

***TED SAVERIMUTTU & CO***

***CHARTERED ACCOUNTANTS – SRI LANKA***



TED Saverimuttu & Co was established in June 1976 by late Mr.TED Saverimuttu. The firm also has a connected history of more than 60 years with one of the oldest audit firms in Sri Lanka founded by Mr. S. Saverimuttu (Founder fellow member of the Institute of Chartered Accountants of Sri Lanka) Father of T. E. D. Saverimuttu and Grand Father of the current contact of Mr.Aubrey Saverimuttu.

The firm's present Managing partner is Mr.A.B.D.Saverimuttu (FCA, ACMA, ATII (SL), FMAAT). There are Six Managers and a total staff of 30 . The company provides a wide spectrum of Accountancy, Audit, Tax, and Business Consultancy Services.

Financial and Business Associates the sister company provide business process outsourcing, Business and Financial Consulting Services, Company Incorporation and Company Secretarial services, Obtaining Board of Investment approval and Trade mark registration services.



The Island of Sri Lanka lies in the Indian Ocean, to the southwest of the Bay of Bengal and to the southeast of the Arabian Sea.

This tropical Island, is famous for the production and export of tea, coffee, rubber and exotic spices.

Sri Lanka is a tourist paradise with an abundance of attractions like the lovely beaches, beautiful landscapes, scenic lagoons, fertile wetlands, ecological forests, imposing mountains, bounteous rivers and waterfalls, an abundance of wildlife, inspiring heritage sites from ancient cities to colonial forts, exquisite handicrafts, world renowned gems, traditional dance and drama, colourful festivals, a vibrant culture, charming people and not forgetting the mouth watering Sri Lankan cuisine.



## **Location**

Colombo the commercial capital of Sri Lanka is situated at the crossroads of major shipping routes to South Asia and the Far East. In recent years, Colombo port has become a major transshipment hub. Sri Lanka hopes to leverage on its location advantage by implementing a policy framework to position the country as a services hub to the subcontinent.

Based on this concept, Sri Lanka is now poised to exploit its location as

- A regional hub for communications – we are connected by the SEA-ME-WE fiber-optic communication system, and II communication satellites are over the Indian Ocean just south of Sri Lanka.
  - A regional hub for cargo – Sri Lanka has for centuries been on the Maritime Silk Road. The port of Colombo is already South Asia's premier transshipment port but we are continuing to develop our ports – Colombo, Galle, Trincomalee and Hambantota to face the challenges of the 21<sup>st</sup> Century.
  - A regional hub for services – logistics, financial and IT based services.
- Moreover Sri Lanka is the logical location for manufacturing and service organizations that wish to establish a presence in a growing economy in the region .The island is ideally located as the gateway to the vast Indian subcontinent – home to a quarter of the world's population.



### **Skilled workforce**

Sri Lankan labor is reputed for its precision, quality and productivity. We have an educated and energetic workforce whose trainability is among the best in comparable investment locations. Skilled and semi skilled workers are available at highly competitive wage rates. English is both widely understood and spoken.

Emphasis is placed on developing Sri Lankan human resources. According to data published by the World Bank, Sri Lanka has the highest life expectancy (71 years), highest literacy rate (92 per cent) and lowest infant and child mortality rates among Developing nations. Sri Lanka also has the lowest rate of population growth in the developing world (1.3 per cent). We also have the lowest urbanization rate within this group. This situation is the result of extensive investment in public education and welfare by successive post-independence governments – Education is free from kindergarten to university. Health facilities are also free. Universities and technical colleges are geared towards the needs of industry.

Today, investors will find an intelligent, educated and energetic workforce that is comfortable with modern production techniques and has a level of trainability that is among the best in the region.

Sri Lanka's workforce is highly competitive, trainable and skilled.

### **Quality of Life**

According to the world bank, Sri Lanka's indicators for quality of life in terms of gross domestic product (GDP) per capita, adjusted to reflect purchasing power parity, is over US\$ 11,417 ( 2016) per year and therefore, relatively high.

The country's scenic beauty and bio-diversity are ranked among the best in the world. Sri Lanka also has eight world heritage sites as classified by UNESCO –an indication of the country's rich cultural heritage .



The quality of life is the highest in the South Asian region. A cosmopolitan living environment, abundant recreational facilities, a culture dating back 5000 years, unparalleled natural beauty and an equable climate throughout the year make Sri Lanka a pleasant place in which to live.



### **Business Climate**

Comparisons have shown that Sri Lanka offers one of the most liberal business environments in Asia. Total foreign ownership is welcome in most areas of the economy, except for a few areas reserved for Sri Lankans. There are no restrictions on the repatriation of earnings and capital.

The Sri Lankan government is business-friendly and is actively pursuing a policy of economic liberalization with emphasis on private sector investment. The private sector plays a vital role in traditional areas of public investment such as telecommunications, energy and transport.

### **Transparent Investment Laws**

Country's investment laws are transparent and automatic across a wide range of sectors. Under the terms of the Board of Investment Law, the BOI has wide ranging authority to grant exemptions from various laws including Customs and Exchange Control.



It is significant that when a qualifying investment project enters into an agreement with the BOI, the incentives granted to the project company are valid for the life of the enterprises. The applicable incentives enshrined in the Agreement cannot be changed by successive governments. This is the fundamental strength of a BOI Agreement, which few other countries can offer, or match.



### **Foreign investment**

Foreign direct investment (FDI) by non-residents falls under the exchange control regime administered by the Exchange Control Department (ECD).

#### **Ordinary shares**

The issue/transfer of shares of companies incorporated in Sri Lanka to non-residents is permitted, subject to the exclusions, limitations and conditions listed in Government Gazette No. 2045/56 dated 17<sup>th</sup> November 2017.

FDI into companies carrying out the following business is not permitted:

- Money lending, other than the business of providing credit to investors to purchase shares of a listed company by a registered margin provider under the Securities and Exchange Commission of Sri Lanka Act No. 36 of 1981.
- Pawn broking.
- Retail trade with capital of less than US\$1 million.
- Coastal fishing.
- Provision of security services, including security management, assessment and consulting to individuals or private organisations.

FDI in the following businesses are limited to 40% of the stated capital of the company, unless a higher threshold of foreign ownership has been permitted by special permission from the Board of Investment (BOI):

- Production of goods where Sri Lanka's exports are subject to quota restrictions.
- Growing and primary processing of tea, rubber, coconut, cocoa, rice, sugar and spices.
- Mining and primary processing of non-renewable national resources.
- Timber-based industries using local timber.

- Deep-sea fishing.
- Mass communications.
- Education.
- Freight forwarding.
- Travel agencies.
- Shipping agencies.

The approval of the relevant governmental authority is required for investments in:

- Air transportation.
- Coastal shipping.
- Industries involved in the manufacture of arms, ammunitions, explosives, military vehicles and equipment, aircraft and other military hardware, poisons, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic materials, currency, coins or security documents.
- Large-scale mechanised mining of gems.
- Lotteries.



### **Investment by an overseas company**

Companies incorporated outside Sri Lanka are subject to investment conditions under Government Gazette No. 2045/56 dated 17<sup>th</sup> November 2017. The minimum investment in permitted commercial, trading, or industrial activity is US\$200,000.

Overseas companies are not permitted to engage in the following businesses:

- Money lending.
- Pawn broking.
- Retail trade with a capital of less than US\$5 million.
- Coastal fishing.
- Growing and primary processing of tea, rubber, coconut and rice.
- Mining and primary processing of non-renewable national resources.
- Freight forwarding.
- Shipping agency business.
- Mechanized gem mining.
- Lotteries.

- Security services including security management, assessment and consulting to individuals or private organizations.
- have an unlimited liability to contribute to the assets of the company under its articles.
- Company limited by guarantee. These companies do not issue shares and its members undertake to contribute to the assets of the company in the event of it being put into liquidation, in an amount specified in the articles. Companies limited by guarantee are usually used for charitable purposes.

### **Overseas companies**

A company incorporated outside Sri Lanka can establish a place of business in Sri Lanka by registering a branch office with the Registrar of Companies (ROC).

A company incorporated outside Sri Lanka can also maintain its presence in Sri Lanka through a representative office, similar in status to that of a branch office. A representative office is prohibited from engaging in any trading or investment activity or accruing any turnover in Sri Lanka. No tax consequences arise since the office is not permitted to trade. Therefore, a representative office is not considered to be a permanent establishment for tax purposes.

### **Offshore companies**

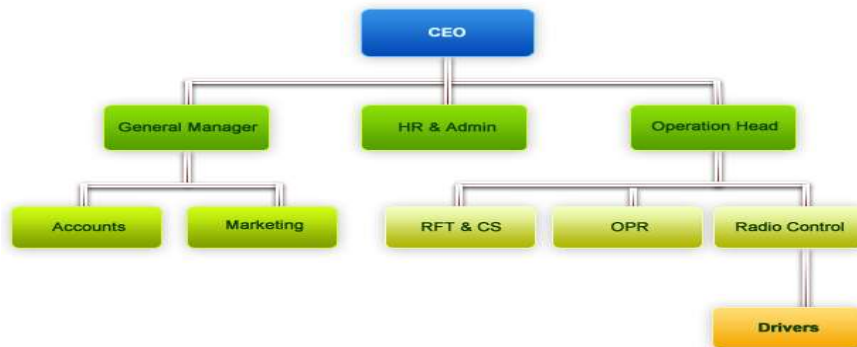
A company registered within or outside Sri Lanka can register itself in Sri Lanka as an offshore company in order to carry on any business outside the shores of Sri Lanka. If a company registered outside Sri Lanka registers itself as an offshore company, it is deemed to have been incorporated in Sri Lanka. An offshore company cannot conduct any business in Sri Lanka.

Trusts can be established under the Trusts Ordinance No. 9 of 1917, and function as an unincorporated body unless incorporated under the Ordinance or by an Act of Parliament.

The most commonly used business vehicles are private limited companies and overseas companies, as they are incorporated bodies and generally enjoy more favourable tax thresholds and incentives.

- \* A certificate from a bank, that the prescribed sum to cover the expenses of the offshore company for the purposes of its office in Sri Lanka has been deposited with the bank
- \* Proof of payment of the prescribed fee.





### **Management Structure**

The general management and supervision of a company is performed by the board of directors. Their exercisable powers are regulated by the articles of the company and the Companies Act.

### **Management restrictions**

A private company must have at least one director, whereas a public company must have a minimum of two directors. There are no restrictions on foreign managers, other than visa restrictions .

### **Directors' and officers' liability**

Any person exercising powers or performing duties as a director of a company must act in good faith, in the best interests of the company and in a manner that does not contravene the provisions of the Companies Act. Directors must also act in a manner that is not reckless or grossly negligent, and exercise the degree of skill and care that can reasonably be expected of a person of their knowledge and experience when discharging their duties.

Directors must also comply with special duties and obligations in the event of an insolvency or serious loss of capital.

In accordance with the fiduciary duty of acting in good faith and in the best interests of the company, directors must make full disclosure of any interests (as defined) in relation to a transaction entered into by the company. A director who fails to comply with that requirement is guilty of an offence and liable on conviction to a fine of up to LKR250,000. Similarly, a director who has a relevant interest in any shares issued by the company must disclose that interest to the board, and ensure it is entered into the interests register.

Directors can also be held personally liable for existing statutory liabilities of the company including tax liabilities and superannuation benefits of employees under the:

- Employees Provident Fund Act No.15 of 1958.

- Employees Trust Fund Act No.46 of 1980.
- Payment of Gratuity Act No.12 of 1983.

The principal officers of a company, such as chief executive officers or managers, are also subject to the general fiduciary duty to act in good faith and in the best interests of the company. However, the rights, duties and obligations of employees are generally governed and construed in accordance with the express and implied terms of their contracts of employment.

### **Parent company liability**

Liability can accrue to an overseas company, as local branch, liaison, representative or project offices are not corporate entities and carry out operations in Sri Lanka on behalf of the overseas company under a power of attorney.

### **Employment**

All employees in Sri Lanka, including expatriate staff and workers, enjoy the rights and entitlements provided under Sri Lankan labour law. The key labour laws include:

- **The Shop and Office Employees (Regulation of Employment and Remuneration) Act No. 19 of 1954, as amended (SOEA).** The SOEA regulates working hours, holidays and leave entitlement, including maternity leave, as follows:
- **Working hours.** The normal period during which any person can be employed cannot exceed eight hours in any one day and 45 hours in any one week. Any employment in excess of this period constitutes overtime and the employee must be remunerated accordingly. The overtime rate is one-and-a-half times the normal hourly rate. An employee must not exceed 12 hours' overtime in any one week. However, overtime is not payable for employees engaged in an executive capacity;
  - **Annual leave.** An entitlement to 14 days' annual leave, with not fewer than seven days taken consecutively, is earned after a completed year of service;
  - **Casual leave.** Employees are entitled to seven days' casual leave for private business, ill health or other reasonable cause;
  - **Maternity leave.** A mother is entitled to 84 days' paid leave for the birth of her first child or second child. The leave can be taken as 14 days' pre-confinement leave and 70 days' post confinement leave. For the birth of a third or subsequent child (where both prior children are still living) the leave entitlement is 42 working days, which can be taken as 14 days' pre-confinement leave and 28 days' post-confinement leave. If the woman dies during her maternity leave, payment is made by the employer in respect of the leave only up to and including the date of death.
- **Laws relating to superannuation benefits.** These include:
- **The Employees' Provident Fund Act No. 15 of 1958, as amended (EPF Act).** This provides for the establishment and operation of the Employees' Provident Fund (EPF) as a retirement benefit for employees;

- **The Employees' Trust Fund Act No. 46 of 1980, as amended (ETF Act).** This provides for the establishment and operation of the Employees' Trust Fund (ETF) as an interim benefit designed to assist the employee during his working life;
- **The Payment of Gratuity Act No. 12 of 1983 as amended (Gratuity Act).** This provides for the payment of a gratuity to all employees employed by private sector establishments.
- **Industrial Disputes Act No. 43 of 1950, as amended.** This provides, among other things, for several methods of resolution of industrial disputes.
- **Termination of Employment of Workmen (Special Provisions) Act No. 45 of 1971, as amended.** This restricts the right of the employer to terminate a contract of service for non-disciplinary reasons by making termination conditional either on the workman's prior written consent or on the prior written approval of the Commissioner of Labour. The Act ensures that employees who are affected by retrenchments, terminations and layoffs receive due compensation;
- **Maternity Benefits Ordinance No.32 of 1939, as amended.** This provides for maternity benefits to women who are not covered under the SOEA;
- **Wages Board Ordinance No. 27 of 194, as amended.** This provides for the establishment of wages boards to stipulate and regulate minimum wages to be paid to employees in different trades. It also provides for limits to deductions from wages, time limits within which wages must be paid, holidays, leave and overtime rates, and so on;
- **The Workmen's Compensation Ordinance No. 19 of 1934, as amended.** This provides for the payment of compensation to employees who suffer an illness or injury in the course of their employment. In the case of an employee's death in the course of employment, the ordinance provides for payment of compensation to dependents.

#### **Residence visa (work permit)**

All foreigners intending to work in Sri Lanka must obtain work permits.

Residence visas granting the right to work are granted by the Department of Immigration and Emigration. A residence visa (work permit) is a multiple entry visa with a validity period of three months to one year at a time, unless a longer visa is granted on exceptional grounds. Work permits are renewable.

A person submitting an application to the Department of Immigration and Emigration in Sri Lanka for a residence visa (work permit) must enter the country on an entry visa.

The entry visa, once issued, is valid for a period of 30 days, during which time the entry visa holder must travel to Sri Lanka and apply for the residence visa. Within this period of time, the applicant is advised not to exit Sri Lanka before obtaining the residence visa as this results in the cancellation of the entry visa.

A recommendation must be obtained by the relevant Ministry when making an application for a residence visa.

**Board of Investors (BOI) recommendation**

Recommendation letters can also be obtained from the BOI in the case of employees of BOI-approved companies.

**Tax****Taxes on employment**

An employee must pay income tax based on his tax residency, determined in accordance with the provisions of the Inland Revenue Act. Generally, an individual who is physically resident in Sri Lanka for 183 days or more during any year of assessment is deemed to be resident in Sri Lanka throughout the year.

**Tax resident employees**

The following sources of income are taxable under the Inland Revenue Act:

- Profits from any trade, business, profession or vocation irrespective of time period.
- Profits from any employment.
- Profit from investment.

Any resident in Sri Lanka is chargeable to income tax under progressive rates on these sources of income, subject to deductions and qualified payments prescribed under the Inland Revenue Act. Individuals are eligible for a tax-free allowance of LKR500,000 per annum, and in addition employees have a qualifying allowance on employment income of LKR700,000 (maximum) from 2018/19.

The progressive income tax rates on taxable income for individuals are as follows:

- On the first LKR600,000: 4%.
- On the next LKR600,000: 8%.
- On the next LKR600,000: 12%.
- On the next LKR600,000: 16%.
- On the next LKR1 million: 20%.
- On the balance of the taxable income: 24%.

However, the maximum rate of income tax applicable for employment income is above 24%.

Employers must deduct income tax on employment income earned by employees at the time of payment under a Pay-As-You-Earn (PAYE) system. The deduction of income tax is made under the prescribed tax tables, based on the nature of payments made to employees. It is employer's responsibility to deduct income tax on employment income

and remit it to the Department of Inland Revenue (DIR). The total deducted amount must be remitted to the DIR on or before the 15th of the following month.

There are also social security benefits payable relating to superannuation benefits under the EPF and ETF (*see Question 10*).

An employer must remit to the Employee Provident Fund each and every month a sum equivalent to 20% of the employee's monthly salary, comprising of a deduction of 12% from the employee's salary, and the employer's contribution of a sum equivalent of 8% of the employee's salary. As the benefit is a superannuation benefit, the employee cannot withdraw the monies in the fund until the age of 50 in the case of a female and 55 for a male, except in other prescribed circumstances such as for a marriage and permanent expatriation.

An employer must contribute and remit to the Employee Trust Fund each and every month a sum equivalent to 3% of the employee's monthly wage. As the benefit is a superannuation benefit, the employee cannot withdraw the monies in the fund until the age of 50 in the case of a female and 55 for a male, except in other prescribed circumstances, such as for expenses in a relocation of residence or pending obtaining a new job.

### **Employers**

- Employers must remit deducted income tax on or before the 15th day of the following month, and submit a monthly declaration to the DIR. The employer must also submit an annual declaration and an income tax deduction card for each employee on or before the 30th of April each year.

### **Income tax**

A resident business is chargeable to income tax on their worldwide income. A non-resident business is chargeable to income tax in respect of profits and income arising in or derived from Sri Lanka.

The standard rate of income tax applicable is 28% while the certain industry sectors are chargeable with income tax at the following rates:

- Small and medium enterprises/export of goods or services: 14%.
- Agriculture/education: 14%.
- Liquor/ tobacco: 40%.

### **Economic Service Charge (ESC)**

ESC is chargeable in respect of the relevant trade, business, profession or vocation turnover (including the turnover from any Islamic financial transaction) at 0.5%.

The ESC Act provides a set-off mechanism so that ESC paid can be set off against the income tax for the relevant tax year, and any balance can be carried forward for two tax years.

**The liable turnaround per quarter is LKR12.5 million.**

ESC must be paid for each relevant quarter, on a self-assessment basis on or before the 20th day of the month following the end of the relevant quarter.

### **Value Added Tax (VAT)**

VAT is chargeable on the supply of goods or services in Sri Lanka and on the importation of goods into Sri Lanka. VAT is intended to be neutral on businesses, as it is ultimately borne by the final consumer and contains a credit mechanism within the chain of supply. A business charges output VAT on its supplies and deducts from the total of the output tax the input VAT paid on its purchases before paying the net balance to the Department of Inland Revenue (DIR).

VAT has two rate bands:

- Zero rate on:
  - exports of goods;
  - services connected with international transportation;
  - services provided to persons outside Sri Lanka, to be consumed outside Sri Lanka, provided the payment for such service is received from outside Sri Lanka through a bank in Sri Lanka;
  - services provided to overseas buyers by garment buying houses registered with the Textile Quota Board and for which payment is received in foreign currency.
- Standard rate of 15% on import or supply of all other goods and services (other than zero rated/exempt/excluded supplies).

The threshold to register and charge VAT is LKR3 million per quarter or LKR12 million per annum.

The VAT Act No. 14 of 2002 and its amendments provide for a limited range of VAT exemptions on specific goods and services.

VAT registrants must file a prescribed return for each taxable period.

An alternative method for taxing value addition is used for financial services.

### **Nation Building Tax (NBT)**

NBT is chargeable in relation to, among other things, the:

Import of any article.

Business of manufacturing any article.

Business of wholesale or retail sale of any article, other than the sale by the manufacturer of the article.



Provision of any service.

The applicable NBT rates are as follows:

- On the liable turnover (other than any turnover from the wholesale or retail sale) of any article: 2%.
- On the liable turnover from wholesale or retail sale of any article:
  - three-quarters of liable turnover of any distributor: nil;
  - one-half of the liable turnover from any article other than any turnover of a distributor: nil;
  - the remaining liable turnover: 2%.

However, NBT is not chargeable if the liable turnover from the supply of any goods or services does not exceed LKR3 million per quarter. The NBT Act also provides a list of products and services exempted from NBT.

NBT is payable by every liable person on a self-assessment basis in three instalments for any relevant quarter.

#### **Port and Airport Development Levy (PAL)**

Port and Airport Development Levy Act No. 18 of 2011, as amended, imposes a levy on the importer on every article imported into Sri Lanka. PAL is charged and levied on the cost, insurance and freight value of each such article. The applicable rate of PAL is 5%. A concessionary rate of 2% is granted for a limited range of products.

A quarterly turnover return must be filed on or before the 20th day of the month following the end of the relevant quarter.

#### **Stamp duty**

Stamp duty is chargeable on every specified instrument executed, drawn or presented in Sri Lanka, or executed outside Sri Lanka if it relates to property in Sri Lanka. The party liable to make the payment depends on the instrument.

Stamp duty is payable within seven days from the date of execution of the instrument.

#### **Share Transaction Levy**

The Finance Act No. 5 of 2005 introduced a levy of 0.3% on the turnover of share trading transactions conducted through a stock exchange, payable by the buyer and seller.

#### **Betting and Gaming Levy**

Persons carrying on the business of a bookmaker or the business of gaming are liable to pay an annual betting and gaming levy.

#### **Dividends paid**

There is no distinction as to whether a dividend payment is to a foreigner or otherwise.

Dividends declared by a resident company are taxed at the rate of 10% of the gross dividend. If the company has not declared dividends up to 10% of the distributable profit, it is liable to pay a deemed dividend tax of 15% on one-third of its distributable profits (less any dividends paid out to its shareholder from its distributable profits).

### **Dividends received**

Dividends income is chargeable to income tax in Sri Lanka, subject to exemptions provided under the Inland Revenue Act. When dividends are received from outside Sri Lanka, they are taxed under the rate given in the Act, subject to provisions of any applicable double taxation treaty between Sri Lanka and the country from which the dividends are received.

### **Capital Gains.**

The new Inland Revenue Act, that took effect on 1<sup>st</sup> April 2018, introduces capital gains tax (CGT) on the 'realization' of investment assets

CGT will be charged on the gain arising from realization of an investment asset at the rate of 10%. CGT will only arise if the net cost of the asset accrues a gain to the owner of the asset. The gain is calculated as the consideration received for the asset or liability exceeding the cost of the asset or liability at the time of realisation. In the case of any asset that was owned, gifted and/or acquired prior to 1<sup>st</sup> April 2018, the cost of the asset will include its value as at 30<sup>th</sup> September 2017.

The following assets are subject to CGT:

- land or buildings
- a membership interest in a company, partnership or trust
- a security or other financial asset
- an option, right, or other interest in an asset referred to above

### **Interest paid**

Interest income is a source of income chargeable to income tax under the Inland Revenue Act, subject to exemptions.

However, any institution making a payment of interest income on the following investments must withhold income tax on the interest at the designated rates and remit it the Department of Inland Revenue (DIR):

- Deposits with banks and financial institutions.
- Government securities.

- Corporate debt securities.
- Certain interest payable to persons outside Sri Lanka

When the taxable income of the receiver is calculated, income tax deducted by the institution making the payment is allowed as a tax credit.

### **IP royalties paid**

Royalties borne directly or indirectly by a person resident in Sri Lanka are treated as profits and income arising in or derived from Sri Lanka. Therefore, any person paying royalties must deduct income tax and pay it to the DIR. Income tax is calculated at the rate given in the Inland Revenue Act or as specified in the relevant double taxation treaty.

## **Intellectual property**

### **Patents**

**Definition and legal requirements.** An invention is patentable if it is new, involves an inventive step and is industrially applicable, as defined in the Intellectual Property Act No. 36 of 2003 (IP Act). A patent can be obtained by submitting the prescribed application form along with a search report to the National Intellectual Property Office (NIPO).

The owner of a patent has the exclusive rights to exploit, assign or license a patent.

**Registration.** An application for the grant of a patent can be submitted to the Patents Division of NIPO.

**Enforcement and remedies.** The owner of a patent can file an application in the Commercial High Court to prevent an infringement or imminent infringement of his rights. The court can grant an injunction restraining the infringer from commencing or continuing the infringement or performing other acts, and can order damages and other relief the court deems just and equitable. An injunction may be granted along with an award of damages. The court can also order infringing goods to be destroyed.

**Length of protection.** A patent is protected for a period of 20 years as from the date of filing the application for registration end of the relevant quarter.

### **Trade marks**

**Definition and legal requirements.** A trade mark is defined as any visible sign serving to distinguish the goods of one enterprise from those of another enterprise. Trade marks can be registered by submitting a prescribed application unless they are inadmissible on objective grounds or due to third party rights. For instance, a mark that is a geographical name or which resembles a mark already filed or registered by another party is inadmissible.

**Protection.** Trade marks are registered at the Trademarks Division of NIPO. The application procedure is set out in the Intellectual Property Regulations No. 01 of 2006, available at [www.nipo.gov.lk](http://www.nipo.gov.lk). Unregistered marks are protected under the provisions

on unfair competition set out in the IP Act.

**Enforcement and remedies.** The registered owner of a trade mark can file an application in the Commercial High Court to prevent an infringement or imminent infringement of his rights. The court can grant an injunction restraining the infringer from commencing or continuing the infringement or performing other acts, and order damages and other relief the court deems just and equitable. An injunction may be granted along with an award of damages.

**Length of protection and renewability.** A trade mark is protected for ten years as from the date of filing the application for registration.

### **Registered designs**

**Definition.** Industrial designs are defined as any composition of lines of colours of any three-dimensional form, whether or not associated with lines or colours, that gives a special appearance to a product of industry or handicraft and is capable of serving as a pattern for a product of industry or handicraft.

Industrial designs cannot be registered under the IP Act if they are:

- Not new.
- Of a scandalous design contrary to morality, public order or the public interest.
- Are likely to offend religious or racial susceptibilities of any community.

In addition, anything in an industrial design that serves solely to obtain a technical result cannot be protected under the IP Act.

An industrial design can be registered by submitting the prescribed application form.

**Registration.** Industrial designs can be registered at NIPO. The application procedure is set out in the Intellectual Property Regulations No. 01 of 2006, available at [www.nipo.gov.lk](http://www.nipo.gov.lk).

**Enforcement and remedies.** The registered owner of an industrial design can file an application in the Commercial High Court to prevent an infringement or imminent infringement of his rights. The court can grant an injunction restraining the infringer from commencing or continuing the infringement or performing other acts, and can order damages and other relief the court deems just and equitable. An injunction may be granted along with an award of damages.

**Length of protection and renewability.** The registration of an industrial design expires on the completion of five years from the date of receipt of the application for registration.

### **Unregistered designs**

Unregistered industrial designs can be protected under the provisions on unfair competition set out in the IP Act.

## **Copyright**

**Definition and legal requirements.** Protection is available for the rights of authors of original literary, artistic and scientific works, and derivative works.

Related rights (rights of performers, producers of sound recording and broadcasting organizations) are also protected under the IP Act.

**Protection.** Copyrights can be registered at the NIPO.

**Enforcement and remedies.** The registered owner of a copyright can file an application in the Commercial High Court to prevent an infringement or imminent infringement of his rights. The court can grant an injunction restraining the infringement, or performing other acts and can order damages and other relief the court deems just and equitable. An injunction may be granted along with an award of damages.

**Length of protection and renewability.** The economic and moral rights of a registered owner of a copyright are protected during the life of the author and for 70 years after his death.

## **Other**

The IP Act also provides protection for associated marks, collective marks, certification marks, trade names, geographical indications and layout designs of integrated circuits.

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