at the time the property is returned to the High Court, its value has been depreciated, the Court shall be entitled to forfeit the relevant value of the security and return to the claimant only the remaining value, if any.

(24) When a property is temporarily released to a claimant, he shall be responsible for its effective protection, preservation and management and shall not intentionally engage in any activity which results to the destruction or the depreciation of the value of such property.

(25) Nothing in this Act shall prevent the judicial freezing of property in terms of any law which authorizes the judicial freezing of property:

Provided however, if a property is frozen in terms of such other law, such property shall following its judicial freezing be dealt with in terms of that same law.

PART IV

PROTECTION, PRESERVATION AND MANAGEMENT OF PROCEEDS OF CRIME

Objectives and purposes of the protection, preservation, and management of seized or frozen proceeds of crime

76. (1) With the view to ensuring that a seized or frozen proceeds of crime is not destroyed or decayed and its value is not diminished or adversely affected, and for the purpose of ensuring that the seizure or judicial freezing of proceeds of crime does not disrupt or adversely affect –

- (a) legitimate finance, trade, and commercial activity;
- (b) the deriving of economic benefit through lawful financial, trading and commercial activity;
- (c) the lawful employment of persons; and
- (d) the interests of third parties,

meaningful and effective action as provided in this Act shall be taken by an Investigation Officer to protect, preserve and manage the seized or frozen property that is believed to be proceeds of crime.

(2) The seized or frozen property suspected to be proceeds of crime shall also be protected and preserved for the purpose of preserving evidence that would be necessary for the prosecution of any person for having committed an unlawful activity that is believed to have yielded the relevant proceeds of crime or for having committed any other offence.

77. (1) When an Investigation Officer forms the view that a restrained or seized property suspected to be proceeds of crime requires to be protected or preserved, he shall either by himself or subject to relevant administrative directions, with the assistance of any other police officer or other public officer, provide necessary protection and necessary steps for the preservation of such property.

Investigation Officer to take action for the protection, preservation, and management of seized or frozen proceeds of crime

(2) Where necessary orders of the Magistrates Court and the High Court shall be obtained for the effective protection, preservation, and management of the restrained, seized or frozen property.

(3) It shall be the duty of an Investigation Officer who seizes a property suspected to be proceeds of crime, pending the obtaining of necessary orders from the High Court, to provide necessary protection to such property and take necessary measures to preserve such property.

(4) Where the Investigation Officer is of the view that it would be necessary to obtain the assistance or services of any public or statutory institution to provide protection or to take steps for the protection or preservation of the seized property, he shall, pending the High Court making an order in terms of this Part of this Act, make an application to the relevant Magistrate's Court and obtain an order from a Magistrate directing a specified public officer or any public authority to take steps as may be necessary for the protection and preservation of the seized property.

Court order for the protection, preservation, and management of seized or frozen proceeds of crime

78. (1) When a property suspected to be proceeds of crime is frozen by the High Court or pending an order for judicial freezing of the property being made, such Court shall either on its own motion or on application by an Investigation Officer, make necessary orders in terms of this Act for the protection, preservation, and management of such frozen property or property that is sought to be frozen.

(2) It shall be the duty of any public officer or public or statutory body to which an order is made by the High Court to take necessary steps for the effective protection, preservation and management of a seized or frozen property.

(3) Pending a judicial order pertaining to the forfeiture of the seized or frozen property or its release or return to the party lawfully entitled to possess such property being made by the High Court, such property shall be held in trust by the party entrusted with the protection, preservation and management of the property, on behalf of the state or the

relevant victim of crime or the party lawfully entitled to such property, as the case may be.

79. (1) Any seized or frozen property suspected to be proceeds of crime which at the time of the seizure or judicial freezing was being used to carryout any lawful financial, trading or commercial activity, shall be used by the person to whom the management of such property has been entrusted by the High Court, in the same or nearly as the same lawful manner, with every meaningful step being taken to prevent –

Using the seized or frozen proceeds of crime subject to protection, preservation, and management for lawful financial, trading or commercial activity

- (a) the destruction or decay of the property;
- (b) the diminishing of its economic value;
- (c) the disruption of legitimate finance, trade or commerce;
- (d) the disruption of lawful employment; and
- (e) any adverse impact being caused to the interests of third parties.

(2) Necessary action in such regard shall be taken pending the forfeiture of the property to the state, release or return to such property to the party having a legitimate entitlement to such property or pending a further order from the High Court. Where further action need be taken to achieve the objectives contained in this section, the person entrusted with the task of managing the property, shall make appropriate applications to the High Court and obtain necessary further authorization.

80. (1) Any profit or other proceeds derived or generated from the management of proceeds of crime shall with the prior approval of the High Court, be utilized by the party to whom the management of the property has been vested by the High Court for –

Profit generated from and the cost of the management of proceeds of crime

- (a) the development of the same financial, business or trade activity;
- (b) any other lawful financial, trade or commercial activity; or
- (c) investing in the most appropriate manner.

(2) It shall be lawful for the person authorized by the High Court to protect, preserve and manage the suspected proceeds of crime, with the permission of the High Court to deduct the sum of money lawfully expended by him for the protection, preservation, and management of the said property or to have such sum of money reimbursed from the Authority.

Protection, preservation, and management of a property by public authority or a receiver or special manager

81. The protection, preservation, and management of a property frozen by the High Court shall be entrusted by such High Court to the Authority or to any other suitable public authority. The functions of protection, preservation and management of frozen proceeds of crime may be assigned to more than one such authority:

Provided however, if the High Court forms the view that in view of the nature of the frozen property and the purpose for which it had been used at the time of its restraint or seizure, such property cannot be effectively protected, preserved, or managed by the Authority or any other public authority, the Court shall appoint a Receiver or a Special Manager to perform such functions as may be specified by such Court.

Appointment of the Authority, a Receiver or a Special Manager

82. (1) For the purpose of effective protection, preservation and management of any frozen proceeds of crime, the High Court shall appoint the Authority, a Receiver or a Special Manager if-

- (a) the Investigation Officer applies to Court for the appointment of a person for the protection, preservation and management of a seized or frozen property as provided in this Act; and
- (b) the Court considers the circumstances pertaining to the seized or frozen proceeds of crime to necessitate the appointment of the Authority or a Receiver or a Special Manager as it shall be necessary for the effective protection, preservation and management of such property:

Provided however, in instances where the Investigation Officer does not make an application for the appointment of the Authority or a Receiver or a Special Manager, and the Court upon the consideration of the nature, value and attendant circumstances pertaining to the property that has been seized or frozen is of the view that the appointment of the Authority or a Receiver or a Special Manager is necessary, the Court shall at its discretion confer the responsibility of protecting, preserving and managing the property to the Authority or make an appointment of a Receiver or a Special Manager in terms of this Part of this Act.

(2) Ordinarily an order authorizing the Authority or the appointment of a Receiver or a Special Manager shall be made after an order judicially freezing the suspected proceeds of crime, due to the circumstances to be recorded:

Provided however the High Court may make order authorizing the Authority or appoint a Receiver or a Special Manager to protect, preserve and manage the property, pending an order being made regarding the judicial freezing of the suspected proceeds of crime, if such property has been

restrained or seized, and proceedings have been instituted in the High Court for the judicial freezing of the suspected proceeds of crime.

(3) Upon taking into consideration of the value, nature and other relevant attendant circumstances pertaining to the restrained, seized or frozen property, including whether the cost of protection, preservation and management of the property would exceed the value of the property, the Court may as an alternative to the appointment of a Receiver or a Special Manager, direct the Investigation Officer to take necessary measures to protect, preserve and manage such property as far as it may be reasonably possible.

Authority, any other public authority or Receiver or a Special Manager to take possession, use and control etc. of the property

83. (1) Where an order for the protection, preservation and management of a property suspected to be proceeds of crime is made in respect of a seized or frozen property, the Authority, any other public authority or Receiver or a Special Manager appointed by the High Court shall be entitled, subject to conditions imposed and directions of the High Court, to the possession, custody, use and control of such property during the operational period of such order.

(2) Where the Authority, a Receiver or a Special Manager has been appointed by the High Court in respect of a seized or frozen property, during the pendency of such appointment, it shall be deemed that all rights of such property have been vested in the Authority or the Receiver or the Special Manager as the case may be.

(3) Where the Authority, a Receiver or a Special Manager has been appointed by the High Court in respect of a seized or frozen property, the Authority, or the Receiver or

the Special Manager, as the case may be, shall be entitled to bring or defend any action or any other legal proceedings in his official name in relation to such property.

84. (1) For the purposes of this Act, the Authority, shall be empowered to function as a Receiver or as a Special Manager in terms of this Part of this Act.

Authority to
function as
Receiver

(2) Where the Authority has been established or there exists any other specialized authority of the state capable of effectively protecting, preserving or managing a seized or frozen property, the High Court shall not appoint any other person to function as a Receiver or as a Special Manager, unless following inquiry from Authority and upon a consideration of the nature of the seized or frozen property, the Court is of the view that the property cannot be properly protected, preserved or managed by the Authority or such other state authority.

(3) Where the Authority has not been established or is not efficaciously functioning, and there does not exist any specialized agency of the state that is capable of effectively protecting, preserving and or managing the seized or frozen property, the High Court may for reasons to be recorded directly consider the appointment of a Receiver or a Special Manager.

85. (1) A Receiver shall be a person competent in protecting, preserving and managing a seized or frozen proceeds of crime. A Special Manager shall be a person who possesses expertise as may be necessary to manage a particular category of seized or frozen proceeds of crime, with the view to achieving the objectives of protecting, preserving and managing suspected proceeds of crime.

Receivers

(2) The High Court may if a necessity arises and for reasons to be recorded, appoint both a Receiver and a Special Manager in respect of a single suspected proceeds of crime.

(3) A Receiver shall be entitled to employ one or more Special Managers.

Registration
of Receivers

86. (1) For the purpose of appointing a Receiver or a Special Manager under this Part of this Act, the Secretary to the Ministry of the Minister shall maintain a register of the registered Receivers and Special Managers based on a classification of the category and nature of the property such Receivers and Special Managers are competent in protecting, preserving, and managing and the expertise of such Special Managers.

(2) The Minister may in terms of Regulations made under this Act, from time to time specify qualifications, experience and other relevant requirements including disqualifications that a person who intends to register as a Receiver or as a Special Manager under this Part of this Act shall possess or have, as the case may be. Such, qualifications, disqualifications and expertise may be general in nature or specific to each category of property.

(3) Any person possessing the qualifications, experience and any other requirements prescribed by the Minister, may at any time seek registration with the Secretary to the Ministry of the Minister to be appointed as a Receiver or a Special Manager. In the application seeking registration, the applicant shall state his qualifications, experience and evidence of satisfaction of requirements prescribed by the Minister, and specializations, if any, in the protection,

preservations and management of different categories of property and fees payable for functioning as a Receiver or as a Special Manager. He shall also affirm to by affidavit the absence of any disqualification.

(4) Upon receipt of an application from a person seeking to be appointed as a Receiver or Special Manager, the Secretary to the Ministry of the Minister shall upon satisfaction that the applicant possesses the qualifications, experience and other requirements prescribed by the Minister, and the absence of any disqualification, register such person for a period of time not exceeding five years.

(5) Any person registered as a Receiver or a Special Manager shall be removed from the register of the registered Receivers and Special Managers by the Secretary of the Ministry of the Minister upon:-

- (a) conviction for having committed an offence punishable with a term of imprisonment or any other conduct involving moral turpitude;
- (b) the receipt of a report from the High Court stating that he has not duly performed his functions as a Receiver or as a Special Manager;
- (c) proof that the person is suffering from a disqualification prescribed by the Minister; or
- (d) the relevant person making a request to be relieved of functioning as a Receiver or a Special Manager.

(6) Upon the removal of the name of the person from the register of the registered Receivers and Special Managers, the Secretary to the Ministry of the Minister shall publish such removal in the *Gazette*.

(7) The Secretary to the Ministry of the Minster shall from time to time and not less than once a year publish in the *Gazette* the names of persons registered as the Receivers and Special Managers.

Appointment
of Receivers

87. A High Court which in terms of this Part of this Act is required to appoint a Receiver or a Special Manager in respect of a seized or frozen property suspected to be proceeds of crime, shall select such Receiver or Special Manager from the list of registered Receivers and Special Managers published in the *Gazette*. When making such appointment, the High Court shall take into consideration the following: -

- (a) nature and status of the property;
- (b) expertise that may be necessary for the protection, preservation, and management of the property;
- (c) whether the identified person is willing to accept the appointment of the Receiver or Special Manager;
- (d) fees payable for the protection, preservation, and management to the identified Receiver or the Special Manager;
- (e) views of the Investigation Officer;
- (f) views of any party represented at that stage of the judicial proceedings; and
- (g) any other factor necessary for the purpose of giving effect to the objectives of this Act.

88. (1) When the High Court appoints the Authority, any other public authority or a Receiver or a Special Manager, a Notice of such appointment shall be published in the *Gazette*.

Notice of
Appointment of
the Receiver

(2) The Court may at its discretion make an order for the service of such Notice on any party including the person from whom the property was seized and any regulatory or law enforcement authority.

89. When a property that has been seized or frozen is deemed to have been vested with a Receiver or a Special Manager by an order of the High Court, the Receiver or Special Manager shall as soon as practicable and not later than within seven working days submit a preliminary report to Court on the following :-

Preliminary
Report by the
Receiver

- (a) confirming whether the property seized or frozen, and vested with the Receiver or Special Manager, is the described property in the seizure or the judicial freezing order as the case may be;
- (b) the nature, status, current location, value, and other pertinent details relating to the property seized or frozen;
- (c) the manner in which the Receiver or Special Manager intends to protect, preserve, and manage the seized or frozen property, including the manner in which the property may be utilized so as to achieve the objectives of protection, preservation and management as contained in this Act and towards contributing towards the enhancement of the national economy, trade and commerce, and for the enhancement of its value;
- (d) if a Receiver has been appointed, whether

in his opinion the appointment of Special Manager is required for the effective protection, preservation, and management of such property;

- (e) if applicable, any expenditure to be incurred for the protection, preservation, and management of the property, and any income or return the property may generate.

Duties, functions, and powers of the Authority, any public authority or a Receiver in relation to protecting, preserving and managing a seized or frozen proceeds of crime

90. (1) Where the Authority or any other public authority or a Receiver has been appointed by the High Court in relation to any seized or frozen property entrusted with the task of protecting, preserving and managing a seized or frozen proceeds of crime, the Authority, such other public authority or receiver may subject to the approval of the High Court, take or cause to be taken any step that is reasonably necessary to protect, preserve and manage the property and the value thereof, and such measures may include the following:-

- (a) where necessary register the property;
- (b) to take necessary steps to ensure that the possession, use, and transactions relating to such property shall be in compliance with the law;
- (c) if necessary, ensure that the property is insured;
- (d) if the property has been used prior to its seizure or judicial freezing for a particular lawful financial activity or trade or commerce, continue to use and manage such property for such purpose, and in that regard take necessary steps as may be necessary to carry on such trade or business activity, incur necessary capital and recurrent expenditure, enter into contracts, employ agents, contract suitable persons with requisites expertise and skills that may be necessary for

the carrying out of the relevant activity, and take any other necessary steps in that regard;

- (e) if the property is –
 - (i) not claimed by any party;
 - (ii) perishable;
 - (iii) unsafe or hazardous;
 - (iv) is subject to rapid waste, decay, rapidly depreciating or other forms of loss;
 - (v) difficult to administer;
 - (vi) in view of the nature of the property requisite expertise for its effective management or maintenance or enhancement of value is either unavailable or difficult to procure;
 - (vii) the cost of protection, preservation, maintenance, storage and management as the case may be would far exceed the present value of the property,take necessary steps for its disposal or immediate realization of its value;
- (f) if due to the nature of the seized or frozen property its protection, preservation and management is impracticable, take steps to dispose of such property;
- (g) if the value of the property is volatile or transformative, take necessary steps for the preservation of its value or its disposal as the

case may be, by, subjecting such property to any method of preservation or using such property for any lawful transaction;

- (h) if the property can be subject to financial, trade or commercial transactions which are likely to enhance its value or generate profit, cause the conduct of necessary lawful transactions for such purpose;
- (i) if the cost of the protection, storage, preservation or maintenance of the property is likely to exceed its value, dispose of it in such manner as the court may direct;
- (j) if the seized or frozen property consists, wholly or partly, of an ongoing lawful business, which may be either a sole-proprietorship, a partnership, an incorporated company, trust or any other business entity-
 - (i) perform such functions which the proprietor, partners, board of Directors, Trustees or Principal Executive Officers of such business may in the normal course of business perform;
 - (ii) make any payments by means of cheques or otherwise for the purpose of managing the business, and matters connected thereto; and
 - (iii) doing any other thing that is necessary or convenient for carrying on the business on a sound commercial basis;
- (k) if the property comprises of or includes shares or other securities of a company, exercise rights

attached to such shares or securities which the person from whom such property was seized would have otherwise been entitled to perform;

- (l) if the property consists of a bank account or any other account maintained at a financial institution, perform such functions relating to such account and any other related or linked account in respect of which the person from whom such property was seized would have otherwise been entitled to perform;
- (m) making necessary statutory payments;
- (n) if the property is a fixed deposit or any other form of investment where interest is accrued or drawn, manage the said property for the purpose of achieving the best return on such investment, and in that regard issue necessary directions to any party holding such investment; and
- (o) if the property consists, wholly or partly, of an ongoing activity, which appears not to be related to a lawful business activity, manage such property for any lawful purposes for which such property has been used prior to the seizure or for any other purpose.

(2) Notwithstanding the provisions of subsection (1), the Authority, other public authority, or a Receiver or a Special Manager shall perform the afore-stated functions a without the prior approval of the High Court in circumstances where the delay involved in obtaining the approval is likely to result in-

- (a) a significant diminution in the value of the property;

- (b) defeat the objectives of protection, preservation and management of suspected proceeds of crime;
- (c) adversely affect legitimate finance, trade and commerce;
- (d) adversely affect the value of the property; or
- (e) pose a danger to public health and safety.

(3) In situations referred to in subsection (2), the Authority, other public authority or the Receiver or the Special Manager as the case may be, shall upon taking necessary action, forthwith notify the High Court setting out the following:-

- (a) reasons for the disposal or sale of the property;
- (b) measures taken to protect, preserve and manage such property and lack of its efficacy; and
- (c) details relating to the realization of the value of the property.

Appointment,
Duties, Functions
and Powers of a
Special Manager

91. (1) If the High Court has appointed a Special Manager or following the appointment of a Receiver, the Receiver forms the view that for the effective protection, preservation and management of the seized or frozen property a Special Manager shall be appointed who possess expertise in the said activities and the High Court appoints a Special Manager, such Special Manager may as authorized by the High Court perform such functions of a Receiver, and other functions which the High Court may authorize him to perform. Where the High Court appoints a Special Manager he shall by virtue of such appointment be conferred with the function, duties and powers of a Receiver as stipulated in this Act.

(2) A Receiver and a Special Manager appointed in terms of this Act and any other persons appointed by such Receiver or the Special Manager to give effect to the duties and functions entrusted to him or to assist him, shall during the pendency of such appointment be deemed to be a Public Official for the purposes of the Anti-Corruption Act and a Public Servant for the purposes of the Penal Code.

(3) A Receiver and a Special Manager appointed in terms of this Act and any other persons appointed by such Receiver or the Special Manager to give effect to the duties and functions entrusted to him or to assist him shall for the purposes of the Assistance to and the Protection of the Victims of Crimes and Witnesses Act, be deemed to be a witness.

92. (1) A Receiver or a Special Manager appointed under this Act may resign for cause to be shown:

Resignation and removal of a Receiver and a Special Manager

Provided however, the High Court may for reasons to be recorded refuse to accept the resignation of the Receiver or the Special Manager as the case may be, and may direct such Receiver or Special Manager to perform such tasks as may be necessary for the due protection, preservation and management of the property and to finalize the accounts relating to such functions as may have been performed by such Receiver or a Special Manager:

Provided further, the High Court may also withhold the acceptance of the afore-stated resignation up until the appointment of a succeeding Receiver or a Special Manager.

(2) A Receiver or a Special Manager may be removed by the High Court on one or more of the following grounds-

- (a) the name of the Receiver or the Special Manager having been removed from the register of the registered Receivers and Special Managers; and
- (b) following an inquiry, the High Court having arrived at the finding that the Receiver or the Special Manager has -
 - (i) acted contrary to the provisions of this Act or any other law or in a manner contrary to directions issued by the High Court;
 - (ii) intentionally acted in a manner detrimental to the value of the property;
 - (iii) committed an offence in respect of the property;
 - (iv) acted in bad faith;
 - (v) acted in collusion with the person from whom the property had been seized;
 - (vi) acted without due diligence; or
 - (vii) acted in a manner defeating the purposes of this Act.

Expenditure pertaining to the protection, preservation, and management of property in respect of which a Receiver or a Special Manager has been appointed

93. (1) Where the protection, preservation, and management of a seized or frozen property has been vested with the Authority or any other public authority, they shall bear the relevant expenditure for the protection, preservation, and management of such property .

(2) Where the protection, preservation and management of seized or frozen property has been vested with a Receiver or a Special Manager as provided for in this Act, the funds

required for protection, preservation and management of the property shall be advanced or reimbursed with the approval of the High Court that appointed such Receiver or Special Manager, from the Fund for the Protection, Preservation and Management of Proceeds of Crime of the Authority.

94. (1) Upon the fulfilment of the duties and functions of the Receiver or Special Manager as the case may be pertaining to the protection, preservation, and management of a seized or frozen property, he shall submit to the High Court a report prepared and certified in conformity with specifications issued by the High Court, which shall include a statement of financial performance pertaining to the property as well as his duties and functions. The Receiver or the Special Manager as the case may be shall also include in such Report any further information which the High Court may require him to submit pertaining to the property and any such information which he himself deems fit.

Final report of
the Receiver
and the Special
Manager

(2) Upon the submission of the final report, the High Court shall consider it and subject to clarification and further information which the High Court may call for, accept the report.

95. (1) A Receiver or a Special Manager appointed in terms of this Act shall be released by the High Court from his duties and functions in the following circumstances:-

Release of
the Receiver or
Special Manager

- (a) upon the completion of the duties and functions entrusted to him with regard to the protection, preservation, and management of the property and the submission and acceptance of the final report;
- (b) upon the acceptance of the resignation and subject to the fulfillment of his duties;

- (c) upon the removal of the Receiver or Special Manager in the manner provided in this Act:

Provided however, if a Receiver or a Special Manager were to be released from his duties and functions consequent to removal, such Receiver or Special Manager shall give effect to directions if any imposed by Court which relates to his appointment as a Receiver or a Special Manager.

(2) If upon the conclusion of the inquiry, the Court orders the property that has been seized or frozen be vested with the owner or the possessor thereof or any other party which has claimed such property, the Court shall release the Receiver or Special Manager from complying with his functions as a Receiver or Special Manager, taking into consideration the report and any objections which may be urged by the owner or the possessor thereof against the release of the Receiver or Special Manager.

(3) Where the release of the Receiver or Special Manager is withheld, the High Court may on the application of the owner or person claiming such property make such order as it thinks just, charging the Receiver or Special Manager with the consequences of any act done, or default made by him in the protection, preservation and management of the seized or frozen property.

(4) An order of the High Court releasing the Receiver or Special Manager shall discharge him from all liabilities in respect of any act done or default made by him in the protection, preservation and management of the property or otherwise in relation to his conduct as the Receiver or Special Manager.

PART V

PROCEEDS OF CRIME MANAGEMENT AUTHORITY

96. (1) There shall be established an authority which shall be called and known as the Proceeds of Crime Management Authority for the purposes of this Act.

Establishment of
the Proceeds of
Crime
Management
Authority

(2) The Authority shall by the name assigned to it by this Act, be a body corporate and shall have perpetual succession and a common seal and may sue and may be sued in such name.

(3) The Authority shall have duties, functions and powers specified by this Act or by any other written law for the accomplishment of the objects of this Act and for the discharge of duties, performance of functions and the exercise of powers conferred on it under this Act.

(4) The Authority may also be vested with legal authority by any other written law or by an order of a competent court of law for the purposes of the protection, preservation and management of proceeds of crime or any other thing relating to pending of future criminal proceeding which may come under the purview of any other written law and or as specified by a judicial order:

Provided however, court shall recognize that the primary responsibility of the Authority shall be to protect, preserve and manage proceeds of crime under this Act.

(5) The Authority shall possess the power to protect, preserve, and manage, property submitted to the Authority by court classified as property in respect of which offences

have been committed and property the ownership of which has not been claimed. The Authority shall take necessary steps to protect, preserve and manage such property pending further order by court.

(6) The Authority shall perform, discharge and exercise its duties, functions and powers without being subject to any direction or other interference from any other person except a court entitled under law to direct or supervise the Authority in the performance, discharge and exercise of such duties, functions and powers.

(7) Any interference or obstruction in the performance, discharge or exercise of the duties, functions or powers vested in the Authority by this Act without lawful authority to do so shall constitute an offense in terms of this Act.

Duties, Functions
and Powers of the
Authority

97. (1) The Authority shall have the duties, functions and powers vested in Receivers and Special Managers by this Act with regard to the protection, preservation and management of proceeds of crime.

(2) The Authority shall perform the duties, discharge the functions and exercise the powers vested in a Receiver or in a Special Manager by any other written law, if in terms of such law or in terms of a judicial order made in terms of such law, the Authority is vested with the function of a Receiver or Special Manager under such other law for the protection, preservation and management of proceeds of crime.

(3) The Authority shall have the duty to give effect to any order issued on the Authority by a court of law.

(4) When appointed as a Receiver or as a Special Manager by the High Court, the Authority shall have the functions, powers, and duties of a Receiver or a Special Manager as contained in this Act.

(5) When appointed as a Receiver or as a Special Manager by any court of law in terms of any other written law, the Authority shall have the functions, powers, and duties of such Receiver or Special Manager as contained in such other written law.

(6) The Authority shall maintain records and statistics of the discharge of its functions.

(7) The Authority shall within the first six months of the following year present to Parliament through the Minister an annual report relating to its performance during the preceding year. The Authority shall publish such annual report in its website.

(8) The Authority in consultation with the Police Designated Officer and the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption shall, from time to time, stipulate the minimum monetary value of any proceeds of crime that shall be subject to a seizure or judicial freezing.

(9) The Authority shall from time to time develop and issue to Designated Officers Standard Operating Protocols to facilitate the protection, preservation and management of seized proceeds of crime by Investigation Officers.

(10) The Authority shall have the powers to-

- (a) hold any property movable or immovable that may become vested in the Authority by virtue of any purchase, grant, gift or otherwise and sell, mortgage, lease, grant, assign, exchange or otherwise dispose of the same;
- (b) borrow or raise funds with or without securities and to receive grants, gifts or donations in cash or kind:

Provided that, the Board of Directors of the Authority shall obtain the prior written approval of the Department of External Resources of the Ministry of the Minister assigned the subject of Finance, in respect of all foreign grants, gifts or donations made to the Authority;

- (c) enter into and execute, whether directly or through any officer or agent authorized in that behalf by the Board of Directors of the Authority, all such contracts or agreements as may be necessary, for the discharge of the functions of the Authority;
- (d) open, operate and maintain and close any account in any bank as the Board of Directors of the Authority may approve;
- (e) appoint, dismiss or terminate and exercise disciplinary control over officers and employees of the Authority;
- (f) make rules for the administration of the affairs of the Authority; and
- (g) determine the terms and conditions of service and the remuneration payable to the officers,

employees, agents, contractors, consultants and experts so appointed with the concurrence of the Minister assigned the subject of Finance.

98. (1) The management and administration of the affairs of the Authority shall be vested in a Board of Directors (hereinafter referred to as the “Board”).

Management and
administration of
the Authority

(2) The Board shall, for the purpose of the management and administration of the affairs of the Authority, perform, discharge and exercise the duties, functions and powers conferred or assigned to or imposed on the Authority by this Act.

(3) The Board shall consist of –

(a) the following *ex-officio* members:-

- (i) an officer of the Ministry of the Minister not below the rank of a Senior Assistant Secretary nominated by the Secretary to that Ministry;
- (ii) an officer of the Ministry of the Minister assigned the subject of Finance not below the rank of a Senior Assistant Secretary nominated by the Secretary to that Ministry;
- (iii) an officer of the Ministry of the Minister assigned the subject of Public Administration not below the rank of a Senior Assistant Secretary nominated by the Secretary to that Ministry;
- (iv) a representative of the Inspector General of Police holding the rank of Deputy Inspector General of Police recommended by the National Police Commission; and

(b) seven other members (hereinafter referred to as the “appointed members”) appointed by the Minister in the following manner-

- (i) a Chartered Accountant in consultation with the Institute of the Chartered Accountants of Sri Lanka;
- (ii) an Engineer in consultation with the Institute of Engineers of Sri Lanka;
- (iii) an Attorney-at-Law in consultation with the Bar Association of Sri Lanka;
- (iv) a Chartered Valuer in consultation with the Institute of Valuers of Sri Lanka;
- (v) a person qualified and experienced in management in consultation with the Ceylon Chamber of Commerce; and
- (vi) two persons from reputed non-politically aligned civil society organizations of which the mandate shall include the development of transparency, strengthening of anti-corruption measures or advancement of objectives of criminal justice in consultation with the Minister assigned the subject of Social Services.

(4) The Organizations referred to herein shall when their opinion is sought by the Minister nominate in its opinion the most appropriate member.

99. (1) The Minister shall appoint from amongst the appointed members the person who in his opinion is the most suitable person to perform the functions of the Chairman of the Board and thereafter record the reasons for such appointment.

Chairman of the Board

(2) The Chairman shall be the head of the Authority and shall preside over meetings of the Board.

(3) The Chairman may resign from his office by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.

(4) The Minister may for reasons assigned remove the Chairman from the office of Chairman and report such removal with reasons therefor to Parliament by making an address to Parliament.

(5) Where the Chairman is temporarily unable to perform the duties of his office due to ill health, other infirmity, prolonged absence from Sri Lanka or any other cause, the Minister may appoint any other appointed member to act as Chairman in addition to his normal duties as an appointed member.

100. (1) Every appointed member of the Board shall –

Disqualifications from being a member of the Board

- (a) be not more than seventy years of age as at the date of appointment to the Board;
- (b) be of sound mind; and
- (c) be a competent person with integrity and good repute.

(2) A person shall be disqualified from being appointed or continuing as a member of the Board, if such person –

- (a) is or becomes a member of Parliament or of any Provincial Council or any local authority;
- (b) is not or ceases to be a citizen of Sri Lanka;
- (c) is a person who having been declared insolvent or bankrupt under any law in Sri Lanka;
- (d) is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or in any other country;
- (e) holds or enjoys any right or benefit under any contract made by or on behalf of the Authority;
- (f) is a person registered as a Receiver or a Special Manager under this Act; or
- (g) has any financial or other interest as is likely to affect prejudicially, the discharge by him of his functions as a member of the Board.

Term of office
of the appointed
members of the
Board

101. (1) Every appointed member of the Board shall, unless such member earlier vacates office by death, resignation or removal, hold office for a period of three years and shall be eligible for reappointment for two terms consecutive or otherwise:

Provided however, the appointed members of the first Board appointed under the provisions of this Act shall hold office from the date of appointment in the following manner:-

- (a) the Chairman shall hold office for a period of three years;

- (b) three other members other than the Chairman shall hold office for a period of two years; and
- (c) the remaining three members shall hold office for a period of one year, and

the three members of the first Board who shall vacate office during the first and second year from the appointment to the first Board shall be determined by drawing lots at the first meeting of the Board.

(2) Where a vacancy arises in the office of an appointed member of the Board due to the expiration of his period of office, such member shall continue in such office until a new member is appointed in his place.

(3) The Minister shall, within one month of the occurring of a vacancy in the office of an appointed member of the Board due to the expiration of his period of office appoint a new member in his place.

102. (1) Every appointed member may at any time resign from his office by a letter to that effect, addressed to the Minister, and such resignation shall be effective from the date on which it is accepted by the Minister in writing.

Removal and
resignation of
appointed
members of the
Board

(2) Where any appointed member by reason of illness, infirmity or absence from Sri Lanka is temporarily unable to discharge the functions of his office, the Minister may, having regard to the provisions of this Act relating to the composition of members of the Board, appoint some other person to act in his place.

(3) The Minister may after affording an opportunity to the relevant member to explain and thereupon being satisfied

that removal of such member is warranted, and for reasons to be given in writing to such member and to the Board, remove an appointed member from office.

(4) Where an appointed member dies, resigns or is removed from office, the Minister may, having regard to the provisions of this Act relating to the composition of members of the Board, appoint another person in his place and the person so appointed shall hold office for the unexpired period of the term of office of the member whom he succeeds.

Members of the Board to disclose any interest

103. (1) A member of the Board shall at the time of consideration being given to being appointed as a member of the Board, submit to the Minister, any interest he may have which may give rise to either a conflicting or competing interest with the objectives and functions of the Authority.

(2) A member of the Board who is directly or indirectly interested in any matter which may give rise to a conflicting or competing interest with regard to a matter under consideration or due to be taken up before the Board shall disclose the nature of such interest to the Board and shall not take part in any deliberation or decision making of the Board with regard to such matter.

Quorum and meetings of the Board

104. (1) The meetings of the Board shall be held a minimum of once a month.

(2) The quorum for a meeting of the Board shall be five members consisting of minimum of two *ex officio* members.

(3) The Chairman shall preside at every meeting of the

Board. In the absence of the Chairman from any meeting of the Board a member elected by the members present shall preside at such meeting.

(4) All questions for decision at any meeting of the Board shall be decided by the vote of the majority of members present at such meeting. In the case of an equality of votes the Chairman or such other member who shall chair such meeting, in addition to his vote have a casting vote.

(5) Subject to the preceding provisions of this section, the Board may regulate the procedure in relation to the meetings of the Board and the transaction of business at such meetings.

(6) The Board shall from time to time appoint an Attorney-at-Law or a Chartered Secretary to either full time or part time basis function as the Board Secretary and determine the remuneration payable for such person.

(7) It shall be the duty of the Board Secretary to as directed by the Chairman or based on a resolution of the Board to convene meetings of the Board.

(8) It shall be the responsibility of the Board Secretary to maintain minutes of meetings of the Board and facilitate the necessary arrangements for the conduct of Board meetings.

105. The Board may act notwithstanding any vacancy among its members and any act or proceeding of the Board shall not be or deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Acts or proceedings of the Board deemed not to be invalid by reason of any vacancy

Remuneration of
the members of
the Board

106. The members of the Board shall be paid remuneration in such manner and at such rates as may be determined by the Minister, with the concurrence of the Minister assigned the subject of Finance.

Seal of the
Authority

107. (1) The seal of the Authority shall be in the custody of the Board Secretary.

(2) The seal of the Authority may be altered in such manner as may be determined by the Board.

(3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and one other member of the Board who shall sign the instrument or document in token of their presence:

Provided however, where the Chairman is unable to be present at the time when seal of the Authority is affixed to any instrument or document, any other member of the Board authorized in writing by the Chairman on that behalf shall be competent to sign such instrument or document in accordance with the provisions of this subsection:

Provided further, if the Chairman has not appointed a member of the Board to sign on his behalf in his absence, the Board shall appoint another member of the Board empowering such member to perform such function.

(4) The Authority shall maintain a register of the instruments and documents to which the seal of the Authority has been affixed.

Chief Executive
Officer of the
Authority

108. (1) The Board shall having regard to the scheme of recruitment developed having due regard to the duties and functions of the Authority and approved and adopted by

the Board, following a transparent scheme for the selection of a suitable person appoint the Chief Executive Officer of the Authority. It shall be lawful for the Authority to with the approval of the relevant head of the institution appoint a suitable public officer as the Chief Executive Officer on secondment.

(2) The Chief Executive Officer so appointed shall be in charge of all executive and administrative functions of the Authority and the Chief Financial Officer of the Authority.

(3) The Board shall exercise the disciplinary authority over such Chief Executive Officer.

(4) The Chief Executive Officer shall on the invitation of the Board be entitled to participate at the meetings of the Board.

(5) The Chief Executive Officer shall, unless he vacates office earlier by death, resignation, or removal be entitled to serve in such position for a period not exceeding ten years.

(6) The Chief Executive Officer shall, subject to the general directions and supervision of the Board-

- (a) be charged with the administration of the affairs and the executive functions of the Authority including the administration and control of the staff;
- (b) be responsible for the execution of all decisions of the Board; and
- (c) carry out all such functions as may be assigned to the Chief Executive Officer by the Board.

(7) The Chief Executive Officer may be removed from office if he –

- (a) becomes permanently incapable of performing the duties of the office of the Chief Executive Officer;
- (b) had in the opinion of the Board, committed any act which is incompatible with the duties, functions and powers of such officer, has acted in a manner that either defeats the purposes of this Act or in a manner prejudicial to the interests of the Authority, or been inefficient; or
- (c) has failed to comply with any directions issued by the Board.

(8) The office of the Chief Executive Officer shall become vacant upon the death, removal from office under subsection (7) or resignation by letter in that behalf addressed to the Board by the holder of that office or upon completion of the period of ten years' service.

(9) If any vacancy occurs in the office of the Chief Executive Officer, the Board may appoint an officer of the Authority holding managerial responsibility, to perform the duties of the Chief Executive Officer until an appointment is made.

(10) During the fourth quarter of every year, the Chief Executive Officer shall with due regard to the objects and functions of the Authority submit to the Board for approval a corporate plan for the following year.

(11) The Chief Executive Officer shall be paid such remuneration as may be determined by the Board.

109. (1) Subject to the provisions of this Act, the Chief Executive Officer shall have the authority to appoint such officers and other employees as it may be necessary for the efficient exercise and discharge of its powers and functions.

Staff of the
Authority

(2) The recruitment of officers who are to be vested with managerial responsibility shall be carried out by the Chief Executive Officer based upon a scheme of recruitment approved by the Board and every such appointment shall be ratified by the Board.

(3) The Chief Executive Officer shall subject to the provisions of this Act, exercise disciplinary control over the officers and employees of the Authority:

Provided however, no disciplinary measure relating to an officer vested with managerial responsibility shall be carried out by the Chief Executive Officer unless the Board has given approval.

(4) The Chief Executive Officer shall have the authority to determine the terms and conditions of employment of the officers and employees of the Authority:

Provided however, such terms and conditions pertaining to an officer vested with managerial responsibility shall be ratified by the Board.

(5) All officers and employees of the Authority shall, within one month of employment, declare in writing to the Authority of their personal direct or indirect interest in the affairs and transactions of the Authority as well as those of their close relations or concerns in which such officer or employee has a substantial interest.

Appointment of
public officers to
the Authority

110. (1) The Authority on the recommendation of the Chief Executive Officer may obtain on secondment, temporarily or contractual basis the services of any public officer or an officer or employee of a statutory body, with the consent of such public officer, officer or employee and his appointing authority. The remuneration payable to such public officer, officer or employee shall be determined by the Board.

(2) Where any public officer is temporarily appointed to the staff of the Authority –

- (a) if, at the time of his temporary appointment to the staff of the Authority, his substantive post in the public service was a post declared to be pensionable under the Minutes of Pensions-
- (i) he shall, while in the employment of the Authority be deemed to have been absent from duty in the public service on leave granted without salary on grounds of public policy and accordingly section 10 (1) of those Minutes shall apply to him; and
- (ii) in respect of him, the Authority shall pay out of the funds of the Authority to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employment of the Authority, such sum not exceeding *twenty-five per centum* of the salary payable to him in his substantive post in the public service as may be determined by the Minister assigned the subject of Finance; and

- (b) if, at the time of his temporary appointment to the staff of the Authority, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Authority shall, for the purpose of that Ordinance, be deemed to be service to the Government, and accordingly he shall while he is in the employment of the Authority, continue to pay to the Public Service Provident Fund such contributions as he may be liable under that Ordinance to pay, and in respect of him the Authority shall pay at the close of each financial year out of the funds of the Authority to the Deputy Secretary to the Treasury to be credited to the appropriate account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(3) Where any public officer is permanently appointed to the staff of the Authority –

- (a) he shall be deemed to have left the public service;
- (b) if, at the time of his permanent appointment to the staff of the Authority, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions-
 - (i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the date of his permanent appointment to the staff of the Authority;

- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the staff of the Authority is terminated by retirement on account of age or ill health or by the abolition of the post held by him in such staff or on any other ground approved by the Minister assigned the subject of Public Administration; and
 - (iii) in the event of his death while in employment of the Authority, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Authority may be made in respect of him; and
 - (c) if, at the time of his permanent appointment to the staff of the Authority he was a contributor to the Public Service Provident Fund established by the Public Service Provident Fund Ordinance, he shall for the purpose of that Ordinance, be deemed to have left the service of the Government upon the determination of his contract with the consent of the Government otherwise than by dismissal.
- (4) Where the Authority employs any person who has entered into a contract with the government by which he has agreed to serve the government for a specified period, any period of service to the Authority by that person shall be regarded as service to the government for the purpose of discharging the obligations under such contract.

111. The Authority may on the recommendation of the Chief Executive Officer obtain the services of any other persons on fixed-term contracts or contract for specific services to be provided if the Authority is satisfied that the services of such person is necessary for the due discharge of the functions of the Authority as provided by this Act or as directed to be performing in terms of an order of a court.

Authority to
obtain services of
other personnel

112. (1) The Authority shall have the following funds:-

Funds of the
Authority

- (a) Management and Administration fund of the Authority;
- (b) Fund for the Protection, Preservation and Management of Proceeds of Crime.

(2) There shall be credited to the Management and Administration fund of the Authority:-

- (a) all sums of money as may be voted from time to time by Parliament, for the use of the Authority;
- (b) all sums of money as may be remitted to the Fund by courts of law; and
- (c) all such sums of money as may be received by the Authority by way of loans, grants, gifts, bequests or donations from any source whatsoever whether within or outside Sri Lanka.

(3) There shall be credited to the Fund for the Protection, Preservation and Management of Proceeds of Crime:-

- (a) all sums of money as may be remitted to the Fund by courts of law;

- (b) all sums of money as may be voted from time to time by Parliament, for the use of the Authority; and
- (c) all sums of money that may be received by the Authority for the protection, preservation and management of proceeds of crime.

(4) There shall be paid out of the Management and Administration fund of the Authority -

- (a) all such sums of money as are required to meet any expenditure for the discharge of the functions of the Authority including expenditure pertaining to its day-to-day functioning;
- (b) all such sums of money as required for the payment of salaries, allowances, compensation, fees and other payments of the Board and the Chief Executive Officer, officers and employees and other persons whose services have been obtained on contractual basis; and
- (c) any other payments authorized by the Board.

(5) There shall be paid out of the Fund for the Protection, Preservation and Management of Proceeds of Crime -

- (a) all such sums of money as are required to discharge functions entrusted to the Authority by this Act or any other written law and by orders of a court of law pertaining to the protection, preservation, and management of proceeds of crime and matters associated therewith, including payments to be made to persons who have provided specific services relating to such protection, preservation and management;

- (b) on the recommendation of the Chief Executive Officer with the approval of the Board a sum of money which shall not exceed twenty five *per centum* of the annual expenditure required for the functioning of the Authority; and
- (c) any other payments authorized by the Board including sums of money necessary to –
 - (i) provide training to the Designated Officers and the Investigation Officers;
 - (ii) provide training to legal officers and other Attorneys-at-law who provide professional services to achieve the objectives and functions of this Act;
 - (iii) procurement of equipment and programs that may be necessary for the tracing, search, identification and examination of proceeds of crime;
 - (iv) the payment of professional fees payable to experts who may be contracted by the Designated Officers for the purpose of conducting cash flow tracing, financial analysis, and tracing proceeds of crime;
 - (v) programs necessary to create awareness regarding the provisions of this Act; and
 - (vi) contingent upon successful forfeiture of proceeds of crime, to be credited to the Police reward fund established under section 73 of the Police Ordinance (Chapter 53) to be used for the payment of rewards to Investigation Officers, other personnel who have assisted in the conduct of the investigation and

informants in terms of a scheme formulated by the Inspector General of Police, and

- (vii) contingent upon successful forfeiture of proceeds of crime, to be credited to a reward fund to be established by the Commission to Investigate Allegations of Bribery or Corruption to be used for the payment of rewards to Investigation Officers, other personnel who have assisted in the conduct of the investigation and informants in terms of a scheme formulated by that Commission.

(6) Where any money is received by way of loans, grants, gifts, bequests or donations, by the Authority the source and the purpose for which such loans, grants, gifts, bequests or donations were made available to shall be made public by the Authority by publishing such receipts in the official website of the Authority within one month of such receipt.

(7) The Chief Executive Officer with the ratification of the Board shall make plans and related guidelines pertaining to investment, management and payment of moneys out of the Management and Administration fund of the Authority and the Fund for the Protection, Preservation and Management of Proceeds of Crime.

(8) The annual report of the Authority shall include the annual audited statement of accounts which shall include all sums of money received by the Authority including sources of funds.

Financial year and
Audit of Accounts
of the Authority

113. (1) The financial year of the Authority shall be the calendar year.

(2) The Chief Executive Officer shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.

(3) The provisions of Article 154 of the Constitution and the National Audit Act, No. 19 of 2018 relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Authority.

(4) The Chief Executive Officer shall through the Board within three months of the end of each financial year, submit to the Minister an annual report of the activities carried out by the Authority during that financial year, and cause a copy each of the following documents relating to that year to be attached to the report:—

- (a) the audited accounts of the Authority for the year, along with the Auditor-General's report;
- (b) a report of proposed activities for the year immediately following the year to which such report and accounts relates.

(5) The Minister shall place such report and documents before Parliament within two months of the receipt thereof and make such report and documents publicly available on the official website of the Authority in the official languages.

114. It shall be a defence in any criminal or civil proceeding for anything done or omitted to be done by—

Protection against
actions and law
suits

- (a) a member of the Board;
- (b) the Chief Executive Officer, officer or any employee of the Authority.

if he proves that he exercised due diligence and reasonable care and acted in good faith in the course of or in connection with the discharge or purported discharge of his obligations under this Act or any regulation, rule, order or directive issued or made thereunder.

Expenses incurred to be paid out of the Management and Administration fund of the Authority

115. Any expense incurred by a member of the Board or any other officer or employee or agent of the Authority or such other former member, officer, employee or agent in any suit or prosecution brought against the Authority or such person before any Court, in respect of any act which has been committed by the Authority or such person in his official capacity under this Act or on the direction of the Authority, shall, if the Court holds that such act had been done in good faith, be paid out of the Management and Administration fund of the Authority.

Members of the Authority, etc. deemed to be public servants

116. (1) The members of the Authority, the Chief Executive Officer and officers and employees of the Authority and any other person whose services are obtained on contractual basis shall be deemed to be public servants within the meaning of the Penal Code.

(2) The Authority shall be deemed to be a scheduled institution for the purposes of the Anti-Corruption Act.

PART VI

FORFEITURE OF FROZEN PROCEEDS OF CRIME AND RELATED PROCEEDINGS

General provisions on post-conviction forfeiture

117. (1) Where the committing of an unlawful activity has been investigated into and the suspected perpetrator prosecuted for having committed the relevant unlawful activity and he has been convicted of having committed such unlawful activity, proceedings which shall be referred to as post-conviction forfeiture proceedings may thereafter be instituted for –

- (a) the forfeiture of proceeds of such unlawful activity which has been frozen; or

- (b) the corresponding value of the proceeds of crime to be recovered and forfeited.

(2) Such proceedings shall be instituted –

- (a) against the person who has been convicted for having committed the unlawful activity which yielded the relevant proceeds of crime or who had in his possession control or dominion the property of the corresponding value of such proceeds of crime; or
- (b) against any other person from whom the relevant proceeds of crime was recovered.

(3) The proceedings for forfeiture under post-conviction forfeiture proceedings shall commence following the conviction of the offender of the corresponding unlawful activity, and need not await the determination of the appeal if any, against the conviction:

Provided however, if an appeal is filed, and following post-conviction forfeiture proceedings, the property is forfeited, the order of forfeiture shall not be implemented till the determination of the appeal, and shall be carried out only if the conviction is affirmed in appeal:

Provided further, if –

- (a) the trial does not result in the conviction of the accused; or
- (b) the appeal against the conviction is successful and the conviction is set-aside,

the Attorney-General may initiate non-conviction based forfeiture proceedings in respect of the property believed

to be proceeds of crime or in respect of the property of the corresponding value of such proceeds of crime.

A penalty to the value of the proceeds of crime

118. (1) Following the conviction of any person for having committed any unlawful activity, the court which convicted such person shall, in addition to the punishment specified for such unlawful activity in the relevant law, be entitled to impose a penalty to the value of the proceeds of crime derived at the time of committing of the unlawful activity and any value derived by the utilization of such proceeds of crime:

Provided however, an order for payment for a penalty as provided above shall not be made if the unlawful activity had been committed prior to the date of the coming into operation of this Act:

Provided further, an order for the payment of penalty as provided above shall not be made if the proceeds of such unlawful activity or a property to the corresponding value of such proceeds of crime had been seized or frozen in terms of this Act or is otherwise available to be subject to forfeiture proceedings in terms of this Act.

(2) The penalty imposed in terms of subsection (1) shall be recovered in the form of recovery proceedings pertaining to recovery of fines contained in the Code of Criminal Procedure Act.

(3) If the proceeds of crime derived out of the committing of the unlawful activity referred to in subsection (1) had been the personal property of any person, and the penalty specified in the section is paid by the convicted person, the court shall make order for the release of the sum paid to such person who is entitled to the proceeds of crime.

(4) If the penalty as provided in subsection (1) is paid in full by the convicted person, the Attorney-General shall not be entitled to institute proceedings for post-conviction forfeiture of the relevant proceeds of crime.

(5) If the penalty as provided in subsection (1) is not paid in full by the convicted person, the Attorney-General shall be entitled to institute proceedings for post-conviction of the relevant proceeds of crime in respect of the remaining sum of money.

119. (1) Following the conviction of a person by a trial court for having committed an unlawful activity, and there being identified property which is believed to be proceeds of crime derived out of the committing of such unlawful activity or property which is to the corresponding value of such proceeds of crime, the Attorney-General may within three months from the date on which the accused was convicted and sentenced, notwithstanding the convicted accused having filed an appeal against such conviction, institute proceedings in the relevant trial court moving such court to conduct an inquiry under this Act –

Attorney General
to institute
proceeding for
Post conviction
Forfeiture

(a) for the forfeiture of-

- (i) such proceeds of crime;
- (ii) the property which is of the corresponding value of the proceeds of crime;
- (iii) the security submitted to court in lieu of release of the proceeds of crime following its judicial freezing; or
- (iv) the monetary proceeds of the disposal of the proceeds of crime pending forfeiture proceedings; and

- (b) for a direction that such proceeds of crime, property to the corresponding value to such proceeds of crime, security or the proceeds of disposal of the proceeds of crime be released to the relevant victim of unlawful activity, if any:

Provided however, if the trial court following the conviction of the accused, when imposing the sentence, has imposed a penalty under the applicable law on the convicted accused to an amount not less than the value of the relevant proceeds of crime, the Attorney-General shall not be entitled to institute proceedings under this Act for post-conviction forfeiture of the proceeds of crime:

Provided further, if the court determines that the relevant proceeds of crime are of a nature that can generate secondary or continuous proceeds, the Attorney-General shall institute proceedings under this Act for post-conviction forfeiture of proceeds of crime.

(2) The trial Court that has convicted a person for having committed an unlawful activity shall have jurisdiction to entertain an application referred to in subsection (1), and following inquiry as provided herein -

- (a) make order for the forfeiture of-
 - (i) such proceeds of crime;
 - (ii) the property of the corresponding value of the proceeds of crime;
 - (iii) the security submitted to court in lieu of the release of the proceeds of crime following its judicial freezing; or

(iv) proceeds of the disposal of the proceeds of crime pending the forfeiture; or

(b) direct that such proceeds of crime or property of such corresponding value of such proceeds of crime, security or the proceeds of disposal be released to the relevant victim of unlawful activity.

120. (1) The institution of proceedings in terms of section 119 shall be carried out by filing a Petition and Affidavit together with duly authenticated necessary supporting evidence. Notwithstanding anything to the contrary in any other law, the Affidavit shall be affirmed to or sworn by a person who is acquainted with the averments contained in the Petition.

Manner of
institution of
proceedings

(2) The Attorney-General shall be entitled to institute proceedings in terms of this Part of the Act, notwithstanding the trial against the accused having commenced and been conducted in the absence of the accused following an order made under section 192 or 241 of the Code of Criminal Procedure Act.

(3) A convicted accused who had been absconding during the trial, shall not be entitled to present a claim for the release of the property which is the subject matter of the inquiry or participate in proceedings under this Part of this Act, unless he has purged his default in appearance before the trial court, and has established that his absence at the trial was due to –

(a) his being unaware of the trial

proceedings; or

(b) for reasons beyond his control.

(4) The Attorney-General shall be entitled to institute proceedings under this Part, notwithstanding the death of the convicted accused:

Provided however, the Attorney-General shall cite the heir, administrator or executor as the case may be, if any, of the deceased convicted accused as a Respondent.

(5) The person convicted of having committed the unlawful activity shall be cited as a Respondent. Any other person from whose possession or dominion such property was seized who has presented a claim in respect of such property during proceedings for the judicial freezing of the property, including the victim of crime shall also be cited as Respondents.

Notice of
Proceedings

121. Following the filing of action for post-conviction forfeiture the Court shall direct the Attorney-General to –

- (a) publish a notice in the form and manner directed by Court;
- (b) to serve a copy of the application together with the notice to any victim of crime who has been deprived of the proceeds of crime due to the committing of the unlawful activity;
- (c) to serve the application on the convicted accused and such other persons who may have presented claims in respect of the property together with a notice calling upon such persons to show cause, if any, as to why the property in issue shall not be forfeited and notifying such person the date before which such cause shall be presented to court; and

- (d) serve a copy of the Notice to the Authority, and the Receiver or the Special Manager, if any, appointed by court to protect, preserve, and manage the relevant property.

122. (1) Any party who is a respondent to the action or any other party having legal entitlement to claim the property that is sought to be forfeited including the victim of crime, if any, shall be entitled within the time period specified in the notice under section 121 to file a statement of objections together with an affidavit and duly authenticated supporting evidence for the purpose of satisfying court that-

Statement of
objections

- (a) the property shall not be forfeited; and
- (b) such property shall be released to the relevant claimant.

(2) Where one or more of the respondents or claimants file statement of objections, the petitioner shall be entitled to file counter objections together with any other supporting evidence.

123. (1) An inquiry in terms of this Part of this Act shall be conducted by the examination of affidavit and documentary evidence:

Inquiry

Provided however, for reasons to be recorded, the Court may in exceptional circumstances permit the presentation of oral and documentary evidence, in which event the rules pertaining to examination of witnesses and presentation of documentary evidence as contained in the Evidence Ordinance shall apply.

(2) Following the filing of the afore-stated material, the court shall take up the matter for inquiry. The Court shall

initially consider whether the Attorney-General has made out a *prima facie* case to satisfy court that the property in respect of which the application has been filed is proceeds of crime in respect of which a person has been convicted. For the purpose of arriving at such finding, the Court may take into consideration-

- (a) the evidence placed before court during the trial;
- (b) notwithstanding anything to the contrary in sections 25 and 26 of the Evidence Ordinance and section 110 of the Code of Criminal Procedure Act, notes of investigations including the statements recorded during the course of the investigation into the committing of the unlawful activity including statements made by the convicted person;
- (c) the judgment pronounced by the trial court that convicted the accused for having committed the unlawful activity; and
- (d) any other evidence which the Court shall deem necessary considering the interest of justice.

(3) If after inquiry, if the court is satisfied that the Attorney-General has made out a *prima facie* case, the Court shall call upon the Respondents to show cause as to why the Attorney-General's application shall not be allowed and hence as to why the property shall not be forfeited.

(4) Where the court is not satisfied that the Attorney-General has made out a *prima facie* case, the Court shall dismiss the application without calling on the respondents to show cause, and make order vacating the judicial freezing order, if any, previously made in respect of the relevant property in terms of this Act. The Court shall also make a

suitable order for the release the property to the party entitled to such property.

(5) Where the respondents show cause, the Court shall conduct further inquiry into the matter.

(6) If following inquiry, the Court is satisfied on a balance of probabilities that the property in respect of which the application for forfeiture has been filed is-

- (a) the proceeds of crime;
- (b) property of the corresponding value of the proceeds of crime; or
- (c) that no victim of unlawful activity or claimant exists who has the legal entitlement to take possession of such property,

make order for the forfeiture of the property, the security deposited, or the proceeds of the disposal of the property pending trial or forfeiture proceedings in respect of which such application has been made.

(7) If following inquiry, the Court is satisfied on a balance of probabilities that the Respondent to the application or the claimant has a lawful claim for the property in respect of which the proceedings has been instituted, the Court shall make order for the release of the property or the value thereof to such party.

(8) An order made in terms of this Act for-

- (a) dismissal of the application;
- (b) forfeiture of the property; or

- (c) release of the property to the Respondent or claimant,

shall be deemed to be a final order and any party aggrieved by such order shall be entitled to appeal against such order to the Court of Appeal within a period of fourteen days from the date of such order, following the procedure contained in the Code of Criminal Procedure Act.

(9) The Court which pronounces the order for forfeiture or release of the property, shall record reasons for such order.

(10) The Proceedings in terms of this part of this Act for a determination on the forfeiture of proceeds of crime may be conducted notwithstanding the relevant property having been disposed of pending trial and the value thereof recovered.

(11) The proceedings in terms of this part of this Act may be conducted for the recovery of the value of financial benefits derived by the committing of the unlawful activity.

(12) It shall be lawful for the Attorney-General to make an application to the trial Court in terms of this Part of this Act for the forfeiture of proceeds of crime or the property of the corresponding value of such proceeds of crime, notwithstanding –

- (a) the unlawful activity having been committed prior to the coming into operation of this Act; or
- (b) the property in issue not having been restrained, seized, or frozen in terms of this Act.

(13) Where a person has been convicted for having committed an unlawful activity which constitute an offence under and in terms of the Anti-Corruption Act, the entitlement conferred on the Attorney-General in this Part of this Act shall be exercised by the Director-General of Commission to Investigate Allegations of Bribery or Corruption on the direction of the Commission or by the Attorney-General on a request by the Commission to Investigate Allegations of Bribery or Corruption or by any Attorney-at-Law specially authorized by the Commission to Investigate Allegations of Bribery or Corruption under section 65 of the Anti-Corruption Act.

(14) If during proceedings under this Part of this Act, on evidence placed before Court and further evidence, if any, called for and examined by court, the court becomes satisfied that the property in respect of which forfeiture proceedings has been instituted comprises partly of proceeds of crime and partly of property which does not constitute proceeds of crime, the court shall obtain a valuation of such property and determine the percentage value of such property which constitutes proceeds of crime and make order for forfeiture only in respect of such value which amounts to proceeds of crime.

(15) Where one or more parties present a claim in respect of such property and as provided in this Act on a balance of probability establish such claim, the court shall direct that the percentage value of such property corresponding to such established claim which does not relate to proceeds of crime become the entitlement of such claimant.

(16) The court shall direct the disposal of such property in the manner provided by this Act and upon realization of the value thereof direct the Registrar of the court to make payment in the sum determined by the court to the claimant

and direct the forfeiture of the remaining sum of money which corresponds to the percentage value of the proceeds of crime to be forfeited to the state.

Value based
forfeiture

124. (1) Following the prosecution and conviction of a person for having committed an unlawful activity, if it appears that the proceeds of such unlawful activity—

- (a) has not been traced or specifically identified notwithstanding diligent attempts to identify and trace such property;
- (b) has been destroyed, decayed or become worthless;
- (c) has been substantially altered;
- (d) has been sold;
- (e) has got intermingled with other property and is therefore not possible or difficult to be separated;
- (f) has been transferred outside Sri Lanka;
- (g) has been otherwise subjected to money laundering;
- (h) has been used by a convict or such other person and is therefore no longer available;
- (i) has undergone change due to whatsoever reason and hence its value has diminished to an insignificant amount or has lost its original utility or commercial value;
- (j) has assumed the form of a benefit, a gain, a

service or an advantage which is measurable monetarily;

(*k*) has not been seized or frozen due to such action having the potential of causing a significant impact on the national economy, or adverse impact on the interests of a *bona-fide* third party; or

(*l*) is available in a place outside the jurisdiction of the Democratic Socialist Republic of Sri Lanka,

the Attorney-General may make an application to court -

(i) for an order for the convicted accused to pay a sum of money as determined to be the value of the proceeds of crime called substituted money forfeiture; or

(ii) for an order for the forfeiture of a property of the convicted accused which is of comparable monetary value called substituted property forfeiture.

(2) (*a*) When determining the value of the property to be subjected to an order of substituted property forfeiture and the monetary value of the substituted money forfeiture, the Court may take into account the appreciation or the fluctuation of the value of the original proceeds of crime due to the passage of time and the potential of such proceeds of crime being used for investment or business purposes.

(*b*) For such purpose, the Attorney-General shall be required to identify the property of the convicted accused which may be subjected to such forfeiture.

(3) The procedure to be followed with such forfeiture proceedings shall *mutatis mutandis* be the procedure with regard to post-conviction forfeiture procedure.

(4) If it is not possible to identify a property of the convicted accused which is of comparable value to the proceeds of crime, the Court may on application by the Attorney-General direct the convicted accused to make a sworn declaration of his properties. Following the submission and consideration of such declaration, the Attorney-General may make an application in terms of the above-mentioned procedure for forfeiture of any property of the convicted accused of comparable value based on the information contained in the said declaration.

(5) If the afore-stated declaration does not contain information pertaining to any property of comparable value, the Court may on application by the Attorney-General make an order on the convicted accused to pay a sum of money equivalent to the value of proceeds of crime.

(6) The afore-stated sum of money ordered by the Court shall be recovered in the same manner as a fine imposed by Court.

(7) In proceedings under this Part of this Act for forfeiture of value - based proceeds of crime, if any party objects to the value or other property derived out of the committing of an unlawful activity being forfeited, the Court shall direct such claimant to initially submit to court security in the manner the court may require to be deposited.

(8) If the trial Court following the conviction of the accused, when imposing the sentence, had imposed on the convicted accused a penalty under the applicable law to an amount not less than the value of the relevant proceeds of

crime, the Attorney-General shall not be entitled to institute proceedings under this Act for value-based forfeiture of the proceeds of crime.

125. (1) Where a property suspected to be proceeds of crime has been investigated into and material collected to establish *prima-facie* that such property is proceeds of crime, and such property has been either restrained or seized and thereafter frozen in terms of this Act, civil proceedings may be thereafter instituted in the High Court in terms of this Act, against such property, for the forfeiture of such property suspected to be proceeds of crime as provided in this Act. Such civil judicial proceedings shall be referred to as non-conviction based forfeiture proceedings.

General provisions
for non-conviction
based forfeiture

(2) For the forfeiture of proceeds of crime in terms of non-conviction based forfeiture proceedings, it shall not be necessary to prosecute and obtain a conviction against the person who had committed the unlawful activity which yielded the relevant proceeds of crime.

(3) The forfeiture proceedings under non-conviction based forfeiture proceedings shall not be an alternative to the prosecution of a person for having committed the corresponding unlawful activity. Where investigations yield sufficient evidence, the person who committed the corresponding unlawful activity shall be prosecuted in terms of the applicable law.

(4) Where a person has been prosecuted and convicted of having committed an unlawful activity, and the proceeds of such unlawful activity are available, the post-conviction forfeiture of proceeds of crime shall be ordinarily enforced for the forfeiture of the proceeds of such unlawful activity:

Provided however, parallel to or in the absence of the Attorney-General instituting criminal proceedings and

prosecuting the offender responsible for having committed the unlawful activity, it shall be lawful for proceedings to be instituted and carried out in terms of this Act in respect of the proceeds of such unlawful activity, provided the requirements contained in this Act relating to non-conviction based forfeiture of proceeds of crime have been satisfied.

(5) The High Court of the Republic of Sri Lanka holden in the judicial zone of Colombo shall have jurisdiction to entertain and adjudicate upon an application for non-conviction based forfeiture of proceeds of crime notwithstanding the location of such property being outside the territorial jurisdiction of such court:

Provided however, where the Chief Justice on an application by the Attorney-General directs that an application for non-conviction based forfeiture of proceeds of crime shall be entertained and adjudicated by a High Court of any other judicial zone, such High Court shall have jurisdiction:

Provided further when determining an application by the Attorney-General for a direction, the Chief Justice shall consider whether due to delays in the conduct and completion of hearing for non-conviction based forfeiture proceedings whether it may defeat the objectives of this Act, and it be desirable for jurisdiction to be vested in a High Court not holden in the judicial zone of Colombo.

(6) While ordinarily, for the institution of non-conviction based forfeiture proceedings, a judicial freezing order shall be a prerequisite, if the Attorney-General can establish that for reasons beyond the control of the relevant Designated Officer or Investigation Officer, it was not possible to obtain a judicial freezing order, he shall be entitled to institute proceedings for non-conviction based forfeiture even in the absence of a judicial freezing order.

(7) For the successful forfeiture of proceeds of crime, the High Court shall on a balance of probability be satisfied that, the property in respect of which the action has been instituted is proceeds of crime.

(8) The non-conviction based forfeiture proceedings may be instituted even where criminal proceedings had been instituted against the person accused of having committed the corresponding unlawful activity and he had been acquitted or discharged at the trial or appellate stage.

(9) If the proceeds of an unlawful activity which comes within the jurisdiction of this Act is found outside Sri Lanka, non-conviction based forfeiture proceedings in respect of such property may be instituted in the High Court, without any initial steps of restrain, seizure or judicial freezing having taken place in terms of this Act.

(10) Where a person who has committed an unlawful activity either within or outside Sri Lanka, is convicted by a court of competent jurisdiction of another country and the proceeds of such unlawful activity is found in Sri Lanka, non-conviction based forfeiture proceedings in respect of such property may be instituted and carried out, without the initial steps of the restraint, seizure or judicial freezing of such property taking place in terms of this Act.

(11) In view of the need to ensure that action in terms of this Act does not cause a serious impact on the national economy or public interest, it shall be lawful for the Attorney-General to institute non-conviction based forfeiture proceedings in the High Court notwithstanding the property in respect of which proceedings are being instituted have not been subjected to any prior restraining, preservation, seizure or judicial freezing:

Provided however, following the filing of the application for the commencement of proceedings for non-conviction based forfeiture of suspected proceeds of crime, the Attorney-General shall satisfy the High Court that *prima-facie* the property in respect of which action has been instituted is proceeds of crime.

Situations where non-conviction based forfeiture proceedings can be instituted

126. (1) Non-conviction based forfeiture proceedings can be instituted in the following circumstances and is not limited to these circumstances:-

- (a) where the person who committed the corresponding unlawful activity is dead, dies during trial, is a fugitive from justice, has immunity from criminal prosecution or his prosecution is not otherwise possible, or such perpetrator cannot be identified or is unknown;
- (b) the proceeds of crime has been inherited, otherwise received or procured or is being held by a third party;
- (c) a prosecution cannot be conducted against the perpetrator of the unlawful activity, since the committing of offence has been prescribed under the Prescription Ordinance (Chapter 68);
- (d) there is no or insufficient evidence to institute criminal proceedings against the person who committed the unlawful activity and to prosecute him successfully;
- (e) where no investigation has been conducted or the conduct of an investigation has not been possible into the committing of the unlawful activity which yielded the relevant proceeds of crime;

- (f) where a person subject to the jurisdiction of this Act has committed an unlawful activity in another country and the offender has not been prosecuted or been convicted in that country, and the proceeds of the unlawful activity are found in Sri Lanka or elsewhere;
- (g) where a person subject to the jurisdiction of Sri Lanka has committed an unlawful activity within or outside Sri Lanka and the proceeds of such unlawful activity is found outside Sri Lanka;
- (h) where the proceeds of an unlawful activity which comes within the jurisdiction of this Act is found outside Sri Lanka;
- (i) where a person who has committed an unlawful activity either within or outside Sri Lanka, is convicted by a court of competent jurisdiction of another country and the proceeds of such unlawful activity is found within Sri Lanka;
- (j) where the restrained, seized, or frozen property is-
 - (i) only partly the proceeds of an unlawful activity, or
 - (ii) comprises of components derived out of the committing of several unlawful activities, or
 - (iii) is a combination of property specified in subparagraphs (i) and (ii) of this paragraph;
or

- (k) where a property suspected to be proceeds of crime has been investigated into and no person has claimed ownership of such property, a person has presented a claim in respect of such property and later withdrawn it, or no person has made any claim in respect of such property. In this category, proceedings for non – conviction based forfeiture may be instituted without a prior restraint, seizure or judicial freezing of such property.

(2) Unless specifically provided by the provisions of this Act, no property shall be immune from proceedings in terms of this Act for non–conviction based forfeiture of proceeds of crime.

Non-conviction
based forfeiture
proceedings

127. (1) Following the completion of an investigation into property suspected to be proceeds of crime and ordinarily a judicial freezing order has been made by the High Court in respect of such property, the Attorney-General or the Director-General of Commission to Investigate Allegations of Bribery or Corruption as the case may be, may institute proceedings in the High Court under this Part of this Act against such property, by filing an application, praying such High Court to make an order for the forfeiture to the state of such property or its return to its lawful owner or to the party having entitlement to its possession.

(2) The contents of such application shall be supported by an affidavit by the relevant Investigation Officer and to the application shall be attached any such document or other evidence as may be necessary to establish *prima facie* that the property in respect of which the application is made is proceeds of crime.

(3) The Attorney-General shall not be entitled to institute proceedings under this provision seeking an order of non-

conviction based forfeiture of proceeds of crime, unless a notice had been served in terms of section 68 of this Act and the person to whom such notice had been served had defaulted in submitting an explanation in the manner provided by this Act, or the explanation provided by the person to whom the notice has been served for reasons recorded being rejected by the Investigation Officer, which rejection had been approved by the corresponding Designated Officer:

Provided however, if the explanation provided by recipient of the Notice is partially accepted by the Investigation Officer, the Attorney-General shall be entitled to institute proceedings with regard to the value of the portion of the property in respect of which a valid explanation has not been provided.

(4) Upon a filing of an application, the High Court shall direct the relevant Designated Officer to publish a notice in the manner directed by Court.

(5) The notice pertaining to the filing of the application shall be issued to the following parties and to any other party the High Court deems necessary:-

- (a) the person from whose custody the relevant property was seized by an investigation officer;
- (b) the victim of crime from whom the property is believed to have been taken;
- (c) any person who may have been directly affected by the judicial freezing of the property; and
- (d) any party who may have a claim in respect of the property.

(6) The High Court shall in notice pertaining to the filing of the application, announce the date before which any party seeking the return, possession or entitlement to use or control the frozen property shall present its claims to Court. The period granted by the Court for the presentation of claims shall be not less than six weeks from the publication or delivery of such notice, whichever occurs later.

(7) Any party, including a party to whom the notice pertaining to the filing of the application has not been served, seeking a declaration of any right or interest or entitlement to possess or use a frozen property, shall be entitled to present its claim in that regard to the High Court.

(8) A claim presented to the High Court under this Part of this Act shall be in the form of a statement of claim together with an affidavit and necessary evidentiary documents attached thereto.

(9) The Competent Authority of any sovereign state shall be entitled to present a claim with regard to a frozen property on the premise that such property has been derived out of the committing of an unlawful activity in relation to the public funds or other property of such country:

Provided that, the High Court shall not entertain any such claim by a competent authority of any sovereign state, unless the claimant attaches to such claim a certificate issued by the Secretary to the Ministry of the Minister assigned the subject of Foreign Affairs, certifying that an agreement exists bilaterally, through multi-lateral treaty or through any other form of arrangement for international cooperation pertaining to the return of proceeds of crime and that such agreement remains in force.

(10) It shall be lawful for the Attorney-General to make an application under this section on behalf of the competent authority of any sovereign state.

(11) Upon the filing of claims, the Court shall afford an opportunity to all parties to study each other's claims and if they wish file statements of objections accompanied with an affidavit and supporting documents, if any, or counter claims in the manner provided with regard to claims.

(12) Following the filing of claims, counter claims and statements of objections, the High Court shall fix the matter for inquiry, and upon the conduct of such inquiry, determine whether the property in respect of which the application has been filed shall be forfeited or shall be released to a party entitled in law to its possession or use.

(13) In an Inquiry conducted under this section, oral evidence shall be led, only if under exceptional circumstances the Court grants permission in that regard on the basis that such oral evidence is necessary for the determination of the matter.

(14) In proceedings under this section, the High Court may apply the presumption contained in section 34 for the purpose of determining whether the property in respect of which proceedings have been instituted is proceeds of crime, and determining the legitimacy of a claim by any person for the release of the property in respect of which proceedings have been instituted.

(15) A party seeking to gain control or possession of the property in respect of which action has been instituted, shall establish a lawful claim on a balance of probability and to a threshold which exceeds the threshold that may have been established by any other claimant.

(16) If following inquiry, the High Court forms the view that the property in respect of which proceedings have been instituted is a property of any particular victim of crime, the Court shall make order directing that the property be returned to such victim of crime.

(17) If the High Court following inquiry determines that –

- (a) no claimant party has on a balance of probability established a lawful claim for the release of the property; or
- (b) no valid claim has been presented to Court by a victim of the corresponding unlawful activity, or by the competent authority of a foreign state in terms of this Act; and
- (c) on a balance of probability the property in respect of which the application has been filed is proceeds of crime,

the High Court shall make order forfeiting the property.

(18) If following inquiry, the High Court determines that only a portion in respect of which proceedings have been instituted under this section for non-conviction based forfeiture of proceeds of crime, the Court shall following the determination of the value of the relevant proceeds of crime make Order that the property be forfeited to the state and the state making a payment to the party entitled to the remaining portion of the value.

(19) If the High Court directs that a claimant has on a balance of probability presented a lawful claim for such property, the High Court shall make order directing that the property in respect of which proceedings were instituted be released to such claimant.

(20) If the High Court determines that the property in respect of which proceedings have been instituted belongs to a claimant who is a victim of the corresponding crime, it shall make order releasing the property to such victim of crime.

(21) If the High Court determines that the property in respect of which the proceedings have been instituted is the public property of a requesting foreign state which has through its competent authority presented a claim, it shall make order subject to the provisions contained in this Act, releasing the property or part thereof or its value to the requesting foreign state.

(22) If the Court makes an order for forfeiture of the property, it shall be forfeited to the state and the Secretary to the Treasury shall take possession thereof and deal with such property in terms of this Act.

(23) If the Court is of the view that a claimant has on a balance of probability established that he is the lawful owner of such property, the Court shall vacate the judicial freezing order and release such property to such claimant.

(24) The forfeiture of any property in terms of the non-conviction based forfeiture of proceeds of crime procedure contained in this Act, shall not be deemed as a punishment or as any penalty imposed on any person, and by virtue of such forfeiture, no person shall be subjected to any disqualification or other sanction.

(25) If during proceedings under this section, on evidence placed before Court and further evidence, if any, called for and examined by court, the court becomes satisfied that the property in respect of which forfeiture proceedings has been instituted comprises partly of proceeds of crime and partly

of property which does not constitute proceeds of crime, the court shall obtain a valuation of such property and determine the percentage value of such property which constitutes proceeds of crime.

(26) Where one or more parties present a claim in respect of such property and as provided in this Act on a balance of probability establish such claim, the court shall direct that the percentage value of such property corresponding to such established claim which does not relate to proceeds of crime become the entitlement of such claimant.

(27) The court shall direct the disposal of such property in the manner provided by this Act and upon realization of the value thereof direct the Registrar of the court to make payment in the sum determined by the court to the claimant and direct the forfeiture of the remaining sum of money which corresponds to the percentage value of the proceeds of crime to be forfeited to the state.

Provisions
common to
post-conviction
forfeiture of
proceeds of
crime and
non-conviction
based forfeiture
of proceeds of
crime following
the order of
forfeiture

128. (1) If upon the conclusion of the inquiry into proceeds of crime the court makes an order for forfeiture of the property, the court shall direct the Authority, Receiver or the Special Manager as the case may be to release the property to the party stipulated by court:

Provided however, if the Court is of the view that notwithstanding the forfeiture of the property to the state, such property shall be protected, preserved and managed for a further period of time as the Court shall deem fit, for reasons to be recorded, the court shall direct the Authority, Receiver or the Special Manager as the case may be to continue to provide protection, preservation and management of the property upon such terms and conditions the court shall deem fit.

(2) Following forfeiture of the property to the state, the High Court shall direct the Authority, the Receiver or the Special Manager as the case may be to dispose of the property through public auction or any other means of disposal recommended by the Authority and approved by Court, subject to the terms of this Act and any other conditions the Court may impose:

Provided however, if the property has been already disposed of pending forfeiture proceedings, it shall not be necessary for Court to make a post-forfeiture disposal order.

(3) If the Authority, Receiver or the Special Manager reports to Court that in view of the present condition or attendant circumstances relating to the property, the disposal of such property may not be possible or may not give rise to the realization of true value of such property, and the Court is satisfied of such reason, the court may make necessary orders to relevant Competent Authorities of the Government with regard to the property, so as to enable the disposal of the property through public auction and realization of true value thereof.

Provided however, if the Court is of the view that given the attendant circumstances, the disposal of the property will not be in any event possible, the Court shall make an appropriate order transferring the property to a Competent Authority of the Government of Sri Lanka.

(4) The Authority, Receiver or Special Manager as the case may be shall on the direction of the court dispose of the property and upon realization of the value thereof credit the said sum of money to the account titled Proceeds of Disposal of Proceeds of Crime of the Authority.

(5) Following the receipt of the money realized from the disposal of the forfeited property, the Authority shall disburse the said funds in the manner provided for in this Act.

(6) If at the time the Court is required to make an order for the disbursement of monies arising out of the disposal of forfeited proceeds of crime, the Authority has not been established or is incapable of performing its functions in terms of this Act, the Court shall direct that the proceeds of disposal be remitted to a separate account maintained by Court, and shall thereafter disburse such funds in the manner this Act has stipulated that the Authority disburse such funds.

PART VII

CIVIL REMEDY FOR VICTIMS OF CRIME

Cause of action to recover the pecuniary, sentimental, or other loss or damage suffered by a party from an unlawful activity

129. (1) Where any person has committed an unlawful activity and such activity has resulted directly or indirectly in pecuniary, sentimental or other loss or deprivation of any benefit, service or other entitlement, the party adversely affected by such unlawful activity, any other person being so affected including the state shall be entitled to recover the pecuniary, sentimental, or other loss or damage suffered by such party.

(2) A plaintiff claiming damages and compensation founded upon the cause of action referred to in the subsection (1) shall institute civil action in the relevant District Court and shall be required to establish his case by proving the ingredients of the offence which constitute the relevant unlawful activity on a balance of probabilities.

(3) For the purpose of successfully prosecuting a civil action founded upon the cause of action referred to above, it shall not be necessary for the plaintiff to establish that defendant has been convicted of having committed unlawful activity or that the proceeds of the unlawful activity have been traced, identified or recovered.

(4) The entitlement to institute civil proceedings founded upon the cause of action referred to above shall be independent of any criminal investigation, criminal prosecution or the outcome thereof.

Illustration

- (a) X who is the accountant of a company commits criminal breach of trust and with the proceeds of such unlawful activity purchases a motor vehicle. The company complains to the Police. The Police may or may not commence taking action against X in terms of this Act and other provisions of the law. Independent of the action taken or otherwise by the Police and or the institution of criminal proceedings against X, the company shall be entitled to institute civil action against X invoking the afore-stated cause of action for the purpose of recovering pecuniary loss suffered by it as a result of the committing of the afore-stated unlawful activity.
- (b) X commits the offence of corruption with regard to funds allocated for a particular public purpose. This results in reduction of funds available for the afore-stated public purpose by a specific amount or percentage. Consequentially the reduction in the benefit to the community for whose benefit the public purpose was to be given effect to is calculated either in monetary terms or in a quantified reduction of the

scheduled public purpose. Thus, those who have suffered pecuniary or sentimental loss, deprivation of the envisaged service, facility, or benefit as a result of the unlawful activity carried out by X, shall be entitled to sue X either jointly or severally for the purpose of obtaining damages or compensation to commensurate the loss or damage suffered.

- (c) X commits an act of corruption which does not result in personal financial gain to him. Notwithstanding X not having personally gained from the committing of such unlawful activity, any party adversely affected by such unlawful activity shall be entitled to sue X, to recover pecuniary or sentimental loss directly or indirectly suffered by them as a result of the afore-stated unlawful activity.

(5) An action under this Part of this Act for loss or damages, shall be instituted in accordance with the provisions of the Civil Procedure Code and such action shall be procedurally governed by the provisions of that Code.

(6) Where more than one person has suffered loss or damages due to an unlawful activity committed by another person as referred to in subsection (1) -

- (a) either one or more of such persons, or
- (b) an incorporated or unincorporated body representing such persons,

who have suffered loss or damages due to such unlawful activity may with the consent of such of the persons being represented as those having suffered loss or damages, institute proceedings in terms of this Part for the purpose of recovering damages or compensation in respect of loss

suffered by such parties as a result of the committing of the unlawful activity.

(7) Unless the evidence of a person who is knowledgeable and specially skilled with regard to pecuniary and sentimental loss suffered by the plaintiff as a result of the committing of the unlawful activity is presented to court by the plaintiff, the court may at its discretion call one or more such persons who is knowledgeable and specially skilled for the purpose of assisting court regarding the determination of loss or damages suffered by the plaintiff or parties being represented by such plaintiff.

(8) Notwithstanding anything to the contrary in the Prescription Ordinance (Chapter 68), an action in terms of this Part shall be instituted within three years from the date on which the plaintiff became aware of the committing of an unlawful activity which resulted in loss or damage suffered by such plaintiff.

(9) The provisions of this Part shall be in addition to and not in derogation of any right or remedy provided by any other Part of this Act, and any other written or unwritten law.

(10) In an action filed under this Part, the Court shall in computing the award of compensation or damages, take into consideration any other interim or final payments already received or any other relief obtained by the plaintiff or other affected parties on whose behalf the action has been filed by the plaintiff.

130. (1) Notwithstanding the provisions of subsection (6) of section 129, any non-politically aligned registered or incorporated civil society organization may in good faith and solely for the benefit of the victims of any unlawful activity including the state, be entitled to institute proceedings in terms of this Part.

Institution of
action for civil
remedy by civil
society
organization for
the benefit of
the victims

(2) Following the institution of such action and not later than fourteen days, the plaintiff non-politically aligned civil society organization shall publish in the media including in a national newspaper each in Sinhala, Tamil and English languages a notice announcing the institution of such action.

(3) Any victim of the subject matter complained of being an unlawful activity shall have the right to intervene into such action upon satisfaction of court on a *prima facie* basis that such victim has an interest in such action and the court being so satisfied shall add such victim as a party to such action.

(4) The court when entering judgment and decree in an action filed under this section in addition to the requirements of the section 184 of the Civil Procedure Code, shall specify the person who shall be entitled to receive damages or compensation ordered by court and if the plaintiff is not a victim of the unlawful activity the plaintiff shall only be entitled to recover the cost of litigation.

PART VIII

DISPOSAL OF FORFEITED PROCEEDS OF CRIME AND THE UTILIZATION OF THE VALUE DERIVED THEREOF

Disposal of
forfeited
proceeds of crime

131. (1) Following an order for the frozen proceeds of crime to be forfeited to the state, the High Court shall direct the Authority to obtain a valuation of the property and have such property disposed of through public auction or any other means of disposal to be recommended by the Authority and approved by court through which the value of the property could be derived. Such disposal shall be supervised by court.

(2) Following the disposal of the property in the manner directed by court the Authority shall credit such amount recovered from such disposal to an account titled Proceeds of Disposal of Proceeds of Crime and make an application to court for an order directing the manner in which such sum of money is to be disbursed.

(3) Following an application made in terms of subsection (2) by the Authority the court shall take into consideration the following among other factors which the court deems necessary, and make an order for the disbursement of the value derived by the disposal of the forfeited property:-

- (a) whether the unlawful activity that had been committed which yielded the relevant proceeds of crime can be identified and if so, the category of persons who may have suffered due to the committing of the unlawful activity;
- (b) whether subject to the following conditions, the value derived by the disposal of the forfeited property shall in its entirety be transferred to the consolidated fund-
 - (i) whether the forfeited property in part contains a lawfully procured property, which is inseparable from the proceeds of crime;
 - (ii) whether the value derived by the disposal of the forfeited property shall be remitted to a requesting state that had by either itself or its people or institutions suffered a loss due to the committing of the relevant unlawful activity;

- (c) any other matter which the High Court deems relevant.

(4) Where the Court determines that the unlawful activity that had been committed which yielded the relevant proceeds of crime can be identified and if so, the category of persons who may have suffered loss due to the committing of the unlawful activity is identified, the Court shall direct the Authority:-

- (a) to transfer eighty *per centum* of the value derived by the disposal of the property to the Victims of Crime Reparation Trust Fund;
- (b) to retain ten *per centum* of the value derived by the disposal of the property and transfer such some of money to the Protection, Preservation and Management of Proceeds of Crime Fund;
- (c) to retain ten *per centum* of the value derived by the disposal of the property and transfer such sum of money from time to time to the Attorney-General, Sri Lanka Police and the Commission to Investigate Allegations of Bribery or Corruption for the following purposes:-
 - (i) training and capacity building of legal officers and law enforcement personnel;
 - (ii) procuring of equipment necessary for investigation, tracing and identification of proceeds of crime;
 - (iii) resources necessary for seizure, temporary custody, and enforcement of restraining orders pertaining to proceeds of crime;

- (iv) for activities necessary for the prevention of persons deriving benefit out of the committing of the unlawful activity;
- (v) making necessary payments with regard to obtaining or procuring professional services of local or foreign competent persons or institutions and organizations pertaining to the conduct of money flow investigations, financial analysis, forensic accounting, forensic auditing, accessing of commercial data bases, tracing, identification, search, and examination of property suspected to be or containing proceeds of crime; and
- (vi) any other purpose in furtherance of the objectives of this Act.

(5) Where the Court concludes that the category of persons who may have suffered loss due to the committing of the unlawful activity cannot be identified or that there is no evidence that any person has directly suffered any loss due to the committing of the unlawful activity, the court shall direct the Authority to transfer eighty *per centum* of the value derived by the disposal of the forfeited property to the Consolidated Fund to be utilized in terms of the law as directed by the Parliament. The remaining twenty *per centum* shall be utilized in the manner set out in paragraphs (b) and (c) of subsection (4) of this section.

(6) Where the Court concludes that the forfeited property contains in part a licit property, which is inseparable from the proceeds derived from committing an unlawful activity, the Court shall compute the value of the licit component of

the forfeited proceeds of crime, and direct the Authority to transfer such amount to the party identified by court to have a lawful claim for such property.

(7) Where the Court concludes that the value derived by the disposal of the forfeited property shall be remitted to a requesting state that had either by itself or through its people or institutions suffered loss due to the committing of the relevant unlawful activity, the Court shall direct the Authority to in consultation with the Secretary to the Ministry of the Minister assigned the subject of Foreign Affairs, transfer the relevant sum of money to the Competent Authority of such requesting state subject to compliance with paragraphs (b) and (c) of subsection (4) of this section.

PART IX

VICTIMS OF CRIME REPARATION TRUST FUND

Victims of Crime
Reparation Trust
Fund

132. (1) There shall be a Trust created by the operation of this Act called the Victims of Crime Reparation Trust Fund (in this Act referred to as the “Trust Fund”).

(2) The Trust Fund shall be a part of the Consolidated Fund.

(3) Objectives of the Trust Fund shall be to-

(a) upon a consideration of the following:-

(i) the order made by the High Court regarding the category of victims of crime to be repaired; and

- (ii) the manner in which the committing of the unlawful activity which gave rise to the relevant proceeds of crime that have been forfeited had affected the afore-stated category of victims of crime,

to formulate suitable reparatory, developmental, or welfare activity to be implemented for the benefit of such victims of crime.

Explanation:

This is for the purpose of mitigating the original negative impact which occurred as a result of the afore-stated unlawful activity.

- (b) if any sum of money is remitted to the Trust Fund without a specification by court as to the affected category of victims of crime, having regard to policies of the state, identify suitable developmental activities the implementation of which is in public interest which may be carried out using such funds remitted to the Trust Fund.

133. The Fund of the Trust Fund shall comprise of the following :-

Funds of the Trust Fund

- (a) sums of money remitted by the Authority, on a direction of the High Court made in terms of paragraphs (a) of subsection (4) of section 131;
- (b) sums of money which the Parliament may vote to be remitted to the Trust Fund; and
- (c) sums of money that may be remitted to the Government of Sri Lanka by foreign

administrative, law enforcement and judicial authorities as being monies accruing from the disposal of proceeds of crime to which Sri Lanka has an entitlement.

The Board of
Trustees of the
Trust Fund

134. The Board of Trustees of the Trust Fund shall comprise of the following:-

- (a) the Secretary to the Treasury, who shall be the Chairman; and
- (b) the following six members:-
 - (i) Secretary, Ministry of the Minister or an Additional Secretary (Legal) nominated by the Secretary, of the Ministry of the Minister;
 - (ii) Secretary, Ministry of the Minister assigned the subject of Social Services or an Additional Secretary nominated by such Secretary;
 - (iii) Deputy Governor in charge of Financial System Stability of the Central Bank;
 - (iv) Chairman of the Ceylon Chamber of Commerce or his nominee;
 - (v) two persons of unimpeachable integrity and high moral standing nominated by reputed non-politically aligned social services organizations and appointed by the Minister assigned the subject of Finance in consultation with the Minister and the Minister assigned the subject of social services, having recorded reasons for their selection.

135. Duties of the Trustees of the Trust Fund shall be -

Duties of the Trust
Fund

- (a) identification and appointment of suitable persons to implement the formulated activity, having regard to the following:-
 - (i) institutions of the state and non-state institutions that may be capable of efficaciously implementing such activity;
 - (ii) obtaining the services of such implementing agency on terms most favourable; and
 - (iii) ensuring that the assigned funds are not subjected to any further unlawful activity and the assigned activities are implemented in a transparent manner;
- (b) for the purpose of obtaining the services of a competent implementing agency on terms most favourable call for expression of interests and tenders;
- (c) entering into memoranda of understanding with state agencies pertaining to implementation of the formulated activities and entering into contracts with non-state agencies pertaining to the same;
- (d) allocation of funds for the implementation of activities, monitoring work progress and supervision;
- (e) carry out any other activity that may be necessary for the purposes of giving effect to the objectives of the Trust Fund;

- (f) to obtain the services of officials of the General Treasury to assist the Trust Fund to give effect to the objectives of the Trust Fund and the duties of the Trustees;
- (g) to establish and maintain an account within the Consolidated Fund and maintain annual financial statement;
- (h) to disclose all information on the implementation of reparatory, developmental and welfare activities and their progress be quarterly on the official website of the Trust Fund;
- (i) to cause auditing of the accounts including the annual audits of the Trust Fund by the Auditor-General; and
- (j) submit to Parliament an annual report and publish such annual report in its website.

Beneficiaries of
the Trust Fund

136. The beneficiaries of the Trust Fund shall be -

- (a) persons who have suffered loss due to the committing of the unlawful activities as specified in orders made by the High Court;
- (b) persons identified as the affected category of victims of crime by the Board of Trustees.

The meetings
and the quorum,
of the Board of
Trustees

137. (1) The meetings of the Board of Trustees shall be held at least once a month.

(2) The quorum for a meeting of the Board of Trustees shall be five members.

(3) The Chairman shall preside at every meeting of the Board of Trustees. In the absence of the Chairman from any meeting of the Board of Trustees a member elected by the members present shall preside at such meeting.

(4) All questions for decision at any meeting of the Board of Trustees shall be decided by the vote of the majority of members present at such meeting. In the case of an equality of votes the Chairman or such other member who shall chair such meeting, in addition to his vote have a casting vote.

(5) Subject to the preceding provisions of this section, the Board of Trustees may regulate the procedure in relation to the meetings of the Board of Trustees and the transaction of business at such meetings.

138. (1) The Board of Trustees shall, from time to time, appoint an Attorney-at-Law or a Chartered Secretary to either full-time or part-time basis function as the Board Secretary of the Board of Trustees and determine the remuneration payable for such person.

Board Secretary
of the Board of
Trustees

(2) It shall be the duty of the Board Secretary as directed by the Chairman or based on a resolution of the Board of Trustees to convene meetings of the Board of Trustees.

(3) It shall be the responsibility of the Board Secretary of the Board of Trustees to maintain minutes of meetings of the Board of Trustees and facilitate the necessary arrangements for the conduct of meetings of the Board of Trustees.

139. The Board of Trustees may act notwithstanding any vacancy among its members and any act or proceeding of the Board of Trustees shall not be or deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

Acts or
proceedings of
the Board of
Trustees deemed
not to be invalid
by reason of any
vacancy

Remuneration
of the members
of the Board of
Trustees

140. The members of the Board of Trustees shall be paid remuneration in such manner and at such rates as may be determined by the Minister, with the concurrence of the Minister assigned the subject of Finance

PART X

INTERNATIONAL COOPERATION

Mutual Legal
Assistance

141. (1) The scheme contained in this Part of this Act, shall be carried out in terms of the Mutual Assistance in Criminal Matters Act.

(2) Any request for mutual legal assistance received by the Central Authority appointed in terms of the Mutual Assistance in Criminal Matters Act which relates to proceeds of crime shall be forwarded to the Police Designated Officer or the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption with due regard to the assignment of their functions in terms of this Act.

Request by
Sri Lanka to
competent
authorities of
other countries

142. Subject to administrative requirements, it shall be lawful for a Designated Officer to, for the purposes of achieving the objects of this Act, seek and obtain assistance from administrative, law enforcement and judicial competent authorities of other countries the following:-

- (a) assistance for tracing, identification, search, detection and examination of property suspected to be proceeds of crime and for other investigational purposes;
- (b) assistance for gathering evidence including documents, witness statements, reports, and other material including samples and specimens;

- (c) assistance to locate and identify witnesses, documents, records, and suspected proceeds of crime;
- (d) assistance to facilitate the interview and recording of statements of witnesses either in person or through a contemporaneous audio-visual link. Notwithstanding anything to the contrary in the Assistance to and the Protection of Victims of Crimes and Witnesses Act, the remote location of such interview may take place at the office of the relevant administrative, law enforcement or judicial competent authority;
- (e) requests for seizure, judicial freezing and forfeiture and return to Sri Lanka proceeds of crime or value thereof;
- (f) transmission, service and enforcement of judicial orders made by Sri Lankan courts in foreign countries;
- (g) cooperation for post-conviction and non-conviction based forfeiture proceedings and related matters;
- (h) service of summons, other processes of court and assistance to procure the attendance of witnesses at judicial proceedings held in Sri Lanka ;
- (i) assistance with regard to the conduct of investigations jointly with foreign administrative and law enforcement authorities and related counterparts;
- (j) any other matter in respect of which assistance is required for the purposes of achieving the

objectives of this Act including ensuing and further related assistance on an initial request.

Request by foreign administrative, law enforcement and judicial competent authorities of other countries to Sri Lankan counterparts

143. A foreign administrative, law enforcement and judicial competent authority shall be entitled to request and obtain assistance from a Designated Officer in respect of any matter pertaining to which a Designated Officer is entitled in terms of this Act to obtain assistance from an administrative, law enforcement and judicial competent authority of any other country.

Mutual Cooperation

144. (1) The provisions of this Part of this Act shall be enforced in pursuance of-

- (a) international, regional, multi-lateral and bilateral agreements to which Sri Lanka is a party together with the corresponding state;
- (b) international conventions ratified by Sri Lanka and the corresponding state; and
- (c) ad-hoc or case by case basis understanding reached by Sri Lanka and the corresponding state.

(2) For the purposes of this Part, the Secretary to the Ministry of the Minister assigned the subject of Foreign Affairs shall be the Competent Authority of Sri Lanka to certify the existence of the matters set out in subsection (1).

(3) The Secretary to the Ministry of the Minister assigned the subject of Foreign Affairs shall on a request by the Secretary to the Ministry of the Minister, be competent to negotiate with a Competent Authority of any other country

and enter into regional, multi-lateral and bilateral agreement or an ad-hoc or case by case basis understandings for the purpose of obtaining mutual cooperation under this Part of this Act.

(4) For the purposes of this Part of this Act a Designated Officer shall be entitled to initiate a request pertaining to matters stated in section 142, which shall be transmitted to the competent authority of the recipient state through the Secretary to the Ministry of the Minister assigned the subject of Foreign Affairs.

(5) For the purposes of this Act a request to a foreign administrative, law enforcement or judicial authority to preserve, restraint, seize, freeze or forfeit proceeds of crime shall not be made to a foreign competent authority unless such request is sanctioned by the High Court.

(6) A request by a foreign administrative, law enforcement or judicial competent authority for investigative assistance relating to tracing, identification, and detection of proceeds of crime or for any other matter as provided in this Act, shall be addressed to the Designated Officer of the Commission to Investigate Allegations of Bribery or Corruption if the unlawful activity which is believed to have resulted in the generation of proceeds of crime has originated from the committing of acts which constitute an offence under the Anti-Corruption Act. Any other request shall be addressed to the Police Designated Officer.

145. For the purposes of the Extradition Law No. 8 of 1977, the offences contained in this Act shall be deemed to be extraditable offences. Extradition

PART XI**MISCELLANEOUS PROVISIONS**

Regulations

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

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister shall on the recommendation of the Designated Officers who shall make such recommendations jointly and the Authority, and on the advice of the Attorney-General be empowered to make Regulations which shall take the form of Standard Operating Protocols pertaining to –

- (a) the manner in which investigations into suspected proceeds of crime may be conducted;
- (b) procedure to be following in issuing restraining orders and the format of a restraining order;
- (c) the manner in which a seizure shall be carried out and the format of the notice of seizure;
- (d) the conduct of pre-restraining and pre-seizure planning;
- (e) the protection, preservation and management of proceeds of crime;
- (f) the manner in which provisions of the Mutual Assistance in Criminal Matters Act may be invoked and the manner in which assistance to investigations from foreign administrative authorities may be obtained;

- (g) the manner in which a request from a foreign competent authority for assistance in the conduct of investigations into suspected proceeds of crime shall be carried out;
- (h) the manner in which a request for forfeiture of proceeds of crime located in Sri Lanka pertaining to an unlawful activity committed in a foreign country shall be processed and given effect to;
- (i) the manner in which a request for the assistance for investigations to be conducted in a foreign country shall be made;
- (j) disposal of perishable and hazardous proceeds of crime;
- (k) the procedure by which the court shall obtain valuation of property and determine the value of such property; and
- (l) the procedure by which the auctioning of proceeds of crime shall be carried out.

(3) Upon a Standard Operating Protocol being promulgated as a Regulation, such protocol shall have the force of law.

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

(5) (a) Every regulation made by the Minister shall, within three months after its publication in the *Gazette*, be brought before Parliament for approval.

(b) Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(6) Notification of the date on which any regulation made by the Minister is deemed to be so rescinded shall be published in the *Gazette*.

This Act to
prevail over the
provisions of
other laws

147. Where there is any inconsistency between a provision of this Act and the provision of any other law, the provision of this Act shall prevail over the provision of such other law.

Protection for acts
done in good faith

148. No Designated Officer or an Investigation Officer or any other police officer or an officer of the Commission to Investigate Allegations of Bribery or Corruption who has acted on the instructions of a Designated Officer or an Investigation Officer, who has acted in good faith and diligently for the purposes of this Act, shall be liable in any suit or other legal proceedings for any lawful act which is done or purported to be done in good faith by such officer, in pursuance of the powers conferred by or under this Act, or for the purpose of carrying out the provisions of this Act.

Application of the
Right to
Information Act

149. (1) Notwithstanding anything to the contrary in this Act, the provisions of the Right to Information Act shall prevail over provisions herein and a person who is entitled to any information under the Right to Information Act shall be entitled to receive such information from the PCID, the Commission to Investigate Allegations of Bribery or Corruption, the Authority, and the Trust Fund.

(2) The PCID, Authority and the Trust Fund, not later than three months from the creation of such institutions, and the Commission to Investigate allegations of Bribery or Corruption, shall for the purpose of carrying out the duties and functions of such institutions under this Act appoint an Information Officer whose functions shall *inter alia* include the performance of the functions of an Information officer as contained in the Right to Information Act.

150. In this Act, unless the context otherwise requires - Definitions

“account” means any facility or arrangement by which a financial institution does any of the following:

- (a) accepts deposits of currency;
- (b) allows withdrawals of currency; or
- (c) pays cheques or payment orders drawn on the Institution or collects cheques or payment orders on behalf of a person other than the financial Institution,

and includes any facility or arrangement for a safety deposit box or any other form of safe deposit;

“Anti-Corruption Act” means the Anti-Corruption Act, No. 9 of 2023;

“Assistance to and Protection of Victims of Crime and Witnesses Act” means the Assistance to and Protection of Victims of Crime and Witnesses Act, No.10 of 2023;

“Authority” means the Proceeds of Crime Management Authority established under section 96 of this Act;

“benefit” means an advantage, gain, service, profit, or payment of any kind, and the benefits that a person derives or obtains or that accrue to him including those that another person derives, obtains or that otherwise accrue to such other person, if such other person is –

- (a) under the control of;
- (b) is directed or requested by; or
- (c) has a matrimonial or family relationship or a significant importance

to the first person;

“cash” means any coin or paper money that is designated as legal tender in the country of issue and includes -

- (a) bearer bonds;
- (b) travelers’ cheques;
- (c) postal notes; and
- (d) money orders;

“Civil Procedure Code” means the Civil Procedure Code (Chapter 101);

“Code of Criminal Procedure Act” means the Code of Criminal Procedure Act, No.15 of 1979;

“Colombo Port City Economic Commission Act” means the Colombo Port City Economic Commission Act, No. 11 of 2021;

“Commission” means the Commission to Investigate Allegations of Bribery or Corruption established under section 3 of the Anti-Corruption Act;

“computer system” means a computer or group of interconnected computers, including through the internet or any other form of connectivity;

“Controlled delivery” means the investigative technique of allowing a property suspected to be proceeds of crime to pass out of, pass through, or pass into, Sri Lanka or within one place to another in the territory of Sri Lanka, under the direct or indirect surveillance of an Investigation Officer, for the purpose of achieving the objectives of this Act, including but not limited to –

- (a) enabling the further investigation of the offence suspected to have yielded such proceeds of crime and the committing of offences under this Act;
- (b) the identification of all persons involved in the commission of the afore-stated offences;
- (c) collection of evidence relating to such property including evidence relating to the source of money that enabled the procurement of such property and financial transactions relating to

or arising out of such property and determining whether such property is proceeds of crime; or

- (d) tracing and identifying persons who are having dominion over such property and having beneficial interest in respect of such property;

“Convention on the Suppression of Terrorist Financing Act” means the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005;

“Court” means the High Court of the Republic;

“Currency” means the currency of Sri Lanka or that of a foreign country that is designated as legal tender and which is customarily used and accepted as a medium of exchange in the country of issue;

“dealing with property” means-

- (a) a transfer or disposition of property;
- (b) making or receiving a gift of the property;
- (c) removing the property from Sri Lanka;
- (d) where the property is a debt owed to that person, making a payment to any person in reduction or full settlement of the amount of the debt;
- (e) using the property to obtain or extend credit, or using credit that is secured by the property; or

- (f) where the property is an interest in a partnership, doing anything to diminish the value of the partnership;

“designated non-finance business and professions”
includes –

- a) casinos including a person who carries on a business of casinos through the internet and ship-based or vessel-based casinos;
- (b) real estate agents including property developers;
- (c) dealers in precious metals and dealers in precious and semi-precious stones, including but not limited to, metals and stones covered by the National Gem and Jewellery Authority Act, No. 50 of 1993;
- (d) 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 property;
 - (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 legal arrangements and the buying and selling of business entities;
- (e) 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 or legal arrangements;
 - (ii) acting as, or arranging for another person to act as, a director or secretary of a company, 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, partnership or any other legal person or legal arrangement;
 - (iv) acting as, or arranging for another person to act as, a trustee of an express trust; or
 - (v) acting as, or arranging for another person to act as, a nominee shareholder for another person;

- (f) offshore units in accordance with the definitions provided for the same in other written laws;
- (g) any person engaged in any businesses specified in paragraphs (a) to (f) of this definition which shall be registered or licensed under the Colombo Port City Economic Commission Act; and
- (h) such other business as may be prescribed from time to time by the Minister under section 29 of Financial Transaction Reporting Act;

“digital currency”—

- (a) includes any digital representation of monetary value that—
 - (i) is used as a medium of exchange, as valuable consideration to enable any transaction, or as a unit of account or store of value; and
 - (ii) may not be recognized as legal tender; and
- (b) does not include—
 - (i) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit or digital currency; or

- (ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform;

“document” means any record of information, and includes -

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be produced, with or without the aid of anything else;
- (d) a map, plan, drawing, photograph or similar thing; and
- (e) any of the above kept or maintained in electronic form, and includes a digital document.

“electronic” shall have the same meaning assigned to it by the Electronic Transactions Act, No.19 of 2006;

“Evidence Ordinance” means the Evidence Ordinance (Chapter 14);

“finance business” includes any one of the following businesses or activities: -

- (a) banking business as defined in the Banking Act, No. 30 of 1988 or any Act enacted in place thereof;
- (b) finance business as defined in the Finance Business Act, No. 42 of 2011 or any Act enacted in place thereof;
- (c) any finance business carried on by any society registered under the Cooperative Societies Law, No. 5 of 1972 or any Act enacted in place thereof;
- (d) any finance business carried on by the Department of Samurdhi Development established by the Samurdhi Act, No. 1 of 2013 or any Act enacted in place thereof;
- (e) pawn brokering under the Pawn Brokers Ordinance (Chapter 90) or any Act enacted in place thereof;
- (f) lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions;
- (g) financial leasing other than transactions relating to consumer products;
- (h) money or value transfer services;

- (i) money and currency changing services;
- (j) issuing and managing means of payment (such as credit cards, debit cards, travelers' cheques, money orders and bankers' drafts and electronic money;)
- (k) issuing financial guarantees and commitments, including but not limited to consumer credit, factoring (with or without recourse) and financing of commercial transactions including forfeiting;
- (l) trading for its own account or for the account of customers in money market instruments (such as cheques, bills of exchange, certificates of deposit and derivatives), foreign exchange, exchange, interest rate and index instruments, commodity futures trading and transferable securities;
- (m) participating in securities issues and the provision of financial services related to such issues;
- (n) individual and collective portfolio management;
- (o) investing, administering or managing funds or money on behalf of other persons;
- (p) safekeeping and administration of cash or liquid securities on behalf of other persons;

- (q) safe custody services;
- (r) underwriting and placement of life insurance and other investment related insurance, as well as insurance intermediation by agents and brokers;
- (s) trustee administration or investment management of a superannuation scheme;
- (t) any finance business carried out under the Securities and Exchange Commission of Sri Lanka Act, No. 19 of 2021 or any Act enacted in place thereof;
- (u) any finance business carried out under the Local Treasury Bills Ordinance (Chapter 417) or any Act enacted in place thereof;
- (v) offshore units in the financial institutions in accordance with the definitions provided for the same in other written laws;
- (w) any person engaged in any businesses specified in paragraphs (a) to (u) of this definition which shall be registered or licensed under the Colombo Port City Economic Commission Act;
- (x) providing virtual assets services; and
- (y) such other business as may be prescribed from time to time by the Minister under section 29 of the Financial Transaction Reporting Act;

“financial institution” means any person engaged in or carrying out any finance business or designated non-finance business and profession, or business of providing virtual assets services within the meaning of the Financial Transactions Reporting Act;

“Financial Intelligence Unit” means the Financial Intelligence Unit of Sri Lanka established under the Financial Transactions Reporting Act;

“Financial Transaction Reporting Act” means the Financial Transactions Reporting Act, No. 6 of 2006;

“forfeiture” means the conclusive right, title, and any interest or beneficial interest to a proceed of crime being vested in the state through a judicial order in the manner provided by this Act;

Clarification

Forfeiture need not be contingent upon a person being convicted of having committed the relevant unlawful activity;

“gift” means property given by one person to another person, and includes any transfer of property directly or indirectly;

(a) after the commission of an unlawful activity by the first person;

(b) to the extent of the difference between the market value of the property at the time of its transfer; and

- (i) the consideration provided by the transferee; or
- (ii) the consideration paid by the transferor whichever is greater;

“information” includes any fact or message depicted by way of any letters, sentence or part thereof, symbol, image, pictorial, art, video, sound, code, or any other mode of communication, and contained in any physical or electronic media and may include anything communicated verbally which the recipient documents upon receipt of the communication;

“instrumentality” means any property which has been used by any person exclusively or partly to commit any unlawful activity, and the use of such property had in the circumstances pertaining to the committing of the unlawful activity been necessary, and such property may include any –

- (i) vehicle or other means of transport for carriage of persons or goods;
- (ii) computer;
- (iii) software application or programme;
- (iv) physical or digital storage facility;
- (v) machine;
- (vi) equipment; and
- (vii) utensil,

notwithstanding its value exceeding the value of the proceed of the unlawful activity, and the owner of such instrumentality not having participated in or intentionally aided the committing of the unlawful activity;

“interest” in relation to property, means:

- (a) a legal or equitable estate or interest in the property; or
- (b) a right, power or privilege in connection with the property;

“Judicature Act” means the Judicature Act, No. 2 of 1978;

“judicial freezing order” means a judicial order made by a court vested with jurisdiction to make such order, which causes a property which *prima - facie* appears to be proceeds of crime, of which the possession, custody, control and dominion to be vested in a person appointed by such court, for the protection, preservation and management of such property which may include its temporary use and utilize pending the conduct and completion of judicial proceedings to determine whether such property shall be forfeited to the state;

“law enforcement authority” includes the, Department of Customs, Excise Department, Forest Conservation Department, Department of Wildlife, Sri Lanka Coastguard, and any other statutorily created body empowered with the investigation of the commission of any offence;

“legal arrangement” includes an express trust, a fiduciary account or nominee;

“Minister” means the Minister assigned the subject of Justice under Article 44 or Article 45 of the Constitution, ;

“Mutual Assistance in Criminal Matters Act” means Mutual Assistance in Criminal Matters Act, No.25 of 2002;

“Offences Against Public Property Act” means the Offences against Public Property Act, No. 12 of 1982;

“peace officer” shall have the same meaning assigned to it in the Code of Criminal Procedure Act;

“Penal Code” means the Penal Code (Chapter 19);

“person” means any natural or legal person or any legal arrangement, including a body of persons whether it has legal personality or not, and may include a branch, office, or a place of business of any such person or body of persons whether incorporated, registered or otherwise established in or outside Sri Lanka:

“Prevention of Money Laundering Act” means the Prevention of Money Laundering Act, No. 5 of 2006;

“prescribed” means prescribed by regulations made under this Act;

“proceeds of crime” includes any property, benefit, service, or savings that is wholly or partly

obtained, derived or realized directly or indirectly as a result of or in connection with the commission of an unlawful activity by any person, and includes economic or financial gains, savings and funds or property converted or transformed, in whole or in part, into other funds or property, and would also include instrumentalities and the value of such proceeds of crime, irrespective of —

- (a) who carried out the unlawful activity;
- (b) who benefited from the unlawful activity;
- (c) whether the unlawful activity was carried out before or after the coming into operation of this Act;
- (d) whether the unlawful activity was carried out in Sri Lanka or elsewhere:

Provided however, proceeds of crime which has been purchased, otherwise procured or transacted in any manner in good faith for valuable consideration and without knowledge or reasonable grounds to believe that such property is proceeds of crime, shall cease to be proceed of crime, and in such instances, the valuable consideration shall for the purposes of this Act be recognized and treated as proceeds of crime;

Clarification:

A property, benefit, service, or savings that is wholly or partly obtained, derived or realized directly or indirectly as a result of or in connection with the commission of an unlawful activity shall be proceeds of crime, notwithstanding-

- (a) the proceeds of crime not having been received by the person who committed the unlawful activity, and
- (b) the proceed having been given to, received or otherwise procured by a third party;

“property” means an asset of every kind which is corporeal or incorporeal, movable or immovable, tangible or intangible situated in Sri Lanka or elsewhere, which has financial or economic value, including-

- (a) currency, digital currency, virtual asset, account, investment;
- (b) any intellectual property;
- (c) legal documents or instruments in any form whatsoever including electronic or digital documents, evidencing title to, or interest in, such assets, and also includes and will not be limited to bank credits, travelers’ cheques, deposits, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services;
- (d) any legal or equitable interest in any such property; and

- (e) any other tangible or intangible thing, procured using financial consideration and having a financial or commercial value;

“prosecution” means action in a court of law pursuant to a complaint under the provisions of the section 136 (1) of the Code of Criminal Procedure Act, Indictment preferred under the Code of Criminal Procedure Act and the action instituted under the Anti-Corruption Act;

“public property” shall have the same meaning assigned to it by the Offences Against Public Property Act;

“record” means any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device;

“resident” means any citizen of Sri Lanka or any citizen of a foreign country, if such person has been in Sri Lanka continuously or otherwise for a period of hundred and eighty-three days or more in aggregate during the preceding twelve months or a citizen of a foreign country who is resident or employed in Sri Lanka under the authorization of a visa issued by the Department of Immigration and Emigration authorizing employment or the conduct of business;

“Right to Information Act” means the Right to Information Act, No. 12 of 2016;

“service provider” means-

- (a) a public or private entity which provides the ability for its subscribers to

communicate by means of a computer system or electronic system or by any other means; and

- (b) any other entity that processes or stores computer data or information on behalf of that entity or its customers;

“Sri Lanka” includes the territorial waters and air space of Sri Lanka;

“subscriber information” means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services;

“traffic data” means data-

- (a) that relates to the attributes of a communication by means of a computer system;
- (b) which is generated by a computer system that is part of a service provider;
- (c) which shows communications origin;
- (d) data processed for the purpose of the conveyance of a communication using an electronic communication network, or for the billing in respect of such communication and includes data relating to the routing, identity of the router, duration or time of a communication;

“trap” means an organized investigative technique which enables the –

- (a) detection of the committing of an offence;
- (b) identification and arrest of a person who commits an offence soon after the committing of such offence;
- (c) collection of evidence relating to the committing of an offence; and
- (d) collection of proceeds of such offence and instrumentalities thereof;

“undercover operation” shall mean a process within an investigation which involves an Investigation Officer or an officer subordinate to an Investigation Officer who is subject to direction of an Investigation Officer engaging in conduct which at times may amount to actions constituting an offence, for the purposes of achieving the objectives of this Act including but not limited to -

- (a) tracing, locating, identifying and searching suspected proceeds of crime;
- (b) identifying persons who commit offences; and
- (c) investigation and gathering evidence regarding such persons and the committing of offences;

“unlawful activity” means any conduct which constitutes an offence under the laws of Sri Lanka, and shall include-

- (a) any activity which is wholly or partly committed in or outside Sri Lanka which constitute an offence under the laws of Sri Lanka if it was wholly committed in Sri Lanka; and
- (b) any activity which had been committed prior to this Act coming into operation, provided, such activity constituted an offence under the law of Sri Lanka at the time it was committed;

“virtual asset” means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes, but does not include any digital representation of fiat currencies, securities and other financial assets;

“virtual assets service provider” means any natural person or legal person who conducts one or more of the following activities or operations for, or on behalf of another natural person or legal person:-

- (a) exchange between virtual assets and fiat currencies;
- (b) exchange between one or more forms of virtual assets;
- (c) transfer of virtual assets;
- (d) safekeeping or administration of virtual assets or instruments enabling control over virtual assets; and
- (e) participation in, and provision of financial services related to an issuer’s offer or sale of a virtual asset;

“whistleblower” means any person who –

- (a) has provided information or material, lodged a complaint or made a statement regarding any proceeds of crime, the committing of an offence under this Act, the identity of a person who has committed an offence under this Act; or
- (b) has disclosed information or material which has the potential of been investigated into in terms of this Act,

to a Designated Officer, an Investigation Officer, a compliance officer appointed in terms of section 14 of the Financial Transactions Reporting Act, a supervisory authority recognized by the Financial Transactions Reporting Act or the principal executive officer of his employer, that such Designated Officer, Investigation Officer, compliance officer, supervisory authority or the principal executive officer of his employer had been unaware of; and includes any person who may have assisted or supported such whistleblower with regard to the collection or the submission of the information or material and shall also include members of the family of such whistleblower, his dependents and any other person of significant importance to such whistleblower.

SCHEDULE I

[section 68]

NOTICE CALLING FOR EXPLANATION

1. Description of the property in respect of which the information is required (to be filled by the Investigation Officer):
2. Person to whom the notice is addressed to (to be filled by the Investigation Officer):
3. To whom the information shall be forwarded (to be filled by the Investigation Officer):
4. Before when the information shall be forwarded (to be filled by the Investigation Officer):
5. Name of the Investigation Officer:
6. Institution of the Investigation Officer:
7. Signature:
8. Seal:
9. Date of issue:

NATURE OF THE INFORMATION REQUIRED

- (a) Manner in which the aforestated property was acquired, came into position, is owned or is being controlled, is having dominion and is presently being used.
- (b) Nature of the financial resources or other resources used to acquire, posses, own, control, have dominion in the aforestated property.

- (c) The manner in which the aforestated financial or other resources were earned, received or otherwise acquired.
- (d) Identity of the person from whom the aforestated property was received and the associated circumstances pertaining to such receipt.
- (e) If the aforestated properties being held in trust on behalf of any other person the name and the details necessary to identify and have access to such person.
- (f) If any other person derives or is due to derive any benefit from the aforestated property name and the details necessary to identify and have access to such person.
- (g) If answers to any one or more of the above questions is believed to be with any other person name and the details necessary to identify and have access to such person.

Full name:

NIC Number:

Passport Number:

Employment or Business:

Average monthly income:

Current occupation:

Permanent residence:

Signature attested by Justice of Peace /
Attorney-at-Law/Commissioner of Oaths

I holder of National
Identity Card Number...../ Passport
Number..... of (Address) do hereby accept
that the original of the aforesaid notice was handed over to me by
..... on this(date)
at(place) at(time).

Signature

SCHEDULE II**[section 71]****RESTRAINING ORDER**

To :-.....(Name of the person to whom the restraining order is addressed)

I an Investigation Officer for the purposes of Proceeds of Crime Act, No 5 of 2025 acting in terms of the powers vested in me by section 71 of the aforesaid Act do hereby restraint you from engaging in any one or more of the following activities and direct you to take necessary steps not to dispose of, engaging in any transaction relating to, do any thing that would destroy or diminish the value, conceal or convert the current status, or transfer out of Sri Lanka the property specified below.

Property above referred to

.....

This restraining order shall be valid for a period of thirty days from today unless earlier vacated.

You are hereby invited to take note that acting in contravention of this order shall amount to an offence under section 71 of the Proceeds of Crime Act, No. 5 of 2025.

If acting in compliance with any one or more of the above stated directions is beyond your control you are directed to give reasons

therefore and notify the under signed of the identity of the person who has the ability to comply with this order.

1. Name of the Investigation Officer:
2. Institution of the Investigation Officer:
3. Signature:
4. Seal:
5. Date of issue:

Iholder of National Identity Card Number...../ Passport Number..... of (Address) do hereby accept that the original of the aforesaid restraining order was handed over to me by on this (date) at(place) at(time).

Signature

SCHEDULE III**[section 71]****PRESERVATION ORDER**

To :-.....(Name of the person to whom the preservation order is addressed)

I an Investigation Officer for the purposes of Proceeds of Crime Act, No 5 of 2025 acting in terms of the powers vested in me by section 71 of the aforesaid Act do hereby direct you to take measures that would be necessary to preserve the present status of, value, location of the property specified below.

Property above referred to

.....

1. Name of the Investigation Officer:

2. Institution of the Investigation Officer:

3. Signature:

4. Seal:

5. Date of issue:

Iholder of National Identity Card Number...../ Passport Number..... of (Address) do hereby accept that the original of the aforesaid preservation order was handed over to me by on this(date) at(place) at(time).

Signature

SCHEDULE IV

[section 72]

NOTICE OF SEIZURE

To :-.....(Name of the person to whom the notice of seizure is addressed)

I an Investigation Officer attached to hereby give you notice that acting in terms of section 72 of the Proceeds of Crime Act, No. 5 of 2025 that the property specified below has been seized and I on behalf of the state am now in possession of such property. Accordingly, in addition to the possession I now have lawful control, custody and dominion of such property.

Description of the seized property :-.....
.....

1. Name of the Investigation Officer:
2. Institution of the Investigation Officer:
3. Signature:
4. Seal:
5. Date of issue:

I holder of National Identity Card Number...../ Passport Number..... of (Address) do hereby accept that the original of the aforesaid notice was handed over to me by on this(date) at(place) at(time).

Signature

SCHEDULE V**[section 75]****NOTICE OF FREEZING**

To :-.....(Name of the person to whom the notice of freezing is addressed)

I an Investigation Officer attached to hereby give you notice in terms of section 75 of the Proceeds of Crime Act, No. 5 of 2025 that I shall on or about(date) make an application to the High Court of Colombo in terms of section 75 to have the property describe below frozen by a Judicial Order made by the relevant High Court Judge.

Description of the property :-.....

1. Name of the Investigation Officer:
2. Institution of the Investigation Officer:
3. Signature:
4. Seal:
5. Date of issue:

Iholder of National Identity Card Number...../
 Passport Number of
 (Address)do hereby accept that the
 original of the aforesaid notice was handed over to me by
 on this(date)
 at(place) at(time).

Signature

SCHEDULE VI

[section 75]

FREEZING ORDER

I, Judge of the Hight Court of Sri Lanka holden inzone hereby make Order in pursuance to a consideration of an application made to me by Attorney-General/ Director-General of the Commission to Investigate allegations of Bribery or Corruption acting under subsection (3) of section 75 of the Proceeds of Crime Act, No. 5 of 2025 Judicially Freezing the under mentioned property.

The property above referred to :
.....
.....

