



# Submission on the Prevention of Money Laundering Amendment Bill – 2026

 **TRANSPARENCY INTERNATIONAL SRI LANKA**  
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Clause in the Amendment Bill	Proposed Amendment	Concern	Recommendation
Clause 9	<p><b>Section 8</b></p> <p><b>(1)</b> The Police Officer issuing the Freezing Order under the provisions of section 7 shall within the <b>fourteen working days</b> during which such order shall be in force, make an application to the High Court seeking confirmation of such Freezing Order and also if the circumstances so necessitate, request an extension of the original period of <b>fourteen working days</b>.</p> <p><b>(3)</b> Where the High Court confirms a Freezing Order under subsection (2), it shall cause a notice of such Freezing Order to be published in the Gazette or at least one newspaper circulating in the Sinhala, Tamil and English languages, in order to facilitate bona fide third parties to make an application to the Court in support of their claims to the property which is subject to the Freezing Order.</p>	<p>The extension from 7 calendar days to 14 working days significantly widens the window during which an individual's property is frozen with <b>no judicial oversight</b> and with <b>no access to judicial remedy or a mechanism to challenge the order</b>. The freezing order under the amended provision may subsist for up to almost three calendar weeks on the sole authority of a police officer.</p>	<p>Recommend maintaining the current time period of 7 calendar days of effectiveness of a Freezing Order.</p> <p>Recommend mandating the police officer to <b>record reasons for having reasonable grounds to believe</b> that any person is involved in the commission of any act which constitutes an offence, when he is making an application to the High Court seeking confirmation of the Freezing Order issued. Such order shall <b>not</b> be issued ex parte.</p> <p>Recommend mandating the police officer to make an application to the High Court seeking confirmation of such Freezing Order, <b>within 72 hours from the issuance of such Freezing Order</b>.</p>

<p>Clauses 11 and 12</p>	<p><b>Section 10</b> In confirming a Freezing Order made under section 7, if the High Court is of the opinion that such Order could damage legitimate business or other interests of any person affected thereby and that any essential transaction in relation to the property which is subject to such Freezing Order, may be legitimately carried out, the High Court may, on an application made in that behalf or on its own motion, make order – <b>(a)</b> sanctioning the carrying out of such transaction; or <b>(b)</b> sanctioning the carrying out of such transaction under the supervision of the Receiver or Special Manager who may be appointed, or the Proceeds of Crime Management Authority that may be directed, as provided for in section 11.</p>	<p>There are no statutory requirements included for notice to affected third parties and no mentioned hearing mechanisms for persons whose business interests may be directly affected</p>	<p>Recommend amending as;  “In confirming a Freezing Order made under section 7, if the High Court is of the opinion that such Order could damage legitimate business or other interests of any person affected thereby and that any essential transaction in relation to the property which is subject to such Freezing Order, may be legitimately carried out, the High Court <b>shall issue a notice to interested parties to make an application or on its own motion, make an order-</b>”</p>
<p>Clause 14</p>	<p>Introduces a new Section 12A in the principal enactment to provide for issuing a Freezing Order in relation to any other property connected to a property subject to a Freezing Order.  <b>Section 12A</b> Where, upon receipt of any document or information ordered to be delivered or furnished under subsection (1) of section 12, such police officer has reasonable grounds to believe that any other property-  <b>(a)</b> is connected to the property which is subject to the Freezing Order issued under section 7; or</p>	<p>If the officer forms a view that a document discloses a “connection” between the new property and the already frozen property, the officer may immediately issue a further freezing order <b>without any judicial oversight for 14 working days.</b>  Hence, every freezing order under section 7 becomes a potential trigger for one or more cascading orders under Section 12A. The <b>sole trigger appears to be the officer’s view that a document discloses a “connection”</b> - how this view can be formed is not limited or defined.</p>	<p>Recommend amending as follows;  “Where, upon receipt of any document or information ordered to be delivered or furnished under subsection (1) of section 12, such police officer has reasonable grounds to believe that any other property- (a) is connected to the property which is subject to the Freezing Order issued under section 7; or (b) has been derived or realized from any unlawful activity and is connected to the property, which is subject to the Freezing Order,</p>

	<p><b>(b)</b> has been derived or realized from any unlawful activity and is connected to the property, which is subject to the Freezing Order,</p> <p>then such police officer shall issue a Freezing Order in relation to such connected property in terms of the provisions of section 7.</p>	<p>The provision does not require a clear nexus between the newly frozen property and the alleged offence of money laundering, unlawful activity, criminal proceeds, or dissipation of criminal property. A mere connection to already frozen property should not be sufficient to justify freezing additional property.</p>	<p>then such police officer <b>shall make an application to the High Court seeking the issuance of a Freezing Order, stating the grounds for such issuance</b>, in relation to such connected property in terms of the provisions of section 7.</p>
<p>Clause 15</p>	<p><b>Section 13</b></p> <p><b>(1)</b> Where a person is convicted of an offence under section 3, the Court shall, subject to the provisions of subsection (2), order that -</p> <p>(a) the criminal property which is owned or possessed by, or under the control of, the convicted person or <b>any other person</b>;</p> <p>(b) the criminal property in which the convicted person or <b>any other person</b> has beneficial ownership; or</p> <p>(c) if the circumstances of the case so necessitate, any property of corresponding value of the criminal property, be forfeited to the State free from all encumbrances.”</p> <p><b>(2)</b> The Court shall, before making an Order of Forfeiture under subsection (1), determine on the balance of probabilities <b>upon such inquiry as it may deem necessary</b>, whether such order is likely to prejudice the rights of- (a) a bona fide purchaser for value of; (b) any other person who has acquired, for value, a bona fide interest in; or</p>	<p>The forfeiture order made consequent upon that conviction extends to property owned by 'any other person.' Such individual, who has not been the subject of the criminal justice process, can <b>have their property taken from them — permanently — by an order of Court made in proceedings to which they were not a party</b>. Such bona fide third party has no opportunity within this statutory mechanism to adduce any evidence as to why forfeiture should not take place, and <b>no right of hearing</b>.</p> <p>The amendment would allow the permanent forfeiture of property belonging to a person who has not been charged, tried, convicted, or made party to the criminal proceedings. It may effectively result in a finding that such person’s property is criminal property without that person being accused of an offence, heard in Court, or given the opportunity to defend their rights. <b>This undermines basic principles of due process</b>,</p>	<p><b>Recommend deleting the proposed amendment to section 13(1)</b> to the extent that it permits forfeiture of property owned, possessed, controlled or beneficially owned by “any other person”, as well as the proposed inclusion of “property of corresponding value”. This provision is too broad and should not be included.</p> <p><b>If law enforcement identifies other property suspected to be criminal property, it should be required to follow the proper legal process</b> to freeze, seize or forfeit that specific property, with notice, judicial oversight, and an opportunity for the affected person to be heard. Forfeiture should not automatically extend to third-party property or substitute property through the conviction of another person.</p>

	<p>(c) a third party who has bona fide interest in, such criminal property.”;</p>	<p><b>natural justice, the presumption of innocence and the right to a fair hearing.</b></p>	<p><b>At the very least,</b> recommend deleting “as it may deem necessary” in subsection (2) and amending as follows:</p> <p>“(2) The Court shall, before making an Order of Forfeiture under subsection (1), determine on the balance of probabilities upon such inquiry, whether such order is likely to prejudice the rights of-...</p>
<p>Clause 18</p>	<p>Inserts the following new sections:</p> <p><b>Section 17A. A person who is subject to an investigation</b> for an offence under section 3, shall <b>furnish to a police officer</b> not below the rank of an Assistant Superintendent of Police in charge of such investigation <b>an affidavit or a sworn statement</b>, describing the manner in which any suspected property acquired by such person has been derived or realised and providing answers to any question put to him by such police officer on the matters under investigation or any facts relevant to the matters under investigation:</p> <p>Provided however, it shall not be an obligation for a person who is subject to an investigation for an offence under section 3, to furnish a self-incriminating or confessional statement or an affidavit or answer to any question, which would</p>	<p>1. Section 17A - Applies to a person “subject to an investigation”. Such can arise prior to charge, arrest or any criminal justice process or judicial involvement. The pre-charge compulsion to submit a <b>compelled affidavit</b> at this stage deprives a suspect of any procedural protections/other safeguards at this stage. This would undermine the right to a fair trial.</p> <p>Further, the section requires that an “affidavit or sworn statement” providing “answers to any question put to him” must mandatorily be provided. This appears ex facie to be <b>without any adequate right to counsel</b>, and happens during a form of questioning by the Police.</p> <p>Though the proviso excludes 'self-incriminating or confessional statements' and</p>	<p><b>Recommend deleting section 17A in its present form.</b> A person under investigation should not be compelled to furnish an affidavit or sworn statement answering questions put by the police. A compelled affidavit undermines the right against self-incrimination, which is a fundamental protection in the criminal justice system.</p> <p>The core issue is that the law should not compel a suspect, particularly at the investigation stage and before charge or trial, to provide a sworn account that may later be used against them. If investigators require information, they should proceed through ordinary investigative powers and safeguards recognised</p>

	<p>have a tendency to expose him to a criminal charge or to a penalty or forfeiture.</p> <p><b>17B</b> Notwithstanding anything to the contrary in any other written law, an <b>affidavit or a sworn statement</b> furnished by any person to a police officer under section 17A <b>shall be relevant and admissible</b> in evidence at the trial in respect of such person for an offence under section 3.</p> <p><b>17C (1)</b> If any person giving evidence, at the trial for an offence under section 3, gives, in the opinion of the court before which the trial is being held, <b>false evidence</b> within the meaning of section 188 of the Penal Code (Chapter 19) it shall be lawful for such court to <b>summarily sentence such witness for contempt of court</b> to a fine not exceeding one million rupees or to imprisonment for a period not exceeding two years.</p> <p><b>(2)</b> At any trial under subsection (1), it shall be sufficient to prove that such person has made contradictory statements and it shall not be necessary to prove which of such statements is false.</p> <p><b>17D (1)</b> Any police officer conducting an investigation under this Act may, in addition to the powers vested in such police officer by any other written law, <b>use any investigation technique</b> including the conducting the investigation: following (a) surveillance and</p>	<p>questions that would 'expose such person to a criminal charge,' this would require adequate legal counsel to gauge accurately. A suspect would be <b>unable to ascertain/determine</b> that during questioning. Second, such proviso only provides protections against a criminal charge, penalty or a forfeiture, and thus appears to <b>exclude civil/tort/regulatory liability</b>. Thus, the new section 17A effectively circumvents the policy and protection underlying <b>sections 24 and 25 of the Evidence Ordinance</b> by creating a statutory mechanism compelling a person under investigation to furnish an affidavit or sworn statement answering "any question" posed by investigators.</p> <p>2. Section 17B - Permits the prosecution to utilise compelled investigative statements as <b>substantive material within criminal proceedings</b>. Section 17A compels the statement, whilst section 17B operationalises its use against the suspect. Together, these provisions create a direct pathway from compelled police questioning to trial proceedings, bypassing the traditional protections embedded in the accusatorial criminal justice system.</p> <p>3. Section 17C – Firstly, it makes the commission of the offence dependent on the</p>	<p>under criminal procedure and evidence law, rather than creating a separate mechanism for compelled sworn statements.</p>
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<p>Clause 21</p>	<p><b>Introduces new section for unfettered sharing of court records with Foreign Agencies</b></p> <p><b>Section 21</b> For the purpose of effecting a conviction of a person or forfeiture of any criminal property or property of corresponding value of the criminal property, <b>any information recorded</b> in the course of any court proceedings relating to an offence under this Act or any decision or determination relating thereto, may be exchanged with <b>any foreign law enforcement agency</b>.</p>	<p>1. There are no criteria, conditions, thresholds, judicial oversight, notification requirements, data protection standards or oversight mechanism of any kind contemplated within this clause that governs the exercise of power.</p> <p>2. <b>“Any information”</b> is constitutionally <b>overbroad</b>. This contains no limiting principle whatsoever. A reasonable person cannot determine what information is excluded from this power, because the provision <b>excludes nothing</b>. Even information recorded from a protected witness/whistle-blower etc., including their personal details can be shared.</p>	<p>1. Recommend subjecting Section 21 to the <b>Mutual Assistance in Criminal Matters Act No.25 of 2002 (as amended)</b> by introducing a provision as follows; “The scheme contained in this Part of this Act, shall be carried out in terms of the Mutual Assistance in Criminal Matters Act No.25 of 2002 (as amended)”</p> <p>2. Recommend subjecting Section 21 to the <b>Personal Data Protection Act No.09 of 2022</b>.</p>

<p>Clause 30</p>	<p><b>Minister’s power to make regulations</b></p> <p><b>Section 33</b>  <b>(1)</b> The Minister may make regulations under this Act for any matter authorized or required to be made under this Act, or for the purpose of carrying out or giving effect to the principles and provisions of this Act.</p> <p><b>(2)</b> In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters,  (a) prescribing any business as a “designated non-finance business <b>or profession</b>” taking into consideration the interests of the national economy.</p> <p><b>(4)</b> Every regulation made by the Minister shall, <b>within three months from the date of its publication in the Gazette be brought before Parliament for its approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.</b></p>	<p><b>Section 33(4)</b> as amended, permits regulations to survive 3 months without parliamentary scrutiny, and is concerning especially because Section 33(3) of the PML Act remains unchanged, allowing regulations to <u>come into force on the date of publication.</u></p> <p>Further, regulations made under this provision carry criminal penalties, from the day they are published even though Parliament does not approve them until up to 3 months later. During the entire intervening period, persons may be prosecuted, convicted and imprisoned under regulations that Parliament has not yet seen, let alone approved.</p> <p><b>FATF Recommendation 22</b> requires customer due diligence and related obligations to apply to DNFBPs in a clear, risk-based and enforceable manner. It does not justify allowing substantive obligations to be imposed through regulations that take immediate effect and remain operative for months without Parliamentary control.</p> <p><b>Section 33(1)</b> as amended now permits the Minister to prescribe any business or profession as a designated non-finance business or profession, by way of regulations. And as per Section 33(3) of the Act, such regulation comes into force immediately on</p>	<p>1. Recommend amending Section 33(4) as follows;  “Every regulation made by the Minister shall, within <b>one month</b> from the date of its publication in the Gazette be brought before Parliament for its approval.”</p>
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