

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

Part II of April 06, 2023

SUPPLEMENT

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NATIONAL EYE BANK TRUST OF SRI LANKA

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to provide for the establishment of a Trust called the National Eye Bank Trust of Sri Lanka; to provide corneal tissues, artificial devices and other tissues required for ophthalmic surgery and for scientific and technical research and education: to share excess corneal tissues and other tissues required for ophthalmic surgery with other countries and to provide for matters connected therewith or incidental thereto

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*National Eye Bank Trust of
Sri Lanka*

L.D.-O. 49/2013

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TRUST CALLED THE NATIONAL EYE BANK TRUST OF SRI LANKA; TO PROVIDE CORNEAL TISSUES, ARTIFICIAL DEVICES AND OTHER TISSUES REQUIRED FOR OPHTHALMIC SURGERY AND FOR SCIENTIFIC AND TECHNICAL RESEARCH AND EDUCATION: TO SHARE EXCESS CORNEAL TISSUES AND OTHER TISSUES REQUIRED FOR OPHTHALMIC SURGERY WITH OTHER COUNTRIES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERTO .

WHEREAS corneal blindness has been identified as one of the major causes for blindness worldwide with highest prevalence in Asia, and the Ministry of Health of Sri Lanka has established a National Eye Bank of Sri Lanka accommodated in the Colombo National Eye Hospital since the Twenty Fourth day of February, Two Thousand and Eleven with a view to alleviating corneal blindness;

AND WHEREAS now the Government of Sri Lanka is desirous of incorporating the National Eye Bank of Sri Lanka with a view to alleviating blindness and for the prevention and control of avoidable blindness.

BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the National Eye Bank Trust of Sri Lanka Act, No. of 2023.

PART I

ESTABLISHMENT OF THE NATIONAL EYE BANK TRUST OF SRI LANKA

2. (1) There shall be established a Trust to be called the National Eye Bank Trust of Sri Lanka (hereinafter referred to as “the Trust”).

Preamble

Short title

Establishment
of the
National
Eye Bank
Trust of
Sri Lanka

PART II

THE BOARD OF THE NATIONAL EYE BANK TRUST OF SRI LANKA

4. The administration and management of the affairs of the Trust shall be vested in a Board of Trust (hereinafter referred to as “the Board”) consisting of –
- (a) the following *ex-officio* members, namely–
- (i) the Director-General of Health Services who shall serve as the Chairman (hereinafter referred to as “the Chairman”) of the Board;
 - (ii) the Director of Colombo National Eye Hospital or his representative not below the rank of a Deputy Director;
 - (iii) a representative of the Treasury nominated by the Secretary to the Ministry of the Minister assigned the subject of Finance;
 - (iv) the Chief Judicial Medical Officer of Colombo;
 - (v) the Chief Accountant of the Ministry of Health;
- (b) the following members (hereinafter referred to as the “appointed members”) appointed by the Minister:-
- (i) a representative nominated by the Council of the College of Ophthalmologists of Sri Lanka, established under the Council of Ophthalmologists of Sri Lanka (Incorporation) Act, No.12 of 2000;
 - (ii) a medical practitioner nominated by the Sri Lanka Medical Council established by the

Establishment
of the
National Eye
Bank Trust
Board of
Sri Lanka

(4) Where any appointed member of the Board is temporarily unable to perform the duties of his office on account of ill health or any other cause or if he is absent from Sri Lanka for a period of not less than three months, the
5 Minister shall having regard to the provisions of paragraph (b) of section 4 appoint any other person to act in place of such member during his absence.

(5) Where any appointed member of the Board fails to attend three consecutive meetings of the Board without
10 obtaining prior approval for such absence from the Chairman, such member shall be deemed to have vacated his office at the conclusion of the third meeting and the Minister shall appoint another person to fill such vacancy in the manner provided for in subsection (3).

15 7. Any person –

Disqualification
for being a
member

- (a) if such person is not or ceases to be a citizen of Sri Lanka;
- (b) if such person is or becomes a member of Parliament or a Provincial Council or any Local Authority;
- 20 (c) if such person has any financial or other interest which may affect the discharge by him of his functions as a member of the Board;
- (d) if such person is under any law in force in Sri Lanka or in any other country found or declared to be of
25 unsound mind;
- (e) if such person is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country,

he shall be disqualified from being appointed or continuing
30 to be a member of the Board.

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Sri Lanka*

8. (1) If the Chairman is present at a meeting of the Board, he shall preside at such meeting. In the absence of the Chairman from any meeting, the members present shall elect a Chairman from among themselves. Meetings of the Board

5 (2) Subject to the other provisions of this Act, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(3) The quorum for a meeting of the Board shall be five members.

10 (4) Where there is an equality of votes, the Chairman shall in addition to his vote have a casting vote.

9. No act or proceeding of the Board shall be invalid by reason only of any vacancy among its members or any defect in the appointment of any of its members. Vacancy among members not to invalidate acts and proceedings of the Board

15 10. The Minister may, from time to time, issue such special or general directions to the Board relating to the exercise, performance and discharge of its powers, duties and functions under this Act, and it shall be the duty of the Board to give effect to such directions. Special and general directions to be issued by the Minister

20 PART III

POWERS AND FUNCTIONS OF THE BOARD

11. In giving effect to the objects of the Trust and other provisions of this Act the Board shall have the power— Powers and functions of the Board

25 (a) to harvest, process and distribute corneal tissues collected from donors upon their death, through a Tissue Coordinator appointed under section 22;

- (b) to preserve and store corneal tissues and other tissues required for ophthalmic surgery under such conditions as may be prescribed;
- 5 (c) to arrange to carry out, in consultation with the Director-General of Health Services, any ophthalmic surgery;
- 10 (d) to obtain written consent of prospective donors for donation of corneal tissues upon their death subject to the provisions of the Transplantation of Human Tissues Act, No. 48 of 1987 and the Code of Criminal Procedure Act, No.15 of 1979;
- 15 (e) to recall or downgrade the corneal tissues or other tissues required for ophthalmic surgery where the quality of such tissues are not up to the standards as shall be prescribed by regulations to use for the purpose of this Act;
- 20 (f) to maintain in such manner as may be determined in consultation with the Secretary to the Ministry of the Minister assigned the subject of Health, a register and a database of the donors of any corneal or other tissues required for ophthalmic surgery;
- 25 (g) to advise the Minister in respect of fees to be levied from the non-Sri Lankan Nationals in order to cover the costs relating to transplanting and processing of corneal tissues and other tissues required for ophthalmic surgery;
- 30 (h) to share corneal tissues and other tissues required for ophthalmic surgery free of processing charges as an act of friendship to any foreign country when so requested by the Minister;
- (i) to share expertise or technology relating to eye banking with other countries;

5 (q) to hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any movable or immovable property belonging to the Trust and to construct buildings on any land belonging thereto;

10 (r) to accept and receive, grants and donations and bequests both movable and immovable, from sources in or outside Sri Lanka to the National Eye Bank Trust Fund and apply them for the discharge of its functions:

Provided that, the Board shall obtain prior written approval of the Department of External Resources in respect of all foreign grants, gifts or donations made to the Trust;

15 (s) to open and maintain current, savings or other deposit accounts in any State bank or banks as may be determined by the Board and to close such accounts; and

20 (t) generally, to do such other acts and things as are authorized by this Act to facilitate the proper discharge of the functions of the Board.

25 **12.** The Trust shall be capable in law to take and hold property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise and all such property shall be held by the Trust for the purposes of this Act. Power of the Trust to hold property

30 **13.** The members of the Board may be remunerated in such manner as may, from time to time, be determined by the Minister with the concurrence of the Minister to whom the subject of Finance has been assigned. Remuneration of members

14. (1) The seal of the Trust shall be in the custody of such person as the Board may decide, from time to time, and may be altered in such manner as may be determined by the Board. Seal of the Trust

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Sri Lanka*

(2) The seal of the Trust shall not be affixed to any instrument or document except in the presence of the Chairman or in his absence any member authorized by the Chairman in writing in that behalf, and one other member of
5 the Board. Both such members shall sign the instrument or document in token of their presence and such signing shall be independent of the signing of any person as a witness.

(3) The Board shall maintain a register of every instrument or document to which the seal of the Board is affixed.

10 **15.** (1) The Board may subject to such conditions as may be specified in writing, delegate any of its powers, duties or
functions under this Act to any member of the Board. Such member shall exercise, perform or discharge such power,
duty or function subject to any special or general direction
15 that may be issued by the Board. Delegation of powers etc.

(2) Notwithstanding any delegation made under subsection (1), the Board may exercise, perform or discharge such power, duty or function so delegated.

PART IV

20 THE NATIONAL EYE BANK TRUST FUND

16. (1) There shall be established a Fund called the National Eye Bank Trust Fund (hereinafter referred to as
"the Fund"). Establishment of the National Eye Bank Trust Fund

(2) The management, administration, control and
25 operation of the Fund shall be vested in the Board.

(3) There shall be paid into the Fund-

(a) all such sums of money as may be voted by Parliament, from time to time, for the use of the Trust including the initial grant and the annual
30 grants of the National Eye Bank of Sri Lanka;

- (b) any fund raised, or grants, gifts or donations received, or moneys realized or collected under the provisions of this Act;
- 5 (c) the sum of money transferred to the Fund under subsection (1) of section 30; and
- (d) any income from investments or other receipts due to the Trust.
- (4) There shall be paid out of the Fund-
- 10 (a) all expenses which are necessary for the functioning and maintenance of the Trust;
- (b) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Trust.
- 15 **17.** (1) The financial year of the Trust shall be the calendar year. Accounts and audit
- (2) The Board shall cause proper books of accounts to be kept of the income and expenditure and all other transactions of the Trust.
- 20 (3) The Board shall cause its books of accounts to be balanced as at the thirty-first day of December in each year and shall, before the thirty-first day of March next, cause to be prepared, an income and expenditure account and balance sheet containing a summary of the assets and liabilities of the Trust made up to the first-mentioned date.
- 25 (4) The income and expenditure account and the balance sheet shall be signed by the members of the Board authorized to do so by a resolution passed by the Board.
- (5) The accounts of the Trust shall be audited by the Auditor-General annually in terms of Article 154 of the
30 Constitution.

18. (1) The Trust shall within six months of the end of each financial year submit to the Minister an annual report on the activities carried out by the Trust together with a list of its assets and liabilities. The audited accounts of the Trust for the year along with the Auditor-General's report shall also be attached to such report.

Annual
report

(2) The Minister shall within three months from the date of receipt of the annual report, table such report along with the document specified in subsection (1) in Parliament for its consideration.

PART V

THE STAFF OF THE TRUST

19. (1) The Minister shall in consultation with the Board appoint to the staff of the Trust, a person to be the Chief Executive Director. The Chief Executive Director shall have the qualifications and experience as specified by rules made under this Act.

The Chief
Executive
Director to
be the Chief
Executive
Officer

(2) The Chief Executive Director shall, subject to the general directions of the Board, be charged with the administration of the affairs of the Trust, the exercise and performance of the powers and duties as may be assigned to him by the Board, and the administration and control of the employees of the Trust. The Chief Executive Director shall be responsible for the execution of all decisions of the Board and shall function as the Secretary to the Board.

(3) The Chief Executive Director may, with the approval of the Board, whenever he considers it necessary to do so, delegate to any employee of the Trust, any power, duty or function conferred or imposed upon him by this Act, and such employee shall exercise, discharge and perform such power, duty or function subject to the general or special directions of the Chief Executive Director. The Chief Executive Director may, notwithstanding such delegation

exercise, discharge and perform any power, duty or function so delegated under this subsection.

(4) The Minister may after assigning reasons therefor, remove the Chief Executive Director from office and having
5 regard to the provisions of subsection (1), appoint another person to act in his place.

(5) The Chief Executive Director shall hold office for a period of three years from the date of his appointment and unless removed from office under subsection (4) shall be
10 eligible for re-appointment, for not more than one further term, whether consecutive or otherwise.

(6) The Medical Director of the National Eye Bank of Sri Lanka holding office on the day immediately preceding the date of commencement of this Act, shall function as the
15 Chief Executive Director until the first Chief Executive Director is appointed in the manner provided for in subsection (1).

20. The Minister, in consultation with the Secretary to the Ministry of the Minister assigned the subject of Health shall appoint a person who is an ophthalmologist having completed a Corneal fellowship or has demonstrated expertise in external eye diseases, corneal surgery, research or teaching experience in cornea or external eye diseases or has experience in corneal transplantations to be the Medical
25 Director of the Trust.

21. (1) At the request of the Board, any officer in the public service may, with the consent of that officer and of the Public Service Commission be temporarily appointed to the staff of the Trust for such period as may be determined
30 by the Board and with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Trust, the provisions of

subsection (2) of section 14 of the National Transport Commission Act, No.37 of 1991 shall, *mutatis mutandis*, apply to and in relation to such officer.

5 (3) Where any officer in the public service is permanently appointed to the staff of the Trust the provisions of subsection (3) of section 14 of the National Transport Commission Act, No.37 of 1991 shall, *mutatis mutandis*, apply to and in relation to such officer.

10 **22.** There shall be appointed such number of Tissue Coordinators as may be required for the purposes of this Act whose qualifications, powers and functions shall be determined by rules made by the Board.

Appointment
of Tissue
Coordinators

15 **23.** All officers and servants of the Trust shall be deemed to be public servants within the meaning and for the purposes of the Penal Code (Chapter 19).

Officers and
servants of
the Trust
deemed to be
public
servants
under the
Penal Code
(Chapter 19)

20 **24.** (1) Any expense incurred by the Trust in any suit or prosecution brought by, or against the Trust before any court, shall be paid out of the Fund, and any costs paid to, or recovered by the Trust in any such suit or prosecution shall be credited to the Fund.

Protection
for action
taken under
this Act or on
the direction
of the Board

25 (2) Any expense incurred by any member of the Board or any officer, servant or agent of the Trust in any suit or prosecution brought against him in any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the Fund unless such expense is recovered by him in such suit or prosecution.

25. The Trust shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

Trust deemed to be a scheduled institution within the meaning of the Bribery Act

PART VI

5

OFFENCES AND PENALTIES

26. (1) No person shall buy, sell or in any manner dispose of, for a valuable consideration, any corneal tissue or any other tissue required for ophthalmic surgery in violation of the provisions of this Act.

Any sale, dealing or disposal of corneal tissues etc. in violation of this Act to be an offence

10 (2) Any person who contravenes the provisions of subsection (1) commits an offence under this Act and shall on conviction by a Magistrate be liable to a fine not exceeding fifty thousand rupees, or to imprisonment of either description for a term not more than two years or both such
15 fine and imprisonment.

PART VII

MISCELLANEOUS

20 27. (1) The Minister may make regulations in respect of all matters which are stated or required by this Act to be prescribed or in respect of all matters for which regulations are required or authorized to be made by this Act.

Regulations

25 (2) Without prejudice to the generality of the powers specified in subsection (1), the Minister may, in consultation with the Board make regulations in respect of all or any of the following :-

(a) the procedure to be followed in the collection of corneal tissues and other tissues required for ophthalmic surgery;

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Sri Lanka*

- (b) the quality of corneal tissues and other tissues required for ophthalmic surgery that are suitable for harvesting for the purpose;
- 5 (c) the procedure for medical and quality standards to be adopted in harvesting and transplanting of Corneal tissues;
- (d) fees to be charged from non-Sri Lankan nationals to cover the cost of transplantation and processing of corneas and other tissues required for ophthalmic surgery; and
- 10 (e) procedure to be followed in sharing corneas and other tissues required for ophthalmic surgery with other countries.

(3) Every regulation made by the Minister under this section shall be published in the *Gazette* and shall come into operation upon such publication or on such later date as may be specified in the regulation.

15

(4) Every regulation made by the Minister under this section shall within three months from its publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of such disapproval but without prejudice to anything previously done thereunder.

20

(5) Notice of the date from which a regulation is deemed to be rescinded shall be published in the *Gazette*.

25

28. (1) The Board may make rules in respect of all or any matter for which rules are authorized or required by this Act to be made. Rules

(2) Without prejudice to the generality of the powers vested in the Board under subsection (1), the Board may make rules for the following matters in particular—

30

- (a) to determine the qualifications, powers and functions of the Tissue Coordinators;
- (b) to determine the procedures relating to the distribution of corneal tissues and other tissues required for ophthalmic surgery to Sri Lankans;
- (c) to determine the procedure for the recruitment and training of Tissue Coordinators; and
- (d) to maintain registers which shall be kept and maintained under this Act.

(3) Every rule made under this section shall come into force upon publication in the *Gazette*.

(4) Every rule made under this section shall within a period of three months from the date of its publication in the *Gazette* be brought before Parliament for approval.

(5) Any rule made under this section may be amended or rescinded when necessary.

29. Sections 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Transplantation of Human Tissues Act, No.48 of 1987 shall, *mutatis mutandis*, apply in relation to tissues used under this Act.

Application of Transplantation of Human Tissues Act, No.48 of 1987

30. (1) Notwithstanding the provisions contained in the National Health Development Fund Act, No.13 of 1981, all such sums of money lying to the credit of the National Eye Bank of Sri Lanka in the National Health Development Fund on the day immediately preceding the date of commencement of this Act shall be transferred to the Fund .

Savings and transitional provisions

(2) The officers and servants of the National Eye Bank of Sri Lanka holding office on the day immediately prior to the date of commencement of this Act, shall, with the consent of the officers or servants concerned and the Board, be deemed to be officers or servants of the Trust.

(3) All officers and servants who have expressed their consent under subsection (2) shall be employed, subject to the terms of the scheme of recruitment prepared by the Ministry of Health in accordance with the applicable policy and on terms not less favourable than the terms of employment applied to them immediately prior to the date of commencement of this Act.

31. In this Act, unless the context otherwise requires- Interpretation

10 “Minister “ means the Minister to whom the subject of Health is assigned in terms of Article 43 or 44 of the Constitution;

“Tissue” shall have the same meaning assigned to it under the Transplantation of Human Tissues Act, No.48 of 1987;

15 “Tissue Coordinator” means any nursing officer registered under the Sri Lanka Medical Council or the Sri Lanka Nursing Council and performs retrieval, counseling and tissue coordination in the Eye Bank.

20 **32.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency

