

# **PART IV**

# PART IV

## MAJOR LEGISLATIVE ENACTMENTS OF 2013 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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## Divineguma Act, No. 1 of 2013

[Certified on 11th January, 2013]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A DEPARTMENT TO BE CALLED AND KNOWN AS THE DEPARTMENT OF DIVINEGUMA DEVELOPMENT BY AMALGAMATING THE SAMURDHI AUTHORITY OF SRI LANKA ESTABLISHED BY ACT, NO. 30 OF 1995, SOUTHERN DEVELOPMENT AUTHORITY OF SRI LANKA ESTABLISHED BY ACT, NO. 18 OF 1996, THE UDARATA DEVELOPMENT AUTHORITY OF SRI LANKA ESTABLISHED BY ACT, NO. 26 OF 2005; TO ESTABLISH DIVINEGUMA COMMUNITY BASED ORGANIZATIONS AT RURAL LEVEL AND TO PROVIDE FOR A CO-ORDINATING NETWORK AT THE DISTRICT LEVEL AND NATIONAL LEVEL; TO ESTABLISH DIVINEGUMA COMMUNITY BASED BANKS AND DIVINEGUMA COMMUNITY BASED BANKING SOCIETIES; TO REPEAL SAMURDHI AUTHORITY OF SRI LANKA ACT, NO. 30 OF 1995, SOUTHERN DEVELOPMENT AUTHORITY OF SRI LANKA ACT, NO. 18 OF 1996 AND UDARATA DEVELOPMENT AUTHORITY OF SRI LANKA ACT, NO. 26 OF 2005 AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS, in furtherance of the economic development process and in giving effect to the national policy of alleviating poverty and ensuring social equity, it has become necessary to improve the individual, family, group and community centered livelihood development activities:

AND WHEREAS, Divineguma intends to mobilize people into a national development process at community level establishing divineguma community based organizations thus building up regional, district and national level co-ordinating network and developing and promoting a micro- finance banking system:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Divineguma Act, No 1 of 2013, and the provisions of this Act other than this section, shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (hereinafter referred to as the "appointed date"). The provisions of this section shall come into operation on the date on which this Act becomes an Act of Parliament.

### PART I

#### ESTABLISHMENT OF DIVINEGUMA DEVELOPMENT DEPARTMENT

2. There shall be established for the purpose of this Act, a government department called the Divineguma Development Department (in this Act referred to as the "Department").
3. (1) There shall be appointed a Director-General of the Department (in this Act referred to as the "Director-General") and such other officers and servants as may be required from time to time to carry out the powers and functions of the Department.  
(2) The Director-General may delegate in writing to any public officer any of his powers, functions and duties as may from time to time be considered necessary.
4. The objects of the Department shall be:-
  - (a) to carry out such development activities as may be required to alleviate poverty and to bring about a society guaranteeing social equity;
  - (b) to promote the individual, family, group and community centered livelihood economic development activities;
  - (c) to ensure food security for each individual and family;
  - (d) to mobilize and empower people to speed up the national development;
  - (e) to provide micro-financial facilities for the purpose of promoting the livelihood development of people;
  - (f) to develop physical and social infrastructure facilities as may be required for the development of the livelihood of people;
  - (g) to carry out such studies and research as may be required relating to the economic and social upliftment of people;
  - (h) to develop the human capital in order to uplift living standards of people; and
  - (i) to create a social security network for those who are in need of social security.
5. The Department shall, in the discharge of its functions have the power:-
  - (a) to supervise and monitor the establishment, control and management of divineguma community based organizations, divineguma regional organizations and divineguma district committees;
  - (b) to create a network of organizations linking divineguma beneficiaries at zonal, district, regional, village, Grama Niladari division and community level and attend to matters connected therewith or incidental thereto;

- (c) to establish centres for storage, marketing and processing of the products of divineguma beneficiaries and to make available physical and financial resources for the said purpose;
  - (d) to maintain the Divineguma Development Fund and the Divineguma Revolving Fund established under sections 36 and 37 of this Act;
  - (e) to utilize the moneys of the Divineguma Development Fund and the Divineguma Revolving Fund for the purpose of this Act;
  - (f) to supervise, manage, monitor and audit divineguma community based organizations, divineguma regional organisations, divineguma district committees, divineguma community based banks and divineguma community based banking societies;
  - (g) to arrange for the conduct of lotteries with the assistance of the National Lotteries Board to raise funds for the Divineguma Development Fund;
  - (h) to collect information as may be required, to plan, supervise, monitor and implement the divineguma development programmes;
  - (i) to secure the co-operation of government departments, state institutions, local authorities, public corporations, provincial authorities and other private or public bodies, natural or legal persons;
  - (j) to assist in implementing divineguma development programmes, by divineguma community based organizations and divineguma regional organizations;
  - (k) to implement and operate programmes which will economically and socially uplift living standards of people and to develop infrastructure facilities;
  - (l) to utilize the resources of the Department for the purposes of training and awareness programmes that may be conducted by the Department;
  - (m) to take such measures as may be necessary to purchase raw-materials, equipment, technology and products of divineguma beneficiaries for the purpose of promoting the activities of divineguma beneficiaries and to store them and make them available to producers as and when the need arises;
  - (n) to provide marketing facilities including the setting up of marketing centers enabling divineguma beneficiaries to introduce and sell their products at national and international markets and to maintain, monitor and supervise such centers;
  - (o) to liaise with governmental and non-governmental organizations;
  - (p) to assign the responsibility of implementing divineguma development projects to divineguma community based organizations and divineguma regional organizations;
  - (q) to possess and hold, any property movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise; and
  - (r) to attend to all matters connected with or incidental to such objects and functions as are specified in this Act.
6. The functions of the Department shall be :-
- (a) to formulate and facilitate such projects that would improve the income generation of individuals, families, groups and communities;
  - (b) to assist in increasing the employment opportunities of devineguma beneficiaries;
  - (c) to promote marketing activities;
  - (d) to develop necessary awareness of the community on livelihood development;
  - (e) to motivate people towards environmental friendly lifestyle;
  - (f) to liaise with such institutions that provide resources and services required for the promotion of individual, family, group and community centered development projects;
  - (g) to promote saving habits amongst people;
  - (h) to remove obstructions faced by divineguma beneficiaries in gaining access to resources and services;
  - (i) to launch programmes that would lead to creation of a righteous social environment conducive to the well being of the community;
  - (j) to mobilise the participation of divineguma beneficiaries in the planning and management of projects and schemes for their economic upliftment;
  - (k) to facilitate the providing of services to divineguma beneficiaries by any government department, corporation, local government institution, private sector organization and non-governmental organizations; and
  - (l) to assist in creating an institutional framework for the development of saving habits of divineguma beneficiaries and granting of loans to them.
7. (1) There shall be established a Divineguma National Council to assist, under the superintendence of the Secretary to the Ministry of the Minister, the Department in respect of matters relating to the policy and management of divineguma development programmes.

- (2) The Divineguma National Council shall function subject to such directions of the Minister, as may be issued in accordance with government policies provided for and determined by the Cabinet of Ministers.
- (3) The Divineguma National Council shall consist of the following members:-
  - (a) the Director-General who shall be the Chairman;
  - (b) Director of the Department who is in charge of the subject of Micro-Finance;
  - (c) Director of the Department who is in charge of the subject of divineguma community based organizations;
  - (d) Director of the Department who is in charge of the subject of Livelihood;
  - (e) Secretary to the Ministry of the Minister to whom the subject of Finance is assigned, or his representative;
  - (f) Secretary to the Ministry of the Minister or his representative; and
  - (g) five persons nominated by the Minister.
8. (1) The Minister may, by Order published in the *Gazette* establish, for the purpose of ensuring the effective and proper implementation of the provisions of this Act, administrative zones integrating administrative activities of two or more districts, covering the entire island.
- (2) There shall be appointed by the Cabinet of Ministers, to each such zone a Head, of a similar standing to that of a Head of a government department, to be in charge of each such zone.

## PART II

### DIVINEGUMA COMMUNITY BASED ORGANIZATIONS

9. There shall be established, for each Grama Niladari division or for a portion of a Grama Niladari division or for several Grama Niladari divisions as may be specified by the Minister by Order published in the *Gazette*, divineguma community based organizations with the voluntary participation of divineguma beneficiaries.
10. The objects of the divineguma community based organizations shall be:-
  - (a) to improve the social and economic conditions of divineguma members resident within its area of authority;
  - (b) to identify livelihood development opportunities and its potential;
  - (c) to provide assistance and aid that are required for the livelihood development activities, under the guidance of the Department;
  - (d) to develop the physical and human resources that are required for the improvement of the livelihood activities;
  - (e) to provide such opportunities as may be required to improve the saving habits of divineguma beneficiaries;
  - (f) to expand the opportunities that are available in obtaining micro financial facilities and to improve the investment capabilities;
  - (g) to uplift the level of education and skills of divineguma beneficiaries and their families;
  - (h) to provide raw materials, consultancy services and technological facilities as may be required for the promotion of production and productivity;
  - (i) to provide facilities for storage and processing of any products of divineguma beneficiaries and for the promotion of marketing of such products; and
  - (j) to develop self-confidence, collective responsibility towards society, good qualities and values of divineguma beneficiaries.
11. The powers of the divineguma community based organizations, subject to the direction and supervision of the Department, shall be:-
  - (a) to organize divineguma beneficiaries into small groups;
  - (b) to give recognition to such small groups within the community based organizations;
  - (c) to implement a social security programme for divineguma beneficiaries;
  - (d) to provide necessary facilities for divineguma beneficiaries in order to secure loans from divineguma community based banks, established under section 25 of this Act;
  - (e) to supervise and regulate loans obtained by divineguma beneficiaries for livelihood activities;
  - (f) to provide resources and facilities for such programmes as may be implemented to develop the skills and knowledge of its members;
  - (g) to collect and manage membership fees and savings of divineguma beneficiaries;
  - (h) to undertake and implement programmes which are being initiated by the Department and other recognized institutions for the well being of divineguma beneficiaries;
  - (i) to receive such assistance such as grants and loans, as may be provided by the government, non- governmental and private institutions;

- (j) to undertake and execute such contracts which may be given to divineguma community based organizations by the government and other recognized institutions in order to raise funds;
  - (k) to undertake and implement development programmes launched with the labour contribution of the community;
  - (l) to provide facilities, services and technological services in relation to the purchase of, reprocessing, and value addition to, products;
  - (m) to maintain sales outlets and storages and to organize markets and fairs for the promotion of marketing;
  - (n) to utilize human and physical resources of the divineguma community based organizations for social security programmes;
  - (o) to maintain an office of divineguma community based organizations; and
  - (p) to possess and hold, any property movable or immovable which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise.
12. The functions of divineguma community based organizations shall be:-
- (a) to encourage and provide guidance to its members to organize themselves into small groups which operate with mutual co-operation;
  - (b) to motivate its members to enhance their saving habits and develop livelihood activities and to provide assistance for such activities;
  - (c) to implement such programmes as may be required for the development of vocational skills and knowledge of its members;
  - (d) to organize shramadana activities with the participation of its members; and
  - (e) to provide facilities for the production and marketing activities.
13. The funds of divineguma community based organizations shall be deposited and maintained in a divineguma community based bank in accordance with such regulations as may be prescribed by the Minister.
14. Where a divineguma community based organization is not functional in the accomplishment of its objects, the Director-General shall, in consultation with the divineguma regional organization to which such defunct divineguma community based organization belongs, cause such defunct divineguma community based organization to be merged with the nearest functional divineguma community based organization or appoint an officer of the Department to perform the functions of such organization without interruption.

### PART III

#### DIVINEGUMA COMMUNITY BASED ORGANIZATIONS

15. (1) There shall be established such number of divineguma regional organizations as may be necessary, comprising of not less than five divineguma community based organizations for the purpose of supervising, monitoring and evaluating the functions of such organisations at regional level.
- (2) Every divineguma regional organization shall consist of the following members:-
- (a) chairman of each divineguma community based organization;
  - (b) officer of the Department in charge of a region;
  - (c) Senior Manager of the divineguma community based banking societies established under section 29 of this Act; and
  - (d) three persons involved in the development activities of the area to be nominated by the Director-General.
- (3) The Chairman and Secretary of each such divineguma regional organization shall be elected from among the members referred to in subsection (2).
- (4) The Divisional Secretary of the Division, within whose area of authority each such divineguma regional organization is established, shall function as an Advisor to each such divineguma regional organization.
16. The objects of every divineguma regional organization, under the guidance and supervision of the Department, shall be:-
- (a) to provide necessary assistance to any divineguma community based organization to carry out their livelihood development activities;
  - (b) to develop such human resources as may be necessary for the development of activities relating to the upliftment of livelihood of its members;
  - (c) to assist the Department in promoting and monitoring micro- financial activities within its area of authority;
  - (d) to purchase products, reprocess and add value to the same and provide facilities for storage, processing and marketing of such products at regional level; and

- (e) develop human personality, collective work, virtuous and spiritual qualities of the divineguma beneficiaries.
17. Each divineguma regional organization shall, under the guidance and supervision of the Department, have the power:-
- (a) to carry out such studies as may be necessary and collect information, in respect of economic and social development activities within its area of authority;
  - (b) to review any livelihood development activities carried out by any divineguma community based organizations;
  - (c) to provide such assistance as may be necessary in promoting the micro-financial activities within its area of authority;
  - (d) to provide such assistance as may be necessary to any divineguma community based organizations in organizing and implementing programmes required for the development of vocational skills and know-how;
  - (e) to provide such technical assistance and other services as may be necessary for the development of agricultural or any other products of its beneficiaries in the region;
  - (f) to maintain centres for the purchase, storage and marketing of products and raw-material and organize trading centres and shopping centres;
  - (g) to monitor and regulate all activities of divineguma community based organizations;
  - (h) to establish and maintain a fund of such organizations subject to such regulations as may be prescribed by the Minister ;
  - (i) to undertake and implement such projects launched by the Department and any other recognized institution;
  - (j) to accept aid, grants and loans offered by governmental and non-governmental organizations subject to such regulations as may be prescribed by the Minister;
  - (k) to undertake and perform any contract offered by the Department or other recognized institution subject to such directions as may be issued by the Department;
  - (l) to establish and maintain an office of the divineguma regional organizations;
  - (m) to deposit moneys of the divineguma regional organization in a divineguma community based banking society and maintain accounts of such deposits;
  - (n) to utilize human and physical resources of the organization for the social security programmes; and
  - (o) to possess and hold, any property movable or immovable which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise.
18. The functions of the divineguma regional organization, under the guidance and supervision of the Department, shall be:-
- (a) to provide guidance and encouragement in respect of small group programmes being conducted by the divineguma community based organizations;
  - (b) to supervise and monitor the savings of the divineguma community based organizations;
  - (c) to provide such assistance as may be necessary to such divineguma community based organizations which are situated within its area of authority, for the advancement of livelihood development activities carried out by such organizations and supervise and monitor the same;
  - (d) to organize and implement regional level programmes needed for the development of vocational skills and know-how of its members;
  - (e) to provide raw-material, technology and other related services for the development of products at regional level and provide facilities for marketing of the same;
  - (f) to provide assistance for the social security programme being implemented by the divineguma community based organizations;
  - (g) to assist in the preparation of the progress report of the Department in respect of the respective region; and
  - (h) to liaise with other governmental, non-governmental and private organizations at regional level for the purpose of achieving the objects of divineguma regional organizations.

#### PART IV

#### DIVINEGUMA DISTRICT COMMITTEES

19. (1) There shall be established for the purpose of this Act, divineguma district committees representing all divineguma regional organizations functional within a district.
- (2) Each such district committee shall consist of the following members:-
- (a) all chairmen and secretaries of all divineguma regional organizations within each such district;
  - (b) Senior Managers of all divineguma banking societies established under section 29 of this Act within each such district;

- (c) the officer of the Department, who is in charge of a respective district; and
  - (d) three persons involved in the development activities of the district to be nominated by the Director-General.
- (3) The District Secretary, within whose area of authority each such divineguma district committee is established, shall function as an Advisor to each such divineguma district committee.
20. The objects of a divineguma district committee, under the guidance and supervision of the Department, shall be:-
- (a) to take such measures as may be necessary to achieve such objects as are specified in this Act through divineguma regional organizations and divineguma community based organizations;
  - (b) to supervise, monitor and evaluate programmes of divineguma community based organizations and divineguma regional organizations in the respective district;
  - (c) to secure the co-operation of the other district level organizations in relation to the divineguma regional organizations and community based organizations; and
  - (d) to co-ordinate the programmes of divineguma community based organizations and regional organizations functioning in the respective district.
21. The powers of each divineguma district committee shall be:-
- (a) to convene and conduct committee meetings once in every three months;
  - (b) to obtain reports from divineguma regional and community based organizations in the respective district;
  - (c) to assist the Department in the supervision, monitoring and evaluation of the divineguma community based organizations; and
  - (d) to conduct a study on divineguma development programme for and on behalf of the Department and forward such development proposals as may be required to the Department.
22. The functions of each divineguma district committee shall be:-
- (a) to conduct studies on divineguma development programmes and projects in the respective district;
  - (b) to co-ordinate with such other district level governmental, non- governmental and private institutions as may be required in carrying out divineguma development programme;
  - (c) to consider proposals and views for the efficient functioning of the divineguma development programme in the respective district and forward the same to the Department; and
  - (d) to prepare monthly a progress review report in respect of the respective district and convene progress review meetings.

#### PART V

#### DIVINEGUMA NATIONAL FEDERATION

23. There shall be established a Divineguma National Federation consisting of representatives of all divineguma community based organizations. The Minister shall preside at every meeting of the Divineguma National Federation.
24. The object of the Divineguma National Federation shall be to consider proposals and views needed for national policy planning, co-ordination of divineguma development programme at national level and provide leadership for the implementation of divineguma development programme.

#### PART VI

#### DIVINEGUMA COMMUNITY BASED BANKS

25. (1) There shall be established divineguma community based banks for each such area covering the area of authority of one or more divineguma community based organizations in order to promote micro-financial services among its beneficiaries.
- (2) The Minister shall prescribe the registration procedure of such banks and any other matter in relation to such procedure.
- (3) Every such bank shall by the name assigned to it be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.
- (4) It shall be the duty of every such bank to comply with such regulations as may be made by the Minister.
26. The objects of the divineguma community based banks shall be :-
- (a) to promote the habit of savings among divineguma beneficiaries ;
  - (b) to develop investment potential;



- (c) to enhance income by developing the production potential; and
  - (d) to provide credit facilities to divineguma beneficiaries.
27. Every divineguma community based bank shall have the power :-
- (a) to open, maintain and close membership accounts, accept deposits and issue bank pass books to divineguma beneficiaries and to members of such banks;
  - (b) to provide credit facilities with or without securities, recover loans, manage and operate the same;
  - (c) accept funds of divineguma community based organizations and manage the same;
  - (d) to maintain accounts of such subsidies and such moneys as may be provided by the Government ;
  - (e) to invest funds of the divineguma community based banks in divineguma banking societies; and
  - (f) to possess and hold, any property movable or immovable which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise.
28. The functions of the divineguma community based banks shall be :-
- (a) to motivate divineguma beneficiaries to save;
  - (b) to provide loans to divineguma beneficiaries at individual and group levels;
  - (c) to educate divineguma beneficiaries on financial management;
  - (d) to ensure welfare of the depositors and members of their families;
  - (e) to develop a banking culture among its customers; and
  - (f) to distribute such subsidies as may be provided by the government.

#### PART VII

#### DIVINEGUMA COMMUNITY BASED BANKING SOCIETIES

29. (1) There shall be established for the purposes of this Act, divineguma community based banking societies comprising of all divineguma community based banks within the area of authority of each divineguma regional organization, in order to establish a viable micro-financial banking network at regional level.
- (2) The Minister shall prescribe the registration procedure of such banking society and any other matter in relation to such procedure.
- (3) Every such banking society shall by the name assigned to it be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.
- (4) It shall be the duty of every such banking society to comply with such regulations as may be made by the Minister.
30. The objects of divineguma community based banking societies shall be :-
- (a) to set up a viable regional banking network co-ordinating divineguma community based banks;
  - (b) to provide such financial assistance which is required for livelihood development; and
  - (c) to motivate divineguma beneficiaries to engage in formal micro-financial banking activities.
31. The divineguma community based banking societies shall have the power:-
- (a) to accept deposits of the divineguma community based banks ;
  - (b) to invest its funds, grant credit facilities and disburse profits;
  - (c) to provide such facilities and training as are needed for the promotion of the divineguma community based banks;
  - (d) to maintain accounts of divineguma community based banks and manage such subsidies as may be provided by the government;
  - (e) to supervise and regulate the divineguma community based banking activities subject to such directions as may be issued by the Board of Management; and
  - (f) to possess and hold, any property movable or immovable which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise.
32. The functions of divineguma community based banking societies shall be:-
- (a) to collect the deposits maintained by divineguma community based banks and manage the same;
  - (b) to take such steps as may be necessary to develop a micro-financial culture among divineguma beneficiaries; and

- (c) to function as a regional institution for the successful operation of the divineguma community based banking activities.
33. (1) The Minister shall appoint for the purpose of the supervision and regulation of the financial activities of the divineguma community based banks and divineguma community based banking societies, a Board of Management of the Divineguma Community Based Banks and Divineguma Community Based Banking Societies (in this Act referred to as the "Board of management").
- (2) The Board of Management shall consist of :-
- (i) the following ex-officio members namely:-
- (a) the Director-General of the Department who shall be the Chairman;
- (b) a representative of the Secretary to the Ministry of the Minister to whom the subject of Finance is assigned;
- (c) the Director in charge of the banking affairs of the Department;
- (d) a representative to be appointed by the Governor of the Central Bank of Sri Lanka;
- (e) the Secretary to the Ministry of the Minister or his representative; and
- (ii) three persons to be appointed by the Minister (hereinafter referred to as the "appointed members").
- (3) The term of office of every appointed member shall be three years.
- (4) An appointed member may resign his office by letter addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister.
- (5) The Minister may for reasons assigned therefor remove an appointed member from office.
- (6) In the event of a vacancy occurring due to the death, resignation, incapacity or removal from office of an appointed member, the Minister shall, having regard to the provisions of sub section (1), appoint another member in his place.
- (7) A member appointed under subsection (6) shall hold office for the unexpired part of the term of office of the member whom he succeeds.
- (8) The appointed members may be paid such remuneration as the Minister, in consultation with the Minister to whom the subject of Finance is assigned, shall determine.
- (9) The Board of Management shall, for the purpose of supervision and regulation of financial activities of such banks and banking societies have the power to issue directions from time to time, to such banks and banking societies.
- (10) The Board of Management shall, in the discharge of its duties, be subject to such regulations as may be prescribed by the Minister.
34. There shall be established for the purpose of this Act, a Divineguma Community Based Banking Union consisting of all Divineguma community based Banks and divineguma community based banking societies.
35. The provisions of the Banking Act, No.30 of 1988 and the Finance Business Act, No.42 of 2011 shall not apply in respect of banks and banking societies established under the provisions of this Act.

PART VIII  
FUNDS OF THE DEPARTMENT

36. (1) There shall be established, for the purpose of this Act, a fund called "Divineguma Development Fund". There shall be credited to such Fund all such sums of money as may be provided from time to time by the Government :-
- (2) (a) All grants and donations received by the Department;
- (b) all gifts and other contributions made by the banks and banking societies established under this Act;
- (c) such percentage of money as may be prescribed by the Minister, of the profit of the banks and banking societies established under this Act; and
- (d) any other money that may be received under this Act,
- shall be credited to the Consolidated Fund and shall thereafter, with the approval of the Parliament, be credited to the Divineguma Development Fund.
- (3) The moneys lying to the credit of the above Fund may be utilized for such purposes and in such manner as may be prescribed by the Minister from time to time.

37. (1) There shall be established for the purpose of this Act, a fund called "Divineguma Revolving Fund".
- (2) All monies lying, on the date immediately prior to the appointed date, to the credit of the revolving fund of, the Samurdhi Authority of Sri Lanka established under the Samurdhi Authority of Sri Lanka Act, No. 30 of 1995, the Southern Development Authority of Sri Lanka established under the Southern Development Authority of Sri Lanka Act, No. 18 of 1996 and the Udarata Development Authority of Sri Lanka established under the Udarata Development Authority of Sri Lanka Act, No. 26 of 2005 shall stand, with effect from the appointed date, transferred to the Divineguma Revolving Fund established under this Act.

## PART IX

### GENERAL

38. The District Secretary of each district shall function as an Additional Director-General of the Department in respect of the respective district.
39. The Director-General, Additional Directors-General, every Director, Deputy Director, Assistant Director and officers and servants of the Department, shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all matters connected with the working of the Department and shall by such declaration pledge himself not to disclose any matters which may come to his knowledge in the discharge of his functions, except -
- (a) when required to do so by a court of law; or
  - (b) in order to comply with any of the provisions of this Act or any other written law.
40. (1) For the purposes of enabling the Department to exercise and discharge any of its powers and functions under this Act, the Department or any person authorized in that behalf by the Department may, by notice in writing require any person to furnish to the Department or to the person authorized by the Department, within such period as shall be specified in the notice, such returns and information as shall be specified in such notice and require any person to be present before the Department.
- (2) It shall be the duty of any person who is required by a notice under subsection (1), to furnish any return or information or to be present before the Department to comply with the requirements of such notice within the period specified in such notice, except where such person is prohibited from furnishing such returns or information under the provisions of any other written law.
- (3) No information contained in a return furnished in compliance with a notice issued under subsection (1) shall be published or communicated by the Department or any officer, servant or agent of the Department to any other person except with the consent of the person furnishing such return or information or in the course of the discharge of the functions of the Department.
- (4) Every person who makes any statement before the Department shall in respect of such statement, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.
41. Any person who acts in contravention of any of the provisions of this Act or any regulation, rule or direction made or issued thereunder, shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment for a term not exceeding two years.
42. (1) The Minister may make regulations for the matters required by this Act to be prescribed and for matters in respect of which regulations are authorized to be made.
- (2) Without prejudice to the generality of powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:-
- (a) the constitution and administrative structure of the divineguma community based organizations and matters connected with such constitution and administrative structure;
  - (b) the constitution and administrative structure of the divineguma regional organizations and matters connected with such constitution and administrative structure;
  - (c) the constitution and administrative structure of the Divineguma Community Based Banking Union and matters connected therewith or incidental thereto;
  - (d) registration of divineguma community based banks, requirements to be fulfilled with respect to such registration

- and cancellation of such registration and banking activities of the divineguma community based banks and matters connected therewith or incidental thereto;
- (e) registration of divineguma community based banking societies, requirements to be fulfilled with respect to such registration and cancellation of such registration and activities of the divineguma community based banking societies and matters connected therewith or incidental thereto;
  - (f) criteria in respect of the selection of divineguma beneficiaries;
  - (g) criteria to be a member of divineguma community based organizations and divineguma community based banks;
  - (h) criteria in respect of the supervision, regulation and evaluation of divineguma community based organizations, divineguma community based banks and divineguma community based banking societies;
  - (i) delimitation of the area of authority of implementation and administration of divineguma programmes at rural, regional or district levels;
  - (j) all matters connected with the Divineguma Development Fund and the Divineguma Revolving Fund;
  - (k) all matters connected with the funds maintained by divineguma community based organizations, divineguma regional organizations, divineguma community based banks and divineguma community based banking societies;
  - (l) the procedure for the settlement of disputes that may arise when giving effect to the principles and provisions of this Act and matters connected therewith or incidental thereto; and
  - (m) the use of a common logo for divineguma programmes.
- (3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.
  - (4) Every regulation made by the Minister shall no later than three months after its publication in the *Gazette* be brought before the 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.
  - (5) Notification of the date of such disapproval shall be published in the *Gazette*.
43. (1) The Director -General may, in consultation with the Divineguma National Council, make rules in respect of policy and management of affairs of the Department.
  - (2) Every rule made by the Director-General shall not come into operation until it is approved by the Cabinet of Ministers.
  - (3) Every rule so approved shall be published in the *Gazette*.

## PART X

### REPEALS AND SAVINGS

44. The Samurdhi Development Authority Act, No.30 of 1995, the Southern Development Authority Act, No.18 of 1996 and the Udarata Development Authority Act, No.26 of 2005 are hereby repealed. Notwithstanding the repeal of the aforesaid Acts:-
  - (a) all activities carried out by the Commissioner-General under the repealed Samurdhi Development Authority Act, No. 30 of 1995, in the implementation of the poverty alleviation programmes and other programmes of the government, shall be deemed to be carried out and shall continue to be carried out, under this Act;
  - (b) all property movable and immovable, belonging to the Samurdhi Development Authority, Southern Development Authority and Udarata Development Authority established under the repealed Acts (hereinafter referred to as the "said Authorities") as at the date immediately prior to the appointed date shall with effect from the appointed date vest in and be deemed to be the property of the Government;
  - (c) all suits, prosecutions, actions, proceedings, matters or things which have been instituted by or against the said Authorities and which are pending as at the date immediately prior to the appointed date shall with effect from the appointed date be deemed to be suits, prosecutions, actions, proceedings, matters or things which have been instituted by or against the Government;
  - (d) any decree, order or award entered or made in favour of or against the said Authorities by any court or tribunal or other body in any action, matter, proceeding or thing shall with effect from the appointed date be deemed to be a decree, order or award entered or made in favour of or against the Government and may be enforced accordingly;
  - (e) such officer or servant in the employment of the said Authorities, as at the date immediately prior to the appointed date shall-
    - (i) where such officer or servant does not opt to join the service of the Department and opts for voluntary resignation

from the service, such officer or servant be paid such compensation which shall be paid in terms of a voluntary retrenchment scheme as shall be prescribed by the Minister;

- (ii) where such officer or servant opts to join, with effect from the date of appointment to such posts in the respective authority, the service of the Department, such officer or servant, be deemed with effect from such date of appointment and subject to the approval of the Public Service Commission, to be an officer or a servant of the Department and be eligible for a pension under the provisions of Minutes on Pensions taking into consideration the contributions made by the respective Authorities to such Provident Fund;
- (iii) where such of officer or servant opts to join the services of the Department-
  - (aa) if such officer or servant is eligible for the receipt of any sum of money under the Employees Provident Fund Act, No. 15 of 1958; and
  - (bb) if such officer or servant is eligible for the receipt of any sum of money under the Employees Trusts Fund Act, No. 46 of 1980,

such officer or servant shall recover such sum of money and may, subject to the approval of the Public Service Commission, join the service of the Department. Such officer or servant shall, with effect from the date of appointment to the service of the Department, be deemed to be an officer or a servant of the Department. Further, the date on which such officer or servant is appointed to the service of the Department, shall be deemed to be the date for the purpose of computation of the pension; or

- (iv) where such officer or servant who opts to join the service of the Department and also opts to contribute to the Employees' Provident Fund and the Employees' Trust Fund, such officer or servant shall, subject to the approval of the Public Service Commission, with effect from the appointed date, be deemed to be an officer or a servant of the Department and shall continue to contribute to the same :

Provided however, such officer or servant shall not be entitled to a pension under the provisions of Minutes on Pensions ;

- (f) all debts, obligations, assets and liabilities incurred, all contracts and agreements executed or enforced into and all matters and things engaged or agreed to be done by, with or for the said Authorities and all licences issued for and on behalf of the said Authorities, as at the date immediately prior to the appointed date shall, with effect from the appointed date be deemed to be debts, obligations, assets and liabilities incurred, all contracts and agreements executed or enforced into and all matters and things engaged or agreed to be done by, with or for, and licences issued for and on behalf of, the Government ;
- (g) all samurdhi banking societies and samurdhi banking federations that are in operation on the date immediately prior to the appointed date shall, with effect from the appointed date be deemed to be divineguma community based banks and divineguma community based banking societies respectively;
- (h) every person who has applied for, or is in receipt of, any welfare benefit, from Samurdhi Authority or Samurdhi Commissioner General in terms of any written law or otherwise, shall notwithstanding anything to the contrary in this Act, be eligible to apply for the receipt of or continue to receive, such benefit under the provisions of this Act.

45. The trusts and funds established for any object by or under the Samurdhi Development Authority of Sri Lanka established under the repealed Act, No. 30 of 1995, Southern Development Authority of Sri Lanka established under the repealed Act, No. 18 of 1996, Udarata Development Authority of Sri Lanka established under the repealed Act, No. 26 of 2005, shall be managed by the Department ensuring that there shall be no change with regard to the object and the purpose for which such trusts and funds were established and the beneficiaries.

46. In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail.

47. In this Act, unless the context otherwise requires:-

“Central Bank” means the Central Bank of Sri Lanka established under the Monetary Law Act, (Chapter 422);

“community” means plantation, urban or industrial sectors of the public;

“divineguma beneficiary” means any person who obtains any kind of benefit or assistance under any programme, project or activity carried out by any divineguma community based organization or divineguma regional organization;

“micro-finance” means a type of banking service that is provided to employed or low-income individuals or groups who would

otherwise have no other means of gaining financial services;

“Minister” means the Minister to whom the subject of Divineguma is assigned ; and

“National Lotteries Board” means the National Lotteries Board established under the National Lotteries Board Act, No. 11 of 1963.

48. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## **Convention on the Suppression of Terrorist Financing (Amendment) Act, No. 3 of 2013**

[Certified on 12th February, 2013]

AN ACT TO AMEND THE CONVENTION ON THE SUPPRESSION OF TERRORIST FINANCING ACT, NO. 25 OF 2005.

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

1. This Act may be cited as the Convention on the Suppression of Terrorist Financing (Amendment) Act, No. 3 of 2013.
2. Section 3 of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:-
  - (1) by the repeal of subsection (2A) thereof and the substitution therefor of the following:-
 

“(2A) Any person who unlawfully and willfully by any direct or indirect means provides or conspires to provide, material support or resources to any terrorist, terrorists or a terrorist organization shall be guilty of an offence under this Act.”;
  - (2) in subsection (3) thereof by the substitution for the words and figures “specified in subsection (1) or subsection (2) of this section” of the words and figures “specified in subsection (1), subsection (2) or subsection (2A) of this section”; and
  - (3) in subsection (4) thereof by the substitution for the words and figures “under subsection (1) or subsection (2) of this section,” of the words and figures “under subsection (1), subsection (2) or subsection (2A) of this section,”.
3. Section 4F of the principal enactment is hereby amended in subsection (3) thereof by the substitution for the words “order him to pay a such value fine within such period as may be specified by Court.” of the words “order him to pay such value as a fine within such period as may be specified by Court.”.
4. Section 5 of the principal enactment is hereby amended in subsection (3) thereof by the substitution for the words and figures “for an offence under subsection (1) or subsection (2) of section 3, that” of the words and figures “for an offence under subsection (1), subsection (2) or subsection (2A) of section 3, that”.
5. Section 16A of the principal enactment is hereby amended as follows:-
  - (1) by the insertion immediately after the definition of the expression “person” of the following new definition:-
 

“ “terrorist” means any person who-

    - (a) directly or indirectly and willfully commits or attempts to commit a terrorist act;
    - (b) participates as an accomplice in committing a terrorist act;
    - (c) organizes, directs or aids or abets the commission of a terrorist act; or
    - (d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;”;
    - (2) by the repeal of the definition of the expression “terrorist act” and the substitution therefor of the following:-
 

“ “terrorist act” means-

      - (a) an act which constitutes an offence within the scope of or within the definition of any one of the Treaties specified in Schedule I to this Act;
      - (b) any other act intended to cause death or serious bodily injury, to civilians or to any other person not taking an active part in the hostilities, in a situation of armed conflict or otherwise and the purpose of such act, by its nature or context is to intimidate a population, or to compel a government or an international organization, to do or to abstain from doing any act; or

- (c) the use or threat of action -
  - (i) which is designed to influence the government or to intimidate the public or a section of the public; and
  - (ii) which is made for the purpose of advancing a political, religious or ideological purpose,
 and such action,
  - (aa) involves serious violence against a person;
  - (bb) involves serious damage to property;
  - (cc) endangers the life of another person, other than the person committing the action;
  - (dd) creates a serious risk to health or safety of the public or a section of the public; or
  - (ee) is designed seriously to interfere with or seriously to disrupt an electronic system.”.

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Ports and Airports Development Levy (Amendment) Act, No. 5 of 2013**

[Certified on 22nd March, 2013]

AN ACT TO AMEND THE PORTS AND AIRPORTS DEVELOPMENT LEVY ACT, NO. 18 OF 2011.

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

1. This Act may be cited as the Ports and Airports Development Levy (Amendment) Act, No. 5 of 2013.
2. Section 3 of the Ports and Airports Development Levy Act, No. 18 of 2011 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (2), by the repeal of paragraphs (a) and (b) of that section and the substitution therefor of the following new paragraphs:-
  - “(a) for the purpose of processing and re-export;
  - (b) to be used as a raw material for the manufacture of goods for exports; or
  - (c) for storage, fabrication, repairing, servicing or exportation as the case may be, being equipment, tools, materials, consumables in or from a bonded facility to be used in the petroleum operations conducted within or outside Sri Lanka.
 For the purposes of paragraph (c), the expression “petroleum operations” shall have the meaning assigned to it under the Petroleum Resources Act, No. 26 of 2003.”.
3. Section 16 of the principal enactment is hereby repealed and the following new section is substituted therefor:-
  16. (1) The provisions of Part I of the Finance Act, No. 11 of 2002 relating to the payment of the Ports and Airports Development Levy shall not apply to any article originating from outside Sri Lanka and imported into Sri Lanka on or after January 1, 2011.
  - (2) Notwithstanding the provisions of subsection (1), every Order made under section 2 of the Part 1 of the Finance Act, No. 11 of 2002 and published in the *Gazette* prior to January 1, 2011 -
    - (a) exempting specified articles from the payment of Ports and Airports Development Levy; and
    - (b) specifying a concessionary rate to be charged and levied,
 shall be deemed to have been made under section 3 of the Ports and Airports Development Levy Act, No. 18 of 2011 and shall continue to be in force.”.
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Economic Service Charge (Amendment) Act, No. 6 of 2013**

[Certified on 22nd March, 2013]

AN ACT TO AMEND THE ECONOMIC SERVICE CHARGE ACT, NO. 13 OF 2006

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

1. This Act may be cited as the Economic Service Charge (Amendment) Act, No. 6 of 2013 and shall come into operation on April 1, 2013.

2. Section 2 of the Economic Service Charge Act, No. 13 of 2006 (hereinafter referred to as the “principal enactment”) as last amended by Act, No. 11 of 2012 is hereby further amended in subsection (3) of that section as follows:-
  - (1) in the proviso to paragraph (a), by the substitution for the words “the relevant turnover for such quarter shall”, of the words “the relevant turnover for such quarter other than any turnover, the profits from which are exempt from income tax shall”;
  - (2) in item (ix) of sub-paragraph (a) of paragraph (b), by the substitution for the words “by any manufacturer of such product; and” of the words “by any manufacturer of such product;”; and
  - (3) by the addition, immediately after item (ix) of sub-paragraph (a) of paragraph (b), of the following new items:-
    - “(x) funds voted by Parliament from the Consolidated Fund or any loan arranged by the Government of Sri Lanka, for the provision of any service, free of charge by any public corporation on behalf of the Government; and
    - “(xi) proceeds from the sale of any organic fertilizer by the manufacturer of such product; and”.
3. Section 13 of the principal enactment as last amended by Act, No. 11 of 2011 is hereby further amended in the definition of the expression “person” as follows:-
  - (1) in paragraph (f) by the substitution for the words “Unit Trust or Mutual Fund.”, of the words “Unit Trust or Mutual Fund; and”;
  - (2) by the addition immediately after paragraph (f), of the following new paragraph:-
 

“(g) the Central Bank of Sri Lanka;”.
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Excise (Amendment) Act, No. 7 of 2013**

[Certified on 22nd March, 2013]

AN ACT TO AMEND THE EXCISE ORDINANCE (CHAPTER 52)

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

1. This Act may be cited as the Excise (Amendment) Act, No. 7 of 2013 and shall be deemed to have come into operation from November 08, 2012.
2. Section 15 of the Excise Ordinance (Chapter 52) as last amended by Act, No. 20 of 2011 is hereby further amended as follows :-
  - (1) in paragraph (b) thereof, by the substitution for the words “kithul tree and” of the words “kithul tree, coconut tree and”;
  - and
  - (2) in paragraph (c) thereof, by the substitution for the words “kithul tree and” of the words “kithul tree, coconut tree and”..
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Telecommunication Levy (Amendment) Act, No. 8 of 2013**

[Certified on 22nd March, 2013]

AN ACT TO AMEND THE TELECOMMUNICATION LEVY ACT, NO. 21 OF 2011

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

1. This Act may be cited as the Telecommunication Levy (Amendment) Act, No. 8 of 2013, and shall be deemed for all purposes to have come into operation on January 1, 2013.
2. Section 2 of the Telecommunication Levy Act, No. 21 of 2011 (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words and figures “ for the period commencing on or after January 1, 2011 a levy called Telecommunication Levy at the rate of 20 per centum on the value of the supply of telecommunication services provided by the operator, on the receipt of such telecommunication service in respect of each month:” of the words and figures ,
 

“ a levy called Telecommunication Levy-

  - (a) for the period commencing on or after January 1, 2011 but prior to January 1, 2013, at the rate of twenty per centum;



- (b) for any period commencing on or after January 1, 2013-
- (i) at the rate of ten *per centum*, on the value of supply of internet services; and
  - (ii) at the rate of twenty *per centum*, on the value of supply of the telecommunication services other than the supply of internet services,
- on the value of the supply of telecommunication services provided by the operator, on the receipt of such telecommunication service in respect of each month.”.
3. Section 12 of the principal enactment is hereby amended as follows:-
- (1) by the repeal of the definition of the expression “telecommunication service” and the substitution therefor of the following:-  
“telecommunication service” means the services provided to end subscribers by telecommunication and other operators licensed under section 17 of the Sri Lanka Telecommunication Act, No.25 of 1991 and includes internet services but does not include interconnection services and access services provided between local operators, international settlements between local operators and overseas telecommunication settlements between local operators and overseas telecommunication service providers and international telecommunication services covered under subsection (1) of section 21 of Part III of the Finance Act, No.11 of 2004.”;
  - (2) by the insertion immediately after the definition of the expression “interconnection service” of the following definition:-  
“internet services” means the provisions of internet by way of narrowband, broadband or dedicated internet access.;
4. The Telecommunication Levy charged and collected by any operator authorized under section 2 of the principal enactment from any recipient for the purposes authorized by this Act to charge or collect, during the period commencing from January 1, 2013 and ending on March 31, 2013, shall be deemed to have been validly charged and collected by such operator under this Act:
- Provided that, the aforesaid provisions of this section shall not affect any decision or order made by any Court or any proceedings pending in any Court in respect of any levy charged and collected during that period.
5. In the event of any inconsistency between the Sinhala and tamil texts of this Act, the Sinhala text shall prevail.

### **Customs (Amendment) Act, No. 9 of 2013**

[Certified on 22nd March, 2013]

AN ACT TO AMEND THE CUSTOMS ORDINANCE (CHAPTER 235)

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

1. This Act may be cited as the Customs (Amendment) Act, No. 9 of 2013.
2. Section 10 of the Customs Ordinance (Chapter 235) (hereinafter referred to as the “principal enactment”) is hereby amended by the addition immediately after subsection (1) thereof, of the following new subsections:-
  - “(1A) Where there is a dispute relating to the imposition or exemption of customs duty on any goods, any condition or exception to the payment of customs duty on any goods or clarification or description of the goods, imported into or exported from Sri Lanka, the importer or exporter of such goods as the case may be may make an application forthwith to the Director-General for determination.
  - (1B) The Director-General shall, within ninety days from the date of receipt of such application determine any application made to him under subsection (1A).
  - (1C) (a) Where the Director-General fails to intimate the determination within the time period specified in subsection (1B) to the importer or exporter as the case may be; or  
(b) Any person who is aggrieved by such determination,  
may, within thirty days from the expiration of the time period specified in subsection (1B) or from the date of receipt of such determination as the case may be, appeal to the Tax Appeals Commission established under the provisions of the Tax Appeals Commission Act, No. 23 of 2011.”.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## Nation Building Tax (Amendment) Act, No.11 of 2013

[Certified on 23rd April, 2013]

AN ACT TO AMEND THE NATION BUILDING TAX ACT, NO. 9 OF 2009

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

1. This Act may be cited as the Nation Building Tax (Amendment) Act, No. 11 of 2013 and shall be deemed to have come into operation from January 1, 2013, unless different dates of operation are specified in the relevant sections.
2. Section 3 of the Nation Building Tax Act, No. 9 of 2009 as last amended by Act, No. 9 of 2012 (hereinafter referred to as the "principal enactment") is hereby further amended as follows :-
  - (1) in subsection (3) of that section by the substitution in paragraph (iii) thereof, for the words, "paid in that quarter;" of the words and figures "paid in that quarter other than such excise duty paid on the importation with effect from February 1, 2009;"; and
  - (2) in subsection (4) of that section -
    - (a) by the repeal of paragraph (iii) thereof and the substitution therefor of the following paragraph:-
 

“(iii) the liable turnover of such person from the supply of any goods or services other than services referred to in paragraph (iv) and which does not exceeds-

      - (a) the sum of five hundred thousand rupees if such relevant quarter is any quarter commencing on or after January 1, 2011 but prior to January 1, 2013; and
      - (b) the sum of three million rupees if such relevant quarter is any quarter commencing on or after January 1, 2013;”
    - (b) by the substitution in paragraph (iv) thereof, for the words "twenty five million rupees." of the words "twenty five million rupees;" and
    - (c) by the addition immediately after paragraph (iv) of the following new paragraph:-
 

“(v) such quarter is a quarter commencing on or after January 1, 2013 and the liable turnover being turnover of any new business of manufacture of any article other than liquor or tobacco, or the provision of any service by any individual who is a citizen of Sri Lanka for a period of five years reckoned from the beginning of the year of assessment in which the commercial operation commences, if such individual-

      - (i) return from foreign employment on or after January 1, 2013; and
      - (ii) invests his foreign earnings to commence such business.”.
3. The First Schedule to the principal enactment as last amended by Act, No. 9 of 2012 is hereby further amended as follows:-
  - (1) In PART I of that schedule:-
    - (a) by the substitution in item (i) for the word "manufacture", of the word "manufacturer";
    - (b) by the substitution in paragraph (iv) of item (iv) for the words "within a period of one year from the date of importation of such article to Sri Lanka;";, of the words "within a period of one year from the date of importation of such article to Sri Lanka or within a period of ninety days after the completion of such project;";
    - (c) by the substitution in item (xxxvi) for the words and figures "cess of Rs. 75 per kilogram", of the words and figures "cess at the rate specified in a Gazette Notification issued under the Sri Lanka Export Development Act, No. 40 of 1979";
    - (d) by the substitution in item (xxxviii) for the words "artist thereof." of the words "artist thereof;";
    - (e) by the insertion immediately after item (xxxviii), of the following new items:-
 

“(xxxix) solar panel modules, accessories or solar home systems for the generation of solar power energy classified under Harmonized Commodity Description and Coding Numbers for custom purposes at the point of importation;

      - (xl) coal;
      - (xli) articles imported for any international event approved by the Minister of Finance;
      - (xlii) gems imported subject to special service fee at the rate specified under paragraph (a) of section 6A of the Customs Ordinance (Chapter 235), and any subsequent sale of such gems as processed gem;

- (XLIII) any gully bowser, machinery or equipment imported for the use of garbage disposal activities carried out by any local authority, for the purpose of provision of such services to the public as approved by the Secretary to the relevant line Ministry;
- (XLIV) any article manufactured by a company identified as a Strategic Development Project in terms of subsection (4) of section 3 of the Strategic Development Project Act, No. 14 of 2008 sold to another Strategic Development Project or to a specialized project approved by the Minister of Finance or to a company registered with Board of Investment of Sri Lanka established under Board of Investment Law, No. 4 of 1978, so far as such articles are considered as import replacement and supplied during the project implementation period; and
- (XLV) any machinery or equipment imported for the purpose of generating electricity by the Ceylon Electricity Board established under the Ceylon Electricity Board Act, No. 17 of 1969 or any institution which has entered into an agreement with the Ceylon Electricity Board to supply electricity, being machinery or equipment classified under Harmonized Commodity Description Coding Numbers for customs purposes and approved by the Minister of Finance."

(2) In PART II of that schedule

- (a) by the substitution in item (xxvi) for the words "port or airline", of the words "port or airport"; and
- (b) by the addition immediately after the item (xxxiv) of the following new items:-

"(xxv) any service provided by the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422); and

(xxxvi) any service provided free of charge by any public corporation out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government, on behalf of the Government."

4. Where the Commissioner-General of Inland Revenue or the Director-General of Customs as the case may be, collects under the provisions of section 4 or section 5 respectively of the principal enactment the tax calculated considering the provisions of this Act, during the period commencing from January 1, 2013 and ending on the date on which the certificate of the Speaker is endorsed in respect of this Act from a person to whom the provisions of this Act applies, such collection shall be deemed for all purposes to have been, and to be, validly made:

Provided that the aforesaid provisions of this section shall not affect any decision or order made by any Court or any proceedings pending in any Court in respect of any tax collected during the aforesaid period.

5. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## Finance Act, No. 12 of 2013

[Certified on 23rd April, 2013]

AN ACT TO AMEND THE FINANCE ACT, NO. 16 OF 1995, THE FINANCE ACT, NO. 25 OF 2003 AND THE FINANCE ACT, NO. 12 OF 2012; TO PROVIDE FOR THE IMPOSITION OF A CROP INSURANCE LEVY; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

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

1. This Act may be cited as the Finance Act, No.12 of 2013.

### PART I

#### AMENDMENT OF PART II OF THE FINANCE ACT, NO. 16 OF 1995

2. The Finance Act, No. 16 of 1995 (hereinafter in this Part referred to as the " principal enactment") is hereby amended, in section 5 thereof by the insertion immediately after subsection (1) thereof of the following subsection:-

"(1A) Notwithstanding the preceding provisions of this section such semi- luxury dual purpose motor vehicle levy shall not be charged, with effect from January 1, 2013, in respect of a light truck registered as a dual purpose vehicle under the Motor Traffic Act (Chapter 203) .".

3. Section 17 of the principal enactment is hereby amended, as follows :-

- (1) by the insertion immediately after the definition of the expression "diesel motor vehicle" of the following definition :-  
" "dual purpose vehicle" shall have the same meaning assigned to it under the Motor Traffic Act (Chapter 203);";
  - (2) by the insertion immediately after the definition of the expression "luxury motor vehicle" of the following definition :-  
" "light truck" means a dual purpose vehicle with a driver's compartment having a single row accommodation along the same transverse axis for the driver and passenger, adapted or constructed wholly or mainly for the purpose of carriage of goods;";
  - (3) by the repeal of the definition of the expression "semi- luxury dual purpose motor vehicle" and substitution therefor of the following definition:-  
" "semi- luxury dual purpose motor vehicle" means a luxury motor vehicle or semi- luxury motor vehicle which is registered as a dual purpose vehicle under the Motor Traffic Act (Chapter 203); "
4. Any person or body of persons who charged or collected the semi-luxury dual purpose motor vehicle levy, in respect of a light truck, as provided for in the principal enactment during the period commencing from January 1, 2013 and ending on the date on which the certificate of the Speaker is endorsed in respect of this Act, shall be deemed to have acted with due authority and such charge or collection shall be deemed to have been validly made:
- Provided that the aforesaid provisions shall not affect any decision or Order made by any court or any proceedings pending in any court in respect of such levy charged or collected during such period.

## PART II

**AMENDMENT OF PART II OF THE FINANCE ACT, No. 25 OF 2003**

5. Part II (Tourism Development Levy) of the Finance Act, No. 25 of 2003 is hereby amended in section 11, by the substitution for the words "Sales Agents licensed under Tourism Development Act, No. 14 of 1968." of the following words:-  
"Sales Agents licensed under Tourism Development Act, No. 14 of 1968:  
Provided further , such levy shall not be charged on any institution having an annual turnover not exceeding rupees twelve million or a quarterly turnover not exceeding rupees three million."

## PART III

**AMENDMENT OF PART IV OF THE FINANCE ACT, No. 12 OF 2012**

6. The heading of Part IV of the Finance Act, No. 12 of 2012 (hereinafter in this Part referred to as the "principal enactment") is hereby repealed and the following heading substituted therefor:-  
"EXEMPTION OF CERTAIN ENTERPRISES FROM THE APPLICATION OF THE PROVISIONS OF CERTAIN ACTS".
7. Section 16 of the principal enactment is hereby amended in subsection (2), by the repeal of paragraph (a) thereof, and the substitution therefor of the following paragraph:-  
"(a) shall carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act ;"
8. Section 17 of the principal enactment is hereby amended in subsection (2), by the repeal of paragraph (a) thereof, and the substitution therefor of the following paragraph:-  
"(a) shall carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act ;".
9. Section 18 of the principal enactment is hereby amended in subsection (2), by the repeal of paragraph (a) thereof, and the substitution therefor of the following paragraph:-  
"(a) shall carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act ;" .
10. The following sections are hereby inserted immediately after section 18 of the principal enactment and shall have effect as sections 18A, 18B and 18C thereof:-
- 18A.(1) Subject to the provisions of subsections (2) and (3), there shall be exempted, from the application of the provisions of the Acts referred to in the Schedule hereto, any enterprise engaged in any one or more of the following businesses, within the meaning of an agreement entered into with the Board of Investment of Sri Lanka, under the Board of Investment of Sri Lanka Law, No. 4 of 1978-

- (a) *entrepot* trade involving import, minor processing and re- export;
  - (b) off-shore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka;
  - (c) providing front end services to clients abroad;
  - (d) headquarters operations of leading buyers for management of finance supply chain and billing operations;
  - (e) logistic services such as bonded warehouse or multi- country consolidation in Sri Lanka.
- (2) Any enterprise referred to in subsection (1) which is engaged in the physical importation of goods, wares or merchandise for re- export shall,
- (a) carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act ;
  - (b) notwithstanding the provisions of subsection (1), be subject to the provisions of the Customs Ordinance, in any movement of goods to and from such Free Port or the Bonded Area , to and from the Sri Lankan territory as if such goods had been imported into Sri Lanka or exported from Sri Lanka, as the case may be.
- (3) Any enterprise referred to in subsection (1), which is not engaged in physical movement of goods, wares or merchandise, may carry out such operations outside a Free Port or a Bonded Area as referred to above.
- 18b.(1) Any new enterprise established on or after the date of the coming into operation of this Act, which is engaged in any one or more of the following businesses, within the meaning of an agreement entered into with the Board of Investment of Sri Lanka, under the Board of Investment of Sri Lanka Law, No. 4 of 1978, shall be eligible, subject to the provisions of subsections (2) and (3), for the exemptions granted under the relevant sections of the Inland Revenue Act, No. 10 of 2006, if such enterprise satisfies the requirements specified in the relevant section by which the exemption applicable is granted -
- (a) *entrepot* trade involving import, minor processing and re- export;
  - (b) off-shore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka;
  - (c) providing front end services to clients abroad;
  - (d) headquarters operations of leading buyers for management of finance supply chain and billing operations;
  - (e) logistic services such as bonded warehouse or multi- country consolidation in Sri Lanka.
- (2) Any new enterprise referred to in subsection (1) which is engaged in the physical importation of goods, wares or merchandise for re- export shall, -
- (a) carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act;
  - (b) notwithstanding the provisions of subsection (1), be subject to the provisions of the Customs Ordinance, in any movement of goods to and from such Free Port or the Bonded Area , to and from the Sri Lankan territory as if such goods had been imported into Sri Lanka or exported from Sri Lanka, as the case may be.
- (3) Any new enterprise referred to in subsection (1), which is not engaged in physical movement of goods, wares or merchandise, may carry out such operations outside a Free Port or a Bonded Area as referred to above.
- 18c.(1) Any new enterprise established on or after the date of coming into operation of this Act, and identified as a Strategic Development Project in terms of the provisions of section 3 of the Strategic Development Projects Act, No. 14 of 2008, which is engaged in any one or more of the following businesses, within the meaning of an agreement entered into with the Board of Investment of Sri Lanka, under the Board of Investment of Sri Lanka Law, No. 4 of 1978, shall be eligible, subject to the provisions of subsections (2) and (3), for the exemptions granted under the Strategic Development Projects Act, No. 14 of 2008 -
- (a) *entrepot* trade involving import, minor processing and re- export;
  - (b) off-shore business where goods can be procured from one country or manufactured in one country and shipped to another country without bringing the same into Sri Lanka;
  - (c) providing front end services to clients abroad;
  - (d) headquarters operations of leading buyers for management of finance supply chain and billing operations;
  - (e) logistic services such as bonded warehouse or multi - country consolidation in Sri Lanka.
- (2) Any new enterprise referred to in subsection (1), which is engaged in the physical importation of goods, wares or merchandise for re- export shall -

- (a) carry out such activities either in a Free Port or a Bonded Area declared by regulations under this Act;
- (b) notwithstanding the provisions of subsection (1), be subject to the provisions of the Customs Ordinance, in any movement of goods to and from such Free Port or the Bonded Area, to and from the Sri Lankan territory, as if such goods had been imported into Sri Lanka or exported from Sri Lanka, as the case may be.
- (3) Any new enterprise referred to in subsection (1) which is not engaged in physical movement of goods, wares or merchandise, may carry out such operations outside a Free Port or a Bonded Area as referred to above.”.
11. Section 19 of the principal enactment is hereby amended by the substitution for the words and figures “sections 16, 17 and 18” of the words and figures “ sections 16, 17, 18, 18A, 18B and 18C”.
12. The following sections are hereby inserted immediately after section 19 of the principal enactment and shall have effect as section 19A and 19B thereof:-
- 19A.(1) The Minister may make regulations in respect of all matters which are required to be prescribed or for which regulations are authorized to be made under this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may, by regulations -
- (a) declare Free Ports and Bonded Areas for the purposes of this Part of this Act;
- (b) specify the investment limits and other criteria required for the enterprises referred to under this Part of this Act;
- (c) specify the conditions and exemptions in relation to local sales;
- (d) specify the procedure to be followed in granting exemptions under this Part of this Act; and
- (e) specify monitoring authority and the mechanism for monitoring.
- (3) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.
- (4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.
- (5) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.
- 19B. In this Part of this Act, unless the context otherwise requires-
- “Board of Investment of Sri Lanka” means the Board of Investment of Sri Lanka established under the Board of Investment of Sri Lanka Law, No. 4 of 1978;
- “Bonded Area” means an area supervised by the Board of Investment of Sri Lanka or the Director-General of Customs or any other Authority and declared by regulations under this Act;
- “Controller of Exchange” means the Head of the Department of Exchange Control established under the Exchange Control Act (Chapter 423) ;
- “Controller of Imports and Exports” means the Controller of Imports and Exports appointed under section 2 of the Imports and Exports (Control) Act (Chapter 236) ;
- “Customs Ordinance” means the Customs Ordinance (Chapter 235) ;
- “Director-General of Customs” means the Director-General of Customs appointed under section 2 of the Customs Ordinance;
- “*entrepot* trade” includes any manufacturing activity approved under this Part and carried out by a new enterprise for re-export with a domestic value addition at a minimum rate of ten *per centum*, within a Free Port declared by regulations under this Part of this Act;
- “Free Port” means an area within a sea port or an inland dry port operated under the supervision of the Sri Lanka Ports Authority and declared by regulations under this Act;
- “logistic service” includes *inter alia*-
- (i) transshipment activities;
- (ii) warehousing for temporary storage of input or finish goods for local exporters; and
- (iii) freight forwarding for clients abroad;

“ Sri Lanka Ports Authority” means the Sri Lanka Ports Authority established under the Sri Lanka Ports Authority Act, No. 51 of 1979;

“ Sri Lankan territory” means the territory of the Republic of Sri Lanka and does not include any Free Port or a Bonded Area declared under this Part of this Act.”.

13. The following Schedule is hereby added immediately after section 20 of the principal enactment:-

“Schedule (section 18A)

1. Value Added Tax Act, No. 14 of 2002;
2. Nation Building Tax Act, No. 9 of 2009 ;
3. Sri Lanka Export Development Act, No. 40 of 1979 ;
4. Special Commodity Levy Act, No. 48 of 2007;
5. Ports and Airports Development Levy Act, No.18 of 2011;
6. Excise (Special Provisions) Act, No. 13 of 1989.”.

PART IV

**IMPOSITION OF CROP INSURANCE LEVY**

14. (1) With a view of covering the damages suffered by the farmers of Sri Lanka due to natural disasters , there shall be charged and levied from every institution coming under the purview of the Acts specified in the Schedule hereto, a levy of one *per centum* to be called the Crop Insurance Levy (hereinafter in this Part referred to as “ the levy” ) on the after tax profits of such institutions.
- (2) The levy imposed under this Part shall be remitted to a separate account maintained and administered by the National Insurance Trust Fund Board established by the National Insurance Trust Fund Act, No. 28 of 2006 .
- (3) The provisions which may be necessary in the implementation of the provisions of this Part shall be prescribed by regulations under this Act.
15. (1) The Minister may make regulations in respect of all matters which are required to be prescribed or for which regulations are authorized to be made under this Act.
- (2) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.
- (3) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.
16. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala Text Shall prevail.

Schedule (section 14)

1. Banking Act, No. 30 of 1988;
2. Finance Companies Act, No. 78 of 1988;
3. Regulation of Insurance Industry Act, No. 43 of 2000.

**Fiscal Management (Responsibility) (Amendment) Act, No. 15 of 2013**

[Certified on 23rd April, 2013]

AN ACT TO AMEND THE FISCAL MANAGEMENT (RESPONSIBILITY) ACT, NO. 3 OF 2003

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

1. This Act may be cited as the Fiscal Management (Responsibility) (Amendment) Act, No. 15 of 2013 and shall be deemed to have come into operation from January 1, 2013.
2. Section 3 of the Fiscal Management (Responsibility) Act, No. 3 of 2003 is hereby amended as follows :-

- (a) in paragraph (e) of that section, by the substitution, for the figures and words "4.5 per centum ;"; of the figures and words "7 per centum ;"; and
  - (b) in paragraph (f) of that section, by the substitution, for the words and figures "January 1, 2006", "eighty-five per centum" and "January 1, 2013", of the words and figures "January 1, 2013", "eighty per centum" and "January 1, 2020" respectively.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Strategic Development Projects (Amendment) Act, No. 16 of 2013**

[Certified on 23rd April, 2013]

AN ACT TO AMEND THE STRATEGIC DEVELOPMENT PROJECTS ACT, NO. 14 OF 2008

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

1. This Act may be cited as the Strategic Development Projects (Amendment) Act, No. 16 of 2013 and shall be deemed to have come into operation on January 1, 2013.
2. The Schedule to the Strategic Development Projects Act, No. 14 of 2008 is hereby amended, by the addition immediately after item 10 of the Schedule, of the following new items :-
  - "11. The Sri Lanka Export Development Act, No. 40 of 1979.
  - 12. The Betting and Gaming Levy Act, No. 40 of 1988."
3. In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail.

### **Value Added Tax (Amendment) Act, No. 17 of 2013**

[Certified on 24th April, 2013]

AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

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

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 17 of 2013 and shall be deemed to have come into operation on January 1, 2013 unless different dates of operation are specified therefor, in the relevant sections.
2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the " principal enactment" ) as last amended by the Value Added Tax (Amendment) Act, No.7 of 2012 is hereby further amended as follows:-
  - (1) in paragraph (a) of the first proviso to subsection (1) of that section, by the substitution for the words "any garments" of the words "any garments or fabric";
  - (2) in subsection (2) of that section:-
    - (a) by the substitution for the words "shall be administrated by the Commissioner-General" in the proviso to paragraph (c) thereof, of the words "shall be administrated by the Commissioner-General as stipulated in paragraph (e) of this subsection;
    - (b) by the substitution for the words "shall be administrated by the Commissioner-General" in the proviso to paragraph (d) thereof, of the words "shall be administrated by the Commissioner-General as stipulated in paragraph (e) of this subsection;
    - (c) by the repeal of paragraph (e) of subsection (2) and the substitution therefor of the following :-
      - "(e) on the supply of goods or services by any registered person, who is registered in the Simplified Value Added Tax Scheme administrated by the Commissioner-General to -
        - (i) any exporter or provider of zero rated services specified in terms of section 7;
        - (ii) any registered person who supplies goods or services to any Strategic Development Project in terms of subsection (4) of section 3 of the Strategic Development Projects Act, No. 14 of 2008, as is referred to in sub-paragraph (i) of paragraph (f) of Part II of the First Schedule, during the project implementation period so far as such supplies are project related supplies;
        - (iii) any registered person engaged in any specific project referred to in sub-paragraph (ii) of paragraph (f) of PART II of the First Schedule (effective from April 1, 2011);



- (iv) any manufacturer who supplies goods manufactured in Sri Lanka to any exporter;
  - (v) any supplier who provides value added services to an exporter which results in the improvement of the quality, character or value of any goods manufactured for export;
  - (vi) any person registered under the provisions of subsection (7) of section 22 of the Act, during the project implementation period so far as such supplies are project related supplies;
  - (vii) any registered person who supplies any goods or services, to any registered person referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi) above, provided that, the Commissioner-General is, on the information available, is satisfied that the value of such supplies exceeds fifty *per-centum* of the total supplies of such registered person who supplies such goods or services,
- until such time as the activities of such registered person is carried out to the satisfaction of the Commissioner-General in the manner stipulated by the Commissioner-General in the guidelines issued for such purpose and which are specified in the Order published in the *Gazette*.

(3) in subsection (3) of that section:-

(a) the first proviso to that subsection is amended as follows:-

- (i) in paragraph (a), by the substitution for the words “customs bonded area;” of the words and figures “customs bonded area or a free port referred to in PART IV of the Finance Act, No. 12 of 2012;”;
- (ii) in paragraph (f), by the substitution for the words and figures “who has registered with the Textile Quota Board established under the Textile Quota Board Act, No.33 of 1996, with the approval of the Textile Quota Board or the Board of Investment, as the case may be.” of the words and figures “who has registered with the Simplified Value Added Scheme administrated by the Commissioner-General with the approval of the Commissioner-General.”;

(b) the second proviso to that subsection is amended as follows:-

- (i) by the repeal of item (vi) of paragraph (a) and the substitution therefor of the following:-
  - “(vi) any goods imported, including any goods received from customs bonded area by a person registered with the Simplified Value Added Scheme administrated by the Commissioner-General who imports or receives such goods for the manufacture of goods or the provision of services to a manufacturer of goods for export referred to in item (i) of paragraph (e) of subsection (2) of section 2”;
- (ii) by the repeal of item (vii) of paragraph (a) and the substitution therefor of the following:-
  - “(vii) any plant or machinery imported, including any plant or machinery received from a customs bonded area by a person registered with the Simplified Value Added Tax Scheme administrated by the Commissioner-General who imports or receives such plant or machinery for the usage by such person for the manufacture of goods or provision of services referred to in item (i) of paragraph (e) of subsection (2) of section 2, for the manufacture of goods to be exported”;
- (iii) by the repeal of subparagraph (viii) and (ix) of paragraph (a);
- (iv) in the end of that proviso, by the substitution for the words commencing from “The deferment of the payment of tax” to the end of that paragraph of the following:-
  - “The deferment of the payment of tax shall be subject to a furnishing of :-
    - (a) a bank guarantee in a case where the tax deferred is less than rupees ten thousand; or
    - (b) a Treasury Bill as a guarantee in a case where the tax deferred is not less than rupees ten thousand ; or
    - (c) a corporate guarantee which covers the amount of tax due subject to the conditions specified in the agreement in which the deferment is considered,
 on the goods imported, received or purchased:
 

Provided that, in the case of such deferment under paragraph (b) no guarantee shall be required where such goods have been imported by a Government institution to be re-exported within one month from the date of importation.”.

3. Section 3 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.8 of 2006 is hereby further amended as follows:-

- (1) in paragraph (e) of that section by the substitution for the words “under any tender agreement,” of the following:-
  - “under any tender agreement;

- (f) any person or a partnership having a total supplies for any three months period in any calendar year not less than rupees five hundred million including the supplies under preceding paragraphs of this section and any supplies excluded under section 2 or exempted under PART II of the First Schedule,”;
- (2) by the repeal of the proviso to that section and the substitution therefor of the following:-  
“Provided that, such tax shall be charged on such wholesale or retail supply of goods made prior to January 1, 2013, if -
- (i) any registered person makes an application to that effect to the Commissioner-General;
- (ii) any other person makes an appeal to that effect to the Commissioner-General, and obtains a registration as provided for in section 10 or section 12.”;
- (3) by the addition immediately at the end of that proviso of the following new proviso:-  
“Provided further, the chargeability to tax referred to any registered person specified in paragraph (f) shall be other than the supplies exempted from tax as specified in PART II of the First Schedule to the Act.”.
4. Section 5 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.14 of 2007 is hereby further amended in subparagraph (12) thereof by the substitution for the words “a separate supply by such Assessor:” of the following -  
“a separate supply by such Assessor;
- (13) Notwithstanding the provisions of Consumer Affairs Authority Act, No.9 of 2003, the maximum retail price quoted for the goods to be sold in a wholesale or retail business may be adjusted where necessary for the chargeability to tax where liability to tax is specified in paragraph (f) of section 3 of this Act.”.
5. Section 10 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.15 of 2009 is hereby further amended as follows:-
- (1) in item (ii) of subsection (1) of that section, by the substitution for the words and figures “on or after January 1, 2009 carries on or carries out” of the words and figures “on or after January 1, 2009, but prior to January 1, 2013 carries on or carries out”;
- (2) immediately after paragraph (c) of item (ii) of subsection (1) of that section, by the insertion of the following new item :-  
“(iii) on or after January 1, 2013 carries on or carries out any taxable activity in Sri Lanka shall be required to be registered under this Act, if -
- (a) at the end of any taxable period of one month or three months, as the case may be, the total value of the taxable supplies of goods or services or goods and services of such person, made in Sri Lanka in that taxable period of one month or three months, as the case may be, has three million rupees ; or
- (b) in the twelve months period then ending, the total value of the taxable supplies of goods or services or goods and services of such person, made in Sri Lanka has exceeded twelve million rupees; or
- (c) at any time, there are reasonable grounds to believe that the total value of the taxable supplies of goods or services or goods and services of such person in Sri Lanka, in the succeeding one month or three months taxable period, as the case may be, is likely to exceed three million rupees or in the succeeding twelve months period is likely to exceed twelve million rupees: ”.
- (3) In subsection (2) of that section, by the substitution for the words and figures “shall not include the supplies of any wholesale or retail trading activity excluded from the payment of tax under section 3.” of the words and figures “shall not include the value of supply of goods purchased locally without any process in a wholesale or retail trading activity unless the value of total supplies for a period of three months in one calendar year including the supplies excluded under section 2 or exempted under PART II of the First Schedule to the Act, is not less than rupees five hundred million.”.
6. Section 11 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.7 of 2003 is hereby further amended in the proviso to subsection (1) thereof, by the substitution for the words “shall not be liable to notify the Commissioner-General.” of the following:-  
“shall not be liable to notify the Commissioner-General:  
Provided further, with effect from January 1, 2013, any person registered under section 12, subsection (2) of section 80 or subsection (1) of section 75, as the case may be, of the Goods and Services Tax Act, No. 34 of 1996 shall be deemed to have obtained an identification number for the clearing of goods where such registered person fulfils the criteria specified in item

- (iii) of subsection (1) of section 10 or a registered person during the project implementation period as specified in subsection (7) of section 22 of this Act.”.
7. Section 12 of the principal enactment is hereby amended by the substitution for the words “may make an application in the specified form to the Commissioner-General for registration under this Act:” of the words and figures “may make an application for any taxable period prior to January 1, 2013, in the specified form to the Commissioner-General for registration under this Act:”.
8. Section 14 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.7 of 2003 is hereby further amended by the repeal of subsection (2) thereof and the substitution therefor of the following:-
- “(2) Any person -
- (a) registered under subsection (1) of this section ; or
- (b) deemed to be registered under section 75 or subsection (2) of section 80 of the Goods and Services Tax Act, No.34 of 1996 on August 1, 2002 and carrying on or carrying out a taxable activity subject to the conditions specified in section 3 for the registration of wholesale and retail trade or fulfilling the requirements specified in item (iii) of subsection (1) of section 10 of this Act,
- shall be a registered person for the purposes of this Act.”.
9. Section 16 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.9 of 2011 is hereby further amended as follows:-
- (1) in subsection (1) of that section, by the substitution for the words and figures “does not exceed the value set out in section 10.” of the following:-
- “does not exceed the value set out in section 10:
- Provided that, any registered person who had had a total value of taxable supplies not exceeding rupees three million for a period of three months and rupees twelve million for a period of twelve months in the year ending as at December 31, 2012, shall request for the cancellation of his registration with effect from January 1, 2013, unless such registered person has reasons to believe that the taxable supplies of such registered person is likely to exceed the value of supplies specified in sub-paragraph (iii) of paragraph (c) of subsection (1) of section 10.”;
- (2) in subsection (5) of that section, by the substitution for the words and figures, “by another person who is a registered person.” of the following:-
- “by another person who is a registered person:
- Provided that, in the case of a registered person whose registration is cancelled as specified in the proviso to subsection (1) -
- (a) where the assets (other than stock in trade) are not transferred to another registered person at the time immediately prior to the date of cancellation, the Commissioner-General shall taking into consideration the value of the acquisition of the assets and the period of use of such assets based on the rates of depreciation applied for income tax purposes on such assets and other matters as may be relevant, determine the value of assets which are not so transferred.
- (b) the liability to stock in trade shall not exceed the unabsorbed input tax as at December 31, 2012.”.
10. Section 21 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.14 of 2007 is hereby amended in subsection (1) thereof, by the substitution for all the words commencing from “(1) Every registered person shall” to the words “to be set out in such form:” of the following:-
- “(1) Every registered person shall furnish to the Commissioner-General –
- (a) for any taxable period ending prior to January 1, 2013, not later than the twentieth day of the month after the expiry of each taxable period ;
- (b) for any taxable period commencing on or after January 1, 2013 not later than the last day of the month after the expiry of each taxable period a return either in writing or by electronic means of his supplies during that taxable period. Every such return shall be in the specified form and shall contain all such particulars as may be required to be set out in such form.”.
11. Section 22 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.7 of 2012 is hereby further amended as follows:-
- (1) in subsection (1) of that section, by the repeal of the first proviso to that subsection and the substitution therefor of the following :-

“Provided that, the amount of tax due on the supply of -

- (a) garments within such percentage as is permitted to sell locally by the Board of Investment of Sri Lanka, established by the Board of Investments of Sri Lanka Law, No. 4 of 1978 under any agreement entered into by the manufacturer of garments for export under section 17 of the aforesaid law as approved by the Board of Investment of Sri Lanka or the Director-General of Customs, shall be rupees twenty five for each such garment so supplied within Sri Lanka;
- (b) fabric including any product as specified in the following sub-paragraphs made out of fabric within such percentage as is permitted to sell locally by the Board of Investment of Sri Lanka, established by the Board of Investment of Sri Lanka Law, No. 4 of 1978, under any agreement entered into by the manufacturer of fabric for export under section 17 of the aforesaid law, as approved by the Board of Investment of Sri Lanka or the Director-General of Customs shall be at the following rates:-
  - “(i) linen or curtains at rupees forty per kilogram;
  - (ii) towels at rupees twenty five per item;
  - (iii) bags made out of fabric at rupees forty per item ;
  - (iv) excess fabric as cut pieces not more than two metres in length of each piece at rupees twenty five per kilogram;
  - (v) any other fabric at rupees forty per kilogram.”.

(2) in subsection (5) of that section -

- (a) in paragraph (e) of the second proviso, by the repeal of all the words commencing from “(e) there is an excess of input tax” to the words “more than fifty per centum” and the substitution therefor of the following:-
  - “(e) there is an excess of input tax including tax deferred under section 2, of any registered person who is registered with the Simplified Value Added Tax Scheme administrated by the Commissioner -General referred to in paragraph (e) of subsection (2) of section 2 with effect from April 1, 2011, being a supplier of goods to exporters of goods, referred to in that paragraph for the taxable period was more than fifty per centum.”;
- (b) in the third proviso, by the substitution for the words and figures, “in items (i), (ii), (iii) or (iv) of paragraph (e) of subsection (2)”, of the words and figures “in items (i), (ii), (iii), (iv), (v) or (vi) of paragraph (e) of subsection (2)”;

(3) in subsection (6) of that section, by the addition immediately after sub-paragraph (iv) of that subsection, the following new sub- paragraph:-

“(v) on any tax invoice issued prior to the commencement of the liability to tax unless such tax invoice is connected to any business approved under subsection (7) of this section”;

(4) by the repeal of paragraph (ii) of the second proviso to subsection (10), and the substitution therefor of the following new paragraph:-

“(ii) supplies on which the tax is differed under this Act, being supplies made to exporters by a supplier so far as both are registered persons with the Simplified Value Added Tax Scheme administrated by the Commissioner-General referred to in paragraph (e) of subsection (2) of section 2 subject to the conditions specified in the guidelines specified by the Commissioner-General; and

(5) by the insertion immediately after subsection (10), the following new subsection:-

“(11) Subject to the provisions of subsection (5) of section 16, any unabsorbed balance of the allowable input tax, calculated in terms of the provisions of this section, as at December 31, 2012, not claimable after January 1, 2013, due to the cancelation of the registration of any registered person whose total supplies does not exceed rupees three million for a period of three months and rupees twelve million per year in the year commencing from January 1, 2012 and ending on December 31, 2012, may be set off against the taxes administrated by the Commissioner-General on a request made in writing to the Commissioner-General for such purpose:

Provided that, the tax under this subsection shall be set off after the finalization of the liability on the cancellation of the registration with the approval of the Commissioner-General.”.

12. Section 25A of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.7 of 2012 is hereby further amended as follows:-

- (1) in paragraph (iv) of subsection (1) of that section, by the substitution for the words and figures “commencing on or after January 1, 2009:” of the words “commencing on or after January 1, 2009, or the Central Bank of Sri Lanka established by the Monetary Law Act, (Chapter 422) (with effect from July 1, 2003):”

(2) by the repeal of subsection (2) of that section and the substitution therefor of the following:-

“(2) Every specified Institution or other person, carrying on the business of supplying of any financial services in Sri Lanka, shall be required to be registered :-

- (a) where the value of such supply for a period of three months exceeds five hundred thousand rupees or for a period of twelve months one million eight hundred thousand rupees, as the case may be, if such registration has taken place for any period prior to January 1, 2013;
- (b) where the value of such supply for a period of three months exceeds three million rupees or for a period of twelve months exceeds twelve million rupees, as the case may be, if such registration has taken place for any period on or after January 1, 2013.”.

(3) by the repeal of subsection (3) of that section and the substitution therefor of the following:-

“(3) Every specified institution or other person required to be registered under subsection (2), shall make an application for registration in the specified form to the Commissioner-General not later than thirty days from the date of completion of the requirements specified in subsection (2):

Provided that, any institution registered under this Act and which is also a specified institution within the meaning of this Chapter, shall be deemed for all purposes to be a specified institution registered under this Chapter:

Provided further, the Commissioner-General shall register any person who has not made an application for registration under this Chapter if the Commissioner-General having regard to the nature of the activities carried on or carried out by such person, is of opinion that such person is required to be registered under this Chapter. In the circumstances such person shall be afforded an opportunity of being heard prior to being registered under this Chapter and register such person accordingly with effect from such date as may be determined by the Commissioner-General.”.

(4) by the addition immediately after subsection (4) thereof, of the following new subsection:-

“(5) Every registered person shall notify the Commissioner-General in writing of any change -

- (a) in the name, address and place at which any taxable activity is carried on or carried out by such person;
- (b) in the nature of the taxable activity carried on or carried out by such person;
- (c) in the person authorized to sign returns and other documents; and
- (d) in ownership of the taxable activity,

not later than fourteen days after the occurrence of such change.”.

13. Section 25B of the principal enactment is hereby amended in subsection (1) thereof by the repeal of paragraph (b) and the substitution therefor of the following:-

“(b) six months for any taxable period commencing on or after January 1, 2011:

Provided that, in the case of a specified institution or any other person whose accounts are made up for a twelve months period ending on the 31<sup>st</sup> day of March the six months period may be commenced on the 1<sup>st</sup> day of April and the 1<sup>st</sup> day of September for that period of twelve months. In such event a separate return for the period commencing from the 1<sup>st</sup> day of January to the 31<sup>st</sup> day of March shall be submitted at the time of such change with the approval of the Commissioner-General.”.

14. Section 25C of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.9 of 2011 is hereby further amended as follows:-

(1) in subsection (1) of that section -

- (a) by the substitution in the proviso to that subsection, for the words “The estimated amounts shall be adjusted to reflect the actual amount on half yearly basis.” of the words “The estimated amounts shall be adjusted to reflect the actual amounts with the audited statement of accounts on yearly basis and such adjustment shall be submitted within six months after the closing date of the relevant accounting period.

(b) by the repeal of paragraph (a) and substitute the following :-

“(a) in the case of specified employees under Chapter XIV of the Inland Revenue Act, No. 10 of 2006, the gross remuneration payable to such employees and reflected in the pay sheet maintained under section 119 of the Inland Revenue Act, No.10 of 2006;” and

- (2) in subsection (2) of that section, by the substitution for the words and figures “under section 110 of the Inland Revenue Act, No. 38 of 2000.” of the words and figures “under section 119 of the Inland Revenue Act, No. 10 of 2006.”.
- (3) in subsection (5) of that section -
- (a) by the substitution in paragraph (a) thereof, for the words and figures “under item (xi) of the First Schedule but taxable under this Chapter;” of the words and figures “under item (x) of paragraph (b) of PART II of the First Schedule but taxable under this Chapter;”;
  - (b) by the substitution in paragraph (d) thereof, for the words “(d) the profit or income on interest arising or accrued from inter-company transactions” of the words “(d) the profit or income (not being profit from a business) on interest arising or accrued from inter-company transactions”;
  - (c) by the substitution in paragraph (f) thereof, for the words “(f) the dividend income arising to any person,” of the words “(f) the dividend income (not being profit from a business) arising to a person,”;
  - (d) by the repeal of paragraph (h) thereof and the substitution therefor of the following :-
 

“(h) the profits or income (not being profits from a business) from the exchange of currency other than such profits or income arising or accruing to any person primarily engaged in the business or exchange of currency or any “specified institution” within the meaning of this Chapter or a person not registered with the Central Bank of Sri Lanka, but providing services similar to such services provided by a finance company, included in the profit calculated as specified in subsection (1) of this section shall be treated as zero.”;
- (4) by the repeal of subsection (8) thereof and the substitution therefor, of the following:-
- “(8) Every specified institution or any other person shall for the purpose of the calculation of tax, submission of returns and information to be furnished relating to such return, payments of tax, issue of assessments, imposition of penalty for non-submission of the returns or the information required for the purpose of this Chapter, follow -
- (a) the guidelines specified by the Commissioner-General; and
  - (b) the relevant guidelines specified in the Order published in the *Gazette*,
- having considered the uniform application of the calculation of the liability and any other matter specified in the guideline provisions of this Chapter.”.
15. Section 25D of the principal enactment as last amended by the Value Added Tax Act, No.8 of 2006 is hereby further amended by the substitution for the words “any registered specified institution” of the words “any registered specified institution or other person”.
16. Section 25H of the principal enactment is hereby amended in paragraph (b) of subsection (1), by the substitution for the words and figures “every quarter commencing on January 1, 2011.” of the words and figures “every quarter commencing on January 1, 2011 and ending on December 31, 2012,”.
17. Section 25I of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.9 of 2011 is hereby further amended as follows:-
- (1) in subsection (1) of that section :-
- (a) by the substitution for the words, “referred to in subsection (2), may apply for registration” , of the words and figures “referred to in subsection (2), may prior to December 31, 2012 apply for registration”;
  - (b) in paragraph (b) of subsection (1), by the substitution for the words and figures “ shall be valid for a period of twelve years from the date of commencement of the quarter” of the words and figures “shall be valid for any quarter ending prior to January 1, 2013 from the date of commencement of the quarter”;
  - (c) by the addition immediately after paragraph (b) of that subsection, the following new paragraph :-
 

“(c) Any registration obtained under this Chapter shall be treated as cancelled with effect from the period commencing from January 1, 2013:

Provided that, any person or partnership registered under this Chapter whose turnover exceeds rupees twelve million per year and fulfils the criteria for registration under section 10 shall obtain a registration accordingly.”.
18. Section 26 of the principal enactment is hereby amended as follows:-
- (1) in subsection (1) thereof, by the substitution for the words and figures “(1) (1) The tax in respect of any” of the words and figures “(1) The tax in respect of any”;

(2) by the insertion immediately after subsection (1) of that section of the following:-

“(1A) Notwithstanding the provisions of subsection (1) of this section, in the case of a registered person whose taxable supplies consist of any supplies other than the supply of goods manufactured in Sri Lanka by such manufacturer, the tax in respect of any taxable period on or after January 1, 2013 shall be paid :-

- (i) for the period from the 1<sup>st</sup> day to the 15<sup>th</sup> day of any month on or before the end of that month; and
- (ii) for the period from the 16<sup>th</sup> day to the end of the month on or before the 15<sup>th</sup> day of the subsequent month, subject to the making of any final adjustments, if any, with the submission of the return .

Any tax not paid as set out above shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, each such person shall be deemed to be a defaulter for the purposes of this Act.”.

19. Section 28 of the principal enactment is hereby amended by the addition immediately after subsection (4) of that section of the following:-

“(5) Where any person whose turnover from every trade or business carried on by such person for any period of twelve months ending prior to April 1, 2011, does not exceed three hundred million and who has not complied with any law relating to tax as administered by the Commissioner-General, requests that he be registered under section 10 of this Act, notwithstanding the provisions of subsection (1) of this section and subsection (2) of section 33 of this Act, the turnover of that person for the above period shall not be assessed if such person undertakes to-

- (a) invest his past earnings from that trade or business in any business prior to March 31, 2014; and
- (b) comply with the requirements of this Act for any subsequent period.”.

20. The following new section is hereby inserted immediately after section 64 of the principal enactment and shall have effect as section 64A of that enactment:-

64A. Where the assessor is of the opinion that any transaction which reduces or would have the effect of reducing the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the parties to the transaction or disposition shall be assessable accordingly.

In this section “disposition” includes any trust, grant, covenant, or arrangement.”.

21. Section 67 of the principal enactment as last amended by the Value Added Tax (Amendment) Act, No.9 of 2011 is hereby further amended as follows:-

- (1) in paragraph (a), by the substitution for the words and figures “under section 10; or” of the words and figures “under section 10 or section 25A; or”;
- (2) by the repeal of paragraph (aa) thereof;
- (3) in paragraph (b), by the substitution for the words and figures “under section 19; or” of the words and figures “under section 19 or subsection (5) of section 25A; or”;
- (4) in paragraph (f), by the substitution for the words and figures “under section 21; or” of the words and figures “under section 21 or section 25B ; or”;
- (5) in paragraph (g), by the substitution for the words and figures “under section 21 or;” of the words and figures “under section 21 or section 25B or”;
- (6) by the substitution in paragraph (l) of that section for the words “issues a tax invoice,” of the following:-  
“issues a tax invoice; or  
(m) fails to comply with the requirements specified by order published in the *Gazette* or the guidelines issued by the Commissioner-General under sections 2 or 25C, as the case may be ; or  
(n) fails to furnish an annual adjustment under sub section (1) of section 25C,”.

22. The First Schedule of the principal enactment is hereby amended in PART II thereof as follows:-

- (1) in paragraph (a) of that PART -
  - (i) by the repeal of item (viii) and the substitution therefor of the following item:-  
“(viii) agricultural tractors or road tractors for semi-trailers;”;
  - (ii) In item (xxii)-

- (a) by the substitution for the words in sub-item (i) "moulding (steel, glass, rubber or plastic)," of the words, "moulding (steel, glass, mineral material, rubber or plastic);";
- (b) by the substitution for the words and figures "under the Sri Lanka Export Development Act, No. 40 of 1979," of the following:-  
 "under the Sri Lanka Export Development Act, No. 40 of 1979;  
 (vi) bowsers, bulldozers, graders, levelers, excavators, fire fighting vehicles;  
 (vii) raw materials for the manufacture of energy saving bulbs,".
- (2) in paragraph (b) of that PART -
- (i) in sub-paragraph (A) of paragraph (b) of item (ii), by the substitution for the words and figures "in respect of any rental falling due for payment on or after April 1, 2012." of the following:-  
 "in respect of any rental falling due for payment on or after April 1, 2012;
- (iii) bowsers, bulldozers, graders, levelers, excavators, fire fighting vehicles or road tractors for semi-trailers as exempted for Custom purposes under Harmonize Commodity Description and Coding System Numbers in respect of any rental falling due for payment on or after January 1, 2013,".
- (ii) by the repeal of item (xx) and the substitution therefor of the following:-  
 "(xx) locally manufactured coconut oil or coco peat, coir fiber, grow pellets, grow bags, twist fiber or coconut husk made out of coconut waste;".
- (iii) by the repeal of item (xLiii) and the substitution therefor of the following:-  
 "(xLiii) services which result in the improvement of quality, character or value of any yarn, fabric or garment so far as such services are provided to persons other than exporters of such products;".
- (iv) by the addition immediately after item (xLiv) of the following:-  
 "(xLv) services by a Unit Trust Management company so far as such services are provided to any Unit Trust ;  
 (xLvi) services being hotel accommodation to any sportsman, organizer of any sport event or sponsor arriving in Sri Lanka for participating in any sport event or activity connected with sports, as may be approved by the Minister who is in charge of the subject of Sports".
- (3) in paragraph (c) of that PART -
- (i) by the repeal of item (xxvii) and the substitution therefor of the following:-  
 "(xxvii) packing materials exclusively for the use of packing of pharmaceuticals or ayurvedic medicines manufactured in Sri Lanka and which are imported by the manufacturer of such pharmaceuticals or ayurvedic medicines, so far as such packing materials are not manufactured in Sri Lanka as approved by the Secretary to the Ministry of the Minister to whom the subject of Health is assigned or the Commissioner of the Department of Ayurveda, as the case may be, for this purpose.".
- (ii) in item (xxxvi), by the substitution for the words "subject to the chargeability of a Cess of rupees seventy five per kilogram on importation" of the words "subject to the chargeability of a Cess at a specific rate referred to in sub-item (ii) of item (xxxvii) of paragraph (b) of PART II of the First Schedule.".
- (iii) by the addition immediately after item (xxxvi) of that paragraph, the following new item:-  
 "(xxxvii) gully bowsers, semi-trailers for road tractors, any machinery or equipment used for garbage disposal activities carried out by any local authority, for the purpose of provision of such services to the public, as approved by the Secretary to the relevant Ministry.".
- (4) by the addition immediately after paragraph (h) of that PART, the following new paragraphs:-  
 "(i) the supply of goods or services by the Central Bank of Sri Lanka established by the Monetary Law Act (Chapter 422);  
 (j) the supply of any services by any public corporation to the extent of provision of such services on behalf of the Government of Sri Lanka, free of charge out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government.  
 (k) the supply of goods or services by any individual who is a citizen of Sri Lanka and who carries on any business of manufacturing of any article other than any liquor or tobacco product or supply of any services after returning from



a foreign employment for a period of five years reckoned from the beginning of the year of assessment in which such business commences if such individual-

- (i) returns from such foreign employment on or after January 1, 2013; and
- (ii) invests his earnings from such foreign employment to commence such business.”.

23. Any person who collects the Value Added Tax as provided for in this Act during any period commencing from January 1, 2013 and ending on the date on which the Certificate of the Speaker is endorsed in respect of this Act, shall be deemed to have acted with due authority and such collection of tax shall be deemed to have been, and to be, validly made:

Provided that, the aforesaid provisions shall not affect any decision or Order made by any Court or any proceedings pending in any Court in respect of any tax collected as provided for in this Act during such period.

24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## Inland Revenue (Amendment) Act, No. 18 of 2013

[Certified on 24th April, 2013]

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 10 OF 2006

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

1. (1) This Act may be cited as the Inland Revenue (Amendment) Act, No. 18 of 2013.

(2) The provisions of this Act, shall come into operation on April 1, 2013:

Provided however that-

- (a) the amendments made to section 16c of the Inland Revenue Act, No.10 of 2006 (hereinafter referred to as the “principal enactment”) by section 7(2) of this Act;
  - (b) the amendments made to section 16D of the principal enactment by section 8 of this Act; and
  - (c) the amendments made to section 17A of the principal enactment by section 10(4) of this Act,
- shall be deemed for all purposes to have come into operation on April 1, 2012.

2. Section 7 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows :-

(1) in paragraph (b) of that section –

- (a) by the substitution in sub-paragraph (lxii), for the words and figures “Certified Management Accountants of Sri Lanka Act, No. 23 of 2009; and”, of the words and figures “Certified Management Accountants of Sri Lanka Act, No. 23 of 2009;”;
- (b) by the substitution in sub-paragraph (lxiii), for the words and figures “the National Child Protection Authority Act, No. 50 of 1998.”, of the words and figures “the National Child Protection Authority Act, No. 50 of 1998;”;
- (c) by the addition, immediately after sub-paragraph (lxiii), of the following new sub-paragraphs :-

- “(lxiv) College of General Practitioners of Sri Lanka established by the College of General Practitioners of Sri Lanka Act, No. 26 of 1974;
- (lxv) Sri Lanka Social Security Board established by the Sri Lanka Social Security Board Act, No. 17 of 1996;
- (lxvi) any Public Corporation to the extent of provision of services on behalf of the Government of Sri Lanka, free of charge out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government;
- (lxvii) Sri Lanka Savings Bank Limited incorporated under the Companies Act, No. 7 of 2007, which is merged with the National Development Trust Fund (NDTF);
- (lxviii) Lanka Puthra Development Bank Limited incorporated under the Companies Act, No. 17 of 1982; and
- (lxix) any Government assisted private school other than that incorporated under the Companies Act, No.7 of 2007 which is registered with the Ministry of Education and mandated to follow the Government curricula set by the Ministry of Education and the circulars issued by such Ministry.”.

(2) by the substitution in paragraph (k) of that section, for the words “dividend to the Government.”, of the words “dividend to the Government;”;

- (3) by the addition immediately after paragraph (k) of that section, of the following new paragraph:-
- “(l) the profits and income for any year of assessment commencing on or after April 1, 2013, of Sri Lanka Deposit Insurance Scheme established by regulation made under the Monetary Law Act (Chapter 422).”.
3. Section 8 of the principal enactment as last amended by Act, No. 22 of 2011 is hereby further amended in subsection (1) as follows :-
- (1) by the insertion immediately after paragraph (dd) of that subsection, of the following new paragraph :-
- “(ddd) the emoluments arising in Sri Lanka of any individual who is an expert and who is not a citizen and is brought to and employed in Sri Lanka by any undertaking for the purposes of that undertaking, being an undertaking with which an agreement has been entered into by the Board of Investment of Sri Lanka and invested more than US \$ 50 Million as direct foreign investment made on or after April 1, 2013, during the period of its tax holiday under section 17A or section 16D as the case may be, and if it is confirmed by the Board of Investment of Sri Lanka that the service rendered by him in carrying out activities of such undertaking in Sri Lanka is essential and such service is not obtainable from Sri Lanka:
- Provided that the number of experts in an undertaking to whom this provision is applicable shall not exceed five.
- For the purpose of this paragraph “expert” means an individual who has expertise in such field as may be determined by the Commissioner - General on the recommendation made by the Board of Investment of Sri Lanka, as being a field in which sufficient expertise is not available among the citizens of Sri Lanka;” ;
- (2) by the substitution in paragraph (t) of that subsection for the words “exceeds five hundred thousand rupees, then-” of the words and figures “exceeds five hundred thousand rupees, for any year of assessment commencing prior to April 1, 2013, then-”; and
- (3) by the substitution in paragraph (w) of that subsection for the words “one hundred thousand rupees,”, of the words and figures “one hundred thousand rupees, for any year of assessment commencing prior to April 1, 2013,”.
4. Section 9 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-
- (1) by the insertion immediately after paragraph (a) of that section, of the following new paragraph :-
- “(aa) the interest accruing to any person or partnership or other body of persons outside Sri Lanka from investment made out of foreign currency brought in to Sri Lanka on or after April 1, 2012, in any security or bond issued by any person in Sri Lanka;” ; and
- (2) by the addition immediately after paragraph (n) of that section, of the following new paragraph:-
- “(o) the interest or discount accruing or arising to any person from any investment made on or after January 1, 2013-
- (i) in any Corporate Debt Security, quoted in any Stock Exchange licensed by the Securities and Exchange Commission; and
- (ii) in any Municipal Bond issued by any Municipal Council with the approval of the Secretary of the Ministry of Finance.”.
5. Section 13 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows :-
- (1) by the insertion immediately after paragraph (bb) of that section, of the following new paragraph:-
- “(bbb) the profits and income earned in foreign currency by any person for any year of assessment commencing on or after April 1, 2012, in respect of any business of procuring goods from one country or manufacturing goods in one country and exporting to another country, other than Sri Lanka;” ;
- (2) by the insertion immediately after paragraph (dddd) of that section, of the following new paragraph :-
- “(ddddd) any profits and income earned in foreign currency from outside Sri Lanka, by any resident individual who is a citizen of Sri Lanka, if such profits and income (less such amount, if any, expended outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted to Sri Lanka through a bank;” ;
- (3) by the insertion immediately after paragraph (xxxxx) of that section, of the following new paragraphs:-
- “(xxxxxx) any profits and income from any investment made on or after January 1, 2013 -
- (i) in any Corporate Debt Security, quoted in any Stock Exchange licensed by the Securities and Exchange Commission;

- (ii) in any Municipal Bond issued by any Municipal Council with the approval of the Secretary of the Ministry of Finance;
- (xxxxxxx) the interest earned by the DFCC Bank established by the Development Finance Corporation of Ceylon Act, No. 35 of 1955 and National Development Bank PLC incorporated under the Companies Act, No. 7 of 2007, from moneys lent out of funds raised from outside Sri Lanka to Small and Medium enterprises, plantations, construction industry or other manufacturing industries.”;
- (4) by the insertion immediately after paragraph (yyyyyy) of that section, of the following new paragraph :-
- “(yyyyyy) any royalty, franchising fee or any payment for designing received by any foreign collaborator from a company registered with the Board of Investment, during the period of tax holiday under section 17A or section 16D as the case may be, where the investment made in Sri Lanka from foreign direct investment raised outside Sri Lanka exceeds US \$ 50 Million and if such services are considered by the Director General of the Board of Investment to be essential in carrying out activities in Sri Lanka and is not obtainable in Sri Lanka;”and
- (5) by the insertion immediately after paragraph (zzzzz) of that section, of the following new paragraph :-
- “(zzzzz) where an individual who is a citizen of Sri Lanka, employed abroad returns to the country on or after January 1, 2013 and invests his earnings from employment abroad to commence any business of manufacture of any article, other than liquor or tobacco products, or provision of any service, the profits and income of such person from such business for a period of five years commencing from the beginning of the year of assessment in which the commercial operations of such business commenced.”.
6. Section 15 of the principal enactment is hereby amended by the substitution for all the words from “exempt from income tax,” to the end of that section, of the following words and figures:-
- “exempt from income tax-
- (i) for any year of assessment commencing prior to April 1, 2013, if such individual is a citizen of both Sri Lanka and any other country;
- (ii) for any year of assessment commencing on or after April 1, 2013, if such individual is a citizen of Sri Lanka and-
- (a) citizen of any other country; or
- (b) has obtained permanent resident status or similar status in any other country under which such individual may obtain citizenship in such country, at the time of such arrival and during the whole of such stay.”.
7. Section 16c of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-
- (1) in Column 1 of the Schedule of subsection (1) of that section by the substitution for the words and figures “Any activity referred to in paragraph (a) of subsection (2), but not including services relating to agriculture (products shall be with a minimum of 35% value addition, if more than 50% of the production is to be sold in the domestic market)”, of the words and figures “Any activity referred to in paragraph (a) of subsection (2).
- In case of manufacture of any article, such article shall be with a minimum of 35% value addition, if more than 50% of the production is to be sold in the domestic market.”; and
- (2) in subsection (2) of that section -
- (i) by the substitution in paragraph (b) of that subsection for the words and figure “Schedule to subsection (1); and” of the words and figure “Schedule to subsection (1);”;
- (ii) by the substitution in paragraph (c) of that subsection, for the words and figures “after April 1, 2011.” of the words and figures “after April 1, 2011; and”;
- (iii) by the insertion immediately after paragraph (c) of that subsection, of the following new paragraph;-
- “(d) which is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.”.
8. Section 16D of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended by the substitution for the words “whichever occurs earlier.”, of the words “whichever occurs earlier where such undertaking is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.

For the purposes of this section “the investment” means the cost of any land, plant, machinery, equipment and other fixed assets.”.

9. The following new section is hereby inserted immediately after section 16D of the principal enactment and shall have effect as section 16E of that enactment :-

16E. The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the disposal of any capital asset) of any person or partnership-

- (i) from any undertaking of cultivating any renewable energy crop in Sri Lanka, for a period of ten years;
- (ii) from all transactions connected with manufacturing, distribution and marketing of organic fertilizers, commencing on or after April 1, 2013, shall be exempt from income tax.”.

10. Section 17A of the principal enactment, as last amended by Act, No. 8 of 2012 is hereby further amended in subsection (2) of that section as follows :-

- (1) by the substitution in sub-paragraph (ii) of paragraph (a) of that subsection, for the words “apparels,”, of the words “apparels and textile,”;
- (2) by the substitution in sub-paragraph (xxvii) of paragraph (a) of that subsection, for the words “national economy; and” , of the words “national economy;”;
- (3) by the substitution in paragraph (b) of that subsection, for the words and figures “on or after April 1, 2011.”, of the words and figures “on or after April 1, 2011; and”; and
- (4) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph:-

“(c) which is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.

For the purpose of this section “the investment” means the cost of any land, plant, machinery, equipment and other fixed assets.”.

11. Section 25 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended in subsection (1) of that section as follows :-

- (1) by the substitution in paragraph (d) of the proviso to paragraph (a) of that subsection for the words “the rate shall be fifty per centum of the cost of acquisition;”, of the words “the rate shall be fifty per centum of the cost of acquisition”:

Provided that where such high tech plant, machinery or equipment acquired on or after April 1, 2013 and used in any trade or business meets more than thirty per centum of the total requirement of the power generation of that trade or business out of alternative energy sources, the rate shall be one hundred per centum on the cost of acquisition;

For the purpose of this proviso “alternative energy source” means any source other than the National Grid, that generates power.”;

- (2) by the addition immediately after paragraph (d) of the proviso to paragraph (a) of that subsection, of the following new paragraphs:-

“(e) where any plant or machinery or equipment is acquired and used in any business on or after April 1, 2013 for technology upgrading purposes or introducing any new technology, the rate shall be fifty per centum of the cost of acquisition;

(f) where any plant, machinery or equipment is acquired and used on or after April 1, 2013 in any Stock Broker Company for the upgrading of information technology infrastructure to be in compliance with the requirements of the Colombo Stock Exchange licensed by the Securities and Exchange Commission, in relation to the Risk Management System, the rate shall be one hundred per centum of the cost of acquisition;

(g) where any plant, machinery or equipment acquired and used on or after April 1, 2013, in any trade or business and where at least sixty per centum of the turnover of such trade or business is from export, the rate shall be fifty per centum of the cost of acquisition;”;

- (3) by the substitution in paragraph (i) of that subsection, for all the words from “upgrading of any trade or business carried on” to the words “carried out through any Government institution;”, of the following words and figures:-

“upgrading of any trade or business carried on by such person:

Provided that-

- (A) where such expenditure is incurred on or after April 1, 2012 but prior to April 1, 2013 and such research is carried out through any Government institution;

- (B) where such expenditure is incurred on or after April 1, 2013 and such research is carried out through any institution in Sri Lanka,  
the deduction shall be an amount equal to three hundred *per centum* of such expenditure incurred by such person"; and
- (4) by the addition immediately after paragraph (t) of that subsection, of the following new paragraph :-  
“(u) any sum paid by a Public Corporation or Government Owned Business Undertaking as a special levy, to the Government.”.
12. Section 26 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended in paragraph (v) of subsection (1) of that section, by the substitution for the words “carried on or exercised by him other than”, of the words and figures “carried on or exercised by him other than the cost of advertisement incurred on or after August 1, 2012, on sponsorship of international sport events approved by the Minister to whom the subject of Sports has been assigned; or”.
13. Section 34 of the principal enactment as last amended by Act, No.8 of 2012 is hereby further amended as follows:-
- (1) in subsection (2) of that section, by the insertion immediately after paragraph (t) of that subsection, of the following new paragraphs:-  
“(u) where the profits from employment of any individual who is a citizen of Sri Lanka or resident in Sri Lanka other than profits referred to in paragraph (c) of subsection (1) of section 4, exceeds five hundred thousand rupees, for any year of assessment commencing on or after April 1, 2013, then-
- (i) such part of such profits in excess of five hundred thousand rupees; or
- (ii) one hundred thousand rupees,  
whichever is lower;
- (v) such part of official emoluments as does not exceed one hundred thousand rupees for any year of assessment commencing on or after April 1, 2013, arising in Sri Lanka to any individual who is not a citizen of Sri Lanka and not resident in Sri Lanka.”; and
- (2) in subsection (4) of that section, by the substitution in sub-paragraph (i) of paragraph (a) of that subsection for the words and figures “other than those referred to in paragraphs (a), (b), (c), (e), (g), (gg), (h), (i), (j), (k), (n), (o), (q),(r), (s) and (t) of subsection (2)”, of the words and figures “other than those referred to in paragraphs (a), (b), (c), (e), (g), (gg), (h), (i), (j), (k), (n), (o), (q),(r), (s), (t),(u) and (v) of subsection (2)”.
14. Section 40A of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended by the substitution for the words “twenty *per centum*” wherever such words occur in that section, of the words “sixteen *per centum*”.
15. Section 40B of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended by the substitution for the words “twenty *per centum*” wherever such words occur in that section, of the words “sixteen *per centum*”.
16. The following new section is hereby inserted immediately after section 46 of the principal enactment and shall have effect as section 46A of that enactment:-
- 46A. Where the taxable income of any person for any year of assessment includes any profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the disposal of any capital asset) from poultry farming, such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in other provisions, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.
- For the purposes of this section “profits and income from poultry farming” means such profits and income from the sale of produce by such person without subjecting such produce to any process of production or manufacture.”.
17. The following new section is hereby inserted immediately after section 48B of the principal enactment and shall have effect as section 48c of that enactment:-
- 48c. Where any undertaking which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, which provides for tax concessions, and the taxation under such agreement after the expiry of the tax exemption period provided thereunder is more burdensome than the taxation under the Inland Revenue Act, the profits and income of such undertaking after the expiry of such tax exemption period shall be chargeable with income tax in accordance with the provisions of the Inland Revenue Act, provided such undertaking shall not seek any further tax concession in respect of such agreement through any supplementary agreement.”.

18. Section 56 of the principal enactment is hereby amended as follows:-

- (1) in subsection (2) of that section, by the substitution for the words "fifteen per centum", of the words "twelve per centum"; and
- (2) in subsection (3) of that section, by the substitution for the words "fifteen per centum" wherever such words occur in that subsection, of the words "twelve per centum".

19. The following new sections are inserted immediately after section 56 of the principal enactment and shall have effect as sections 56A, 56B, 56C and 56D respectively, of that enactment:-

- 56A. Such part of the profits and income of an export oriented company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, for any year of assessment commencing on or after April 1, 2013, from the sale of goods manufactured in Sri Lanka, up to the quantity approved by the Board of Investment as import replacement, to-
- (a) any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, enjoying tax holiday under section 16C, 16D or 17A of this Act or under the Strategic Development Projects Act, No.14 of 2008 and which is permitted to import project related goods or raw materials on duty free basis under the provisions of such agreement, during the project implementation period; or
  - (b) any person eligible to import specific goods on duty free basis under any Government Authority,
- shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.
- 56B. Such part of the profits and income of any person for any year of assessment commencing on or after April 1, 2013 from the supply of any goods manufactured in Sri Lanka or the provision of services, to foreign ships for payments in foreign currency, shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.
- 56C. Such part of the profits and income of any person for any year of assessment commencing on or after April 1, 2013 from the sale of any product manufactured in Sri Lanka for payment in foreign currency through foreign exchange earning account authorized by the Central Bank of Sri Lanka, shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.
- 56D. For any year of assessment commencing on or after April 1, 2013 such part of the profits and income from the sale in the local market, of locally manufactured garments, bags made out of fabric, linen, curtains or any other goods, of any export oriented company which exports not less than sixty per centum of its products shall be chargeable with income tax at the rate of twelve per centum:
- Provided however, where the local value addition of such garments, bags, linen, curtains or other goods, as the case may be, is greater than sixty five per centum with Sri Lankan brand name, such part of the profits and income of such export oriented company from the sale in the local market, of such garments, bags, linen, curtains, or other goods shall be chargeable with income tax at the rate of ten per centum."

20. Section 59B of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-

- (1) in subsection (2) of that section, by the substitution for paragraph (b) of that subsection, of the following new paragraph:-
  - "(b) the turnover of such undertaking (other than from the sale of any capital asset) for that year of assessment-
    - (i) being any year of assessment commencing on or after April 1, 2011 but prior to April 1, 2013, does not exceed three hundred million rupees;
    - (ii) being any year of assessment commencing on or after April 1, 2013, does not exceed five hundred million rupees."; and
- (2) by the substitution for the marginal note to that section, of the following marginal note:-
 

"Rate of income tax applicable to the profits and income of any person from any undertaking with annual turnover not exceeding certain amount. "

21. The following new sections are hereby inserted immediately after section 59c of the principal enactment and shall have effect as sections 59D and 59E respectively, of that enactment:-

59D. (1) The tax rate applicable on the profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of any capital asset), of any company which lists its shares on or after April 1, 2013 but prior to April 1, 2014, in the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka and issues by way of Initial Public Offering not less than twenty *per centum* of its shares to the general public, shall be reduced by fifty *per centum* for the year of assessment in which such shares are listed and for another two years of assessment immediately succeeding that year of assessment subject where such company after listing continues to maintain not less than twenty *per centum* of holding of its shares by the general public.

(2) Where the company referred to in subsection (1) fails to maintain in any subsequent year of assessment after listing its shares, not less than twenty *per centum* of holding of shares by the general public in the opinion of an Assessor, the tax reduced under subsection (1) shall notwithstanding to the contrary in any other provisions of this Act, be re-assessable, payable and recoverable.

For the purposes of this section "shares held by the general public" in relation to a listed company means shares of such company held by any person other than those directly or indirectly held by :-

- (a) its parent, subsidiary or associate companies or any subsidiaries or associates of its parent company;
- (b) its directors who are holding office as directors of such company, their spouses and children under 18 years of age;
- (c) its Chief Executive Officer, his spouse and children under 18 years of age; and
- (d) any single shareholder who holds ten *per centum* or more of the shares of such company.

59E. Such part of the profits and income of any person or partnership from operating any project for producing any alternative energy including operating any mini hydro power project shall notwithstanding anything to the contrary in any other provisions of this Act, be taxable at the appropriate rate specified in the Fifth Schedule to this Act.

For the purposes of this section "mini hydro power project" means any hydro power project which generates less than ten Mega Watts electricity."

22. Section 60 of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended as follows:-

- (1) in sub-paragraph (ii) of paragraph (a) of that section, by the substitution for the words "black tea in bulk, crepe rubber," of the words "black tea not in packet or package form and each packet or package weighing not more than one kilogram, crepe rubber,"; and
- (2) by the substitution for the words and figures "any other produce referred to in section 16.", of the words and figures "any other produce referred to in section 16, but include organic tea in bulk."

23. Section 78 of the principal enactment as last amended by Act, No.22 of 2011 is hereby further amended in subsection (1) as follows:-

- (1) by the substitution in paragraph (a) of that subsection for the words "and other income; and" , of the words "and other income;"; and
- (2) by the substitution for paragraph (b) of that subsection, of the following paragraphs:-
  - "(b) for any year of assessment commencing on or after April 1, 2007, but prior to April 1, 2013, on the excess, if any, of the aggregate of the divisible profits referred to in section 76 and other income over six hundred thousand rupees"; and
  - (c) for any year of assessment commencing on or after April 1, 2013, on the excess, if any, of the aggregate of the divisible profits referred to in section 76 and other income over one million rupees,".

24. Section 79 of the principal enactment as last amended by Act, No. 9 of 2008 is hereby further amended as follows:-

- (1) in subsection (3) of that section, by the substitution for the words "be deemed to be non-resident from the commencement of the year of assessment in which such absence commences.", of the words and figures "be deemed to be non-resident from the commencement of the year of assessment in which such absence commences being a year of assessment prior to April 1, 2013."; and
- (2) in subsection (4) of that section, by the substitution for the words "the aggregate of thirty days shall", of the words and figures "the aggregate of thirty days for any year of assessment prior to April 1, 2013, shall".

25. Section 104 of the principal enactment as last amended by Act, No. 9 of 2008 is hereby further amended as follows :-

- (1) in subsection (1) of that section, by the substitution for the words “any transaction entered into between”, of the words “any international transaction entered into between”;
- (2) by the repeal of subsection (2) of that section, and the substitution therefor, of the following subsection:-
- “(2) Where it appears to an Assessor that the profits and income or the loss referred to in subsection (1), has not been ascertained having regard to the arm’s length price, he may refer the computation of the arm’s length price in relation to such international transaction to a Transfer Pricing Officer. The Transfer Pricing Officer may, in writing addressed to the person who carries on either the one or the other or both of the two associated undertakings referred to in subsection (1), require him to prove to the satisfaction of the Transfer pricing Officer, that such profits and income or such loss, as the case may be, has in fact been ascertained having regard to the arm’s length price. Where such person fails to so prove, the Transfer Pricing Officer may determine the arm’s length price and inform it to the Assessor. Thereupon the Assessor may estimate the amount of the profit and income or the loss, as the case may be, referred to in subsection (1), and make an assessment accordingly.”;
- (3) by the insertion immediately after subsection (3) of that section, of the following new subsection:-
- “(3A) An advance pricing agreement may be entered into between any person and the Commissioner-General in respect of arm’s length price for the purposes of this section on the basis of a prescribed manner.”;
- (4) in subsection (4) of that section-
- (a) by the substitution in paragraph (b) of that subsection for the words “other than associated undertakings.”, of the words “other than associated undertakings;” and
- (b) by the addition immediately after paragraph (b) of that subsection, of the following:-
- “international transaction” means a transaction between two or more associated undertakings, either one or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money or any other transaction having a bearing on the profits, income, losses or assets of such undertakings, and includes any allocation or apportionment of, or any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such undertakings under any mutual agreement or arrangement between two or more such associated undertakings. Any transaction entered into by an undertaking with a person, either one is non-resident, other than an associated undertaking shall, for the purposes of subsection (1) be deemed to be an international transaction entered into between two associated undertakings, if there exists a prior agreement between such undertaking and other person and, by which the terms of such transaction are determined in substance between such undertaking and other person which results in the reduction of or would have the effect of reducing the amount of tax payable.
- without prejudice to the generality of the provision of this subsection, the allowance for any expense or interest arising from an international transaction shall also be determined having regard to the arm’s length price;
- “Transfer Pricing Officer” means any officer of Inland Revenue prescribed by the Commissioner - General as a Transfer Pricing Officer.”; and
- (5) in the marginal note to that section, by the substitution for the words “from transactions between”, of the words “from international transactions between”.
26. The following new section is hereby inserted immediately after section 104 of the principal enactment and shall have effect as section 104A of that enactment:-
- 104A. (1) Any profits and income arising, derived or accruing from, or any loss incurred in any transaction, other than transactions referred to in subsection (1) of section 104, entered into between two associated undertakings shall be ascertained having regard to the arm’s length price.
- (2) Where it appears to an Assessor that the profits and income or the loss referred to in subsection (1), has not been ascertained having regard to the arm’s length price, he may, in writing addressed to the person who carries on either the one or the other or both of the two associated undertakings referred to in subsection (1), require him to prove to the satisfaction of the Assessor, that such profits and income or such loss, as the case may be, has in fact been ascertained having regard to the arm’s length price. Where such person fails to so prove, the Assessor may estimate the amount of the profit and income or the loss, as the case may be, referred to in subsection (1), and make an assessment accordingly.



- (3) The arm's length price referred to in subsection (1) shall be determined on the basis of any one or more of the methods, prescribed for that purpose.
- (4) For the purposes of this section-
- (a) an undertaking shall be deemed to be an associated undertaking of another undertaking, if the first-mentioned undertaking participates directly or indirectly or through one or more intermediaries, in the control of the second-mentioned undertaking in such manner or to such extent as may be prescribed;
  - (b) "arm's length price" means a price which is applied in uncontrolled conditions in a transaction between persons other than associated undertakings."
27. Section 113 of the principal enactment as last amended by Act, No.8 of 2012 is hereby further amended by the addition immediately after subsection (5) of that section, of the following new subsection:-
- "(6) Where any bank or financial institution which is required to invest in the investment fund referred to in subsection (5), has not utilized in accordance with the guidelines issued by the Central Bank of Sri Lanka, any part of the funds lying to the credit of the fund as at July 1, 2013, such balance shall be deemed to be a debt due to the Government by such bank or financial institution as the case may be, and transferred to the Consolidated Fund."
28. Section 121 of the principal enactment is hereby amended by the addition immediately after subsection (2) of that section, of the following new subsection:-
- "(3) Where during any year of assessment an employer has deducted income tax from the remuneration of any employee for any pay period any sum in excess of the amount deductible in respect of such remuneration for such pay period, such employer may reduce such excess from the amount of income tax deductible in respect of the remuneration of such employee for any pay period in such year of assessment or in the immediately succeeding year of assessment and notify the Commissioner-General accordingly within two weeks from the date of such adjustment."
29. Section 135 of the principal enactment as last amended by Act, No.22 of 2011 is hereby further amended in subsection (1), by the substitution for the words and figures "at the time of the issue of such corporate debt security.", of the words and figures "at the time of the issue of such corporate debt security:
- Provided that-
- (a) where such corporate debt security is issued with floating rate of interest payable for reviewing periods, such deduction shall be made at the time of beginning of each such reviewing period of interest rate;
  - (b) where any corporate debt security issued prior to April 1, 2011 and to which interest is payable on or after April 1, 2011 and in respect of which no deduction of income tax on interest has been made, such deduction shall be made at the time such interest is paid or credited;
  - (c) no deduction of income tax under this section shall be made from any interest or discount referred to in paragraph (o) of section 9."

30. Section 140 of the principal enactment is hereby amended as follows:-

    - (1) by the substitution for all the words from "Every bank" to the words "such payment," , of the words "Every bank or financial institution or company issuing corporate debt security, which is required to deduct income tax from the interest paid or credited or discount allowed, as the case may be, by it in any year of assessment to any person chargeable with income tax under this Act, shall deduct such income tax at the time when such interest is paid or when such security is issued or where such corporate debt security is issued with floating rate of interest, at the beginning of each reviewing period, as the case may be, to such person in accordance with any agreement entered into between such bank or financial institution or company and such person with respect to such payment,"; and
    - (2) in the marginal note to that section, by the substitution for the words "Duties of bank and financial institution", of the words "Duties of banks, financial institutions and companies".

31. Section 141 of the principal enactment is hereby amended by the substitution for all the words and figures from "any bank or financial institution" to the words "a penalty of a sum", of the words and figures "any bank or financial institution which pays interest or issues any debt security , or a company which issues corporate debt security, not deducting tax in accordance with the provisions of section 133 or section 135, as the case may be, he shall after affording such bank, financial institution or any such company, which pays interest or issues debt security or corporate debt security, as the case may be, an opportunity to show cause and where he is satisfied that there has been a contravention of the provisions of section 133 or section 135,

- impose on such bank or financial institution or the company, which pays interest or issues such debt security or corporate debt security, as the case may be, a penalty of a sum”.
32. Section 142 of the principal enactment is hereby amended by the substitution for the words “bank or financial institution” wherever such words occur in subsections (1), (2) and (3) of that section, of the words “bank or financial institution or company”, respectively.
33. Section 163 of the principal enactment, as last amended by Act, No.22 of 2011 is hereby further amended as follows:-
- (1) in subsection (1) of that section:-
    - (a) by the substitution in the proviso to that subsection, for the word “September”, of the word “November”;
    - (b) by the substitution in the further proviso to that subsection for the words and figures “paragraph (b) of subsection (1) of section 65 or paragraph (c) of subsection (2) of section 62”, of the words and figures “sub-paragraph (i) of paragraph (b) of subsection (1) of section 61 or paragraph (c) of subsection (1) of section 61 or paragraph (b) of subsection (1) of section 62”;
  - (2) in paragraph (b) of subsection (3), of that section by the substitution for the word “assemble income”, of the words “assessable income”;
  - (3) by the substitution for paragraph (a) of subsection (5) of that section, of the following paragraph:-
 

“(a) who or which has made a return of his or its income on or before the thirtieth day of November of the year of assessment immediately succeeding that year of assessment,

    - (i) where such year of assessment is any year of assessment commencing prior to April 1, 2013, shall be made after the expiry of a period of two years from the thirtieth day of November of the immediately succeeding year of assessment; and
    - (ii) where such year of assessment is any year of assessment commencing on or after April 1, 2013, shall be made after the expiry of a period of eighteen months from the thirtieth day of November of the immediately succeeding year of assessment.”; and
  - (4) by the addition immediately after subsection (9) of that section, of the following new subsection:-
 

“(10) Notwithstanding anything to the contrary in any other provisions of this Act, where the annual total turnover of any person other than a company for any year of assessment commencing prior to April 1, 2011 from every trade or business did not exceed rupees three hundred million and such person has not complied with the provisions of any tax law administered by the Commissioner - General, invests earnings so made by such person prior to April 1, 2011, in any trade or business, on or before March 31, 2014, and furnishes the return of income for any year of assessment commencing prior to April 1, 2014 together with an undertaking in writing that he shall comply with the requirements of this Act for any subsequent period, such return shall be accepted and no assessment or additional assessment shall be made on such person in respect of such year of assessment for which a return of income is so furnished and for five years of assessment immediately succeeding that year of assessment.”.
34. Section 172 of the principal enactment is hereby amended as follows:-
- (1) in subsection (2) of that section, by the substitution for the words “to the Board of Review.”, of the words and figures “to the Board of Review prior to April 1, 2011 or on or after April 1, 2011, to the Tax Appeals Commission.”; and
  - (2) in subsection (3) of that section, by the substitution for the words “apply to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review may”, of the words and figures “apply prior to April 1, 2011, to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review prior to April 1, 2011 or after April 1, 2011, the Tax Appeals Commission, as the case may be, may”.
35. Section 204A of the principal enactment as last amended by Act No.22 of 2011 is hereby further amended as follows:-
- (1) by the substitution for the words “provision of this Act or regulation, rule or order made thereunder”, of the words “provisions of this Act or any other Act administered by the Commissioner- General, or regulation, rule or order made thereunder”; and
  - (2) in the marginal note to that section, by the substitution for the words “the Act”, of the words “this Act or any other Act administered by the Commissioner-General”.

36. Section 208A of the principal enactment is hereby amended by the addition at the end of that section, of the following words:-  
 “The committee shall determine any request made to it for interpretation within six months from the date of receipt of such request.”.
37. Section 217 of the principal enactment as last amended by Act No. 8 of 2012 is hereby further amended in the definition of the expression “dividend” by the substitution in sub-paragraph (iv) of paragraph (a) for the words “dividend in specie; and”, of the following words:-  
 “dividend in species; or  
 (v) where a company buys back shares from its shareholders, the excess, if any, paid to any shareholder over the market price of such share quoted in the Colombo Stock Exchange or the market value of such share as the case may be, as at the date on which the shareholders of such company at a meeting approved such share buyback; and”.
38. The First Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended by the substitution for PART V of that Schedule, of the following Part:-

#### “PART V

The rate of income tax applicable to any sum referred to in the proviso to subsection (2) of section 35-

- |   |   |
|---|---|
| (a) for any year of assessment commencing prior to April 1, 2013    | as per PART I, PART 1A or PART IB, but subject to a maximum of 20 <i>per centum</i> |
| (b) for any year of assessment commencing on or after April 1, 2013 | as per PART IB, but subject to a maximum of 16 <i>per centum</i> .”.                |
39. The Second Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended by the addition, immediately after item 2 in PART A of that Schedule, of the following new item:-  
 “3. Any unit trust management company on the taxable income-
- |   |                         |
|---|-------------------------|
| (a) for any year of assessment commencing prior to April 1, 2013    | as per PART B           |
| (b) for any year of assessment commencing on or after April 1, 2013 | 10 <i>per centum</i> ”; |
40. The Fifth Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended as follows :-
- (1) by the substitution for item 22 of that Schedule, of the following item :-
- |  |                         |
|--|-------------------------|
| “22. The rate of income tax on profits and income referred to in section 58- |                         |
| (a) for any year of assessment commencing prior to April 1, 2011             | 15 <i>per centum</i>    |
| (b) for any year of assessment commencing on or after April 1, 2011          | 12 <i>per centum</i> ”; |
- (2) by the substitution for item 23 of that Schedule, of the following item :-
- |   |                         |
|---|-------------------------|
| “23. The rate of income tax on profits and income from transshipment agency fees referred to in section 59- |                         |
| (a) for any year of assessment commencing prior to April 1, 2011  | 15 <i>per centum</i>    |
| (b) for any year of assessment commencing on or after April 1, 2011   | 12 <i>per centum</i> ”. |
- (3) by the addition immediately after item 40 of that Schedule, of the following new items:-
- |  |  |
|--|--|
| “41. The rate of income tax applicable to such part of the profits and income of any person engaged in an undertaking for poultry farming referred to in section 46A – | As per the First Schedule, but subject to a maximum of 10 <i>per centum</i> for an individual, and 10 <i>per centum</i> for a company. |
| 42. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56A-                            | As per the First Schedule, but subject to a maximum of 12 <i>per centum</i> for an individual, and 12 <i>per centum</i> for a company. |
| 43. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56B-                            | As per the First Schedule, but subject to a maximum of 12 <i>per centum</i> for an individual, and 12 <i>per centum</i> for a company. |
| 44. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56C –                           | As per the First Schedule, but subject to a maximum of 12 <i>per centum</i> for an individual, and 12 <i>per centum</i> for a company. |

45. The rate of income tax applicable to such part of the profits and income of any person or partnership from any undertaking referred to in section 59E- As per the First Schedule, but subject to a maximum of 12 *per centum* for an individual, and 12 *per centum* for a company.”.
41. The amount of tax charged or collected from any person by or on behalf of the Commissioner - General, by virtue of the application of any provision of this Act, during the period commencing on April 1, 2013 and ending on the date on which the certificate of the Speaker is endorsed in respect of this Act, shall be deemed to have been validly and lawfully charged or collected under this Act by the Commissioner - General or by such person who charged or collected such tax on behalf of the Commissioner - General:
- Provided that the aforesaid provisions shall not affect any decision or order made by any Court or any proceedings pending in any Court in respect of any tax charged or collected during such period.
42. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

### **Betting and Gaming Levy (Amendment) Act, No. 19 of 2013**

[Certified on 24th April, 2013]

AN ACT TO AMEND THE BETTING AND GAMING LEVY ACT, NO. 40 OF 1988

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

1. This Act may be cited as the Betting and Gaming Levy (Amendment) Act, No. 19 of 2013 and shall be deemed for all purposes to have come into operation on January 1, 2013.
2. Section 2 of the Betting and Gaming Levy Act, No. 40 of 1988 (hereinafter referred to as the “principal enactment”), as last amended by Act, No.9 of 2005 is hereby amended by the insertion immediately after subsection (1) of that section of the following new subsections:-
 

“(1A) Every person who is liable to pay the levy under subsection (1) shall, in addition to the payment of such levy, be charged a levy at the rate of five *per centum*, on the gross collection of the businesses referred to in paragraphs (a) or (b) of subsection (1) carried on by him in respect of each month:

Provided however, the person who is liable to pay the levy under this subsection, shall not be liable to pay the Value Added Tax under the Value Added Tax Act, No.14 of 2002 or the Nation Building Tax under the Nation Building Tax Act, No.9 of 2009, on such collection:

Provided further, that any person whose gross collection in respect of the businesses referred to in paragraphs (a) or (b) of subsection (1) does not exceed one million rupees per month, such person shall not be liable to pay the levy required to be paid under this subsection.

(1B) Every person who is liable to pay the levy under subsection (1A), shall-

  - (a) on or before the twentieth day of the month following the end of the relevant quarter, furnish to the Commissioner General either in writing or by electronic means a return in such form and containing such particulars as may be specified by the Commissioner General, of the gross collection of such person; and
  - (b) pay such levy in respect of each month, on or before the end of the first week of the month following the end of that month.

(1C) Where any person who is liable to pay the levy under subsection (1A), fails to pay the levy thereof, the provisions of subsections (2), (3), (4), (5) and (6) of section 4 of this Act shall, *mutatis mutandis* apply in respect of such failure to pay the levy payable under subsection (1A).

(1D) For the purposes of this section-

  - (a) “gross collection” means the total amount recovered from the business of bookmaker or business of gaming in respect of that month ;
  - (b) “relevant quarter” means the period of three months commencing on the first day of January, first day of April, first day of July or first day of October of any year.”.
3. The following new section is hereby inserted immediately after section 2 of the principal enactment and shall have effect as section 2A of that enactment:-

- 2A. (1) Every person who, on or after January 1, 2013 carries on the business of a bookmaker or gaming, as is referred to in subsection (1) of section 2, shall register with the Department of Inland Revenue, within five months from the date of commencement of this Act or within one month from the date of commencement of the business as the case may be.
- (2) The Commissioner General shall issue a certificate of registration containing the name, address, registration number and any other particulars as may be determined by him to every person registered under subsection(1).
- (3) Every person who acts in contravention of the provisions of subsection (1), shall commit an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding ten million rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.”.
4. Section 7 of the principal enactment is hereby amended as follows :-
- (1) by the repeal of the definition of the expression “Assessor”, “Commissioner-General”, “Deputy Commissioner”, and “persons” and the substitution therefor of the following definition :-
- “Assessor”, “Commissioner-General”, and “Deputy Commissioner”, shall have the respective meanings assigned to them by section 59 of the Turnover Tax Act ;
- (2) by the addition immediately after the definition of expression “gaming” of the following :-
- “person” includes any company, body of persons, corporate or unincorporate or any partnership;”.
5. The amount of the levy charged and collected under subsection (1A) of section 2 of the principal enactment by or on behalf of the Commissioner-General by any person authorized under the principal enactment from any person during the period commencing from January 1, 2013 and ending on the date on which the certificate of the Speaker is endorsed in respect of this Act, shall be deemed to have been validly charged and collected by the Commissioner-General or by any such person under the principal enactment :
- Provided that the aforesaid provisions shall not affect any decision or order made by any Court or any proceedings pending in any Court in respect of any levy charged and collected during such period.
6. The Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefor:-

“Schedule

(section 2)

## PART I

The amount of the levy payable by a person carrying on the business of bookmaker for every year specified in Column I hereto, shall be equivalent to the amount specified in the corresponding entry in Column II hereto -

<i>Column I</i> Year	<i>Column II</i> Amount of Levy
1. For every year commencing on or after April 1, 1988, but prior to April 1, 2001.	One hundred thousand rupees.
2. For every year commencing on or after April 1, 2001, but prior to April 1, 2002.	One million rupees.
3. For every year commencing on or after April 1, 2002, but prior to April 1, 2005 -	
(i) Where live telecast facilities are used in carrying on business.	Thirty thousand rupees.
(ii) Where live telecast facilities are not used in carrying on the business.	Ten thousand rupees.
4. For every year commencing on or after April 1, 2005 but prior to April 1, 2006 for betting business carried out -	
(i) through Agents.	One million rupees.
(ii) by the use of live telecast facilities in carrying on the business.	Two hundred and fifty thousand rupees.
(iii) Where live telecast facilities are not used in carrying on the business.	Twenty five thousand rupees.
5. For every year commencing on or after April 1, 2006 but prior to April 1, 2013 for betting business carried out -	
(i) through Agents.	One million rupees.
(ii) by the use of live telecast facilities in carrying on the business.	Three hundred thousand rupees.
(iii) Where live telecast facilities are not used in carrying on the business.	Fifty thousand rupees.

- |   |                                |
|---|--------------------------------|
| 6. For every year commencing on or after April 1, 2013 for betting business carried out - |                                |
| (i) through Agents.   | Two million rupees.            |
| (ii) by the use of live telecast facilities in carrying on the business.                  | Three hundred thousand rupees. |
| (iii) Where live telecast facilities are not used in carrying on the business.            | Twenty five thousand rupees.   |

## PART II

The amount of the levy payable by a person carrying on the business of gaming for every year specified in Column I hereto, shall be equivalent to the amount specified in the corresponding entry in Column II hereto -

<i>Column I</i> Year	<i>Column II</i> Amount of Levy
1. For every year commencing on or after April 1, 1988 but prior to April 1, 2001.	One million rupees.
2. For every year commencing on or after April 1, 2001, but prior to April 1, 2002.	Twenty five million rupees.
3. For every year commencing on or after April 1, 2002, but prior to April 1, 2005-	
(i) For carrying on the business of gaming (other than for playing rudjino).	Twelve million rupees.
(ii) For carrying on the business of only playing rudjino.	Five hundred thousand rupees.
4. For carrying on the business of gaming including playing rudjino for every year commencing on or after April 1, 2005, but prior to April 1, 2013	Fifty million rupees.
5. For carrying on the business of gaming including playing rudjino for every year commencing on or after April 1, 2013.	One hundred million rupees."
7. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.	

### Tax Appeals Commission (Amendment) Act, No. 20 of 2013

[Certified on 24th April, 2013]

AN ACT TO AMEND THE TAX APPEALS COMMISSION ACT, NO. 23 OF 2011

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

1. This Act may be cited as the Tax Appeals Commission (Amendment) Act, No. 20 of 2013.
2. Section 2 of the Tax Appeals Commission Act, No. 23 of 2011 (hereinafter referred to as the "principal enactment") as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-
  - (1) in subsection (2) thereof, by the substitution for the words "not more than three members one of whom shall be" and the words "two other members" of the words "not more than nine members three of whom shall be" and "six other members" respectively.
  - (2) by the addition, immediately after subsection (2) thereof of the following new subsection:-
 

"(2A) The Chairman of the Commission shall constitute three panels comprising three members each, from among the members appointed under subsection (2) one of whom shall be a Judge as specified in subsection (2) to hear and determine any matter before the Commission."
3. Section 5 of the principal enactment is hereby amended by the substitution for the words "shall be five members." of the words "shall be seven members."
4. Section 7 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-
  - (1) by the repeal of subsection (1) thereof and the substitution therefor of the following:-
 

"(1) A person who is aggrieved by the determination -

    - (a) of the Commissioner-General of Inland Revenue appointed in terms of the Inland Revenue Act, (hereinafter referred to as the "Commissioner-General") given in respect of any matter relating to imposition of any tax, levy,

charge, duty or penalty under the provisions of any of the enactments specified in Column I of Schedule I, or Schedule II to this Act; or

(b) of the Director-General of Customs (hereinafter referred to as the "Director-General") given in respect of any matter specified in subsection (1A) of section 10 of the Customs Ordinance (Chapter 235), may appeal to the Commission in accordance with the provisions hereinafter set out:

Provided that, every person who wishes to appeal to the Commission under paragraph (a) shall, at the time of making of such appeal, be required to pay into a special account which shall be opened and operated by the Commission for such purpose, an amount-

(a) as is equivalent to ten *per centum* which is non-refundable; or  
 (b) as is equivalent to twenty five *per centum* which is refundable subject to subsection (1A) of this section or a bank guarantee for the equivalent amount which shall remain valid until the appeal is determined by the Commission, of the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.";

(2) by the insertion immediately after subsection (1) thereof, of the following new subsection:-

"(1A) (a) The amount referred to in paragraph (a) or (b) of the proviso to subsection (1), as the case may be, shall be transferred to the Commissioner-General upon the determination of the respective appeal to which such amount is applicable and which shall be set off against the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.

(b) Any excess of the amount referred to in paragraph (b) of the proviso to subsection (1), may be set off against the taxes due and which are administrated by the Commissioner-General. Where any balance if any of such amount shall be refunded to the appellant on request made in that behalf in writing to the Commissioner-General.";

(3) in subsection (2) of that section, by the substitution for the words and figures "specified in Column I of Schedule I and Schedule II to this Act" of the words and figures "specified in paragraphs (a) and (b) of subsection (1) of section 7";

(4) in subsection (3) of that section, by the substitution for the words "notification to the Commissioner-General" of the words "notification to the Commissioner-General or the Director-General, as the case may be."

5. Section 8 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No. 4 of 2012 is hereby repealed and the following is substituted therefor :-

8. (1) Any person aggrieved by the determination of-

(a) the Commissioner-General, in respect of any matter relating to the imposition of any tax, levy, charge, duty or penalty; or

(b) the Director-General under subsection (1B) of section 10 of the Customs Ordinance (Chapter 235), may if he is dissatisfied with the reasons stated by the Commissioner-General or the Director-General, as the case may be, prefer the appeal therefrom to the Commission within thirty days from the date of receipt of such reasons; or

(2) Where the Director-General fails to give such determination within the time period specified in subsection (1B) of section 10 of the said Ordinance, such person also may appeal to the Commission at the expiration of the time period specified in subsection (1B) of section 10 of the said Ordinance.

(3) The manner and the form of submitting such appeal, the procedure to be followed by the Commission in the hearing and determining of such appeal and the fees if any in respect thereof shall be determined by the Commission by rules made, from time to time, in that behalf."

6. Section 9 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby further amended as follows:-

(1) in subsection (1) thereof, by the substitution for the words "to the Commissioner-General." of the words "to the Commissioner-General or the Director-General, as the case may be.";

(2) in subsection (2) thereof, by the substitution for the words "The Commissioner-General shall" and the words and figures

“specified in Column I of Schedule I and Schedule II to this Act”, of the words “The Commissioner-General or the Director-General, as the case may be, shall” and the words and figures “specified in Column I of Schedule I or Schedule II to this Act or any applicable provisions of the Customs Ordinance (Chapter 235), as the case may be,”;

(3) by the repeal of subsection (4) thereof and the substitution therefor of the following:-

“(4) (a) in respect of an appeal under paragraph (a) of subsection (1) of section 7, the Assessor who made the assessment appealed against or a person authorized by the Commissioner-General in that behalf; or

(b) in respect of an appeal under paragraph (b) of subsection (1) of section 7, any officer authorized by the Director-General in that behalf,

Shall attend the hearing of the Commission at which such appeal is heard, in support of the determination of the Commissioner-General or the Director-General, as the case may be.”.

(4) in subsection (5) thereof, by the substitution for the words and figures “specified in Column I of Schedule I and Schedule II to this Act,” of the words “specified in Column I of Schedule I or Schedule II to this Act,”;

(5) in subsection (8) thereof, by the substitution for the words “Commissioner-General” wherever those words appear of the words “Commissioner-General or the Director-General, as the case may be,”

(6) in subsection (10) thereof, by the substitution for the words “as stated in the decision of the Commission. The decision of the Commission shall be notified to the appellant and the Commissioner-General in writing.” of the words “as stated in the decision of the Commission.”

(7) by the addition immediately after subsection (10) thereof the following:-

“(11) The decision of the Commission shall be final and be notified to the appellant, and the Commissioner-General or the Director-General as the case may be.”.

7. Section 10 of the principal enactment as last amended by the Tax Appeals Commission (Amendment) Act, No.4 of 2012 is hereby amended by the substitution for all the words commencing from “two hundred and seventy days” to the end of that section, of the following:-

“two hundred and seventy days from the date of the commencement of its sittings for the hearing of each such appeal:

Provided that, all appeals pending before the respective Board or Boards of Review in terms of the provisions of the respective enactments specified in Column I of Schedule I, or Schedule II to this Act, notwithstanding the fact that such provisions are applicable to different taxable periods as specified therein shall with effect from the date of coming into operation of the provision of this Act be deemed to stand transferred to the Commission, and the Commission shall notwithstanding anything contained in any other written law make its determination in respect thereof, within twenty four months from the date on which the Commission shall commence its sittings for the hearing of each such appeal.”.

8. The following new section is hereby inserted immediately after section 11 of the principal enactment and shall have effect as section 11A of that enactment:-

11A.(1) Either the person who preferred an appeal to the Commission under paragraph (a) of subsection (1) of section 7 of this Act (hereinafter in this Act referred to as the “appellant”) or the Commissioner-General may make an application requiring the Commission to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the secretary to the Commission, together with a fee of one thousand and five hundred rupees, within one month from the date on which the decision of the Commission was notified in writing to the Commissioner-General or the appellant, as the case may be.

(2) The case stated by the Commission shall set out the facts, the decision of the Commission, and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party requiring the Commission to state such case shall transmit such case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.

(3) For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982 -

(a) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees or of such greater amount as is set out by the Commission in the stated case as the amount of the tax in dispute;



- (b) every such case stated shall, together with all books, documents and papers annexed thereto by the Commission, be deemed to be a single exhibit in civil proceedings before the Court of Appeal; and
- (c) the Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtue officii*.
- (4) At or before the time when he transmits the stated case to the Court of Appeal, the party requiring it shall send to the other party, a notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.
- (5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Commission for amendment, and the Commission shall amend the case accordingly.
- (6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of Court upon such question, confirm, reduce, increase or annul the assessment determined by the Commission, or may remit the case to the Commission with the opinion of the Court, thereon. Where a case is so remitted by the Court, the Commission shall revise the assessment in accordance with the opinion of the Court.
- (7) The Court of Appeal may, pending the determination of the case stated to such Court, make an interim determination as regards the amount of tax recoverable by the Commissioner-General in respect of the amount of tax in dispute, on the basis of a report furnished by the Commissioner-General.
- (8) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.
- (9) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6), and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal -
- (a) an order made by the Court of Appeal under subsection (6) shall, together with any order of that Court under subsection (8), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party;
- (b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees: Provided that, where the Commission in the stated case, set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and
- (c) in respect of any such appeal, the Commissioner-General shall not be required to make any deposit or pay any fee or furnish any security prescribed by such written law."
9. Section 13 of the principal enactment is hereby amended by the repeal of that section and the substitution therefor of the following:-
13. The provisions of the enactments specified in Column I of Schedule I are hereby amended or repealed in the sections or parts thereof as are specified in Column II of that Schedule to the extent and in the manner as shall be specified therein."
10. Section 13A of the principal enactment is hereby repealed.
11. The following new section is hereby inserted immediately after section 13 of the principal enactment and shall have effect as section 13A of that enactment:-
- 13A. For the purposes of this Act, unless the context otherwise requires-
- "Assessor" shall have the same meaning as assigned to it in the Inland Revenue Act;
- "Inland Revenue Act" means the Inland Revenue Act, No. 10 of 2006 and includes where necessary and appropriate, the Inland revenue Act, No. 28 of 1979 and Inland Revenue Act, No. 38 of 2000."
12. The Schedule I of the principal enactment is hereby repealed and the following new Schedule is substituted therefor:-

"Schedule I	
<i>Column I</i>	<i>Column II</i>
<i>Names of Enactments</i>	<i>Applicable Amendment</i>
1. Inland Revenue Act, No. 10 of 2006	(a) by the repeal of sections 166, 167, 168, 169 and 170; and

- (b) by the substitution in subsection (2) and (3) of section 172 thereof for the words "Board of Review" of the words and figures "Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011".
- Inland Revenue Act, No.38 of 2000
- (a) by the repeal of sections 137, 138, 139, 140 and 141 ; and  
(b) by the substitution in subsection (2) and (3) of section 143 thereof for the words "Board of Review" of the words "Tax Appeals Commission established by the Tax Appeals Commission Act, No.23 of 2011".
- Inland Revenue Act, No.28 of 1979
- (a) by the repeal of sections 118, 119, 120, 121 and 122 ; and  
(b) by the substitution in subsection (2) and (3) of section 124 thereof for the words "Board of Review" of the words "Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011".
2. Value Added Tax Act, No.14 of 2002 by the repeal of sections 35 and 36
3. Nation Building Tax Act, No.9 of 2009 Section 8 is hereby amended by the substitution for the words and figures "Chapter XXII relating to appeals other than sections 166, 167, 168 and 169 of the words and figures "Chapter XXIII relating to appeals other than sections 166, 167, 168, 169 and 170."
4. Economic Service Charge Act, No.13 of 2006 Section 11 is hereby amended by the substitution for the words "relating respectively to appeals" of the words and figures "relating respectively to appeals other than the provisions in sections 166, 167, 168, 169 and 170"
5. Stamp Duty (Special Provisions) Act, No. 12 of 2006. Section 11 of the Stamp Duty (Special Provisions) Act is hereby amended by the substitution for the words "Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessment, Appeals, Determination of Appeals" of the words "Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessments, Appeals, Determination of Appeals, other than sections 166, 167, 168, 169 and 170 relating to appeals to Board of Review"
13. Schedule II of the principal enactment is hereby amended by the insertion immediately after item 2, of the following:-
- "3. Finance Act, No.11 of 2004.  
4. Debits Tax Act, No.16 of 2002."
14. (1) The amendments made to the principal enactment [other than the amendments made to section 2, the proviso to subsection (1) of section 7 and the amendments made in relation to the appeals under the Customs Ordinance (Chapter 235)] by the provisions of this Act shall be deemed for all purposes to have come into force on April 1, 2011.
- (2) The amendment made to section 2 of the principal enactment by the Tax Appeals Commission Act, No.4 of 2012 shall be deemed for all purposes to have come into force on March 31, 2011 and any act or decision made by the Commission during the period commencing on March 31, 2011 up to the date of coming into operation of this Act shall be deemed to have for all purposes to have been validly made.
15. For the avoidance of doubts, it is hereby declared, that the Commission shall have the power in accordance with the provisions of the principal enactment as amended by this Act, to hear and determine any appeal that was deemed transferred to the Commission under section 10 of the principal enactment, notwithstanding the expiry of the twelve months granted for its determination by that section, prior to its amendment by this Act.
16. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.