

INVESTING IN THE COLOMBO PORT CITY

The Colombo Port City consists of 446.6153 hectares of reclaimed land and is situated in Colombo, the financial capital of Sri Lanka.

The Government of Sri Lanka [“GOSL”] aims to attract foreign direct investments into Sri Lanka through the Port City project by establishing a Special Economic Zone within the Colombo Port City and by reducing and/or excluding certain compliance obligations under the laws of Sri Lanka, to create ease of business for the advancement of the national economy.

By establishing a Special Economic Zone, the GOSL intends for the Colombo Port City to become an international business and services hub with specialised infrastructure to promote and facilitate economic activity such as international trade, shipping logistic operations, offshore banking and financial services, information technology and business outsourcing services, corporate headquarters operations, regional distribution operations, tourism, and other ancillary services.

In order to achieve the above, the Colombo Port City Economic Commission Act No. 11 of 2021 was passed in Parliament in May 2021 [“Act”].

Who is able to operate business/provide services in the Colombo Port City?

Any person with a licence issued by the Colombo Port City Economic Commission [“Commission”].

As defined in the Act, a person may include a natural person, company, partnership, limited partnership, and a foundation, which has been validly established under the laws of Sri Lanka or of any other jurisdiction.

Accordingly, resident and non-resident persons of Sri Lanka could engage in economic activities within the Colombo Port City.

In addition to the licence issued by the Commission, companies interested in engaging in economic activities within the Colombo Port City are also required to obtain registration/incorporate an offshore company with the Department of the Registrar of Companies.¹

In the event a person is interested in carrying-on the business of offshore banking, in addition to the above-mentioned requirements, a licence to carry-on the same would need to be obtained.

As the Commission is the ‘Single Window Investment Facilitator’ all applications pertaining to

registrations, licences, authorisations, or any other approvals required to carry-on business in the Colombo Port City (including applications for the facilitation/processing of visas, entry permits, work permits) should be made to the Commission in the manner stipulated by the Commission, along with the prescribed fee and relevant information/documentation.

Are there any specific restrictions imposed when making an application to the Commission?

The application should specify the total value of the proposed foreign direct investment. The value should be indicated in a foreign currency other than in Sri Lankan Rupees. The funding for the economic activity should not be from a foreign currency account maintained in a licensed commercial or specialised bank in Sri Lanka or by way of a foreign currency loan obtained from a licensed commercial or specialised bank in Sri Lanka. As such, the funding to carry-on business in and from the Colombo Port City should be raised outside of Sri Lanka.

Are there restrictions in terms of employment within the Colombo Port City?

As per the Act, any person whether a resident or non-resident of Sri Lanka may be employed to carry-out business in and from the Colombo Port City.

However, remuneration to such persons would need to be provided in a designated foreign currency other than in Sri Lankan Rupees. In addition, the income earned by such persons will not be subject to income tax in Sri Lanka.

Can a licence holder engage with persons carrying-on business outside the Colombo Port City?

Yes, subject to the Commissions’ approval, terms and conditions prescribed by the Commission and the applicable laws prevailing at that time.

Please note that exemptions and incentives provided under the Act will not apply to business conducted outside the Colombo Port City.

By investing in the Colombo Port City, are licence holders provided any benefits/incentives?

As per the Act, if a business is identified as a ‘Business of Strategic Importance’ such businesses would be entitled to certain exemptions/incentives from the enactments specified in Schedule II of the Act. These exemptions/incentives would be embodied into the agreement between the Commission and the licence holder.

¹ Please note that an offshore company registered for the purposes stipulated in the Act, can only carry-on business within the Colombo Port City.

As per Schedule II of the Act a Business of Strategic Importance would be entitled to exemptions/incentives² under the following enactments:

1. The Inland Revenue Act No. 24 of 2017
2. The Value Added Tax Act No. 14 of 2002
3. The Finance Act No. 11 of 2002
4. The Finance Act No. 05 of 2005
5. The Excise (Special Provisions) Act No. 13 of 1989
6. The Customs Ordinance (Chapter 235)
7. The Ports and Airports Development Levy Act No. 18 of 2011
8. The Sri Lanka Export Development Act No. 40 of 1979
9. The Betting and Gaming Levy Act No. 40 of 1988
10. The Termination of Employment of Workmen (Special Provisions) Act No. 45 of 1971
11. The Entertainment Tax Ordinance (Chapter 267)
12. The Foreign Exchange Act No. 12 of 2017
13. The Casino Business (Regulation) Act No. 17 of 2010

Furthermore, the validity of the exemptions/incentives provided under Schedule II of the Act shall not exceed forty (40) years.

In addition to the above, the Commission may also extend its assistance/facilitation as may be necessary to attract Businesses of Strategic Importance.

Does the Condominium Management Authority Law No. 10 of 1973 and the Apartment Ownership Law No. 11 of 1973 apply within the Colombo Port City?

Yes, unless regulations in relation to the same are made under the Act.

Can residents of Sri Lanka purchase/lease land/condominium parcels in the Colombo Port City?

Yes.

Please note that residents who are not subject to the Land (Restrictions on Alienation) Act No. 38 of 2014 are also permitted to purchase freehold/leasehold title to property within the Colombo Port City in Sri Lankan Rupees.

Furthermore, if such person transfers, leases or rents the said property within five (05) years of the transaction, that person would be required to remit the sum so received in a designated foreign currency

² Tax related exemptions may be granted, either in full or part, and from all or any of the enactments set out in Schedule II hereto.

other than Sri Lankan Rupees, to a Resident Foreign Currency Account operated and maintained in Sri Lanka outside the Colombo Port City, in the name of the person.

Does the Securities and Exchange Commission Act No. 36 of 1987 apply within the Colombo Port City?

Yes.

The Act stipulates that any stock exchange or market operated within the Colombo Port City and any listings therein and the issuance of securities³ thereof would be regulated by the Securities and Exchange Commission Act No. 36 of 1987, unless regulations in relation to the same are made under the Act.

The establishment of an International Commercial Dispute resolution Centre within the Colombo Port City

The Commission shall facilitate the establishment of an International Commercial Dispute Resolution Centre, to be located within the Colombo Port City.

As per the Act, any dispute that may arise, within the Colombo Port City, between –

(a) the Commission and an authorised person or an employee of an authorised person where relevant; and

(b) the Commission and a resident or an occupier, provided that there exists in relation thereto, an agreement or other legally binding document as between the Commission and such resident or occupier,

shall be resolved by way of arbitration conducted by the International Commercial Dispute Resolution Centre.

Enactments that do not have application within the Colombo Port City

As per Schedule III of the Act:

³ The word “securities” as per the Act means debentures, stocks, shares, funds, bonds, derivatives including futures and options whatever the nature of the underlying asset relied on or notes issued or proposed to be issued, by any government or anybody, whether incorporate or unincorporated, including any rights, options or interests (whether described as units or otherwise) therein or in respect thereof, or any other instruments commonly known as securities, but does not include bills of exchange or promissory notes or certificates of deposits issued by a bank.

1. The Urban Development Authority Act No. 41 of 1978
2. The Municipal Council Ordinance (Chapter 252)
3. The Commercial Mediation Centre of Sri Lanka Act No. 44 of 2000
4. The Town and Country Planning Ordinance (Chapter 269)
5. The Strategic Development Projects Act No. 14 of 2008
6. The Public Contracts Act No. 03 of 1987
7. The Board of Investment of Sri Lanka Law No. 4 of 1978