

APPENDICES

APPENDIX I

- (A) EXTRACTS OF MAJOR LEGAL ENACTMENTS OF THE PARLIAMENT OF CEYLON AND OF THE NATIONAL STATE ASSEMBLY OF SRI LANKA IN 1972, WHICH RELATE TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS.**

- (B) MAJOR ADMINISTRATIVE MEASURES ADOPTED BY THE MONETARY BOARD IN 1972.**

(A) Major Legal Enactments relating to the functions of the Central Bank and other Banking Institutions in Ceylon 1972.

Students (Higher Education) Loan Fund Act, No. 4 of 1972

AN ACT TO PROVIDE FOR THE GRANT OF LOANS TO STUDENTS OF UNIVERSITIES AND CERTAIN APPROVED HIGHER EDUCATIONAL INSTITUTIONS AND, FOR THAT PURPOSE, TO ESTABLISH A FUND; AND TO MAKE PROVISION FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

(Date of Assent : February 12, 1972)

1. This Act may be cited as the Students (Higher Education) Loan Fund Act, No. 4 of 1972.

PART I

**ESTABLISHMENT AND OBJECT OF THE STUDENTS
(HIGHER EDUCATION) LOAN FUND**

2. (1) There shall be established with the Treasury, for the purposes of this Act, a fund called the Students (Higher Education) Loan Fund, hereafter in this Act referred to as the "Loan Fund".

(2) A general account for the Loan Fund shall be opened and kept at the Treasury in such manner as the Deputy Secretary to the Treasury may direct.

3. (1) The object of the Loan Fund shall be to facilitate the grant of loans by banks specified under sub-section (2), to students of the following educational institutions :-

(a) all higher educational institutes established or deemed to have been established under the Higher Education Act, No. 20 of 1966;

(b) the University established under the University of Ceylon Act, No. 1 of 1972;

(c) the Ceylon College of Technology, Katubedda; and

(d) any other higher educational institution, maintained by the Government and approved by the Minister for the purposes of this sub-section.

(2) The Minister may, by Notification published in the Gazette, specify any bank for the purposes of this Act. Any bank so specified is hereafter in this Act referred to as a "specified bank".

(3) Each of the educational institutions referred to in paragraphs (a), (b), (c) and (d) of sub-section (1) is hereafter in this Act referred to as an "approved institution".

PART II

GRANT OF LOANS TO STUDENTS

4. (1) The administrative authority of each approved institution shall, from time to time, prepare lists of names of students who shall be eligible for receiving loans under this Act, including the amount of loan recommended to each student, and shall forward such lists to the Permanent Secretary or any other person or body of persons nominated by the Permanent Secretary for the purposes of this Act, and hereafter in this Act referred to as the "Permanent Secretary's nominee".

(2) The Minister may give written directions to any approved institution in respect of—

- (a) the conditions subject to which students shall be eligible for the grant of loans,
- (b) the procedure to be followed by the administrative authority of an approved institution in the preparation of lists of names of students eligible for the grant of loans, and
- (c) any other matter which, in the opinion of the Minister, is connected with the object of the Loan Fund, and,

it shall be the duty of such approved institution to carry out such written directions.

(3) The Permanent Secretary or the Permanent Secretary's nominee may, having regard to the moneys available in the Loan Fund and the written directions given by the Minister under sub-section (2), approve such lists as have been sent to him under sub-section (1) with such additions, deletions, or modifications as he may deem necessary. Where such a list is approved by the Permanent Secretary or the Permanent Secretary's nominee, he shall send such list to the manager of any specified bank.

5. (1) The manager of a specified bank who receives a list of names of students sent to him under the provisions of sub-section (3) of section 4, may, subject to the provisions of this Act, grant loans under this Act to any or all such students.

(2) A loan granted to any student under sub-section (1) shall be upon a written undertaking given by such student to repay such loan, together with a guarantee given by the parent or guardian of such student or any other person to repay such loan.

(3) The written undertaking referred to in sub-section (2) shall include a promissory note granted to, and the loan-application made to, the specified bank.

(4) The terms and conditions subject to which the bank may grant loans under sub-section (1), other than the conditions referred to in sub-sections (2) and (3), shall be determined by such bank:

Provided, however, that such bank shall not charge from any such student a rate of interest higher than the rate fixed for the purposes of this sub-section by the Minister with the concurrence of the Minister of Finance.

6. A specified bank shall refuse to grant a loan under this Act to any student or, where such bank has commenced the grant of the loan in instalments, shall stop the grant of any further instalments of the loan, if the Permanent Secretary or the Permanent Secretary's nominee requires the manager of such bank to do so.

7. (1) Where a loan has been granted to a student under this Act, the amount of the loan and interest due thereon shall be recovered by the specified bank in accordance with the terms of the grant of the loan:

Provided, however, that the interest due on such loan between the date of the grant of the loan and the date of commencement of repayment of such loan shall be paid to such bank annually by the Deputy Secretary to the Treasury out of the Loan Fund.

(2) The receipt by such bank of any interest under the provisions of the proviso to sub-section (1) shall not be deemed to preclude such bank from recovering such interest from the recipient of the loan, or the guarantor of the loan, as the case may be.

(3) Where such interest or part thereof has been recovered from the recipient of the loan or the guarantor of the loan, as the case may be, under sub-section (2), the manager of such bank shall pay to the Deputy Secretary to the Treasury to be credited to the Loan Fund an amount equal to such recovery, less any legal costs incurred by the bank in such recovery

(4) Where any specified bank has recovered any sum of money in respect of a loan granted under this Act such sum shall first be applied in liquidation of the liability to repay to the Deputy Secretary to the Treasury the interest received by the bank under the provisions of the proviso to sub-section (1), and accordingly, the manager of such bank shall remit such sum to the Deputy Secretary to the Treasury to be credited to the Loan Fund.

8. A recipient of any loan from any specified bank under this Act shall, as long as any sum of money in respect of such loan remains due from him to the said bank, furnish the manager of that bank, by registered letter sent through the post, with the following information within the following stipulated periods:-

- (a) the address of his place of residence, with immediate effect, and, any changes in such address that may occur from time to time, within a period of one month from the date of each such change;
- (b) where he changes his name, within one month of the date of such change, his new name and the date and manner in which such change has been effected;

- (c) where he engages in any employment, within one month of the date of commencement of such employment, the nature of the employment, the name of the employer, the date of commencement of such employment and the remuneration payable therefor, and likewise, in respect of any changes of employment that may take place from time to time; and
- (d) any other information which such manager may consider necessary for the purpose of the recovery of the loan, within such time as the manager may specify in a notice calling for such information from such recipient of the loan.

9. (1) Where a specified bank serves a notice by registered letter sent through the post, on the employer of a recipient or guarantor of a loan under this Act that a certain sum of money shall be deducted from the salary of the recipient or guarantor of the loan, whether in a lump sum or in instalments, it shall be the duty of the employer, notwithstanding anything to the contrary in any other law or any contract between him and the recipient or guarantor of the loan, to deduct such sum or sums in accordance with the requirements of that notice and remit such sum or sums to the manager of such bank.

(2) Where any registered letter is sent through the post in pursuance of the provisions of section 8 or of sub-section (1) of this section, such letter shall be deemed to have been received by the addressee within seven days from the date of posting of such letter.

10. Any person who is the recipient or guarantor of a loan from a specified bank under this Act, and who is indebted or liable to such bank in any sum of money in relation to such loan, and who is engaged in any employment, shall be deemed, notwithstanding any contract between him and his employer or anything to the contrary in any law, to have given his consent to the recovery of such sum of money due from him to such bank from the remuneration he receives from such employment in the manner set out in sub-section (1) of section 9.

11. Notwithstanding anything to the contrary in any other law, any agreement or contract entered into by a student below twenty-one years of age in respect of any loan received or guaranteed by him from a specified bank under this Act, shall be deemed to have been validly made, and accordingly, shall be enforceable against him as though he were over twenty-one years of age at the time such agreement or contract was made.

12. Notwithstanding anything to the contrary in the provisions of this Act or of any other law, a specified bank which gives a loan under this Act shall be deemed to be the principal creditor in respect of such loan.

13. (1) No person who is a recipient of a loan under this Act from a specified bank shall, so long as any sum of money in respect of such loan remains due from him to the said bank, leave Ceylon:

Provided, however, that the Permanent Secretary may release such person from the preceding restriction if the Permanent Secretary is satisfied that the said recipient has furnished good and sufficient security to the satisfaction of such bank.

(2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees.

(3) The provisions of this section shall be in addition to and not in derogation of the provisions of any other written law relating to persons leaving Ceylon.

14. (1) It shall not be open to the recipient of a loan under this Act or the guarantor of such a loan to plead, in any action, matter or proceeding before any court of law for the recovery of such loan or part thereof or any interest due thereon, the benefit of any of the following statutory provisions :-

- (a) the provisions of the Prescription Ordinance;
- (b) the provisions of the Public Servants (Liabilities) Ordinance;
- (c) the provisions of the proviso to section 218 of the Civil Procedure Code;
- (d) the provisions of the Conciliation Boards Act, No 10 of 1958;
- (e) the provisions of the Debt Conciliation Ordinance; and
- (f) the provisions of the Insolvency Ordinance.

(2) The provisions of sub-section (1) shall be deemed to be a condition of the grant of a loan under this Act.

(3) Guarantors under this Act shall not be entitled to plead the benefits or privileges afforded to male or female sureties under the law of Ceylon and shall be deemed to be jointly and severally liable with the recipient of the loan.

PART III

OPERATION OF THE LOAN FUND

15. (1) The Deputy Secretary to the Treasury may from time to time lend such sums of money as he deems necessary from the Loan Fund to any specified bank.

(2) In respect of any moneys lent to any specified bank under sub-section (1), such bank shall pay interest to the Deputy Secretary to the Treasury to be credited to the Loan Fund at such rate as may be fixed by the Minister of Finance.

16. (1) Where any sum of money due to any specified bank in respect of any loan given under this Act is, in the opinion of the general manager of such bank, irrecoverable, the Deputy Secretary to the Treasury shall, upon receiving a notice specifying the sum in question from such general manager, pay such sum out of the Loan Fund to the manager of such bank.

(2) Any such payment by the Deputy Secretary to the Treasury shall not prejudice the rights of such bank to recover such sum of money according to due process of law :

Provided that where such sum or part thereof is so recovered by such bank, the manager of such bank shall pay such sum, less any legal costs incurred by such bank in such recovery, to the Deputy Secretary to the Treasury to be credited to the Loan Fund.

17. There shall be paid into the Loan Fund :-

- (a) such sums of money as may from time to time, be voted for the purpose by Parliament ;
- (b) all such sums of money as may be received by way of donations, gifts or grants from any source whatsoever ;
- (c) all such sums of money as may be received by the Deputy Secretary to the Treasury under the provisions of sub-section (3) of section 7 ;
- (d) all such sums of money as may be received by the Deputy Secretary to the Treasury under the provisions of sub-section (2) of section 15 ; and
- (e) all such sums of money as may be received by the Deputy Secretary to the Treasury under the provisions of the proviso to sub-section (2) of section 16.

18. There shall be paid out of the Loan Fund :-

- (a) all such sums of money as may be payable to any specified bank under the provisions of the proviso to sub-section (1) of section 7 ;
- (b) all such sums of money as are lent to any specified bank under the provisions of sub-section (1) of section 15 ; and
- (c) all such sums of money as are payable to any specified bank under the provisions of sub-section (1) of section 16.

PART IV

GENERAL

19. Every officer, servant or employee of any approved institution or of any specified bank, to whom is entrusted any duty in pursuance of the provisions of this Act, shall be deemed to be a public servant within the meaning and for the purposes of the Penal Code.

20. Where-

- (a) any student in an approved institution, or his parent or guardian, gives any false information to the administrative authority of that institution in connection with the preparation of lists of names of students under sub-section (1) of section 4 ; or

- (b) any recipient of a loan or his parent or guardian or any other person gives any false information to the manager of a specified bank in connection with a loan granted or to be granted under this Act; or
- (c) any person wilfully fails to comply with the provisions of section 8 or, in so complying, gives false information to the manager of the specified bank in question; or
- (d) any person wilfully fails to comply with the provisions of sub-section (1) of section 9,

such person shall be deemed to have committed an offence under this Act, and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees :

Provided that where an employer is charged with having violated the provisions of sub-section (1) of section 9, it shall be open to such employer to prove to the satisfaction of the Magistrate that he did not receive the notice referred to in the said sub-section.

21. The provisions of this Act shall be deemed to have come into force with effect from October 1, 1969, and accordingly, any loan granted on or after October 1, 1969, and before the date of commencement of this Act, by the manager of a specified bank to a student whose name appears on a list of names sent to such manager by the Permanent Secretary or the Permanent Secretary's nominee shall, at all times and for all purposes, be deemed to have been, and to be, granted under the provisions of this Act.

22. In this Act, unless the context otherwise requires—

“administrative authority”,—

- (a) in relation to a University, means the Vice-Chancellor of that University, and
- (b) in relation to any other educational institution, means the Principal or Director of that institution, as the case may be;

“employer” shall in the case of a person in the public service or in the Local Government Service mean the officer in charge of the branch, section or office of the Department of Government or local authority to which the recipient or guarantor of a loan is attached;

“employment” means any employment in respect of which any salary, remuneration or income is received and shall include self-employment;

“manager”, in relation to any specified bank, includes the manager of any branch of such bank;

“Minister” means the Minister in charge of the subject of education;

“Permanent Secretary” means the Permanent Secretary to the Ministry in charge of the subject of education.

Criminal Justice Commissions Act, No. 14 of 1972

AN ACT TO ENABLE THE APPOINTMENT OF CRIMINAL JUSTICE COMMISSIONS, TO PRESCRIBE THEIR POWERS AND PROCEDURE, TO FACILITATE THE PERFORMANCE OF THEIR FUNCTIONS, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

(Date of Assent: April 18, 1972)

1. This Act may be cited as the Criminal Justice Commissions Act, No. 14 of 1972.

2. (1) Whenever the Governor-General is of opinion—

(a) that, within a specified period, whether generally or in a particular area or district, there have been committed, before or after the date of commencement of this Act,—

(i) offences in connection with, in the course of or during, any rebellion or insurrection, or

(ii) offences in relation to currency or foreign exchange of such a scale and nature as to endanger the national economy or interest, or

(iii) widespread offences of destruction, damage or destroying of factories, industrial plant and other installations, whether public or private, and

(b) that the practice and procedure of the ordinary courts are inadequate to administer criminal justice for the purpose of securing the trial and punishment of the persons who committed such offences,

the Governor-General may, by warrant under the Public Seal of the Island, establish a Criminal Justice Commission (in this Act referred to as a "Commission") consisting of such number of Judges of the Supreme Court not exceeding five as shall be specified in the warrant with the terms of reference referred to in subsection (3) which shall be specified in the warrant.

(2) A Commission established under this Act shall be deemed to be a superior court of record.

(3) Subject to the other provisions of this Act, the terms of reference of a Commission shall be—

(a) to inquire into generally the circumstances which led to, and all other matters connected with or incidental to, the commission, during such period, of offences of the description and character set out in the warrant establishing the Commission issued under this Act;

(b) to inquire and determine whether any person or persons and if so what persons were or were not guilty of such offences; and

- (c) to deal with the persons so found guilty or not guilty in the manner prescribed by this Act.

(4) Where a warrant establishing a Commission is issued by the Governor-General under the preceding provisions of this section in consequence of his opinion, under such provisions, expressed in the warrant, such opinion and such warrant shall be final and conclusive and shall not be called in question in any court or tribunal, whether by way of action, application in revision, appeal, writ or otherwise.

3. (1) In every case where a Commission is established under this Act the Chief Justice shall appoint by name the Judges of the Supreme Court (of whom he may be one) who shall be the members of the Commission, the number of such Judges so appointed not exceeding the number specified in the warrant establishing the Commission.

(2) Where —

- (a) the Chief Justice is a member of the Commission, he shall be the Chairman of the Commission; or
- (b) the Chief Justice is not a member of the Commission, the Chief Justice shall name one of the members of the Commission to be such Chairman.

(3) At any inquiry before a Commission, the determination of any question before the Commission shall be according to the opinion of the majority of the members of the Commission.

(4) In the event of the death or incapacity of a member of a Commission after an inquiry under this Act has commenced, the inquiry may continue and be concluded before the remaining members of the Commission:

Provided, however, that the Chief Justice may name another Judge of the Supreme Court in place of such member, and if he does so, it shall not be necessary for the Commission so re-constituted to hold such inquiry *de novo*, but the Commission shall be entitled to continue such proceedings from the stage at which they were at the time of such death or incapacity.

(5) Where, before the proceedings of any Commission are concluded, any member of that Commission reaches the age of retirement provided by law for the retirement of the Judges of the Supreme Court, he shall, notwithstanding such law, continue to hold office as a Judge of the Supreme Court and as a member of that Commission until the conclusion of the proceedings of that Commission.

(6) An inquiry by a Commission under this Act shall be commenced and held, with due regard to the interests of justice, as expeditiously as possible, and accordingly the Commission—

- (a) may, where any pleader appearing for any person desires to address the Commission upon any question or matter, limit the duration of the address, and in such event require the address to be submitted in writing;

- (b) may commence, or continue with, the inquiry notwithstanding that the pleader appearing for any person is absent or desires to withdraw from the case, or such person desires time to make a change of pleaders;
- (c) may commence, or continue with, the inquiry in the absence of any person—
 - (i) if the Commission is satisfied that such person is evading arrest, or absconding, or feigning illness; or
 - (ii) with his consent; and
- (d) shall take all such other steps as it may consider necessary for the purpose of enabling the inquiry to be expeditiously held.

(7) The members of a Commission shall be attended on at any inquiry conducted by such Commission under this Act in the same manner as if they were Judges of the Supreme Court sitting at Assizes.

4. No warrant establishing a Commission issued under this Act shall lapse by reason of, or be otherwise affected by—

- (a) the death, absence, resignation, retirement or removal of the Governor-General who issues the warrant; or
- (b) the abolition of the office of Governor-General.

5. Every Commission shall have power and jurisdiction for the inquiry into crimes and offences committed throughout Ceylon of the description or character set out in the warrant establishing the Commission issued under this Act, and for determining whether any person is or is not guilty of any offence and to pass sentence on any person so found guilty.

6. (1) A Commission shall have the following powers:—

- (a) to procure and receive all such evidence and to examine all such persons as witnesses, as the Commission may think it necessary or desirable to procure or examine;
- (b) to require the evidence of any witness to be given on oath or affirmation, such oath or affirmation to be that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;
- (c) to summon any person residing in Ceylon to attend any sitting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;
- (d) notwithstanding any of the provisions of the Evidence Ordinance or of any other written law, to admit any evidence which might be inadmissible in civil or criminal proceedings;

- (e) to regulate the admission of the public to the inquiry before the Commission;
- (f) to regulate the admission of the Press to such inquiry;
- (g) to exclude the public from the inquiry or any part thereof;
- (h) to exclude the Press from the inquiry or any part thereof;
- (i) to require by written order the manager of any bank in Ceylon to produce, as specified in the order, any book or document of the bank containing entries relating to the account of any such person specified in the order as the Commission considers necessary, or to furnish, as so specified, certified copies of such entries;
- (j) to prohibit by written order the manager of any bank in Ceylon from permitting or allowing the withdrawal of any funds standing to the credit of any account in that bank of any such person specified in the order as the Commission considers necessary, except any such reasonable withdrawal of such funds as may, from time to time, be approved in writing by the Commission;
- (k) to require by written order the Commissioner of Inland Revenue or the Controller of Exchange to furnish, as specified in the order, all information available to any such officer relating to the affairs of any such person specified in the order as the Commission considers necessary, and to produce or furnish, as so specified, any document or a certified copy of any document relating to such person which is in the possession or under the control of any such officer;
- (l) to require by written order the Controller of Immigration and Emigration to impound the passport and other travel documents of any such person as shall be specified in the order, being a person whose evidence may be necessary at any inquiry before the Commission, until such time as such order is revoked by the Commission by a subsequent written order, if any, issued to such Controller;
- (m) to require by written order any such police officer as shall be specified in the order, whether by name or by office, to take all such steps as may be necessary to prevent the departure from Ceylon of any such person as shall be so specified, being a person whose evidence may be necessary at any inquiry before the Commission, until such time as such order is revoked by the Commission by a subsequent written order, if any, issued to such officer;
- (n) to require by written order any such telecommunication authority or officer (within the meaning of the Telecommunications Ordinance) as shall be specified in the order, whether by name or by office, to produce, as so specified, any book or document containing entries relating to any message (within the meaning of that Ordinance), including any telex message, which is in the possession or under the control of any such authority or officer as the Commission considers necessary, or to furnish, as so specified, certified copies of such entries.

(2) Any person to whom an order is issued or given by a Commission under subsection (1) shall carry out such order, and in the event of his failing to comply with the preceding provisions of this subsection, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

7. The members of a Commission shall, so long as they are acting as such members, be deemed to be public servants within the meaning of the Penal Code, and every inquiry under this Act shall be deemed to be a judicial proceeding within the meaning of that Code.

8. Every offence of contempt committed against, or in disrespect of, the authority of a Commission and every offence declared under this Act to be punishable as a contempt of the Commission shall be punishable by the Commission, and for that purpose the provisions of section 47 of the Courts Ordinance shall, *mutatis mutandis*, apply in like manner and to the same extent as they apply in the case of an offence of contempt committed against, or in disrespect of, the authority of the Supreme Court.

9. (1) Every summons shall be under the hand of the Chairman of a Commission:

Provided that where a person has been appointed under section 19 to act as its Secretary, any such summons may, with the authority of a Commission, be issued under the hand of the Secretary.

(2) Any summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at or causing it to be sent by registered letter through the post to the last known place of abode of that person.

(3) Every person on whom a summons is served shall attend before a Commission at the time and place mentioned therein, and shall if so required give evidence or produce such documents or other things as are required of him and are in his possession or power, according to the tenor of the summons.

10. If any person upon whom a summons is served under this Act —

- (a) fails without cause, which in the opinion of a Commission is reasonable, to appear before the Commission at the time and place mentioned in the summons; or
- (b) refuses to be sworn or, having been duly sworn, refuses or fails without cause, which in the opinion of the Commission is reasonable, to answer any question put to him touching the matters directed to be inquired into by the Commission; or
- (c) refuses or fails without cause, which in the opinion of the Commission is reasonable, to produce and show to the Commission any document or other thing which is in his possession or power and which is, in the opinion of the Commission, necessary for arriving at the truth of the matters to be inquired into,

such person shall be guilty of an offence punishable as a contempt of the Commission.

11. (1) The proceedings at any inquiry before a Commission shall be free from the formalities and technicalities of the rules of procedure and evidence ordinarily or normally applicable to a court of law and may be conducted by the Commission in any manner not inconsistent with the principles of natural justice, which to the Commission may seem best adapted to elicit proof concerning the matters that are being investigated.

(2) In particular, but without prejudice to the generality of the provisions of subsection (1), the following provisions shall apply at any inquiry before a Commission:-

- (a) The Commission may at the inquiry, notwithstanding any of the provisions of the Evidence Ordinance, admit any evidence which might be inadmissible if those provisions were applicable.
- (b) A confession or other incriminatory statement to whomsoever and in whatsoever circumstances made by any person who is alleged to have, or is suspected of having, committed an offence, may at any inquiry before the Commission be proved against such person, so, however, that if it is sought by or on behalf of such person to reduce or minimise the weight that shall be attached to such confession or incriminatory statement, the burden of proving the facts necessary to support such contention shall lie on such person.
- (c) Where, at any time in the course of the inquiry, the Commission is of opinion that there are matters which call for an explanation by any person whose conduct is the subject of inquiry, such person, whether or not he intends to tender other evidence, shall, if called upon to do so by the Commission, be bound to give evidence and to answer any questions that may be put to him by the Commission or by counsel appearing to assist the Commission.
- (d) A confession or other incriminatory statement made by an accomplice incriminating any other person suspected of having committed an offence shall be relevant and admissible against the latter person:

Provided, however, that the Commission shall attach only such weight to evidence against a person suspected of an offence proceeding from the confession or incriminatory statement of an accomplice as, in all the circumstances, appears to the Commission to be safe and just:

And provided further that such accomplice shall be called as a witness by the Commission or the counsel assisting the Commission and tendered for cross examination:

And provided further that, if such accomplice gives evidence which is, in material particulars, different from such confession or statement, the Commission may disregard the evidence given by such accomplice and act on such confession or statement.

- (e) Any statement referred to in paragraph (b) or paragraph (d) of this subsection shall not be rendered irrelevant or inadmissible by reason of the provisions of section 122 (3) of the Criminal Procedure Code.
- (f) (i) A report purporting to be under the hand of the Government Analyst or Assistant Government Analyst or any other officer acting in such capacity in regard to the identity, composition or character of any thing or matter submitted to him for examination or analysis shall be conclusive proof of the statements contained in such report without such person being called to testify at the inquiry.

(ii) The Commission may presume that the signature of such Analyst on such certificate is genuine and that he held the office of such Analyst at the time he signed such certificate.

(iii) The Commission may, if it thinks fit, summon and examine such Analyst as to the subject-matter of such certificate.
- (g) A report purporting to be under the hand of a competent authority relating to the occurrence of certain events which have come within his knowledge in the course of his official functions or duties shall be conclusive proof of the statements contained in such report without such person being called to testify at the inquiry. Such report shall not contain any statement as to the identity of any person having been concerned in such occurrence.

12. (1) Every person whose conduct is the subject of inquiry in proceedings before a Commission shall be entitled to be represented by one or more advocates or proctors; and any other person who may consider it desirable that he should be so represented may, by leave of the Commission, be represented in the manner aforesaid.

(2) The Attorney-General, the Solicitor-General, a Crown Counsel or pleader, generally or especially authorized by the Attorney-General, shall be entitled to appear in proceedings before a Commission and assist the Commission in the conduct of the inquiry.

13. The Attorney-General may, at any time before or after the commencement of any inquiry before a Commission but before the conclusion of such inquiry, with a view to obtaining at such inquiry the evidence of any person, tender a pardon to such person, on the condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to any offences which are the subject of such inquiry:

Provided, however, that if the person who has accepted such tender has not complied with the condition on which the tender was made, a finding concerning such person for the offence in respect of which the pardon was so tendered may be made by the Commission at such inquiry.

14. (1) The following provisions shall apply in the case of any person where a Commission has reasonable grounds for suspecting that such person may be or is implicated or concerned in any matter which may be or is the subject of any inquiry before the Commission, or may be or is implicated or concerned in any offence which may be or is the subject of such inquiry:—

- (a) If the Commission is of opinion that such person ought to be taken into custody pending the completion of its inquiry into that matter or offence, the Commission may issue a written recommendation to any such authority as shall be specified therein, whether by name or by office, to take into custody, and to keep in custody, such person whose name shall be specified therein, until such time as a subsequent written recommendation, if any, is issued by the Commission to such authority under paragraph (b) of this subsection.
- (b) Upon completion of any inquiry in so far as it relates to any particular person the Commission may, if such person is in custody, issue a written recommendation to the authority under whose custody such person is, to release such person from custody.
- (c) Upon a written recommendation being issued by the Commission under paragraph (a) of this subsection, the authority to whom such recommendation is issued may arrest or cause to be arrested the person named in the recommendation and deliver such person to the Commissioner of Prisons or to a Superintendent of a prison designated by him to be detained in a prison established under the Prisons Ordinance.
- (d) The powers of the Commission under this subsection shall not be in derogation of the powers of any other authority to arrest, detain or keep in custody any person under any other written law.

(2) (a) Any person held in custody in any prison upon the order of a Magistrate at the time of the establishment of a Commission and suspected or accused of any offence which may be the subject of any inquiry before the Commission under this Act shall continue to remain in such custody, until he is released upon an order made by the Permanent Secretary to the Ministry of Justice.

(b) The provisions of paragraph (a) of this subsection shall have effect notwithstanding any order made by a Magistrate that such person shall be produced before him on any date.

(3) Where a person is in custody by reason of his having surrendered himself into the custody of any authority, at the time of the establishment of a Commission or thereafter, such person shall continue to remain in custody, until he is released upon an order made by the Permanent Secretary to the Ministry of Justice.

(4) The preceding provisions of this section shall not apply to the case of any person held in custody upon a detention order made under the Public Security Ordinance or any regulation made thereunder, and in the case of custody under such detention order, the order shall not be subject to recommendations made by a Commission under such preceding provisions.

15. (a) Where in the course, or at the conclusion, of any inquiry before a Commission under this Act, the Commission is satisfied, having regard to the proceedings and upon consideration of the matters before it at such inquiry, that any person has not committed any offence which is the subject of such inquiry, the Commission shall make a finding that he is not guilty of such offence and shall acquit him.

(b) Where, at the conclusion of any inquiry before a Commission under this Act, the Commission is satisfied beyond reasonable doubt, having regard to the proceedings and upon consideration of the matters before it at such inquiry, that any person has committed any offence which has been the subject of such inquiry, the Commission shall make a finding that he is guilty of such offence and shall sentence him to any punishment, other than death, to which he might have been sentenced if he had been tried and convicted by the Supreme Court:

Provided that where the only sentence provided by law for any such offence is death, the Commission shall have the power and jurisdiction to sentence any person found guilty of any such offence to imprisonment of either description for life.

16. The presumptions which, under section 80 of the Evidence Ordinance, are applicable to the documents therein mentioned shall apply to every document produced before any court and purporting to be a record or memorandum of the evidence or any part of the evidence given by a witness examined before a Commission and purporting to be signed by the members thereof.

17. (1) Where, at any time whether before or in the course of an inquiry before a Commission under this Act, the Attorney-General by writing under his hand informs the Commission that any person whose conduct is or might be the subject of an inquiry by the Commission has already been prosecuted in a criminal court established under the Courts Ordinance or that criminal proceedings against such person are pending or are in contemplation in any such court in respect of an offence arising out of such conduct, then the Commission shall be deemed for all purposes never to have had and not to have power and jurisdiction to find such person guilty or not guilty of such offence.

(2) The terms of reference specified in a warrant establishing a Commission issued under this Act, and the other provisions of this Act shall be read and construed subject to the preceding provisions of this section.

18. No civil or criminal proceedings shall be instituted against any member of a Commission in respect of any act bona fide done or omitted to be done by him as such member.

19. (1) The Governor-General may appoint any person to act as Secretary to a Commission, and such person shall perform such duties connected with any inquiry before the Commission as it may order.

(2) A Commission may appoint any person to act as interpreter in any matter arising at any inquiry before the Commission, and to translate any book, document, or other writing produced at the inquiry.

20. No stamp duty shall attach to, or be payable for, any process issued by or by the authority of a Commission.

21. Every process issued by a Commission shall be served or executed by the Fiscal.

22. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law, whether written or otherwise.

23. Every sentence imposed by a Commission under the provisions of this Act upon any person shall be deemed to be a sentence imposed by the Supreme Court after trial under the provisions of the Criminal Procedure Code, and accordingly the provisions of Chapter XXV and Chapter XXVII of that Code shall, *mutatis mutandis*, apply in respect of such sentence.

24. The Minister may, by Order published in the *Gazette*, declare that such of the provisions of Chapter XVII of the Criminal Procedure Code as are specified in the Order shall, *mutatis mutandis*, apply for the purpose of enabling a Commission to charge persons for offences punishable by the Commission in like manner and to the same extent as they apply in the case of charges under that Code.

25. Any finding made, or sentence imposed by a Commission under this Act shall be final and conclusive, and shall not be called in question in any court or tribunal, whether by way of action, application in revision, appeal, writ or otherwise.

26. In this Act, the term "offence" shall have and bear the same meaning as in the Criminal Procedure Code.

27. Every provision of this Act which may be in conflict or inconsistent with anything in the Ceylon (Constitution) Order in Council, 1946, shall, for all purposes and in all respects, be as valid and effectual as though that provision were in an Act for the amendment of that Order in Council enacted by Parliament after compliance with the requirement imposed by the proviso to subsection (4) of section 29 of that Order in Council.

28. This Act shall continue in force for a period of eight years and shall thereupon cease to be in force:

Provided, however, that Parliament may, at any time thereafter, by a resolution passed by a simple majority, cause such Act to be brought into force for a period not exceeding five years at a time.

Criminal Justice Commissions (Amendment)

**A LAW TO AMEND THE CRIMINAL JUSTICE COMMISSIONS
ACT, NO. 14 OF 1972.**

(Certified on 6th December, 1972)

1. This Law may be cited as the Criminal Justice Commissions (Amendment) Law, No. 10 of 1972.

2. Section 3 of the Criminal Justice Commissions Act, No. 14 of 1972, hereinafter referred to as the "principal enactment", is hereby amended as follows:-

(1) by the insertion, immediately after subsection (4) of that section, of the following new subsections:-

"(4A) The proceedings at any inquiry may be continued notwithstanding the absence due to sickness of any member of the Commission.

(4B) Where at any inquiry by a Commission under this Act any witness has given evidence in the absence of a member of the Commission, the Commission may, if it deems necessary, recall such witness for further questioning."; and

(2) by the repeal of subsection (6) of that section and the substitution therefor of the following new subsection:-

"(6) An inquiry by a Commission under this Act shall be commenced and held, with due regard to the interests of justice, as expeditiously as possible, and accordingly the Commission:-

- (a) may, where any person or any pleader appearing for any person desires to address the Commission upon any question or matter, limit the duration of the address, and in such event require the address to be submitted in writing;
- (b) may commence, or continue with, the inquiry notwithstanding that any person or a pleader appearing for any person is absent or desires to withdraw from the case or such person desires time to make a change of pleaders:

Provided, however, that the Commission may if it deems necessary recall for further questioning any witness who has given evidence in the absence of an unrepresented accused person;

(c) shall have full power and authority to prohibit the attendance before it of any person or pleader who in the opinion of the Commission persists in being disrespectful to the Commission; and

(d) may take such other steps as it considers necessary for the purpose of enabling the inquiry to be expeditiously held.'"

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

(1) by the renumbering of that section as subsection (1) thereof; and

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

"(2) If any person fails, in answer to any summons issued under section 9, to appear before the Commission or to produce any document or article required by any such summons to be produced by him, such person shall be liable, in addition to any penalty imposed on him by the Commission, to be arrested and kept in custody upon a warrant of arrest issued under the hand of the Chairman of the Commission, for the purpose of securing his attendance before the Commission, or, as the case may be, of securing the production by him of such document or article."

4. Section 15 of the principal enactment is hereby amended, by the substitution for paragraph (b) of that section, of the following new paragraph:-

"(b) Where, at the conclusion of any inquiry before a Commission under this Act, the Commission is satisfied beyond reasonable doubt, having regard to the proceedings and upon consideration of the matters before it at such inquiry, that any person has committed any offence which has been the subject of such inquiry, the Commission shall make a finding that he is guilty of such offence and shall sentence him to any punishment, other than death, to which he might have been sentenced if he had been tried and convicted by the Supreme Court or a District Court or a Magistrate's Court:

Provided that where the only sentence provided by law for any such offence is death, the Commission shall have the power and jurisdiction to sentence any person found guilty of any such offence to imprisonment of either description for life."

5. Section 25 of the principal enactment is hereby repealed and the following new section substituted therefore:-

"25. Any finding made or sentence imposed, or order, determination or ruling made, by a Commission under this Act shall be final and conclusive, and shall not be called in question in any court or tribunal, whether by way of action, application in revision, appeal, writ or otherwise."

Land Reform Law No. 1 of 1972 of the National State Assembly

A LAW TO ESTABLISH A LAND REFORM COMMISSION TO FIX A CEILING ON THE EXTENT OF AGRICULTURAL LAND THAT MAY BE OWNED BY PERSONS, TO PROVIDE FOR THE VESTING OF LANDS OWNED IN EXCESS OF SUCH CEILING IN THE LAND REFORM COMMISSION AND FOR SUCH LAND TO BE HELD BY THE FORMER OWNERS ON A STATUTORY LEASE FROM THE COMMISSION, TO PRESCRIBE THE PURPOSES AND THE MANNER OF DISPOSITION BY THE COMMISSION OF AGRICULTURAL LANDS VESTED IN THE COMMISSION SO AS TO INCREASE PRODUCTIVITY AND EMPLOYMENT, TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO PERSONS DEPRIVED OF THEIR LANDS UNDER THIS LAW AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

(Certified on 26th August 1972)

1. This Law may be cited as the Land Reform Law, No. 1 of 1972.
2. The purposes of this Law shall be to establish a Land Reform Commission with the following objects:-
 - (a) to ensure that no person shall own agricultural land in excess of the ceiling; and
 - (b) to take over agricultural land owned by any person in excess of the ceiling and to utilize such land in a manner which will result in an increase in its productivity and in the employment generated from such land.

PART I

CEILING ON AGRICULTURAL LAND

3. (1) On and after the date of commencement of this Law the maximum extent of agricultural land which may be owned by any person, in this Law referred to as the "ceiling", shall —
 - (a) if such land consists exclusively of paddy land, be twenty-five acres; or
 - (b) if such land does not consist exclusively of paddy land, be fifty acres, so however that the total extent of any paddy land, if any, comprised in such fifty acres shall not exceed the ceiling on paddy land specified in paragraph (a).
- (2) Any agricultural land owned by any person in excess of the ceiling on the date of commencement of this Law shall as from that date—
 - (a) be deemed to vest in the Commission; and
 - (b) be deemed to be held by such person under a statutory lease from the Commission.
- (3) In the computation of the acreage of agricultural land for the purpose of applying the ceiling, the following areas situated on such land shall not be taken into account:-

- (a) an area not exceeding half an acre in extent surrounding the residence of the owner of such land;
 - (b) any garden surrounding staff quarters or labour lines on such land, not in excess of one-eighth of an acre in extent for every family resident in such quarters or lines; and
 - (c) any area not exceeding half an acre set apart for a family burial ground.
- (4) For the purpose of subsection (1)-
- (a) Where any land is subject to a mortgage, lease, usufruct or life interest the mortgagor, the lessor or the person in whom the title to the land subject to the usufruct or life interest is; and
 - (b) Where any land is held on a permit or a grant issued under the Land Development Ordinance, the permit-holder or the alienee on such grant,

shall be deemed to be the owner of such agricultural land:

Provided, however, that where the lessor of any agricultural land under paragraph (a) of this subsection is the Republic, the lessee of such agricultural land shall be deemed to be the owner.

4. (1) Where there is a dispute between parties as to the ownership of any agricultural land which is subject to the ceiling the Commission may, after such inquiry as it may deem fit, make an interim order declaring one of such parties to be entitled to the possession of such agricultural land. Every interim order shall be published in the *Gazette* and shall come into force on the date of such publication.

(2) Within two weeks of the publication of the interim order in the *Gazette* the Commission of its own motion or any of the parties to the dispute referred to in subsection (1) may refer such dispute to a court of competent jurisdiction for final adjudication.

(3) Till the final order is made by a court on such reference, the interim order shall be valid and effectual and shall not be called in question in any court by way of writ or otherwise. So long and for so long only as the interim order is in force the person declared by such interim order to be entitled to possess the agricultural land shall be deemed for the purpose of section 3 to be the owner of such agricultural land.

(4.) As long as the interim order is in force the Commission shall not alienate the agricultural land to which the interim order relates.

"Provided, however, that, where no reference has been made under subsection (2) the interim order made under subsection (1) shall have the effect of a final order under subsection (3)."

5. Where after the date of commencement of this Law any person becomes the owner of agricultural land in excess of the ceiling, any such land owned by such person in excess of the ceiling shall as from that date—

(a) be deemed to vest in the Commission; and

(b) be deemed to be held by that person under a statutory lease from the Commission.

6. Where any agricultural land is vested in the Commission under this Law, such vesting shall have the effect of giving the Commission absolute title to such land as from the date of such vesting, and free from all encumbrances.

7. For the purposes of this Law, where any agricultural land is co-owned, each co-owner shall be deemed to own his share in such land as a distinct and separate entity.

8. For the purposes of this Law, where any agricultural land is owned by a private company or co-operative society, the shareholders of such company, or society, as the case may be, shall be deemed to own such land for the purposes of section 3, in proportion to the shares held by each shareholder of such company, or society, as the case may be.

9. No servitude over any agricultural land shall in any manner be affected by a change of ownership of such land under the provisions of this Law, unless and until such servitude has been determined by the Commission. Where such servitude is so determined, the owner of the servitude shall be entitled to such compensation for being deprived of the servitude as may be decided by the Commission.

10. The rights of tenant cultivators under the Paddy Lands Act, No. 1 of 1958, shall not be affected by a change of ownership of any agricultural land under the provisions of this Law.

11. (1) Subject to the provisions of subsection (3), any person who is a statutory lessee of any agricultural land under subsection (2) of section 3, paragraph (b) of section 5 or subsection (6) of section 13 may surrender such lease on giving the prescribed notice to the Commission.

(2) Where a statutory lease is surrendered under subsection (1) the Commission may manage or deal with the lands so surrendered in accordance with the provisions of this Law.

(3) The statutory lessee of any agricultural land shall not be entitled to surrender such lease under subsection (1) where such statutory lessee has in the declaration made under section 18 expressed a preference under paragraph (f) of subsection (2) thereof.

12. (1) Where any agricultural land subject to a mortgage, lease, usufruct or life interest vests in the Commission under the provisions of this Law the mortgagee, lessee, usufructuary or the holder of the life interest, as the case

may be, shall have a lien to the extent of his interest in such agricultural land on the compensation payable to the owner thereof and where such compensation is not sufficient to meet his claim, such mortgagee, lessee, usufructuary or such holder of the life interest shall be entitled to enforce his rights against any land subject to such mortgage, lease, usufruct or life interest in the hands of the owner of the agricultural land vested in the Commission after the ceiling of agricultural land is applied to him.

(2) Where on or after May 29, 1971 any agricultural land has been alienated by way of lease to or by any person who owns agricultural land in excess of the ceiling such lease shall from the date of commencement of this Law be deemed to have been terminated.

(3) Where a lease in respect of any agricultural land is deemed to have been terminated under subsection (2) the lessee shall be entitled to receive from the lessor as compensation for improvements made to such agricultural land during the period of the lease such amount as may be determined by the Commission.

13. (1) Where on or after May 29, 1971, any person, who owned agricultural land in excess of the ceiling has alienated any agricultural land to any other person, such alienor shall, within three months of the date of commencement of this Law, report such alienation to the Commission in the prescribed form.

(2) Where the Commission finds that any alienation of agricultural land on or after May 29, 1971, has been calculated to defeat the purposes of this Law the Commission may by order made under its hand declare that such alienation is null and void. Every such order shall be sent by registered post to the alienor and alienee of the agricultural land to which that order relates.

(3) Any alienor or alienee aggrieved by an order made under subsection (2) may within three weeks of the receipt of such order appeal to the Minister in the prescribed form, and the Minister may on such appeal make such order as the Minister may deem fit in the circumstances of the case.

(4) The receipt of the order shall be deemed to be effected at the time at which the letter sent under subsection (2) would be delivered in the ordinary course of post.

(5) Where no appeal has been preferred under subsection (3) within the time allowed therefor against the order made under subsection (2), such order, or where an appeal has been preferred, the order as amended, varied or modified on appeal shall be published in the *Gazette*. The Order so published shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

(6) Where the Commission under the provisions of subsection (2) declares that any alienation is null and void, no right, title or interest shall be deemed to have passed to the alienee under the instrument of such alienation and such agricultural land shall vest in the Commission and the alienee shall be deemed to hold such land under a statutory lease from the Commission.

(7) Nothing contained in the preceding provisions of this section shall affect or be deemed to affect any transfer made by a fiduciary of his interest in any agricultural land to a fideicommissary in accordance with the provisions of the Abolition of Fideicommissa and Entails Act, No. 20 of 1972.

14. (1) Any person who becomes a statutory lessee of any agricultural land under this Law may within three months from such date make an application to the Commission in the prescribed form for the transfer by way of sale, gift, exchange or otherwise of the entirety or portion of such agricultural land to any child who is eighteen years of age or over or to a parent of such person.

(2) The Commission may by order made under its hand grant or refuse to grant approval for such transfer. Such orders shall be made within one year of the date of application under subsection (1). Every such order shall be sent by registered post to the applicant under subsection (1). Any such applicant aggrieved by the order may appeal to the Minister within three weeks of the receipt of such order. The receipt of the order shall be deemed to be effected at the time at which letters would be delivered in the ordinary course of post.

(3) Any transfer effected in accordance with the provisions of an order made under subsection (2) or such order as amended, varied or modified on appeal shall have the effect of transferring right, title or interest in property so transferred free of the statutory lease.

(4) Any order made under subsection (2) or where an appeal has been preferred the order as amended, varied or modified on appeal shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise

(5) Nothing contained in the preceding provisions of this section shall affect or deem or affect any transfer made by a fiduciary of his interest in any agricultural land to a fideicommissary in accordance with the provisions of the Abolition of Fideicommissa and Entails Act, No. 20 of 1972.

15. The following shall be the terms and conditions of every statutory lease of any agricultural land:-

(a) The statutory lease may be terminated at any time at the option of the Commission. Unless terminated earlier such lease shall run for one year from the date of commencement of his statutory lease, and may be renewed for a further period of one year, save and except as hereinbefore provided, no further renewals of such lease shall be given except with the express approval of the Minister.

(b) The amount payable as lease rent per year by the statutory lessee of any agricultural land shall be-

(i) if such land is not paddy land, one-fifteenth of the compensation payable to such lessee as the former owner of such land; or

(ii) if such land is paddy land, one-tenth of the compensation payable to such lessee as the former owner of such land.

- (c) The statutory lessee shall be entitled to manage the land subject to the statutory lease and to appropriate the profits thereof during the period of such lease. Such lessee shall be entitled with the written approval of the Commission to develop and improve such land and to effect repairs to buildings standing thereon. Where a lessee has with the written approval of the Commission developed or improved such land or effected such repairs to buildings he shall be entitled to receive compensation therefor in cash.
- (d) The lease rent due from the statutory lessee shall be deducted from any compensation payable under the provisions of this Law.
- (e) Where the statutory lessee causes any wanton damage to the land subject to a statutory lease or to any agricultural crop or building or fixtures thereon, he shall be guilty of an offence and the Commission may withhold all or any part of the compensation payable to him. The statutory lessee may, however, with the written approval of the Commission, cut down any trees standing on the land to which the lease relates.
- (f) It shall be the duty of the statutory lessee to allow the workers who are lawfully resident on the land owned by him on the day immediately prior to the date of commencement of this Law to continue so to reside on such land and to continue the employment of the workers on such land who were in regular employment on such day.
- (g) Where anyone who was not lawfully resident on the land held by the statutory lessee on the day immediately prior to the date of commencement of his statutory lease, attempts to take or takes up residence on such land, it shall be the duty of the statutory lessee to immediately report the fact in writing to the Commission and the police officer in charge of the nearest police station.
- (h) Where any statutory lessee fails to comply with the provisions of paragraph (g) he shall be guilty of an offence and the Commission may withhold any compensation payable to such statutory lessee under this Law.

16. Upon the receipt of a report under paragraph (g) of section 15 in respect of any land subject to a statutory lease, an authorized officer or agent of the Commission may give directions to any police officer in connection with the ejection of all such occupiers of such land referred to in the report, and such police officer shall take all such steps and may use such force as may be necessary for securing compliance with such directions.

17. (1) Where an authorized officer or agent is unable or apprehends that he will be unable to eject the unlawful occupiers of any agricultural land held by the statutory lessee on the day immediately prior to the commencement of his statutory lease, he shall, on making an application in that behalf in the

prescribed form to the Magistrate's Court having jurisdiction over the area in which that land is situated, be entitled to an *ex parte* order of the Court directing the Fiscal to eject such unlawful occupiers from that land.

(2) Where an order under subsection (1) is issued to the Fiscal by the Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(3) For the purpose of executing the order issued by the Magistrate's Court under subsection (1), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the agricultural land to which the report relates and to eject the unlawful occupiers, and their dependants, if any, therefrom.

PART II

DECLARATION IN RESPECT OF AGRICULTURAL LAND AND VESTING AND ALIENATION OF SUCH LAND

18. (1) The Commission may, by Order published in the *Gazette* and in such other form as it may deem desirable to give publicity to such Order, direct that every person who becomes the statutory lessee of any agricultural land shall, within a month from the date of the publication of the Order, or of becoming a statutory lessee under this law make a declaration, in this Law referred to as a "statutory declaration", in the prescribed form of the total extent of the agricultural land so held by him on such lease.

(2) The declaration shall *inter alia* specify-

- (a) (i) the name of each agricultural land owned by the declarant together with such agricultural land owned by any member of the family of the declarant on the day immediately prior to the date of commencement of this Law together with the extent of such land;
- (ii) where the declaration is in respect of an agricultural land owned by a family within the meaning of this Law the head of such family shall make the declaration and shall specify in the declaration the total extent of the agricultural land owned by such family and the extent owned by each individual member of such family;
- (b) the situation of each such land and the postal address thereof and directions for reaching such land;
- (c) the nature of the crops grown on each such land together with the acreage under cultivation and any other particulars relating to the use of such land;
- (d) the income derived from each such land within the previous five years as declared to the Commissioner of Inland Revenue for the purpose of income tax immediately prior to the date of commencement of his statutory lease;

- (e) the value of each such land as declared to the Commissioner of Inland Revenue for the purpose of wealth tax immediately prior to the date of commencement of his statutory lease; and
- (f) the preference or preferences, if any, of the declarant as to the particular portion or portions of each such land which he should be allowed to retain.

The declaration shall be accompanied by a survey plan or sketch map depicting the boundaries of the lands declared, and of the portion or portions, if any, which the declarant has expressed a preference to retain, and shall specify all encumbrances attached to such land. Such portion or portions shall except in exceptional circumstances be contiguous areas of land which will result in minimum fragmentation of the whole land.

(3) Where any person who has made the declaration referred to in subsection (1) by operation of law becomes the owner of any agricultural land subsequent to such declaration, or ceases to be owner of any part of any land referred to in the declaration such person shall make a further declaration in respect of his land and the provisions of subsection (1) shall apply to such declaration.

(4) Any person who becomes the owner of agricultural land in excess of the ceiling on any day after the date of commencement of this Law shall, within one month of becoming such owner, make a declaration as provided for in the preceding provisions of this section.

(5) Any person who fails to make any declaration required by any of the preceding provisions of this section, or makes a declaration knowing such declaration to be false, shall be guilty of an offence and the Commission may forfeit any compensation payable to him under this Law.

19. (1) The following provisions shall apply on the receipt by the Commission of a statutory declaration made under section 18:-

- (a) The Commission shall, as soon as practicable, make a determination, in this Law referred to as a "statutory determination", specifying the portion or portions of the agricultural land owned by the statutory lessee which he shall be allowed to retain. In making such determination the Commission shall take into consideration the preference or preferences, if any, expressed by such lessee in the declaration as to the portion or portions of such land that he may be allowed to retain.
 - (b) The Commission shall publish the statutory determination in the *Gazette* and shall also send a copy thereof to such lessee by registered letter through the post. Such determination shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.
- (2) Before a statutory determination is made in respect of any agricultural land-

- (a) the Commission may create any class of servitude on or over such land;
- (b) the Commission shall have the right to survey such land; and
- (c) the statutory lessee shall be entitled to be paid such sum as the Commission may consider reasonable for fencing such land.

20. Every statutory determination published in the *Gazette* under section 19 shall come into operation on the date of such publication and the Commission shall have no right, title or interest in the agricultural land specified in the statutory determination from the date of such publication.

21. Every statutory determination published in the *Gazette* under section 19 shall *inter alia*—

- (a) specify the extent of the agricultural land permitted by the Commission to be retained by the statutory lessee;
- (b) make reference to a survey plan made by the Surveyor-General or under his direction of the agricultural land permitted to be retained by the lessee under paragraph (a); and
- (c) specify any servitude or encumbrance attaching to such agricultural land.

22. (1) Any agricultural land vested in the Commission under this Law may be used for any of the following purposes:—

- (a) alienation for agricultural development or animal husbandry by way of sale, exchange, rent purchase or lease to persons who do not own agricultural land or who own agricultural land below the ceiling;
- (b) alienation by way of sale, exchange, rent purchase or lease to a person for agricultural development or animal husbandry, or for a co-operative or collective farm;
- (c) alienation by way of sale in individual allotments to persons for the construction of residential houses;
- (d) for a farm or plantation managed by the Commission;
- (e) utilization for any public purpose;
- (f) alienation by way of sale to persons who were minors at the time of the imposition of the ceiling on agricultural land and whose parents were dispossessed of such land in excess of the ceiling by reason of such excess land having vested in the Commission under this Law; and
- (g) alienation to any corporation established under the State Agricultural Corporations Act, No. 11 of 1972, or to the Ceylon State Plantations Corporation established under the Ceylon State Plantations Corporation Act No. 4 of 1958.

(2) Where any agricultural land has been alienated by way of sale under paragraph (f) of subsection (1), the alienee of such land may make payment for the purchase of such land by way of bonds issued to a parent of such alienee, in respect of any agricultural land vested in the Commission.

(3) In determining the persons to whom any agricultural land vested in the Commission shall be alienated, the Commission shall, as far as practicable, comply with the provision that consideration shall be given to persons from the administrative district where such land is situated.

23. Any agricultural land vested in the Commission under this Law shall not be alienated by the Commission to any of the following persons:-

- (a) persons who are not citizens of Sri Lanka; and
- (b) any employee of the Government or of any State Corporation, or of a local authority, save and except for the purpose of construction of residential houses.

24. (1) The Commission may alienate any agricultural land to any person subject to such terms and conditions as it may deem fit and as would ensure that such land is used for the purpose for which it was alienated.

(2) Where any term or condition subject to which agricultural land is alienated to any person by the Commission is not complied with, the Commission may by endorsement on a certified copy of the instrument of alienation, cancel such alienation, and thereupon such alienation shall be determined accordingly, and such agricultural land shall re-vest in the Commission. Any determination of an alienation made under this section shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

25. The extent of any agricultural land alienated by the Commission to an individual shall be such as to ensure as far as possible that the average income derived from the development of such land shall not be less than three hundred rupees per mensem.

26. (1) As soon as possible after the date of commencement of this Law, the Commission may, by notice published in the Gazette, call for applications in the prescribed form from persons for the alienation to them of any extent of agricultural land by the Commission,

(2) Any application received by the Commission under subsection (1) shall be scrutinized by the Commission and shall be disposed of on its merits by the Commission.

(3) No application received by the Commission under subsection (1) shall be entertained by the Commission from any person to whom the Commission is not entitled to alienate any agricultural land under this Law.

27. Where any agricultural land is alienated by the Commission-

- (a) by way of sale, the price at which such land is so sold shall, as far as possible, be not less than the compensation payable by the Commission to the former owner of such land under this Law; or
- (b) by way of rent purchase, the annual rent for such land shall, as far as possible, be not less than—
 - (i) one-fifteenth of the compensation payable by the Commission to the former owner of such land if such land is not paddy land; and
 - (ii) one-tenth of the compensation so payable if such land is paddy land.

PART III

COMPENSATION

28. (1) Compensation shall be payable by the Commission in respect of any agricultural land vested in it under this Law. The compensation so payable shall be computed in accordance with the following two criteria and shall be the higher amount so calculated—

- (a) An amount not exceeding fifteen times the average annual profit on such land during the previous five years as assessed by the Commissioner of Inland Revenue, or where not so assessed, as declared to the Commissioner of Inland Revenue by the person who was the previous owner of such land on the day immediately prior to the date on which such land so vested, in this Part referred to as the "former owner", if such land is not paddy land, and ten times such average annual profit if such land is paddy land,
- (b) The value of such land as assessed by the Commissioner of Inland Revenue for the year of assessment ending March 31, 1971, or where not so assessed, as declared by its former owner to the Commissioner of Inland Revenue for the purpose of wealth tax.

(2) Where any agricultural land has not been assessed for the purpose of income tax or wealth tax the Commission may, in consultation with the Chief Valuer, make its own valuation for the purpose of subsection (1).

29. Where any agricultural land is vested in the Commission, the Chairman of the Commission shall, by notice published in the *Gazette* and in such other manner as may be determined by him, direct every person who was interested in such land immediately before the date on which such land was so vested, to make, within a period of one month reckoned from the date specified in the notice, a written claim to the whole or any part of the compensation payable under this Law in respect of such land and to specify in the claim—

- (a) his name and address;
- (b) the nature of his interest in such land;
- (c) the particulars of his claim; and
- (d) how much of such compensation is claimed by him.

30. (1) The Chairman of the Commission or such other officer as may be authorized by him in that behalf shall, as soon as possible after the receipt of a claim for compensation in respect of any agricultural land vested in the Commission made by any person under section 29, refer to the Chief Valuer the determination of the compensation payable in respect of such land, and such Chief Valuer shall submit his determination to the Commission for decision thereon.

(2) Where there is any dispute as to the persons entitled to compensation in respect of any agricultural land vested in the Commission, the Chairman of the Commission or such other officer as may be authorized by him in that behalf shall defer referring to the Chief Valuer the determination as to the compensation payable in respect of such land and shall refer the dispute for decision to the appropriate court of civil jurisdiction and shall, after such court makes its decision on such dispute, refer such claims to the Chief Valuer.

(3) The Chief Valuer shall give all claimants to compensation in respect of any agricultural land vested in the Commission an opportunity to adduce before such Valuer in person or by a representative authorized by him in that behalf evidence with regard to the value of such land, and shall make a determination as to the compensation payable for such land, having regard to the provisions of this Part.

31. (1) On receipt of the determination of the Chief Valuer, the Chairman of the Commission shall subject to such modifications if any, make an award as to the compensation payable in respect of the agricultural land which is the subject-matter of such determination, and shall give notice of such award to the person or persons entitled to such compensation.

(2) For the purpose of making an award, the Chairman of the Commission or such other officer as may be authorized by him in that behalf may, if such Chairman or other officer considers it necessary so to do, hold an inquiry, and such Chairman or other officer shall, by notice in writing, direct every claimant for compensation to be present on such date, at such time and place, as may be specified in the notice.

32. (1) Where no claim to the compensation payable in respect of any agricultural land vested in the Commission is received in response to the notice under section 29 from any person, other than the former owner of such land, the Chairman of the Commission shall cause such compensation to be paid to such former owner.

(2) Where any claim to the compensation payable in respect of any agricultural land vested in the Commission is received in response to the notice under section 29 from any person, other than the former owner of such land, then, if every such claimant and the former owner amicably agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them the Chairman of the Commission shall cause the compensation to be apportioned and paid to such persons according to such

agreement. If there is no such agreement, the Chairman of the Commission shall cause the compensation to be paid to any appropriate court of civil jurisdiction to be drawn by the persons entitled thereto.

33. Where any compensation payable to any person under this Law is not accepted by him when it is tendered to him, or where such person is dead or is not in existence or is not known, it shall be paid to any appropriate court of civil jurisdiction to be drawn by the person or persons entitled thereto.

34. (1) Where a person is entitled to compensation in respect of any agricultural land vested in the Commission under this Law, the Commission shall deduct or withhold from the amount of such compensation such sums as the Commission is authorized or required to so deduct or withhold under this Law.

(2) For the purposes of this section, the expression "compensation" includes any interest which has accrued due on such compensation.

35. The compensation payable in respect of any agricultural land vested in the Commission under this Law shall be considered as accruing due from the date on which that land was so vested.

36. (1) Where any person is dissatisfied with the amount of compensation awarded to him under section 31 such person may appeal against the award to the Board of Review constituted under the Land Acquisition Act (hereinafter referred to as "the Board of Review") which is hereby vested with jurisdiction, to entertain, hear and decide such appeal.

(2) Every appeal under subsection (1) shall be in writing and be addressed to the Chairman of the Board of Review and be transmitted to, or delivered at, the office of that Board.

(3) Every appeal under subsection (1) shall—

- (a) state the name and address of the appellant;
- (b) mention as the respondent the Chairman of the Commission or other officer who made the award against which the appeal is preferred;
- (c) contain a concise statement of the description of the agricultural land in respect of which the award was made; and
- (d) state the amount of compensation claimed by the appellant and the reasons why he considers the amount awarded by the respondent to be insufficient.

(4) No appeal under subsection (1) shall be entertained by the Board of Review unless it is preferred within twenty-one days after the date on which notice of the compensation under section 31 of this Law was received by the appellant.

37. (1) The provisions of section 24 of the Land Acquisition Act shall apply to proceedings before the Board of Review on any appeal to that Board under this Law.

(2) The provisions of section 25 of the Land Acquisition Act shall apply in relation to the decision of the Board of Review on any appeal to that Board under this Law subject to the following modifications:—

- (a) subsection (4) of that section shall have effect as though the proviso thereto were omitted; and
- (b) subsections (3) and (4) of that section shall have effect as though for the expression "section 17" occurring in those subsections, there were substituted the expression "section 31".

38. An award of the Chairman of the Commission, or any other officer authorized by him in that behalf, or if instead of that award, a new award has on appeal to the Board of Review been made by that Board, such new award shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

39. Where an award is made under section 31, the Chairman of the Commission shall tender to the person who is entitled to compensation according to that award the amount of compensation allowed to him by the award or, if in lieu of that amount a new amount has been allowed as compensation by a decision of the Board of Review on an appeal by him to that Board, tender that new amount to him, and shall pay the tendered amount to him if he consents to receive it.

40. The Chairman of the Commission may before the determination of a claim for compensation under this Law pay to a person whom he considers entitled to such compensation an advance, and any sum so paid shall be deducted from the amount of the compensation awarded to him under section 31.

41. The Central Bank shall issue securities under the provisions of the Monetary Law Act for the purpose of satisfying any right to compensation under this Law and the securities so issued are hereinafter referred to as "Land Reform Bonds."

42. Compensation payable under this Law shall be so paid in cash and Land Reform Bonds in such proportion as may be determined with the concurrence of the Minister of Finance. The following provisions shall apply to the Land Reform Bonds issued under section 41:—

- (a) Such bond shall be of twenty-five years duration and shall carry interest at the rate of seven *per centum* per annum.
- (b) The holder of such bond shall be entitled to surrender them before maturity with the approval of the Minister for the following purposes:—
 - (i) agricultural, industrial or other development purposes approved by the Minister;
 - (ii) construction of residential buildings with the approval of the Minister;
 - (iii) any other purposes as may be approved by the Minister.
- (c) The holder of such bonds shall be entitled to surrender them before maturity at par value for the payment of any Government dues such as for the payment of capital levy, estate duty and income tax.

PART IV

ESTABLISHMENT, CONSTITUTION, POWERS AND FUNCTIONS OF THE LAND REFORM COMMISSION

43. (1) There shall be established a Land Reform Commission (in this Law referred to as "the Commission"), which shall consist of the persons who are for the time being members of the Commission under section 45.

(2) The Commission shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(3) The head office of the Commission shall be in Colombo, or in such other place in Sri Lanka as may be determined by the Commission.

44. The Commission shall have such powers as may be necessary or expedient to achieve its objects and in particular it may—

- (a) acquire, hold, take or give on lease or hire, exchange, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) carry out investigations, surveys and record data concerning and relating to any agricultural land and call for returns in the prescribed form concerning and relating to agricultural land;
- (c) conduct, assist and encourage research into all aspects of land tenure and reform;
- (d) make charges for any service rendered by the Commission in carrying out its business;
- (e) establish and maintain branch offices for the purposes of the Commission;
- (f) call for and receive such documents relating to title, valuation, surveys and plans of agricultural land as may be necessary for carrying out such objects;
- (g) delegate to any member, officer or employee of the Commission or any state officer, or any employee of a State Corporation or local authority or to a District Land Reform Authority or to any Agricultural Productivity Committee established under any Law any of its powers and functions other than the power to make rules under section 57;
- (h) enter upon and inspect any agricultural land;
- (i) direct and decide all matters connected with the administration of its affairs;
- (j) enter into and perform, either directly or indirectly through any officer or agent of the Commission, all such contracts or agreements as may be necessary for enabling it to achieve the objects of this Law and to exercise its powers under this Law;
- (k) borrow money for the purposes of its business;

- (l) establish a provident fund and provide welfare and recreational facilities, houses, hostels and other accommodation, for persons employed by the Commission;
- (m) do anything for the purpose of advancing the skill of persons employed by the Commission and the assistance of the provision by others of facilities for training persons required to carry out the work of the Commission.

45. (1) The Commission shall consist of the following members:—

- (a) a Chairman appointed by the Minister;
- (b) five other members appointed by the Minister.—
 - (i) two of whom shall have had wide experience or shown capacity in the administration of lands, land tenure or in surveying or law;
 - (ii) one of whom shall be a state officer nominated by name or by office by the Minister of Finance;
 - (iii) one of whom shall be a state officer nominated by name or by office for such appointment by the Minister to whom the subject or function of 'Plantation Industry' is assigned by the Prime Minister; and
 - (iv) one of whom shall be a state officer nominated by name or by office for such appointment by the Minister to whom the subject or function of 'Planning and Employment' has been assigned by the Prime Minister; and
- (c) three *ex officio* members who shall be—
 - (i) the Land Commissioner;
 - (ii) the Commissioner of Agrarian Services; and
 - (iii) the Director of Agriculture.

(2) A member of the Commission appointed by the Minister under subsection (1) is in this Law referred to as an "appointed member".

(3) A person shall be disqualified from being appointed, or from continuing, as an appointed member of the Commission, if he is or becomes a Member of the National State Assembly.

(4) Every appointed member of the Commission —

- (a) shall, unless he earlier vacates his office by death or resignation or removal, hold office for a period of three years from the date of his appointment; and
- (b) shall be eligible for reappointment:

Provided that a member appointed by the Minister to fill a vacancy in the office of a member of the Commission, shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(5) All or any of the appointed members of the Commission may be paid such remuneration out of the fund of the Commission as may be determined by the Minister, with the concurrence of the Minister of Finance.

(6) An appointed member of the Commission may be removed from office by the Minister without assigning any reasons, so however, that no such member who was nominated by a Minister under subsection (1) (b) (ii), (iii) and (iv) of section 45 for such appointment shall not be so removed without the prior concurrence of the Minister nominating such member.

(7) The removal of any member of the Commission under subsection (6) shall not be called in question in any court, whether by way of writ or otherwise.

(8) Any appointed member of the Commission may resign his office by letter addressed to the Minister.

(9) Where any appointed member of the Commission becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of subsection (1), appoint a fit and proper person to act in place of that member.

(10) If the Chairman of the Commission becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint a fit and proper person to act in place of such Chairman.

(11) The Chairman of the Commission may resign the office of such Chairman by letter addressed to the Minister.

(12) The quorum for a meeting of the Commission shall be three members of the Commission and, subject as aforesaid, the Commission may regulate its own procedure.

(13) The Commission may act notwithstanding any vacancy among its members or any defect in the appointment of any member.

46. (1) The seal of the Commission shall be in the custody of the Commission.

(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.

(3) The seal of the Commission shall not be affixed to any instrument of document except in the presence of two members of the Commission both of whom shall sign the instrument in token of their presence.

47. (1) The Minister may give such general or special directions in writing as to the performance of the duties and the exercise of the powers of the Commission, and such Commission shall give effect to such directions.

(2) The Minister may, from time to time, direct the Commission in writing to furnish him in such form as he may require, returns, accounts and other information with respect to the property and business of the Commission and the Commission shall carry out every such direction.

(3) The Minister may order all or any of the activities of the Commission to be investigated and reported upon by such person or persons as he may specify and upon such order being made, the Commission shall afford all such facilities and furnish all such information as may be necessary to carry out such order.

48. All officers and servants of the Commission shall be deemed to be state officers within the meaning and for the purposes of the Penal Code.

49. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

50. (1) The Commission shall appoint a District Land Reform Authority for each administrative district consisting of such number of members as the Commission may determine.

(2) A District Land Reform Authority shall exercise, discharge or perform any such powers, functions or duties of the Commission as may be delegated to such Authority by the Commission.

(3) The members of a District Land Reform Authority may be paid such remuneration as the Minister may, in consultation with the Minister of Finance, determine.

PART V

STAFF OF THE COMMISSION

51. (1) The Commission may appoint a Secretary and such other officers, servants and agents as it considers necessary for the efficient discharge of its functions.

(2) The Secretary and other officers, servants and agents of the Commission shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Commission.

52. (1) The Commission may make rules in respect of all or any of the following matters:-

- (a) the appointment, promotion, dismissal and disciplinary control of the staff of the Commission;
- (b) the fixing of wages or salaries, or other remuneration, of such staff;
- (c) the terms and conditions of service of such staff; and
- (d) the administration of the affairs of the Commission.

(2) At the request of the Commission, any officer in the state service may with the consent of that officer and the Secretary to the Ministry in charge of the Minister to whom the subject of Public Administration has been assigned, be temporarily appointed to the staff of the Commission for such period as may be

determined by the Commission with like consent or be permanently appointed to such staff. Where any officer in the state service is temporarily appointed to the staff of the Commission, subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957, shall *mutatis mutandis* apply to and in relation to him.

(3) Where any officer in the state service is permanently appointed to the staff of the Commission, subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957, shall *mutatis mutandis* apply to and in relation to him.

(4) Where the Commission employs any person who has entered into a contract with the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Commission, any member of the Local Government Service or any other officer or servant (other than a member of the Local Government Service Commission) of any local authority may, with the consent of such member, officer or servant and the Local Government Service Commission or that authority, as the case may be, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent, or be permanently appointed to such staff on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Commission and the Local Government Service Commission or that authority.

(6) Where any person is temporarily appointed to the staff of the Commission in pursuance of the provision of subsection (5) he shall be subject to the same disciplinary control as any other member of such staff.

PART VI

FINANCE AND ACCOUNTS OF THE COMMISSION

53. (1) The initial capital of the Commission shall be ten million rupees.

(2) The amount of the initial capital of the Commission shall be paid to the Commission out of the Consolidated Fund in such instalments as the Minister of Finance may in consultation with the Minister determine.

(3) The capital of the Commission may be increased from time to time by a resolution of the National State Assembly.

54. (1) The Commission shall have its own fund.

(2) There shall be paid into the fund of the Commission:-

(a) all such amounts as may be voted from time to time by the National State Assembly for the use of the Commission; and

(b) all such sums of money received by the Commission in the exercise, discharge and performance of its powers and duties.

(3) There shall be paid out of the fund of the Commission all such sums of money required to defray the expenses incurred by the Commission in the exercise, discharge and performance of its functions, powers and duties under this Law or any other written law and all such sums of money as are required to be paid out of the fund by or under this Law.

55. The financial year of the Commission shall be the period of twelve months commencing on the first day of January each year.

56. The provisions of Part II of the Finance Act, No. 38 of 1971, shall *mutatis mutandis* apply to the financial control and accounts of the Commission.

PART VII

57. (1) The Commission may make rules in respect of all or any matters—
(a) for which rules are required or authorized by this Law to be made; and

(b) which are required by this Law to be prescribed.

(2) No rule made by the Commission shall have effect until it is approved by the Minister.

58. (1) No suit or prosecution shall lie:—

(a) against the Commission for any act which in good faith is done or purported to be done by the Commission under this Law; or

(b) against any member, officer, servant or agent of the Commission for any act which in good faith is done or purported to be done by him under this Law or on the direction of the Commission.

(2) Any expenses incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done by him under this Law or on the direction of the Commission shall, if the court holds that the act was done in good faith, be paid out of the fund of the Commission.

59. No writ against person or property shall be issued against a member of the Commission in any action brought against the Commission.

60. Any company or body of persons (whether corporate or unincorporate) may, notwithstanding anything to the contrary in any other written law or instrument relating to its functions, enter into and perform all such contracts with the Commission as may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Commission.

61. Notwithstanding anything contained in section 124 of the Inland Revenue Act, No. 4 of 1963, any officer of the Department of Inland Revenue shall, at the request of the Commission, disclose to the Commission such particulars relating to the affairs of any person that may come to his knowledge in the performance of his duties under that Act as may be required by the Commission for the exercise of its powers and discharge of its functions under this Law.

62. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of the following matters:-

- (a) any matter required by this Law to be prescribed;
- (b) the furnishing of returns, data and statistics relating to agricultural land;
- (c) the appointment of District and Land Reform Authorities and the terms and conditions of such appointments;
- (d) the compiling of registers of persons who do not own any agricultural land and are unemployed and who desire to:-
 - (i) purchase land from the Commission in individual allotments for agricultural or animal husbandry purposes;
 - (ii) be members of groups to whom land may be alienated on a co-operative basis for agriculture or animal husbandry;
 - (iii) be workers on farms or plantations managed by the Commission; and
 - (iv) purchase land for the construction of residential houses.

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

(4) Every regulation shall, as soon as convenient after its publication in the *Gazette*, be brought before the National State Assembly for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of its disapproval but without prejudice to anything previously done there under. Notification of the date of the regulation to be rescinded shall be published in the *Gazette*.

63. (1) Every person who:-

- (a) neglects or fails to comply with any provision of Law or any regulation or order made thereunder shall be guilty of an offence under this Law;
- (b) aids or abets any person or persons in the commission of an offence under this Law shall be guilty of an offence under this Law;
- (c) attempts to commit any offence under this Law, shall be guilty of an offence under this Law.

(2) Every person who commits an offence under this Law shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(3) Where any offence under this Law is committed by a body corporate every individual who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of that offence as he ought to have exercised in the circumstances having regard to the nature of the offence.

64. The provisions of this Law shall have effect notwithstanding anything to the contrary in the Tea and Rubber Estates (Control of Fragmentation) Act No. 2 of 1958, the Estates (Control of Transfer and Acquisition) Act, No. 2 of 1972, or in any other law, custom or usage.

65. The provisions of this Law relating to the ceiling on agricultural land shall not apply to:-

- (1) any State Corporation; and
- (2) any Government sponsored Co-operative Society, and the other provisions of this law shall be read and construed accordingly.

66. In this Law, unless the context otherwise requires:-

“agriculture” includes:-

- (i) the growing of rice, all field crops, spices and condiments, industrial crops, vegetables, fruits, flowers, pasture and fodder;
- (ii) dairy farming, livestock-rearing and breeding;
- (iii) plant and fruit nurseries;

“agricultural land” means land used or capable of being used for agriculture within the meaning given in this Law and shall include private lands alienated under the Land Development Ordinance or the Crown Lands Ordinance or any other enactment and includes also things attached to the earth or permanently fastened to anything attached to the earth but shall exclude:-

- (a) any cultivated agricultural land owned or possessed by a public company on May 29, 1971, so long and so long only as such land continues to be so owned or possessed by such company;
- (b) any such land which was viharagam or devalagam land on May 29, 1971, so long and so long only as such land continues to be so owned or possessed;
- (c) any such land which was owned or possessed by a religious institution on May 29, 1971, so long and so long only as such land continues to be so owned or possessed by such religious institution;
- (d) any such land which on May 29, 1971, constituted a charitable trust as defined in the Trusts Ordinance or a Muslim charitable trust or *Wakf* as defined in the Muslim Mosques and Charitable Trusts or *Wakfs* Act, No. 51 of 1956, so long and so long only as such land continues to be so owned or possessed as such trust;

- (e) any such land held in trust on May 29, 1971 under the Buddhist Temporalities Ordinance so long and so long only as such land is held in trust under that Ordinance;”.

“alienation” with its grammatical variations and cognate expressions, means any transaction of whatever nature affecting land or the title thereto, and includes any conveyance, transfer, grant, surrender, exchange, lease, mortgage of land or the creation of a trust or *fidei commissum* attached to land;

“co-operative society” registered under the Co-operative Societies Ordinance;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council;

“paddy land” has the same meaning as in the Paddy Lands Act, No. 1 of 1958;

“person” means:-

(a) a family:-

- (i) consisting of the surviving spouses or spouse and any surviving child or children under the age of eighteen years; or
- (ii) if there are no surviving spouses, any surviving child or children under the age of eighteen years; or

(b) any individual who is eighteen years of age or over; or

(c) any other person within the meaning of the Interpretation Ordinance not being any such family or individual;

“private company” means private company within the meaning of the Companies Ordinance;

“public company” means:-

(i) a company registered under the Companies Ordinance other than a private company; or

(ii) any company to which Part XI of the Companies Ordinance applies;”.

“State Corporation” means any Corporation, Board or other body which was or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form;

“statutory lease”, in relation to any agricultural land, means a lease of any such land deemed to have been granted by the Commission, under this Law;

“tenant cultivator” has the same meaning as in the Paddy Lands Act, No. 1 of 1958.

Co-operative Societies Law, No. 5 of 1972

A LAW TO PROVIDE FOR THE DEVELOPMENT OF CO-OPERATIVE SOCIETIES, AND TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE CONSTITUTION AND CONTROL OF CO-OPERATIVE SOCIETIES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

(Certified on 11th October, 1972)

1. This Law may be cited as the Co-operative Societies Law, No. 5 of 1972.

CHAPTER I

REGISTRATION

2. (1) There may be appointed a Registrar of Co-operative Societies for Sri Lanka or any portion thereof and such number of Deputy, Senior Assistant, or Assistant, Registrars as may be necessary.

(2) The Minister may, by general or special Order, confer on any Deputy, Senior Assistant or Assistant Registrar all or any of the powers of a Registrar under this Law or under any rules made thereunder.

(3) The person appointed to be, or to act for the time being as, the Commissioner of Co-operative Development shall have and may exercise the same powers as are vested in the Registrar of Co-operative Societies by this Law and by any rules made or deemed to be made thereunder.

(4) Each of the persons appointed to assist the Commissioner of Co-operative Development shall have and may exercise such of the powers of the Registrar under this Law and under any rules made or deemed to be made thereunder as may be specified by the Minister in any general or special Order made under this section.

3. (1) Subject to the provisions hereinafter contained,-

- (a) a society which has as its object the promotion of the economic, social or cultural interests of its members in accordance with co-operative principles, or
- (b) a society established with the object of facilitating the operations of a society referred to in paragraph (a), or
- (c) a society consisting of registered societies as members established for the purpose of providing co-operative education and training, advisory services to co-operative societies in Sri Lanka and other services for the promotion of the co-operative movement in Sri Lanka, or
- (d) a society consisting of registered societies as members established for the purpose of planning, co-ordinating, and facilitating the activities of such co-operative societies in Sri Lanka or any part thereof as are engaged in marketing, industry, agriculture, fisheries or in such other activity as may be approved by the Registrar,

may be registered under this Law with or without limited liability :

Provided that the liability of a society of which a member is a registered society shall be limited.

(2) Where the liability of the members of a society is limited, no member other than a registered society shall hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules.

4. (1) No society, other than a society of which a member is a registered society, shall be registered under this Law, if it does not consist of at least ten persons each of whom is above the age of eighteen years and resides or is employed or owns immovable property within the proposed area of operations of the society seeking registration.

(2) Where for the purposes of this section any question arises as to the age, residence, employment or property qualification of any person, that question shall be decided by the Registrar whose decision shall be final.

(3) The word "limited" shall be the last word in, or the equivalent of that word in Sinhala or Tamil shall form part of, the name of every society with limited liability registered under this Law.

5. (1) For the purposes of registration an application shall be made to the Registrar.

(2) The application shall be signed —

(a) In the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 4 (1); and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members, or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by two copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

6. If the Registrar is satisfied that a society has complied with the provisions of this Law and the rules, that the activity in which the society proposes to engage is economically feasible, and that its proposed by-laws are not contrary to this Law or to the rules, he may, if he thinks fit, register the society and its by-laws. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister against the refusal of the Registrar to register any society.

7. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

8. (1) Any registered society may, subject to this Law and the rules made thereunder, amend its by-laws, including the by-law which declares the name of the society.

(2) No amendment of the by-laws of a registered society shall be valid until that amendment has been registered under this Law for which purpose two copies of the amendment shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Law or to the rules, he may, if he thinks fit, register the amendment. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister against the refusal of the Registrar to register any amendment of any by-law.

(4) An amendment which changes the name of a society shall not affect any right or obligations of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) Where the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been duly registered.

(6) In this section "amendment" includes the making of a new by-law and the variation or rescission of a by-law.

9. (1) A registered society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members or delegates present and voting at a general meeting of the society —

(a) transfer its assets and liabilities in whole or in part to any other registered society; or

(b) divide itself into two or more societies.

(2) Any two or more registered societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members or delegates present and voting at a general meeting of each such society, amalgamate themselves and form a new society.

(3) The resolution of a registered society under subsection (1) or subsection (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) Where a registered society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any by-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in subsection (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) Where a resolution passed by a registered society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

10. (1) Where the whole of the assets and liabilities of a registered society are transferred to another registered society in accordance with the provisions of section 9, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) When two or more registered societies are amalgamated into a new society in accordance with the provisions of section 9, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a registered society divides itself into two or more societies in accordance with the provisions of section 9, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER II

MEMBERS OF REGISTERED SOCIETIES AND THEIR RIGHTS AND LIABILITIES

11. (1) No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws.

(2) Where a member of a registered society has not made such payment to the society or acquired such interest in the society as is referred to in subsection (1), it shall be lawful for the society, from any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961, to deduct any sum of money due to the society from such member in respect of such payment or such interest as is referred to in subsection (1).

12. (1) A registered society may admit any individual as an associate member.

(2) An associate member shall not be entitled to any share, in any form whatsoever, in the assets, or profits of the society, or any vote in the conduct of the affairs of the society.

(3) Save as provided in this section, an associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the by-laws of the society.

13. The minority or non-age of any person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under this Law or the rules made thereunder, and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the society; and any such contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law by or against such person notwithstanding his minority or non-age.

14. The subsequent discovery, of any defect in the appointment of, or of any disqualification for election of, any officer of a registered society shall not be a ground for invalidating or avoiding any contract entered into by such officer on behalf of such society.

15. No member of any primary society shall have more than one vote in the conduct of the affairs of the society :

Provided that in the case of an equality of votes the chairman shall have a casting vote.

16. (1) No member of any primary society shall at any meeting of the society exercise his vote except in person:

Provided, however, that voting through delegates at any meeting of the society may be allowed where it is so provided under the by-laws of the society.

(2) A registered society which is a member of any other registered society may appoint any one of its members for the purpose of voting in the conduct of the affairs of such other registered society.

17. (1) The transfer of the share or other interest of a member or past member or deceased member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Law or by the rules.

(2) In the case of a society registered with unlimited liability, a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless--

- (a) he has held such share or interest for not less than one year; and
- (b) the transfer is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the committee.

CHAPTER III

DUTIES OF REGISTERED SOCIETIES

18. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall within seven days of any change of that address notify the Registrar of such change.

19. Every registered society shall keep a copy of this Law and of the rules and of its by-laws and a list of its members open to inspection, free of charge, at all reasonable times at the registered address of the society.

CHAPTER IV

PRIVILEGES OF REGISTERED SOCIETIES

20. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purpose of its constitution.

21. (1) A registered society which has as one of its objects the disposal of any article which is the produce of agriculture or animal husbandry or any other industry, may provide in its by-laws or may contract with its members—

(a) that every such member who produces any such article, shall dispose of the whole or of any specified amount, proportion or description thereof to or through the society, and

(b) that any member who is proved or adjudged, in such manner as may be prescribed by rules, to be guilty of a breach of the by-laws or contract, shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by rules, or by its by-laws.

(2) A contract made by a registered society under subsection (1) shall create in favour of the society a first charge upon all articles, whether produced or about to be produced, to which the contract relates.

(3) In any legal proceedings arising out of a contract under subsection (1), it shall not be a defence that the contract is in restraint of trade.

(4) A member of a registered society shall be deemed not to have contravened any by-law of the society which requires him to deliver any produce to the society, if the failure to deliver such produce was due to the fact that he had, prior to becoming a member of the society, contracted to deliver the produce to some other person.

(5) Every person who applies for membership of a registered society shall, if required so to do, disclose in his application particulars of all contracts made by him for the delivery of any produce to any other person.

22. (1) Where the Minister is satisfied in the case of any registered society that the members of the society or any section hereof are producers of any article in Sri Lanka, or any province, district or area in Sri Lanka, the Minister may in his discretion, by Order, direct each producer of that article in Sri Lanka, or in such province, district or area in Sri Lanka, as the case may be, whether such producer is or is not a member of the society, to sell to or through the society such part of the total quantity of that article produced by him as is not required for his own use or consumption.

(2) Every Order made by the Minister under subsection (1) shall be published in the *Gazette* and shall specify the article, the area in which the Order shall operate and the basis on which the producer of such article shall be paid.

(3) Every Order shall come into operation on the date of its publication in the *Gazette* and shall subject to the provisions of subsection (5) continue in operation until it is rescinded.

(4) Every Order shall, as soon as may be after it has come into operation, be brought before the National State Assembly for approval.

(5) Every Order which the National State Assembly refuses to approve shall be deemed to be rescinded, but without prejudice to the validity of anything previously done or suffered to be done thereunder. The date on which an Order shall be deemed to be rescinded shall be the date on which the National State Assembly refuses to approve the order, and such date shall be notified in the *Gazette*.

(6) (a) The Minister may at any time by Order published in the *Gazette* (such Order being hereinafter referred to as an "amending Order") vary any Order previously made under subsection (1). Every amending Order shall come into operation on the date of its publication in the *Gazette*.

(b) An Order made under subsection (1), which is varied by an amending Order shall continue in operation, as so varied, for the period during which it would have been in operation if it had not been so varied, and no longer.

(c) Every amending Order shall be brought before the National State Assembly for approval:

Provided, however, that where an Order made under subsection (1) is varied by one or more amending Orders before it is approved by the National State Assembly under subsection (4), the Order, when it is brought before the National State Assembly for approval under that subsection, shall have incorporated therein all variations effected by such amending Order or Orders, and it shall not be necessary in any such case to bring any such amending Order separately before the National State Assembly.

(d) The refusal of the National State Assembly to approve any amending Order which is brought before the National State Assembly for approval shall be deemed to be a rescission, of that amending Order, and the Order made under subsection (1) shall, from the date of such rescission, continue in operation as though that amending Order had not been made.

(e) The Minister may at any time rescind any Order previously made under subsection (1). Notification of the rescission of any such Order shall be published in the *Gazette* and such Order shall be deemed to be rescinded upon the date of such publication.

(7) Every Order shall, when approved by the National State Assembly, be as valid and effectual as if it were herein enacted.

(8) Every Notification required to be published in the *Gazette* under this section shall be published under the hand of the Minister.

(9) The provisions of any Order made under this section shall, notwithstanding that they are inconsistent with or in conflict with the provisions of any other written law, prevail over such other written law for the period during which the Order is in force.

(10) Every producer who is directed by Order under subsection (1) to sell any article to or through a registered society of which he is not a member, shall, in respect of any such sale in compliance with such direction and of any matter or transaction arising out of such sale, be subject to the same conditions and obligations to which he would have been subject if he were a member of the society.

(11) Where any producer in respect of whom an Order is made under subsection (1), and who is not a member of the registered society, applies for admission as a member of the society, the society shall—

- (a) if he so desires, deduct from any funds received or held by the society on his account, the whole or any portion of the subscription for membership, and
- (b) admit him as a member upon payment in full of such subscription subject to any such deduction as aforesaid.

23. (1) Any person who, having knowledge or notice that any other person has contracted under section 21 or is bound by an Order under section 22 to sell any article produced by such other person to or through a registered society, solicits or persuades such other person to sell or deliver such article, in violation of such contract or in contravention of such Order, as the case may be, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees.

(2) Where the person convicted of an offence under subsection (1) is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of

that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

24. Subject to any prior claim of the Republic on the property of a debtor and to the lien or claim of a landlord in respect of rent or any money recoverable as rent, and in the case of immovable property, to any prior registered charge thereon—

(a) any debt or outstanding demand payable to a registered society by any member or past member shall be a first charge—

(i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member;

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements, or raw materials for manufacture, or workshops, godown, or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given to him by the society:

Provided that nothing herein contained shall affect the claims of any bona fide purchaser or transferee, for value without notice, of any such crops, or other agricultural produce, cattle, fodder for cattle, or agricultural or industrial implements, or raw materials for manufacture; and

(iii) upon any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961;

(b) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

25. A registered society shall have a charge upon the shares or other interests in the capital and on the deposits of a member or past member or deceased member and upon any dividend, bonus, or profits payable to a member or past member or to the estate of a deceased member in respect of—

(a) any debt due to the society,

(b) any debt due to any other registered society, or

(c) any amount due to the liquidator of any registered society,

from such member or past member or estate, and may set off, or pay to such other society, or liquidator, as the case may be, any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt or amount.

26. Subject to the provisions of section 25, the share, contribution or other interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his assignee in insolvency nor a receiver appointed under Chapter L of the Civil Procedure Code, shall be entitled to, or have any claim on, such share, contribution or other interest.

27. (1) On the death of a member, a registered society may transfer the share or other interest of the deceased member to the person nominated in accordance with the rules made in that behalf, or if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or may pay to such nominee, heir, or legal representative, as the case may be, a sum representing the value of such member's share or other interest, as ascertained in accordance with the rules or by-laws: Provided that--

- (a) in the case of a society with unlimited liability, such nominee, heir, or legal representative, as the case may be, may require payment by the society of the value of the share or other interest of the deceased member ascertained as aforesaid; and
- (b) in the case of a society with limited liability, the society may transfer the share or other interest of the deceased member to such heir or legal representative, as the case may be, who is qualified in accordance with the rules and by-laws for membership of the society, or on his application within six months of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society shall pay all other moneys due to the deceased member from the society to such nominee, heir, or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

28. (1) A registered society may receive deposits from or for the benefit of minors and it shall be lawful for a registered society to pay to such minors the interest which may become due on such deposits. Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.

(2) The receipt of any minor or guardian for money paid to him by a society under this section shall be a sufficient discharge of the liability of that society in respect of that money.

29. (1) The liability of a past member for the debts of a registered society as they existed on the date on which he ceased to be a member shall continue for a period of two years reckoned from that date.

(2) The estate of a deceased member shall, for a period of two years reckoned from the date of his decease, be liable for the debts of the society as they existed on the date of his decease.

30. Any register or list of members kept by any registered society shall be prima facie evidence of any of the following particulars entered therein:-

- (a) the date on which the name of any person was entered in such register or list as a member;
- (b) the date on which any such person ceased to be a member.

31. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any legal proceeding, civil or criminal, as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of any registered society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under subsection (1) or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the court for special reasons so directs.

32. Notwithstanding any written or other law for the time being in force, a registered society may --

- (a) pledge as security for a general balance of account any securities held by it; and
- (b) authorize the creditor, in the event of default of payment on the date of the termination of a notice issued to the society, to sell any or all of such securities, without recourse to court, and to credit the proceeds to such balance of account.

33. A registered society may acquire by purchase, gift or otherwise and take on lease lands, buildings or other movable or immovable property, or sell, mortgage, lease, exchange or otherwise dispose of lands, buildings or other movable or immovable property for any purpose connected with its objects:

Provided, however, that the prior approval in writing of the Registrar shall be obtained in the case of any such transaction referred to in the preceding provisions of this section as relates to any immovable property or to any such movable property as is specified in the rules made under this Law in that behalf.

34. (1) Where any land or building is required for any purpose connected with the objects of a registered society, that purpose shall be deemed to be a public purpose and that land or building may be acquired under the Land Acquisition Act by the Government for that society.

(2) Where any land or building is to be acquired under the Land Acquisition Act by the Government for a registered society, that society shall, before an Order relating to that land or building is made under section 38 of that Act, pay to the Government the amount determined under that Act as the compensation payable in respect of that land or building and also the costs incurred by the Government in the acquisition proceedings:

Provided, however, that where it becomes necessary to take possession of any land or building on the ground of any urgency before the amount of compensation is determined under that Act, that society shall pay to the Government before such Order is made such amount as in the opinion of the acquiring officer is likely to be determined as the compensation payable in respect of that land or building, and shall pay the balance amount, if any, after the amount of compensation is determined under that Act.

CHAPTER V

EXEMPTIONS FROM STAMP DUTY AND FEES

35. (1) Every registered society shall be exempt from--

- (a) any stamp duty chargeable under any written law in respect of any instrument executed by, or on behalf of, or in favour of, a registered society, or in respect of any document filed in a court in pursuance of the provisions of section 59, in cases where but for the exemption granted by this subsection, the registered society would be liable to pay the duty chargeable in respect of such instrument or document, and
- (b) any fees payable under the law for the time being in force relating to the registration of documents.

(2) Every member of a registered society shall be exempt from the payment of any stamp duty chargeable under any written law in respect of any instrument executed by such member in favour of, and relating to the business of, such registered society in cases where but for the exemption granted by this subsection the member would be liable to pay the duty chargeable in respect of such instrument.

CHAPTER VI

GENERAL PROVISIONS RELATING TO BY-LAWS

36. (1) Every by-law of a registered society shall, upon registration, be binding upon the society and the members thereof to the same extent as if the by-law was signed by each member of the society and contained a covenant by each such member to observe the provisions of the by-law.

(2) Any dispute arising out of the interpretation of a by-law of a registered society shall be referred to the Registrar for his decision, and his decision shall be final and conclusive in law.

37. No by-law made by a registered society in respect of any matter for which by-laws are authorized by any rule to be made, shall be called in question in any court of law on the ground only that such by-law constitutes a contract in restraint of trade.

38. The by-laws made by any registered society may, subject to any rules, provide for the imposition of fines on the members of the society for contravention of its by-laws :

Provided, however, that no such fine shall be imposed on any member unless--

- (a) notice in writing of the intention to impose such fine and the reasons therefor have been given in writing to him by the society; and
- (b) he has failed to show, within such time and in such manner as may be prescribed by rules, sufficient cause against the imposition of the fine.

CHAPTER VII

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

39. (1) A registered society shall not make any loan to any person other than a member:

Provided that, with the consent of the Registrar, a registered society may make loans to another registered society.

(2) Except with the permission of the Registrar, a registered society shall not lend money on the security of any movable property other than agricultural produce.

40. (1) A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws,

(2) Where a loan is granted to a registered society by a bank on the mortgage of any immovable or movable property, such property shall, from and after the date of the registration of such mortgage under the Registration of Documents Ordinance, be charged with the payment of the moneys due under such mortgage in priority to every other debt of such registered society whatsoever and to every mortgage or charge affecting such property, except a mortgage or charge affecting such property which is secured by a mortgage duly registered under the Registration of Documents Ordinance prior to such date.

41. Save as provided in sections 39 and 40 transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

42. (1) A registered society may deposit or invest its funds in any of the securities other than a first mortgage of immovable property specified in section 20 of the Trusts Ordinance, or with any banker or person acting as a banker approved for this purpose by the Registrar, or in the shares or on the security of any other registered society, approved for this purpose by the Registrar, or in any other mode permitted by the rules.

(2) Any deposit or investment made before the commencement of this Law which would have been valid if this Law had been in force is hereby ratified and confirmed.

43. (1) Every registered society shall, out of its net profits in any financial year as ascertained by the audit under section 44,--

- (a) transfer an amount not being less than twenty five *per centum* of the net profits to the reserve fund of the society; and
- (b) contribute such portion of the net profits as may be prescribed by rules to the Co-operative Fund established under the rules.

(2) The balance of the net profits may be utilized for all or any of the following purposes:--

- (a) payment of dividends to members on their paidup share capital at a rate not exceeding the rate prescribed in the rules;
- (b) payment of rebates to members on the value of the business done by them with the society to the extent and in the manner specified in the by-laws;
- (c) contributions to such funds as may be prescribed in the by-laws;
- (d) payment of bonus to employees of the society;
- (e) payment on such other account as may be specified in the by-laws;
- (f) contributions of an amount not exceeding ten *per centum* of the net profits to a Common Good Fund for expenditure on any social, cultural or recreational purpose, or the advancement of any other object of local or public utility.

(3) In the case of a society with unlimited liability, no distribution of profits shall be made without the general or special order of the Registrar.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION OR INVESTIGATION

44. (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in that behalf the accounts of every registered society once at least in every year.

(2) The audit under subsection (1) shall include an examination of overdue debts, if any, and a valuation and verification of the assets and liabilities of the registered society.

(3) For the purposes of an audit under subsection (1), the Registrar or any person authorized by him to audit the accounts shall have the power--

- (a) to summon any past or present officer, agent, servant or member of the society or any other person who, in the opinion of the Registrar or the person authorized by him to audit, can give material information about any transactions of the society or the management of its affairs;
- (b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to the society, by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash security or other property; and
- (c) to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such audit.

(4) The Registrar, or any person authorized by general or special order in writing in that behalf by the Registrar, shall at all times have access to all the books, accounts, papers, and securities of a registered society, and shall be entitled to inspect the cash in hand; and every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the person making an audit may require.

(5) The Registrar and every person authorized by him to audit the accounts of a registered society shall be deemed to be public servants within the meaning of the Penal Code.

(6) (a) If, in the course of, or at the conclusion of, an audit under subsection (1), it is found that any person, who is or was entrusted with the organization or management of a society, or who is or has at any time been an officer or an employee of a society has made any payment or has used any funds of the society contrary to the provisions of this Law or the rules made under this Law or the by-laws of the society or the working rules of the society, the Registrar shall disallow every such payment and every such use of funds and surcharge the same on the person making or authorizing the making of such illegal payment or such use of funds and shall charge against any person, the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any amount which ought to have been, but is not, brought into account by that person and shall in each case certify the amount due from such person and communicate his decision in writing to such person.

(b) Before making any disallowance or surcharge against any person, the Registrar, or any person authorized by general or special order in writing in that behalf by the Registrar, shall offer an opportunity to such person to be heard or to make any representations with regard to the matters which he may think fit, and shall in the event of his making such disallowance or surcharge, furnish such person in writing, on application being made to him for that purpose with the reasons for his decision in respect of such disallowance or surcharge.

(c) Any person aggrieved by any such disallowance or surcharge made by the Registrar may appeal therefrom to the Minister within fourteen days after the date of the decision of the Registrar being communicated to him, and the Minister's decision thereon shall be final and conclusive and shall not be questioned in any court:

Provided that no such appeal shall be entertained in any case in which the appellant has failed or neglected to make any representation with regard to the matter of such disallowance or surcharge after an opportunity to do so has been afforded to him by the Registrar in accordance with the provisions of paragraph (b).

(d) The provisions of section 66 (2) shall apply *mutatis mutandis* in a case where the decision made by the Registrar under paragraph (b), or a decision made by the Minister under paragraph (c), as the case may be, is not complied with.

45. (1) If on an audit held under section 44 any defects in the working of a registered society are disclosed, the Registrar may bring the defects to the notice of the society and if the society is a member of another society, also to the notice of that other society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed.

46. (1) The Registrar may of his own motion, and shall, on the application of a majority of the committee, or of not less than one-third of the members, of a registered society, hold an inquiry or direct some person authorized by him by order in writing in that behalf, to hold an inquiry into the constitution, working, and financial condition of the registered society.

(2) For the purposes of an inquiry under subsection (1), the Registrar or any person authorized by him to hold an inquiry, shall have the power--

- (a) to summon any past or present officer, agent, servant or member of the society or any other person who, in the opinion of the Registrar or the person authorized by him to inquire, can give material information about any transactions of the society or the management of its affairs;
- (b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to the society, by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash, security or other property;
- (c) to summon a general meeting of the members of the society at such time and place as may be specified by him to determine such matters as may be directed by him; and

- (d) to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such inquiry.]

(3) Any meeting summoned under subsection 2 (c) shall have ²all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws except that no quorum shall be necessary for such meeting and the provisions of the by-laws relating to the period of notice relating to a general meeting shall not be applicable. The Registrar or any person authorized by him may preside at such meeting but shall have no vote; in the event of an equality of votes he shall have a casting vote.

(4) Where an inquiry is held under this section the Registrar shall communicate the result of the inquiry to the society and to the society, if any, of which that society is a member and to any bank to which the society is indebted.

(5) The Registrar and every person authorized by him to hold an inquiry under this section shall be deemed to be public servants within the meaning of the Penal Code.

47. (1) The Registrar may of his own motion, or on the application of a creditor of a registered society, inspect, or direct any person authorized generally or specially by him by order in writing in that behalf to inspect, the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant:--

- (a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar may of his own motion investigate or direct any person authorized by him to investigate the affairs of any registered society.

(3) The Registrar, or any person authorized by the Registrar under this section,--

- (a) shall at all times have access to all the books, accounts, papers, and securities of a registered society, and shall be entitled to inspect the cash in hand; and every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the person making an inspection or an investigation may require; and
- (b) shall have the power to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such inspection or investigation.

- (4) The results of any such inspection--
- (a) where such inspection is held of the Registrar's own motion, may be communicated by the Registrar to the society and to any bank to which the society is indebted; and
 - (b) where such inspection is held on the application of a creditor, shall be communicated by the Registrar to the creditor and to the society.
- (5) Where an inspection is held under subsection (1) on the application of a creditor of a registered society, the Registrar may apportion the costs, or such part of the costs, as he may think fit between the society and the creditor.
- (6) Any sum awarded by way of costs against any society or creditor under this section may be recovered, on application to the Magistrate's Court having jurisdiction in the place where the registered office of the society is situated or the creditor resides, in like manner as a fine imposed by the Court.
- (7) The Registrar and every person authorized by him to inspect the books or investigate the affairs of a registered society shall be deemed to be public servants within the meaning of the Penal Code.

CHAPTER IX

DISSOLUTION OF THE COMMITTEE OF A REGISTERED SOCIETY

48. (1) If the Registrar is of the opinion after an inquiry under section 46 or an inspection made on an application of a creditor under section 47, that the committee of any registered society is not performing its duties properly, he may, after giving an opportunity to the committee to state its objections, if any, to its dissolution, and after considering such objections at a general meeting of the society summoned by him, by order in writing--

- (a) dissolve the committee; and
- (b) direct that the affairs of the society shall be managed and administered by a suitable person or persons appointed as hereinafter provided.

(2) Every direction under paragraph (b) of subsection (1) shall have effect for such period not exceeding two years as may be specified in the order containing such direction:

Provided, however, that the Registrar may in his discretion from time to time amend the order for the purpose of extending the period during which the direction shall have effect, so however that the aggregate period during which the direction shall so have effect shall not exceed four years.

(3) Where any order is made under subsection (1), the Registrar shall by the same or a subsequent order appoint a fit and proper person or two or more such persons to manage and administer the affairs of the society, and may from time to time remove or replace any person so appointed or appoint additional persons.

(4) Subject to the general direction and control of the Registrar, any person or persons appointed under this section to manage the affairs of a registered society--

- (a) shall have the power to recover the assets and discharge the liabilities of the society and take such other steps as may be necessary in its interests, and
- (b) may exercise all the powers, rights and privileges of a duly constituted committee of the society.

(5) Persons appointed under this section to manage the affairs of a registered society shall be jointly and severally responsible for any loss sustained through any such acts committed by them as are contrary to the law or the by-laws of the society.

(6) The Registrar may fix the remuneration payable to any person or persons appointed by him under this section to manage the affairs of a registered society. The amount of such remuneration and other expenses, if any, incurred in the management of the society shall be payable from its funds.

(7) It shall be the duty of the person or persons appointed under this section to manage the affairs of a registered society and holding office immediately prior to the date on which the direction under paragraph (b) of subsection (1) ceases to have effect, to arrange, prior to the date aforesaid, for the appointment of a new committee in accordance with the by-laws of the society.

(8) No order under subsection (1) shall be made by the Registrar in respect of any registered society--

- (a) if the society is indebted to any bank, except after prior consultation with the bank in regard to the dissolution of the committee and to the persons by whom and the manner in which the affairs of the society are to be managed and administered; and
- (b) if the society is a co-operative bank, except with the prior approval of the People's Bank.

(9) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 49.

CHAPTER X

DISSOLUTION OF A REGISTERED SOCIETY

49. (1) If the Registrar, after an inquiry under section 46, or an inspection made on the application of a creditor under section 47, or on receipt of an application made by three-fourths of the members of a registered society, and after giving an opportunity to the society and to the creditors of such society to state their objections, is of opinion that the society ought to be dissolved, he may by order under his hand cancel the registration of the society.

(2) Any member or any creditor of a registered society may, within two months from the date of an order under subsection (1), appeal from such order to the Minister.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society the order shall take effect on the expiry of that period. Where an appeal is presented within the two months, the order shall not take effect until it is confirmed,

(4) Where the Registrar cancels the registration of a society under subsection (1), he may appoint one or more persons to be in charge of the books, documents and other property of the society and to manage the affairs of the society until the order cancelling the registration of the society takes effect, or until such order is reversed in appeal by the Minister.

On the appointment of such person or persons the committee of the society or any other person in charge of the books, documents, and other property of the society shall hand over such books, documents or property to the first-mentioned person or persons and such committee shall until the order cancelling the registration takes effect or until such order is reversed in appeal by the Minister, cease to function.

50. The Registrar may by order in writing cancel the registration of any registered society—

- (a) where it is a condition of the registration of the society that the society shall consist of at least ten members if the number of members of such society has been reduced to less than ten; or
- (b) if a registered society has not commenced working during one year from the date of registration of such society or has ceased to work for a period of two years prior to the date of making the order of cancellation under this section.

51. Where the registration of a society is cancelled by an order under section 49 or under section 50, the society shall cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution:

Provided that any privileges conferred on the society by or under this Law shall be deemed to be vested in any liquidator or liquidators appointed for that society by the Registrar.

52. Where the registration of a society is cancelled under section 49 or section 50 the Registrar may appoint one or more persons to be the liquidator or liquidators of the society.

All the property of the society shall vest in the liquidator or liquidators on the date on which the order of cancellation under section 49 or section 50 as the case may be, takes effect.

53. (1) A liquidator appointed under section 52 shall, subject to the guidance and control of the Registrar and to any limitations imposed by the Registrar by order under section 54, have power to--

- (a) determine from time to time the contributions to be made by members and past members or by the estates of deceased members of the society to its assets;
- (b) appoint a day by proclamation or notice before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (c) decide in accordance with the provisions of this Law any question of priority which arises between creditors;
- (d) refer for arbitration under section 58 any dispute of any description mentioned in that section (references therein to the society being construed as references to the liquidator), and institute and defend suits and other legal proceedings on behalf of the society by his name or office;
- (e) decide by what persons and in what proportions the costs of liquidation are to be borne;
- (f) give such direction in regard to the collection and distribution of assets as may be necessary in the course of winding up the society;
- (g) compromise any claim by or against the society provided the sanction of the Registrar has first been obtained;
- (h) call such general meetings of members as may be necessary for the proper conduct of the liquidation;
- (i) take possession of the books, documents and assets of the society;
- (j) sell the property of the society;
- (k) carry on the business of the society so far as may be necessary for winding it up beneficially;

Provided that nothing herein contained shall entitle the liquidator of a credit society to issue any loan; and

- (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) Where there is any debt payable by any member or past member to a society whose registration is cancelled under section 49 or 50 and such person is a member of any other society registered under this Law after the date of such cancellation, then the liquidator of such first-mentioned society appointed under

section 52, shall, subject to the guidance and control of the Registrar and to any other limitations imposed by the Registrar by order under section 54, have power to require that such other society shall recover, from any sum of money due from such society to such person, a sum not exceeding such debt in like manner as if it was a debt due from such member to such other society and transmit the same to the liquidator.

(3) Subject to such rules as may be made in that behalf, any liquidator appointed under this Law shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a District Court under the Civil Procedure Code.

54. A liquidator shall exercise his powers subject to the control and direction of the Registrar, who may--

- (a) rescind or vary any order made by a liquidator and make whatever new order is required;
- (b) remove a liquidator from office;
- (c) call for all books, documents, and assets of the society;
- (d) by order in writing limit the powers of a liquidator under section 53;
- (e) require accounts to be rendered to him by the liquidator at his discretion;
- (f) procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the society;
- (g) make order for the remuneration of the liquidator; or
- (h) refer for arbitration any dispute (not being a dispute so referable under section 53 (1) (d)) between the liquidator and any third party, if such party consents in writing to be bound by the decision of the arbitrator.

55. (1) The decision of an arbitrator on any matter referred to him under section 54 shall be binding upon the parties, and shall be enforceable in like manner as an order made by the Registrar under that section.

(2) An order made by a liquidator or by the Registrar under section 53 or 54 shall not be called in question in any civil court, and shall be enforced by any civil court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court:

Provided that any bank which is a creditor of a society whose registration has been cancelled shall be entitled to appeal to the Minister from an order made by a liquidator or by the Registrar under section 53 or section 54, within two months from the date of such order of the liquidator or the Registrar.

(3) Where no appeal is presented to the Minister within two months of the making of an order by a liquidator or by the Registrar under section 53 or section 54, such order of the liquidator or the Registrar shall take effect on the expiry of that period. Where an appeal is presented to the Minister within the two months, the order of the liquidator or the Registrar shall not take effect until it is confirmed by the Minister.

56. Save in so far as herein before expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Law.

57. (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall subject to the provisions of section 40(2) be applied first to the costs of liquidation, then to the repayment of Government loans and Government guaranteed loans, then to the discharge of the other liabilities of the society, then to the payment of the share capital and then, provided the by-laws of the society permit, to the payment of a dividend at a rate not exceeding six *per centum* per annum for any period for which no disposal of profits was made, and to the payment of a rebate to members for any period for which no disposal of profits has been made where such period is immediately preceding the date of dissolution.

(2) When the liquidation of a society has been closed and any creditor of that society has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the *Gazette*; and, in respect of any claim against the funds of such society, no action shall be maintainable unless it is commenced within three months from the date of the publication of such notice in the *Gazette*.

(3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) and the payment of any claims for which an action is instituted under subsection (2), may be applied to such object of local or public utility as may be selected, subject to the approval of the Registrar, by the persons who were officers of the society at the date of the dissolution thereof.

If such persons fail within three months after the date on which the liquidation of the society is closed to select as aforesaid an object approved by the Registrar, the Registrar shall deposit the surplus in a bank or with a registered society.

The surplus so deposited may be paid into such Surplus Fund as may be constituted for the purposes of this Law. Disbursement out of such Surplus Fund may be made at the discretion of the Registrar for such purposes and in such manner as may be provided in the rules:

Provided, however, that any interest accruing on the surplus may be paid into the Co-operative Fund.

CHAPTER XI

DISPUTES

58. (1) If any dispute touching the business of a registered society arises--

- (a) among members, past members and persons claiming through members, past members and deceased members, or among officers or employees of the society, whether past or present, or among heirs or legal representatives of deceased officers or employees; or
- (b) between a member, past member or person claiming through a member past member or deceased member, and the society, its committee or any officer or employee of the society, whether past or present, or any heir or legal representative of any deceased officer or employee; or
- (c) between the society or its committee and any officer or employee of the society, whether past or present, or any heir or legal representative of any deceased officer or employee; or
- (d) between the society or its committee and--
 - (i) any person who was a member or an officer or employee of any other society whose business or part thereof was transferred to the society;
 - (ii) any person who claims through any member or past member or deceased member of the society referred to in sub-paragraph (i);
 - (iii) any person who is the heir or legal representative of any officer or employee of the society referred to in sub-paragraph (i); or
- (e) between the society and any other registered society,

such disputes shall be referred to the Registrar for decision.

A claim by a registered society for any debt, demand or damages due to it from a member, officer or employee, whether past or present, or any nominee, heir or legal representative of a deceased member, officer or employee, whether such debt, demand or damages be admitted or not, shall be deemed to be a dispute touching the business of the society within the meaning of this subsection.

(2) The Registrar may, on receipt of a reference under subsection (1) -

- (a) decide the dispute himself, or
- (b) refer it for disposal to an arbitrator or arbitrators.

(3) Any party aggrieved by the award of the arbitrator or arbitrators may appeal therefrom to the Registrar within such period and in such manner as may be prescribed by rules.

(4) No party to any appeal made to the Registrar under subsection (3) shall be entitled, either by himself or by any representative, to appear before and be heard by the Registrar on such appeal.

(5) A decision of the Registrar under subsection (2) or in appeal under subsection (3) shall be final and shall not be called in question in any civil court.

(6) The award of the arbitrator or arbitrators under subsection (2) shall, if no appeal is preferred to the Registrar under subsection (3) or if any such appeal is abandoned or withdrawn, be final and shall not be called in question in any civil court.

(7) The provisions of the Prescription Ordinance shall not apply to any claim which is the subject of a dispute under this section.

(8) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the business of a registered society the decision thereon of the Registrar shall be final and shall not be called in question in any civil court.

(9) In this section "member" includes associate member.

59. (1) Where a decision of the Registrar on a dispute or an appeal referred or made to him under section 58, hereafter in this section called a "decision" or an award of an arbitrator on a dispute referred to him under that section, from which award no appeal has been duly made to the Registrar under that section, hereafter in this section called an "award", is that a sum of money is due from one party to the dispute to another party to the dispute, and such sum together with costs and interest, if any, has not been paid, the Registrar may in respect of the party from whom such sum is due, hereafter in this section called the "defaulter":—

(a) issue a certificate to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, containing particulars of such sum, together with costs and interest, and the name of such defaulter; or

(b) issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of the sum due together with costs and interest, if any, and the name of the defaulter; or

(c) issue a certificate containing particulars of the amount due and the name and last-known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate.

(2) (a) Where the Registrar issues a certificate under paragraph (a) of subsection (1) to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, such officer is hereby empowered and required to cause such sum together with costs and interest to be recovered from the defaulter by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as such officer shall deem most expedient in that behalf and every property so seized shall be kept for five days at the cost and charge of the defaulter. If the defaulter does not pay such sum as is due together with costs and interest, and the cost and charge of seizing and keeping the property, within the said five days, the Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, as the case may be shall cause the said property to be sold by public auction.

(c) The sum realized by the sale shall be applied —

- (i) first, in payment of the cost and charge of seizing, keeping and selling the property, and
- (ii) secondly, in satisfaction of the sum of money due together with costs and interest,

and any balance shall be restored to the owner of the property seized.

(3) Where a certificate is issued to a District Court under paragraph (b) of subsection (1), the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for the recovery of such sum, and the provisions of sections 226 and 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Where a certificate is issued to a Magistrate under paragraph (c) of subsection (1), the Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the amount should not be taken against him, and in default of sufficient cause being shown, the amount shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section, he could have made at the time of imposing such sentence.

(5) Where the Registrar issues a certificate under this section, he shall issue to the defaulter a notification thereof by personal service, registered post or telegraph; but non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

(6) Nothing in this section shall authorize or require a District Court or Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any statement in the certificate of the Registrar.

(7) Any sum realized by a sale under subsection (3) and any sum paid or levied as fine under subsection (4) shall be transmitted by the District Court or the Magistrate, as the case may be, to the Registrar who shall dispose of such sum in accordance with the relevant decision or award.

60. (1) Where the application for membership of a registered society made by any person is refused by the society, such person may appeal to the Registrar against the refusal and the decision of the Registrar on such appeal shall be final and binding on the society.

(2) Where any question arises as to whether a member of a registered society has been duly elected to any office in the society or whether a member has ceased to be a member or officer of the society, or whether any general meeting of the society had been validly held, that question shall be decided by the Registrar whose decision shall be final.

CHAPTER XII

RULES

61. (1) The Minister may make all such rules as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1) such rules may--

- (a) prescribe the conditions to be complied with in applying for the registration of a society and the procedure in the matter of such applications;
- (b) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time and the payment to be made and interest to be acquired before exercising rights of membership;
- (c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled, and for the liabilities of past members;
- (d) prescribe the extent to which the registered society may limit the number of its members;
- (e) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;
- (f) subject to the provisions of section 3, prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member;
- (g) prescribe the payments to be made, the conditions to be complied with, and the forms of the bonds, instruments or other documents to be executed, by members applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members;

- (h) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by societies;
- (i) regulate the manner in which funds may be raised by means of shares or debentures or otherwise and the rate of interest which may be paid on deposits;
- (j) provide for general meetings of the members, and for the procedure at such meetings and the powers to be exercised by such meetings;
- (k) provide for the appointment, suspension, and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (l) prescribe the matters in respect of which a society may or shall make by-laws, and for the procedure to be followed in making, altering, and rescinding by-laws, and the conditions to be satisfied prior to such making, alteration, or rescission;
- (m) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;
- (n) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit and provide for the levy of contributions from all or any registered societies to a fund to be known as the Co-operative Fund, to be used for the audit and supervision of and assistance to existing societies and co-operative propaganda, for co-operative education and training, and provide for the administration of that Fund;
- (o) prescribe the returns to be submitted by registered societies to the Registrar, and the persons by whom and the form in which the same are to be made;
- (p) provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;
- (q) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares;
- (r) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of any registered society;
- (s) prescribe the manner in which any question, as to the breach of any by-law or contract relating to the disposal of produce to or through a society, may be determined, and the manner in which the liquidated damages for any such breach may be ascertained or assessed;

- (t) prescribe the mode of appointing an arbitrator or arbitrators, and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
 - (u) prescribe the conditions to be observed by a registered society applying for the financial assistance of Government;
 - (v) determine the cases, not expressly provided for in this Law, in which an appeal shall lie to the Minister against orders made by the Registrar;
 - (w) prescribe the procedure to be followed by a liquidator appointed under section 52. and the cases in which appeals shall lie from the orders of such liquidator;
 - (x) provide for the establishment and maintenance of the Surplus Fund referred to in section 57 and prescribe the manner and purposes for which the moneys of such Fund may be disbursed;
 - (y) prescribe the forms to be used, the fees to be paid, the procedure to be observed, and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Law or the rules made thereunder.
- (3) No rule shall have effect unless it has been approved by the National State Assembly. Notification of such approval shall be published in the *Gazette*.
- (4) Every rule shall, upon the publication in the *Gazette* of the Notification referred to in subsection (3), be as valid and effectual as though it were herein enacted.

CHAPTEER XIII

DEBTS DUE TO GOVERNMENT

62. (1) All sums due from a registered society, or from an officer or member or past member of a registered society as such, to the Government, including sums due on Government loans and Government guaranteed loans, and any costs awarded to the Government under section 46 may be recovered in manner provided for the recovery of debts due to the Republic by the Crown Debtors Ordinance, and shall, subject to the provisions of section 40 (2), be entitled to a preference of payment over sums due to any other person or persons.

(2) Sums due from a registered society to Government and recoverable under subsection (1) may be recovered, first from the property of the society; secondly in the case of a registered society of which the liability of the members is limited, from the members, subject to the limit of their liability; and thirdly in the case of other societies, from the members.

CHAPTER XIV

MISCELLANEOUS

63. Notwithstanding anything contained in this Law, the Minister may by special order in each case, and subject to such conditions as he may impose, exempt any society from any of the requirements of this Law as to registration.

64. The Minister may by general or special order exempt any registered society or class of societies from any of the provisions of this Law, or may direct that such provision shall apply to any society or class of societies with effect from such date or with such modifications as may be specified in the order.

65. (1) No person other than a registered society shall, without the sanction of the Minister, trade or carry on business under any name or title of which the word "co-operative", or in Sinhala the words "Eksath Sahakara" (එක්සත් සහකාර) or "Samupakara" (සමුපකාර) or in Tamil the word "Aikkiya" (ஐக்கிய) or "Kutturavu" (கூட்டுறவு) form part;

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business prior to the twenty-second day on September, 1921.

(2) Whoever contravenes the provisions of this section shall be liable on conviction after summary trial by a Magistrate's Court to a fine which may extend to five hundred rupees, and in the case of a continuing offence, with a further fine of fifty rupees for each day on which the offence is continued after conviction therefor.

66. (1) Where in the course of an audit under section 44 or an inquiry under section 46, or inspection of books and investigation of affairs of a society under section 47, or in the course of the liquidation of a registered society, it appears that any sum of money or other property is due to the society from any person or group of persons who or which has taken part in the organization or management of the society or from any past or present officer or employee of the society, the Registrar may, of his own motion or upon the application of the committee or the liquidator or any creditor or contributor of the society, as the case may be, examine the conduct of such person or group of persons or officer or employee and make an order requiring him or such group--

- (a) to repay with such interest as the Registrar thinks fit such money or part thereof,
- (b) to restore such other property or part thereof, or
- (c) to contribute such sum as the Registrar thinks fit to the assets of the society by way of compensation.

Before making any such order against any person or group of persons the Registrar shall give that person or group of persons an opportunity of being heard and of showing cause why such order should not be made.

(2) Where an order under subsection (1) for the repayment of any sum to a registered society, or for the contribution of any sum to its assets by way of compensation, has not been complied with, such sum may be recovered by the society on application to the Magistrate having jurisdiction in the division in which the registered place of business of the society is situated or in which the person or group of persons or officer or employee against whom the order was made resides or carries on business as though it were a fine imposed by a sentence of the Magistrate, on such person or group of persons or officer or employee for an offence punishable with fine only or not punishable with imprisonment, and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section, he could have made at the time of imposing such sentence. Nothing in this section shall authorize or require the Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any order made by the Registrar.

(3) Neither the preceding provisions of this section nor the making of any order thereunder may be deemed or construed to preclude or otherwise affect the institution or maintenance of a prosecution against any person or group of persons or officer or employee referred to in subsection (1) in respect of any offence under any other written law.

67. It shall be lawful for the Registrar, after the accounts of a registered society have been audited as provided in section 44 or after an inquiry under section 46 or inspection of books and investigation of affairs of a registered society has been held under section 47, to require any person, being a person who is or has at any time been entrusted with, or being a person having or at any time having had the dominion of, any money, in his capacity as an officer or a member or a servant of the society, to pay over or produce such amount of money or balance thereof which is shown in the books of accounts or statements kept or signed by such person as held by or due from him as such officer, member or servant; and if such person, upon being so required, fails to pay over or produce such amount of money or balance thereof forthwith or to duly account therefor, he shall be guilty of the offence of criminal breach of trust, and shall on conviction be subject to imprisonment of either description for a term which may extend to ten years and shall also be liable to a fine.

68. Notwithstanding anything in any other written law, the Registrar may, where he considers it necessary to do so, require any bank—

- (a) to furnish any information regarding the transactions of any registered society with the bank;
- (b) to produce a copy showing the account of the society with the bank from the ledger kept by the bank; or
- (c) to produce any cheques paid to the credit of the society or endorsed by the society.

69. The provisions of the Companies Ordinance, and of the Trade Unions Ordinance, and of any enactments amending those Ordinances, shall not apply to societies registered under this Law.

70. (1) Every society registered or deemed to be registered under any enactment repealed by this Law, shall be deemed to be registered under this Law, and the by-laws of such society shall, so far as they are not inconsistent with the express provisions of this Law, continue in force until altered or rescinded.

(2) All rules made under any enactment repealed by this Law and in force at the time of commencement of this Law shall, in so far as they are not inconsistent with the provisions of this Law, be deemed to have been made under this Law and shall continue in force until new rules are made under section 61 in substitution for those rules.

(3) All appointments and orders made, notifications and notices issued, and suits and other proceedings instituted or deemed to have been made, issued or instituted and all disputes that have arisen under any enactment repealed by this Law, shall, so far as may be, be deemed to have been respectively made, issued and instituted and to have arisen under this Law.

71. Where any registered society carrying on banking business of any kind has insured its deposits under Part II of Chapter V of the Monetary Law Act, the assets relating to the deposits insured under that Part, shall notwithstanding anything in any other provisions of this Law, not be utilized for any purpose other than to meet the liabilities relating to such deposits.

72. (1) Every registered society or an officer or employee or member thereof which or who wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Law by the Registrar or other person duly authorized by him in that behalf, and every person who wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Law, or fails to furnish any information lawfully required from him by a person authorized to do so under the provisions of this Law, and every registered society or officer or employee or member thereof which or who wilfully makes a false return or furnishes false information, shall be guilty of an offence under this Law.

(2) Every person who commits any offence referred to in subsection (1) shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(3) Where any offence under this Law is committed by a registered society every officer of the society bound by the by-laws or the rules to perform any duty whereof the offence is a breach, or if there is no such officer, then every member of the committee, unless that member is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall be liable to the same penalty as if he had committed the offence.

73. The following enactments are hereby repealed.-

- (i) The Co-operative Societies Ordinance (Chapter 124).
- (ii) The Co-operative Societies (Special Provisions) Act (Chapter 125).
- (iii) The Commissioner of Co-operative Development (Definition of Powers) Ordinance (Chapter 127).
- (iv) The Co-operative Societies (Special Provisions) Act, No. 24 of 1958.
- (v) The Co-operative Societies (Amendment) Act, No. 27 of 1964.

74. (1) Section 5 of the Co-operative Societies (Special Provisions) Act, No. 35 of 1970, is hereby amended in subsection (1) of that section, by the substitution, for paragraph (c) of that subsection, of the following new paragraph.-

“(c) decide, subject to the provisions of section 40 (2) of the Co-operative Societies Law, 1972, any question of priority which arises between creditors;”

(2) The following new section is hereby inserted immediately after section 22, and shall have effect as section 22A, of the Co-operative Societies (Special Provisions) Act, No. 35 of 1970:-

22A. The Registrar may direct any society which in his opinion is registered consequent on the dissolution of another society, to employ any such employee of the dissolved society as may be nominated by him in such capacity and on such terms and conditions as may be determined by him. Any society which fails to comply with any such direction shall be guilty of an offence under this Act.”

75. In this Law, unless the context otherwise requires:-

“bank” means-

- (a) any person or body of persons, corporate or unincorporate, which carries on in Sri Lanka the business of accepting from the public, or of creating, demand deposits;
- (b) any agency or institution acting on behalf of the Government (whether established by any written law or otherwise) which makes loans, advances or investments or accepts deposits of money from the public;
- (c) the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act; and
- (d) any other person or body of persons declared by the Minister in charge of the subject of Finance, in consultation with the Minister in charge of the subject of Co-operative Development, by Order published in the Gazette, to be a bank for the purposes of this Law;

“by-laws” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws;

“committe” means the governing body of a registered society to whom the management of its affairs is entrusted and includes the board of directors of a registered society, and persons appointed by the Registrar under section 48;

“member” includes a person joining in the application for the registration of a society, and a person admitted to membership after registration in accordance with the rules and by-laws;

“officer” includes every person who is the chairman, secretary, treasurer or manager of a society or any branch thereof or a member of the committee of a society, and any other person who is empowered by the rules or by-laws of a society to give directions in regard to the business of the society;

“primary society” means a registered society not being a society established with any object, or for any purpose referred to in paragraph (b), (c) or (d) of section 3 (1).

“registered society” means a society registered or deemed to be registered under this Law;

“Registrar” means the person appointed to perform the duties of the Registrar of Co-operative Societies under this Law;

“rules” means rules made or deemed to have been made under this Law.

Exchange Control (Amendment) Law, No. 14 of 1972

A LAW TO AMEND THE EXCHANGE CONTROL ACT

(Certified on 13th December, 1972)

1. This Law may be cited as the Exchange Control (Amendment) Law, No. 14 of 1972.

2. The Exchange Control Act is hereby amended by the insertion, immediately after Part V, of the following new Part, which shall have effect as Part VA, of that Act:-

PART VA

INVESTIGATION OF OFFENCES UNDER THIS ACT AND SPECIAL EVIDENTIARY PROVISIONS

30A. Where the Inspector-General of Police, or the Head of the Department of Exchange Control, or an officer of that department authorized by him for the purposes of this section, has reasonable ground to suspect the commission of an offence or a series of offences under this Act, involving an

amount or an aggregate amount exceeding ten thousand rupees, he may authorize a police officer to do any or all of the acts specified in this section without obtaining the prior authority of a Magistrate and without a warrant, that is to say,—

- (1) arrest and take into custody any person (hereinafter referred to as a "suspected person"), who has been concerned in any such offence or a series of such offences, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned;
- (2) record any statement of any suspected person or of any other person supposed to be acquainted with any facts relating to any such offence;
- (3) obtain the signature and specimen handwriting of any suspected person;
- (4) do all such acts as may be reasonably necessary for photographing, measuring, fingerprinting or otherwise identifying any suspected person;
- (5) search a suspected person, or enter with such assistance as may be required and search the dwelling house or the place of work of such person;
- (6) enter with such assistance as may be required and search any place, building, vehicle or vessel concerned in or connected with or supposed to be concerned in or connected with any such offence; and
- (7) notwithstanding anything to the contrary in any other law, whether written or otherwise, inspect and take possession of any movable property whatsoever, including any telegraphic message, any postal document (whether local or foreign) and obtain certified or photostat copies of any books or documents in any bank, which are considered necessary for the purpose of the investigation into any such offence.

30B. (1) Any suspected person who has been arrested under the 1st preceding section shall be produced within twentyfour hours before a Magistrate who, if written application is made to him by a police officer not below the rank of Assistant Superintendent to the effect that investigations into any offence under this Act in relation to such person are not complete, may make order that such person be held in the custody of the Fiscal for a period of one month and if, at the end of such period, a like application is made to him, may order that such person be kept in the custody of the Fiscal for a second month.

- (2) Before the expiry of the second month from the date of arrest of a suspected person, the Attorney-General may make an application to a Judge of the Supreme Court that such person should be held in

further custody for the completion of the investigations into the alleged offence, and the Supreme Court may in its discretion by a warrant addressed to the Fiscal of the administrative district in which such person is in custody direct that such person be detained in the custody of the Fiscal for a period not exceeding three months. The Attorney-General may make more than one application under this subsection provided, however, that the total period of detention that the Supreme Court may order under this subsection shall not exceed three months.

- (3) If no application under subsection (2) is made by the Attorney-General before the expiry of the second month, or if such application having been made is refused by the Supreme Court, the suspected person shall be brought before a Magistrate who shall order that such person be set at liberty or be released on bail.
- (4) During the period that a suspected person is in the lawful custody of the Fiscal under this section, any police officer investigating the alleged offence shall have the right of access during reasonable hours to such person for the purpose of the continuation of the investigation into the alleged offence, and may take such person from place to place if such action is considered necessary for the purpose of the investigation.
- (5) During the period that a suspected person is in the lawful custody of the Fiscal under this section, such person shall be detained in such place as may be authorized in writing by the Secretary to the Ministry of Justice. Whether such place is a prison established under the Prisons Ordinance or not, it shall be the duty of the person or officer in charge of such place to receive such person and to keep him in detention, and the provisions of the Prisons Ordinance and the rules made thereunder shall apply to such person:

Provided that the Secretary to the Ministry of Justice may, from time to time, by order issued to the person or officer in charge of such place direct that any of the provisions of the Prisons Ordinance or the rules made thereunder shall not apply to such person subject to such conditions or modifications as may be set out in the order.

- (6) It shall not be necessary to publish any order made under subsection (5) in the *Gazette*, and accordingly such order shall take effect upon its being signed by the Secretary to the Ministry of Justice.

30C. Where the Inspector-General of Police, or the Head of the Department of Exchange Control, or an officer of that department authorized by him for the purposes of this section, is of opinion that the presence of any person in Sri Lanka (being a citizen of Sri Lanka or the holder of a Sri Lanka Passport) is necessary either for the purpose of any investigation into any offence under this Act or for the purpose of any trial relating to such

offence which is pending before any court, such officer shall so inform the Controller of Immigration and Emigration, and it shall be the duty of the Controller to cause the passport and other travel documents of such person to be impounded.

30D. If the Inspector-General of Police, or the Head of the Department of Exchange Control, or an officer of that department authorized by him for the purposes of this section, is of opinion that any person accused of, or reasonably suspected of having committed, any offence under this Act, being a person who is not a citizen of Sri Lanka or the holder of a Sri Lanka Passport is likely to leave Sri Lanka, such officer may cause such person to be arrested and produced forthwith before a Magistrate who shall either require such person to execute a bond with one or more sureties for his appearance at the trial relating to such offence, or order him to be detained in custody until he can be brought to trial.

30E (1) If, in the course of an investigation into any offence under this Act, it appears to a police officer not below the rank of Assistant Superintendent that sums of moneys involved in such offence have been deposited in an account in any bank, he may so inform the Head of the Department of Exchange Control who may direct in writing the manager of the bank in which the account is maintained not to permit any person to operate such account, or to permit any person to operate such account only in accordance with such terms and conditions as are set out in such direction.

(2) Any direction given by the Head of the Department of Exchange Control under subsection (1) shall remain valid for a period of one week from the date on which such direction was given, unless such Head by a further written direction orders that his direction shall continue in force beyond the period of one week.

(3) The manager of any bank who receives any direction under this section shall comply with such direction.

30F (1) In the course of an investigation into any offence under this Act, a person who is about to leave Sri Lanka may be required to make a statement on oath or affirmation relating to such offence before a District Judge or Magistrate in the presence of the suspected person or persons:

(2) The District Judge or Magistrate before whom a statement is made under this section shall:-

(a) record such statement;

(b) read over such statement in the presence of the suspected person or persons to the person making the statement;

(c) explain the statement to the suspected person or persons.

(d) afford the suspected person or persons an opportunity to ask any questions relevant to the statement from the person making the statement;

- (e) record such questions together with the answers given by the person making the statement;
 - (f) direct the person making the statement to place his signature at the end of the record of such statement; and
 - (g) certify, if such be the case, that the requirements of this section have been complied with.
- (3) Any District Judge or Magistrate is hereby empowered and required-
- (a) to administer an oath or affirmation in a manner authorized for witnesses under the Oaths Ordinance to any person desiring to make a statement in accordance with this section; and
 - (b) thereafter to take proceedings under the provisions of subsection (2)
- (4) The statement purporting to be certified under this section may be produced in court and given in evidence against the suspected person or persons, and shall be *prima facie* evidence of the facts therein stated.

30G. The following evidentiary provisions shall apply at any trial of any offence under this Act.

- (1) A statement made by any person, whether or not it amounts to a confession and whether or not such person was in the custody of or in the presence of a police officer, or an officer of the Department of Exchange Control, or the Customs Department, or the Inland Revenue Department at the time the statement was made and whether or not such statement was made in the immediate presence of a Magistrate, may be proved as against such person, if such statement is not irrelevant under section 24 of the Evidence Ordinance:
- Provided, however, that no such statement shall be proved as against such person if such statement was made to a police officer below the rank of Assistant Superintendent.
- (2) Any statement admissible under subsection (1) may be proved as against any other person jointly charged with the person making such statement if, and only if, such statement is corroborated in material particulars by evidence other than the statement referred to in subsection (1),
- (3) The burden of proving that any statement referred to in subsection (1) is irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.
- (4) The provisions of section 25, 26 and 30 of the Evidence Ordinance shall have no application, notwithstanding anything to the contrary in any other law, whether written or otherwise.

- (5) Any document found in the custody, control or possession of a person accused of any offence under this Act or of an agent or representative of such person may be produced in court and given as evidence against such person without the maker of such a document being called as a witness, and the contents of such document shall be evidence of the facts therein stated.
- (6) Any statement made by, or any information furnished by, a person accused of any offence under this Act or by his agent or representative to the Commissioner of Inland Revenue or to any officer of his department, or any information furnished by such person to his agent or representative which suggests any inference as to any facts in issue or relevant, shall be relevant and admissible.
- (7) The Commissioner of Inland Revenue or any officer of his department shall, where so required by any court inquiring into or trying an offence under this Act, produce in court any such statement or information as is referred to in subsection (6) or give evidence relating to such statement or information.

30H. The powers of a police officer under this Part of this Act shall be in addition to and not in derogation of any powers conferred on such officer by any other written law.

Ceiling on Income and Compulsory Savings Law, No. 15 of 1972

A LAW TO FIX A CEILING ON DISPOSABLE INCOME, TO ESTABLISH A COMPULSORY SAVINGS FUND, TO PROVIDE FOR THE PAYMENT INTO SUCH FUND OF COMPULSORY CONTRIBUTIONS COMPUTED ON INCOMES, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

(Certified on 19th December, (1972))

1. This Law may be cited as the Ceiling on Income and Compulsory Savings Law, No. 15 of 1972.

PART 1

APPLICATION OF THE LAW

2. (1) Subject to the provisions of subsection (2) this Law shall apply-
 - (a) to every head of a family and to every individual not included in a family;
 - (b) to the trustee of a trust, where in any year the shares to which the beneficiaries are entitled under the trust cannot be ascertained;
 - (c) to the executor of the estate of a deceased person, if the shares to which the heirs of the deceased person, are entitled cannot be ascertained;
 - (d) to every Hindu-undivided family; and
 - (e) to every specified company.

(2) This Law shall not apply-

- (a) to the Diplomatic Representative (by whatever name, title or designation called) in Sri Lanka of the Government of any other country,
- (b) to any such member of the staff of any Diplomatic Representative referred to in paragraph (a) of this subsection as is a citizen or subject of the country represented by that Diplomatic Representative, any such Consul or Trade Commissioner as is a citizen or subject of the country represented by him, and any such member of the staff of any Consul or Trade Commissioner as is a citizen or subject of the country represented by that Consul or Trade Commissioner,
- (c) to any expert, adviser, technician or official whose salary or principal emolument is not payable by the Government of Sri Lanka and who is brought to Sri Lanka by the Government of Sri Lanka through any Specialized Agency of the United Nations Organization or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organization or any similar organization approved by the Minister,
- (d) to any trainee from abroad who is sent to Sri Lanka under any Technical Corporation Programme of the United Nations Organization and its Specialized Agencies or of the Colombo Plan Organization, or of any similar organization approved by the Minister,
- (e) to any official of the United Nations Organization who is resident in Sri Lanka and who is not a citizen of Sri Lanka,
- (f) to any member of the naval, military or air force of any country other than Sri Lanka who is in Sri Lanka at the request or with the concurrence of the Government of Sri Lanka, and
- (g) to the trustee of a trust established for a charitable purpose only or engaged solely in carrying out a charitable purpose.

3. (1) Where during any year of assessment a resident individual has a wife and no child or dependent relative or has a wife and any child or dependent relative or has any child or dependent relative, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

2. Where during any year of assessment a non-resident individual has a wife, they shall be deemed to be a family and such individual shall be deemed to be the head of that family.

PART II

THE COMPULSORY SAVINGS FUND

4. For the purposes of this Law there shall be established a Fund which shall be called the Compulsory Savings Fund (hereafter in this Law referred to as "the Fund")

5. The Monetary Board of the Central Bank shall be in charge of the general administration of the Fund and shall have custody of the moneys of the Fund.

6. The expenses incurred in the administration of the Fund, the interest payable on contributions made to the Fund, the repayments of contributions made to the Fund and refunds of amounts paid in excess of contributions to the Fund shall be met out of the Fund:

Provided that whenever the moneys in the Fund are insufficient to meet any such payment, the deficiency shall be met out of the Consolidated Fund.

7. (1) The Monetary Board of the Central Bank shall, notwithstanding anything to the contrary in any other law, lend to the Government, moneys of the Fund on such terms as may be determined by the Board with the concurrence of the Minister.

(2) Any moneys received by way of interest on loans made to the Government shall be paid into the Fund.

PART III

CONTRIBUTIONS

8. Subject to the other provisions of this Law, for every year of assessment commencing on or after April 1, 1972, -

- (a) every person (not being a specified company) to whom this Law applies shall, in respect of his income from employment for that year of assessment, and his income from sources other than employment for the year preceding that year of assessment, or for any other period, if his statutory income for that year of assessment from sources other than employment is, under section 12 of the principal Act, computed by reference to that other period, pay to the Fund through the Commissioner a contribution, hereafter in this Law referred to as a "normal contribution", determined in accordance with the provisions of section 11 and, if so required by this Law a special contribution determined in accordance with the provisions of section 13:

Provided that where the profits or income for any year of assessment includes the profits or income from any source for any period in respect of which a contribution under the Compulsory Savings Act, No. 6 of 1971, or this Law has already been paid, then the profits or income from that source for that year of assessment shall be either the profits or income ascertained in accordance with the preceding provisions of this paragraph or the profits or income for the period of twelve months commencing on the day immediately following the date on which the first-mentioned period expires, whichever is less; and

- (b) every specified company shall, in respect of the special income of that company for the year preceding that year of assessment or for such other period of twelve months ending on any date within the year preceding that year of assessment as may be approved by the Commissioner, pay to the Fund through the Commissioner, a contribution determined in accordance with the provisions of section 11.

9. (1) Subject to the provisions of subsection (2), the profits and income in respect of which the contributions referred to in section 8 shall be payable by any person (other than a specified company) to whom this Law applies shall be the "profits and income" or the "profits" or "income" in respect of which income tax is payable under the principal Act, ascertained in accordance with the provisions of that Act.

(2) (a) The profits and income in respect of which contributions under this Law are payable by any person, other than a specified company, shall include—

(i) any sum received by that person or any member of his family, as a reward under any scheme for the payment of rewards to informers by a Government institution within the meaning of the principal Act;

(ii) any sum received by that person or any member of his family as a non-deductible salary advance or as a salary advance in respect of which, in the opinion of the Assessor, there is no satisfactory scheme of repayment; and

(iii) where that person or any member of his family is a director of a private company within the meaning of the Companies Ordinance or of any such company as is a "company controlled by not more than five persons" within the meaning of section 79 of the principal Act, the net amount received by him or by that member of his family during any year of assessment as a loan from that company.

(b) The profits and income in respect of which contributions under this Law are payable by any person other than a specified company shall not include—

(i) the value of a prize won by him or any member of his family at a sweep or lottery,

(ii) any gift or donation made to him or to any member of his family,

(iii) where that person or his wife is not resident in Sri Lanka, the pension received by the non-resident person for past services rendered in Sri Lanka,

(iv) any sum received by him or any member of his family in commutation of pension,

(v) any sum refunded to him under section 46 (1) or section 49 of the Widows' and Orphans' Pension Fund Ordinance or under any regulation relating to any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service which corresponds to the said section 46 (1) or section 49,

(vi) a sum received by him or any member of his family as a retiring gratuity,

- (vii) a sum paid at the time of retirement from any employment to him or any member of his family from a provident fund approved by the Commissioner or from any regulated provident fund within the meaning of the principal Act,
- (viii) a sum paid as a benefit under the Employees' Provident Fund Act, No. 15 of 1958, by the Employees' Provident Fund established under that Act,
- (ix) capital gains, and
- (x) any profits and income of any such class or description of profits and income as may be specified by the Minister by Order published in the *Gazette*.

Every Order made under this paragraph shall, as soon as may be convenient after its publication in the *Gazette*, be brought before the National State Assembly for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice so anything previously done thereunder. Notification of the date on which any Order is deemed to be rescinded shall be published in the *Gazette*.

(3) The special income in respect of which a specified company shall pay the contributions referred to in section 8 shall be the profits and income accruing to that company from any undertaking the profits and income of which are exempt from income tax under paragraph (ii) or paragraph (iii) or paragraph (iv) or paragraph (vii) of subsection (2) of section 6 of the principal Act and such special income shall be ascertained in the same manner as profits and income are ascertained for the purposes of the principal Act.

(4) The contributions referred to in section 8 shall be paid by a person on his total income from all sources and such total income shall be computed in the same manner and on the same principles as the assessable income of that person would be determined for the purposes of the principal Act.

(5) For the purposes of this Law—

- (a) in the case of a resident individual who is the head of a family, the total incomes of the members of the family (other than the total income of such individual and such portion of the total income of any child included in that family as consists of his occupational income) shall be aggregated in the same manner and to the same extent as assessable incomes of the members of the family are aggregated for the purposes of the principal Act, and the total incomes so aggregated for any year of assessment shall be deemed to form part of the total income of such individual; and
- (b) in the case of a non-resident individual who is the head of a family, the total income of his wife shall be deemed to form part of the total income of such individual.

(6) In arriving at the income on which contributions under this Law shall be payable by any person, such person shall be entitled to deduct from his total income or special income, as the case may be,—

- (a) such allowances as he would be entitled under the principal Act to deduct from his assessable income in arriving at his taxable income, and
- (b) such allowances as he would be entitled to deduct under the provisions of any Order made under this paragraph by the Minister and published in *Gazette*,

and the total income after deducting therefrom such allowances is hereafter in this Law referred to as the “contributable income”.

Every Order made under paragraph (b) shall, as soon as may be convenient after its publication in the *Gazette*, be brought before the National State Assembly for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which any Order is deemed to be rescinded shall be published in the *Gazette*.

10. An individual who is the head of a family or who is not included in the family shall not be required to pay contributions under this Law for any year of assessment—

- (a) if the income tax which he would be liable to pay under the principal Act for that year of assessment on a taxable income equal to his contributable income does not exceed eight hundred and forty rupees; or
- (b) if his total income for that year of assessment does not exceed twelve thousand rupees.

11. (1) The normal contribution payable for any year of assessment by any person (other than a specified company) to whom this Law applies shall be an amount equal to forty *per centum* of the income tax which would be payable by him under the principal Act for that year of assessment, if his contributable income were his taxable income for the purposes of that Act.

(2) The contributions payable under this Law by a specified company for any year of assessment shall be an amount equal to fifty *per centum* of the contributable income of that company for that year of assessment.

12. The normal contribution payable under this Law for any year of assessment by an individual who is the head of a family or who is not included in a family shall not be more than—

- (a) the amount by which his total income for that year of assessment after deducting from such income the income tax he would be liable to pay under the principal Act on such income if it were his assessable income for that year of assessment exceeds the difference between twelve thousand rupees and the income tax he would be liable to pay in respect of twelve thousand rupees if it were his assessable income for that year of assessment, or

- (b) the difference between his contributable income for that year of assessment after deducting from such income the income tax he would be liable to pay under the principal Act on such income if it were his taxable income for that year of assessment and an amount on which he would be liable to pay eight hundred and forty rupees as income tax if that amount were his taxable income for that year of assessment after deducting from such amount eight hundred and forty rupees,

whichever is less.

13. (1) Where the contributable income for any year of assessment of an individual who is the head of a family or who is not included in a family exceeds the aggregate of—

- (a) the income tax and wealth tax payable by him for that year of assessment, and
(b) the normal contribution payable by him under this Law for that year of assessment,

such excess shall be deemed to be the disposable income of such individual.

(2) Where the disposable income of an individual for any year of assessment commencing on or after April 1, 1973, exceeds twenty-four thousand rupees he shall pay to the Fund through the Commissioner the amount of the excess as his special contribution for that year of assessment.

14. The amount of the contributions payable by any person under section 11 or under section 13 shall be reduced by the amount of any deduction to which such person is entitled under the provisions of any Order made under this section by the Minister and published in the *Gazette*.

Every Order made under this section shall, as soon as may be convenient after its publication in the *Gazette*, be brought before the National State Assembly for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to any thing previously done thereunder. Notification of the date on which any Order is deemed to be rescinded shall be published in the *Gazette*.

PART IV

SELF-ASSESSMENT OF CONTRIBUTABLE INCOME OR SPECIAL INCOME AND THE PAYMENT OF THE CONTRIBUTION THEREON

15. Every person who is required to make any contribution under this Law shall—

- (a) if he is a person other than a specified company, assess his contributable income, and
(b) if such person is a specified company, assess the special income of that company.

16. (1) Any contribution payable under this Law by a person for any year of assessment commencing on or after April 1, 1972, shall be paid by such person through the Commissioner to the Fund in four instalments. Each such instalment is hereinafter referred to as a "quarterly instalment".

(2) The first two quarterly instalments for the year of assessment commencing on April 1, 1972, shall be paid on or before the fifteenth day of January, 1973, and the next two quarterly instalments on or before the fifteenth day of February and the thirtieth day of April, 1973, respectively and the quarterly instalments for any subsequent year of assessment shall be paid on or before the fifteenth day of July, October and January of that year of assessment and the thirtieth day of April of the next succeeding year of assessment respectively.

(3) The quarterly instalments of the contribution payable by any person in respect of a year of assessment shall be as follows :-

- (a) the first quarterly instalment shall be an amount equal to one-fourth of the amount of the contribution payable by such person for that year of assessment;
- (b) the second quarterly instalment shall be an amount equal to the difference between one-half of the amount of the contribution payable by such person for that year of assessment and the amount of his first quarterly instalment for that year of assessment;
- (c) the third quarterly instalment shall be an amount equal to the difference between three-fourths of the contribution payable by such person for that year of assessment and the amount payable by such person as his first and second quarterly instalments for that year of assessment; and
- (d) the fourth quarterly instalment shall be the difference between the amount of the contribution payable by such person for that year of assessment and the amount of his first, second and third quarterly instalments for that year of assessment.

(4) Every person other than a specified company who either singly or as a head of a family pays a quarterly instalment of any contribution for a year of assessment shall furnish to the Commissioner at the time of payment of such instalment a return of his contributable income for that year of assessment. Such return shall be in the prescribed form and shall contain the particulars relating to such matters specified in that form as are applicable to him.

(5) Every specified company which pays a quarterly instalment of any contribution for a year of assessment shall furnish to the Commissioner at the time of payment of such instalment a return of its contributable income for that year of assessment. Such return shall be in the prescribed form and shall contain the particulars relating to such matters specified in that form as are applicable to that company.

(6) Subject to the provisions of subsections (7) and (8) where a quarterly instalment is not paid on or before the date specified in subsection (2), the amount not so paid shall be deemed to be in default and the person by whom it is payable shall be deemed to be a defaulter for the purposes of this Law and the provisions of this Law as to recovery of the contribution shall apply accordingly.

(7) Where any person liable to make a contribution under this Law for any year of assessment satisfies the Commissioner, on or before the date not later than which he is required to pay a quarterly instalment of such contribution, that he has made arrangements for the payment of such instalment from any ascertained sum to be paid to him by the Government of Sri Lanka or from moneys lying to his credit in the National Savings Bank or from moneys to be paid to him from any pension or or provident fund approved by the Commissioner and the Commissioner grants such person an extension of time for the payment of such instalment, such contribution or instalment thereof shall not be deemed to be in default until the expiration of the time allowed for its payment.

(8) Where the executor of the estate of a deceased person satisfies the Commissioner that he is unable to pay any moneys due from the estate as a contribution under this Law until the grant to him of probate or letters of administration such moneys shall not be deemed to be in default if such moneys are paid within a period of two months after the date of the grant of probate or letters of administration.

In this subsection, the expression "executor" does not include any person who takes possession of or intermeddles with the property of a deceased person.

(9) Where the whole or a part of a quarterly instalment of the contribution is in default, the defaulter shall, in addition to the amount in default, pay as a penalty—

- (a) a sum equivalent to five *per centum* of the amount in default; and
- (b) where the amount in default is not paid before the expiry of thirty days after it has begun to be in default, in respect of each further period of thirty days or part of such period during which it is in default, a further sum equivalent to one *per centum* of the amount in default.

17. (1) Where any person who, in the opinion of the Assessor, is liable to pay any contribution for any year of assessment fails to pay a quarterly instalment of the contribution for that year of assessment, the Assessor may, within that year of assessment or within six years after the expiration of that year of assessment, assess the amount which such person ought to have paid as such instalment and shall by notice in writing require such person to pay the amount so assessed forthwith.

(2) An assessment made under subsection (1) of the amount of the quarterly instalment of any contribution payable by a person shall not affect the liability of such person to the penalty specified in subsection (9) of section 16

and for the purposes of that section the amount so assessed shall be deemed to be the quarterly instalment which such person ought to have paid in accordance with the provisions of that section.

(3) Where, in the opinion of the Assessor, any person by whom any contribution is payable for any year of assessment had paid as the quarterly instalment of that contribution for that year of assessment an amount less than the proper amount, the Assessor may, within that year of assessment or within six years after the expiration of that year of assessment, assess the amount which in the judgment of the Assessor ought to have been paid by such person and shall by notice in writing require such person to pay forthwith the difference between the amount so assessed and the amount paid by that person :

Provided that nothing in the preceding provisions of this subsection shall preclude an Assessor from making an additional assessment in respect of any person on whom an assessment under this subsection has been made.

(4) Where, in consequence of an assessment made under subsection (3) in respect of any person, such person, is required by a notice under that subsection to pay a sum of money specified in that notice, such person shall, in respect of such sum, be liable to pay the penalty specified in subsection (9) of section 16 and for the purposes of that section such sum shall be deemed to be the quarterly instalment which such person ought to have paid in accordance with the provisions of that section but has not so paid.

PART V

APPEALS

18. (1) Any person who, being a person required by this Law to pay quarterly instalments of any contribution to the Fund, is dissatisfied with any assessment made in respect of him under section 17 may appeal against such assessment to the Commissioner within thirty days after the service of notice of such assessment :

Provided that the Commissioner may grant such person an extension of time for preferring the appeal if the Commissioner is satisfied that, owing to absence from Sri Lanka, sickness or other reasonable cause, such person was prevented from appealing within the period allowed therefor.

(2) Every petition of appeal preferred under subsection (1) shall—

- (a) be in writing,
- (b) be addressed to the Commissioner,
- (c) state precisely the grounds of appeal, and
- (d) be signed by the appellant or his authorized representative.

(3) Where the assessment appealed against has been made in the absence of a return required to be furnished under section 16, the petition of appeal shall be sent together with a return duly made.

(4) No petition of appeal which does not conform to the provisions of subsection (2) or subsection (3) shall be valid.

(5) On receipt of a valid petition of appeal, the Commissioner may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made.

(6) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (5), the Commissioner shall, by notice given in writing to the appellant, require him to transmit to the Commissioner, within the period specified in the notice, a list of documents upon which and the names and designations of the persons on whose evidence, the appellant proposes to rely in support of his appeal.

(7) The Commissioner shall, as soon as may be after the transmission to him of the list referred to in subsection (6), give notice in writing to the appellant of his determination on the appeal.

(8) Before making his determination on any appeal, the Commissioner may, if he considers it necessary so to do, by notice given in writing to the appellant—

- (a) require the appellant to produce, or transmit, for inspection by the Commissioner any document specified in the list referred to in subsection (6);
- (b) require the appellant in person or by authorized representative to be present, together with such documents and witnesses as may be specified in the notice, at such place and on such date and at such time as may be specified in the notice, to be heard on such matters relating to the appeal as may be specified in the notice;
- (c) require the appellant within the period specified in the notice to furnish the written evidence, on affidavit or in such other manner as may be specified in the notice, of any person mentioned in the list referred to in subsection (6).

(9) Where an appellant fails to comply with the requirements of any notice given under subsection (6) or subsection (8), the Commissioner shall dismiss the appeal:

Provided that if the appellant shall, within a reasonable time after the dismissal of an appeal, satisfy the Commissioner that he was prevented from complying with the requirements of such notice by reason of absence from Sri Lanka, sickness or other unavoidable cause, the Commissioner may vacate the order of dismissal.

(10) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(11) The Commissioner may, for the purposes of obtaining any information necessary to make his determination upon an appeal, require by notice in writing any person to produce for examination, or to transmit to the Commissioner within the period specified in such notice, any such deeds, plans, instruments, books, accounts, registers, cheques, paying-in-slips, auditors, reports or other documents in his possession as may be specified in the notice.

(12) Where the Commissioner requires the appellant or his authorized representative to be heard on any matter relating to the appeal and specified in the notice given under subsection (8), the appellant shall not at such hearing be allowed—

- (a) to produce any document which is not included in the list furnished by him under subsection (6) or to adduce the evidence of any witness whose name does not appear in that list: or
- (b) to raise any point which is not specified in the petition of appeal.

(13) In disposing of any appeal under this section, the Commissioner may increase the assessment appealed against.

19. The provisions of section 98 of the principal Act shall apply as if such provisions were provisions of this Law.

20. The provisions of section 99 of the principal Act shall apply as if such provisions were provisions of this Law and as if the reference in that section to any other section of that Act were a reference to section 18 of this Law.

21. The provisions of section 100 of the principal Act shall apply as if such provisions were provisions of this Law and as if the reference in that section to section 97 of that Act were a reference to section 18 of this Law and the reference to section 101 of that Act were a reference to that section applied in the manner indicated in section 22 of this Law.

22. The provisions of section 101 of the principal Act shall apply as if such provisions were provisions of this Law and as if—

- (a) the reference in that section to section 100 of that Act were a reference to provisions of that section applied as if they were provisions of this Law in the manner indicated in section 21 of this Law,
- (b) the reference to section 97 (7) of that Act were a reference to subsection (6) of section 18 of this Law, and
- (c) the reference to subsection (9) of section 97 of that Act were a reference to subsection (8) of section 18 of this Law.

23. The provisions of section 102 of the principal Act shall apply as if such provisions were provisions of this Law and refer to contribution instead of to tax.

24. (1) The amount required to be paid by an assessment against which an appeal has been preferred under this Part shall be paid notwithstanding the appeal unless the Commissioner orders that the payment of such amount or any part thereof be held over pending the result of such appeal and the amount so held over shall be deemed not to be in default :

Provided that the Commissioner may revoke an order under the preceding provisions of this subsection and make such fresh order as the case may appear to him to require and any amount not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(2) Where, upon the final determination of an appeal or upon any order made by the Commissioner any amount which has been held over under subsection (1) becomes payable or the amount required to be paid by the original assessment is increased, the Commissioner, shall give to the person by whom such amount is payable a notice in writing fixing a date on or before which such amount or such increased amount shall be paid and any sum not so paid shall be deemed to be in default, and the defaulter shall in addition to the amount in default, pay as a penalty —

(a) a sum equivalent to five *per centum* of the amount in default ; and

(b) where the amount in default is not paid before the expiry of thirty days after it has begun to be in default, in respect of each further period of thirty days or part thereof during which it is in default, a further sum equivalent to one *per centum* of the amount in default.

(3) Where, upon the final determination of an appeal, any amount in respect of which any penalty is payable under section 16 is reduced, then such penalty shall be calculated on the amount so reduced.

25. Where no valid appeal has been preferred within the period specified in subsection (1) of section 18 against an assessment under this Law, or where an agreement is reached under subsection (5) of that section as regards an assessment, or where an appeal lodged against such an assessment is dismissed under subsection (9) of that section, or where an assessment has been determined on appeal, the assessment made or agreed or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Law :

Provided that nothing in this Law shall prevent and Assessor from making an assessment or additional assessment for any year of assessment or for any period in any year of assessment which does not involve re-opening any matter which has been determined on appeal.

PART VI

RECOVERY OF CONTRIBUTIONS

26. In this Part "contribution" includes a part of the contribution, any specified sum, and any fines, penalties, fees or costs incurred.

27. The amount of any contribution in default shall be a first charge upon the assets of a defaulter :

Provided that—

- (a) such charge shall not extend to or affect any assets sold by the defaulter to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 110 of the principal Act applied as if those provisions were provisions of this Law in the manner indicated in section 28 of this Law;
- (b) as regards immovable property, the amount of any contribution in default shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the assessment made in respect of the defaulter ;
- (c) as regards movable property, the amount of any contribution in default shall not rank in priority to any lease or encumbrance created *bona fide* for value prior to the date of default.

28. The provisions of section 110 of the principal Act shall apply as if such provisions were provisions of this Law and refer to collectors of contributions, contribution and collector of contributions instead of to tax collectors, tax and tax collector.

29. The provisions of section 111 of the principal Act shall apply as if such provisions were provisions of this Law and as if the references in that section to tax were references to contribution and the references to section 103 of the principal Act were reference to section 25 of this Law.

30. The provisions of section 112 of the principal Act shall apply as if such provisions were provisions of this Law and refer to this Law and not to the principal Act, and—

- (a) as if the references in that section to tax were references to contribution ; and
- (b) as if in subsection (1), there were substituted for the words "post to the defaulter", the words 'post to the defaulter or his agent'.

31. The provisions of section 113 of the principal Act shall apply as if such provisions were provisions of this Law and—

- (a) as if the references in that section to tax were references to contribution, and

- (b) as if in subsection, (1), there were substituted for the words "all income tax, wealth tax or gifts tax assessed upon him", the words "the contribution payable by him,".

32. The provisions of section 114 of the principal Act shall apply as if such provisions were provisions of this Law and refer to this Law and not to the principal Act and-

- (a) as if there were substituted-

(i) for the word "Chapter" wherever that word occurs in that section, the word "Part", and

(ii) for the words "any tax" the words "any contribution", and

- (b) as if the reference to section 111 of the principal Act were a reference to the said section 111 applied in the manner indicated in section 29 of this Law.

33. The provisions of section 115 of the principal Act shall apply as if those provisions were provisions of this Law and as if there were substituted for the words "any income tax, wealth tax or gifts tax", the words "the whole or a part of the contribution."

34. (1) Where any contribution payable by a person who is the head of a family is in default and cannot be recovered from him, then, if his wife or child is included in such family, such portion of the contribution as appears to the Commissioner to be attributable to the profits and income of the wife or child may be collected or recovered from the wife or child notwithstanding that no assessment has been made upon the wife or child and the provisions of this Law as to collection and recovery of the contribution shall apply accordingly.

(2) Where any contribution payable by any person who is an heir to the estate of a deceased person is in default, such part of that contribution as in the opinion of the Commissioner is attributable to the profits and income to which such person is entitled from such estate may, notwithstanding that no assessment has been made upon the executor of the estate of the deceased person, be recovered from such executor and accordingly the provisions of this Law as to collection and recovery of the contribution shall apply to such executor. Such executor shall be entitled to deduct the amount collected or recovered from him from the income which will be payable to such person.

(3) Where any contribution payable by a beneficiary under a trust is in default, such part of that contribution as in the opinion of the Commissioner is attributable to the profits and income to which such beneficiary is entitled under the trust may be recovered from the trustee of the trust, notwithstanding that no assessment has been made upon such trustee, and the provisions of this Law as to collection and recovery of the contribution shall apply to such trustee. Such trustee shall be entitled to deduct the amount of such contribution or part thereof from the income which will be payable to such beneficiary from the trust.

PART VII

OFFENCES AND PENALTIES

35. (1) Any person who—

- (a) fails to comply with the requirements of a notice given to him under the provisions of section 115 of the principal Act applied as if they were provisions of this Law in the manner indicated in section 33 of this Law; or
- (b) fails to attend in answer to a notice issued under the provisions of subsection (6) of section 101 of the principal act applied as if those provisions were provisions of this Law in the manner indicated in section 22 of this Law, or having attended fails without sufficient cause to answer any questions put to him,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(2) Every person who—

- (a) fails to furnish a return under subsection (4) or subsection (5) of section 16 or
- (b) makes an incorrect return by omitting or understating any income or profits of which he is required to make a return, or
- (c) furnishes for the purposes of this Law any written information, declaration, record, register or any other document containing particulars which to his knowledge are false or incorrect, or
- (d) gives any incorrect information in relation to any matter or thing affecting his liability to any contribution under this Law,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(3) No person shall be punished for an offence under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within five years after the expiration thereof.

36. Every person who—

- (a) acts under this Law without taking an oath of secrecy as required by the provisions of section 124 of the principal Act applied as if they were provisions of this Law in the manner indicated in section 55 of this Law, or

(b) acts contrary to the provisions of section 124 (1) or to an oath taken under section 124 (2) of the principal Act applied as if they were provisions of this Law in the manner indicated in section 55 of this Law, or

(c) aids or abets or incites any other person to act contrary to the provisions of this Law,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

37 The Commissioner may compound any offence under section 35 and may before judgment stay or compound any proceedings thereunder.

38. No prosecution in respect of an offence under section 35 may be commenced except at the instance of, or with the sanction of, the Commissioner.

39. (1) Where in an assessment made in respect of any person the amount of the contributable income assessed in respect of that person exceeds the amount specified as his contributable income in his return and the assessment is final and conclusive under section 25, the Commissioner may, unless that person proves to the satisfaction of the Commissioner that there is no fraud or wilful neglect involved in the disclosure of such income by the person in his return, in writing order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the contribution on the amount of the excess.

(2) Any person in respect of whom an order is made under subsection (1) may, within twenty-one days after the notification of the order to him, appeal therefrom to the Board of Review. The appeal shall state the grounds of objection to the order.

(3) The provisions of section 101 of the principal Act applied as if they were provisions of this Law in the manner indicated in section 22 of this Law shall apply to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review may confirm, reduce, increase or annul the penalty imposed by the Commissioner and where such penalty is increased such penalty as increased shall not exceed the maximum amount which the Commissioner may impose under subsection (1) as such penalty.

(4) Where a penalty is imposed under subsection (1) on any person as a result of any false or incorrect statement or entry in his return of income, such person shall not be liable to a prosecution under this Law in respect of such false or incorrect entry or statement.

40. The institution of proceedings or the imposition of a penalty, fine or term of imprisonment under this Part shall not relieve any person from liability to assessment, or payment of any contribution for which he is or may be liable under this Law.

41. Where an offence under this Law is committed by a body of persons, then-

(a) if that body of persons is a body corporate, every director and officer of that body corporate, or

(b) if that body of persons is a firm, every partner of that firm, shall be guilty of that offence :

Provided that a director or an officer of that body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

PART VIII

GENERAL PROVISIONS RELATING TO CONTRIBUTIONS

42. The Monetary Board of the Central Bank shall cause to be issued to every person, in respect of contributions paid by, or recovered from him, during the period of twelve months commencing on the first day of May in any year a certificate showing the total amount of the contributions paid by, or recovered from, him during that period.

43. (1) All sums paid to or recovered by the Commissioner by way of contributions under this Law shall be paid by him into the Fund.

(2) All sums recovered by the Commissioner by way of penalties imposed under this Law shall be paid by him into the Consolidated Fund,

44. Interest shall be paid on the amount specified in a certificate issued under section 42 if such amount lies in deposit for a period of two years commencing on the first day of May of the year next succeeding the year in respect of which the certificate was issued. Interest in respect of the first two years commencing on such first day of May shall be paid at the rate of five *per centum* per annum and in respect of subsequent years at such rate as the Minister may determine.

45. (1) Subject to the provisions of subsection (2), any sum paid as a contribution under this Law by any person and included in a certificate issued under section 42 may, in accordance with such terms as the Minister may determine, be repaid to that person after the expiry of two years after the end of the period in respect of which such certificate was issued.

(2) Any sum paid as a contribution under this Law by any person may, at any time, be-

(a) withdrawn by him before leaving Sri Lanka permanently, or

(b) withdrawn after his death by his heir, executor or administrator, or

(c) withdrawn for any such purpose as may be specified by the Minister by Order published in the *Gazette*.

Every order made under this paragraph shall, as soon as may be convenient after its publication in the *Gazette*, be brought before the National State Assembly for approval. Any order which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which any Order is deemed to be rescinded shall be published in the *Gazette*.

46. (1) If it is proved to the satisfaction of the Commissioner by claim made in writing within three years of the end of a year of assessment that any person has paid for that year of assessment any contribution, by deduction or otherwise, in excess of the amount due from him, such person shall be entitled to have refunded the amount so paid in excess :

Provided that nothing in this section shall operate to extend or reduce any time limit for appeal specified in any other section or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive.

(2) Where through death, bankruptcy, or liquidation or other cause a person who would but for such cause have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any contribution paid in excess within the meaning of subsection (1).

(3) Where it is proved to the satisfaction of the Commissioner by claim made in writing that any person has paid as penalty under section 16 (9) or section 24 (2) any sum which is in excess of the sum due from him as such penalty, such person shall be entitled to have refunded the amount so paid in excess if such claim is made within three years of the end of the year of assessment in which the sums referred to were paid.

PART IX

MISCELLANEOUS

47. (1) The Minister may by Notification published in the *Gazette* specify the circumstances in which, the extent to which, and the conditions subject to which, relief may be granted by the Commissioner to persons who under this Law are required to make contributions to the Fund.

(2) The Commissioner may, if he is satisfied that relief should be granted to any person who under this Law is required to make contributions to the Fund, grant him relief in accordance with the provisions of the Notification made under subsection (1).

48. The provisions of section 87 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act.

49. The provisions of section 89 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act and as if the words and figures "or are persons in receipt of money, value or profits to which section 84 applies," occurring in subsection (1) of the said section 89, were omitted.

50. Where two or more persons are acting in the capacity of executors of a deceased person, they may be charged jointly or severally with any sum which they are required to pay as a contribution under this Law and shall be jointly and severally liable for payment of such sum.

51. The provisions of section 90 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act.

52. The provisions of section 91 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act and as if the reference in that section to section 95 of the principal Act were a reference to section 53 of this Law.

53. An Assessor shall give notice of assessment to each person assessed under this Law and such notice shall state the amount of contributable income assessed and the amount of the contribution payable under this Law.

54. The provisions of section 96 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act and as if in paragraph (a) of subsection (2) of that section, for the words "the amount of income, wealth or gifts assessed or the amount of tax charged;" there were substituted the words "the amount of contributable income assessed or the amount of the contribution payable;"

55. The provisions of section 124 of the principal Act shall apply as if those provisions were provisions of this Law and refer to this Law and not to the principal Act.

56. The Commissioner may from time to time prescribe the forms to be used for all or any of the purposes of this Law; and any form so prescribed may from time to time be amended or varied by the Commissioner or some other form may be substituted by the Commissioner in place of any form so prescribed.

57. The provisions of section 127 of the principal Act shall apply as if those provisions were provisions of this Law and refer to the contributions payable under this Law and not to tax and the principal Act and as if the references to section 118, section 119 and section 120 of the principal Act were references to section 35 and section 36 of this Law.

58. (1) Where, in pursuance of any general or special directions given by the Commissioner, an employer has deducted any sum from the remuneration of an employee for any month Commencing on or after April 1, 1972, such employer shall—

(a) pay such sum to the commissioner, within fifteen days after the date of commencement of this Law, and

(b) issue to such employee a certificate specifying the amount of such sum and the month in respect of which such sum has been deducted.

(2) Where any sum has been deducted from the remuneration of an employee by the employer in pursuance of any general or special directions given by the Commissioner, such employee shall, upon the production to the Commissioner of the certificate issued under subsection (1) in respect of such sum, be entitled to a set-off of that sum against the amount of the contribution payable by him under this Law.

59. In this Law, unless the context otherwise requires—

“assessable income” shall have the meaning assigned to that expression in section 129 of the principal Act;

“Assessor” means an Assessor of Inland Revenue appointed under the principal Act and includes a Senior Assessor of Inland Revenue and an Assistant Assessor of Inland Revenue appointed under that Act;

“authorized representative” shall have the meaning assigned to that expression in section 129 of the principal Act;

“capital gains” shall have the meaning assigned to that expression in section 3 of the principal Act;

“charitable purpose” shall have the meaning assigned to that expression in section 129 of the principal Act;

“child” shall have the meaning assigned to that expression in section 129 of the principal Act;

“Commissioner” means the Commissioner of Inland Revenue appointed under the principal Act and includes an Additional Commissioner, a Senior Deputy Commissioner, a Deputy Commissioner and an Assistant Commissioner of Inland Revenue appointed under the principal Act and authorized by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere;

“contribution” means a normal contribution or a special contribution or a contribution payable by a specified company on its special income;

“dependent relative” shall have the meaning assigned to that expression in section 129 of the principal Act;

“executor” means an executor or administrator of a deceased person and includes—

- (a) any person who takes possession of or intermeddles with the property of a deceased person;
- (b) every person who has applied, or is entitled to apply, to the District court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person; or
- (c) a trustee acting under a trust created by the last will of the author of the trust;

"family" means a family within the meaning of section 3;

"head" with reference to a family means the head of that family within the meaning of section 3;

"non-resident" means not resident in Sri Lanka within the meaning of section 54 of the principal Act;

"occupational income" shall have the meaning assigned to that expression in section 129 of the principal Act;

"person" includes any Hindu undivided family, any executor or trustee and any specified company;

"principal Act" means the Inland Revenue Act, No. 4 of 1963;

"resident" means resident in Sri Lanka within the meaning of section 54 of the principal Act;

"special income" shall have the meaning assigned to that expression in section 9 (3) of this Law;

"specified company" means a company which is in receipt of special income;

"taxable income" shall have the meaning assigned to that expression in section 129 of the principal Act;

"trustee" includes any executor, trustee, guardian, curator, manager, or other person having the direction, control or management of any property on behalf of any person;

"Wife" does not include a wife who is living apart from her husband under the decree of a competent court, or a duly executed deed of separation, or is in fact separated from her husband in such circumstances that the separation is likely to be permanent;

"year of assessment" means the period of twelve months commencing on the first day of April in any year;

"year preceding a year of assessment" means the period of twelve months ending on the thirtyfirst day of March immediately prior to such year of assessment.

Capital Levy (Amendment) Law, No. 16 of 1972

A LAW TO AMEND THE CAPITAL LEVY ACT, NO 51 OF 1971.

(Certified on 19th December, 1972)

1. This Law may be cited as the Capital Levy (Amendment) Law, No.16 of 1972.

2. Section 3 of the Capital Levy Act, No. 51 of 1971, hereafter in this Law referred to as the "principal enactment", is hereby amended by the repeal of subsection (3) of that section and the substitution, for that subsection, of the following new subsection:-

"(3) For the purposes of this Act, where on March 31, 1971, an individual has a wife or has a wife and one or more children or dependent relatives or one or more children and dependent relatives or has one or more children or dependent relatives or one or more children and dependent relatives, they shall constitute a family and such individual shall be deemed to be the head of that family."

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

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

(a) by the substitution, for paragraph (a) of that subsection, of the following paragraphs:-

"(a) the value of any property in which he, as a fiduciary or as a usufructuary, has a life interest, such value being determined as though he were the owner of that property.

(aa) the value of any property in which he as a fiduciary has a beneficial interest terminating on the occurrence of a specified event other than his death, such value being determined as though he were the owner of that property;"

(b) by the substitution, for paragraph (e) of that subsection, of the following new paragraph:-

"(e) being a partner in a firm, the value of his interest in the firm;"

(c) by the substitution, for paragraph (h) of that subsection, of the following new paragraph:-

"(h) his investments in the securities of the Government of Sri Lanka and his other investments whether he is entitled or not on account of his other investments to any allowance in arriving at his taxable income for the purposes of the principal Act to any relief from income tax under that Act;"

(d) in paragraph (i) of that subsection, by the substitution, for the full stop at the end of that paragraph, of a semi-colon; and

(e) by the addition, at the end of that subsection, of the following new paragraphs:-

“(j) any property gifted by him on or after October 26, 1970, but before April 1, 1971, except when it is gifted to the Government of Sri Lanka or to a charity which is an approved charity within the meaning of section 16A or section 67 (1) (b) of the principal Act;

(k) any property transferred by him at any time on or after October 26, 1970, but before April 1, 1971, to any private company for any shares or debentures of that company, or to any other person for any consideration which in the opinion of the Assessor is not adequate; and

(l) any money paid by him as a consideration for the transfer to him of any property on or after October 26, 1970, but before April 1, 1971, if in the opinion of the Assessor such consideration is not adequate;”;

(2) by the addition, at the end of that section, of the following new subsection:-

“(3) In ascertaining the value of the interest which a partner of a firm has in that firm, no account shall be taken of the goodwill of that firm,”.

4. Section 5 of the principal enactment is hereby amended in subsection (1) of that section as follows:-

(1) by the insertion, immediately after paragraph (b) of that subsection, of the following new paragraph:-

“(bb) being a person not resident in Sri Lanka on March 31, 1971, his investment in any undertaking the profits and income of which are exempt from income tax under the provisions of subsection (2) of section 6 of the principal Act;”;

(2) by the substitution, for paragraph (f) of that subsection, of the following new paragraph:-

“(f) any such interest in any property (other than property subject to a fideicommissum) as is available to him for a period not exceeding six years from March 31, 1971;”;

(3) by the substitution, for paragraph (r) of that subsection, of the following new paragraph:-

“(r) any sum due from him by way of income tax or wealth tax in respect of any year of assessment ending not later than March 31, 1972, or by way of estate duty in respect of the estate or any part of the estate of any person whose death occurred prior to April 1, 1971, if such estate or that part of such estate is included in his capital for the purposes of this Act;”;

(4) by the substitution, for paragraph (s) of that subsection, of the following new paragraph:-

"(s) any sum due from him by way of gifts tax in respect of any gift made by him on or before March 31, 1971;"

(5) by the substitution, for paragraph (t) of that subsection, of the following new paragraph:-

"(t) being the executor of the estate of any person whose death occurred prior to April 1, 1971, the estate duty payable in respect of that estate;"

(6) in paragraph (x) of that subsection, by the substitution, for the full stop at the end of that paragraph, of a semi-colon: and

(7) by the insertion, immediately after paragraph (x) of that subsection, of the following new paragraphs:-

"(y) any property of which he is the owner but which by reason of the provisions of paragraph (j) or paragraph (k) of subsection (1) of section 4 is included in the capital of any other person;

(z) his shares or debentures in any private company being the shares or debentures allotted to him in consideration of the transfer by him to that company of any property on or after October 26, 1970, but before April 1, 1971; and

(aa) any money received by him as a consideration for the transfer by him of any property on or after October 26, 1970, but before April 1, 1971, if in the opinion of the Assessor such consideration is not adequate."

5. Section 9 of the principal enactment is hereby repealed and the following new section substituted therefor:-

9. Where a non-resident company holds shares in a resident company holding shares in any other non-resident company and the Commissioner is satisfied that the second-mentioned non-resident company has paid the capital levy on its leviable capital, then the Commissioner may grant to the first-mentioned non-resident company, in respect of such part of its leviable capital as in the opinion of the Commissioner is attributable to the value of the shares held indirectly by that company in the second-mentioned non-resident company, such relief from the capital levy as the Commissioner may deem reasonable."

6. Section 10 of the principal enactment is hereby repealed and the following new section substituted therefor:-

10. (1) Subject to the other provisions of this section, the value for the purposes of this Act of any immovable or movable property forming part of the capital of any person shall:-

- (a) in the case of any immovable property or movable property consisting of shares in any company, which was owned by him on March 31, 1971, and was acquired by him on or before March 31, 1970, be the market value of that property on the valuation date reduced by ten *per centum*;
- (b) in the case of any property other than property referred to in paragraph (a), be the market value of that property on the valuation date.

(2) Where movable property forming part of the capital of any person consists of shares (not being preference shares) in any company which by its articles restricts the right to transfer its shares, or which is a company in which more than half the shares issued is held by five persons their wives or minor children, either directly or through nominees, and the Commissioner is satisfied that the shares have not, within the period of twelve months preceding the valuation date, been quoted in the official list of a recognized stock exchange in the United Kingdom or in a list of like nature issued by any association of brokers approved by the Secretary to the Treasury for the purposes of this proviso, the value of such shares shall, if the Commissioner so directs, be—

- (a) an amount ascertained by reference to the market value of all the assets of the company as a going concern (excluding goodwill) on the valuation date, after deducting therefrom—
 - (i) the par or redemption value, whichever is greater, of any debentures, debenture stocks and preference shares of the company;
 - (ii) all debts of the company incurred or created *bona fide* for consideration in money or money's worth;
 - (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount; and
 - (iv) the amount of any reserve fund separately invested which is *bona fide* intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependants or relatives and in no other manner, or
- (b) if such shares were acquired by that person before April 1, 1970, be the amount ascertained under paragraph (a) reduced by ten *per centum*.

(3) Where any person by whom the capital levy is payable carries on by himself or in partnership with any other person or persons a business for which accounts are maintained regularly, the Commissioner may instead of determining separately the value of each property held by such person in such business, determine the net value as a whole of the properties held by such person in such business.

(4) Where for the purposes of this section the market value of any property cannot be ascertained because such property is not saleable in the open market, the value of such property shall be such amount as the Commissioner considers reasonable.

(5) Where, after the valuation date but before April 1, 1971, the value of any immovable property forming part of the capital of any person-

- (a) has increased by reason of any improvements, additions or alterations made to that property, the cost of such improvements, additions or alterations shall be added to the value of that property on the valuation date, or
- (b) has decreased by reason of any damage caused to that property or the destruction or demolition of any building on that property, an amount which in the opinion of the Commissioner is equal to the fall in value of that property in consequence of such damage, destruction or demolition may be deducted from the value of that property on the valuation date.

For the purposes of this subsection, the burden of proving that the value of any immovable property has decreased shall be on the person who asserts it.

(6) Where any property forming part of the capital of any person consists of-

- (a) shares which have been received by him in place of any shares of his in any of two or more companies which have amalgamated or merged after March 31, 1970, but before April 1, 1971, or
- (b) shares in respect of which there has been a return or distribution of capital after March 31, 1970, but before April 1, 1971, or
- (c) shares or debentures in any private company being a company which has allotted any shares or debentures to any person in consideration of any property transferred to that company on or after October 26, 1970, but before April 1, 1971,

then, notwithstanding anything contained in subsection (1) the value of that property shall be an amount determined by the Commissioner."

7. Section 11 of the principal enactment is hereby repealed and the following new section substituted therefor:-

11. For the purposes of this Act, the valuation date-

- (a) in relation to any immovable property forming part of the capital of any person on March 31, 1971, shall-
 - (i) if such property was acquired by him on or before March 31, 1970, be March 31, 1970, and
 - (ii) if such property was acquired by him after March 31, 1970, but before April 1, 1971, be the date of its acquisition, and

(b) in relation to any movable property forming part of the capital of any person on March 31, 1971, shall-

- (i) where such property consists of shares, be March 31, 1970, if such property was acquired on or before that date or be the date of its acquisition if such property was acquired on or after April 1, 1970, and
- (ii) where such property does not consist of shares, be March 31, 1971,

8. Section 12 of the principal enactment is hereby amended by the substitution, for subsection (2) of that section, of the following new subsection:-

“(2) Where the capital levy is assessed separately on the net capital of the husband and on the net capital of the wife as a result of a notice given under subsection (1), the value of the net capital of the husband and the value of the net capital of the wife and the value of the net capital of any individual who, according to the returns of capital furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the capital levy that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the capital levy so ascertained shall be apportioned among the husband and the wife in the proportion which the value of the net capital of each of them bears to the value of the aggregate net capital of both of them.”

9. Section 23 of the principal enactment is hereby repealed and the following new section substituted therefor:-

23. The provisions of section 95 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act, and not to the principal Act, and

- (a) as if in subsection (1) of that section, for the words “amount of income, wealth or gifts assessed and the amount of tax charged”, there were substituted the words “amount of net capital assessed and the amount of the capital levy charged”; and
- (b) as if in subsection (2) of that section for the words “amendment of the rate of tax it is necessary to vary the amount of tax charged”, there were substituted the words “amendment of the rate of the capital levy it is necessary to vary the amount of the capital levy charged”.

10. Section 24 of the principal enactment is hereby repealed and the following new section substituted therefor:-

24. The provisions of section 96 of the principal Act shall apply as if such provisions were provisions of this Act and refer to this Act and not to the principal Act and as if in paragraph (a) of subsection (2) of that section, for

the words "the amount of income, wealth or gifts assessed, or the amount of tax charged;"; there were substituted the words "the amount of net capital assessed or the amount of the capital levy charged;".

11. Section 25 of the principal enactment is hereby repealed and the following new section substituted therefor:-

25. Where an assessment of capital levy under this Act is made in respect of any person and such person has not paid the levy he or any member of his family shall not, except with the written permission of the Commissioner, alienate to any other person, any immovable property or any rights in any immovable property, belonging to him or to that member of his family, as the case may be:

Provided that such person or a member of his family may, after notice to the Commissioner, alienate to the Republic any immovable property, or any rights in any immovable property, belonging to such person or that member of his family, as the case may be."

12. Section 27 of the principal enactment is hereby amended as follows:-

(1) by the renumbering of that section as subsection (1) of section 27; and

(2) by the addition, at the end of that section, of the following subsection:-

"(2) At any time before the commencement of the inquiry into a notice of objection given under section 26, the Commissioner may, for any reasonable cause, permit the objector to add to the list furnished by him under subsection (1)."

13. Section 31 of the principal enactment is hereby amended by the substitution, for subsection (1) of that section, of the following new subsection.

"(1) Where no valid notice of objection or appeal has been lodged against an assessment made under this Act, or where the notice of objection against an assessment made under this Act has been rejected under section 29, or where an assessment under this Act has been determined on objection or appeal, the assessment as made or as determined on objection or appeal, as the case may be, shall be final and conclusive for all purposes of this Act."

14. Section 36 of the principal enactment is hereby amended as follows:-

(1) by the substitution, for subsection (1) of that section, of the following new subsection:-

"(1) Any person who is charged with the capital levy may, if he is unable to pay the levy in the manner stated in the notice of assessment or any notice given to him under section 38 section 39 or section 42, petition the Board

of Adjudicators for such relief, as the Board is empowered to grant under section 37. Every petition for relief shall be in writing and shall be transmitted to the Chairman of the Panel within thirty days after the date of issue of the notice of assessment or other notice, as the case may be.", and

(2) by the addition, at the end of that section, of the following new subsection.

"(4) An Order of the Board on any petition referred to the Board under subsection (3) shall be final and conclusive and shall not be called in question in any court whether by way of appeal, writ, mandate or otherwise."

15. Section 37 of the principal enactment is hereby repealed and the following new section substituted therefor:-

37. (1) The relief which the Board may grant to any person on a petition made by him under section 36 shall be one or more of the following:-

- (a) an extension of the period for the payment of the capital levy or any instalment of that levy,
- (b) permission to pay the capital levy in instalments,
- (c) an increase in the number of instalments allowed to him for the payment of the capital levy,
- (d) permission to offer any immovable property of that person to the Republic.

(2) Where permission is granted by the Board to any person to offer any immovable property of that person to the Republic, the Board shall specify the immovable property which that person may offer to the Republic:

Provided that the Board shall not specify any immovable property which is subject to a mortgage, except after giving the mortgagee an opportunity of being heard and unless the Board is satisfied that the value of such property is adequate to pay the moneys due on the mortgage and to recover the capital levy payable by the mortgagor."

16. Section 39 of the principal enactment is hereby amended as follows:-

(1) by the substitution, for subsection (1) of that section, of the following new subsection:-

"(1) Where the Board has, in its order on any petition made under section 36 by any person, granted him permission to offer to the Republic any specified immovable property belonging to him, he shall, within fifteen days after the date of the communication notifying him of that order, give to the Commissioner a written notice setting out:-

(Cxi)

(a) full particulars relating to such property; and

(b) his title to such property.”;

(2) by the substitution, for subsection (6) of that section, of the following new subsection:-

“(6) Where the immovable property of any person is vested in the Republic under subsection (3) and the value placed on that property in the assessment of capital levy made in respect of that person is not less than the amount of the capital levy payable by such person, such person shall be deemed to have paid the capital levy and he shall be entitled-

(a) to an amount which bears to the difference between the value placed on that property in the assessment of capital levy made in respect of him and the capital levy payable by him the same proportion as the market value of that property on March 31, 1972, bears to the value placed on that property in such assessment, or

(b) to an amount equal to the difference between the value placed on that property in such assessment and the capital levy payable by him,

according as the value placed on that property in the assessment of capital levy made in respect of him exceeds, or does not exceed, the market value of that property on March 31, 1972.

Where the value placed on that property in the assessment of capital levy made in respect of that person is less than the amount payable by him as capital levy, the balance of the capital levy shall be paid in a lump sum on or before such date, or in such number of instalments, as the Commissioner shall specify in a written notice given to that person. Any sum not so paid shall be deemed to be in default and that person shall be deemed to be a defaulter for the purposes of this Act.”; and

(3) by the insertion, immediately after subsection (6), of the following new subsection:-

“(7) Before payment is made of the amount to which a person is entitled under subsection (6), any sum or sums due from that person to the Government may be deducted from such amount.”.

17. Section 42 of the principal enactment is hereby repealed and the following new section substituted therefor:-

42. (1) Where the whole or part of the capital levy payable by any person is in default, a sum equivalent to five *per centum* of the amount in default shall be added to such amount and the Commissioner shall give notice in writing to such person requiring him to pay such amount together with the sum so added on or before the date specified in the notice. Where

payment is not so made, the Commissioner may add a further sum or further sums not exceeding fifteen per centum of the amount in default until such amount is recovered.

(2) Where, upon the final determination of an appeal, the amount of the capital levy in default to which any sum or sums has or have been added under subsection (1) is reduced, then such sum or sums shall be calculated on the amount as so reduced.”.

18. Section 51 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection:-

“(3) Where, on or after October 26, 1970, any property is gifted and such part of the capital levy as appears to the Commissioner to be attributable to that property cannot be collected or recovered from the donor, then such part of the capital levy as is attributable to that property may be collected or recovered from the donee notwithstanding that no assessment has been made on the donee and accordingly the provisions of this Act relating to collection and recovery of the capital levy shall apply to the donee.

In this subsection “donor” and “donee” shall have the meanings assigned to those expressions in section 129 of the principal Act.”.

19. The following new section is hereby inserted immediately after section 51, and shall have effect as section 51A of the principal enactment:-

51A. (1) (a) Where the capital levy or a part of the capital levy payable by any person is in respect of any property in which he has a life interest, that person may, by notice in writing given to Commissioner within one month of the date of the notice of assessment given to that person, require the Commissioner to treat the amount of such capital levy or such part of the capital levy payable by that person as is attributable to that property as a charge on the property and thereupon that property shall be and his hereby declared to be specially bound and liable for the payment of that amount.

(b) Where the capital levy attributable to any property referred to in paragraph (a) is in default, a notice under that paragraph shall be deemed to have been given by the person from whom the capital levy is due.

(c) Where a notice given under paragraph (a) of this subsection is in respect of the capital levy attributable to any property consisting of land, such notice shall set out all such particulars relating to that land as are required by section 13 of the Registration of Documents Ordinance to be stated in respect of that land when an instrument affecting that land is presented for registration under that Ordinance.

(2) Where a notice is given or is deemed to have been given under subsection (1) in respect of the amount of the capital levy attributable to any property consisting of land, the Commissioner shall—

- (a) cause to be delivered or transmitted to the appropriate Registrar of Lands for registration a notice setting out the necessary particulars relating to that property and stating that, that property is bound and liable for the payment of the amount of the capital levy attributable to the property,
- (b) notwithstanding anything contained in the provisions of section 124 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 75 of this Act, cause to be published in such manner as shall seem to him likely to give sufficient publicity, a notice stating that such property or a part thereof is liable to be vested in the Republic unless the capital levy attributable to that property is paid within the period specified in the notice by anyone interested in such property, and
- (c) where the capital levy attributable to that property is not paid within the period specified in the notice published under paragraph (b) send to the Minister in charge of the subject of Finance a statement specifying—
 - (i) the amount of such capital levy, and
 - (ii) the name and address of the person by whom the notice under subsection (1) was, or is deemed to have been, given and, where such person has only a life interest in such property as a usufructuary, the name and address, if available, of the owner of such property.

(3) A notice delivered or transmitted to the Registrar of Lands under paragraph (a) of subsection (2) shall be registered by him in the manner provided by the Registration of Documents Ordinance for the registration of an instrument affecting land and shall be deemed for such purposes to be an instrument affecting the land to which the notice relates.

(4) Where payment is made of the capital levy attributable to any land in respect of which a notice under paragraph (a) of subsection (2) has been registered the Commissioner shall, in writing, request the Registrar of Lands to cancel the registration of such notice and the Registrar of Lands shall thereupon cancel such registration.

(5) After the receipt of the statement referred to in paragraph (c) of subsection (2), the Minister in charge of the subject of Finance may, by Order published in the Gazette, vest in the Republic the property specified in the statement or such part of that property as the Commissioner may deem adequate for the recovery of the capital levy attributable to that property. Such

Order shall, upon its publication in the *Gazette*, have the effect of vesting in the Republic free from all encumbrances the property or the part of the property specified in the Order.

(6) Where the value of the property or the part of a property vested in the Republic by an Order under subsection (5) is greater than the amount of the capital levy attributable to that property, then a sum computed in the manner set out in subsection (6) of section 39 shall be paid into the District Court having jurisdiction over the place where the property is situated to abide the orders of that Court as to the disposal thereof. Such sum shall be subject to the same settlement as that property was subject to at the time that property or a part thereof was vested in the Republic.

(7) Where a notice under subsection (1) is in respect of any property consisting of money, the Commissioner may issue a certificate to the District Court having control over such property stating the amount of the capital levy attributable to that property and the Court shall thereupon direct the payment of such amount out of that property.

(8) Where by reason of the default in payment of the amount of the capital levy attributable to any property referred to in subsection (1), any sum or sums has or have been added to such amount under subsection (1) of section 42, the Commissioner may, in his discretion, remit the whole or a part of the sum or sums so added.”.

20. Section 54 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection:-

“(6) The Minister in charge of the subject of Finance may appoint a Secretary to the Panel and one or more Assistant Secretaries to the Panel.”

21. Section 56 of the principal enactment is hereby amended by the repeal of subsection (3) of that section and by the substitution, for that subsection, of the following new subsection-

“(3) The Chairman of the Panel may nominate an Assistant Secretary to the Panel to be the Secretary to a Board of Adjudicators.”.

22. Section 57 of the principal enactment is hereby repealed and the following new section substituted therefor:-

57. The Chairman of the Panel, the members of the Panel, the Secretary to the Panel and the Assistant Secretaries to the Panel may be paid such remuneration as may be determined by the Minister in charge of the subject of Finance.”.

23. Section 72 of the principal enactment is hereby repealed and the following new section substituted therefor:-

72. An executor of a deceased person's estate shall be chargeable with the capital levy with which such deceased person would be chargeable if he were alive and shall be liable to do all acts, matters and things which such person, if he were alive, would be liable to do under this Act:

Provided that-

- (a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person; and
- (b) the liability of an executor under this section shall be limited to the sum of-
 - (i) the deceased person's estate in the possession or control of the executor at the date when notice is given to him that liability to pay the capital levy will arise under this section and
 - (ii) any part of the estate which may have passed to a beneficiary."

24. Section 83 of the principal enactment is hereby amended as follows:-

(1) by the insertion, immediately after the definition of "acquired", of the following new definition:-

"agent" in relation to a non-resident person includes-

- (a) the agent, attorney, factor, receiver or manager in Sri Lanka of such person; and
- (b) any person in Sri Lanka through whom such person is in receipt of any profits or income arising in or derived from Sri Lanka;"

(2) by the insertion, immediately after the definition of "executor", of the following new definitions:-

"family" means a family within the meaning of section 3;

"fiduciary" means any person having a beneficial interest in any property by reason of a *fideicommissum*;"

(3) by the substitution, for the definition of "net capital", of the following new definition:-

"net capital" when used-

- (a) in relation to any person other than a non-resident company having capital in Sri Lanka, means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital of that person on March 31, 1971, is in excess of the aggregate value of all debts owed by such person on March 31, 1971, other than-
 - (i) a debt incurred without consideration or without full consideration in money or money's worth,
 - (ii) a debt incurred which is not wholly for his own benefit,

- (iii) a debt in respect of which there is a right to reimbursement from any other person unless such reimbursement cannot be obtained,
- (iv) a debt charged or secured on, or incurred in relation to, any property of his which is excluded from his capital under this Act, and
- (v) any debt incurred by him outside Sri Lanka unless such debt is contracted to be paid in Sri Lanka or is charged or secured on property in Sri Lanka,

and account being taken not more than once of the same debt charged upon different portions of property, and

- (b) in relation to a non-resident company having capital in Sri Lanka means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital in Sri Lanka on March 31, 1971, is in excess of the aggregate value of all its debts and liabilities on that date, each such debt or liability being a debt or liability incurred by the company in carrying on its business in Sri Lanka and not being—

- (i) a debt incurred by the company without consideration or without full consideration in money or money's worth,
- (ii) a debt which is not wholly for the benefit of the company,
- (iii) a debt in respect of which there is a right to reimbursement from any other person unless such reimbursement cannot be obtained,
- (iv) a debt charged or secured on, or incurred in relation to, any property of the company which is excluded from the capital of the company under this Act, and
- (v) a debt incurred by the company outside Sri Lanka unless such debt is contracted to be paid in Sri Lanka or is charged or secured on property in Sri Lanka,

and account being taken not more than once of the same debt being charged upon different portions of property; ;

(4) by the insertion, immediately after the definition of the "principal", of the following new definition:—

“ private company” shall have the meaning assigned to that expression in the Companies Ordinance;”

(5) in the definition of “trustee” by the substitution, for the full stop at the end of that definition, of a semi-colon; and

(6) by the addition, at the end of that section, of the following new definition:—

“ wife ” does not include a wife who is living apart from her husband under a decree of a competent court or a duly executed deed of separation, or is in fact separated from her husband in such circumstances that the separation is likely to be permanent.’

25. This Law shall be deemed to have come into effect on the date of commencement of the principal enactment.

Inland Revenue (Amendment) Law, No. 17 of 1972.

A LAW TO AMEND THE INLAND REVENUE ACT, NO. 4 OF 1963

(Certified on 19th December, 1972)

1. This law may be cited as the Inland Revenue (Amendment) Law, No. 17 of 1972.

2. The following new section is hereby inserted immediately after section 5, and shall have effect as section 5A, of the Inland Revenue Act, No. 4 of 1963, hereinafter referred to as the "principal enactment" :-

5A. (1) There shall be exempt from income tax with effect from April 1, 1972-

- (a) the profits and income of the State Gem Corporation ;
- (b) the profits and income derived by any person from the sale of gems to the State Gem Corporation ;
- (c) the profits and income derived by any person from exporting gems, or selling gems to tourists for payment in foreign currency, under the authority of an Order made under section 16 of the State Gem Corporation Act, No. 13 of 1971 ; and
- (d) any dividend paid to shareholders of a company out of such profits and income of that company, as are referred to in paragraph (b) or paragraph (c).

(2) In this section-

"gem" has the same meaning as in the State Gem Corporation Act, No. 13 of 1971 ; and

"State Gem Corporation" means the State Gem Corporation established under the State Gem Corporation Act, No. 13 of 1971 ".

3. Section 7 of the principal enactment is hereby repealed and the following new section substituted therefor :-

7. (1) The profits and income derived from the export trade of any articles or goods of any industrial undertaking approved by the Minister in charge of the subject of Industries, being such profits and income for the year of assessment succeeding the year in which such articles or goods are exported for the first time and for each of the two subsequent years of assessment, shall be exempt from income tax:

Provided that nothing in this subsection shall apply to any profits and income for any year of assessment commencing on or after April 1, 1965.

(2) Where, for the purposes of sub-section (1), the profits and income derived from the export trade of any articles or goods referred to in that sub-section cannot be ascertained at the time of assessment, such sum as the

Commissioner in his discretion considers reasonable to be such profits and income for the year of assessment in respect of which the assessment is made, shall be exempt from income tax."

4. (1) The following new section is hereby inserted immediately after section 7, and shall have effect as section 7A, of the principal enactment :-

7A. (1) This section shall apply to any such undertaking as is considered by the appropriate Minister to be capable of making exports of goods or commodities or of providing services for payment in foreign currency and is at the request of that Minister declared by the Minister in charge of the subject of Finance by notice published in the *Gazette* to be an undertaking to which this section shall apply.

(2) (a) Where an undertaking to which this section applies is carried on by a company incorporated on or after April 1, 1972, then, so much of the profits and income of the company as consists of the export profits and income of that undertaking shall be exempt from income tax for a period of eight years reckoned from the date of the incorporation of that company if the Commissioner is satisfied-

- (i) that it is not an undertaking formed by the splitting up or reconstruction of any business previously in existence, and
- (ii) that no part of the export turnover of the undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of any other undertaking with the trade or business of that undertaking.

(b) Where an undertaking to which this section applies commenced to carry on its trade or business on a day prior to April 1, 1972, then, for each of the five years immediately succeeding the relevant date, so much of the profits and income of that undertaking as consists of the excess of the export profits and income of that undertaking for that year over the average of its export profits and income for the three years preceding the relevant date shall be exempt from income tax if the Commissioner is satisfied that no part of the export turnover of the undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of any other undertaking with the trade or business of that undertaking.

(3) The profits or losses of an undertaking to which this section applies for any period other than a period for which the accounts of that undertaking are made up shall be determined on the basis that the profits or losses of that undertaking for the period for which accounts are made up have accrued evenly.

(4) Subject to the provisions of sub-section (5), where at any time during the period by reference to which the statutory income of any company for any year of assessment is computed or would be computed, if that company were

liable to income tax, that company declares a dividend, and such dividend is declared during the period the profits and income of which are wholly or partly exempt from income tax under paragraph (a) of subsection (2), such part of the dividend as bears to the gross dividend the same proportion as the export turnover of the accounting year in respect of which the dividend was declared bears to the total turnover of that accounting year shall be exempt from income tax.

(5) The provisions of subsection (4) shall not apply to any return or distribution of capital whether or not such return or distribution of capital is deemed to be a dividend for the purposes of this Act.

(6) A date selected as the relevant date for the purposes of this section shall not subsequently be altered.

(7) Where the assessable income on which an assessment in respect of any person for any year of assessment has been made includes any profits and income exempt from income tax under paragraph (b) of subsection (2), then, notwithstanding the provisions of section 103, an Assessor shall, on application in writing made by that person within five years of the end of that year of assessment and supported by such information as the Assessor may require, make an amended assessment excluding such profits and income; and any sum paid in excess of the tax charged by the amended assessment shall, notwithstanding anything contained in section 117, be refunded to such person.

(8) Notwithstanding anything to the contrary in section 11, there shall be deducted for the purpose of ascertaining the profits and income of any person from an undertaking referred to in subsection (1) of this section—

(a) the cost of advertising outside Sri Lanka incurred solely in connection with the export trade of any articles or goods or for the provision of services for payment in foreign currency;

(b) the expenses incurred in travelling outside Sri Lanka solely in connection with the promotion of the export trade of any articles or goods or solely in connection with the provision of services for payment in foreign currency, if such expenditure was incurred with the approval of the Controller of Exchange and does not exceed the amount authorized by him for that purpose; and

(c) the expenditure incurred in carrying on any scientific, industrial or agricultural research in Sri Lanka if an allowance in respect of such expenditure is not granted under section 10.

(9) For the purposes of this section—

“export profits and income”, when used in relation to a company or an undertaking, means the sum which bears to the profits and income (within the meaning of paragraph (a) of subsection (1) of section 3) of that

company or undertaking, computed in accordance with the provisions of this Act, the same proportion as the export turnover of that company or undertaking bears to the total turnover of that company or undertaking ;

“export turnover” means the total amount received or receivable by any company or undertaking from the export of goods or commodities or from the provision of services for payment in foreign currency but does not include any amount received or receivable by the sale of capital assets or any profits and income other than profits and income within the meaning of paragraph (a) of subsection (1) of section 3 ;

“relevant date”, when used in relation to any company or undertaking, means such date not earlier than April 1, 1965, as is selected by that company or the person carrying on that undertaking or, in the case of a partnership, by the precedent partner of that partnership and as is notified to the Commissioner in writing ;

“total turnover” means the total amount received or receivable by any company or undertaking from any trade or business carried on or exercised by that company or undertaking but does not include any amount received or receivable by the sale of capital assets or any profits and income other than profits and income within the meaning of paragraph (a) of subsection (1) of section 3.

(2) The provisions of subsection (1) of this section shall be deemed to have come into operation with effect from April 1, 1965, and accordingly—

- (a) in any notice under subsection (1) of section 7A of the principal enactment a day earlier than the date of publication of such notice in the *Gazette* may be specified as the day with effect from which an undertaking is declared to be an undertaking to which the aforesaid section 7A applies ; and
- (b) any application under subsection (7) of section 7A of the principal enactment in relation to the profits and income for any year of assessment ending not later than March 31, 1967, may be made on or before March 31, 1973.

5. Section 12 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor, of the following new subsection :—

“(1) Save as provided in this section, the statutory income of every person—

- (a) for each year of assessment ending on or before March 31, 1971, from every source of his profits and income in respect of which tax is charged shall be the full amount of the profits or income which was derived by him or arose or accrued to his benefit from such source during the year preceding the year of assessment, notwithstanding that he may have ceased to possess such source or that such source may have ceased to produce income, and

(b) for each year of assessment commencing on or after April 1, 1971, from every source of his profits and income in respect of which tax is charged shall—

(i) if such source is employment, be the full amount of the profits or income which was derived by him or arose or accrued to his benefit from such source during that year of assessment, and

(ii) if such source is a source other than employment, be the full amount of the profits or income which was derived by him or arose or accrued to his benefit from such source during the year preceding that year of assessment,

notwithstanding that he may have ceased to possess such source or that such source may have ceased to produce income.”

6. Section 16C of the principal enactment, inserted therein by Act No. 6 of 1969, is hereby amended as follows:—

(1) by the repeal of subsection (3) of that section and the substitution therefor of the following new subsection:—

“(3) Where in the year preceding any year of assessment commencing on or after April 1, 1969, but not later than April 1, 1973, an individual has made or is deemed to have made an approved investment, then—

(a) an amount equal to one-half of the actual amount of that investment, or

(b) an amount representing one-tenth of the assessable income of that individual or

(c) twenty-five thousand rupees,

whichever amount is the least, shall be the allowance in relation to that approved investment and such allowance shall be deducted from the assessable income of that individual for that year of assessment in arriving at his taxable income for that year of assessment:

Provided, however, that the preceding provisions of this subsection shall not apply -

(a) to an approved investment made or deemed to have been made by an individual with any money withdrawn or realized by that individual on or after August 2, 1968, and before April 1, 1970, from an approved saving specified in paragraph (b) or paragraph (c) or paragraph (g) of subsection (2) of section 69A and accordingly no deduction under this subsection shall be made from the assessable income of that individual in relation to that approved investment, or

- (b) to an approved investment made by an individual in the year preceding the year of assessment commencing on April 1, 1973, if in respect of that investment an allowance has been granted under section 16CC.”; and

(2) by the substitution, for the marginal note to that section, of the following new marginal note :-

“Allowances in respect of approved investments to be deducted from assessable income for any year of assessment commencing not later than April 1, 1973, in arriving at taxable income.”.

7. The following new section is hereby inserted immediately after section 16C, and shall have effect as section 16CC, of the principal enactment :-

16CC. (1) In this section -

“approved investment ” means-

- (a) an approved investment within the meaning of section 68A made by a company or a body of persons ;
- (b) an investment in an approved undertaking, but does not include -
 - (i) an investment for the purpose of purchasing an existing investment ; or
 - (ii) an investment for the purpose of purchasing shares in a company which are not ordinary shares ;

“approved undertaking ” means an undertaking which is carried on by a company and which is considered by the appropriate Minister to be capable of exporting goods or commodities or of providing services for payment in foreign currency and is at the request of such Minister declared by the Minister in charge of the subject of Finance to be an approved undertaking for the purposes of this section.

(2) Where the entirety of the assessable income of a wife or child for any year of assessment is aggregated with the assessable income of the head of the family of which such wife or child is a member, any approved investment made by such wife or child shall be deemed to be an approved investment made by the head of the family.

(3) Where a person has, or is deemed to have, made in any year of assessment two or more approved investments, the aggregate amount of such investments shall be treated as one approved investment for the purposes of this section.

(4) Where in the year preceding any year of assessment commencing on or after April 1, 1973, any person has made or is deemed to have made an approved investment, then-

- (a) the actual amount of that investment, or
- (b) an amount representing one-fifth of the assessable income of that person,

whichever amount is lower, shall be the allowance in relation to that approved investment and such allowance shall be deducted from the assessable income of that person for that year of assessment in arriving at the taxable income of that person for that year :

Provided that, where an approved investment consists wholly or partly of an approved investment referred to in paragraph (a) of the definition of approved investment in this section, the allowances in respect of that investment or that part of that investment, as the case may be, shall not exceed the permitted allowance computed in accordance with the provisions of subsection (2) of section 68A :

Provided further that no allowance under this subsection shall be granted in respect of any approved investment made in the year preceding the year of assessment commencing on April 1, 1973, if in respect of that investment, an allowance under section 16C has been granted.

(5) Where an allowance has been granted to a person under subsection (4) in respect of an approved investment and where, within a period of five years after the date of such investment, the ownership of that investment changes otherwise than by the death of the individual who made that investment or by the dissolution of, or the cessation of the business carried on by, the company or body of persons which made that investment, then, in respect of the year of assessment in which such allowance was granted an additional assessment consisting of the difference between the income tax to which the person who has been granted the allowance would have been liable if such allowance had not been granted and the amount of tax charged for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that person and the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply in relation to such additional assessment.

8. Section 25 of the principal enactment, as last amended by Act No. 33 of 1971, is hereby further amended by the repeal of subsections (1A) and (1B) of that section and the substitution therefor of the following new subsection :-

‘(1A) Subsection (1) of this section shall have effect and shall be deemed to have had effect in its application-

- (a) in respect of the year of assessment commencing on April 1, 1965, and the four years of assessment immediately following as though-
- (i) in paragraph (a) of that subsection, there were substituted, for the expression “ 57 per centum ”, the expression “ 50 per centum ”, and

- (ii) in the proviso to that subsection, there were substituted, for the expression "28½ per centum", wherever that expression occurs in that proviso, the expression "25 per centum"; and
- (b) in respect or each year of assessment commencing on or after April 1, 1970, as though—
 - (i) in paragraph (a) of that subsection, there were substituted, for the expression "57 per centum", the expression "60 per centum", and
 - (ii) in the proviso to that subsection, there were substituted, for the expression the "28½ per centum", wherever that expression occurs in that proviso, the expression "35 per centum".

9. Section 26 of the principal enactment, as last amended by Act No. 33 of 1971, is hereby further amended as follows:—

(1) by the repeal of subsections (1A) and (1B) of that section and the substitution therefor of the following new subsection:—

“(1A) The provisions of subsection (1) shall have effect and shall be deemed to have had effect in its application:—

- (a) in respect of the year of assessment commencing on April 1, 1965, and the four years of assessment immediately following as though there were substituted, for the expression "57 per centum", wherever that expression occurs in that subsection, the expression "50 per centum"; and
- (b) in respect of each year of assessment commencing on or after April 1, 1970, as though there were substituted, for the expression "57 per centum", wherever that expression occurs in that subsection, the expression "60 per centum"; and

(2) by the repeal of subsection (4) of that section and the substitution therefor of the following new subsection:—

“(4) Every resident company shall deduct from the amount of any dividend which becomes payable to any non-resident company during any year of assessment—

- (a) if such dividend consists of any part of the amount of a dividend other than any part of the amount of a dividend exempt from income tax under subsection (1) of section 5A or subsection (3) of section 6, or subsection (4) of section 7A, received by such resident company from another resident company income tax equivalent to six per centum of the amount of the first mentioned dividend increased by fifty per centum,
- (b) if the first-mentioned dividend does not consist of any part of the amount of a dividend received by such resident company from another resident company, income tax equivalent to six per centum of the amount of such first-mentioned dividend, and

- (c) if the first-mentioned dividend is paid out of the amount of a dividend exempt from income tax under subsection (1) of section 5A or subsection (3) of section 6 or subsection (4) of section 7A and received by such resident company, income tax equivalent to six per centum of the amount of such first-mentioned dividend,

and the amount of the income tax which a resident company is, under this section, required to deduct shall be a debt due from such resident company to the Republic and shall be recoverable forthwith as such, or may be assessed and charged upon such company in addition to any income tax otherwise payable by it.”.

10. Section 27 of the principal enactment, as amended by Act No. 18 of 1965, is hereby further amended by the repeal of subsections (4) and (5) of that section and the substitution therefor of the following new subsections:-

“(4) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend which becomes payable by a resident company during any year of assessment shall annex thereto a statement in writing specifying -

- (a) the gross amount which after deduction of income tax thereon corresponds to the net amount actually paid;
- (b) the sum deducted as income tax;
- (c) the net amount actually paid;
- (d) where any such dividend includes the amount of a dividend received by that company from any other resident company the part of the amount of the dividend so received and whether-
 - (i) such dividend is exempt from income tax under the provisions of subsection (3) of section 6; or
 - (ii) the whole or any part of such dividend is exempt from income tax under the provisions of subsection (1) of section 5A or subsection (4) of section 7A; and
- (e) where any such dividend includes any part of the amount of a dividend received by that company from any non-resident company referred to in subsection 2A of section 25, the part of the amount of the dividend so received.

(5) Where the statement referred to in subsection (4) discloses that a shareholder of a resident company received a dividend which included the amount of any dividend received from any other resident company or from any non-resident company referred to in subsection (2A) of section 25, then that amount shall, for the purposes of determining the statutory income of such shareholder, be increased by fifty per centum and he shall be entitled to a set-off against the tax payable by him of an amount equal to the said fifty per centum:

Provided, however, that the preceding provisions of this subsection shall not apply to or in respect of-

- (a) a shareholder if such shareholder is a company or
- (b) the amount of any dividend received from any other company if such dividend is exempt from income tax by virtue of subsection (3) of section 6 or if the whole or such part of such dividend is exempt from income tax by virtue of subsection (1) of section 5A or subsection (4) of section 7A.

11. Section 38 of the principal enactment is hereby repealed and the following new section substituted therefor:-

“38. The wealth tax payable by any person for any year of assessment commencing not later than April 1, 1972, shall not exceed eighty per centum of his assessable income for that year of assessment.”.

12. Section 45 of the principal enactment is hereby repealed and the following new section substituted therefor:-

45. (1) Notwithstanding anything in the preceding provision of this Act, any husband or wife may, in respect of any year of assessment commencing not later than April 1, 1971, give notice in writing to the Commissioner before the first day of June in that year of assessment or at any time before an assessment is made in respect of any such year of assessment, requiring that the income tax and wealth tax for that year shall be assessed, charged and recovered separately on the income or net wealth of the husband and on the income and net wealth of the wife as if they were not married; and all the provisions of this Act shall thereupon apply to each of them accordingly:

Provided that, in the case of a person who is not resident in Sri Lanka immediately prior to his arrival therein, a notice given within the period of twelve months next succeeding his arrival in Sri Lanka shall be effective for the purposes of this subsection.

(2) Notwithstanding anything in the preceding provisions of this Act, any husband or wife may give notice in writing to the Commissioner, at the time he or she pays his or her first quarterly instalment for any year of assessment commencing on or after April 1, 1972, that he or she, as the case may be, desires to pay the income tax and wealth tax for that year of assessment separately on his or her income or net wealth as though he or she was not married and where such notice is given all the provisions of this Act shall apply to each of them accordingly.

(3) Where a notice is given under subsection (2) in respect of any year of assessment-

- (a) a husband shall make in respect of that year of assessment the returns he would have made if such notice had not been given, and

- (b) the wife shall make in respect of that year of assessment the returns she would have made if she had been the head of a family and her husband and any child or dependent relative or either of them were a member of that family.

(4) Where income tax is assessed separately on the income of the husband and on the income of the wife as a result of a notice under subsection (1) or under subsection (2), the incomes of the husband and the wife and of any person who, according to the returns of income furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the income tax that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the income tax so ascertained shall be apportioned among the husband and wife in the proportion which the assessable income of each of them bears to the aggregate assessable income of both of them.

(5) Where the wealth tax is assessed separately on the net wealth of the husband and on the net wealth of the wife as a result of a notice under subsection (1) or under subsection (2), the value of the net wealth of the husband and the value of the net wealth of the wife and the value of the net wealth of any individual who, according to the returns of net wealth furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the wealth tax that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the wealth tax so ascertained shall be apportioned among the husband and the wife in the proportion which the value of the net wealth of each of them bears to the value of the aggregate net wealth of both of them.

(6) Where wealth tax and income tax in respect of a husband and a wife are assessed separately in consequence of a notice under subsection (1) and where the aggregate amount of the income tax and the wealth tax payable by the husband or wife is more than eighty *per centum* of the assessable income of such husband or wife, then the amount of set-off against the wealth tax under section 105 shall not exceed such amount as would have been set off against the wealth tax that the husband would have paid if such notice had not been given.

(7) Where income tax and wealth tax are assessed separately in respect of a husband and a wife as a result of a notice under subsection (1) and where the aggregate amount of the income tax or wealth tax payable by the husband and wife will be less than the amount of the income tax or wealth tax or income tax and wealth tax that would have been payable by the husband if such notice had not been given, then the amount of such deficit shall be apportioned among such husband and wife in the proportion which the assessable income or net wealth of each such person bears to the aggregate assessable income or net wealth of both of them.

(8) Where one spouse is resident and the other is non-resident and a notice under subsection (1) or under subsection (2) is given by the resident spouse, the resident spouse may in such notice elect that the provisions of subsection (4) or subsection (5) be not applied, and in that event, the income from Sri Lanka or the value of the net wealth, as the case may be, of the non-resident spouse and any individual who is a child or dependent relative of either or both of those spouses and who is a non-resident shall, notwithstanding the provisions of subsection (4) or subsection (5), be deemed to be the income or value of the taxable wealth of the resident spouse and shall be assessed accordingly, and in the computation of the income tax payable by the resident spouse, the non-resident spouse and any such individual shall not be regarded as a member of the family of the resident spouse.

(9) Where one spouse is resident and the other is non-resident, the resident spouse may be deemed to be the agent of the non-resident spouse for all the purposes of this Act and shall be liable to pay the whole of the tax chargeable in respect of the profits and income or net wealth of both, whether assessed jointly or severally.”.

13. Section 47 of the principal enactment is hereby repealed and the following new section substituted therefor:-

47. (1) An Assessor may give notice in writing to a receiver or trustee requiring him to furnish within the period specified in the notice-

(a) in the case of a receiver-

- (i) a return of the income from the properties under his control, for the purposes of income tax, or
- (ii) a return of such properties and, where any properties are distributed by him among any persons, a description of those properties and the names and addresses of those persons, for the purposes of wealth tax;

(b) in the case of a trustee-

- (i) a return of the income from the properties subject to the trust for the purposes of income tax, or
- (ii) a return of such properties and the names and addresses of the beneficiaries under the trust and the benefits to which they are entitled under the trust,

and a receiver or trustee shall be chargeable with income tax or wealth tax-

- (i) if he is a receiver, on the income or wealth of the properties subject to his control, and
- (ii) if he is a trustee, on the income or wealth of the properties of the trust, subject to the provisions of subsection (2) of this section and subsection (1) of section 30.

(2) Where there are any beneficiaries to a trust the income of which is liable to income tax under subsection (1), then the share of the income to which such beneficiaries are entitled shall be deducted from the amount of the income which is liable to tax under subsection (1) and shall be considered for the purposes of this Act as the income of such beneficiaries and accordingly each such beneficiary shall be chargeable with income tax in respect of his share of such income.

(3) Where, for any year of assessment commencing on or after April 1, 1972, the entirety or any part of the income of a trust is considered under subsection (2) to be the income of a beneficiary or the entirety or any part of a property subject to a trust is, under the provisions of paragraph (b) or paragraph (c) of subsection (1) of section 30, included in the wealth of a beneficiary under the trust, the trustee shall—

(a) in the case of the year of assessment commencing on April 1, 1972, on or before December 20, 1972; and

(b) in the case of any other year of assessment, on or before the fifteenth day of June, September, December and March of that year of assessment,

give to that beneficiary in such form as may be prescribed by the Commissioner a notice stating the amount of such income or wealth.

(4) The income tax or wealth tax or any part thereof with which a beneficiary to a trust is chargeable in respect of his income or net wealth to which he is entitled from the trust may be recovered from the trustee of the trust, notwithstanding that no assessment has been made upon such trustee, and the provisions of this Act relating to collection and recovery of tax shall apply to such trustee. Such trustee shall be entitled to deduct the amount of such tax or part thereof from the income which will be payable to such beneficiary from the trust.

(5) The income tax and wealth tax with which a receiver or a trustee is chargeable under this Act for any year of assessment commencing on or after April 1, 1972, shall be paid by him in accordance with the provisions of section 96B, notwithstanding that no assessment has been made on him.”

14. Section 50 of the principal enactment is hereby amended as follows:—

(1) by the insertion, immediately after subsection (2) of that section, of the following new subsection:—

“(2A) Where, for any year of assessment commencing on or after April 1, 1972, a beneficiary is chargeable with income tax or wealth tax under subsection (2) in respect of his share of the income or net wealth to which he is entitled from the estate of a deceased person, the executor of that estate shall—

- (a) in the case of the year of assessment commencing on April 1, 1972, on or before December 20, 1972, and
- (b) in the case of any other year of assessment, on or before the fifteenth day of June, September, December and March of that year of assessment,

give to the beneficiary in such form as may be prescribed by the Commissioner a notice stating the amount of such income or net wealth and such notice shall contain the particulars required to be set out in such form.”;

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

“(3) Where the income or the net wealth to which a beneficiary is entitled from the estate of a deceased person cannot be ascertained, the executor shall be chargeable with income tax or wealth tax in respect of such income or net wealth.”; and

(3) by the insertion immediately after subsection (4) of that section, of the following new subsection :-

“(5) The income tax and wealth tax with which an executor is chargeable under this Act for any year of assessment commencing on or after April 1, 1972, shall be paid by him in accordance with the provisions of section 96B notwithstanding that no assessment has been made on him.”.

15. The following new section is hereby inserted immediately after section 52, and shall have effect as section 52A, of the principal enactment:-

52A. (1) For the purposes of enabling a partner to ascertain his statutory income for any year of assessment commencing on or after April 1, 1972, the precedent partner of the partnership, or where no active partner is resident in Sri Lanka, the agent of the partnership in Sri Lanka, shall-

- (a) in the case of the year of assessment commencing on April 1, 1972, on or before December 20, 1972, and
- (b) in the case of any other year of assessment, on or before the fifteenth day of June, September, December and March of that year of assessment,

give to each partner a notice in such form as may be prescribed by the Commissioner specifying his share of the divisible profit or loss and of the other income of the partnership for the period of twelve months immediately preceding that year of assessment or during any period in respect of which the statutory income may be computed under section 12.

(2) The divisible profit or loss of a partnership for any year of assessment commencing on or after April 1, 1972, shall be the profits or losses of the partnership from any trade, business, profession, vocation or employment

during the period of twelve months immediately preceding the year of assessment or during any other period in respect of which the statutory income of that year of assessment may be computed under section 12, ascertained in accordance with the provisions of this Act relating to the ascertainment of profits and income of a person, after deducting from the total of such profits or adding to the total of such losses, as the case may be, the amount of any interest, annuity, ground rent or royalty (except where it is payable by a person out of Sri Lanka to another person out of Sri Lanka) payable by the partnership.”.

16. (1) The heading “DDD-Manufacture for Export” appearing after section 53B of the principal enactment is hereby omitted.

(2) Section 53C of the principal enactment is hereby repealed.

17. Section 68A of the principal enactment, inserted therein by Act. No. 26 of 1968, is hereby amended by the repeal of subsection (4) of that section and the substitution therefor of the following new subsection:-

“(4) Where a company or body of persons, in the year preceding any year of assessment commencing on or after April 1, 1967, but not later than April 1, 1972, makes an approved investment, such company or body of persons shall be entitled, on account of that investment, to such relief from income tax as will secure that the tax payable by such company or body of persons is reduced to the amount which would be payable as the tax if the permitted allowance in relation to that investment were deducted from the statutory income of such company or body of persons:

Provided, however, that the relief from tax on account of that investment shall not exceed one-half of such permitted allowance.”.

18. Section 81 of the principal enactment, as amended by Act No. 31 of 1971, is hereby further amended as follows:-

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection:-

“(1) It shall be the duty of every person chargeable, either singly or as a head of a family, with income tax, wealth tax or gifts tax for any year of assessment, commencing on or before April 1, 1971, if he has not been required by the Assessor under section 82 to make a return of income, wealth or gifts for that year, to give notice in writing to the Commissioner within a period of three months after the date of commencement of such year that he is so chargeable:

Provided that for the year of assessment commencing on April 1, 1971, such notice shall be given within a period of nine months after the commencement of that year of assessment.”; and

(2) by the repeal of subsection (4) of that section.

19. The following section is hereby inserted immediately after section 82 of the principal enactment and shall have effect as section 82A of that enactment:-

82A. (1) An Assessor may give notice in writing to a partner of a partnership, or to a any other person, who carries on any trade, business, profession or vocation, to furnish for any year of assessment—

- (a) a statement of accounts, audited by an approved accountant, of such trade, business, profession or vocation, for the year preceding that year of assessment or for such other period in respect of which the statutory income for that year of assessment is computed, and
- (b) an audit report prepared by such approved accountant in such form as the Commissioner may prescribe.

(2) The Commissioner may, from time to time, by notice published in the Gazette, require a partner of a partnership, or any other person, who carries on any trade or business of such class or description as may be specified in the notice—

- (a) to maintain books of accounts in such form as the Commissioner may prescribe,
- (b) to furnish statements of accounts in relation to that trade or business in the manner specified in that notice, and
- (c) to furnish, for any year of assessment, a statement of the profits and income and the assets and liabilities of that trade or business, audited by an approved accountant, together with an audit report prepared by such approved accountant in the form specified in such notice.

(3) Where a statement of accounts in support of a return of income furnished by any person for the purposes of this Act is prepared by an approved accountant, such statement shall be accompanied by a certificate of such approved accountant. The certificate shall be in the form prescribed by the Commissioner.

(4) For the purposes of this section, “approved accountant” means—

- (a) an accountant who is a member of the Institute of Chartered Accountants of Ceylon ;
- (b) an accountant who is approved by the Commissioner as an “authorized representative” for the purposes of this Act, and
- (c) any individual who is registered as an auditor under the Companies’ (Auditors) Regulations and approved by the Commissioner as an authorized representative for the purposes of this Act.’.

20. Section 93 of the principal enactment is hereby amended as follows :—

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection :—

"(1) Every person who is, in the opinion of an Assessor, chargeable for any year of assessment commencing on or before April 1, 1971, with income tax, wealth tax or gifts tax shall be assessed by him as soon as may be after the expiration of the time specified in the notice requiring him to furnish a return of income, wealth or gifts under section. 82 "; and

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

"(1A) For any year of assessment commencing on or after April 1, 1972, an Assessor may, notwithstanding anything to the contrary in subsection (1), assess any person at any time, whether or not such time is before the commencement of the year of assessment to which the assessment relates, if he is of the opinion that such person is about to leave Sri Lanka, or that for any other reason it is expedient to do so."

21. The following Chapter is hereby inserted immediately after Chapter XI of the principal enactment and shall have effect as Chapter XIA of the principal enactment :-

CHAPTER XIA

SELF-ASSESSMENT OF PROFITS AND INCOME, NET WEALTH AND TAXABLE GIFTS AND THE PAYMENT OF TAX CHARGEABLE THEREON

96A. In this Chapter, " tax " means the income tax, wealth tax or gifts tax chargeable in respect of the profits and income or taxable wealth or taxable gifts of any person.

96B. (1) Any tax with which any person is chargeable under this Act for any year of assessment commencing on or after April 1, 1972, shall, notwithstanding anything to the contrary in this Act, be paid by such person to the Commissioner in four instalments notwithstanding that no assessment has been made on him. Each such instalment is hereinafter referred to as a " quarterly instalment ".

(2) The first two quarterly instalments for the year of assessment commencing on April 1, 1972, shall be paid on or before the fifteenth day of January, 1973, and the next two quarterly instalments on or before the fifteenth day of February and the thirtieth day of April, 1973, respectively and the quarterly instalments for any subsequent year of assessment shall be paid on or before the fifteenth day of July, October and January of that year of assessment and the thirtieth day of April of the next succeeding year of assessment respectively.

(3) The quarterly instalments of a tax payable by any person in respect of a year of assessment shall be as follows :-

(a) the first quarterly instalment shall be an amount equal to one-fourth of the tax chargeable for that year of assessment;

- (b) the second quarterly instalment shall be an amount equal to the difference between one-half of the tax chargeable for that year of assessment and the amount of his first quarterly instalment for that year of assessment ;
- (c) the third quarterly instalment shall be an amount equal to the difference between three-fourths of the tax chargeable for that year of assessment and the amount of his first and second quarterly instalments for that year of assessment ; and
- (d) the fourth quarterly instalment shall be the difference between the amount of the tax chargeable for that year of assessment and the amount of his first, second and third quarterly instalments for that year of assessment.

(4) Every person who pays a quarterly instalment of any tax for a year of assessment shall, according as such tax is income tax, wealth tax or gifts tax, furnish to the Commissioner at the time of payment of such instalment a return, in such form as may be prescribed by the Commissioner, of his income, wealth or gifts for that year of assessment and he shall set out in that form all particulars relating to such matters specified in that form as are applicable to him.

(5) Where a quarterly instalment of a tax or a portion of such instalment is not paid on or before the date specified in subsection (2), such instalment or portion thereof shall be deemed to be in default and the person by whom it is payable or, where it is payable by more than one person, then each of such persons shall be deemed to be a defaulter for the purposes of this Act and the provisions of this Act as to recovery of the tax shall apply accordingly.

(6) Where a quarterly instalment of tax or a portion of such instalment is in default, the defaulter shall, in addition to the amount of tax in default, pay as a penalty—

- (a) a sum equivalent to five *per centum* of the amount in default ; and
- (b) where the amount in default is not paid before the expiry of thirty days after it has begun to be in default, in respect of each further period of thirty days or part of such period during which it is in default, a further sum equivalent to one *per centum* of the amount in default.

96C. (1) Where any person who, in the opinion of the Assessor, is chargeable with any tax for any year of assessment fails to pay a quarterly instalment of that tax for that year of assessment, the Assessor may, within that year of assessment or within six years after the expiration of that year of assessment, assess the amount which such person ought to have paid as such instalment and shall by notice in writing require such person to pay the amount of tax so assessed forthwith.

(2) An assessment made under subsection (1) of the amount of the quarterly instalment of any tax payable by a person shall not affect the liability of such person to the penalty specified in section 96B and for the purposes of that section the amount so assessed shall be deemed to be the quarterly instalment which such person ought to have paid in accordance with the provisions of that section.

(3) Where, in the opinion of the Assessor, any person chargeable with any tax for any year of assessment has paid as the quarterly instalment of that tax for that year of assessment an amount less than the proper amount which he ought to have paid as such instalment, the Assessor may, within that year of assessment or within six years after the expiration of that year of assessment, assess the amount which in the judgment of the Assessor ought to have been paid by such person and shall by notice in writing require such person to pay forthwith the difference between the amount so assessed and the amount paid by that person:

Provided that nothing in the preceding provisions of this subsection shall preclude an Assessor from making an additional assessment in respect of any person on whom an assessment under this subsection has been made.

(4) Where, in consequence of an assessment made under subsection (3) in respect of any person, such person is required by a notice under that subsection to pay a sum of money specified in that notice, such person shall, in respect of such sum, be liable to pay the penalty specified in section 96B and for the purposes of that section such sum shall be deemed to be the quarterly instalment which such person ought to have paid in accordance with the provisions of that section but has not so paid.

(5) The provisions of this Act as to the notice of assessment, appeal and other proceedings shall apply to any assessment made under this section and to any tax charged by such assessment.

22. Section 105 of the principal enactment is hereby repealed and the following new section substituted therefor :-

105. Where the aggregate of-

- (a) wealth tax to which a person is liable for any year of assessment ending on or before March 31, 1972, and
- (b) the income tax to which such person is liable for that year of assessment,

exceeds eighty per centum of the assessable income of that person for that year of assessment, such excess shall be set off against the wealth tax to which he is liable."

23. Section 106 of the principal enactment is hereby repealed and the following new section substituted therefor :-

106. (1) Subject to the provisions of section 96B and of section 107, the income tax, wealth tax or gifts tax charged by any assessment shall be paid by the person liable to pay the tax in a lump sum on or before such date as may be specified in the notice of assessment or in any other notice given to that person, or in such number of instalments, not exceeding four, as may be specified in such notice. Save as otherwise provided hereafter in this section, any tax or any instalment of such tax not so paid shall be deemed to be in default and the person by whom the tax or instalment thereof, as the case may be, is payable or, where such tax or instalment thereof is payable by more than one person or by a partnership, then each of such persons or each partner in the partnership shall be deemed to be a defaulter for the purposes of this Act.

(2) Where any person liable to pay income tax, wealth tax or gifts tax satisfies the Commissioner, on or before the date he is required to pay such tax or any instalment thereof, that he has made arrangements for the payment of such tax or instalment from any ascertained sum to be paid to him by the Government or from moneys lying to his credit in the Ceylon Savings Bank or the Ceylon Post Office Savings Bank or the National Savings Bank or from moneys to be paid to him from any pension or provident fund approved by the Commissioner and the Commissioner grants such person an extension of time for the payment of such tax or instalment, then such tax or instalment thereof shall not be deemed to be in default until the expiration of such extended time.

(3) Where, in respect of any income tax, wealth tax or gifts tax which is due from the estate of a deceased person, an executor of such deceased person, on or before the date he is required to pay such tax or any instalment thereof satisfies the Commissioner that such tax or instalment cannot be paid on or before such date owing to probate or letters of administration not being granted to him, such sum or instalment shall not be deemed to be in default if it is paid within a period of two months after the date of the grant of probate or letters of administration.

In this subsection, the expression "executor" does not include any person who takes possession of or inter-meddles with the property of a deceased person.

(4) Where, for any year of assessment commencing on or after April 1, 1972, the profits or income of any person includes—

- (a) profits or income from any trade, business, profession or vocation which he ceased to carry on or exercise in the year preceding that year of assessment and profits from employment which he commenced to exercise in that year of assessment, or
- (b) profits or income from any trade, business, profession or vocation which he ceased to carry on or exercise in that year of assessment and profits from employment which he commenced to exercise in that year of assessment,

then, such sum out of the income tax payable for that year of assessment as in the opinion of the Assessor is attributable to the profits or income from such trade, business, profession or vocation or to the profits from such employment, whichever is less, may notwithstanding anything to the contrary in any other provision of this Act, be paid before the expiry of three years from the end of that year of assessment.

(5) Tax shall be paid notwithstanding any appeal against the assessment, unless the Commissioner orders that payment of the tax or any part thereof be held over pending the result of such appeal, and the amount of the tax or part thereof so held over shall be deemed not to be in default.

(6) Where the Commissioner is of opinion either that the tax or any part thereof held over under subsection (5) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection and make such fresh order as the case may appear to him to require and the amount of any tax not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(7) Where, upon the final determination of an appeal under Chapter XII, or upon any order made by the Commissioner, any tax which has been held over under subsection (5) becomes payable or the tax charged by the original assessment is increased, the Commissioner shall give to the appellant a notice in writing fixing a date on or before which any tax or balance of tax shall be paid. Any tax not so paid shall be deemed to be in default.

(8) Notwithstanding anything in this section, where there is an appeal against an assessment and where the payment of the tax is held over on the order of the Commissioner, the Commissioner, if the appellant agrees during the course of that appeal that a certain sum is due or is likely to be due as tax in respect of that assessment, may by notice in writing given to the appellant direct the appellant to pay such sum on or before such date as is specified in the notice.

Any sum not so paid shall be deemed to be in default and for the purposes of this Act the person by whom such sum is payable or, where such sum is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership shall be deemed to be a defaulter.

(9) Where any tax or instalment thereof is in default, a sum equivalent to five *per centum* of the amount in default shall be added to the tax or instalment thereof and the Commissioner shall give notice in writing to the person by whom the tax or instalment thereof is payable requiring him to pay the tax or instalment thereof together with the sum so added on or before a date specified in the notice, and if payment is not so made, the Commissioner may add a further sum or further sums not exceeding fifteen *per centum* of the tax or instalment thereof in default until the tax or instalment thereof is recovered :

Provided that no sum or sums shall be added under the preceding provisions of this section if any sum or sums under Chapter XIA have been added to such tax in default.

(10) Where, upon the final determination of an appeal under Chapter XII, any tax in default to which any sum or sums under subsection (9) has or have been added is reduced, then such sum or sums shall be calculated on the tax as so reduced.’.

24. Section 118 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection :-

“(1) Every person who-

(a) fails to comply with the requirements of a notice given to him under any of the following sections or subsections:

27 (2), 47 (1), 50 (1), 52 (2), 66 (1), 82 (1), (2), (3) and (4), 82A (1), 83 (1) and (2), 84, 85, 86 or 115; or

(b) fails to comply with the provisions of an order given to him by the Commissioner under paragraph (b) of subsection (1) of section 92; or

(c) fails to attend in answer to a notice issued under sections 82 (3) and (4), 97 (11) or 101 (6) or having attended fails without sufficient cause to answer any questions lawfully put to him; or

(d) fails to comply with the requirements of sections 27 (4), 47 (3), 50 (2A), 52A (1), 81 (1), 82A (2), 88 (1), 107 (6) or 109 (2).

shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five hundred rupees.”.

(B) Major Administrative measures adopted by the Monetary Board in 1972.

Circular No. 47

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
January 19, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Ceylon will be as follows:-

| Currency | | Central Bank's | |
|---------------------|--------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$ 1/-) | 7.05 | 7.10 |
| Austrian Schillings | (per Sch. 100/-) | 25.15 | 25.20 |
| Canadian Dollars | (per \$ 1/-) | 5.80 | 5.85 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.15 | 18.20 |
| French Francs | (per FF. 10/-) | 11.25 | 11.30 |
| Hongkong Dollars | (per \$ 10/-) | 10.40 | 10.45 |
| Italian Lira | (per Lira 1,000/-) | 9.95 | 10.00 |
| Malaysian Dollars | (per \$ 10/-) | 20.60 | 20.65 |
| Netherlands Florins | (per Fl. 10/-) | 18.30 | 18.35 |
| Singapore Dollars | (per \$ 10/-) | 20.60 | 20.65 |
| Swedish Krona | (per Kr. 10/-) | 12.15 | 12.20 |
| Swiss Francs | (per Fcs. 10/-) | 15.20 | 15.25 |
| U. K. Pounds | (per £ 1/-) | 15.15 | 15.20 |
| U.S. Dollars | (per \$ 1/-) | 5.85 | 5.90 |

2. The following rates are applicable to commercial banks' purchases of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Banks' | |
|---------------------|--------------------|-------------------|-------------|
| | | Minimum | Buying Rate |
| | | Rs. cts. | |
| Australian Dollars | (per \$ 1/-) | 7.00 | |
| Austrian Schillings | (per Sch. 100/-) | 25.10 | |
| Canadian Dollars | (per \$ 1/-) | 5.75 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.10 | |
| French Francs | (per FF. 10/-) | 11.20 | |
| Hongkong Dollars | (per \$ 10/-) | 10.35 | |
| Italian Lira | (per Lira 1,000/-) | 9.90 | |
| Malaysian Dollars | (per \$ 10/-) | 20.55 | |
| Netherlands Florins | (per Fl. 10/-) | 18.25 | |
| Singapore Dollars | (per \$ 10/-) | 20.55 | |
| Swedish Krona | (per Kr. 10/-) | 12.10 | |
| Swiss Francs | (per Fcs. 10/-) | 15.15 | |
| U.K. Pounds | (per £ 1/-) | 15.10 | |
| U. S. Dollars | (per \$ 1/-) | 5.80 | |

A. BANDARANAYAKE
Acting Chief Accountant.

H. E. TENNEKOON
Governor.

Circular No. 2
(Revised)

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
January 19, 1972.

Commercial Banks' Exchange Rates
(Reference: Section 76 of the Monetary Law Act)

The following exchange rates are applicable to transactions by commercial banks:

| | Minimum Buying Rates | Maximum Selling Rates |
|---|--|--|
| | <i>Clean Telegraphic Transfers</i> | <i>Clean Telegraphic Transfers</i> |
| Sterling | | |
| (a) for amounts of £ 100 or below | Not more than 5 cts. per £ 1 below the Central Bank's buying rate. | Not more than 2 cts. per £ 1 above the Central Bank's selling rate. |
| (b) for amounts over £ 100 | Not more than 3 cts. per £ 1 below the Central Bank's buying rate. | Not more than 1.5 cts per £ 1 above the Central Bank's selling rate. |
| United States Dollars (per 100 dollars) | Rs. 594/50 | Rs. 597/- |
| Indian Rupees (per 100 Indian Rupees) | Rs. 80 31/32 | Rs. 81 3/32 |

2. Circular No. 2 (Revised - December 28, 1971), is hereby cancelled.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 1/202

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
January 19, 1972.

**Central Bank's Exchange Rates for
the Pound Sterling & Indian Rupee**

The following exchange rates are applicable to transactions by the Central Bank with the commercial banks with respect to the Pound Sterling and Indian Rupee until further notice.

| | <i>Central Bank Buying Rates for Telegraphic Transfers</i> | <i>Central Bank Selling Rates for Telegraphic Transfers</i> |
|--|--|---|
| Sterling (£ 100) | | |
| Spot | Rs. 1540 13/16 | Rs. 1542 5/16 |
| Forward upto six months | 21/32 of a rupee per month discount against spot* | 21/32 of a rupee per month premium against spot* |
| Indian Rupees (per 100 Indian Rupees) | | |
| Spot | Rs. 81 | Rs. 81 1/16 |
| Forward upto six months | 1/32 of a rupee per month discount against spot* | 1/32 of a rupee per month premium against spot* |

* Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

2. Circular No. 1 (Revised - December 28, 1971), remains unchanged.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKON
Governor

Circular No. 48

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
February 10, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Ceylon will be as follows:

| Currency | | Central Bank's | |
|---------------------|--------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$. 1/-) | 6.95 | 7.00 |
| Austrian Schillings | (per Sch. 100/-) | 25.25 | 25.30 |
| Canadian Dollars | (per \$. 1/-) | 5.80 | 5.85 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.20 | 18.25 |
| French Francs | (per FF. 10/-) | 11.35 | 11.40 |
| Hongkong Dollars | (per \$. 10/-) | 10.45 | 10.50 |
| Italian Lira | (per Lira 1,000/-) | 9.95 | 10.00 |
| Malaysian Dollars | (per \$. 10/-) | 20.60 | 20.65 |
| Netherlands Florins | (per Fl. 10/-) | 18.40 | 18.45 |
| Singapore Dollars | (per \$. 10/-) | 20.60 | 20.65 |
| Swedish Krona | (per Kr. 10/-) | 12.20 | 12.25 |
| Swiss Francs | (per Fcs. 10/-) | 15.15 | 15.20 |
| U. K. Pounds | (per £. 1/-) | 15.25 | 15.30 |
| U. S. Dollars | (per \$. 1/-) | 5.85 | 5.90 |

2. The following rates are applicable to commercial banks' purchases of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Bank's Minimum | |
|---------------------|--------------------|---------------------------|--|
| | | Buying Rate | |
| | | Rs. cts. | |
| Australian Dollars | (per \$. 1/-) | 6.90 | |
| Austrian Schillings | (per Sch. 100/-) | 25.20 | |
| Canadian Dollars | (per \$. 1/-) | 5.75 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.15 | |
| French Francs | (per FF. 10/-) | 11.30 | |
| Hongkong Dollars | (per \$. 10/-) | 10.40 | |
| Italian Lira | (per Lira 1,000/-) | 9.90 | |
| Malaysian Dollars | (per \$. 10/-) | 20.55 | |
| Netherlands Florins | (per Fl. 10/-) | 18.35 | |
| Singapore Dollars | (per \$ 10/-) | 20.55 | |
| Swedish Krona | (per Kr. 10/-) | 12.15 | |
| Swiss Francs | (per Fcs. 10/-) | 15.10 | |
| U. K. Pounds | (per £ 1/-) | 15.20 | |
| U. S. Dollars | (per \$. 1/-) | 5.80 | |

A. BANDARANAYAKE
Acting Chief Accountant

W. M. TILAKARATNA
Senior Deputy Governor

Circular No. 1/203

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
February 10, 1972.

**Central Bank's Exchange Rates for
the Pound Sterling & Indian Rupee**

The following exchange rates are applicable to transactions by the Central Bank with the commercial banks with respect to the Pound Sterling and Indian Rupee until further notice.

| | Central Bank Buying Rates for Telegraphic Transfers | Central Bank Selling Rates for Telegraphic Transfers |
|--|---|--|
| Sterling (£100) | | |
| Spot | Rs. 1549 3/4 | Rs. 1551 1/4 |
| Forward upto six months | 21/32 of a rupee per month discount against spot* | 21/32 of a rupee per month premium against spot* |
| Indian Rupees (per 100 Indian Rupees) | | |
| Spot | Rs. 81 9/16 | Rs. 81 5/8 |
| Forward upto six months | 1/32 of a rupee per month discount against spot* | 1/32 of a rupee per month premium against spot* |

* Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

2. Circular No. 1 (Revised - December 28, 1971), remains unchanged.

A. BANDARANAYAKE
Acting Chief Accountant

W. M. TILAKARATNA
Senior Deputy Governor

Circular No. 2
(Revised)

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
February 10, 1972.

Commercial Banks' Exchange Rates
(Reference: Section 76 of the Monetary Law Act)

The following exchange rates are applicable to transactions by commercial banks:

| | Minimum Buying Rates <i>Clean Telegraphic Transfers</i> | Maximum Selling Rates <i>Clean Telegraphic Transfers</i> |
|---|--|---|
| Sterling | | |
| (a) for amounts of £ 100 or below | Not more than 5 cts. per £ 1 below the Central Bank's buying rate. | Not more than 2 cts. per £ 1 above the Central Bank's selling rate. |
| (b) for amounts over £ 100 | Not more than 3 cts. per £ 1 below the Central Bank's buying rate. | Not more than 1.5 cts. per £ 1 above the Central Bank's selling rate. |
| United States Dollars (per 100 dollars) | Rs. 594/50 | Rs. 597/- |
| Indian Rupees (per 100 Indian Rupees) | Rs. 81 17/32 | Rs. 81 21/32 |

2. Circular No. 2 (Revised - January 19, 1972), is hereby cancelled.

A. BANDARANAYAKE
Acting Chief Accountant

W. M. TILAKARATNA
Senior Deputy Governor

Circular No. 1/204

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
March 9, 1972.

**Central Bank's Exchange Rates for
the Pound Sterling & Indian Rupee**

The following exchange rates are applicable to transactions by the Central Bank with the commercial banks with respect to the Pound Sterling and Indian Rupee until further notice :

| | Central Bank Buying Rates for Telegraphic Transfers | Central Bank Selling Rates for Telegraphic Transfers |
|--|---|--|
| Sterling (£ 100) | | |
| Spot | Rs. 1559 7/8 | Rs. 1561 3/8 |
| Forward upto six months | 21/32 of a rupee per month discount against spot* | 21/32 of a rupee per month premium against spot* |
| Indian Rupees (per 100 Indian Rupees) | | |
| Spot | Rs. 82 | Rs. 82 1/16 |
| Forward upto six months | 1/32 of a rupee per month discount against spot* | 1/32 of a rupee per month premium against spot* |

* Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

2. Circular No. 1 (Revised - December 28, 1971), remains unchanged.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 2
(Revised)

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
March 9, 1972.

Commercial Banks' Exchange Rates
(Reference: Section 76 of the Monetary Law Act)

The following exchange rates are applicable to transactions by commercial banks:

| | Minimum Buying Rates <i>Clean Telegraphic Transfers</i> | Maximum Selling Rates <i>Clean Telegraphic Transfers</i> |
|---|--|---|
| Sterling | | |
| (a) for amounts of £ 100 or below | Not more than 5 cts. per £ 1 below the Central Bank's buying rate. | Not more than 2 cts. per £ 1 above the Central Bank's selling rate. |
| (b) for amounts over £ 100 | Not more than 3 cts. per £ 1 below the Central Bank's buying rate. | Not more than 1.5 cts. per £ 1 above the Central Bank's selling rate. |
| United States Dollars (per 100 dollars) | Rs. 594/50 | Rs. 597/- |
| Indian Rupees (per 100 Indian Rupees) | Rs. 81 31/32 | Rs. 82 3/32 |

2. Circular No. 2 (Revised - February 10, 1972), is hereby cancelled.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 49

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
March 9, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Ceylon will be as follows:-

| Currency | | Central Bank's | |
|---------------------|--------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$. 1/-) | 6.95 | 7.00 |
| Austrian Schillings | (per Sch. 100/-) | 25.45 | 25.50 |
| Canadian Dollars | (per \$ 1/-) | 5.85 | 5.90 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.40 | 18.45 |
| French Francs | (per FF. 10/-) | 11.50 | 11.55 |
| Hongkong Dollars | (per \$. 10/-) | 10.50 | 10.55 |
| Italian Lira | (per Lira 1,000/-) | 10.00 | 10.05 |
| Malaysian Dollars | (per \$. 10/-) | 20.75 | 20.80 |
| Netherlands Florins | (per Fl. 10/-) | 18.45 | 18.50 |
| Singapore Dollars | (per \$. 10/-) | 20.75 | 20.80 |
| Swedish Krona | (per Kr. 10/-) | 12.25 | 12.30 |
| Swiss Francs | (per Fcs. 10/-) | 15.15 | 15.20 |
| U. K. Pounds | (per £ 1/-) | 15.35 | 15.40 |
| U. S. Dollars | (per \$. 1/-) | 5.85 | 5.90 |

2. The following rates are applicable to commercial banks' purchases of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Banks' Minimum | |
|---------------------|--------------------|---------------------------|--|
| | | Buying Rate | |
| | | Rs. cts. | |
| Australian Dollars | (per \$. 1/-) | 6.90 | |
| Austrian Schillings | (per Sch. 100/-) | 25.40 | |
| Canadian Dollars | (per \$. 1/-) | 5.80 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 18.35 | |
| French Francs | (per FF. 10/-) | 11.45 | |
| Hongkong Dollars | (per \$. 10/-) | 10.45 | |
| Italian Lira | (per Lira 1,000/-) | 9.95 | |
| Malaysian Dollars | (per \$. 10/-) | 20.70 | |
| Netherlands Florins | (per Fl. 10/-) | 18.40 | |
| Singapore Dollars | (per \$ 10/-) | 20.70 | |
| Swedish Krona | (per Kr. 10/-) | 12.20 | |
| Swiss Francs | (per Fcs. 10/-) | 15.10 | |
| U. K. Pounds | (per £. 1/-) | 15.30 | |
| U. S. Dollars | (per \$. 1/-) | 5.80 | |

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor

(x)

Circular No. 50

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
April 1, 1972.

Commercial Bank Credit.

1. The attention of commercial banks is invited to Circular No. 45 dated November 30, 1971, which stipulated restrictions on the increase of advances to the private sector and Government Corporations and indicated that the restrictions would be effective until March 31, 1972.

2. Commercial banks are, however, informed that the Central Bank does not wish commercial banks to increase credit for non-essential purposes such as consumption, speculative stock building, etc. Accordingly, commercial banks should, until further notice, refrain from increasing credit for such purposes over the level as on March 31, 1972.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 1
(Revised)

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
July 10, 1972.

**Central Bank's Exchange Rates for the
Pound Sterling & Indian Rupee**

| | <i>Central Bank Buying Rates for Telegraphic Transfers</i> | <i>Central Bank Selling Rate for Telegraphic Transfers</i> |
|--|--|--|
| Sterling (per 100) | | |
| Spot | Rs. 1559 7/8 | Rs. 1561 3/8 |
| Forward upto six months | 21/32 of a rupee per month discount against spot* | 21/32 of a rupee per month premium against spot* |
| Indian Rupees (per 100 Indian Rupees) | | |
| Spot | Rs. 82 3/4 | Rs. 82 13/16 |
| Forward upto six months | 1/32 of a rupee per month discount against spot* | 1/32 of a rupee per month premium against spot* |

* Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

2. The Central Bank's rates for the U. S. Dollar applicable to transactions with commercial banks will be subject to change from time to time. Such changes will be communicated as and when they occur.

3. The provisions of this Circular may be withdrawn, added to, or amended at any time.

4. Circular No. 1 (Revised - December 28, 1971) and 1/204 of March 9, 1972 are hereby cancelled.

K. GUNARATNAM
Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 1/205

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
July 10, 1972.

Central Bank's Exchange Rates for the U. S. Dollar

The following exchange rates are applicable to transactions by the Central Bank with commercial banks with respect to the U. S. dollar until further notice.

| | <i>Central Bank Buying Rates for Telegraphic Transfers</i> | <i>Central Bank Selling Rates for Telegraphic Transfers</i> |
|------------------------------------|--|---|
| U. S. Dollars (per 100 Dollars) | | |
| Spot | Rs. 639 1/2 | Rs. 639 3/4 |
| Forward upto three months | Rs. 639 1/2 | -/50 cts per month premium against spot* |

Over three months and upto six months on specific application
to the Central Bank.

* Contracts to be taken up at the option of the commercial
bank but at the contracted exchange rate if taken up before
expiry of the contract period.

K. GUNARATNAM
Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 2
(Revised)

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
July 10, 1972.

Commercial Banks' Exchange Rates
(Reference: Section 76 of the Monetary Law Act)

The following exchange rates are applicable to transactions by commercial banks :-

| | Minimum Buying Rates <i>Clean Telegraphic Transfers</i> | Maximum Selling Rates <i>Clean Telegraphic Transfers</i> |
|---|---|--|
| Sterling | | |
| (a) for amounts of £ 100 or below | Not more than 5 cts per £ 1 below the Central Bank's buying rate. | Not more than 2 cts per £ 1 above the Central Bank's selling rate. |
| (b) for amounts over £ 100 | Not more than 3 cts per £ 1 below the Central Bank's buying rate. | Not more than 1.5 cts per £ 1 above the Central Bank's selling rate. |
| United States Dollars (per 100 dollars) | Not more than -/75 cents below the Central Bank's buying rate. | Not more than Rs. 1/50 over the Central Bank's selling rate. |
| Indian Rupees (per 100 Indian Rupees) | Rs. 82 23/32 | Rs. 82 27/32 |

2. Circular No. 2 (Revised - March 9, 1972), is hereby cancelled.

K. GUNARATNAM
Chief Accountant

H. E. TENNEKOON
Governor

Circular No. 51

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
July 10, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Sri Lanka will be as follows:-

| Currency | | Central Bank's | |
|----------------------|------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$. 1/-) | 7.50 | 7.55 |
| Austrian Schillings | (per Sch. 100/-) | 27.55 | 27.60 |
| Canadian Dollars | (per \$. 1/-) | 6.35 | 6.40 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 19.85 | 19.90 |
| French Francs | (per FF. 10/-) | 12.45 | 12.50 |
| Hongkong Dollars | (per \$. 10/-) | 10.50 | 10.55 |
| Malaysian Dollars | (per \$. 10/-) | 22.85 | 22.90 |
| Netherlands Guilders | (per G. 10/-) | 19.85 | 19.90 |
| Singapore Dollars | (per \$. 10/-) | 22.85 | 22.90 |
| Swedish Krona | (per Kr. 10/-) | 13.25 | 13.30 |
| Swiss Francs | (per Fcs. 10/-) | 16.75 | 16.80 |
| U. K. Pounds | (per £. 1/-) | 15.35 | 15.40 |
| U. S. Dollars | (per \$. 1/-) | 6.30 | 6.35 |

2. The following rates are applicable to commercial banks' purchase of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Bank's Minimum | |
|----------------------|------------------|---------------------------|--|
| | | Buying Rate | |
| | | Rs. cts. | |
| Australian Dollars | (per \$. 1/-) | 7.45 | |
| Austrian Schillings | (per Sch. 100/-) | 27.50 | |
| Canadian Dollars | (per \$. 1/-) | 6.30 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 19.80 | |
| French Francs | (per FF. 10/-) | 12.40 | |
| Hongkong Dollars | (per \$. 10/-) | 10.45 | |
| Malaysian Dollars | (per \$. 10/-) | 22.80 | |
| Netherlands Guilders | (per G. 10/-) | 19.80 | |
| Singapore Dollars | (per \$. 10/-) | 22.80 | |
| Swedish Krona | (per Kr. 10/-) | 13.20 | |
| Swiss Francs | (per Fcs. 10/-) | 16.70 | |
| U. K. Pounds | (per £. 1/-) | 15.30 | |
| U. S. Dollars | (per \$. 1/-) | 6.25 | |

K. GUNARATNAM
Chief Accountant.

H. E. TENNEKOON
Governor

Circular No. 1/206

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
October 25, 1972.

Central Bank's Exchange Rates for the U. S. Dollar.

The following exchange rates are applicable to transactions by the Central Bank with commercial banks with respect to the U. S. dollar until further notice.

| | Central Bank Buying Rates for Telegraphic Transfers | Central Bank Selling Rates for Telegraphic Transfers |
|------------------------------------|---|--|
| U. S. Dollars (per 100 Dollars) | | |
| Spot | Rs. 652 | Rs. 652 1/4 |
| Forward upto three months | Rs. 652 | -/50 cts per month premium against spot* |

Over three months and upto six months on specific application to the Central Bank.

- * Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor.

Circular No. 52

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
October 25, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Sri Lanka will be as follows:-

| Currency | | Central Bank's | |
|----------------------|------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$ 1/-) | 7.50 | 7.55 |
| Austrian Schillings | (per Sch. 100/-) | 27.55 | 27.60 |
| Canadian Dollars | (per \$ 1/-) | 6.35 | 6.40 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 19.85 | 19.90 |
| French Francs | (per FF. 10/-) | 12.45 | 12.50 |
| Hongkong Dollars | (per \$ 10/-) | 10.50 | 10.55 |
| Malaysian Dollars | (per \$ 10/-) | 22.85 | 22.90 |
| Netherlands Guilders | (per G. 10/-) | 19.85 | 19.90 |
| Singapore Dollars | (per \$ 10/-) | 22.85 | 22.90 |
| Swedish Krona | (per Kr. 10/-) | 13.25 | 13.30 |
| Swiss Francs | (per Fcs. 10/-) | 16.75 | 16.80 |
| U. K. Pounds | (per £. 1/-) | 15.35 | 15.40 |
| U. S. Dollars | (per \$ 1/-) | 6.40 | 6.45 |

2. The following rates are applicable to commercial banks' purchase of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Bank's Minimum | |
|----------------------|------------------|---------------------------|--|
| | | Buying Rate | |
| | | Rs. cts. | |
| Australian Dollars | (per \$ 1/-) | 7.45 | |
| Austrian Schillings | (per Sch. 100/-) | 27.50 | |
| Canadian Dollars | (per \$ 1/-) | 6.30 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 19.80 | |
| French Francs | (per FF. 10/-) | 12.40 | |
| Hongkong Dollars | (per \$ 10/-) | 10.45 | |
| Malaysian Dollars | (per \$ 10/-) | 22.80 | |
| Netherlands Guilders | (per G. 10/-) | 19.80 | |
| Singapore Dollars | (per \$ 10/-) | 22.80 | |
| Swedish Krona | (per Kr. 10/-) | 13.20 | |
| Swiss Francs | (per Fcs. 10/-) | 16.70 | |
| U. K. Pounds | (per £ 1/-) | 15.30 | |
| U. S. Dollars | (per \$ 1/-) | 6.35 | |

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor.

Circular No. 1/207

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
November 1, 1972.

Central Bank's Exchange Rates for the U. S. Dollar

The following exchange rates are applicable to transactions by the Central Bank with commercial banks with respect to the U. S. dollar until further notice.

| | Central Bank Buying Rates for Telegraphic Transfers | Central Bank Selling. Rates for Telegraphic Transfers |
|---|---|---|
| U. S. Dollars (per 100 Dollars) Spot | Rs. 669 1/4 | Rs. 669 1/2 |
| Forward upto three months | Rs. 689 1/4 | -/50 cts per month premium against spot.* |

Over three months and upto six months on specific application
to the Central Bank.

- * Contracts to be taken up at the option of the commercial bank but at the contracted exchange rate if taken up before expiry of the contract period.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor.

Circular No. 53

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1,
November 1, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

1. The Central Bank's rates for the purchase and sale of foreign currency notes from commercial banks in Sri Lanka will be as follows:-

| Currency | | Central Bank's | |
|----------------------|------------------|----------------|--------------|
| | | Buying Rate | Selling Rate |
| | | Rs. cts. | Rs. cts. |
| Australian Dollars | (per \$ 1/-) | 7.85 | 7.90 |
| Austrian Schillings | (per Sch. 100/-) | 28.40 | 28.45 |
| Canadian Dollars | (per \$ 1/-) | 6.70 | 6.75 |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 20.45 | 20.50 |
| French Francs | (per FF. 10/-) | 12.95 | 13.00 |
| Hongkong Dollars | (per \$ 10/-) | 11.60 | 11.65 |
| Malaysian Dollars | (per \$ 10/-) | 23.65 | 23.70 |
| Netherlands Guilders | (per G. 10/-) | 20.40 | 20.45 |
| Singapore Dollars | (per \$ 10/-) | 23.65 | 23.70 |
| Swedish Krona | (per Kr. 10/-) | 13.85 | 13.90 |
| Swiss Francs | (per Fcs. 10/-) | 17.35 | 17.40 |
| U. K. Pounds | (per £ 1/-) | 15.35 | 15.40 |
| U. S. Dollars | (per \$ 1/-) | 6.55 | 6.60 |

2. The following rates are applicable to commercial banks' purchase of the foreign currency notes referred to in paragraph 1 above.

| Currency | | Commercial Banks' Minimum | |
|----------------------|------------------|---------------------------|--|
| | | Buying Rate | |
| | | Rs. cts. | |
| Australian Dollars | (per \$ 1/-) | 7.80 | |
| Austrian Schillings | (per Sch. 100/-) | 28.35 | |
| Canadian Dollars | (per \$ 1/-) | 6.65 | |
| Deutsche Marks | | | |
| (West Germany) | (per DM. 10/-) | 20.40 | |
| French Francs | (per FF. 10/-) | 12.90 | |
| Hongkong Dollars | (per \$ 10/-) | 11.55 | |
| Malaysian Dollars | (per \$ 10/-) | 23.60 | |
| Netherlands Guilders | (per G. 10/-) | 20.35 | |
| Singapore Dollars | (per \$ 10/-) | 23.60 | |
| Swedish Krona | (per Kr. 10/-) | 13.80 | |
| Swiss Francs | (per Fcs. 10/-) | 17.30 | |
| U. K. Pounds | (per £ 1/-) | 15.30 | |
| U. S. Dollars | (per \$ 1/-) | 6.50 | |

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKOON
Governor.

Circular No. 54

Central Bank of Ceylon,
P. O. Box 590,
Colombo 1.
November 30, 1972.

Rates of Exchange for Purchase and Sale of Foreign Currency Notes

Commercial Banks are hereby informed of the following rates in respect of the purchase and sale of Italian Lira currency notes.

| Currency | Central Bank's | | Commercial Banks' |
|------------------------------------|----------------|--------------|---------------------|
| | Buying Rate | Selling Rate | Minimum Buying Rate |
| | Rs. cts. | Rs. cts. | Rs. cts. |
| Italian Lira (per Lira 1,000/-) | 10.85 | 10.90 | 10.80 |

The attention of commercial banks is also drawn to the condition that only denominations of Italian Lira currency notes of Lira 10,000/- and under will be purchased by the Central Bank.

A. BANDARANAYAKE
Acting Chief Accountant

H. E. TENNEKON
Governor.