

PART IV

MAJOR LEGISLATIVE ENACTMENTS OF 1979 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA.

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NATIONAL DEVELOPMENT BANK OF SRI LANKA

Act, No. 2 of 1979

(Certified on 5th January, 1979)

An Act to provide for the establishment of the National Development Bank of Sri Lanka, and for matters connected therewith or incidental thereto.

1. This Act may be cited as the National Development Bank of Sri Lanka Act, No. 2 of 1979, and shall come into operation on a date (hereinafter referred to as the "appointed date") to be appointed by the Minister by Order published in the Gazette.

PART I

Constitution and Powers of the National Development Bank of Sri Lanka and its Board of Directors

2. There shall, on the appointed date or as soon as may be thereafter, be established a Bank which shall be called the "National Development Bank of Sri Lanka", hereinafter referred to as "the Bank", and which shall consist of the persons who are for the time being shareholders of the Bank.

3. The Bank shall by the name assigned to it by section 2 be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

4. The head office of the Bank shall be in Colombo. Such branch offices of the Bank as the Board of Directors may consider necessary may be established in places in Sri Lanka, other than in Colombo.

5. (1) The purposes of the Bank shall be to promote the industrial, agricultural, commercial and other development of the economy of Sri Lanka having regard *inter alia* to the development of the rural sector, in accordance with the provisions of this Act —

- (a) by providing medium-term and long-term credit and other forms of assistance to industrial, agricultural, commercial and other enterprises;
- (b) by stimulating the further development of the investment, share and security markets of Sri Lanka;
- (c) by mobilizing internal and external capital for investment in industrial, agricultural, commercial and other enterprises; and
- (d) by engaging in the promotion of the industrial, agricultural, commercial and other development of the economy of Sri Lanka.

(2) In carrying out its purposes, the Bank shall whenever it is feasible and desirable act in participation or co-operation with approved credit institutions.

6. Subject to the other provisions of this Act, in carrying out its purposes the Bank may exercise all or any of the following powers :—

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- (a) to grant loans and advances to any enterprises engaged or about to engage in industry, agriculture or commerce ;
- (b) to guarantee loans raised or to be raised by industrial, agricultural and commercial enterprises from approved credit institutions ;
- (c) to guarantee obligations of financial institutions arising out of the underwriting of capital issues of industrial, agricultural and commercial enterprises ;
- (d) to participate in the equity of industrial, agricultural and commercial enterprises, and to subscribe to, or to purchase or underwrite, the issue of stocks, shares, bonds or debentures of any such enterprises, and to sell and deal in such securities ;
- (e) to grant loans and advances by way of re-finance of any loans or advances granted by approved credit institutions, and other institutions approved by the Bank to industrial, agricultural and commercial enterprises, and for that purpose to fix the minimum and maximum periods of maturity of loans granted by such banks and institutions ;
- (f) to provide such services as technical and administrative advice and assistance which serves its purposes and comes within its functions to industrial, agricultural and commercial enterprises ;
- (g) to incur, during the first five years after the commencement of its business, expenditure up to an amount not exceeding two *per centum* of its paid-up capital in furnishing the services referred to in paragraph (f) on a non-reimbursable basis, and thereafter to charge to the funds of the Bank with the expenditure incurred in continuing to provide such services where necessary on a non-reimbursable basis ;
- (h) to establish subsidiary companies to assist it in carrying out its purposes and exercising and performing its powers and duties ;
- (i) to promote the establishment of industrial, agricultural, commercial and other enterprises ;
- (j) to acquire or purchase any movable or immovable property, or any industrial, agricultural, commercial or other enterprise, and to manage or arrange for the management of such property or enterprise, and to sell or otherwise dispose of such property or enterprise ;
- (k) to invest temporarily the funds of the Bank in foreign securities ;
- (l) to participate in loans, equities, underwriting arrangements and guarantees with approved credit institutions ;
- (m) subject to such conditions as may be determined by the Board of Directors, to accept, discount, rediscount, buy, sell and deal in bills of exchange, promissory notes, coupons, drafts, debentures, certificates, scrip and other instruments and securities whether transferable or negotiable or not, of industrial, agricultural and commercial enterprises ;
- (n) to undertake development projects, including pilot projects, in order to achieve the purposes of the Bank ;

- (o) to engage in the construction of warehouses, godowns, stores and buildings required for agricultural, industrial and commercial activities ;
- (p) to lease, let on hire, sell outright, or sell on a hirepurchase basis warehouses, godowns, stores and buildings, machinery, equipment and other goods ;
- (q) to guarantee loans raised by any industrial, agricultural or commercial enterprise, being loans which are floated in the open market ;
- (r) to guarantee deferred payments due from any industrial, agricultural or commercial enterprise ;
- (s) to convert a part or whole of its loans to industrial, agricultural or commercial enterprises, and its subscriptions to bonds or debentures issued by any such enterprise into equity capital ;
- (t) to subscribe to, or to purchase, or to underwrite the issue of, stocks, shares, bonds or debentures of approved credit institutions ;
- (u) to receive, in consideration of the functions the Bank may be performing, such commission, brokerage, interest, remuneration or fees, as the Board of Directors may, from time to time, determine ;
- (v) to open deposit accounts in the Central Bank, any commercial bank, or any bank or financial institution outside Sri Lanka ;
- (w) to accept term deposits from any person in such amounts and for such periods as may be determined by the Board of Directors ;
- (x) to grant and issue letters of credit and circular notes ;
- (y) to buy, sell and deal in bullion and specie and engage in operations in exchange; and
- (z) generally to do, directly or indirectly, all such acts or things as may be connected with, or are in furtherance of, the exercise, discharge or performance of the powers, functions or duties of the Bank under this Act or any other law.

7. The Bank may exercise all or any of the following powers :—

- (a) to appoint a General Manager who shall be the chief executive officer of the Bank ;
- (b) to appoint such other officers and servants as may be necessary for carrying out the work of the Bank ;
- (c) to establish a provident fund, and provide welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Bank ;
- (d) to enter into and perform all such contracts, whether in or outside Sri Lanka, as may be necessary for the exercise of the powers and the performance of the duties of the Bank ;

- (e) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them ;
 - (f) to make rules in respect of the administration of the affairs of the Bank ; and
 - (g) to do all other things which, in the opinion of the Board of Directors, are necessary to facilitate the proper carrying on of the business of the Bank.
8. (1) The Bank shall have a Board of Directors consisting of—
- (a) the person holding office for the time being as the Secretary to the Ministry of the Minister in charge of the subject of Finance (in this Act referred to as "*ex officio* Director") ;
 - (b) a Deputy Governor of the Central Bank appointed by the Monetary Board, with the concurrence of the Minister ;
 - (c) a senior officer of the Bank of Ceylon appointed by its Board of Directors with the concurrence of the Minister ;
 - (d) a senior officer of the People's Bank appointed by its Board of Directors with the concurrence of the Minister ;
 - (e) two persons nominated by the Minister ;
 - (f) one other member elected by the shareholders (in this Act referred to as the "elected Director") other than the Government, Central Bank, Bank of Ceylon, People's Bank and participants, if any, provided their subscription to the share capital is not less than ten *per centum* of the total paid-up capital of the Bank :

Provided, however, that if their subscription to the share capital is less than ten *per centum* of the total paid-up capital of the Bank the Minister shall nominate a Director to represent the interests of the shareholders or of any other interests as he may deem necessary.

(2) In this Act, the persons appointed as Directors under paragraphs (b) to (d) (both inclusive) of subsection (1) are referred to as "appointed Directors" and the persons nominated as Directors under paragraph (e), and in the proviso to paragraph (f) of subsection (1) of this section as "nominated Directors".

(3) In the absence of the *ex officio* Director, the person holding office for the time being as Deputy Secretary to the Treasury shall act as that member's alternate at Board meetings and have the right to vote thereat.

(4) Where an appointed Director or a nominated Director is by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the appointing authority in the case of appointed Directors and the Minister in the case of nominated Directors may appoint or nominate a suitable person to act as his alternate at Board meetings and such person shall have the right to vote thereat.

(5) The Minister may, without assigning any reasons, remove a nominated Director from office. Such removal shall not be called in question in any court.

(6) A nominated Director may resign his office by letter addressed to the Minister.

(7) Subject to the provisions of subsections (6) and (7), the term of office of a nominated Director shall be four years.

9. (1) The general superintendence, direction and control of the affairs and business of the Bank shall vest in the Board of Directors.

(2) The Board of Directors may exercise, discharge and perform all the powers, functions and duties of the Bank under this Act or any other law and do all acts and things which may be done by the Bank under this Act or any other law.

(3) In the exercise, discharge and performance of its powers, functions and duties, the Board of Directors shall, subject to the provisions of this Act, act in accordance with sound business principles, and shall have due regard to the interest of industry, agriculture and commerce and to the public interest generally.

10. All or any of the Directors may be paid such remuneration out of the funds of the Bank, as may be determined by the Minister.

11. A Director who is directly or indirectly interested in any loan or contract proposed to be made by the Bank shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such meeting and such Director shall not take part in any deliberation or decision of such Board with respect to such loan or contract.

12. (1) Meetings of the Board of Directors shall be held at least once in every month and, in addition, as frequently as are necessary for the purpose of discharging its responsibilities under this Act.

(2) At any meeting of the Board of Directors, four Directors shall constitute a quorum.

(3) Subject to the other provisions of this Act, the procedure to be followed in regard to the transaction of business at meetings of the Board of Directors, shall be as determined by rules made by the Board of Directors.

13. (1) The Board of Directors may delegate to the General Manager or any other employee of the Bank any of its powers and duties.

(2) Every delegate appointed under subsection (1) shall exercise or perform the power or duty delegated to him subject to the general or special directions of the Board of Directors.

14. No act or proceeding of the Board of Directors shall be deemed to be invalid by reason only of a vacancy in the office of a Director or any defect in the nomination of a Director.

15. (1) The Minister shall appoint a Chairman from amongst the members of the Board of Directors.

(2) The term of office of the Chairman shall, subject to the provisions of subsection (3), be for a period of four years commencing on the date of appointment.

(3) In the event of the vacation of office by the Chairman before the expiration of his term of office, another person shall be appointed in his place to hold office during the unexpired part of the term of office of the Chairman so vacating office.

(4) Any person vacating office as Chairman by effluxion of time shall be eligible for reappointment.

(5) The Minister may, without assigning any reason, remove the Chairman from office. Such removal shall not be called in question in any court.

(6) In the absence of the Chairman, a member chosen by the majority of the members present at any meeting of the Board of Directors shall preside at such meeting.

(7) The Chairman or other member of the Board of Directors who presides at any meeting of the Board shall have in addition to his vote, a casting vote.

16. (1) The seal of the Bank shall be in the custody of the General Manager.

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

(3) The seal of the Bank shall not be affixed to any instrument except in the presence of the General Manager or the acting General Manager and two Directors all of whom shall sign the instrument in token of their presence.

17. (1) The Board of Directors may appoint agents of the Bank in and outside Sri Lanka.

(2) The Bank may act as agent in and outside Sri Lanka for other institutions.

18. (1) The Board of Directors may appoint Special Committees consisting of such number of persons as it may deem necessary for the purpose of assisting and advising such Board in the exercise and performance of its powers and duties.

(2) The persons qualified for appointment as members of any Special Committee shall be the members of the Board of Directors, employees of the Bank, and such other persons as the Board of Directors may deem to be qualified for such appointment. The term of office of any such member shall be as determined by such Board.

19. The members of any Special Committee other than any employee of the Bank who is a member of such Committee may be paid such remuneration out of the funds of the Bank for their attendance at meetings of any such Committee and the discharge of their functions as may be determined by rules which are hereby authorised to be made for that purpose under this Act.

20. The Bank shall not commence business until the initial contributions referred to in section 22 (1) have been made:

Provided, however, that nothing in this section shall be deemed or construed to preclude the Minister from authorizing the Bank to commence business on an earlier date by Order published in the *Gazette*.

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PART II

Finance

21. The authorised capital of the Bank shall be two thousand million rupees divided into twenty million shares of one hundred rupees each.

22. (1) The following shall, within one year after the appointed date, make an initial contribution of six hundred million rupees to the capital of the Bank in such amounts and in such manner as hereinafter provided and shall by virtue of such contributions be deemed to be shareholders of the Bank:—

- (a) the Government of Sri Lanka—Four hundred million rupees in cash;
- (b) the Central Bank of Ceylon—twenty-five million rupees in cash and seventy-five million rupees in the form of a promissory note payable on demand;
- (c) the Bank of Ceylon—twelve million five hundred thousand rupees in cash and thirty-seven million five hundred thousand rupees in the form of a promissory note payable on demand;
- (d) the People's Bank—twelve million five hundred thousand rupees in cash and thirty-seven million five hundred thousand rupees in the form of a promissory note payable on demand.

(2) The Bank shall, after commencement of business, offer the shares referred to in section 21 to the public for subscription at such time or times, in such amount or amounts and in such manner as may be determined by the Board of Directors, and shall allot such shares.

(3) The Board of Directors may, from time to time, solicit and accept further contributions to the capital of the Bank from any or all of the shareholders.

(4) No contribution to the capital of the Bank shall be made or accepted except in pursuance of the provisions of this section or section 57.

23. The liability of any shareholder shall be limited to the amount, if any, unpaid on his shares.

24. The Bank may, under and in accordance with the succeeding provisions of this Part of this Act, raise such sums of money in or outside Sri Lanka, by way of loan or otherwise, as may be necessary for carrying out its purposes and exercising and performing its powers and duties.

25. The Bank may, from time to time, borrow from the Government, and the Government may, from time to time, lend to the Bank from the Consolidated Fund any sum of money, subject to such terms and conditions as may be determined by the Government.

26. (1) The Bank may, from time to time, borrow sums of money from the Central Bank for periods not exceeding six months, subject to such terms and conditions as to the interest thereon and the repayment thereof as may be determined by the Monetary Board.

(2) Borrowings by the Bank under subsection (1) shall at no time exceed a sum equivalent to ten *per centum* of the paid-up capital and free reserves of the Bank.

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27. The Bank may, with the approval of the Monetary Board from time to time, borrow from any foreign Government, or any other source whatsoever outside Sri Lanka, any sum of money on such terms and conditions as to the interest thereon and the repayment thereof as may be determined by agreement between the Bank, and such Government or such other source, as the case may be.

28. (1) The Board of Directors may create and issue debentures and stock, and the debentures and stock so created and issued shall in this Act be referred to as "National Development Bank Debentures" and "National Development Bank Stock", respectively.

(2) National Development Bank Debentures and National Development Bank Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms and conditions as may be determined by the Board of Directors.

29. (1) The Government may guarantee the repayment of the principal sum, and the payment of the interest on—

- (a) any National Development Bank Debentures, and any National Development Bank Stock, created and issued by the Board of Directors; and
- (b) any loan raised by the Bank from any foreign Government, or any other source under this Part of this Act.

(2) Any sum required for the settlement of any guarantee provided under subsection (1) shall be charged on the Consolidated Fund.

30. (1) The Government is hereby authorised to guarantee, on such terms and conditions as the Government may determine, any loan raised by the Bank from any international or regional lending institution, or from any other international or foreign organization approved by the Government. Any loan authorised to be guaranteed under this subsection may be denominated in foreign currency.

(2) All sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

(3) All sums payable by the Bank in respect of principal, interest and other charges on any loan to the Bank from any international or regional lending institution or from any other international or foreign organization approved by the Government, under any guarantee given under subsection (1) shall, notwithstanding anything to the contrary in any written or other law, be paid—

- (a) without deduction for, and free from, any taxes, duties or fees now or hereafter imposed by or under any written or other law; and
- (b) free from all restrictions now or hereafter imposed by or under any written or other law:

Provided, however, that the preceding provisions of this subsection shall not apply to any taxes, duties, fees or restrictions upon payments under any bond or promissory note to a holder thereof other than any international or regional lending institution or any other international or foreign organization approved by the Government when such bond or promissory note is beneficially owned by an individual or a corporation resident in Sri Lanka.

(4) For the purposes of subsection (3), the question whether an individual or a Corporation is or is not resident in Sri Lanka shall be determined in accordance with the provisions of section 54 of the Inland Revenue Act, No. 4 of 1963.

(5) Every guarantee agreement between the Government and any international or regional lending institution, or any other international or foreign organization approved by the Government pursuant to this Act and every guarantee given by the Government pursuant to any such guarantee agreement shall, notwithstanding anything to the contrary in any law, be valid and enforceable in accordance with their respective terms.

(6) In the case of any loan made to the Bank, by any international or regional institution or any other international or foreign organization approved by the Government, and guaranteed by the Government, the Government shall bear any loss, and be entitled to any profit, resulting from any revaluation of the Sri Lanka rupee in relation to the currency or currencies in which that loan is expressed or repayable in whole or in part.

The amount of every such loss is hereby charged on the Consolidated Fund.

(7) Notwithstanding anything in any other written law, no agreement, bond or other document executed by the Bank in respect of any loan which may be raised by the Bank from any international or regional lending institution, or from any other international or foreign organization approved by the Government, shall be subject to, or be charged with, any stamp duty or duties whatsoever.

31. (1) The Bank shall establish a fund which shall be known as the "Administered Resources Fund", in this Act referred to as "the Fund". The fund shall not form part of the general funds of the Bank, but shall be a special fund which shall be administered by the Bank separately from the general funds of the Bank for and on behalf of the Government, or of any such foreign Government, foreign or international organization or person or persons as may be approved by the Government.

(2) The purposes of the Fund shall be to enable loans, advances, or other accommodation or grants to be made or given, under and in accordance with the provisions of this Act, from the Fund to industrial, agricultural, commercial or other enterprises.

(3) The Bank, in terms of any agreement entered into between the donor and the Bank, is hereby authorised to make or give from the Fund any loan, advance, grant, or other accommodation to any industrial, agricultural, commercial or other enterprise.

(4) There shall be credited to the Fund by the Bank the amount of all donations and grants made, for the purposes of the Fund, by the Government, any foreign Government and any other source, whether in or outside Sri Lanka. In addition the Fund shall be credited with the net income or interest arising from the operations of the Fund.

(5) All financial commitments or liabilities of the Bank arising from, or incurred in connection with, any act or thing done by the Bank with the object of carrying out the purposes of the Fund shall be charged on the Fund.

(6) The Board of Directors may invest temporarily the excess resources of the Fund which cannot be utilized immediately in pursuance of the objectives of the Fund in such securities as it may deem appropriate, without prejudice to the long term interest of the Fund.

(7) Rules may be made under this Act in respect of all or any of the following matters:—

- (a) the manner in which the accounts of the Fund shall be kept;
- (b) the establishment of reserves in the Fund for bad and doubtful debts, the depreciation of assets, and for such other contingencies as may accord with normal banking practice;
- (c) the closure or winding up of the Fund; and
- (d) any other matters connected with or incidental to any of the matters aforesaid.

(8) Notwithstanding anything in any other written law, the Bank shall be exempt from the payment of income tax upon the profits and income of the Fund.

32. (1) All sums of money received by the Bank or the Board of Directors—

- (a) as contributions towards the capital of the Bank;
- (b) in carrying out the purposes of the Bank;
- (c) in exercising and performing the powers and duties of the Bank or such Board; and
- (d) in conducting the business and administration of the Bank,

shall be credited to the funds of the Bank.

(2) All financial commitments or liabilities of the Bank or the Board of Directors arising from, or incurred in connection with —

- (a) the carrying out of the objects and purposes of the Bank;
- (b) the exercise and performance of the powers and duties of the Bank or such Board; and
- (c) the conduct of the business and administration of the Bank,

shall be charged on the funds of the Bank.

33. The profits of the Bank shall be utilized for the purpose of —

- (a) the establishment and maintenance of a General Reserve;
- (b) the establishment and maintenance of a special reserve for bad or doubtful debts;
- (c) the establishment and maintenance of such other reserve funds as may be necessary for specific purposes; and
- (d) the payment of dividends.

34. The Bank shall be exempt from the payment of income tax upon the profits and income of the Bank, for a period of ten years after the date of the commencement of its business.

35. (1) Every person —

- (a) to whom any loan, advance or other accommodation is granted by the Bank, or
- (b) who has obtained probate of the will or letters of administration to the estate of a person to whom any loan, advance or other accommodation has been granted by the Bank, or who, upon application made in that behalf by the Board of Directors, has been appointed by court to represent such estate, or
- (c) to whom any right, title or interest whatsoever in any immovable property mortgaged to that Bank as security for any loan, advance or other accommodation has passed, whether by voluntary conveyance or by operation of law,

shall register with the Bank an address to which all notices to him may be addressed.

(2) Any notice which is required to be served on any person to whom subsection (1) applies shall be deemed to have been duly served on that person if it is sent by post in a registered letter directed to that person at the address registered by him under that subsection, and service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post:

Provided that, where any such person fails to register his address under subsection (1), the Bank shall publish, in the *Gazette* and in at least three daily newspapers in the Sinhala, Tamil and English languages, a notice addressed to him, and such notice shall be deemed to be duly given to him on the day on which such notice is last published.

36. Any loan, advance or other accommodation may be granted by the Bank on the security of —

- (a) a mortgage of any movable or immovable property;
- (b) any stocks, bonds, debentures, shares, assignments of mortgages or other securities, other than National Development Bank Debentures and National Development Bank Stock;
- (c) any warehouse receipts, bills of lading, or such other instruments as may be approved, from time to time, by the Board of Directors for the purpose of such security;
- (d) any goods, wares or merchandise; or
- (e) any guarantee given by any enterprise or individual and accepted by the Board of Directors.

37. Where default is made in the payment of any sum payable as an instalment in repayment of the amount of any loan, advance or other accommodation granted by the Bank on the mortgage of any immovable property or as interest on that loan, advance or other accommodation, default shall be deemed to have been made in respect of the whole of such portion of the amount of that loan, advance or other accommodation as has not been repaid to the Bank and the interest due thereon.

38. (1) Where under the provisions of this Act, default is made or is deemed to have been made in respect of the whole of the unpaid portion of any loan and the interest due thereon, the Board of Directors may, in its discretion, take action as specified either in section 39 or in section 41:

Provided that where the Board has in any case taken action, or commenced to take action, in accordance with section 39, nothing shall be deemed to prevent the Board at any time from subsequently taking action in that case by resolution under section 41 if the Board deems it necessary or advisable to do so.

(2) For the purposes of this section and sections 39 to 53, the term, "loan" means a loan or an advance or any other accommodation granted by the Bank.

39. Subject to the provisions of section 42, the Board of Directors may by resolution to be recorded in writing authorize any person specified in the resolution to enter upon any immovable property mortgaged to the Bank as security for any loan in respect of which default has been made, to take possession of and to manage and maintain such property, and to exercise the same powers in the control and management of such property as might have been exercised by the mortgagor if he had not made default.

40. (1) Any person authorized by resolution of the Board of Directors under section 39 in respect of any property shall be entitled generally to take action in terms of the resolution and in particular—

- (a) to sell the produce of such property;
- (b) to receive the rents, profits, or other income from such property;
- (c) to pay the expenses incurred in the control and management of such property out of the income from such property;
- (d) to appropriate to himself out of such income such sum (if any) as the Board may deem fit to fix as remuneration for his services;
- (e) to remain in possession of such property until all moneys due to the Bank under the mortgage on such property have been fully paid or until he is directed by the Board to yield possession of such property under subsection (2).

(2) Every person authorized by resolution of the Board of Directors under section 39 in respect of any property shall—

- (a) pay monthly, out of the income of such property, such sum (if any) as the Board may in its discretion fix, to the mortgagor for his maintenance;
- (b) pay quarterly or as otherwise directed by the Board to such person or persons and in such manner as the Board may direct the balance of the income from such property remaining after the payments herein before authorized have been made;
- (c) keep and render to the Board at such intervals as the Board may determine clear and accurate records of all sums received or paid out by him in respect of such property;
- (d) yield possession of such property to the mortgagor or some other person as directed by the Board and pay to the Board any balance of the income from such property remaining in his hands after the payments herein before authorized have been made.

(3) The Board shall, when all sums due to the Bank under the mortgage have been fully paid, surrender possession of the mortgaged property to the mortgagor and return to him any balance remaining of the income from such property.

41. Subject to the provisions of section 42, the Board of Directors may by resolution to be recorded in writing authorize any person specified in the resolution to sell by public auction any immovable property mortgaged to the Bank as security for any loan in respect of which default has been made in order to recover the whole of the unpaid portion of such loan, and the interest due thereon up to the date of the sale, together with the moneys and costs recoverable under section 48.

42. (1) Save as otherwise provided in subsection (2), the provisions of sections 39 and 41 shall apply in the case of any default notwithstanding that the borrower may have died or that any right, title or interest whatsoever in the property mortgaged as security for the loan may have passed by voluntary conveyance or by operation of law to any other person.

(2) Where the borrower is dead and probate of his will or letters of administration to his estate have not been issued, the District Court of Colombo or the District Court having jurisdiction over the place where that property is situate may, upon application made in that behalf by the Board of Directors and after service of notice of the application on such persons, if any, as the court may order, and if satisfied that the grant of probate or the issue of letters of administration is likely to be unduly delayed, appoint a person to represent the estate of the borrower for the purposes of this section; and the provisions of sections 39 and 41 shall not apply in the case of any default made by the borrower unless and until a representative of his estate is appointed under this section.

43. Notice of every resolution under section 41 authorizing the sale of any property shall be published in the *Gazette* and in at least three daily newspapers in the Sinhala, Tamil and English languages and copies of such notice shall be served on the borrower, if he is alive, and on every person who has, in respect of that property, registered his address under section 35.

44. Notice of the date, time and place of every sale shall, not less than fourteen days before the date fixed for the sale, be published in the *Gazette* and copies of such notice shall be—

- (a) served on the borrower, if he is alive and on every person on whom notice of any resolution is required to be served under section 43;
- (b) posted on or near the property which is to be sold; and
- (c) affixed to the walls of the Kachcheri and the several District Courts and Magistrate's Courts within the jurisdiction of which the property is situate.

45. (1) If the amount of the whole of the unpaid portion of the loan (together with all interest due thereon according to the terms of the mortgage), and of the moneys and costs, if any, recoverable by the Board of Directors under section 48 is tendered to the Board at any time before the date fixed for the sale, the property shall not be sold and no further steps shall be taken in pursuance of the resolution under section 41 for the sale of that property.

(2) If the amount of the instalment or other payment in respect of which default has been made, together with any interest due thereon according to the terms of the mortgage, and of the moneys and costs, if any, recoverable by the Board of Directors under section 48, is tendered to the Board at any time before the date fixed for the sale, the Board may, in its discretion, direct that the property shall not be sold, and that no further steps shall be taken in pursuance of the resolution under section 41 for the sale of that property.

46. The Board of Directors may fix an upset price below which the property shall not be sold to any person other than the Bank.

47. In any case where two or more loans have been granted by the Bank on the security of the same property and default is made in the payment of any sum due upon any one or more of such loans, the foregoing provisions of this Act shall apply notwithstanding that default may not have been made in respect of the other loan or any of the other loans, and the Board of Directors may, in any such case, by resolution under section 41 authorize the sale of the property for the recovery of the total amount due to the Bank in respect of both or all the loans, as the case may be, and the provisions of this Act shall apply accordingly.

48. In addition to the amount due on any loan, the Board of Directors may recover from the borrower, or any person acting on his behalf—

- (a) all moneys expended by the Bank in accordance with the covenants contained in the mortgage bond executed by the person to whom the loan was made, in the payment of premia and other charges in respect of any policy of insurance effected on the property mortgaged to the Bank, and in the payment of all other costs and charges authorized to be incurred by the Bank, under the covenants contained in such mortgage bond; and
- (b) the costs of advertising the sale and of selling the mortgaged property:

Provided that the costs incurred under this paragraph shall not exceed such percentage of the loan as may from time to time be fixed by resolution of the Board.

49. If the mortgaged property is sold, the Board of Directors shall, after deducting from the proceeds of the sale the amount due on the mortgage and the money and costs recoverable under section 48, pay the balance remaining, if any, either to the borrower or any person legally entitled to accept the payments due to the borrower, or, where the Board is in doubt as to whom the money should be paid, into the District Court having jurisdiction over the place where the mortgaged property is situate.

50. (1) If the mortgaged property is sold, the General Manager on a specific authorization by the Board of Directors, shall issue a certificate of sale and thereupon all the right, title and interest of the borrower to and in the property shall vest in the purchaser; and thereafter it shall not be competent for any person claiming through or under any disposition whatsoever of the right, title or interest of the borrower to and in the property, made or registered after the date of the mortgage of the property to the Bank, in any court to move to invalidate the sale for any cause whatsoever or to maintain any right, title or interest to or in the property as against the purchaser.

(2) A certificate signed by the General Manager under subsection (1) shall be conclusive proof, with respect to the sale of any property, that all the provisions of this Act relating to the sale of that property have been complied with.

(3) If the purchaser is some person other than the Bank, the certificate shall be substantially in the Form A in the Schedule to this Act; if the purchaser is the Bank, the certificate shall be substantially in the Form B in the Schedule to this Act.

(4) Every certificate of sale shall be liable to stamp duty and charges as if it were a conveyance of immovable property and to any registration and other charges authorized by law, all of which shall be payable by the purchaser.

51. (1) The purchaser of any immovable property sold in pursuance of the preceding provisions of this Act shall, upon application made to the District Court of Colombo or the District Court having jurisdiction over the place where that property is situate, and upon production of the certificate of sale issued in respect of that property under section 50, be entitled to obtain an order for delivery of possession of that property.

(2) Every application under subsection (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code; and on all documents filed for the purpose of each application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on applications for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of any immovable property of the same value as the land to which such application relates.

(3) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of the debtor or of some person on his behalf or of some person claiming under a title created by the debtor subsequently to the mortgage of the property to the Bank, the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf, in possession of the property.

(4) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of a tenant or other person entitled to occupy the same, the District Court shall order delivery to be made by affixing a notice that the sale has taken place, in the Sinhala, Tamil and English languages, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the debtor has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser.

(5) Every order under subsection (3) or subsection (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or 288 of the Civil Procedure Code, and may be enforced in like manner as an order so made, the debtor and the purchaser being deemed, for the purpose of the application of any provision of that Code, to be the judgment-debtor and judgment creditor, respectively.

52. Where the property sold has been purchased on behalf of the Bank, the Board of Directors may at any time before it re-sells that property, cause the cancellation of the sale by an endorsement to that effect made by the General Manager on a certified copy of the certificate of sale, upon the debtor or any person on his behalf paying the amount due in respect of the loan for which the property was sold (including the costs of seizure and sale) and interest on the aggregate sum at a rate not exceeding the prescribed rate. Such an endorsement shall, upon registration in the office of the Registrar of Lands, revest the property in the debtor as though the sale under this Act had not been made.

53. If the property so sold has been purchased on behalf of the Bank, and the sale is not cancelled under section 52, the Board of Directors may, at any time, re-sell the property and transfer to the purchaser by causing an endorsement to be made by the General Manager on a certified copy of the certificate referred to in subsection (3) of section 50, all the right, title and interest which would have been acquired by the purchaser at the original sale. The endorsement shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale, and shall, when it is registered in the office of the Registrar of Lands, vest such right, title and interest as aforesaid in the purchaser.

PART III

Audit and Accounts

54. The financial year of the Bank shall be the calendar year.

55. (1) The Auditor-General shall audit the accounts of the Bank at such intervals not exceeding a period of twelve months as the Board of Directors may decide.

(2) Notwithstanding the provisions of subsection (1), the Minister may, in consultation with the Auditor-General appoint a qualified auditor or auditors to audit the accounts of the Bank, where such appointment has been made by the Minister, the Auditor-General may, in writing inform such auditor or auditors that he proposes to utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Bank and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) Every qualified auditor appointed under the provisions of subsection (2) shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

(4) The Auditor-General shall examine the accounts of the Bank and ascertain the correctness of the balance sheet and report to the Board of Directors—

- (a) whether or not he has obtained all the information and explanations he has required; and
- (b) whether in his opinion the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the Bank's affairs according to the best of his information and explanations given to him and as shown by the books of the Bank.

(5) For the purpose of ascertaining the correctness of the balance sheet the Auditor-General may, with the sanction of the Board of Directors and the Minister, accept, in respect of any branch of the Bank, any copies or abstracts from the books and accounts of such branch which have been transmitted to the head office of the Bank and which have been certified to be correct by an officer of the Bank authorized in that behalf by the Board of Directors.

(6) In this section "qualified auditor" means—

- (a) an individual who being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other institute established by law, possesses a certificate to practice as an accountant issued by the Council of such Institute; or

- (b) a firm of accountants, each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute.

56. (1) The Board of Directors shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister and to all the share-holders:—

- (a) Auditor-General's report;
- (b) balance sheet;
- (c) profit and loss account; and
- (d) report of the Chairman of such Board giving an account of the work of the Bank.

(2) The Minister shall lay copies of the documents transmitted to him under subsection (1) before the Parliament.

PART IV

Agreement for participation in undertaking of Bank

57. (1) The Board of Directors is hereby authorized to conclude an Agreement with any international or regional financial institution for participation by such institution in the business of the Bank; and where such Agreement is concluded, such institution shall become a Participant for the purposes of this Act with effect from such date as may be specified in that behalf in the Agreement.

(2) Any Agreement referred to in subsection (1) may contain such covenants and conditions as the Board of Directors may consider necessary, in addition to the provisions required or authorised by this Act to be contained therein.

(3) All rights or powers exercisable under or for the purposes of this Act by a Participant may be exercised on behalf of the Participant by such person or persons, and in such manner, as may be specified in that behalf in the Agreement, and if so exercised, shall be deemed for the purposes of this Act to have been duly exercised by the Participant.

58. The provisions of sections 59 to 63 (both inclusive) shall apply only so long as there is at least one Participant.

59. (1) Subject to the provisions of subsection (3), a Participant shall make an initial contribution to the capital of the Bank of such amount as may be specified in the Agreement referred to in section 57 (1) to which he is a party or, if it is not so specified, as may be determined by the Board of Directors.

(2) Subject to the provisions of subsection (3), where any further amount is contributed by the shareholders to the capital of the Bank, a Participant may make a further contribution to the capital of the Bank of such amount as may be determined by the Board of Directors.

(3) The provisions of subsections (1) and (2) shall be subject to the following limitations and conditions, namely—

- (a) that, where there is only one Participant, his initial contribution under subsection (1), or the total sum of his contributions under subsections (1) and (2), to the capital of the Bank, shall not exceed forty-nine *per centum* of the capital for the time being of the Bank; or

(b) that, where there are two or more Participants, the total sum of their initial contributions under subsection (1), or the total sum of their contributions under subsections (1) and (2), to the capital of the Bank shall not exceed forty-nine per centum of the capital for the time being of the Bank.

60. (1) A Participant shall, by virtue of his contribution to the capital of the Bank, be a shareholder in the Bank and accordingly certificates for shares, each of a nominal value of one hundred rupees shall be issued by the Bank to the Participant, up to an amount equal to the contribution made by the Participant.

(2) The right of a Participant to transfer or dispose of any shares held by him shall be subject to the provisions contained in that behalf in this Act and in the Agreement concluded under section 57 (1) to which he is a party; and if any such shares are duly transferred to any other person, such shares shall be held by such other person in all respects in like manner and subject to the same provisions (whether contained in this Act or in the Agreement) as though such person were the Participant.

61. The shares held by the shareholders in the Bank shall entitle them in the event of the dissolution of the Bank to participate *pro rata*, according to the nominal value of the shares held, in the amount realized by the sale of the assets of the Bank, after payment of liabilities to other persons, if any.

62. (1) A participant shall not be entitled to sell, assign, charge or otherwise in any manner whatsoever to alienate or encumber any shares in the Bank, except with the prior consent in writing of the Board of Directors and except to or in favour of a person approved by such Board for the purpose.

(2) If any Agreement concluded under section 57 contains provision specifying the circumstances in which the consent of the Board of Directors to any proposed sale or alienation of the shares of a Participant who is a party to such Agreement shall not be withheld, such provisions shall have effect as though it were herein enacted.

(3) No shares of a Participant in the Bank shall, except with the prior consent of the Board of Directors conveyed in writing to the Participant by the General Manager, be or be liable to be sold in execution of any order or decree of any court or by any assignee in insolvency of the Participant, or if the Participant is a company, by any liquidator or otherwise in the course of any proceedings for the winding-up of the company.

(4) Where application is made to the Board of Directors for such prior consent as is required by subsection (1) or subsection (3), the Board may, in lieu of granting such consent, determine that the shares to which the application relates shall be acquired by any of the other shareholders.

(5) The preceding provisions of this section shall have effect notwithstanding anything in any written or other law, and in the event of any conflict or inconsistency between such preceding provisions and anything in any written or other law, such provisions shall prevail.

63. Where the shares or any of the shares of a participant are to be acquired by a shareholder in pursuance of a determination under subsection (4) of section 62, the value of the shares which are to be so acquired shall be determined in such manner and upon such terms and conditions as shall be contained in that behalf in the Agreement under section 57 to which he is a party.

64. Payment for the shares or any of the shares in the Bank of a Participant which are acquired or purchased by a shareholder under the preceding provisions of this Act shall be paid by the shareholder.

PART V

General

65. The provisions of the following written laws shall not apply to the Bank—

- (a) the Money Lending Ordinance;
- (b) the Debt Conciliation Ordinance; and
- (c) the Conciliation Boards Act, No. 10 of 1958.

66. The Bank shall be deemed to be a credit institution for the purposes of the Monetary Law Act and accordingly the Bank may borrow from the Medium and Long Term Credit Fund of the Central Bank such sums as the Board of Directors may from time to time determine.

67. The Board of Directors may determine which classes of officers of the Bank shall give security to the satisfaction of such Board for the due and faithful performance of their duties. Every officer of the Bank belonging to any class so determined shall give such security.

68. No Director or officer of the Bank shall be liable for any damage or loss suffered by the Bank, unless such damage or loss was caused by his misconduct or wilful default.

69. Every Director, manager, auditor, officer, servant, agent, accountant, or other person employed in the business of the Bank, shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Bank, its customers, and the state of accounts with any person and all matters relating thereto and shall by such declaration pledge himself not to reveal any other matters which may come to his knowledge in the discharge of his duties except—

- (a) when required so to do—
 - (i) by the Board of Directors, or
 - (ii) by a court of law, or
 - (iii) by the persons to whom such matters relate;
- (b) in the performance of his duties; and
- (c) in order to comply with any of the provisions of this Act.

70. Every Director, auditor, manager, secretary or other officer of the Bank shall, except when required to do so by a court or by any law, decline to answer any question concerning the business of the Bank which may be put to him on any occasion whatsoever, if he considers that the answer to such question would disclose or tend to disclose the secrets of the Bank or the business or affairs of any customer of the Bank.

71. A receipt signed by the General Manager or by any person expressly authorized by the General Manager of the Bank to give receipts, shall be an effectual discharge for moneys paid to the Bank.

72. (1) Contracts on behalf of the Bank may be made as follows:—

- (a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the Bank in writing under the common seal of the Bank;
- (b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Bank in writing signed by any person or persons duly authorized thereto as hereinafter provided; and
- (c) a contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the Bank by any person or persons duly authorized thereto as hereinafter provided.

(2) A contract made according to this section shall be effectual in law and shall bind the Bank and all other parties thereto and their legal representatives.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

73. A bill of exchange or promissory note shall be deemed to have been made, executed, or endorsed on behalf of the Bank, if made, executed, or endorsed in the name of, or by or on behalf of or on account of the Bank by any person or persons duly authorized thereto as hereinafter provided.

74. No person, other than the General Manager and the persons thereto expressly authorized by the Board of Directors and acting within the limits of the authority so conferred on them, shall have any authority to make, draw, accept or endorse any promissory note, bill of exchange, cheque or order for the payment of money in the name or on behalf of the Bank or to enter into any contract so as to impose thereby any liability on the Bank or otherwise to pledge the credit of the Bank.

75. (1) The Bank may, by writing under its common seal, empower any person generally or in respect of any specific matter, as its attorney, to execute deeds on its behalf in any place outside Sri Lanka.

(2) A deed signed by such attorney on behalf of the Bank and under his signature or seal shall bind the Bank and have the same effect as if it were under its common seal.

76. The Board of Directors may make rules, which are not inconsistent with the provisions of this Act or with sound banking principles in respect of—

- (a) any matter required by this Act to be prescribed;
- (b) any matter for which rules are required or authorized to be made under this Act; and
- (c) any matter necessary to enable the Bank to effectively carry out its purposes, exercise and perform its powers and duties, and carry on its business.

77. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) Where an offence under this Act 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 deemed to be guilty of that offence:

Provided, however, that a director or officer of such 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.

78. (1) Notwithstanding the provisions of sections 117 and 118 of the Monetary Law Act, Central Bank is hereby to subscribe to the capital of, and to purchase, guarantee or accept as security, any shares, stock, debentures, promissory notes or other securities issued by the Bank.

(2) Notwithstanding anything to the contrary in any other written law the Bank of Ceylon and the People's Bank are hereby authorised to subscribe to the capital of the Bank.

79. The Minister may from time to time give general or special directions in writing as to the performance of the duties and the exercise of the powers of the Bank and it shall be the duty of the Bank to comply with such directions.

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

“approved credit institution” has the same meaning as “credit institution” in section 88F of the Monetary Law Act, and includes such other institutions as the Board of Directors may, from time to time, determine to be approved credit institutions for the purposes of this Act;

“Board of Directors” means the Board of Directors of the Bank;

“Central Bank” means the Central Bank of Ceylon established under the Monetary Law Act;

“Monetary Board” means the Monetary Board of the Central Bank of Ceylon constituted under section 8 of the Monetary Law Act;

“Bank of Ceylon” means the Bank of Ceylon established under the Bank of Ceylon Ordinance;

“Peoples Bank” means the People's Bank established under Act No. 29 of 1961;

“Director” means a member of the Board of Directors;

“enterprise” means any body of persons, whether corporate or unincorporate, by whatsoever name or designation called, and includes a corporation sole or a sole proprietorship;

“industry” includes tourism, and tourist services within the meaning of the Ceylon Tourist Board Act, No. 10 of 1966, mining and fisheries; and the expression “industrial” shall be construed accordingly;

“shareholder” means a shareholder of the Bank.

MONETARY LAW (AMENDMENT)

Act, No. 14 of 1979

(Certified on 7th March, 1979)

An Act to amend the Monetary Law Act

1. This Act may be cited as the Monetary Law (Amendment) Act, No. 14 of 1979.

2. The following new section is hereby inserted immediately after section 58, and shall have effect as section 58A, of the Monetary Law Act (hereinafter referred to as the "principal enactment") :—

"Use of currency
coin otherwise
than as legal
tender.

58A (1) Any person who, without the authority of the Monetary Board, melts, breaks up, perforates, mutilates or uses otherwise than as legal tender, any coin which is legal tender in Sri Lanka shall be guilty of an offence.

(2) Any person who knowingly uses, possesses or deals with any metal or article which he knows or has reasonable cause to believe, is derived from any coin which has been dealt with in contravention of sub-section (1), shall be guilty of an offence."

3. Section 122 of the principal enactment is hereby amended as follows :—

(a) by the insertion, immediately after subsection (2) of that section, of the following new subsection :—

"(2A) Every person who is guilty of an offence by reason of the contravention of subsection (1) or subsection (2) of section 58A shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding three thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment. A Magistrate may, on conviction of any person for an offence under subsection (1) or subsection (2) of section 58A, make order that any coin in respect of which the offence was committed or any metal or other article derived therefrom be forfeited to the State"; and

(b) by the repeal of subsection (3) of that section, and the substitution therefor of the following new subsection :—

"(3) Every person who is guilty of an offence for which no punishment is prescribed by subsection (2) or subsection (2A) shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment."

BANK DEBITS TAX (REPEAL) ACT, NO. 19 OF 1979

(Certified on 20th March, 1979)

An Act to repeal the Bank Debits Tax Act, No. 27 of 1970, and to provide for matters connected therewith or incidental thereto.

1. This Act may be cited as the Bank Debits Tax (Repeal) Act, No. 19 of 1979, and shall be deemed, for all purposes, to have come into operation on January 1, 1979.
2. The Bank Debits Tax Act, No. 27 of 1970, as amended by Law No. 32 of 1975, is hereby repealed.
3. Notwithstanding the repeal of the Bank Debits Tax Act, No. 27 of 1970, any tax payable under that Act, in respect of any period prior to January 1, 1979, may be collected and recovered as if there had been no such repeal.

INSTITUTE OF BANKERS OF SRI LANKA (INCORPORATION)

Act, No. 26 of 1979

(Certified on 25th April, 1979)

An act to Incorporate the Institute of Bankers of Sri Lanka

WHEREAS an Institute called the Bankers' Training Institute (Ceylon) has been established in Sri Lanka in the year One thousand Nine hundred and Sixty-four under the auspices of the Central Bank of Ceylon and with the support and co-operation of the Bank of Ceylon, the People's Bank and the Commercial Banks Association, for the purpose of providing suitable training to bank employees and for the purpose of carrying out other objects of that Institute according to principles agreed to by the members of its governing body:

And whereas the said Institute has been thereafter successfully carrying out its objects and it is now desirable that the said Institute should be incorporated.

1. This Act may be cited as the Institute of Bankers of Sri Lanka (incorporation) Act, No. 26 of 1979.
2. (1) The persons who on the date of commencement of this Act are the members of the Governing Body of the Bankers' Training Institute (Ceylon), such other persons as hereafter constitute the Governing Board of the Institute of Bankers of Sri Lanka and such other persons as are hereafter enrolled as members of the Institute of Bankers of Sri Lanka shall be a body corporate with the name Institute of Bankers of Sri Lanka (hereinafter in this Act referred to as the "Institute").
- (2) The Institute shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

3. The objects of the Institute are—

- (a) to provide instruction and training for employees of banking institutions and for employees of the Central Bank of Ceylon in the study of the theory and practice of banking and of related subjects and for such purpose to provide all facilities including lectures, discussions and library facilities;
- (b) to conduct examinations and to issue certificates to those who are successful in such examinations;
- (c) to facilitate and encourage discussions on matters of interest to bankers; and
- (d) to take such measures as may be desirable to further the interests of banking.

4. (1) The affairs of the Institute shall, subject to the rules for the time being of the Institute, be administered by a Governing Board (hereafter in this Act referred to as the "Board") consisting of —

- (a) the Chairman who shall be a Deputy Governor of the Central Bank of Ceylon nominated by the Governor of that Bank;
- (b) the Vice-Chairman who shall be an Assistant to the Governor of the Central Bank of Ceylon nominated by the Governor of that Bank; and
- (c) ten other members of the Board —
 - (i) two of whom shall be employees of the Bank of Ceylon nominated by that Bank;
 - (ii) two of whom shall be employees of the People's Bank nominated by that Bank;
 - (iii) two of whom shall be nominated by banking institutions which are commercial banks other than the Bank of Ceylon and People's Bank, such two members being employees of such banking institutions;
 - (iv) one of whom shall be nominated by the banking institutions which are not commercial banks by agreement amongst such banking institutions, such member being an employee of any such banking institution; and
 - (v) three of whom shall be elected by the Fellows and Associates of the Institute from amongst the Fellows and Associates.

(2) For a period of two years from the date of commencement of this Act, the governing body of the Bankers' Training Institute (Ceylon) on the date of commencement of this Act, shall notwithstanding anything to the contrary in subsection (1) be the Board of the Institute.

5. Subject to the rules for the time being of the Institute, the Institute may—

- (a) do, perform and execute all such acts, matters and things as are necessary or desirable for the promotion or furtherance of the objects of the Institute;

- (b) for the purpose of carrying out the objects of the Institute, establish and maintain a fund, open and maintain any bank account, borrow or raise moneys with or without security, and employ such persons as may be necessary to carry out the work of the Institute; and
- (c) acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of any movable or immovable property.

6. All debts and liabilities of the Bankers' Training Institute (Ceylon) existing on the date of commencement of this Act shall be the debts and liabilities of the Institute and all debts due to and subscriptions and contributions payable to the Bankers' Training Institute (Ceylon) on the date of commencement of this Act shall be paid to the Institute.

7. The Board may, at a meeting of the Board summoned for the purpose and by a majority of not less than two-thirds of the whole number of its members (including those not present), make rules for or in respect of any or all of the following matters:—

- (a) the qualifications of persons for enrolment as members of the Institute; the manner of enrolment, and the maintenance of a register, of the members; the fees payable by the members; the duration, renewal and termination of the membership; the classification and election of the members and the use of titles by them; the exercise of disciplinary control over the members;
- (b) the nomination and election of the members of the Board; the term of office, powers, functions and duties of the members of the Board; summoning and holding of meetings of the Board; quorum for, procedure to be adopted at, and the conduct of business of, such meetings;
- (c) the summoning and holding of meetings of the Institute; quorum for, the procedure to be adopted at, and the conduct of business of, such meetings;
- (d) the admission of students for the qualifying examination and for course of instruction provided by the Institute and the exercise of disciplinary control over them; fees payable for, the conduct of, and the syllabuses for, such examinations and courses; the issue of certificates to students who pass the examinations of the Institute; grant of assistance, financial or otherwise, to students of the Institute;
- (e) the management of the property of the Institute; the custody, maintenance and audit of its funds;
- (f) remuneration of employees of the Institute and the exercise of disciplinary control over them;
- (g) the custody, application and authentication of the seal of the Institute; and
- (h) all matters connected with or incidental to the aforesaid matters.

(2) The rules of the Bankers' Training Institute (Ceylon) in force on the date of commencement of this Act shall be deemed to be the rules of the Institute made under subsection (1).

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

“banking institution” and “commercial bank” have the same meanings as in the Monetary Law Act; and

“Central Bank of Ceylon” means the Central Bank of Ceylon established under the Monetary Law Act.

CONTROL OF FINANCE COMPANIES ACT, NO. 27 OF 1979

(Certified on 7th May, 1979)

An Act to control and regulate Non-Banking Financial Institutions and to ensure the liquidity and solvency of such Institutions in order to protect the interests of depositors and to provide for matters connected therewith or incidental thereto.

1. This Act may be cited as the Control of Finance Companies Act, No. 27 of 1979, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (in this Act referred to as the “appointed date”).

PART I

Registration and Licensing of Institutions

2. (1) This Part of this Act shall apply to—

- (a) every Institution which is a limited liability company with capital of not less than one hundred thousand rupees;
- (b) every Institution with deposits in excess of five hundred thousand rupees;
- (c) any two or more affiliated or connected Institutions which are limited liability companies whose capital when aggregated is not less than one hundred thousand rupees;
- (d) any two or more affiliated or connected Institutions whose total deposits when aggregated are in excess of five hundred thousand rupees; and
- (e) any group or category of Institutions declared by the Minister on the recommendations of the Monetary Board of the Central Bank of Ceylon (hereinafter referred to as the “Board”) by Order published in the *Gazette* to be Institutions to which this Part of this Act shall apply.

(2) Notwithstanding the provisions of subsection (1), this Act shall not apply to any banking institution within the meaning of section 127 of the Monetary Law Act or to any co-operative society registered under the Co-operative Societies Law, No. 5 of 1972.

3. No Institution to which this Part of this Act applies shall, on or after the appointed date, carry on business unless it has been registered with the Board as hereinafter provided;

Provided, however, that any such Institution which was carrying on business prior to the appointed date, may, without being so registered, carry on business for a period not exceeding six months from the appointed date:

Provided further that the Board may in its sole discretion grant to any Institution referred to in the foregoing proviso, one, and not more than one, extension of the period, specified therein for carrying on business without being so registered.

4. (1) Every application for registration of an Institution to which this Part of this Act applies shall be made to the Board in the prescribed form and shall contain a declaration by the applicant that the particulars stated in the application are to the best of his knowledge and belief true and accurate.

(2) Every person who makes any declaration or furnishes any information under subsection (1) knowing the same to be false in any material particular shall be guilty of an offence under this Act.

5. (1) Where an application has been made to the Board for the registration of any Institution to which this Part of this Act applies, the Board may—

(a) examine, or cause to be examined by the Director of Bank Supervision of the Central Bank of Ceylon or any officer authorized in writing in that behalf by such Director, the books of accounts and other documents of such Institution;

(b) determine whether any sum of money accepted, borrowed or solicited by such Institution is a deposit and whether the affairs of such Institution are being conducted in a manner detrimental to its present or future depositors.

(2) Where the Board is of opinion that such Institution is not liable to registration under section 3 or that the affairs of such Institution are being conducted in a manner detrimental to its present or future depositors, the Board shall refuse to register such Institution.

(3) Where the Board is of opinion that such Institution is liable to registration under section 3, and that its affairs are not being conducted in a manner detrimental to its present or future depositors, the Board shall register the Institution.

(4) The decision of the Board under subsection (1) or subsection (2) shall be final and conclusive and shall not be questioned in any court.

6. The Board shall keep and maintain in the prescribed form a register for the registration of every Institution to which this Part of this Act applies.

7. Where any Institution has been registered under this Act the Board shall, in the prescribed form, issue to such Institution a licence subject to such conditions as the Board may impose in accordance with rules made under this Act. Such licence shall be exhibited at all times in the principal office or place of business in Sri Lanka of such Institution.

8. (1) Where any Institution registered under this Act has ceased to carry on business, a notice of such cessation shall be given to the Board within three months of such cessation—

(a) where such Institution is a body corporate, by the director, manager or secretary thereof;

(b) where such Institution is an unincorporate body of persons, by every individual constituting that body; or

(c) where such Institution is an individual, by such individual or if he is dead by his legal representatives.

(2) The Board shall, on receipt of a notice under subsection (1), remove the name of the Institution from the register and shall cancel its licence.

9. (1) Where the Board has reasonable grounds to believe that an Institution registered under this Act is not carrying on business the Board may send to such Institution a notice by registered post requiring such Institution to furnish proof within one month from the date of such notice that it has not ceased to carry on business. Where such Institution fails to furnish such proof within such period the Board shall remove the name of such Institution from the register and shall cancel its licence.

(2) Where any Institution whose name has been removed from the register in terms of subsection (1) thereafter applies to the Board to be registered under this Act the Board may treat such application as a fresh application for registration and may register such Institution, having satisfied itself that the provisions of section 5 have been complied with and that such Institution has not been guilty of the breach of any of the provisions of this Act or of any rule or direction made thereunder. The refusal of the Board to register any such Institution shall be final and shall not be questioned in any court.

(3) Where an order has been made by a competent court for the winding up of an Institution registered under this Act the Board shall remove the name of such Institution from the register and shall cancel its licence.

10. (1) Where a deposit account with any Institution registered under this Act has lain dormant, that is to say, where there has been no withdrawal from or addition to such deposit (or where there has been no receipt by the Institution of any written correspondence from the depositor or his lawful representative in relation to the deposit) for a period exceeding ten years, the moneys lying in deposit together with interest thereon accrued, if any, shall, if the Board so directs, be transferred notwithstanding anything in any other law, by such Institution to a special account in the Central Bank of Ceylon.

(2) Any person who furnishes proof to the satisfaction of the Board that any moneys lying to his credit in his name with any Institution registered under this Act or in the name of a person from whom he derives title have been transferred to a special account in the Central Bank of Ceylon under subsection (1) shall, subject to such terms, conditions or restrictions as may be imposed in respect of such moneys by or under any written law, be entitled to repayment of such moneys by the Central Bank of Ceylon together with the interest payable on such moneys up to the date of repayment at such rate as the Board may, from time to time, determine, or, without such interest if the Board so decides.

(3) Any moneys transferred to a special account under subsection (1) may be utilized for such purposes as may be determined by the Board after consultation with the Minister in charge of the subject of Finance.

PART II

Powers, Functions and Duties of the Board in Relation to Institutions

11. The provisions of this Part and of Part III shall apply to Institutions whether or not registered under this Act.

12. (1) For the purposes of this Act the Board may give directions to Institutions, or to any group or category of Institutions regarding the form and manner in which any aspect of the business of such Institutions is to be conducted.

(2) Without prejudice to the generality of the powers conferred by subsection (1) directions may be given by the Board to Institutions, or to any group or category of Institutions in respect of—

- (a) the terms and conditions under which deposits may be accepted by such Institutions, the maximum amount that may be deposited with an Institution in the name of one person in one or more accounts, the maximum rates of interest payable on such deposits, and the maximum periods for which deposits may be received;
 - (b) the form and manner in which books of account or other records or documents are to be maintained by such Institutions;
 - (c) the terms and conditions under which any loan may be granted by such Institutions;
 - (d) the maximum rate of interest that may be charged by such Institutions in respect of any loan;
 - (e) the maximum rates which may be paid to or charged by such Institutions by way of commissions, discounts, fees or other payments whatsoever;
 - (f) the terms and conditions under which investments may be made by such Institutions;
 - (g) the minimum ratio which the capital of such Institutions should bear to the total deposit liabilities of such Institutions;
 - (h) the minimum ratio which the liquid assets of such Institutions should bear to the total deposit liabilities of such Institutions and the categories of liquid assets that should be taken into account in calculating such ratio;
 - (i) the minimum initial payment a prospective hirer should make on any hire-purchase agreement and specific different initial payments for different classes of transactions; such minimum initial payment may be expressed as a percentage of the value of the goods; and
 - (j) the maximum permissible maturities for loans and investments made by such Institutions and the nature and amount of the security that may be required or permitted for various types of credit operations.
- (3) The maximum rate of interest fixed by any direction under paragraphs, (a), (c) or (d) of subsection (2) shall apply in respect of any deposit accepted or in respect of any loan taken before the date of such direction:

Provided, however, that nothing in any such direction shall—

- (a) apply to any interest accrued before the date of such direction in respect of any such deposit or loan; or
 - (b) require the reduction of the rate of interest payable on any deposit accepted before the date of such direction if such reduction would constitute a breach of the contract or agreement relating to such deposit.
- (4) For the purposes of this Act the Board may give directions where necessary to any institution in particular on such matters as are specified in subsection (1) and subsection (2) and in the manner set out therein:

Provided, however, the competent court may on any application made to it in that behalf by that particular Institution, at any time while any such direction is in force make a declaration permitting that Institution to carry on its business without being subject to such direction, or may vary or alter such direction in such manner as the court may determine and any declaration by the court as aforesaid shall have effect notwithstanding anything to the contrary in the direction made by the Board.

13. The Board may require any proprietor, partner, director, manager, secretary or employee of any Institution to furnish all such information as may be necessary to ascertain whether any sum of money accepted, borrowed or solicited by such Institution is a deposit.

14. (1) The Board may from time to time by directions—

- (a) prohibit Institutions in general or any group or category of Institutions from increasing the amount of their or its loans and investments; or
- (b) fix limits to the rate at which the amount of loans and investments made by institutions specified in paragraph (a) may be increased within specified periods:

Provided, however, that nothing in any such direction shall be deemed to require such Institutions to reduce the amount of their loans and investments below the amount outstanding at the date of the direction.

(2) A direction under subsection (1) may be applicable to all the loans and investments of any Institution referred to in that subsection or any specified class or classes of such loans and investments; so however, that such direction shall be applicable uniformly and without discrimination to all Institutions generally or to any group or category of such Institutions.

15. (1) The Director of Bank Supervision of the Central Bank of Ceylon may at any time examine, or authorize any officer of his department to examine, the books and accounts of any Institution.

(2) The report on any such examination shall be furnished to the Governor of the Central Bank of Ceylon by the Director of Bank Supervision as soon as such examination is completed. The Director of Bank Supervision may recover the cost of such examination from the Institutions.

(3) It shall be lawful for the Director of Bank Supervision or any officer authorized by him—

(a) to administer in accordance with the Oaths Ordinance, oaths or affirmations to any proprietor, partner, director, manager, secretary or employee of any Institution;

(b) to require any proprietor, partner, director, manager, secretary or employee of any Institution to furnish all such information as the Director or any officer authorized by him may consider necessary to ascertain the true condition of the affairs of such Institution and whether such Institution is being conducted in a manner detrimental to its present or future depositors; and

(c) to require any proprietor, partner, director, manager, secretary or employee of any Institution to produce for inspection any books, records or other documents in his possession containing or likely to contain any necessary information.

(4) It shall be the duty of every proprietor, partner, director, manager, secretary or employee of any Institution to afford to the Director of Bank Supervision or any officer authorized by such Director access to all books and records of that Institution including its cash balances, its assets and liabilities whenever so requested by such Director.

16. (1) In any case where the Director of Bank Supervision of the Central Bank of Ceylon is satisfied, after the examination by himself or by any officer authorized by him, of the affairs of any Institution, or upon information received from the Institution, that the Institution is insolvent or is likely to become unable to meet the demands of its depositors, or that its continuance in business is likely to involve loss to its depositors or creditors, the Director shall make a report accordingly to the Governor of the Central Bank of Ceylon for submission to the Board; and if the Board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinafter provided, the Board may make order directing the Institution forthwith to suspend business in Sri Lanka and directing the Director to take charge of all books, records and assets of the Institution and to take such measures as may be necessary to prevent the continuance of business by the Institution.

(2) Notwithstanding anything in any written or other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order made under subsection (1) or in respect of any loss or damage incurred, or likely to be or alleged to be incurred, by reason of such order.

(3) An order made by the Board under subsection (1) in respect of any Institution shall cease to have effect upon the expiration of a period of thirty days from the date on which it is made; and it shall be the duty of the Board, as soon as practicable and in any event before the expiration of the said period, to—

(a) make order permitting the Institution to resume business, either unconditionally or subject to such conditions as the Board may consider necessary in the public interest or in the interests of the depositors and other creditors of the Institution; or

(b) to cause the Director of Bank Supervision to make application as hereinafter provided to the competent court for the winding up of the Institution.

(4) The competent court may, on any application made by the Director of Bank Supervision, order the winding up of—

- (a) any Institution which is a company, and accordingly, the provisions of the Companies Ordinance relating to the winding up of companies subject to the supervision of court shall apply *mutatis mutandis* to the winding up of such Institution; or
- (b) any Institution which is a person (other than a company) or an unincorporate body of persons and in any such winding up where the assets of the Institution are not sufficient to meet its liabilities, the court may order that the assets of that person or of every individual constituting that body be made available to the liquidator for the purpose of the winding up of such Institution.

(5) In the winding up of an Institution under paragraph (b) of subsection (4) the value of the assets and liabilities of the Institution shall be ascertained in such manner and upon such basis as the liquidator thinks fit. The competent court may, at any time after making a winding-up order, authorize the liquidator to realize all assets and may require any person to pay, deliver, convey, surrender, or transfer forthwith, or within a specified time to the liquidator any money, property, or books and papers in his hands to which the Institution is entitled. A scheme for the purpose of the winding up of the Institution shall be prepared by the liquidator and submitted for confirmation to the competent court and the winding up of the Institution shall be carried out according to such scheme.

(6) In any case where an order is made, whether in pursuance of an application under this section or otherwise, for the winding up of any Institution, then notwithstanding anything in any other written law, the Director of Bank Supervision or any person authorized in that behalf by the Board shall be appointed to be the liquidator for the purposes of such winding up.

(7) Where an order is made to wind up an Institution other than a company, the remuneration of the liquidator appointed under subsection (6) and all costs, charges and expenses properly incurred in the winding up shall be payable in priority to all other claims, notwithstanding anything in any other written law to the contrary, out of the assets of the Institution that is being wound up.

(8) Where an order has been made by the Board under subsection (3) permitting the resumption of business by any Institution subject to such conditions as may be specified in the order, the competent court may, on application made to it in that behalf by the Institution at any time while the order is in force, make a declaration permitting the Institution to resume business unconditionally, or varying or altering, in such manner as the court may determine, all or any of the conditions specified by the Board; and any such declaration shall have effect notwithstanding anything in the order made by the Board under subsection (3).

The Director of Bank Supervision shall be named respondent to any such application and shall be entitled on behalf of the Board to be heard and to adduce evidence at the hearing thereof.

(9) In any case where application is made by the Director as provided in subsection (3) for the winding up of any Institution—

- (a) the institution shall not carry on business during the pendency of the application unless it is authorized so to do by the court and except in accordance with such conditions, if any, as may be specified by the court; and

- (b) the court, if it is of opinion after such inquiry as it may consider necessary, that the Institution is not insolvent, may make a declaration permitting the Institution to resume business either unconditionally or subject to such conditions as the court may consider necessary in the public interest or in the interests of the depositors and other creditors of the Institution.

(10) Every order made by a competent court under this section shall be subject to an appeal to the Supreme Court and the provisions of the Civil Procedure Code relating to appeals in civil actions shall apply *mutatis mutandis* in the case of any such appeal:

Provided that an order under paragraph (a) of subsection (9) shall be final and shall not be subject to appeal.

(11) Every application to a competent court under this section shall be deemed to be an action of the value of five thousand rupees.

(12) In this section, "competent court", in relation to any Institution means the District Court of Colombo or of the district in which the principal office in Sri Lanka of the Institution is maintained.

(13) (a) Any proprietor, partner, director, manager, secretary or employee of any Institution who fails to furnish any information or to produce any book, record or other document when required so to do by the Director of Bank Supervision or by any officer authorized by such Director, or who obstructs or fails to permit the Director of Bank Supervision or any officer authorized by such Director to make any examination under this section or under section 15, shall be guilty of an offence.

(b) Any person who in any report or information furnished to the Director of Bank Supervision, or to any officer authorized by the Director of Bank Supervision under this section or under section 15 makes any statement which he knows to be false, shall be guilty of an offence.

17. (1) Any person who contravenes or fails to comply with any provisions of this Act or of any rule, or direction made or given thereunder shall be guilty of an offence under this Act.

(2) In the case of any offence under this Act committed by a body of persons—

- (a) where the body of persons is a body corporate, every director, manager or secretary of that body corporate; and
- (b) where the body of persons is an unincorporate body, every individual who is a member of such body,

shall be guilty of an offence :

Provided, however, that no such person shall be deemed to be guilty of an offence if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of that offence.

(3) Every person who is guilty of an offence under this Act by reason of the contravention of or failure to comply with the provisions of section 3, section 15 or section 16 shall be liable on conviction after trial before a District Court to imprisonment of either description for a term not exceeding three years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.

(4) Every person who is guilty of an offence other than an offence under section 3, section 15 or section 16 shall be liable on conviction after trial before a Magistrate Court to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two thousand five hundred rupees or to both such imprisonment and fine.

PART III

General

18. (1) The Board may make rules for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Board may make rules in respect of all or any of the following matters:—

- (a) the registration of Institutions and the fees payable to the Board for such registration;
- (b) the forms to be used under this Act;
- (c) the regulation or prohibition of the issue by any Institution or any group or category of Institutions of any prospectus or advertisement soliciting the deposit of moneys from the public and the conditions subject to which such prospectus or advertisement may be issued.

19. Subject to and in accordance with such rules, if any, as may be made by the Board in that behalf the Board may in writing delegate to any officer of the Central Bank of Ceylon its authority to represent the Board for any of the purposes of this Act, so however that the Board shall remain and continue to be responsible for any act or thing done or omitted to be done by such officer.

20. The Minister may give to the Board general or special directions in writing for the purpose of giving effect to the principles and provisions of this Act and the Board shall give effect to such directions.

21. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law.

22. In this Act unless the context otherwise requires—

“capital” means paid-up capital and permanent free reserves, and shall include, if so determined by the Board, the face value of unsecured debentures and other loan bonds which, in the event of the winding up of the Institution, or the return or reduction of capital, shall rank after and be subordinated to deposits and other borrowings of the Institutions and which shall not be reduced or repaid except with the consent of the Board;

“goods” have the same meaning as in the Sale of Goods Ordinance;

“hire-purchase agreement” means an agreement for the letting of goods with an option to purchase (whether the agreement describes the weekly, fortnightly or monthly payments as rentals, instalments, hire or otherwise), but does not include any agreement—

- (a) whereby property in the goods comprised therein passes at the time of the agreement or upon or at time before delivery of the goods; or

- (b) under which a person by whom goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement;

"hirer" means a person to whom the goods are let, hired or agreed to be sold under a hire-purchase agreement and includes a person to whom the rights or liabilities of the hirer under such agreement have passed by assignment or operation of law;

"Institution" means any person or body of persons, corporate or unincorporate, whose business or part of whose business consists in the acceptance of money by way of deposit, the payment of interest thereon and—

- (a) the lending of money on interest; or
- (b) the investment of money in any manner whatsoever; or
- (c) the lending of money on interest and the investment of money in any manner whatsoever ;

"loan" includes any advance or the deferment of payment in any sale or the deferment of payment in a transaction relating to a hire purchase agreement;

"prescribed" means prescribed by rules made under this Act.

CODE OF INTELLECTUAL PROPERTY

Act, No. 52 of 1979

(Certified on 8th August, 1979)

An act to revise, consolidate, amend and embody in the form of a code the law relating to copyright industrial designs, patents, marks, trade names and unfair competition and provide for the better registration, control and administration thereof and for matters connected therewith or incidental thereto

53. (1) Where the Registrar has reasonable cause to believe that any licence contract or any amendment or renewal thereof—

- (a) which involves the payment of royalties abroad; or
- (b) which by reason of other circumstances relating to such licence contract,

is detrimental to the economic development of Sri Lanka he shall in writing communicate such fact to the Governor of the Central Bank and transmit all papers in his custody relevant to a decision on such matter to the Governor of the Central Bank.

(2) Where the Governor of the Central Bank on receipt of any communication under subsection (1) informs the Registrar in writing that the said licence contract or any amendment or renewal thereof is detrimental to the economic development of Sri Lanka the Registrar shall cancel and invalidate the record of such contract in the register.

AGRARIAN SERVICES ACT, NO. OF 58 1979

(Certified on 25th September, 1979)

An act to provide security of tenure to tenant cultivators of paddy lands; to specify the rent payable by tenant cultivators to landlords; to provide for maximum productivity of paddy and other agricultural lands through the proper use and management of agricultural crops and livestock; to provide for the establishment of Agrarian Services Committees; to provide for the determination of tenurial and other disputes relating to agricultural land by the Commissioner of Agrarian Services; to confer and impose certain powers and duties on the Commissioner to provide the appointment of cultivation officers; to provide for the repeal of the Agricultural Productivity Law, No. 2 of 1972, and the Agricultural Lands Law, No. 42 of 1973; and to provide for matters connected therewith or incidental thereto.

PART II

Provisions applicable to loans granted by prescribed banks for cultivation

27. (1) The owner cultivator or occupier of any agricultural land may obtain a loan from a prescribed bank in respect of such land for any agricultural activity, by creating a mortgage or charge on such land or on any other immovable property which he owns or in which he has an interest, by the execution in duplicate of an instrument substantially in the prescribed form, or on such terms and conditions as may be determined by the prescribed bank without the execution of such instrument.

(2) Any instrument referred to in subsection (1) shall only be chargeable with a stamp duty equal to one-fifth of the duty chargeable under Schedule A to the Stamps Ordinance for a bond or mortgage of a like nature. Such duty shall be paid on the duplicate of the instrument and the original or counterpart of such instrument shall be exempt from stamp duty, if any.

(3) Every prescribed bank —

(a) shall cause to be numbered with consecutive integral numbers, the instruments executed in favour of such bank under this section according to the order in which they are executed;

(b) shall before the fifteenth day of each month deliver or transmit to the Registrar of Lands of the district in which the prescribed bank functions, the duplicate of all such instruments executed in favour of such bank during the preceding month, together with a list of such instruments;

(c) shall deliver or transmit to the Registrar of Lands of that district in which the prescribed bank functions, so as to reach such Registrar on or before Wednesday in each week, a list of such instruments executed in favour of such bank during the week ending on the previous Saturday;

(d) shall, if any such instrument affects land or immovable property situated in any district, other than that in which the prescribed bank functions, on or before the fifteenth day of the succeeding month, deliver or transmit a copy of the instrument to the Registrar of Lands of the district in which such land or immovable property is situated together with a list of all such instruments as relate to lands or immovable property in such last-mentioned district; and

- (e) shall, if such instrument is executed by an attorney forward a copy of such power of attorney to the Registrar of Lands of the district in which such land or immovable property is situated together with a copy of that instrument.

(4) Any instrument referred to in subsection (1), may be signed in the presence of and the execution of such instrument may be attested by the Manager of the branch or office of the prescribed bank granting the loan or any person holding any prescribed office in such bank and at least one other witness; and where such instrument is so signed and attested, nothing in section 2 of the Prevention of Frauds Ordinance shall apply thereto.

(5) Any instrument referred to in subsection (1) may be registered under the Registration of Documents Ordinance as an instrument affecting land.

28. Where default is made in the payment of any sum of money on any loan granted to an owner cultivator or occupier of agricultural land by a prescribed bank under the provisions of this Part or under the corresponding provisions of the Agricultural Lands Law, No. 42 of 1973, whether that sum is due on account of principal or interest or of both, default shall be deemed to be made in respect of the whole of the unpaid portion of that loan and the interest due thereon.

29. (1) Where, under the provisions of this Part, default is made or deemed to be made in respect of the whole of the undischarged or unsatisfied portions of any loan and the interest due thereon the prescribed bank may notify the Commissioner that the owner cultivator or occupier of such agricultural land is in default of the sum of money specified in such notice.

(2) On receipt of a notice referred to in subsection (1), the Commissioner may hold an inquiry for the purpose of deciding whether such owner cultivator or occupier of agricultural land is in default of such sum of money.

(3) The owner cultivator or occupier of agricultural land and the prescribed bank shall be given an opportunity of being heard in person or through a representative at such inquiry.

(4) Where the Commissioner is satisfied at such inquiry that any sum of money is due to the prescribed bank from the owner cultivator or occupier of agricultural land, the Commissioner shall order such owner cultivator or occupier of agricultural land, or any heir or legal representative of such owner cultivator or occupier of agricultural land to pay the sum of money due to the prescribed bank within such time as may be specified in such order.

(5) Where the owner cultivator or occupier of agricultural land fails or refuses to comply with an order made under subsection (4) relating to any sum which he is required to pay to the prescribed bank such sum may on application made by any person on behalf of the prescribed bank to the Magistrate's Court having jurisdiction over the place where such extent of agricultural land is situate, be recovered in like manner as a fine imposed by such court notwithstanding that such sum may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

(6) For the purposes of subsection (5) a certificate under the hand of an officer authorized in that behalf by the prescribed bank to the effect that the sum specified therein is due to such bank from the defaulter named in the certificate shall be conclusive proof that such sum is due to the bank from such defaulter:

Provided, however, that where such occupier is a tenant cultivator and the prescribed bank reports to the Commissioner that it is impracticable or inexpedient to recover such sum in the manner provided for in subsection (5), the Commissioner on being satisfied that such sum cannot be recovered in the manner provided for, may suspend the tenancy rights of such defaulter until such money is paid to the prescribed bank.

30. Notwithstanding anything to the contrary in any law for the time being in force, any charge or mortgage created on any land or interest therein in favour of a prescribed bank in respect of any loan granted to any owner cultivator or occupier of an agricultural land by a prescribed bank shall have priority over any other charge or mortgage that may have been created over such land or interest therein in favour of any person prior to the date on which the charge or mortgage was created in favour of the prescribed bank.

31. Nothing in section 29 shall be deemed to preclude the prescribed bank from recovering the amount due to such bank in accordance with the provisions of any other written law.

32. Nothing in the Debt Conciliation Ordinance shall apply or be deemed to apply to any debt due to any prescribed bank, or to prejudice or affect the rights of any prescribed bank in respect of the recovery of any such debt.

APPROPRIATION ACT, NO. 71 OF 1979

(Certified on 22nd December, 1979)

An act to provide for the service of the financial year, 1980, to authorize the raising of loans in or outside Sri Lanka for the purpose of such service, to make financial provision in respect of certain activities of the Government during that financial year, to enable the payment, by way of advances out of the Consolidated fund or any other fund or moneys of, or at the disposal of, the Government, of moneys required during that financial year for expenditure on such activities, to provide for the refund of such moneys to the Consolidated Fund, and to make provision for matters connected with, or incidental to, the aforesaid matters.

1. This Act may be cited as the Appropriation Act, No. 71 of 1979.

2. (1) Without prejudice to any other law authorizing any expenditure, the expenditure of the Government, which it is estimated will be rupees twenty thousand four hundred and fifty million fifty-eight thousand six hundred and eight for the service of the period beginning on January 1, 1980, and ending on December 31, 1980, in this Act referred to as the 'financial year 1980', shall be met—

(a) from payments which are hereby authorized to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, and

- (b) from the proceeds of loans which are hereby authorized to be raised, whether in or outside Sri Lanka, for and on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees eleven thousand two hundred and one million.

The sum of rupees twenty thousand four hundred and fifty million fifty eight thousand six hundred and eight herein before referred to may be expended as specified in the First Schedule to this Act.

(2) - The provisions of subsection (1) of this section shall have effect without prejudice to the provisions of any other written law authorizing the raising of loans for and on behalf of the Government.

3. (1) The receipts of the Government during the financial year referred to in section 2, from each activity specified in column I of the Second Schedule to this Act shall be credited to the account of such activity, but the aggregate of the receipts so credited shall not exceed the minimum limit specified in the corresponding entry in column III of that Schedule. Any receipts from such activity in excess of such minimum limit shall be credited to the Consolidated Fund.

(2) The expenditure incurred by the Government, during the financial year referred to in section 2, on each activity specified in column I of the Second Schedule to this Act shall be paid out of the receipts of the Government from such activity during that financial year, but such expenditure shall not exceed the maximum limit specified in the corresponding entry in column II of that Schedule.

(3) The debit balance, outstanding at the end of the financial year referred to in section 2, of any activity specified in column I of the Second Schedule to this Act shall not exceed the maximum limit specified in the corresponding entry in column IV of that Schedule, and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in column V of that Schedule.

4. Whenever, at any time during the financial year referred to in section 2, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act are insufficient to meet the expenditure incurred by Government on such activity, the Minister may, from time to time, by Order direct that such sums as he may deem necessary to meet such expenditure shall be payable, by way of advances, out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, so however, that the aggregate of the sums so advanced does not exceed the maximum limit of expenditure specified in the corresponding entry in column II of that Schedule. Any sums so advanced in respect of such activity shall be refunded to the Consolidated Fund in such manner as the Minister may by Order direct.

5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head by order of the Secretary to the Treasury or any other officer authorised by him.

(2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that allocation.

6. Where the Minister is satisfied —

- (1) that receipts from taxes and other sources will be less than the amounts anticipated to finance authorized expenditure, or
- (2) that amounts originally appropriated for a particular purpose or purposes are no longer required,

he may, with the approval of the Government, withdraw in whole or in part any amounts previously released, for expenditure under the authority of a warrant issued by him, from the Consolidated Fund or from any other fund or moneys of, or at the disposal of, the Government.

7. The Minister with the approval of the Government, may, on or before May 31, 1981, by Order vary or alter any of the maximum limits, specified in column II, column IV and column V or the minimum limits specified in column III of the Second Schedule to this Act. Any such Order shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making of such Order as may be specified therein.

8. Parliament may, by resolution, amend the Second Schedule to this Act by adding to the appropriate columns of that Schedule, any activity and all or any of the maximum limits relating to such activity.