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LEGAL UPDATES REPORT **July 2023**

JAAR Law

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Summary

This Report covers the legal enactments relating to the business scope that have been published and available in the public domain in Sri Lanka during the period of 1st July, 2023 to 31st July, 2023.

A summary of the Number of enactments covered in this report are as below.

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Order Under Section 20(5) of the Consumer Affairs Authority Act No 9 of 2003 – rescinding direction No. 86 relating to M.R.P of eggs.	1
Order Under Section 23W(1) of the National Environmental Act No. 47 of 1980	1

[Click here to download all annexures](#)

1. Regulations

Regulations under the Colombo Port City Economic Commission Act No. 11 of 2021

(i) The Colombo Port City (Authorized Person Engaged in Business) Regulations No. 1 of 2023

Date

- ▶ 7th July, 2023

Area of Impact

- ▶ Regulation has been issued by the Colombo Port City Economic Commission specifying provisions that apply to the “Authorized Person” under the Colombo Port City Economic Commission Act No. 11 of 2021 (CPCEC Act)

Details

- ▶ The Regulation specify applicable provisions relating to an “Authorized Person” under the Colombo Port City Economic Commission Act No. 11 of 2021 (CPCEC Act), and include provisions relating to;
 - Dividends or other financial benefits payable by an Authorized Person;
 - Conversion of Sri Lanka Rupees into designated Foreign Currencies;
 - Engaging in business with a citizen of Sri Lanka or a Resident;
 - Transfer, lease, or Rent of marketable land paid for in Sri Lanka Rupees
 - Utilization of retail facilities;
 - Interim measures
- ▶ An “Authorized Person” means a person to whom a registration, license, authorization, or such other approval as required in terms of the CPCEC Act has been issued or granted by the Commission, subject to any condition as may be stipulated therein.

(ii) The Colombo Port City (Guidelines on the Grant of Exemptions or Incentives to Businesses of Strategic Importance) Regulations No. 1 of 2023

Date

- ▶ 7th July, 2023

Area of Impact

- ▶ Regulation has been issued by the Colombo Port City Economic Commission relating to the Guidelines on the Grant of Exemptions or Incentives to Businesses of Strategic Importance)

Details

- ▶ This Regulation categorizes an Authorized person engaged in business in and from the Area of Authority of the Colombo Port City into two categories based on identified criteria;
- ▶ A Primary Business of Strategic Importance is; any business; that makes an investment to lease and develop a plot of land within the Area of Authority and satisfies one of the following criteria;
 - Make an investment of a minimum of USD 100 Mn per plot of land or a pro-rated investment in a subdivided plot of land; or
 - Make an investment of a minimum of USD 25 Mn in the plots of land for the Marina of social infrastructure
- ▶ A Secondary Business of Strategic Importance is; any business that encourages or promotes any of the following business activities and satisfies any one of the criteria set out in regulation 4(3) of the Regulation (please refer to Annexure);
 - Global and regional economic activity in international trade;
 - Shipping logistics operations;
 - Offshore banking and finance;
 - Information technology;
 - Business process outsourcing;
 - Corporate headquarters operations;
 - Regional distribution operations;
 - Tourism and other ancillary services;

- Innovation;
 - Entrepreneurship
 - Entertainment
 - Generation of employment opportunities
 - Sustainable development; or
 - Urban amenity operations in the settlement of a residential community
- ▶ The regulation further sets out the incentives and exemptions such Primary Business of Strategic Importance or Secondary Business of Strategic Importance will be eligible under the Colombo Port City Economic Commission Act.

[Refer Annexure 1 here](#)

Imports and Exports (Control) Regulations No.11 of 2023

Date

- ▶ 19th July, 2023

Area of Impact

- ▶ Removal of specified items from the Temporarily suspended imports list published under extraordinary Gazette No. 2312/78 dated 01.01.2023.

Details

- ▶ This regulation amends the list of items, the import of which was temporarily suspended under the Imports and Exports (Control) Regulations No. 02 of 2023
- ▶ This regulation deletes, the items specified in its schedule from the Schedule 1 of the Imports and Exports (Control) Regulations No. 02 of 2023, thereby removing the temporary suspension over the imports of such items.

[Refer Annexure 2 here](#)

Regulations made under the Registered Stock and Securities Ordinance

Date

- ▶ 3rd July, 2023

Area of Impact

- ▶ Parliament has granted approval to implement the domestic debt optimization plan to ensure the public debt sustainability of the Republic to secure a speedy transition to economic recovery followed by sustainable economic growth.

Details

- ▶ This is cited as the "Registered Stock and Securities (Conversion of Securities) Regulations No. 02 of 2023
- ▶ The Secretary to the Ministry of Finance, Economic Stabilization and National Policies, and the Registrar of Public Debt has been authorized to: -
 - Offer to any holder of any stock or securities issued in Sri Lanka under the provisions of the Ordinance or any other enactment the option of converting or exchanging, as the case may be, the holding as at 28th June, 2023 or part thereof.
 - convert or exchange, as the case may be, any stock or securities issued in Sri Lanka under the provisions of the Ordinance or any other enactment held by holders into Treasury Bonds to be issued under the Ordinance.
 - Specify the manner in which payment of interest is made and the conditions subject to which the Treasury Bonds may be converted or exchanged, as the case may be, under the Ordinance.
- ▶ The Secretary to the Ministry of Finance, Economic Stabilization and Registrar of Public National Policies has been authorized to create and issue under the Ordinance such an amount of the Treasury Bonds as may be necessary for the conversion or exchange of the securities as declared and authorized under the Regulation 2 above.

[Refer Annexure 3 here](#)

Petroleum Products Licensing Regulations No. 1 of 2023.

Date

- ▶ 10th July, 2023

Area of Impact

- ▶ Applies to any applicant and any person or body of person issued with a license to import, export, sell, supply or distribute petroleum in Sri Lanka under Section 5 of the Petroleum Products (Special Provisions) Act No. 33 of 2002.

Details

- ▶ The Regulations sets out the following in respect of a licenses issued under this regulation:
 - Conditions for granting a license;
 - General conditions applicable to a licensee (eg:- every license is valid for a period of 20 years , upon payment of a licenses fee of USD Two Million, be non-transferrable and be renewable)
 - Special conditions applicable to certain licensees

[Refer Annexure 4 here](#)

Specific Energy Consumption Benchmarks Regulations No. 1 of 2023.

Date

4th July, 2023

Area of Impact

This regulation issued under the Sri Lanka Sustainable Energy Authority Act No. 35 of 2007, aims to establish specific energy consumption for certain facilities which have been categorized according to the International Standard Industry Classification (ISIC) as specified in part I of schedule 1 to the gazette.

Details

- ▶ The Board of Management of the Sustainable Energy Authority of Sri Lanka has been authorized with certain powers to require the facilities specified below to comply with the specific energy consumption benchmarks specified in part III of Schedule 1 to the gazette in electrical and other forms which can be used in operating any energy consuming facility during a calendar year, measured in kWh/M² of conditional space or in kWh per any other output parameter; and to require such facility to provide the authority with the general information relating to the relevant facility in the form provided in Part IV of Schedule 1.
- ▶ The facilities to which this regulation applies:

Class	Group 471 – Retail sale in non-specialized stores
4711	Retail sale in non-specialized stores with food, beverages or tobacco predominating
4719	Other retail sale in non-specialized stores
Class	Group 641- Monetary intermediation
6411	Central banking
6419	Other monetary intermediation
6420	Activities of holding companies
6430	Trusts, funds and similar financial entities

Class	Group 649 – other financial service activities , except insurance and pension funding activities
6491	Financial leasing
6492	Other credit granting
6499	Other financial service activities , except insurance and pension funding activities , not elsewhere classified.
Classified under Division 64 Financial service activities, except insurance and pension funding of ISIC , under Section K Financial and Insurance Activities of the International Standard Industry Classification (revision 4) of the United Nations.	

[Refer Annexure 5 here](#)

Security of radioactive Sources during manufacture, use or storage Regulation

Date

- ▶ Comes into effect from 01.12.2022

Area of Impact

- ▶ A regulation has been issued under the Sri Lanka Atomic Energy Act No. 40 of 2014, to specify the basic requirements for the security of radioactive sources.

Details

- ▶ The Regulation categorizes radioactive sources into the three security levels of A, B and C as specified in the table below:
- ▶ A person cannot engage in the management of any radioactive source without complying with the requirements set out in the regulation.

Security Level	Source	Category
1	Radioisotope thermoelectric generators (RTGs) Irradiators used in sterilization and food preservation Self-shielded Irradiators Blood/Tissue Irradiators Teletherapy sources Fixed multi beam teletherapy (gamma knife) sources	A
2	Industrial gamma radiography sources High/medium dose rate brachytherapy source	B
3	Fixed /Mobile industrial gauges that incorporate high activity radioactive sources given below with respect to different source types and radionuclides Level gauges Cs - 137 : Activity 3.7E-02 TBq or higher Co - 60 : Activity 3.7E-03 TBq or higher Calibration sources Am - 241 : Activity 1.9E-01 TBq or higher Pu - 239/Be : Activity 7.4E-02 TBq or higher Conveyor gauges Cs - 137 : Activity 1.1E-04 TBq or higher Cf - 252 : Activity 1.4E-03 or higher Blast furnace gauges	C

	Co - 60 : Activity 3.7E-02 TBq or higher Dredger gauges Cs - 137 : Activity 7.4E-03 TBq or higher Co - 60 : Activity 9.3E-03 TBq or higher Well logging gauges Am - 241/Be : Activity 1.9E-02 TBq or higher Cs - 137 : Activity 3.7E-02 TBq or higher Cf - 252 : Activity 1.0E-03 or higher	
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[Refer Annexure 6 here](#)

Customs Notification (General) – Applicable Rates of Exchange

This is a notification made under Section 17 of the Customs Ordinance (Chapter 235) by the DG, Customs, determining the Rates of Exchange applicable on all duties of Customs as well as other charges, penalties and forfeitures incurred under the Customs Ordinance.

Five notices were issued by DG Customs during the period of this Report.

[Refer Annexure 7 here](#)

2. Circulars

Explanatory Note on the Application of Advance Personal Income Tax (APIT)

Date

- ▶ 18th July, 2023

Area of Impact

- ▶ This explanatory note has been issued by the Department of Inland Revenue to clarify the application of advance personal income tax (APIT) imposed in terms of the Inland Revenue Act No. 24 of 2017 as amended by the Inland Revenue (Amendment) Act No. 45 of 2022.

Details

- ▶ This explanatory note sheds light on the following four main areas in relation to APIT deductions by an employer.
 - Identification of profits from employment and service fee payments made to individual independent service providers (IPS)
 - Identification of the service of a member of director of a Council, Board, Commission, Authority or Committee or Entity.
 - Deduction of APIT on salary arrears
 - Quantification of the value of the benefit included in the travelling , transport or related facilities provided by the employer.

[Refer Annexure 8 here](#)

Circular to Withholding Agents

Date

- ▶ 26th July, 2023

Area of Impact

- ▶ This circular has been issued by the Department of Inland Revenue to withholding agents as a guideline on filing quarterly statements of Advance Income Tax (AIT) as per section 86(8) of the Inland Revenue Act (As amended)

Details

- ▶ Liability of filing quarterly statement of AIT
 - A person who deducts AIT from any amounts paid or payable to a withholder who is a resident individual and is 59 years old or above, as interest, discounts, or income from Islamic financial transaction or on other debt obligations at the rate of 5% shall file Quarterly statements of AIT.
- ▶ Due date of submission of Quarterly Statement

Quarter Ended	Due Date
30.06.2023	30.07.2023
30.09.2023	30.10.2023
31.12.2023	31.01.2024

[Refer Annexure 9 here](#)

Circular issued in respect of deducting Withholding Tax on interest payment on account of compensation relating to land acquisition by the government.

Date

- ▶ 17th July, 2023

Area of Impact

- ▶ This circular has been issued by the Department of Inland Revenue to all Divisional Secretaries and Accountants of state bodies and Boards in relation to their liability in respect to withholding the relevant taxes on any interest payments made by it to any person.

[Refer Annexure 10 here](#)

General Waiver of Customs Import Duty on Milk Powder

Date

- ▶ 11th July, 2023

Area of Impact

- ▶ Approval has been granted in terms of Section 19A of the Customs Ordinance to revise the prevailing general duty waiver of Customs Import Duty on importation of Milk Powder.

Details.

- ▶ With effect from 12th July, 2023 the customs import duty on milk powder shall be as follows until further notice

HS Code	Item	Recoverable Customs Import Duty
0402.10	In powder, granules or other solid form , of a fat content, by weight not exceeding 1.5%	Rs. 100/- per Kg
0402.21	Not containing added sugar or other sweetening matter	Rs. 100/- per kg
0402.29	Other	Rs. 100/- per kg

[Refer Annexure 11 here](#)

3. Directions

Directive Issued specifying the Minimum Governance Requirements Applicable to Market Intermediaries

Date

- ▶ 24th July, 2023 (W.E.F. 24th July, 2023 with a transitional period of a maximum of 06 months to fully comply)

Area of Impact

- ▶ This is a directive issued by the Securities and Exchange Commission to Market Intermediaries stipulating the minimum governance requirements applicable to market intermediaries.

Details

- ▶ Market Intermediaries shall, as a minimum requirement, comply with following;
- ▶ Board of Directors of a Market Intermediary shall
 - comprise of a minimum of 3 Directors in total; of whom at least One (1) shall be a Non-executive Director.
 - Where the Chairman is a Non-independent director, the Non-executive Director shall be 'Independent'.
 - In the event the Chairman and CEO roles are combined, the Board shall appoint the Independent Non-executive Director to be the 'Senior Independent Director' (SID) with powers equivalent to that of the Chairman, as specified in the Board Charter and/or Terms of Reference.
- ▶ Chief Executive Officer (CEO) of a market intermediary shall:
 - be a full time employee, dedicated for the entity and shall; a. possess a degree or a professional qualification from a recognized university/institute with a minimum five (05) years of executive experience; or, b. a minimum of ten (10) years of senior managerial experience.
- ▶ Where the entity holds more than one category of license issued by the SEC, a dedicated Business head with adequate competence, reporting to the CEO shall be appointed for each

license category, whilst ensuring appropriate processes are in place to have a clear demarcation of the different functions pertaining to such businesses.

[Refer Annexure 12 here](#)

4. Orders

Order issued under Section 22 of the Foreign Exchange Act No. 12 of 2017

Date

- ▶ 28th June, 2023 (This order is valid for a period of six (06) months from 28th June, 2023)

Area of Impact

- ▶ This order issued by the Foreign Exchange Department, has relaxed certain limitations on outward remittances for capital transactions and removed the restrictions on current transfers of emigrants while continuing the other suspensions/limitations which were imposed under the previous Order.

Details

- ▶ The relaxations introduced under the order is set out in the table below.

	Subject Area	Limit under the previous Order	Limit under the new Order
1	First time claim of migration allowance.	Up to a maximum of USD 30,000*.	Up to a maximum of USD 50,000*.
2	Subsequent claims after the initial claim of migration allowance.	Up to a maximum of USD 10,000*.	Up to a maximum of USD 20,000*.
3	Repatriation of current income or accumulated current income of the emigrants	Up to a maximum of USD 30,000*.	Removed the limitation.

4	<p>Overseas investments through Outward Investment Accounts (OIAs) by eligible resident investors:</p> <p>(i) An additional investment to be made in already established subsidiaries or branch offices incorporated/ registered overseas, for the purpose of working capital requirement of the investee</p> <p>(ii) invest in ordinary shares of a company outside Sri Lanka, for the purpose of expanding their core business in overseas.</p> <p>(iii) set up overseas offices</p>	<p>Up to a maximum of USD 15,000*</p> <p>Suspended</p> <p>Suspended</p>	<p>Up to a maximum of USD 30,000*</p> <p>a) companies listed in the Colombo Stock Exchange (CSE) – up to a limit of USD 200,000</p> <p>b) companies not listed in the CSE- up to a limit of USD 100,000*</p> <p>Suspension removed</p>
5	<p>Outward remittances on capital transactions via Business Foreign Currency Account</p>	<p>Up to a maximum of USD 20,000*</p>	<p>Up to a maximum limit of USD 100,000* for the purpose of expanding their core business overseas.</p>
6	<p>Outward remittances by companies incorporated in Sri Lanka, being subsidiaries or branch offices of overseas companies, to make investments in Employee Share Ownership Plan/Employee Share Option Scheme</p>	<p>Suspended</p>	<p>Suspension removed</p> <p><i>(* or equivalent in any other designated foreign currency)</i></p>

[Refer Annexure 13 here](#)

Order Under Section 1(5) of the Personal Data Protection Act No. 9 of 2022.

Date

- ▶ 21st July, 2023

Area of Impact

- ▶ Minister of Technology, by this order, has specified July 17, 2023 as the date on which the provisions of Part V of the Personal Data Protection Act, No. 9 of 2022 (The Act) comes into operation.

Details

- ▶ Part V of the Act sets out the provisions relating to the establishment of the data protection Authority and its constitution, objectives, powers, duties and functions in relation to giving effect to the Act.

[Refer Annexure 14 here](#)

Order Under Section 2 of the Revenue Protection Act No. 19 of 1962.

Date

21st July, 2023 (Order is effective from 22nd July, 2023)

Area of Impact

- ▶ Inserting item under Item No. 5 of the List of concessions (Imports) under Schedule A of the Customs Ordinance.

Details

- ▶ The following item has been inserted as item No. 5 of the list of concessions (Imports) , Annex 1 under Schedule A of the Customs Ordinance published un Extraordinary Gazette No. 2324/49 dated 24 March, 2023 as described below.

Item	Description	Rate of Duty
05	Importation of water based homopolymers, and copolymers , classified under the HS code of 3903.90.10 and in aqueous dispersion or solutio, calssified under the HS Code of 3906.90.10 by the registered printing ink manufacturers for the purpose of manufacturing of printing ink on recommendation of the Secretary , Ministry of Industries and approval of the Director General , Sri Lanka Customs	5%

[Refer Annexure 15 here](#)

Order Under Section 14 of the Sri Lanka Export Development Act No. 40 of 1979

Date

- ▶ 20th July, 2023

Area of Impact

- ▶ Inclusion of one more item to the Schedule of Annexure A of Extraordinary gazette No. 2325/06 dated 28th March, 2023 , re applicability of CESS Levy

Details

- ▶ The following item and the purposes of importation has been added to the schedule in Annexure A of the aforesaid gazette for which the CESS levy will not apply.
 - Importation of water based homopolymers, and copolymers , classified under the HS code of 3903.90.10 and in aqueous dispersion or solutio, calssified under the HS Code of 3906.90.10 by the registered printing ink manufacturers for the purpose of manufacturing of printing ink on recommendation of the Secretary , Ministry of Industries and approval of the Director General , Sri Lanka Customs

[Refer Annexure 16 here](#)

Order Under Section 20(5) of the Consumer Affairs Authority Act No 9 of 2003.

Date

- ▶ 25th July, 2023

Area of Impact

- ▶ Rescission of Order No 86 published in Extraordinary Gazette No. 2328/05 dated 19.04.2023 relating to the maximum price of Eggs.

[Refer Annexure 17 here](#)

Order Under Section 23W(1) of the National Environmental Act No. 47 of 1980

Date

- ▶ 19th July, 2023
- ▶ Effective from 1st October, 2023

Area of Impact

- ▶ Prohibition of Certain plastic items and use of such items in any process, trade or industry for in country use.

Details

- ▶ The order prohibits the use of the following plastic items and the use of the said items in any process, trade or industry or in country use, with effect from 1st of October, 2023;
 - Single-use drinking straws and stirrers
 - Single-use food container, plates, cups, spoons, forks and knives, except in air travels;
 - Garlands;
 - String hopper trays
- ▶ For the purpose of this prohibition
 - Cups includes drinking cups but does not include yoghurt cups;
 - Food containers means the meal boxes manufactured from expanded polystyrene for in country use
 - Process includes manufacturing
 - Single-use means a product designed or intended to be used once, before being disposed of
 - Straw means all straws including straws attached to product
 - Trade includes importation for local use, sale, offer for sale, display for sale, offer free of charge or exhibit.

[Refer Annexure 18 here](#)

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