

PART IV

PART IV

MAJOR LEGISLATIVE ENACTMENTS OF 2009 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

	Page
1. Nation Bulding Tax Act, No. 9 of 2009	1
2. Finance (Amendment) Act, No. 13 of 2009	6
3. Excise (Special Provisions) (Amendment) Act, No. 14 of 2009	7
4. Value Added Tax (Amendment) Act, No. 15 of 2009	8
5. Economic Service Charge (Amendment) Act, No. 16 of 2009	12
6. Debit Tax (Amendment) Act, No. 17 of 2009	14
7. Finance (Amendment) Act, No. 18 of 2009	14
8. Inland Revenue (Amendment) Act, No. 19 of 2009	16
9. Nation Building Tax (Amendment) Act, No. 32 of 2009	23
10. Securities and Exchange Commission of Sri lanka (Amendment) Act, No. 47 of 2009	24
11. Secured Transactions Act, No. 49 of 2009	24
12. Employees' Provident Fund (Special Provisions) (Amendment) Act, No. 55 of 2009	33

Nation Building Tax Act, No.9 of 2009

[Certified on 11th March, 2009]

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A TAX TO BE CALLED THE NATION BUILDING TAX ON THE LIABLE TURN-OVER OF EVERY PERSON TO WHOM THIS ACT APPLIES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR 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 Nation Building Tax Act, No. 9 of 2009 and shall come into operation on February 1, 2009.
2. (1) The provisions of this Act shall apply to every person who –
 - (a) imports of any article, other than any article comprised in the personal baggage of the passenger, into Sri Lanka, [“baggage” shall have the same meaning as in section 107A of the Customs Ordinance (Chapter 235)]; or
 - (b) carries on the business of manufacture of any article; or
 - (c) carries on the business of providing a service of any description.

(2) Every person referred to in subsection (1) shall, hereafter in this Act, be referred to as “person to whom this Act applies”.
3. (1) A tax to be called the “Nation Building Tax” (hereinafter referred to as “the Tax”) shall, subject to the provisions of this Act, be charged from every person to whom this Act applies calculated at the rate of one *per centum*, in the following manner:-
 - (i) in the case of a person referred to in paragraph (a) of subsection (1) of section 2, who imports any article into Sri Lanka on or after January 1, 2009 the tax shall be chargeable in respect of the liable turnover of such person arising from the importation into Sri Lanka of such article; and
 - (ii) in the case of a person referred to in paragraph (b) or (c) of subsection (1) of section 2, for ever quarter commencing on or after January 1, 2009 (hereinafter referred to as “relevant quarter”, the tax shall be chargeable in respect of the liable turnover of such person for such relevant quarter.

(2) In this section “liable turnover”–

 - (i) with reference to any person referred to in paragraph (a) of subsection (1) of section 2 arising from the importation of any article, means the value of that article ascertained for the purpose of Value Added Tax under section 6 of the Value Added Tax Act, No. 14 of 2002;
 - (ii) with reference to any person and to any relevant quarter referred to in paragraph (b) of subsection (1) of section 2, means the sum receivable whether received or not from the sale in Sri Lanka, in that quarter, of every article manufactured by such person;
 - (iii) with reference to any person referred to in paragraph (c) of subsection (1) of section 2 and to any relevant quarter means the sum receivable, whether received or not, from the provision in Sri Lanka of any service referred to in that paragraph.

(3) Notwithstanding the provisions of subsection (2), the liable turnover for any relevant quarter of any person to whom this Act applies, referred to in paragraph (ii) or (iii) of that section shall not include -

 - (i) any bad debt incurred by such person in that quarter;
 - (ii) any value added tax under the Value Added Tax Act, No. 14 of 2002 paid in that relevant quarter;

- (iii) any excise duty under the Excise Duty (Special Provisions) Act, No. 13 of 1989, paid in that quarter

Provided however, any bad debt recovered in any relevant quarter, shall be included in the relevant turnover of that relevant quarter.

- (4) Notwithstanding the provisions of subsection (1), the tax shall not be chargeable from any person referred to in paragraph (b) or paragraph (c) of subsection (1) of section 2, for any relevant quarter if—

- (i) liable turnover of such person for that relevant quarter does not exceeds the sum of six hundred and fifty thousand rupees;
- (ii) such person has paid for that relevant quarter optional Value Added Tax under Chapter III B of the Value Added Tax Act, No. 14 of 2002.

4. Every person to whom this Act applies, being a person referred to in paragraph (b) or paragraph (c) of subsection (1) of section 2 shall, notwithstanding that no assessment has been made on him for any relevant quarter, pay—

- (i) an amount equivalent to one third of the Tax payable for that relevant quarter on or before the twentieth day of the second month of that relevant quarter;
- (ii) an amount equivalent to one third of the Tax payable for that relevant quarter on or before the twentieth day of the third month of that relevant quarter; and
- (iii) an amount equivalent to the balance of the Tax payable for that relevant quarter on or before the twentieth day of the month immediately succeeding the end of that relevant quarter, or the Commissioner General, in such manner as may be specified by him in that behalf.

For the purpose of this section the expression “one third of the tax payable” in relation to any relevant quarter means one third of the Tax calculated on the sum estimated by such person to be the liable turnover for that relevant quarter.

5.

- (1) The Director General of Customs shall collect from every person referred to in paragraph (a) of subsection (1) of section 2, the tax chargeable from such person in respect of every article imported by such person, at the time such article is imported, and shall make an endorsement on the import invoice relating to such article specifying the amount so collected.
- (2) Any amount collected by the Director General of Customs in accordance with the preceding provisions of this section in relation to any article imported by any person to whom this Act applies shall be deemed to be the Tax chargeable in respect of the liable turnover arising from the importation of such article and shall be deemed to have been paid by such person to the Commissioner-General on the day on which such amount was so collected.
- (3) Any amount collectible under subsection (1) shall for the purpose of collection and recovery of such amount and notwithstanding anything to the contrary in this Act, be deemed to be customs duty chargeable under the Customs Ordinance and accordingly, the provisions of the Customs Ordinance shall apply to the collection and recovery of such amount.
- (4) Where any article imported into Sri Lanka is sold—
 - (i) by the Director General of Customs for the recovery of any duty, levy or any charge collectible under the Customs Ordinance; or
 - (ii) by the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act, No. 51 of 1979, for the recovery of any dues collectible under that Act; or
 - (iii) by the Commissioner General,

the purchaser of such article shall be deemed to be a person referred to in paragraph (a) of subsection (1) of section 2, and the provisions of this Act shall apply to him accordingly.

6. Where any person to whom this Act applies, being a person referred to in paragraph (b) of subsection (1) of section 2 –

- (i) is deemed, by virtue of subsection (2) of section 5 to have paid in any relevant quarter, the tax in respect of any article imported by him;
- (ii) has paid the tax under section 4 in respect of any article purchase by him from another person referred to in that paragraph,

being in either case an article which is used exclusively in his business of manufacture, he shall be entitled to credit for the tax so paid against the tax payable under section 4 for that relevant quarter:

Provided that where such credit for any relevant quarter exceeds the tax so payable for that quarter, the excess shall be deemed to be an advance payment of the tax made under section 4 for the relevant quarter immediately succeeding that relevant quarter.

7. Every person to whom this Act applies, being a person referred to in paragraph (b) or paragraph (c) of subsection (1) of section (2) whose liable turnover for any relevant quarter exceeds the sum referred to in subsection (4) of section 3, shall give notice in writing to the Commissioner General, of his chargeability to the tax for that quarter, not later than the fifteenth day of the last month of that relevant quarter. The notification shall disclose the name, the postal address, the taxpayer-identification number if any, or the income tax file number if any, and such other information as the Commissioner General may specify by Order published in the *Gazette*.

8. The provisions in sections 106, 107, 108 and 112 of Chapter XII relating to Returns etc, Chapter XXII relating to Assessments, Chapter XXIII relating to Appeals, Chapter XXIV relating to Finality of Assessments and Penalty for Incorrect Returns, Chapter XXV relating to Tax in Default and Sums Added Thereto, Chapter XXVI relating to Recovery of Tax, Chapter XXVII relating to Miscellaneous, Chapter XXIX relating to Penalties and Offences, Section 209 of Chapter XXX relating to Administration and Chapter XXXI on General matters, of the Inland Revenue Act, shall *mutatis mutandis* apply to the furnishing of returns, assessments, appeal against assessments, finality of assessments and penalty for incorrect returns, tax in default and sums added thereto, recovery of tax, miscellaneous, penalties and offences, administration and general matters under this Act subject to the following modifications:

- (a) every reference to the year of assessment in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the “relevant quarter” in this Act;
- (b) every reference to assessable income or taxable income in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the “liable turnover” in this Act; and
- (c) every reference to income tax in any such provision of the Inland Revenue Act, shall be deemed to be a reference to the tax charged and levied in terms of the provisions of this Act.

9. In this Act, unless the context otherwise requires, –

“article” includes any goods, material or any agricultural or horticultural produce, but does not include any excepted article specified in Part I of the Schedule to this Act;

“body of persons”, “business”, “Commissioner General” and “company” shall have the same respective meanings which they have in the Inland Revenue Act;

“Inland Revenue Act” means the Inland Revenue Act, No. 10 of 2006 ;

“manufacture” means any process for

- (i) making an article;
- (ii) assembling or joining any article whether by chemical process or otherwise;

- (iii) adapting for sale any article;
- (iv) packaging, bottling, putting into boxes, cutting into pieces, cleaning, polishing, wrapping, labeling, or in any other way whatsoever preparing for sale any article otherwise than in a retail stores for the purpose of sale in such store exclusively and directly to the consumer;

“person” includes any company, body of persons or any partnership;

“quarter” means the period of three months commencing on the first day of January, April, July or October of any year:

Provided that the quarter which commences on the first of February 2009 shall comprise two months;

“service” does not include any excepted service specified in Part II of the Schedule to this Act; and

“year” means a calendar year.

SCHEDULE

PART I

EXCEPTED ARTICLES

- (i) any article exported by the manufacture of such article;
- (ii) any article not being plant, machinery or fixtures imported by any person exclusively for use in, or for, the manufacture of any article for export;
- (iii) any article sold to any person to whom this Act applies exporter if the Commissioner General is satisfied, on the production of a letter of credit opened in any bank in Sri Lanka in respect of the export of that article or other documentary evidence that such article has in fact been exported from Sri Lanka;
- (iv) any article which is imported, if proved to the satisfaction of the Commissioner General of Inland Revenue, that such article is imported to Sri Lanka for-
 - (i) display at an exhibition;
 - (ii) the temporary use in Sri Lanka in any project approved by the Minister;
 - (iii) for the purposes of repairs to that article to be carried out in Sri Lanka; or
 - (iv) any other similar purpose, and is to be re-shipped, within a period of one year from the date of importation of such article to Sri Lanka;
- (v) any article imported, if proved to the satisfaction of the Director General of Customs, that such article was, prior to its importation, taken out of Sri Lanka for repairs;
- (vi) any cinematographic film or teledrama produced in Sri Lanka and taken out of Sri Lanka for further processing or printing with the approval of the National Film Corporation;
- (vii) any spare part imported by any airline or shipping company, if proved to the satisfaction of the Commissioner-General, that such spare part is to be used for the maintenance of any aircraft of ship, used in international traffic and owned or chartered by such airline or shipping company;
- (viii) any article sold, to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister on the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission;
- (ix) any article imported if such article is subject to the Special Commodity Levy charged under the Special Commodity Levy Act, No. 48 of 2007;
- (x) Fertilizer;
- (xi) Petroleum and Petroleum products;

- (xii) L. P. Gas;
- (xiii) Pharmaceuticals; and
- (xiv) Tea supplied by the Manufacturer being a manufacturer registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No. 14 of 1975, to any registered broker for sale at the Colombo Tea Auctions.

PART II

EXCEPTED SERVICES

the following services –

- (i) the business of Banking or Finance;
- (ii) supply of electricity;
- (iii) medical services;
- (iv) supply of water;
- (v) transport of goods or passengers
- (vi) leasing of movable properties;
- (vii) service of a construction contractor, not being a sub-contractor, insofar as such services are in respect of constructing any building, road, bridge, water supply, drainage or sewerage system, harbour, airport or any infrastructure project in telecommunication or electricity;
- (viii) services provided to any exporter of any article, being services directly related to improving the quality and character of such article;
- (ix) the services of sewing garments provided to any exporter of such garments;
- (x) services of a freight forwarder, shipping agent licensed under the Licensing of Shipping Agents Act, No. 10 of 1972 or courier insofar as such services are in respect of the exporter of any article from Sri Lanka;
- (xi) services provided by a public corporation, insofar as such services are in respect of the export of any article from Sri Lanka;
- (xii) operating a hotel, guest house, restaurant or other similar business, if such hotel, guest house, restaurant or other similar business is registered with the Ceylon Tourist Board;
- (xiii) the services of an auctioneer, broker, insurance agent or commission agent of any local produce;
- (xiv) the services of a travel agent in respect of inbound tours, if such person is registered with the Ceylon Tourist Board;
- (xv) services of a computer software developer in respect of software developed by such person for use wholly outside Sri Lanka and for which payment is received in foreign currency through a bank;
- (xvi) services provided over the Internet, using custom-built software, by an enterprise, exclusively for the provision of such services being services enabling or facilitating the sale of goods, or for the provision of services, by a person in Sri Lanka to person outside Sri Lanka, for payment in foreign currency;
- (xvii) client support services provided over the internet or telephone, by an enterprise, exclusively for the provision of such services, to one or more identified clients outside Sri Lanka, for payment in foreign currency;
- (xviii) the business of life insurance;
- (xix) distribution or production and supply, of any cinematographic films primarily for exhibition in cinemas;
- (xx) exhibiting films in a cinema;
- (xxi) any service provided to the United Nations Organization or to any specialized agency of such organization or to the diplomatic mission of any foreign Government or to any member of the diplomatic staff of such mission or to any other person approved by the Minister of the recommendation of the Minister of Foreign Affairs as being of the status of a diplomatic mission; and

- (xxii) any service rendered in or outside Sri Lanka to any person or partnership outside Sri Lanka for payment in foreign currency if such foreign currency is remitted to Sri Lanka through a bank.

Finance (Amendment) Act, No. 13 of 2009

[Certified on 31st March, 2009]

AN ACT TO AMEND THE FINANCE ACT, NO. 11 OF 2002 AND THE FINANCE ACT, NO. 11 OF 2004

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 (Amendment) Act, No. 13 of 2009.

PART I

AMENDMENT OF FINANCE ACT, NO. 11 OF 2002

2. Part I (Port and Airport Development Levy) of the Finance Act, No. 11 of 2002 (as last amended by Act, No. 48 of 2006), is hereby further amended in section 2 thereof by the repeal of the proviso to that section and the substitution therefor of the following: -

“ Provided that, in respect of the cost, insurance and freight value of any article referred to above, there shall be charged and levied—

- (a) for the period commencing on November 19, 2004 and ending on December 31, 2005, a levy at the rate of 1.5 *per centum*;
- (b) for the period commencing on January 1, 2006 and ending on December 31, 2006, a levy at the rate of 2.5 *per centum*;
- (c) for the period commencing on January 1, 2007 and ending on December 31, 2008, a levy at the rate of 3.0 *per centum*; and
- (d) for the period commencing on January 1, 2009 a levy at the rate of 5.0 *per centum*.”.
3. The provisions of this Part shall be deemed for all purpose to have come into operation on January 1, 2009.
4. Where the Director-General of Customs collects during the period—
- (a) commencing on May 1, 2002 and ending on July 8, 2002 ; and
- (b) commencing on January 1, 2009 and ending on the date of the commencement of this Act,

from a person importing any article, an amount equal to the amounts specified in section 2 of the principal enactment on the cost, insurance and freight value of such article, such collection, shall be deemed for all purposes to have been, and to be, validly made, and the Director-General of Customs is hereby indemnified against all action, civil or criminal, in respect of such collection.

PART II

AMENDMENT OF FINANCE ACT, No. 11 OF 2004

5. Part II (Cellular Mobile Telephone Subscribers' Levy) of the Finance Act, No. 11 of 2004 (hereinafter referred to as the "principal enactment") as last amended by Act, No. 7 of 2008 is hereby further amended by the substitution for the words "mobile or cordless land telephone" or "cellular mobile telephone" wherever such words occur in that Part of the word "telephone".
6. Section 14 of the principal enactment is hereby amended by the substitution for the words "Value Added Tax Act, No. 14 of 2002:" of the following:-

"Value Added Tax Act, No. 14 of 2002:

Provided that such value shall not include the amount collected by a telephone operator from the user of such telephone as consideration for the service provided to such user by a third party.

"telephone operator" means the operator of a mobile or fixed wireless or fixed wire line telephone.".

7. The amendments made to Part 11 and section 14 of the principal enactment by this Act shall be deemed for all purposes to have come into operation with effect from January 15, 2009.
8. The amount of the levy charged and collected by any Licensed Telephone Operator from any user, during the period commencing from January 15, 2009 and ending on the date of commencement of this Act, shall be deemed to have been so validly charged and levied and such operator is hereby indemnified from any action civil or criminal in respect of the collection of such levy.
9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

**EXCISE (SPECIAL PROVISIONS) (AMENDMENT)
ACT, No. 14 OF 2009**

[Certified on 31st March, 2009]

AN ACT TO AMEND THE EXCISE (SPECIAL PROVISIONS)
ACT, No. 13 OF 1989

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 (Special Provisions) (Amendment) Act, No. 14 of 2009.
2. Section 5 of the Excise (Special Provisions) Act, No. 13 of 1989 is hereby amended in sub-paragraph (iii) of paragraph (b) of subsection (2) thereof, by the substitution for the words "an amount equal to the total of all taxes, cesses and levies payable in respect of the import of such article, under any written law", of the words, "an amount equal to the total of customs duty, surcharge, cesses, port and airport development levy and value added tax.".
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Value Added Tax (Amendment) Act No. 15 of 2009

[Certified on 31st March, 2009]

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. 15 of 2009.
2. (1) Section 2 of the Value Added Tax Act, No. 14 of 2002, (hereinafter referred to as “the principal enactment”) is hereby amended as follows: -
 - (a) in sub-paragraph (iii) of subsection (1) of that section, by the substitution for the words and figures “any taxable period commencing on or after January 1, 2005” of the words and figures, “any taxable period commencing on or after January 1, 2005, but prior to January 1, 2009”;
 - (b) in subparagraph (v) of subsection (1) of that section by the repeal of all the words and figures from “(v) for any taxable period” upto the words “the Fourth Schedule of this Act” and the substitution therefor of the following:-
 - “(v) (i) for any taxable period commencing on or after January 1, 2005 but prior to January 1, 2009, at the rate of fifteen *per centum* (Standard rate) (of which the Tax Fraction is 3/23) on the value of such goods or services supplied or goods imported other than in respect of the following: -
 - (a) goods or services chargeable with tax at zero *per centum*; and
 - (b) goods or services specified in the Fourth Schedule of this Act;
 - (ii) for any taxable period commencing on or after January 1, 2009, at the rate of twelve *per centum*, (Standard rate) (of which the Tax Fraction is 3/28) on the value of such goods or services supplied or goods imported other than in respect of-
 - (a) goods or services chargeable with tax at zero *per centum*; and
 - (b) goods or services specified in the Fourth Schedule of this Act;”.
 - (c) by the repeal of paragraph (d) of subsection (2) of that section and the substitution therefor of the following-
 - “(d) on the supply with the approval of Export Development Board established by the Sri Lanka Export Development Board Act, No. 40 of 1979 with the concurrence of the Minister of the Ministry in charge of the subject of finance -
 - (i) of any goods manufactured in Sri Lanka by such suppliers and supply by such supplier to any manufacturer to be utilized for the purpose of manufacture of goods other than the goods referred to in paragraph (c) of this subsection by such manufacturers who are registered with the Export Development Board as exporters; or
 - (ii) of any service by such suppliers provided to any manufacturer which results in the improvement of the quality, character or value of any goods manufactured by such manufacturer of goods for export who is registered with Export Development Board as an exporter, being a service provided by such suppliers approved by the Export Development Board established under the Sri Lanka Export Development Board Act, No. of 40 of 1979 as a supply of services identified for this purposes,

Until such time as the activities of such manufacturers or service providers are monitored by the Export Development Board with the approval of the Ministry of the Minister in charge of the subject of Finance and the Export Development Board, furnishes the reconciliation on the disposal of such goods on a quarterly basis as stipulated by the Commissioner-General to the satisfaction of the Commissioner-General, that such finished products are in fact exported by the recipient of the supplies.”.

3. Section 10 of the principal enactment is hereby amended as follows: -

- (1) in subsection (1) of that section, by the repeal of all the words and figure from “(10) (1) every person who”, upto the words “to exceed one million and eight hundred thousand rupees” and the substitution therefor of the following:

“10. (1) Every person who—

- (i) on or after August 1, 2002, but prior to January 1, 2009, 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 his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period of one month or three months, as the case may be, has exceeded five hundred thousand rupees; or
- (b) in the twelve months period then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded one million and eight hundred thousand rupees; or
- (c) at any time, there are reasonable grounds to believe that the total value of his taxable supplies in Sri Lanka of goods or services or goods and services in the succeeding one month or three months taxable period, as the case may be, is likely to exceed five hundred thousand rupees or in the succeeding twelve months period is likely to exceed one million and eight hundred thousand rupees.”.

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

- “(ii) on or after January 1, 2009 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 his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period of one month or three months, as the case may be, has exceeded six hundred and fifty thousand rupees; or
- (b) in the twelve months period then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded two million and five hundred thousand rupees; or
- (c) at any time, there are reasonable grounds to believe that the total value of his taxable supplies in Sri Lanka of goods or services or goods and services in the succeeding one month or three months taxable period, as the case may be, is likely to exceed six hundred and fifty thousand rupees or in the succeeding twelve months period is likely to exceed two million and five hundred thousand rupees.”.

4. Section 22 of the principal enactment is hereby amended as follows: -

- (1) in the fourth proviso to subsection (3) of that section, by the substitution for the words “this Act shall be restricted to fifteen *per centum* other than” of the words “this Act shall be restricted to twelve *per centum* other than”;
- (2) in subparagraph (i) of paragraph (b) of the second proviso to subsection 5 by the substitution for the words “an insurance bond by a registered person” of the words “an insurance bond by a registered person to the value as determined by the Commissioner-General”;
- (3) in subparagraph (iv) of subsection (6) of that section by the substitution for all the words and figures “(iv) if the input tax on any invoice” upto the words “the return for that taxable period” of the following: -
- “(iv) if the input tax on—
- (a) any invoice referred to in paragraph (iii) has not been deducted as provided for in this Act, from the output tax for any taxable period ending on or before the expiry of twelve months from the date of such tax invoice, by furnishing within the said period of twelve months the return for that taxable period; or

- (b) any customs declaration referred to in paragraph (iii), has not been deducted as provided for in this Act, from the output tax for any taxable period ending on or before the expiry of twenty four months from the date of such customs declaration, by furnishing within the said period of twenty four months the return for that taxable period;”

5. Section 25A of the principal enactment is hereby amended as follows: -

- (1) in paragraph (ii) of subsection (1) of that section, by the substitution for the words and figures “prior to December 31, 2007; and” of the words and figures “prior to December 31, 2007;”;
- (2) in paragraph (iii) of that subsection, by the substitution for the words and figures “the Co-operative Societies Law, No. 5 of 1972 , on or after January 1, 2008 but prior to January 1, 2009; and
- (3) by the addition immediately after paragraph (iii) of that subsection, of the following new paragraph :-

“(iv) by any person other than a Co-operative Society registered under the Co-operative Society Law, No. 5 of 1972, or Lady Lochore Loan Fund established under the Act, No. 38 of 1951, commencing on or after January 1, 2009”.

6. Section 25I of the principal enactment is hereby amended as follows:-

- (1) paragraph (b) of subsection (1) of that section , by the substitution for the words “such person or partnership exceeds rupees two million five hundred thousand per year, which ever occurs first.” of the following:-

“(i) such person or partnership –

- (a) exceeds rupees two million five hundred thousand per year for any period prior to January 1, 2009;
- (b) exceeds rupees three million per year for any period commencing on or after January 1, 2009, whichever occurs first.”;

- (2) in paragraph (a) of subsection (2) of that section, by the repeal of subparagraph (i) thereof, and the substitution therefor of the following:

“(i) whose aggregate turnover from every taxable activity carried on or carried out does not exceed—

- (a) rupees two million and five hundred thousand per year or six hundred and twenty five thousand per quarter for any period prior to January 1, 2009; and
- (b) rupees three million per year or seven hundred and fifty thousand per quarter for any period commencing on or after January 1, 2009; and”.

7. Section 35 of the principal enactment is hereby amended by the addition immediately after subsection (1) of that section of the following new subsection:-

“(1A) Notwithstanding the provisions of section 34 , the Commissioner-General may refer any valid appeal made to him, to the Board of Review and the Board of Review, shall hear and determine such appeal. The provisions of section 169 of the Inland Revenue Act, No. 10 of 2006 shall apply to the hearing and determination of any appeal so referred.”.

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

- (1) in paragraph (a) of that Part

(a) in item (xii), by the substitution for the words and figures “December 31, 2008,” of the words and figures “December 31, 2010”.

(b) by the addition immediately after item (xv) of the following new item: -

“(xvi) solar panel modules, accessories or solar home system for the generation of solar power energy identified under the specified Harmonized Commodity Description Nos. for custom purposes (effective from 01. 01. 2009);

- (xvii) high tech medical equipment or any machinery used for the manufacture of ticket issuing machinery identified under the specified Harmonized of Commodity Description Numbers for customs purposes.”.
- (2) in paragraph (b) of that Part –
- (a) in item (xxvi) by the substitution for the words and figures “(effective from 01. 01. 2008); and” of the words and figures “(effective from 01. 01. 2008);”
- (b) in item (xxvii), by the substitution for the words and figures “(effective from 01. 01. 2008).” of the words and figures “(effective from 01. 10. 2008);”;
- (c) by the addition immediately after item (xxvii) of the following new items: -
- “(xxviii) locally manufactured machinery used for tea industry and identified by Sri Lanka Tea Board established by the Sri Lanka Tea Board Law No. 14 of 1975 as a tea machinery (effective from 01. 10. 2008);
- (xxix) locally manufactured surgical gauze used for surgery (effective from 01. 01. 2009);
- (xxx) locally manufactured Jewellery.”.
- (3) in paragraph (c) of that PART–
- (a) in item (xxiii), by the substitution for the words “or specified project” of the words “or specified project”;
- (b) by the addition immediately after item (xxiii) of the following items:—
- “(xxiv) any bus with the approval of National Transport Commission or any Provincial Road Passenger Transport Authority by the owner of such bus to replace any bus destroyed due to terrorist activities (effective from 9. 7. 2008);
- (xxv) brass sheets, brass ingots, thread, dyes, paraffin wax or shellac for manufacture of brassware by the National Craft Council with the approval of Ministry of Rural Industries and Self Employment Promotion (effective from 01. 01. 2009);
- (xxvi) chemical naphtha by the Ceylon Petroleum Corporation to be supplied to Ceylon Electricity Board for the generation of electricity (effective from 01. 01. 2009);
- (xxvii) packing materials exclusively for the use of packing pharmaceuticals manufactured in Sri Lanka and which are imported by the manufacturer of such pharmaceuticals so far as such packing materials are not manufactured in Sri Lanka and approved by the Minister in charge of the subject of Finance on the recommendation of the secretary to the Ministry of Healthcare and Nutrition;
- (xxviii) Cine Films, cinematographic films exposed or developed, magnetic cine sound recorders, cinematographic cameras and projector parts and accessories, apparatus and equipment for cinematographic laboratories, electric filament or discharge lamps and arc lamp carbon, identified under the Harmonized Commodity Description and Coding System Numbers, for customs purposes with the approval of the Chairman, National Film Corporation.”.
- (4) by the insertion immediately after paragraph (f) of that PART, the following new paragraph: -
- “(g) the supply of services, being construction services for Gama Naguma, Maga Naguma, Samurdhi Projects or for community irrigation projects, carried out through the participation of the community and approved by Secretary to the Ministry of the Minister in charge of the subject of Nation Building and State Infrastructure Development (effective from 01. 01. 2009);”.

9. The Third Schedule to the principal enactment is hereby amended by the addition immediately after the heading "third schedule", of the following:-

"For any taxable period ending prior to January 1, 2009".

10. (a) The amendments made to paragraph (d) of subsection (2) of section 2 of the principal enactment by section 2 of this Act shall for the purposes be deemed to have come into force on June 1, 2008.
- (b) The amendments made of section 22 of the principal enactment, by section 4 (1), (2) and (3) of this Act shall for the purposes be deemed to have come into force on January 1, 2009.
- (c) The amendment made to section 35 of the principal enactment by section 7 of this Act shall for all purposes be deemed to have come into force on January 1, 2009.
11. Any person who collects the value added tax as provided for in this Act during the period commencing from January 1, 2009 and ending on the date of the coming into operation of this Act, shall be deemed to have acted with due authority and such collection shall be deemed for all purposes to have been, and to be validly made and such person is hereby indemnified against all actions civil or criminal, in respect of such collection.
12. 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. 16 of 2009

[Certified on 31st March, 2009]

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. 16 of 2009.
2. Section 2 of the Economic Service Charge Act, No. 13 of 2006 (hereinafter referred to as the "principal enactment") is hereby further amended as follows :-
 - (1) by the repeal of the proviso to subsection (2) of that section and the substitution therefor, of the following proviso :-

"Provided that the service charge chargeable from any person or partnership shall in no case exceed -

 - (i) rupees fifteen million for any relevant quarter ending on or before March 31, 2009 ; and
 - (ii) rupees thirty million for any relevant quarter commencing on or after April 1, 2009.";
 - (2) in subsection (3) of that section –
 - (a) by the repeal of the proviso to paragraph (a) of that subsection ;
 - (b) in item (ii) of sub-paragraph (a) of paragraph (b) of that subsection, by the substitution for the words "Capital asset ; and" of the words "Capital asset ;";
 - (c) by the addition, immediately after item (iii) of sub-paragraph (a) of paragraph (b) of that subsection, of the following new items :-

"(iv) the proceeds of sale of any foreign currency denominated sovereign bond issued by the Government of Sri Lanka to any licensed commercial bank or to any non-resident person (effective from October 21, 2008) ;

- (v) the proceeds of sale -
- (a) of any Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417) ; or
- (b) of any Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420),
- purchased out of the funds drawn from any Treasury Bond Investment External Rupees Account (effective from June 1, 2008) ;
- (vi) receipts from the export of any article or goods, effected on or after January 1, 2009 but on or before December 31, 2009 ;
- (vii) receipts from the supply, effected on or after January 1, 2009 but on or before December 31, 2009, by the manufacturer of any article or goods to any exporter for export without further processing or manufacture by the exporter ;
- (viii) receipts from any operations, effected on or after January 1, 2009 but on or before December 31, 2009, of any—
- (a) hotel;
- (b) inbound tour operation ; or
- (c) inbound tour agent,
- being a hotel, operator or agent as the case may be, approved by the Sri Lanka Tourism Development Authority established under Tourism Act, No. 38 of 2005 ; and"; and
- (d) in paragraph (a) of the proviso to paragraph (b) of that subsection, by the substitution for the words, "be deemed to form part of the turnover of such bank ; and", of the words –
- "be deemed to form part of the turnover of such bank.
- For the purposes of this paragraph -
- "bank" shall be deemed to include a financial institution or pawn broker ; and
- "financial institution" means any person corporate or unincorporated, whose business or part of whose business consists in the acceptance of money by way of deposit or loan in the form of debenture or bond or in any other form and the payment of interest thereon, whether such acceptance is on its own behalf or on behalf of any other person; and".

3. The amendment made to section 2 of the principal enactment by subsection (1) and paragraphs (a) and (d) of subsection

(2) of section 2 of this Act shall come into force with effect from April 1, 2009.

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

Debit Tax (Amendment) Act, No. 17 of 2009

[Certified on 31st March, 2009]

AN ACT TO AMEND THE DEBITS TAX
ACT, No. 16 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 Debits Tax (Amendment) Act, No. 17 of 2009.
2. Section 10 of the Debits Tax Act, No. 16 of 2002, (hereinafter referred to as the “principal enactment”) is hereby amended by the addition immediately after subsection (2) thereof, of the following subsections :—

“(3) (a) Where any commercial bank, specialized bank, finance company or authorized dealer fails—

- (i) to withdraw or remit debit tax from any current or savings account which has sufficient funds therein under subsection (1) of section 6 ;
- (ii) to deduct or remit debits tax from the amount realized on the encashment of a certificate of deposit or travellers cheque, as the case may be under subsection (2) of section 6,

such commercial bank, specialized bank, finance company or authorized dealer shall, be deemed to be a defaulter for the entire amount of the debits tax payable.

(b) The entire amount not so withdrawn, deducted or remitted, as the case may be, shall be deemed to be in default from the day immediately succeeding the day on which such amount should have been remitted to the Commissioner-General and such amount shall be recovered from such commercial bank, specialized bank, finance company or authorized dealer in the manner provided for in this Act.

(4) Nothing in the section shall be read and construed as preventing the Commissioner-General from taking such steps as he thinks fit, to recover wholly or partly from the commercial bank, specialized bank, finance company or authorized dealer or wholly from the person from whom such withdrawal or deduction should have been made, the amount of debit tax referred to in subsection (3).”.

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

Finance (Amendment) Act, No.18 of 2009

[Certified on 31st March, 2009]

AN ACT TO AMEND THE FINANCE ACT, No. 5 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 Finance (Amendment) Act, No. 18 of 2009.
2. The Finance Act No. 5 of 2005 (hereinafter referred to as “principal enactment”) is hereby amended in section 13 of Part III of that Act, (Construction Industry Guarantee Fund Levy) by the Substitution for the word “the total cost which shall be payable by each contractor or sub-contractor”, of the words “the total contract value which shall be payable to each contractor or sub-contractor”.
3. 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. (1) Where any person or partnership makes any payment on or after April 1, 2009 to any construction contractor or sub-contractor, amounting to the value of any construction contract or sub-contract enforced in Sri Lanka by such contractor or subcontractor, as the case may be, under any agreement entered into on or after January 1, 2005, then such person or partnership shall be required to deduct from such payment, the Construction Industry Guarantee Fund Levy at the appropriate rate specified in the Second Schedule to this Act, and to issue to such contractor or sub-contractor, a statement setting out details of such deduction in the format as specified by the Commissioner- General.
- (2) The provisions of sections 140, 142, 143, 144 and 145 of the Inland Revenue Act, No. 10 of 2006 relating to duties of banks and financial institutions following deductions of income tax, default in the deduction of income tax, issue of assessments on banks and financial institutions, appeals and penalty for default shall, *mutatis mutandis*, be applicable to the duties of such persons and partnerships, in relation to the Construction Industry Guarantee Fund Levy following deductions of construction industry guarantee fund levy, default in the deduction of construction industry guarantee fund levy, issue of assessments on such persons or partnerships, appeals and penalty for default.
- (3) The amount deducted as Construction Industry Guarantee Fund Levy under aforesaid subsections shall be remitted by the person or partnership deducting the same, to the Commissioner-General on or before the fifteenth day of the month immediately succeeding the month in which such deduction was made, together with a statement setting out the details of such deductions in the format as specified by the Commissioner-General.
- (4) On the production of the certificate relating to such deduction made and remitted to the Commissioner-General, any construction contractor or sub-contractor shall be entitled to deduct from the amount of the Construction Industry Guarantee Fund Levy payable by such contractor or sub-contractor under section 13, the amount of any deduction made as Construction Industry Guarantee Fund Levy by the person or partnership making the payment at the time of such payment.”.
4. Section 14 of the principal enactment is hereby amended, by the substitution for the words and figures “The Construction Industry Guarantee Fund Levy payable under section 13 shall be remitted by the construction contractor”, of the words and figures” any balance of Construction Industry Guarantee Fund Levy payable by any contractor or sub-contractor under Section 13, after deducting such levy deducted by the payer under section 13A, shall be remitted by such construction contractor or sub-contractor as the case may be”.
5. Section 20 of the principal enactment is hereby amended, by the repeal of the definition of the expression, “contract value” and the substitution therefore, of the following definition :—
- ““contract value” means the amount or the amounts stated in the letters of acceptance and which are thereafter adjusted in accordance with the provisions of the contract. The said contract value shall be the sum total of individual contracts or of several contracts which have been entered into in respect of the carrying out of any construction work and shall include sub-contract values and such other construction costs that may be incurred in carrying out such works, but shall not include any Value Added Tax payable under the Value Added Tax Act, No. 14 of 2002 ; and”.
6. First Schedule of the principal enactment is hereby amended, by the substitution for items 4, 5 and 6 thereof, of the following new item :-
- “4. (a) the Inland Revenue Act, No. 38 of 2000 (other than the provisions Chapters XV, XVI and XVII, and sections 33 and 61), in so far as such Act applies to the period commencing on April 1, 2005 and ending on March 2006;
- (b) the Inland Revenue Act, No. 10 of 2006 (other than the provisions Chapter XVI, XVII. XVIII and XXI, and sections 36 and 65), in so far as such Act applies to the period commencing on April 1, 2006 and ending on March 2008 ; and
- (c) The Inland Revenue Act, No. 10 of 2006 (other than the provisions Chapter XVI, XVII. XVIII and XXI, and sections 36 and 65), in so far as such Act applies to any company and to any period commencing on or after April 1, 2008.”

7. Second Schedule of the principle enactment is hereby amended as follows :—
- (1) in item 2 thereof by the substitution for the words “not exceeding rupees fifty million” of the words “less than rupees fifty million”; and
 - (2) in item 3 thereof by the substitution for the words “not exceeding rupees one hundred and fifty million” of the words “less than rupees one hundred and fifty million”.
8. 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. 19 of 2009

[Certified on 31st March, 2009]

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. This Act may be cited as the Inland Revenue (Amendment) Act, No. 19 of 2009.
2. Section 7 of the Inland Revenue Act, No. 10 of 2006 (hereinafter referred to as the “principal enactment”) as amended by Act, No. 9 of 2008, is hereby further amended in paragraph (b) of that section, by the addition immediately after sub-paragraph (lix) of that paragraph, of the following new sub-paragraph:-

“(ix) the Telecommunications Regulatory Commission of Sri Lanka, established by the Sri Lanka Telecommunications Act, No. 25 of 1991;”.
3. Section 8 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 in paragraph (d) thereof for the words and figures “the emoluments arising in Sri Lanka prior to April 1, 2008, and any income”, of the words “the emoluments arising in Sri Lanka and any income”; and
 - (2) in subsection (3) of that section, by the substitution for the words and figures “whichever is earlier, but not later than April 1, 2008.”, of the words “whichever is earlier.”.
4. Section 9 of the principal enactment as last amended by Act, No. 9 of 2008 is hereby further amended as follows:-
 - (1) in paragraph (f) of that section, by the substitution for the words “interest accruing to any person”, of the words and figures “interest accruing on or before 31, March 2009, to any person”; and
 - (2) by the addition immediately after paragraph (m) of that section, of the following new paragraph:-

“(n) the interest accruing to Lady Lochore Loan Fund on any loan granted by such Fund to any employee, of any Government Institution as defined in section 132 of this Act.”.
5. Section 13 of the principal enactment as last amended by Act, No. 9 of 2008, is hereby further amended as follows:-
 - (1) by the insertion immediately after paragraph (ddd) of that section, of the following new paragraphs :-

“(ddd) notwithstanding the provisions of paragraph (ddd) of this section, the profits and income for the period commencing from April 1, 2009 and ending on March 31, 2011, earned in foreign currency by any resident company, any resident individual or any partnership in Sri Lanka, from any service rendered in or outside

Sri Lanka to any person or partnership outside 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;”;

(2) by the insertion immediately after paragraph (q) of that section, of the following new paragraphs :-

“(qq) one half of the profits and income of any person for any year of assessment commencing on or after April 1, 2009, derived from the sales or from any other means of any book written by him and whether published by himself or by any other person, for a period of one year commencing from the date of its first publication;

(qqq) one half of the profits and income of any person for any year of assessment commencing on or after April 1, 2009, derived from the production of any drama, for a period of one year commencing from the date of its first public performance.

For the purpose of this paragraph, “drama” means a theatrical presentation based on a text, either written, oral or otherwise, which through dramatic performance by actors on a stage or any other suitable space, conveys a story or any other narrative, for a collective public audience;

(qqqq) any export development rebate paid to an exporter by the Export Development Board, established by the Sri Lanka Export Development Act, No. 40 of 1979, under the Export Development Reward Scheme;”;

(3) by the insertion immediately after paragraph (xx) of that section, of the following new paragraphs:-

“(xxx) an amount equal to the interest or the discount paid or allowed, as the case may be, to any non resident person or to any licensed commercial bank in Sri Lanka, by the issuer of any sovereign bond denominated in foreign currency, issued on or after October 21, 2008 by or on behalf of the Government of Sri Lanka;

(xxxx) an amount equal to the interest or the discount paid or allowed, as the case may be, to any person on or after April 1, 2009, on any Sri Lanka Development Bond denominated in United States Dollars, issued by the Central Bank of Sri Lanka;

(xxxxx) the profits and income derived by or accruing to :—

(i) any non resident person or any licensed commercial bank from the sale of any sovereign bond referred to in paragraph (xxx) ; or

(ii) any person from the sale on or after April 1, 2009, of any Sri Lanka Development Bond referred to in paragraph (xxxx);”;

(4) by the insertion immediately after paragraph (yy) of that section of the following new paragraph:—

“(yyy) any profit or income from any song or other musical composition, derived by or accruing to the lyricist, the composer of the music or the singer, as the case may be, of such song or musical composition, on or after April, 1, 2009;” and

(5) by the addition immediately after paragraph (zzz) of that section, of the following new paragraph:

“(zzzz) the profits and income derived by or accruing to any person or partnership from investment in Economic Resurgence Certificates, utilizing money lying to credit of any account referred to in paragraph (d) of section 9 of this Act, from and out of monies deposited in such account on or after February 1, 2009 :

Provided that where investment in Economic Resurgence Certificates is made by utilizing money partly from money deposited on or after February 1, 2009 and partly from money which was already lying to the credit of the account as of that date, the exemption from income tax granted by this paragraph shall apply only to such part of the profits and income which is attributable to the money out of the deposits made on or after February 1, 2009.”.

6. Section 16 of the principal enactment as amended by Act, No. 10 of 2007, is hereby further amended as follows:
- (1) in subsection (2) of that section, by the substitution in paragraph (b) thereof for the words “the market, other than an undertaking for the manufacture of tea; and”, of the words “the market; or”; and
 - (2) by the repeal of subsection (3) of that section, and the substitution therefor of the following subsection:-

“(3) In relation to an undertaking which consists of the production of any agricultural, horticultural or dairy produce and utilizing such produce to manufacture any product (other than any product specified under paragraph (c) of subsection (2)), such produce shall be deemed to have been sold for the manufacture of such product at the open market price prevailing at the time of such deemed sale, and the exemption granted under subsection (1) shall be applicable to that undertaking, on the profits and income computed on the basis of such deemed sale.”.
7. Section 17 of the principal enactment as last amended by Act, No. 9 of 2008, is hereby further amended in subsection (4) of that section as follows:-
- (1) by the substitution in paragraph (c) thereof, for the words “(other than black tea in bulk,” of the words “(other than black tea not in packet or package form and each packet or package weighing not more than one kilogram,”; and
 - (2) by the substitution in paragraph (d) thereof, for the words “by any person or partnership of any commodities (other than black tea in bulk,” of the words “by any person or partnership, of any commodity (other than black tea not in packet or package form and each packet or package weighing not more than one kilogram,”.
8. Section 24A of the principal enactment is hereby amended as follows:
- (1) in subsection (1) of that section, by the substitution in paragraph (b) thereof, for the words “five years,” of the words “seven years,”; and
 - (2) in subsection (2) of that section, by the substitution for the words “period of five years,” of the words “period of seven years,”.
9. Section 25 of the principal enactment is hereby amended in the further proviso to paragraph (b) of subsection (3) thereof, by the substitution for the words “nothing in this paragraph”, of the words “nothing in paragraph (a) or (b)”.
10. Section 34 of the principal enactment as last amended by Act, No. 9 of 2008, is hereby further amended in subsection (2) thereof, as follows:-
- (1) by the addition, immediately after sub-paragraph (ix) of paragraph (b) of that subsection, of the following new proviso:—

“Provided where the fund referred to in sub-paragraph (v) of this paragraph is the President’s Fund established by the President’s Fund Act, No. 7 of 1978 and any public corporation is required in terms of the law by or under which such corporation is established to remit any profits of such corporation to the President’s Fund, the profits so remitted shall be deemed for the purpose of this paragraph, to be donations made to such Fund;”;
 - (2) by the substitution in paragraph (e) of that subsection, for the words “provident fund, no part”, of the words “provident fund, where no part”; and
 - (3) by the addition immediately after sub-paragraph (xi) of paragraph (f) of that subsection, of the following new sub-paragraph: -

“(xii) the Institution of Engineers, Sri Lanka, incorporated by the Institution of Engineers, Sri Lanka Act, No. 17 of 1968;”.

11. Section 40A of the principal enactment is hereby repealed and the following section is substituted therefor:–

40A. Where the taxable income of any individual being a citizen of Sri Lanka, for any year of assessment commencing on or after April 1, 2008, includes any profits from employment as a pilot under any airline licensed under the Air Navigation Act (Chapter 365) (hereinafter in this section referred to as “relevant profits”) and the rate of income tax payable on a part of such taxable income (hereinafter in this section referred to as the “relevant part of the taxable income”) exceeds twenty *per centum*, then in regard to the relevant part of the taxable income, the tax payable shall be computed as follows:

- (a) where such relevant part of the taxable income exceeds the amount of the relevant profits:
 - (i) the tax payable on such portion of the relevant part of the taxable income as is equal to the amount of such relevant profits, shall be computed at the rate of twenty *per centum*; and
 - (ii) the tax payable on the balance of the relevant part of the taxable income, shall be computed according to such of the rates above twenty *per centum*, as are applicable thereto, under the First Schedule to this Act; or
- (b) where such relevant part of the taxable income does not exceed the amount of the relevant profits, the tax payable on the entirety of the relevant part of the taxable income, shall be computed at the rate of twenty *per centum*.”.

12. The following new section is hereby inserted immediately after section 40A of the principal enactment and shall have effect as section 40B of that enactment:–

40B (1) Where the taxable income for any year of assessment commencing on or after April 1, 2009 of any qualified individual, includes any profits from employment under any qualified person in foreign currency (hereinafter in this section referred to as “qualified profits”) and the rate of income tax payable on a part of such taxable income (hereinafter in this section referred to as the “relevant part of the taxable income”) exceeds twenty *per centum*, then in regard to the relevant part of the taxable income, the tax payable shall, subject to the provisions of subsection (2), be computed as follows:–

- (a) where the relevant part of the taxable income exceeds the amount of such qualified profits –
 - (i) the tax payable on such portion of the relevant part of the taxable income as is equal to the amount of such qualified profits, shall be computed at the rate of twenty *per centum*; and
 - (ii) the tax payable on the balance of the relevant part of the taxable income, shall be computed according to such of the rates above twenty *per centum*, as are applicable thereto under the First Schedule to this Act; or
- (b) where such relevant part of the taxable income does not exceed the amount of the qualified profits, the tax payable on the entirety of the qualified part of the taxable income shall be computed at the rate of twenty *per centum*.

(2) The provisions of subsection (1) shall not apply unless the qualified person referred to in that subsection certifies, that the aggregate of the qualified profits paid in any year of assessment to all qualified individuals employed by such qualified person, does not exceed the amount of the total earnings of such qualified person in foreign currency, the profits and income attributable to which are exempt from income tax under paragraph (*ddd*) of section 13 or would have been exempt under that paragraph had such qualified person not entered into any agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment Law, No. 4 of 1978, and earned by such qualified person in the year of assessment immediately preceding that year of assessment.

(3) For the purposes of this section–

- (a) “qualified individual” means an individual who is an employee of a qualified person, and who provides in the course of such employment any service, being a service rendered in the course

of any profession or vocation as specified by the Commissioner-General under paragraph (ddd) of section 13; and

- (b) “qualified person” means any person or partnership, the entirety or a part of whose profits and income are exempt from income tax under paragraph (ddd) of section 13 or would have been exempt under that paragraph had such person or partnership not entered into any 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.”.
- 13.** Section 57 of the principal enactment is hereby amended, by the substitution for the words “The profits and income earned in foreign currency by any company”, of the words and figures “The profits and income earned in foreign currency in any year of assessment ending on or before March 31, 2008 by any company”.
- 14.** Section 60 of the principal enactment is hereby amended by the substitution for the words “non traditional goods” means goods other than black tea in bulk, crepe rubber,”, of the words “non traditional goods” means goods other than black tea not in packet or package form and each packet or package weighing not more than one kilogram, crepe rubber;”.
- 15.** Section 78 of the principal enactment as amended by Act, No. 10 of 2007, is hereby further amended in subsection (3) of that section, by the substitution for the words and figures “against the Economic Service Charge levied under the Finance Act, No. 11 of 2004”, of the words and figures “against the Economic Service Charge levied under the Economic Service Charge Act, No. 13 of 2006”.
- 16.** Section 106 of the principal enactment as amended by Act, No. 10 of 2007 is hereby further amended as follows:—
- (1) in subsection (1) of that section :—
- (a) by the substitution for the words “thirtieth day of September”, of the words “thirtieth day of November”; and
- (b) by the repeal of paragraph (a) of the proviso to that subsection and the substitution therefor of the following paragraph:
- “(a) profits from employment as specified in section 4 and chargeable with income tax, does not exceed
- (i) rupees four hundred and twenty thousand, where such year of assessment is any year of assessment ending on or before March 31, 2009; or
- (ii) rupees one million, where such year of assessment is any year of assessment commencing on or after April 1, 2009,
- and income tax under Chapter XIV has been deducted by the employer on such profits from employment;”; and
- (2) in subsection (2) of that section, by the substitution for the words “on or before September 30”, of the words “on or before the thirtieth day of November”.
- 17.** Section 113 of the principal enactment as 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 “thirtieth day of September”, of the words “thirtieth day of October;”; and
- (2) in subsection (4) of that section, by the substitution for the word “individual” wherever such word appears in that subsection, of the word “individual”.
- 18.** Section 133 of the principal enactment as amended by Act, No. 9 of 2008, is hereby further amended in paragraph (c) of subsection (4) of that section as follows:—

- (1) in sub-paragraph (ii) thereof by the substitution for the words and figure “not exceed 600,000 rupees,”, of the words and figure “not exceed 1,000,000 rupees,”; and
 - (2) in sub-paragraph (iii) thereof, by the substitution for the words and figure “exceeds 600,000 rupees,”, of the words and figure “exceeds 1,000,000 rupees.”
- 19.** Section 153 of the principal enactment as amended by Act, No. 10 of 2007, is hereby further amended in subsection (2) of that section in the definition of the expression “specified fee”, by the substitution for the words “(a) fifty thousand rupees for any month; or”, of the words “(a) fifty thousand rupees for any calendar month; or”.
- 20.** Section 163 of the principal enactment as amended by Act, No. 9 of 2008, is hereby further amended as follows:—
- (1) in subsection (1) of that section, by in substitution for the word “September” wherever such word appear in that subsection, of the word “November”: and
 - (2) in subsection (5) of that section:—
 - (a) by substitution in paragraph (a) of that subsection, for words “thirtieth day of September” and for the words “expiry of eighteen months”, of the words “thirtieth day of November” and of the words “expiry of a period of two years”, respectively ; and
 - (b) in paragraph (b) of that subsection, by the substitution for the words “three years”, of the words “four years”.
- 21.** Section 173 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for the words and figures “ in subsection (3) or subsection (4) of section 113, ”, of the words and figures “in subsection (3) of section 113.”.
- 22.** Section 200 of the principal enactment as amended by Act, No. 10 of 2007, is hereby further amended by the repeal of subsection (8) of that section, and the substitution therefor of the following subsection:—
- “(8) Nothing in the preceding provisions of this section shall apply in relation to the income tax paid by deduction or otherwise, by any person for any year of assessment in respect of the whole or any part of his income, if such income is not included in his assessable income for that year of assessment.”.
- 23.** Section 217 of the principal enactment as amended by Act, No. 9 of 2008, is hereby further amended as follows:—
- (1) by the repeal of the definition of the phrase “approved by the Commissioner-General”, and the substitution therefor of the following definition:—

““approved by the Commissioner-General” when used in relation to a pension, provident, gratuity or savings fund means, approved by the Commissioner-General as conforming to such conditions as may be specified by him, either generally or specifically in relation to any such fund, by notice published in the *Gazette*, having regard to the need for the protection of the interests of the contributors to any such fund and the protection of revenue;” and
 - (2) by the insertion immediately after the definition of the word “Assessor”, of the following new definition:

““associate company” means a company over which an investing company has a significant influence and which is neither a subsidiary of the investing company nor is a joint venture of which the investing company is a partner;”.
- 24.** The First Schedule to the principal enactment is hereby amended as follows:—
- (1) by the substitution in Part I of that Schedule, for the words “Any individual other than an individual referred to in Part II or Part III”, of the words and figures “For any year of assessment ending on or before March 31, 2009, any individual other than an individual referred to in Part II or Part III”; and
 - (2) by the insertion immediately after Part I of that Schedule, of the following new Part:

“PART I A

For any year of assessment commencing on or after April 1, 2009, any individual other than an individual referred to in Part II or Part III

On the first Rs. 400,000 of the taxable income	05 <i>per centum</i>
On the next Rs. 400,000 of the taxable income	10 <i>per centum</i>
On the next Rs. 400,000 of the taxable income	15 <i>per centum</i>
On the next Rs. 500,000 of the taxable income	20 <i>per centum</i>
On the next Rs. 500,000 of the taxable income	25 <i>per centum</i>
On the next Rs. 500,000 of the taxable income	30 <i>per centum</i>
On the balance of the taxable income	35 <i>per centum</i>

25. The Second Schedule to the principal enactment is hereby amended as follows:—

- (1) in item 1 of “PART-A” of that Schedule, by the substitution for the words “venture capital company-”, of the words “venture capital company-”; and
- (2) in item 2 of “PART-B” of that Schedule, by the substitution for the words and figure “income exceeds Rs. 5,000,000/-”, of the words and figure “income exceeds Rs. 5,000,000/- or if such company is a holding company, a subsidiary company or an associated company of a group of companies-”.

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

27. (1) The amendments made to paragraph (e) of subsection (2) of section 34, subsection (3) of section 78, subsection (4) of section 113, subsection (2) of section 153 and subsection (2) of section 173 of the principal enactment, by sections 10 (2), section 15, section 17, section 19 and section 21 respectively, of this Act, shall be deemed for all purposes to have come into force on April 1, 2006.
- (2) The amendment made to the Second Schedule to the principal enactment by section 25 of this Act, shall be deemed for all purposes to have come into force on April 1, 2007.
- (3) The amendment made to section 8, section 40A and section 57 of the principal enactment, by section 3(1) and (2), section 11 and section 13 respectively, of this Act, shall be deemed for all purposes to have come into force on April 1, 2008.
- (4) The amendment made to section 13 of the principal enactment by section 5(2) of this Act, shall be deemed for all purposes to have come into force on October 21, 2008.
- (5) The amendment made to section 13 by section 5(4) of this Act, shall be deemed for all purposes to have come into force, on February 1, 2009.
- (6) The amendments made to the principal enactment by this Act, other than the amendments specifically referred to in subsections (1), (2), (3), (4) and (5) of this section, shall come into force on April 1, 2009.

**Nation Building Tax (Amendment)
Act, No. 32 of 2009**

[Certified on 18th May, 2009]

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. 32 of 2009.
2. Section 3 of the Nation Building Tax Act, No. 9 of 2009 (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “calculated at the rate of one *per centum* in the following manner :—” of the following:—

“calculated—

 - (a) at the rate of one *per centum* for the period ending on, April 30, 2009 ; and
 - (b) at the rate of three *per centum* for the period commencing on May 1, 2009,

in the following manner :—”.
3. Section 8 of the principal enactment is hereby amended by the addition immediately after paragraph (c) thereof of the following new paragraph:—

“(d) return for any relevant quarter under this Act shall be furnished on or before the twentieth day of the month commencing immediately after the expiry of such quarter .”.
4. The Schedule to the principal enactment is hereby amended—
 - (1) in PART I—
 - (a) by the substitution for item (iii) thereof of the following item:—

“(iii) any article sold by any person to whom this Act applies to any exporter, if the Commissioner General is satisfied on the production of any documentary evidence that—

 - (i) such article; or
 - (ii) any other article manufactured, which such article is a constituent part, has in fact been exported from Sri Lanka;”;
 - (b) by the addition immediately after item (xiv) thereof of the following new item:—

“(xv) any article for the use in any project approved by the relevant Minister and by the Minister in charge of the subject of Finance taking into consideration the economic benefit to the country and where the tax in respect of such project is borne by the Government.”;
 - (2) in PART II by the addition immediately after item (xxii) thereof of the following new item:—

“(xxiii) the services of any “General Sales Agent” registered under the Civil Aviation Authority of Sri Lanka Act, No. 34 of 2002.”.
5. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Securities and Exchange Commission of Sri Lanka (Amendment) Act, No. 47 of 2009

[Certified on 22nd September, 2009]

AN ACT TO AMEND THE SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA ACT, NO. 36 OF 1987

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

1. This Act may be cited as the Securities and Exchange Commission of Sri Lanka (Amendment) Act, No. 47 of 2009.
2. Section 3 of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 (hereinafter referred to as the “principal enactment”) is hereby amended by the repeal of sub-paragraph (ii) of paragraph (a) of subsection (1) of that section and the substitution therefor of the following:—

“(ii) six other persons drawn from the private sector possessing professional expertise, wide experience and proven competency in the fields of law, finance, banking or business in order to reflect the multi- disciplinary character of the Commission.”.
3. Section 13 of the principal enactment is hereby amended by the insertion immediately after paragraph (c) thereof of the following paragraph:—

“(cc) to issue general or specific directives to listed public companies from time to time.”
4. Section 55 of the principal enactment is hereby amended by the substitution for the definition of the expression “securities” of the following definition:—

“securities” means debentures, stocks, shares, funds, bonds, derivatives including futures and options whatever the nature of the underlying asset relied on or notes issued or proposed to be issued, by any government or of any body, whether incorporate or unincorporated, including any rights, options or interests (whether described as units or otherwise) therein or in respect thereof, or any other instruments commonly known as securities, but does not include bills of exchange or promissory notes or certificates of deposits issued by a bank;”.
5. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Secured Transactions Act, No. 49 of 2009

[Certified on 25th September, 2009]

AN ACT TO PROVIDE FOR THE SECURING OF OBLIGATIONS IN RESPECT OF MOVABLE PROPERTY, MAINTENANCE OF A SECURED TRANSACTIONS REGISTER; AND FOR MATTERS CONNECTED THEREWITH OR 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 Secured Transactions Act, No. 49 of 2009 and 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”).

PART I

APPLICATION OF THE LAW

2. Notwithstanding anything contained in any other law any person who –
- (a) pledges, enters into a purchase agreement, conditional transfer, finance leasing agreement or mortgage of any movable property, assignment of accounts or other rights of payment of consignment;
 - (b) enters into an agreement for sale of accounts and chattel paper;
 - (c) enters into a lease agreement in respect of a movable property for a period exceeding one year;
 - (d) gives any undertaking in terms of section 2 of the Inland Trust Receipts Act, No. 14 of 1990; or
 - (e) gives any undertaking of any consignment of goods imported into Sri Lanka in terms of section 2 of the Trusts Receipts Ordinance (Chapter 86),

may secure such pledge, mortgage or obligation, as is specified in items (a), (b), (c), (d) or (e) with a collateral in accordance with the provisions of this Act:

Provided however the application of the provisions of this Act shall not depend on the ownership of the collateral:

Provided further the period of such obligation shall extend for a period exceeding one year.

3. The following transactions shall be exempt from the application of the provision of this Act:
- (a) the transfer of a claim for compensation of an employee;
 - (b) the sale of accounts or chattel papers arising out of a part of a sale of a business;
 - (c) the assignment of accounts or chattel paper instrumental for the purpose of collection only;
 - (d) an obligation under a contract to assign the right of payment to an assignee; and
 - (e) the transfer of an interest in goods held by the debtor as equipment or consumer goods, where the goods are registered under the Motor Traffic Act, No. 8 of 2009, Sri Lanka Ports Authority Act, No. 52 of 1979, the Merchant Shipping Act, No. 52 of 1971, the Civil Aviation Authority Act, No. 34 of 2002, respectively.
4. The objective of the Act is to promote the interest of the national economy and economic activity in accordance with the provisions of this Act and regulations made thereunder, by securing a pledge, mortgage or obligation specified in section 2 of this Act by utilizing collateral recognized by sections 2 and 3, in the manner specified.
5. Any mortgagor, pledgor, conditional transferor, lessor or assignor may accept a collateral for securing such mortgage, pledge, conditional transfer, financial lease or assignment:

Provided however no such person shall accept any secured interest other than a secured interest in the purchase money of consumer goods belonging to the debtor:

Provided further such security interest may not be deemed to be invalid due to the rights enjoyed by the debtor to use, sell, exchange or otherwise dispose of such security.

6. Any interest in a collateral offered by a debtor to secure an obligation, may be utilized to secure more than one obligation.

PART II

SECURED TRANSACTIONS

7. (1) There shall be maintained a Secured Transactions Register (hereinafter referred to as the “Register”) which shall for the purposes of this Act be maintained by the Credit Information Bureau of Sri Lanka established under the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990. In addition to the powers specified in the said Credit Information Bureau of Sri Lanka Act, the Bureau shall have the following powers, duties and functions:
- (a) to maintain in the manner as prescribed the Register of Secured Transactions and the process of registration of security interest of movables in such Register;
 - (b) to register a notice of a security interest in collateral filed by any person specified in item (a), (b), (c), (d) and (e) of section 2;
 - (c) to register a notice of interest of a judgment-creditor; and
 - (d) to maintain records of all expired notices for a period of ten years from the date of expiry thereof.
- (2) The powers, duties and functions in relation to registration of security interest of movables shall be carried out by the officers and servants of the Bureau under the directions of the Board of Directors of the Credit Information Bureau of Sri Lanka appointed under section 5 of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 :

Provided that in carrying out the powers, duties and functions in relation to registration of the security interest of movables such officers and servants shall be subject to such regulations and rules as may be made from time to time as provided for under this Act.

- 8.
- (1) Each notice filed of record, shall be entered in the Register maintained in terms of section 7 by the Credit Information Bureau of Sri Lanka, and shall be
- (i) assigned a unique file number, in all instances where it is an initial notice;
 - (ii) assigned a number to every notice (not being the initial notice);
 - (iii) used to create a record that bears the number assigned to the filed record and the date and time of filing; and
 - (iv) open for inspection by the public.
- (2) The Register shall contain an index of every initial notice by the name of the debtor and shall index all filed records relating to an initial notice in a manner that associates the initial notice.
- (3) The Register shall be maintained in such a manner so as to be able to retrieve a record by the name of the debtor and by the file number assigned to the initial notice to which the record relates and other related records.
- (4) The Register shall contain records of lapsed notices for a period of ten years beyond the date on which it has so lapsed.
- (5) The acceptance or refusal to register a notice shall not affect the accuracy, authenticity or validity of any information contained in the notice.
9. (1) The Credit Information Bureau of Sri Lanka may furnish the following information to any person who may apply to the office for the same:–
- (i) information regarding the availability of a debt secured by a collateral in respect of a secured party

- and the details of such debtor and the collateral as at a given date and time;
- (ii) information relating to the file number and the date and time of filing of the notice to which the request relates;
- (iii) information contained in each notice, to which the request relates.

(2) When forwarding an application for inspection to the Credit Information Bureau of Sri Lanka, the applicant shall furnish the following information relating to the debtor:-

- (i) the national identity card number of a debtor who is a natural person and a citizen of Sri Lanka and in the case of a body corporate the registered number applicable thereto;
- (ii) the name of the debtor if such debtor is a body corporate and a citizen of Sri Lanka;
- (iii) where available the file number of the notice; and
- (iv) the reasons why such information is required.

(3) The Credit Information Bureau of Sri Lanka may communicate information in any language:

Provided that, if requested, the Credit Information Bureau of Sri Lanka shall issue a Certificate containing details of the information requested in the prescribed form signed by an officer authorized in that behalf and such certificate shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein.

10. (1) Every document entered in the Register shall be deemed to be a public document.

(2) Any person who requires information in respect of a collateral relating to a secured transaction shall have the right to inspect and obtain copies of any document filed with the Credit Information Bureau of Sri Lanka upon the payment of a prescribed fee.

11. (1) Every initial notice shall contain

- (i) the national identity card number of a debtor and the name of the debtor with a mailing address within Sri Lanka and in the case of a body corporate the registration number applicable thereto;
- (ii) the national identity card number of the secured party or an agent authorized by the secured party in writing and in the case of a body corporate the registration number applicable thereto and the mailing address within Sri Lanka of the secured party or of such agent or of the body corporate;
- (iii) a description of the collateral covered by the notice; and
- (iv) any other prescribed information required to assess the creditworthiness of any person specified in section 2 of this Act:

Provided however, a notice shall, if such collateral covers future expectations of fixtures, contain a description of the relevant movable property.

(2) A person who secures an obligation with a collateral shall be entitled to file an initial notice only where the debtor authorizes the filing of such notice. Such authorization shall however not form part of the notice.

(3) Any debtor specified in section 2 of this Act shall authorize the filing of an initial notice covering the collateral specified in the security agreement and the proceeds, if any, of the collateral, by signing the agreement which he entered into irrespective of the period covered by such agreement.

(4) An initial notice may be filed before entering into a secured transaction.

12. (1) Notwithstanding anything contained in any other law, a notice shall be valid and effective if it clearly provides in the case of –

- (i) the debtor being a person, the name and the national identity card number of such person;
 - (ii) the debtor being natural person and not a citizen of Sri Lanka the name of the person as specified on such person's passport and the place of issue of the passport;
 - (iii) the debtor not being a natural person and is registered under the Companies Act or otherwise recognized as a person in terms of any other law of Sri Lanka, the name of the debtor as specified on the Register maintained at the Registrar of Companies or the name recognized under any other law of Sri Lanka;
 - (iv) the debtor being a foreigner other than a natural person, qualified to do business under the Companies Act, the name of the debtor as specified on the Register maintained at the Registrar of Companies; or
 - (v) the debtor being a person other than a person specified in paragraph (iv) of this section, the name of the debtor as specified on the appropriate registry in the country where the foreign person is registered.
- (2) When a notice provides the name of the debtor accurately, absence of a trade name or other name of the debtor shall not make such notice invalid:

Provided that such notice shall be invalid if the notice fails to specify accurately the name of the debtor.

- (3) A person may provide in a notice the names of more than one debtor and the name of more than one secured party.
- (4) Failure to specify the status of a person as an agent of a secured party shall not invalidate such notice.

PART III

AMENDMENT, CONTINUATION AND TERMINATION OF THE NOTICE

- 13.** (1) Where an obligee waives the requirement of collateral while its security interest or the obligation remains in force, the initial notice filed of record shall continue to be valid and effective, notwithstanding the fact that the knowledge or consent of the secured party may or may not have been obtained for such waiver.
- (2) Where a notice filed of record becomes misleading due to change of the name of the debtor, the notice shall be valid and effective in order to perfect a security interest in collateral acquired by a debtor within four months from the change of name of the debtor:
- Provided however such notice shall be valid and effective to perfect a security interest acquired by the debtor after four months from the date of change of the name, if such change is brought to the notice of the Credit Information Bureau of Sri Lanka within four months from the date of such change.
- (3) A notice remains valid and effective after the change of the name of the debtor unless due to change of circumstances the notice fails to contain an accurate description of the details of the debtor.
- 14.** (1) Every notice filed under this Act shall be valid for a period of five years from the date of filing unless the period of validity is extended by the filing of a continuation statement.
- (2) Upon the expiration of the validity of a notice, the security interest perfected by such notice shall become invalid unless the security interest is perfected without the filing of a notice.
- (3) If the security interest becomes invalid upon the expiration of the validity of such notice it shall be deemed never to have been perfected against a prior or subsequent purchaser of a collateral for value.

- 15.** (1) An initial notice may be amended by making one or more amendments. An amendment shall
- (i) identify the initial notice by the unique file number allocated to such notice;
 - (ii) specify the name of the secured party on the notice and the name of the person who authorizes the amendment;
 - (iii) indicate that it is an amendment to the notice; and
 - (iv) provide all the relevant information required of an initial notice, in a manner that reflects the amended state of the notice.
- (2) Where an amendment makes an addition to the collateral covered by a notice, or a debtor to a notice, such amendment shall be effective if the debtor authorizes in writing, the filing of such amendment.
- (3) Where there is more than one secured party specified on the notice, the amendment shall be valid if one secured party authorizes in writing, the filing of such amendment.
- (4) An amendment made for the addition of a collateral to the notice shall be valid with respect to the collateral so added, only from the date of the filing of such amendment.
- (5) An amendment made for the addition of a name of a debtor to the notice shall be valid with respect to the debtor so added, only from the date of the filing of the amendment.
- (6) Where a secured party specified on the notice authorizes in writing the filing of an amendment, such an amendment other than an amendment to add a collateral or add a debtor shall be valid.
- (7) An amendment shall be invalid where it deletes all names of secured parties without providing a name of a new secured party, or deletes the name of a debtor and fails to provide a name of a debtor not previously specified on the notice.
- (8) Where there is more than one secured party on a notice, each secured party may be required to authorized the filing of an amendment.
- (9) Subject to the provisions of section 11, the period of validity of a notice, shall not be extended or deemed to be extended due to filing of an amendment.
- 16.** (1) The period of validity of a notice may be extended by filing a continuation statement that
- (i) identifies the initial notice by its unique file number;
 - (ii) identifies a secured party on the notice who authorizes the continuation statement; and
 - (iii) indicates the extension of the validity of the notice, with respect to the secured party who authorized the filing.
- (2) A continuation statement may be filed within six months prior to the expiration of the five year period of the notice, and upon filing of a continuation statement within the period specified herein, the validity of the notice shall continue for a further period of five years commencing from the date on which the notice would have become invalid.
- (3) Upon the expiration of the extended period of five years as specified in subsection (2), the validity of such notice shall lapse unless prior to the expiration of the validity another continuation statement authorized by that secured party is filed. The validity of a notice shall thereupon continue only with respect to the secured

party who authorized the filing of the continuation statement.

(4) Succeeding continuation statements may be filed in the same manner to continue the validity of the notice.

- 17.** (1) The validity of a notice may be terminated by filing a termination statement in the prescribed form.
- (2) Upon the receipt of a written demand from a debtor, the secured party may file a termination statement if there is
- (a) no outstanding secured obligation;
 - (b) no commitment to make an advance; and
 - (c) written authorization for the filing of a notice by debtor.
- 18.** (1) An initial notice, amendment, continuation statement, or termination statement, shall be deemed to be valid from the date of registration and inclusion in the Register.
- (2) The Credit Information Bureau of Sri Lanka may refuse to accept any document for registration
- (i) where such document is an initial notice and such notice fails to provide the name of a debtor;
 - (ii) where such document is an amendment and the record fails to provide the name of a debtor;
 - (iii) where such document is a continuation statement and the record fails to provide the file number of the initial notice or has failed to deliver the same within a period of six months from the date of expiry of the first initial notice;
 - (iv) where such document is a termination statement and the record fails to provide the file number of the initial notice or the notice has lapsed with respect of each secured party who's name is specified in the notice; and
 - (v) where the obligor has failed to pay the required fee or no arrangement has been made for the periodic payment of fees.
- (3) Where Credit Information Bureau of Sri Lanka refuses to accept a record for reasons other than the ones set out in this Act, such record shall be valid as filed of record except against in the purchase of collateral that gives the value in reasonable reliance upon the absence of the record from the files.
- (4) Where the Credit Information Bureau of Sri Lanka refuses to accept a record for filing, it shall promptly communicate such fact with reasons, if any for its refusal, to the person who presented the record.
- (5) A notice authorized by one secured party on the notice shall not affect the rights of another secured party on the notice.
- 19.** (1) A person who has reasons to believe that the name of the person is inaccurate or wrongfully specified in the initial notice he shall forthwith take steps to bring such fact to the notice of the Credit Information Bureau of Sri Lanka, and the Bureau shall upon consideration of the matter correct the name accordingly.
- (2) A correction statement may
- (a) identify the record to which it relates by the file number assigned to the initial notice;
 - (b) indicate that it is a correction statement;
 - (c) give reasons for the basis of the belief that such statement is inaccurate and the manner of rectification of such statement; and

- (d) indicate that the notice covers accounts or chattel paper that have been sold but as to which the debtor or other person obligated has discharged its obligation.
- (3) A termination statement effectively terminates the interest of a secured party on the notice, only if the termination statement is authorized in writing by that secured party. Upon the filing of an effective termination statement, the notice to which the termination statement relates becomes ineffective with respect to the authorizing of the secured party.
- 20.** (1) The Credit Information Bureau of Sri Lanka shall cause the registration of any notice, an amendment, continuation statement or termination statement.
- (2) The registration with the Credit Information Bureau of Sri Lanka shall provide the final and conclusive evidence regarding availability or non-availability of a mortgage in respect of a collateral.
- (3) Where the Credit Information Bureau of Sri Lanka refuses to register any notice, amendment, continuation statement or termination statement, it shall communicate the reasons in writing to the person who applies for such registration.
- (4) A notice authorized by one secured party on the notice and filed of record shall not affect the rights of another party.
- (5) Any person who notifies that the notice filed of record contains erroneous information, he shall file a document rectifying such error forthwith.
- 21.** (1) It shall be the duty of the Credit Information Bureau of Sri Lanka to furnish prescribed information to any person in relation to any notice filed therein.
- (2) The Credit Information Bureau of Sri Lanka may issue a Certificate in the prescribed form containing the required information and maintain documents in the manner specified in the rules.

PART IV

MISCELLANEOUS

- 22.** (1) The Credit Information Bureau of Sri Lanka may make rules in respect of the procedure relating to administration, management, maintenance of documents and procedure to be followed in the transaction of business in terms of this Act.
- (2) Every rule made by the Credit Information Bureau of Sri Lanka shall be published in the *Gazette*.
- 23.** (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act or in respect of matters for which regulations are required or authorized by this Act to be made including the following: -
- (i) the amount of the fees to be charged for services rendered and the manner of collecting such fee including the manner of carrying out the function of maintaining the Register in terms of section 7 and the matters to be included in such Register;
- (ii) the manner to conduct searches including the manner to use electronic records;
- (iii) form for the submission of notices and information required;
- (iv) particulars of the judgment creditor and the details of the movable property, identification details of the person owing payment or performance of the judgment creditor, details and the notice of security.

- (2) 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, therein.
- (3) Every regulation made by the Minister, shall as soon as convenient after the date of its publication in the *Gazette*, be brought before the Parliament for approval. Any regulation which it 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 so rescinded shall be published in the *Gazette*.

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

25. For the purposes of this Act, unless the context otherwise requires

“assignment” means the transfer from one person to another, in whole or in part, of any right in an account, chattel paper, document, instrument, or other right to payment;

“chattel paper” means a record that creates a debt and a security interest in, or a lease of, goods;

“credit Information Bureau of Sri Lanka” means the Credit Information Bureau of Sri Lanka established under section 2 of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990;

“collateral” means the property subject to a security interest, and may include movable things of any nature, intangible things of any nature, farm products, fixtures, timber to be cut, and minerals to be extracted, and includes collateral that arises in the future, and collateral located in or outside of Sri Lanka, accounts and chattel paper that have been sold, leased goods, and proceeds;

“judgment creditor” means

- (i) a person who obtains a right in a secured party’s collateral, or a right to seize a secured party’s collateral, by order of a court or by any authority under prevailing law, other than the Inland Revenue Act, No. 10 of 2006;
- (ii) the liquidator under the Companies Act, No. 7 of 2007;
- (iii) the receiver under the Insolvency Ordinance (Chapter 97); and
- (iv) a preferential creditor;

“notice” means a record filed or presented for filing in the Register maintained by the Credit Information Bureau of Sri Lanka and includes an amendment, continuation statement, and termination statement that are filed or presented for filing. An “initial notice” is the notice to which an amendment, continuation statement, termination statement, or correction statement may relate;

“National Identity Card” means the national identity card issued under the provision, of the Registration of Persons Act, No. 32 of 1968;

“proceeds” means

- (i) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
- (ii) whatever is collected on, or distributed with respect to, collateral;
- (iii) rights arising out of collateral;
- (iv) to the extent of the value of collateral, claims arising out of the loss or non-conformity of, defects

in, or damage to the collateral; and

- (v) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or non-conformity of, defects in, or damage to the collateral;

“secured party” means a lender, seller or other person in whose favour a security interest is created under a security agreement, including a person to whom accounts or chattel paper have been sold, and a lessor of goods;

“secured transaction” means any transaction specified in section 2 of the Act;

“value” means the value that a person gives where the person acquires the rights

- (i) in return for a binding commitment to give credit, whether or not drawn upon; or
- (ii) as security for, or satisfaction of, a pre-existing claim, in whole or in part;
- (iii) by accepting delivery pursuant to a pre-existing contract for purchase; or
- (iv) in return for anything given in exchange, for promise.

Employees' Provident Fund (Special Provisions) (Amendment) Act, No. 55 of 2009

[Certified on 30th September, 2009]

AN ACT TO AMEND THE EMPLOYEES' PROVIDENT FUND (SPECIAL PROVISIONS) LAW, NO. 6 OF 1975.

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

1. This Act may be cited as the Employees' Provident Fund (Special Provisions) (Amendment) Act, No. 55 of 2009.
2. The Employees' Provident Fund (Special Provisions) Law, No. 6 of 1975 (hereinafter referred to as the “principal enactment”) is hereby amended by the insertion of the following new sections immediately after section 2 of the aforesaid Law which shall have effect as sections 2A, 2B, 2c and 2D thereof :—
 - 2A. Where an employer or employee pays a contribution to the approved provident fund established under the Employees' Provident Fund Act, No. 15 of 1958, during the period commencing on February 1, 1996 and ending on the date of the coming into operations of this Act, such contribution shall be deemed to have validly deducted, made or paid to the Fund.
 - 2B. (1) A person who becomes an employee in any covered employment, on or after the date of coming into operation of this Act (hereinafter referred to as the “relevant date”), shall be entitled to receive superannuation benefits by way of a pension fund or scheme, as may be agreed by the employers and employees, which are more beneficial than the Employee's Provident Fund established under the Employees' Provident Fund Act, if the Commissioner of Labour is satisfied that the proposed pension fund or scheme satisfies the requirements prescribed under the Employee's Provident Fund Act, No. 15 of 1958. In such a case, the Commissioner of Labour shall declare such fund or scheme to be respectively, an approved contributory pension fund or scheme.

(2) Where the Commissioner of Labour declares in terms of subsection (1), the fund or scheme to be an approved contributory pension fund or scheme, with effect from the relevant date, all contributions payable and collected to such fund or scheme shall be deemed to have been validly made.

- 2c. (1) For the avoidance of doubts, it is hereby declared that the provisions of section 2 shall not apply to the providing or securing of superannuation benefits during any period prior to February 1, 1996 or to any employer or employee in relation to the period specified in section 2A.
- (2) Where an employee becomes a member of, or has paid a contribution to, any provident fund, pension fund or any other superannuation fund or scheme, other than the Employees' Provident Fund established under the Employees' Provident Fund Act, No. 15 of 1958, such membership and payments shall be deemed to be validly made from the date on which the employee becomes a member or pays a contribution, as the case may be.
- 2d. For the avoidance of doubts it is hereby further declared that from and after the date of the coming into operation of this Act, it shall be lawful—
- (a) for an employer or employee who prior to the commencement of this Act, had made a contribution to any approved provident fund, pension fund or any other superannuation fund or scheme, other than the Employees' Provident Fund established under the Employees' Provident Fund Act, No. 15 of 1958, to continue to contribute to such fund or scheme; and
 - (b) for an employer or employee to contribute to any approved provident fund, pension fund or any other superannuation fund or scheme, other than the Employee's Provident Fund established under the Employees' Provident Fund Act, No. 15 of 1958, after the commencement of this Act."
3. Section 5 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for the words "not exceeding six months or to a fine not exceeding one thousand rupees" of the words "not exceeding twelve months or to a fine not exceeding ten thousand rupees".
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.