

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1981 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA.

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## **TAX RESERVE CERTIFICATES (AMENDMENT) ACT, No. 12 OF 1981**

(Certified on 27th February, 1981)

AN ACT TO AMEND THE TAX RESERVE CERTIFICATES ACT, No. 22 OF 1957.

1. This Act may be cited as the Tax Reserve Certificates (Amendment) Act, No. 12 of 1981.

2. The Tax Reserve Certificates Act, No. 22 of 1957, is hereby amended by the repeal of section 5 of that Act and the substitution therefor of the following section:—

“Surrender of certificates in payment of income tax, personal tax, profits tax, wealth tax, gifts tax or estate duty.

5. A certificate holder shall be entitled to surrender the certificate to the Commissioner-General of Inland Revenue in payment or part payment, with the surrender value of the certificate under section 6, of any sum that may be due from the certificate holder as income tax, personal tax, profits tax, wealth tax, gifts tax or estate duty (hereinafter in this Act sometimes referred to as the tax).”

## **LAND REFORM (AMENDMENT) ACT, No. 14 OF 1981**

(Certified on 5th March, 1981)

AN ACT TO AMEND THE LAND REFORM LAW, No. 1 OF 1972

1. This Act may be cited as the Land Reform (Amendment) Act, No. 14 of 1981.

2. The following new section is hereby inserted immediately after section 42L, and shall have effect as section 42LL, of the Land Reform Law, No. 1 of 1972 as amended by Law No. 39 of 1975 :—

“Certain estate lands deemed to be estate lands owned by a public company on the date of coming into operation of this part of this Law.

42LL. Notwithstanding anything to the contrary in section 5 of the Companies (Special Provisions) Law, No. 19 of 1974, or in the preceding provisions of this Law, every estate land owned or possessed by a company (whether such company is a public or a private company) on the date on which this Part of this Law comes into operation, being estate land which was transferred, on or after June 19, 1974, to such company or to a company recognized as an “existing company ” for the purposes of the Companies (Special Provisions) Law, No. 19 of 1974, or to a company incorporated under the Companies Ordinance, by a company registered or incorporated outside Sri Lanka shall be deemed, for the purposes of this Part of this Law, to be estate land owned or possessed by a public company on the date of coming into operation of this Part of this Law, and accordingly, every such estate land shall vest in the Commission on the date of coming into operation of this Part of this Law’.

3. (1) The amendment made in the principal enactment by section 2 of this Act shall be deemed for all purposes to have come into force on the seventeenth day of October, 1975, and accordingly, where at the hearing in any Court or tribunal, of any appeal, action, application or other proceeding (whether such appeal, action, application or proceeding was preferred or instituted before or after the date of commencement of this Act), any question arises as to whether any estate land is vested in the Commission or any other matter arises in relation to estate land, such question or matter shall be determined in accordance with the provisions of the principal enactment as amended by section 2 of this Act.

(2) Where any estate land is vested in the Commission by reason of the operation of section 2 of this Act, and the person who was the owner of that estate land prior to its vesting in the Commission has received or appropriated any moneys which the Commission is entitled, under the provisions of the principal enactment as amended by section 2 of this Act, to receive or appropriate in respect of such estate land, such moneys shall, notwithstanding anything to the contrary in the principal enactment as amended by section 2 of this Act, be deducted from the compensation payable in respect of such estate land.

(3) In this section—

“the principal enactment” means the Land Reform Law, No. 1 of 1972, as amended by Law No. 39 of 1975 ; and

“the Commission” means the Land Reform Commission established by the Land Reform Law, No. 1 of 1972.

### **EMPLOYEES' PROVIDENT FUND (AMENDMENT) ACT, No. 26 OF 1981**

(Certified on 5th May, 1981)

**AN ACT TO AMEND THE EMPLOYEES' PROVIDENT FUND ACT, No. 15 OF 1958.**

1. This Act may be cited as the Employees' Provident Fund (Amendment) Act, No. 26 of 1981.

2. Section 10 of the Employees' Provident Fund Act, No. 15 of 1958 (hereinafter referred to as the “principal enactment”) as amended by Act No. 8 of 1971, is hereby further amended as follows :—

(1) in subsection (1) of that section, by the substitution for the words “six *per centum*”, of the words “eight *per centum*” ; and

(2) in subsection (2) of that section, by the substitution for the words “nine *per centum*”, of the words “twelve *per centum*”.

3. Section 16 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Imposition of surcharge or employers on failure to pay contributions on due date.

16. Where contributions payable under this Act in respect of any month have not been made to the Fund before the last day of the succeeding month and the employer is unable to explain to the satisfaction of the Commissioner that the failure to pay such contributions was due to circumstances beyond his control, he shall be liable to pay to the Fund, in addition to the amount of the contributions due, a surcharge on such amount calculated in the following manner :—

- (a) where the contributions are in arrear for a period not exceeding ten days, a surcharge of five *per centum* of the amount of the contributions due ;
- (b) where the contributions are in arrear for a period exceeding ten days but not exceeding one month, a surcharge of fifteen *per centum* of the amount of the contributions due ;
- (c) where the contributions are in arrear for a period exceeding one month but not exceeding three months, a surcharge of twenty *per centum* of the amount of the contributions due ;
- (d) where the contributions are in arrear for a period exceeding three months but not exceeding six months, a surcharge of thirty *per centum* of the amount of the contributions due ;
- (e) where the contributions are in arrear for a period exceeding six months but not exceeding twelve months, a surcharge of forty *per centum* of the amount of the contributions due ;
- (f) where the contributions are in arrear for a period exceeding twelve months, a surcharge of fifty *per centum* of the amount of the contributions due ”.

4. The amendments made to the principal enactment by section 2 and 3 of this Act shall be deemed to have come in to force on January 1, 1981.

### **SURCHARGE ON INCOME TAX ACT, No. 31 OF 1981**

(Certified on 15th May, 1981)

AN ACT TO IMPOSE A SURCHARGE ON EVERY PERSON CHARGEABLE WITH INCOME TAX FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 1980, BY REFERENCE TO THE INCOME TAX PAYABLE BY SUCH PERSON FOR THAT YEAR OF ASSESSMENT ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Surcharge on Income Tax Act, No. 31 of 1981.

2. Every person who is chargeable with income tax for the year of assessment commencing on April 1, 1980, (in this Act referred to as the "relevant year") shall, notwithstanding anything contained in any other written law or in any convention, grant or agreement, be liable to pay a surcharge equivalent to ten *per centum* of the amount of the total income tax payable by him for the relevant year.

For the purpose of this section "income tax" shall not include—

- (a) in the case of a resident company, the income tax payable by that company under paragraph (b) (ii) of subsection (1A) of section 33 of the Inland Revenue Act ;
- (b) in the case of a non-resident company, such part of the income tax payable by that company under section 34 of the Inland Revenue Act as is computed under that section at the rate of thirty three and one-third *per centum* or eleven and one-ninth *per centum*.

3. Every person liable to pay a surcharge under section 2 shall pay to the Commissioner-General on or before the fifteenth day of May 1981, a sum equivalent to fifty *per centum* or more of the amount of such surcharge, and on or before the thirtieth day of November 1981, the balance, if any, of such surcharge.

4. Every employer who has in his employ any person from whose remuneration income tax was deductible under the provisions of Chapter XV of the Inland Revenue Act for the year of assessment commencing on April 1, 1980, shall deduct a sum equivalent to ten *per centum* of the total income tax deductible from such employee for that year of assessment in eight equal monthly instalments commencing from the month of April, 1981.

5. The provisions of Chapters XV, XVII, XVIII, XIX, XX and XXI of the Inland Revenue Act relating to the deduction from employees, assessment, appeals against the assessment, payment and recovery of income tax shall, *mutatis mutandis*, apply to the deduction from employees, assessment, appeals against the assessment, payment and recovery of the surcharge payable under section 2.

6. Where any person is entitled under the provisions of Chapter XXIII of the Inland Revenue Act, to a refund of any amount paid by him as income tax in excess of the amount with which he was properly chargeable for the relevant year such person shall, if he has paid the surcharge payable under section 2, be entitled to a refund of an additional amount equal to ten *per centum* of the amount of the refund to which he is entitled under the provisions of Chapter XXIII.

7. In this Act unless the context otherwise requires—

"Inland Revenue Act" means the Inland Revenue Act, No. 28 of 1979 ;

"income tax" means the income tax charged and levied under the Inland Revenue Act ; and

"Commissioner-General", "company", "employer", "employee", "person", and "year of assessment" have the same meanings respectively, as in the Inland Revenue Act.

**FINANCE (AMENDMENT) ACT, No. 37 OF 1981**

(Certified on 2nd June, 1981)

**AN ACT TO AMEND THE FINANCE ACT, No. 11 OF 1963**

1. This Act may be cited as the Finance (Amendment) Act, No. 37 of 1981.

2. The following new section is hereby inserted immediately after section 119, and shall have effect as section 119A, of the Finance Act, No. 11 of 1963 (hereinafter referred to as "the principal enactment") :—

Recovery of business turnover tax not to be invalid by reason only of non-registration of hotels and guest houses.

119A. (1) Any recovery of business turnover tax for any period commencing on November 5, 1975 and ending on the date of coming into operation of this section in respect of the business of operating a hotel or a guest house by virtue of a relevant Order shall be deemed not to be invalid by reason only of the fact that such hotel or guest house had not been registered with the Ceylon Tourist Board established under the Ceylon Tourist Board Act, No. 10 of 1966 ;

(2) Every reference to "the business of operating a hotel or a guest house registered with the Ceylon Tourist Board" in a relevant Order shall be deemed with effect from the date of such Order to be a reference to "a business of operating a hotel or a guest house approved by the Ceylon Tourist Board established under the Ceylon Tourist Board Act, No. 10 of 1966", and accordingly, any person chargeable with business turnover tax by virtue of a relevant Order in respect of the business of operating a hotel or a guest house for any period commencing on the date of such Order and ending on the date of coming into operation of this section shall—

(a) be deemed to have complied with the provisions of section 123 if he furnishes a return setting out the turnover of that business for that period within thirty days of the coming into operation of this section; and

(b) be deemed not to be in default on the payment of business turnover tax under section 122 in respect of such business for such period if he pays the total amount of such tax within the aforesaid thirty days, and where he fails to pay the total amount of such tax within the aforesaid thirty days, such amount shall be deemed to be in default and the provisions of this Part of this Act relating to the recovery of business turnover tax in default shall accordingly apply to the recovery of such amount.

(3) Where at the hearing in any court or tribunal, of any appeal action, application or other proceeding (whether such appeal, action, application or proceeding was preferred or instituted before or after the date of coming into operation of this Part of this Act), any

question or matter arises as to the validity of a relevant Order under section 119 such question or matter shall be determined in accordance with the preceding provisions of this section.

(4) In this section "relevant Order" means an Order made under section 119 and published in—

(a) *Gazette* No. 118/12 of November 5, 1975 ; or

(b) *Gazette* No. 291/9 of November 15, 1977;

3. Section 120 of the principal enactment, as last amended by Act No. 29 of 1980, is hereby further amended in paragraph (c) of subsection (3) of that section, by the substitution for sub-paragraph (v) of that paragraph, of the following sub-paragraph:-

"(v) the business of any bank to the extent of its transactions attributable to the operation of the foreign currency banking unit of such bank;"

4. The following new section is hereby inserted immediately after section 137, and shall have effect as section 137A, of the principal enactment :—

"Deduction of  
turnover tax  
from payments.

137A. (1) Every person who makes any payment in pursuance of a contract to which he is a party or on behalf of any other person who is a party to a contract shall, whether or not such contract was entered into before the coming into operation of this section, deduct from such payment, business turnover tax which shall be a percentage of such payment at a rate to be prescribed by the Minister by Order published in the *Gazette* and the amount of tax so deducted shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any business turnover tax if any payable by him under this Part of this Act ;

Provided that where the total consideration payable for the performance of such contract does not exceed five hundred thousand rupees no such deduction shall be made.

(2) Any person who deducts business turnover tax in accordance with the provisions of sub-section (1) shall—

(a) issue to the person from whose payment the deduction is made a statement showing—

(i) the gross amount of such payment ;

(ii) the rate and amount of tax so deducted ; and

(iii) the net amount actually paid ;  
and

(b) remit within seven days of making such deduction the sum so deducted to the Commissioner-General together with a statement showing—

- (i) the name and address of the person to whom the payment was made ;
- (ii) the gross amount of such payment ;
- (iii) the rate and amount of tax so deducted ; and
- (iv) the net amount actually paid.

(3) Where the turnover of a person includes a sum from which business turnover tax has been deducted in accordance with subsection (1), he shall be entitled on production of a statement relating to such sum issued in accordance with subsection (2) a set-off against the tax payable by him of the amount shown on such statement as the amount of tax deducted.

(4) For the purposes of this section “contract ” means—

- (i) any contract in respect of construction work of whatever nature ;
- (ii) any contract for the supply of goods or services in respect of any contract specified in paragraph (i);
- (iii) any sub-contract in respect of any contract specified in paragraph (i) or (ii).

(5) Any person who fails to deduct business turnover tax in terms of subsection (1) or fails to remit under subsection (2) any business turnover tax to the Commissioner-General shall be deemed to be in default and the provisions of this Part of this Act relating to recovery of business turnover tax shall accordingly apply to any such default.

(6) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittance, as the case may be, against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(7) Where any person has entered into two or more contracts and the Assessor, having regard to the nature and the parties to such contracts, is of opinion that the recipient of the payments made in respect of such contracts by such person is one and the same person or his agent, the sum paid or payable shall be aggregated for the purposes of subsection (1).’.



5. Section 159 of the principal enactment (as last amended by Act No. 26 of 1978) is hereby further amended in sub-section (1) of that section by the substitution, for the definition of "turnover", of the following new definition :—

"turnover", in relation to any business, means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business and includes—

(a) in the case of a bank, the receipts of such bank by way of or on account of interest, discounts, dividends, exchange, service charges, commissions, brokerage and any other income derived by such bank in the course of its business or otherwise but shall not include receipts attributable to the operation of the foreign currency banking unit of such bank.

In this paragraph "foreign currency banking unit" means a unit or department of a commercial bank authorized by the Central Bank of Ceylon to operate as a foreign currency banking unit ;

(b) in the case of a financier, money-lender or pawnbroker, the moneys given out by him as loans, the interest received or receivable by him on such loans and the sums received by him as fees or other charges in respect of such loans;

(c) in the case of an auctioneer and, subject to the provisions of paragraph (d), in the case of a broker or a commission agent—

(i) in respect of lands sold by him or in the sale of which he is instrumental, the commissions or fees received or receivable by him or for any transactions effected, or services rendered, by him in connection with such sale,

(ii) in respect of any goods sold by him or in the sale of which he is instrumental, the total amount paid or payable by the purchaser of such goods;

(d) in the case of any broker (other than a share broker or a produce broker), or commission agent, who —

(i) on behalf of a non-resident person, sells or is instrumental in selling any goods of that non-resident person, or

(ii) acts on behalf of an exporter of any goods manufactured in Sri Lanka, or

(iii) on behalf of any other person carrying on a business in Sri Lanka, is instrumental in selling in Sri Lanka any goods of that other person, being goods the total proceeds of the sale of which is included in the turnover of the business of that other person, whether or not such business is a "business" within the meaning of that expression in subsection (3) of section 120,

the commissions or fees received or receivable by such broker or commission agent in respect of any transactions effected or services rendered by him in so selling, acting, or in being instrumental in so selling, and in the

case of a share broker or a produce broker, the commissions or fees received or receivable by such broker or commission agent in respect of any transaction effected or services rendered by him ; and

- (e) in the case of a person carrying on any educational establishment or school, the total amount, excluding profits from investment of the moneys of the educational establishment or school, received or receivable by him in carrying on such educational establishment or school,

but, unless otherwise expressly stated in this Part of this Act, does not include any amount received or receivable by the sale of capital assets ;’.

### **LAND REFORM (SPECIAL PROVISIONS) ACT, No. 39 OF 1981**

(Certified on 3rd June, 1981)

AN ACT TO AMEND THE LAND REFORM LAW, No. 1 OF 1972, TO MAKE SPECIAL PROVISION IN REGARD TO CERTAIN ORDERS AND DETERMINATIONS MADE UNDER SECTIONS 13, 14 AND 19 OF THAT LAW;<sup>1</sup> AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Land Reform (Special Provisions) Act, No. 39 of 1981.

### **PART 1**

#### **AMENDMENTS TO THE LAND REFORM LAW, No. 1 OF 1972**

2. Section 3 of the Land Reform Law, No. 1 of 1972, as amended by Law No. 39 of 1975, (hereinafter in this Part of this Act referred to as the “ principal enactment ”), is hereby amended as follows :—

- (a) in subsection (4) of that section, by the addition, immediately after paragraph

(b) of that subsection, of the following new paragraph:—

“ (c) where any land is owned by a trustee under a private trust for the benefit of any other person, the private trust,”; and

- (b) by the addition, immediately after subsection (4) of that section, of the following new subsection :—

“ (5) Notwithstanding anything in the proviso to subsection (4), where any agricultural land is leased by the Republic to any person for a project approved by the Minister, as being in the interest of agricultural development, the lessee of such agricultural land shall not be deemed, for the purposes of subsection (1), to be the owner of such land.”.

3. Section 5 of the principal enactment is hereby amended as follows :—

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

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

‘ (2) Where any person becomes by reason of marriage or by way of inheritance, or both, the owner of agricultural land in excess of the ceiling on any day after the date of enactment of this subsection (in this subsection referred to as the “relevant date”) the provisions of subsection (1) shall not apply, and accordingly such person may transfer, by way of sale or otherwise, such excess within a period or two years from the relevant date. Where such person fails to transfer such excess within such period, such excess shall, at the expiration of such period,—

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

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

4. Section 12 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection :—

“(4) In calculating the period of prescription for the purpose of any action or proceeding in a civil court in respect of any such mortgage, lease, usufruct or life interest as is referred to in subsection (1) the period commencing on the date on which the agricultural land (which was subject to the mortgage, lease, usufruct or life interest) was vested in the Commission and ending on the date on which the compensation payable to the owner of such land is determined shall be excluded.”.

5. Section 14 of the principal enactment is hereby amended by the insertion, immediately after subsection (2) of that section, of the following new subsection :—

“(2A) From and after the date of enactment of this subsection, no statutory lessee shall be granted approval by the Commission under subsection (2) to transfer under subsection (1) any agricultural land in excess of one hundred and fifty acres in the aggregate :

Provided that the preceding provisions of this subsection shall not apply in respect of any agricultural land the possession of which, notwithstanding anything in this Law, has been handed over to any declarant or any member of the family of the declarant, under this section prior to the enactment of this subsection.”.

6. Section 18 of the principal enactment is hereby amended by the insertion, immediately after subsection (4) of that section, of the following new subsection :—

‘ (4A) Notwithstanding anything in subsection (4), any person who becomes by reason of marriage or by way of inheritance, or both, the owner of agricultural land in excess of the ceiling on any day after the date of enactment of this subsection (in this subsection referred to as the “relevant date”) and who has failed to transfer by way of sale or otherwise such excess within a period of two years from the relevant date shall, within one month after the expiration of such period, make a declaration as provided for in this section.’.

7. Section 22 of the principal enactment is hereby amended as follows :—

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

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

“(bb) alienation, by way of sale with the approval of the Minister, for non-agricultural purposes ;” ; and

(b) by the substitution, for paragraph (f) of that subsection, of the following paragraph :—

“(f) alienation, by way of sale to any person who—

(i) owned agricultural land on the day immediately preceding the date of commencement of this Law, or

(ii) was deemed, by reason of the operation of section 7 or section 8, to own agricultural land on the date of commencement of this Law,

and who was dispossessed of such land by reason of the fact that, such person being a person under eighteen years of age at the time of the imposition of the ceiling on agricultural land, the land owned by him was included in the extent of land deemed to be owned by the head of the family, of which such person was a member.

An alienation may be made under this paragraph notwithstanding the fact that the alienee continues to be under eighteen years of age on the date of alienation and where an alienation of agricultural land is made under this paragraph to a person under eighteen years of age, such person shall, for the purposes of ownership of such land, be deemed to be a “ person ” within the meaning of this Law.

Where land owned by a person, who was under eighteen years of age at the time of the imposition of the ceiling on agricultural land, has not, on the date of enactment of this paragraph, been alienated to any person under section 22, and no compensation has been paid under section 28 in respect of such land, the Minister may, in lieu of alienating such land under the preceding provisions of this paragraph, by Order published in the *Gazette*, vest such land in such person. Such Order shall have the effect of giving such person absolute title to such land as from the date of such Order ; and

(2) by the addition, at the end of that section, of the following new subsection :—

“(4) It shall be lawful for the Commission to alienate by way of lease under paragraph (b) or paragraph (bb) of subsection (1), agricultural land to any person in excess of fifty acres for such purposes as may be approved by the Minister.”.

8. The following new sections are hereby inserted immediately after section 27, and shall have effect as sections 27A and 27B, of the principal enactment :—

“Minister may by Order vest in State Corporation agricultural or estate land vested in the Commission.

27A. (1) At the request of the Commission, the Minister may, where he considers it necessary in the interest of the Commission to do so, subject to sections 22, 23 and 42H, by Order published in the *Gazette*, vest, in any State Corporation specified in the Order, with effect from a date specified in that Order, any agricultural land or estate land or any portion of the land vested in the Commission under this Law, and described in the Order, subject to such terms and conditions relating to consideration for the vesting of that land in such Corporation as may be agreed upon between the Commission and such Corporation.

(2) An Order under subsection (1) shall have the effect of vesting in such State Corporation specified in the Order such right, title and interest to the agricultural land or estate land or portion thereof described in that Order as was held by the Commission on the day immediately preceding the date on which the Order takes effect.

(3) Where any agricultural land or estate land or any portion thereof is vested in a State Corporation by an Order made under subsection (1) all the rights and liabilities of the Commission under any contract or agreement, express or implied, which relate to such agricultural land or estate land or portion thereof, and which subsist on the day immediately prior to the date of such vesting, shall become the rights and liabilities of such State Corporation.

(4) Where any term or condition relating to consideration for the vesting of any agricultural land or estate land or portion thereof in any such State Corporation by an Order under subsection (1) is not complied with, the Minister may by Order published in the *Gazette*, revoke the the Order under subsection (1) relating to that land and thereupon that land shall revest in the Commission.

Revival of certain encumbrances.

27B. (1) Where any agricultural land is transferred to any person in consequence of an order under section 14 or is alienated, or vested in, any person under paragraph (f) of section 22 or where any person is allowed to retain any agricultural land in consequence of a determination made under section 19, such order, alienation, vesting or determination, as the case may be, shall have the effect of reviving, with effect from the date of such order, alienation, vesting or determination, as the case may be, any encumbrance which subsisted over that land on the day immediately preceding the date on which that land was vested in the Commission.

(2) In calculating the period of prescription for the purposes of any action or proceeding in a civil court in respect of any such encumbrance as is referred to in subsection (1), the period during which the agricultural land, which was subject to that encumbrance, was vested in the Commission shall be excluded.”

9. Section 28 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsections :—

‘(3) (a) Where on the date of enactment of this subsection, no compensation has been paid in respect of any agricultural land vested in the Commission prior to that date, the compensation payable in respect of such agricultural land shall, notwithstanding anything in subsections (1) and (2), be computed on either of the following basis, according to the election of the person who was the owner of that agricultural land on the day immediately preceding the date on which the land was vested in the Commission :—

- (i) an amount not exceeding fifteen times the average annual profits of such agricultural land, if such land is not paddy land and ten times such average annual profit if such land is paddy land, for the accounting year immediately prior to May 29, 1971, and the four accounting years immediately preceding the first-mentioned accounting year; or
- (ii) (A) in the case of agricultural land planted with tea, rubber or coconut, a sum calculated on the basis of the average annual yield per acre from the acreage in production of such agricultural land for the three accounting years immediately preceding the date on which such agricultural land vested in the Commission, so however, that where the average annual yield per acre of such agricultural land is equal to an amount specified in Column I hereto, the sum payable in respect of each acre of such agricultural land shall be equal to the sum specified in the corresponding entry in Column II hereto.

	<i>Column I</i>			<i>Column II</i>	
	Average annual yield per acre			Amount of compensation per acre	
				Rs.	
<i>Tea</i>					
	Over 1,500 lbs.	..	..	..	2,500
	Over 1,000 lbs. but not exceeding 1,500 lbs.	..	..	..	2,000
	Over 750 lbs. but not exceeding 1,000 lbs	..	..	..	1,500
	750 lbs. and under	..	..	..	1,000
<i>Rubber</i>					
	Over 1,000 lbs.	..	..	..	2,500
	Over 750 lbs. but not exceeding 1,000 lbs.	..	..	..	2,000
	Over 500 lbs. but not exceeding 750 lbs.	..	..	..	1,500
	500 lbs. and under	..	..	..	1,000
<i>Coconut</i>					
	Over 3,000 nuts	..	..	..	2,500
	Over 2,000 nuts but not exceeding 3,000 nuts	..	..	..	2,000
	2,000 nuts and under	..	..	..	1,500; or

- (B) in the case of agricultural land planted with cocoa, cinnamon, pepper, paddy or any other agricultural product, a sum calculated at the rate of Rs. 2,000 for each acre of such agricultural land in production.

(b) There shall be deducted from any amount computed in accordance with subparagraph (i) of paragraph (a) as the compensation payable in respect of any agricultural land, every sum paid as subsidy for replanting, factory modernization, tea chests and fertilizer by the Government or any State Corporation in respect of that agricultural land during the five accounting years immediately prior to May 29, 1971.

In this subsection "annual profits" in relation to any agricultural land for an accounting year means the aggregate of—

- (i) the profits and income, within the meaning of the Inland Revenue Act, No. 4 of 1963, from such land for that year as assessed by an Assessor or as agreed to with an Assessor by the former owner or where not so assessed or agreed to, as declared to the Assessor by such former owner; and
- (ii) any sum claimed as a deduction for the purposes of ascertaining the profits and income, within the meaning of the Inland Revenue Act, No. 4, 1963, of the former owner for that year, under paragraph (a) or paragraph (h) or paragraph (i) of section 10 or section 53 or section 53A of that Act.

(c) Where any person is entitled to compensation computed in accordance with the provisions of subparagraph (i) of paragraph (a) in respect of any agricultural land, and such agricultural land has, within the seven years immediately preceding the date on which such land vested in the Commission, been planted or replanted with any agricultural crop specified in Column I hereto, such person shall be entitled, in addition to the compensation so computed, to the payment of a sum equal to the sum specified in the corresponding entry in Column II hereto for each acre of agricultural land so planted or replanted,

<i>Column I</i>		<i>Column II</i>	
			<i>Rs.</i>
Tea	..	..	3,000
Rubber	..	..	2,500
Coconut	..	..	2,500
Paddy	..	..	2,500
Cocoa	..	..	2,000
Cinnamon	..	..	2,000
Any other agricultural crop	..	..	2,000

(4) Notwithstanding anything in subsections (1), (2) and (3) the compensation payable in respect of any agricultural land vested in the Commission after the date of enactment of this subsection shall be an amount equal to the price which in the opinion of the Chief Valuer that land would have fetched if sold in the open market on March 31, 1977, increased by an amount equal to the cost of improvements, if any, made to such land after March 31, 1977.

(5) Notwithstanding any other provision in this Law the Commission may pay to any person entitled to compensation in respect of any agricultural land vested in the Commission under this Law, such amount and in such manner or mode as the Minister may in consultation with the Minister in charge of the subject of Finance direct the Commission to pay, pursuant to any agreement or negotiated settlement reached between the Commission and such person, in respect of the amount of compensation for such agricultural land vested and the manner and mode of payment thereof.

10. The following new section is hereby inserted immediately after section 28, and shall have effect as section 28A, of the principal enactment:—

“Provision relating to the waiver or refund of certain taxes.

28A. (1) Where any person who has been paid any compensation under this Law in respect of any agricultural land vested in the Commission is noticed to pay any income tax, wealth tax or gifts tax for any year of assessment under the Inland Revenue Act, No. 4 of 1963, or any capital levy under the Capital Levy Act, No. 51 of 1971, or any estate duty under the Estate Duty Ordinance on profits or value, as the case may be, of such land which exceeds the profits or value, as the case may be, on which the compensation payable in respect of such land was computed, such person shall be entitled to have the assessment in respect of such tax, levy or duty, as the case may be, revised and to have such part of such tax, levy or duty as is attributable to such excess waived.

(2) Where any person who has been paid any compensation under this Law in respect of any agricultural land vested in the Commission, has paid any income tax, wealth tax or gifts tax for any year of assessment under the Inland Revenue Act, No. 4 of 1963, or any capital levy under the Capital Levy Act, No. 51 of 1971, or any estate duty under the Estate Duty Ordinance on the profits or value, as the case may be, of such land which exceeds the profits or value as the case may be, on which the compensation payable in respect of such land was computed, such person shall be entitled to have such part of such tax, levy, or duty as is attributed to such excess refunded to him.

(3) A revision of an assessment under subsection (1) or a refund under subsection (2) shall be made only on a claim made by the person on whom the assessment is made or who has paid the tax, levy or duty, as the case may be, by notice in writing addressed to the Commissioner-General of Inland Revenue, within one year of the date of payment of compensation to such person under section 28 or within one year of the date of enactment of this section, whichever is the later date.

(4) Where a claim is made under this section for the revision of any assessment of income tax, wealth tax, gifts tax, capital levy or estate duty or for the refund of any such tax, levy or duty, such assessment may be revised and such refund made notwithstanding anything to the contrary in any other law.”.

11. Section 32 of the principal enactment is hereby amended in subsection (2) of that section, by the addition, at the end of that subsection, of the following :—

“Provided however, that where any such claimant supports his claim to the compensation by a final decree of a competent court or by such evidence as the Commission may consider sufficient, the Chairman of the Commission may cause the compensation to be apportioned and paid according to the terms of that decree



or the evidence adduced, notwithstanding the fact that the former owner does not agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them.”.

12. Section 35 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“Compensation  
and interest  
payable.

35. The compensation payable in respect of any agricultural land vested in the Commission under this Law shall be considered as accruing due from the date on which possession of that land was taken by the Commission after it was vested in the Commission and interest at the rate of ten *per centum* per annum shall be payable on the amount of such compensation from the date it accrues due to the date of payment.”.

13. Section 42 of the principal enactment is hereby amended in paragraph (a) of that section by the substitution for the words, “seven *per centum* per annum., of the words “ ten *per centum* per annum from the date on which such land was vested to the date of payment.”.

14. Section 42J of the principal enactment is hereby amended as follows :

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

‘ (2A) (a) Where on the date of enactment of this subsection, no compensation has been paid in respect of any estate land vested in the Commission under this Part of this Law, the compensation payable in respect of such estate land shall, notwithstanding anything in the preceding provisions of this section, be computed on either of the following basis, according to the election of the person in possession of the estate land on the date immediately preceding the date on which such estate land vested in the Commission—

- (i) a sum equal to fifteen times the average annual profits from such estate land for the five accounting years immediately preceding the date on which such estate land vested in the Commission ; or
- (ii) (A) in the case of estate land planted with tea, rubber or coconut, a sum calculated on the basis of the average annual yield per acre of such estate land for the three accounting years immediately proceeding the date on which such estate land vested in the Commission, so however, that where the average annual yield per acre of such estate land is equal to an amount specified in Column I hereto, the sum payable in respect of each acre of such estate land shall be equal to the sum specified in the corresponding entry in Column II hereto.

	Column I Average annual yield per acre	Column II Amount of Compensation per acre Rs.
<i>Tea</i>		
Over 1,500 lbs. .. ..	..	2,500
Over 1,000 lbs. but not exceeding 1,500 lbs. ..	..	2,000
Over 750 lbs. but not exceeding 1,000 lbs. ..	..	1,500
750 lbs. and under .. ..	..	1,000
<i>Rubber</i>		
Over 1,000 lbs. .. ..	..	2,500
Over 750 lbs. but not exceeding 1,000 lbs. ..	..	2,000
Over 500 lbs. but not exceeding 750 lbs. ..	..	1,500
500 lbs. and under .. ..	..	1,000
<i>Coconut</i>		
Over 3,000 nuts .. ..	..	2,500
Over 2,000 nuts but not exceeding 3,000 nuts ..	..	2,000
2,000 nuts and under .. ..	..	1,500; or

(B) in the case of estate land planted with cocoa, cinnamon, pepper, paddy or any other agricultural product, a sum calculated at the rate of Rs. 2,000 for each acre of such estate land in production.

(b) Where any person is entitled to compensation computed in accordance with sub-paragraph (i) of paragraph (a) of this subsection in respect of any estate land, and such estate land has, within the seven years immediately preceding the date on which such land vested in the Commission, been planted or replanted with any agricultural crop specified in Column I hereto, such person shall be entitled, in addition to the compensation so computed, to the payment of a sum equal to the sum specified in the corresponding entry in Column II hereto for each acre of estate land so planted or replanted.

Column I	Column II
Tea ..	Rs. 3,000
Rubber ..	Rs. 2,500
Coconut ..	Rs. 2,500
Paddy ..	Rs. 2,000
Cocoa ..	Rs. 2,000
Cinnamon ..	Rs. 2,000

In this subsection "annual profits" in relation to an estate land for an accounting year means the aggregate of—

- (i) the profits and income, within the meaning of the Inland Revenue Act, No. 4 of 1963, from such estate land for that year as assessed by an Assessor or as agreed to with an Assessor by the person who was the owner of such estate land on the day immediately preceding the date on which such estate land vested in the Commission (in this definition referred to as "the former owner") or where not assessed or agreed to, as declared to the Assessor in respect of that year by such former owner ; and

(ii) any sum deducted under—

(a) paragraph (a) or paragraph (h) of paragraph (i) of subsection (1) of section 10; or

(b) section 53 ; or

(c) section 53A,

of the Inland Revenue Act, No. 4 of 1963, for the purposes of ascertaining the profits and income, within the meaning of that Act, of the former owner from that estate land for that year.

(c) There shall be deducted from any amount computed in accordance with sub-paragraph (i) of paragraph (a) as the compensation payable in respect of any estate land, every sum paid as subsidy for replanting, factory modernization, tea chests and fertilizer by the Government or any State Corporation in respect of that estate land during the five accounting years immediately preceding the date on which such estate land vested in the Government.

No amount computed in accordance with subparagraph (i) of paragraph (a) as the compensation payable in respect of any estate land shall exceed two thousand five hundred rupees for each acre of such estate land.

(2B) Where on the date of enactment of this subsection, no compensation has been paid in respect of any estate land vested in the Commission under this Part of this Law and on the date of vesting there were nett current assets on such estate lands which were taken over by the Commission, the compensation payable under subsection (2A) shall be increased by an amount equal to the book value of such nett current assets.

In this section “ nett current assets ” shall mean stock in trade, unsold produce, cash, fixed deposits, debts due and any other receivables.

(2C) Nothing in subsections (2A) and (2B) shall apply to the computation of the amount of compensation payable to any company incorporated in the United Kingdom which has not entered into any agreement or negotiated settlement at the date of enactment of this subsection in respect of the amount of compensation payable in respect of such estate land, and compensation in respect of such estate land shall be payable in terms of subsection (2).

(2D) (1) Where any public company receives any amount as compensation computed in accordance with the provisions of subsection (2) or subsection(2A) or subsection (2B) it shall be the duty of such company, notwithstanding anything in the companies Ordinance, or any other law, to distribute such compensation, after meeting its liabilities as allowed by the Commission, to the share holders of such company within six months from the date of receipt of the compensation or where such compensation is received in instalments, within six months from the receipt of each instalment.

(2) Where the share capital of any such company as is referred to in subsection (1) is divided into different classes of shares the distribution of the compensation shall be in accordance with the rights attached to each class of shares.

(2e) Where a public company which has distributed, in accordance with the provisions of subsection (2d), any amount received by it as compensation resolves that it is not possible in consequence of such distribution, to carry on business, it may apply to the Registrar of Companies to have its name struck off the register of companies.

The Registrar on being satisfied that—

- (a) all the liabilities of such company have been paid,
- (b) the compensation received by the company has been distributed in accordance with subsection (2d), and
- (c) it is not possible for the company to carry on business,

shall, notwithstanding any provision in the Companies Ordinance relating to the winding up or dissolution of companies, strike off the name of that Company from that register; and

- (b) by the repeal of subsection (4) of that section and the substitution therefor of the following subsection :—

“(4) The compensation payable, less any deductions that may be made from such compensation under this Part of this Law, shall carry interest, at the rate of ten *per centum* per annum, as from the date on which possession of the estate land in respect to which compensation is payable was taken by the Commission until payment.”.

15. Section 66 of the principal enactment is hereby amended in the definition of the expression “ person”, by the insertion, immediately after paragraph (b) thereof, of the following new paragraph :—

“(bb) a private trust ; or ”.

16. The amendments made to the principal enactment by section 2(a), 12 and 15 of this Act shall be deemed for all purposes to have come into operation on the date of commencement of the principal enactment.

## PART II

### SPECIAL PROVISIONS RELATING TO CERTAIN ORDERS AND DETERMINATIONS MADE UNDER THE LAND REFORM LAW

17. (1) Where prior to the date of commencement of this Act, the Commission has made an order under subsection (2) of section 13 of the Land Reform Law declaring an alienation of agricultural land to be null and void without affording the alienor and alienee an opportunity of being heard, such order shall be deemed not to have been, or to be, invalid by reason only of the fact that such opportunity was not afforded if—

- (a) any compensation has been paid under section 28 of the Land Reform Law in respect of such land ; or
- (b) such land has been alienated to any person under section 22 of that Law, prior to the date of commencement of this Act.

(2) Where prior to the date of commencement of this Act, the Minister has made an order under subsection (3) of section 13 of the Land Reform Law declaring an alienation of agricultural land to be null and void without affording the alienor and alienee an opportunity of being heard, such order shall be deemed not to have been or to be, invalid by reason only of the fact that such opportunity was not afforded if—

(a) any compensation has been paid under section 28 of the Land Reform Law in respect of such land; or

(b) such land has been alienated to any person under section 22 of that Law, prior to the date of commencement of this Act.

(3) Where prior to the date of commencement of this Act, the Commission has made an order under subsection (2) of section 13 of the Land Reform Law declaring an alienation of agricultural land to be null and void without affording the alienor and alienee and opportunity of being heard, and if on the date of commencement of this act—

(a) no compensation has been paid under section 28 of the Land Reform Law in respect of that land; and

(b) that land has not been alienated to any person under section 22 of that Law, such order shall be deemed to have been, and to be, null and void.

(4) Where prior to the date of commencement of this Act, the Minister has made an order under subsection (3) of section 13 of the Land Reform Law declaring an alienation of agricultural land to be null and void without affording the alienor and alienee and opportunity of being heard and if on the date of commencement of this Act—

(a) no compensation has been paid under section 28 of that Law in respect of that land ; and

(b) that land has not been alienated to any person under section 22 of that Law, such order shall be deemed to have been, and to be, null and void.

(5) Where by reason of the operation of the provisions of subsection (3) or subsection (4), an order, as the case may be, of the Commission or of the Minister declaring an alienation of agricultural land to be null and void is deemed under this Part to be null and void, the alienor or alienee shall, within three months of the date of commencement of this Act, report such alienation to the Commission.

(6) Where, upon a report made to it under subsection (5), the Commission finds, after affording the alienor and alienee an opportunity of being heard, that the alienation referred to in such report has been calculated to defeat the purposes of the Land Reform Law the Commission may, by order under its hand, declare such alienation to be null and void. Every such order shall be sent by registered post to the alienor and alienee to whom that order relates.

(7) The provisions of subsections (3), (4), (5) and (6) of section 13 of the Land Reform Law shall, *mutatis mutandis*, apply to every order made by the Commission under subsection (6) of this section.

(8) A failure to comply with the provisions of subsection (5) shall be deemed to be a failure to comply with a provision of the Land Reform Law, and shall be punishable accordingly.

18. (1) Any person who was entitled, on the date of commencement of the Land Reform Law, to make an application under section 14 of that Law but has failed to do so within the time specified in subsection (1) of that section may, within three months of the date of commencement of this Act and notwithstanding—

(a) the fact that such person is, at the date of commencement of this Act, not the statutory lessee of the agricultural land of which he was the owner on the day immediately preceding the date of commencement of the Land Reform Law (in this subsection referred to as “the relevant date”), and

(b) anything in the aforesaid section 14,

make an application to the Commission under subsection (1) of that section for the transfer, by way of sale, gift or otherwise of the entirety of a portion of such land to any child of such person who was eighteen years or over on the relevant date or to the parent of such person, as if such person were, on the date of commencement of this Act, the statutory lessee of such land.

(2) The Commission may, upon receipt of an application as aforesaid, make an order under subsection (2) of section 14 of the Land Reform Law granting approval for such transfer, if and only if—

(a) no compensation has been paid under section 28 of the Land Reform Law in respect of the land specified in the application; and

(b) that land has not been alienated to any person under section 22 of that Law, on the date of commencement of this Act.

(3) Where prior to the date of commencement of this Act, the Commission has made an order under subsection (2) of section 14 refusing to grant approval for the transfer of any agricultural land and the person applying to make such transfer has failed to appeal to the Minister against such order within the period specified in that subsection such person may, within three months of the date of commencement of this Act and notwithstanding anything in that section, appeal to the Minister against such order.

(4) Where prior to the date of commencement of this Act, a person has appealed to the Minister under subsection (2) of section 14 of the Land Reform Law against an order made by the Commission under that subsection and the Minister has rejected such appeal, such person may, within three months of the date of commencement of this Act and notwithstanding anything in that aforesaid section 14, make a further appeal to the Minister against such order.

(5) The Minister may, on an appeal made to him under subsection (3) or subsection (4) and notwithstanding anything in section 14 of the Land Reform Law, amend, vary or modify the order against which the appeal is made, if and only if—

(a) no compensation has been paid under section 28 of the Land Reform Law in respect of the land which is referred to in the appeal; and

(b) that land has not been alienated to any person, under section 22 of that Law, on the date of commencement of this Act, and if the Minister considers that such amendment, variation or modification is just and equitable in all the circumstances of the case.

(6) Where—

(a) an order is made by the Commission under section 14 of the Land Reform Law in pursuance of an application made under subsection (1) of that section read with subsection (1) of this section ; or

(b) an order made by the Commission under section 14 of that Law is varied, modified or amended by the Minister under subsection (5) of this section,

and the effect of such order, or such order as varied, modified or amended is to grant approval for the transfer by any person (in this subsection referred to as “transferor”) of any agricultural land to a child or parent of the transferor (in this subsection referred to as “the transferee”) and such land is on the date of such order or the date on which such order is so varied, modified or amended, vested in the Commission, the Commission shall forthwith transfer such land to the transferee.

(7) Subsections (3) and (4) of section 14 of the Land Reform Law shall, *mutatis mutandis*, apply to every order made by the Commission under section 14 of that Law—

(a) in pursuance of an application made under that section read with subsection (1) of this section; or

(b) as varied, modified or amended by the Minister under subsection (5) of this section.

19. (1) Any person dissatisfied with a determination made by the Commission, prior to the commencement of this Act, under section 19 of the Land Reform Law specifying the portion or portions of agricultural land which such person shall be allowed to retain may, within three months of the date of commencement of this Act and notwithstanding anything in the aforesaid section 19, appeal to the Commission against such determination.

(2) Where the Commission is satisfied, on an appeal made to it under subsection (1).—

(a) that the appellant has been discriminated against as regards the extent of the portion or portions of agricultural land which he has been allowed to retain by the determination made in respect of him under section 19 of the Land Reform Law ; or

(b) that in making such determination, the Commission has not taken into consideration the preferences expressed by the appellant in the declaration made by him under section 18 of that Law,

the Commission may, notwithstanding anything in the aforesaid section 19, cancel the determination made in respect of the appellant under section 19 and make a fresh determination in respect of him under that section, if and only if,—

- (a) no compensation has been paid under section 28 of the Land Reform Law in respect of the entirety of the agricultural land specified as owned by the appellant in the declaration made by him under section 18 of the Land Reform Law (excluding such part of such land as is specified in the determination made in respect of him under section 19) ; and
- (b) the entirety of such land (excluding such part of such land as is specified in the determination made in respect of him under section 19) has not been alienated to any person under section 22 of that Law,

on the date of commencement of this Act.

(3) Where the Commission cancels, under subsection (2), a determination made under section 19 of the Land Reform Law, such cancellation shall be published in the *Gazette*, shall come into effect on the date of such publication and shall have the effect of re-vesting in the Commission as from the date of such publication, the right, title and interest in the agricultural land specified in such determination.

(4) Where the Commission cancels a determination made by it under section 19 of the Land Reform Law and makes a fresh determination under that section, such determination shall specify the portion or portions of the agricultural land specified as owned by the applicant in the declaration made by him under section 18 of that Law which he shall be allowed to retain, so however, that the portion or portions so specified shall be from such part of that land as has not been alienated, on the date of commencement of this Act, to any person under section 22 of that Law, or in respect of which no compensation has been paid under section 28 of that Law. A determination may be made as aforesaid notwithstanding the fact that such person is not, on the date of the determination, the statutory lessee of such land and the provisions of sections 19 (1) (b), 19 (2), 20 and 21 of the Land Reform Law shall, *mutatis mutandis*, apply to every such determination.

(5) Notwithstanding anything in this Act or in any other law, it shall not be lawful for any person who becomes in consequence of an order or determination made under section 14 or section 19 or section 22 of the Land Reform Law, the owner of any agricultural land over twenty-five acres in extent, to sell otherwise than under the provisions of the Tea and Rubber Estates (Control of Fragmentation) Act, No. 2 of 1958, or the Estates (Control of Transfer and Acquisition) Act, No. 2 of 1972, such land in a manner that may result in the fragmentation of such land.

20. Where, prior to the date of commencement of this Act, any steps have been taken by the Commission under paragraph (f) of subsection (1) of section 22 of the Land Reform Law (repealed by this Act) to alienate any agricultural land to any person under the provisions of that paragraph, then, notwithstanding the repeal of that paragraph by this Act an alienation by way of sale to such person may be made as though such paragraph were in force.



21. (1) Where lands have been acquired under the Land Acquisition Act on or after May 29, 1971 and no compensation has been paid in respect of such lands, on the date of commencement of this Act notwithstanding anything in this Act or any other law, such lands shall be deemed to have been vested in the Commission under the Land Reform Law and accordingly, the owners of such lands shall be entitled to the rights of a statutory lessee under section 14 and section 18 of that law and may, within three months of the date of commencement of this Act, make a statutory declaration to the Commission.

(2) Where it is not practicable for the Commission to make a statutory determination under section 19 of the Land Reform Law in respect of any land vested in the Commission by virtue of subsection (1), specifying the portion or portions of the agricultural land owned by the statutory lessee which he shall be allowed to retain, the Commission shall alienate to such statutory lessee, the maximum extent of agricultural land which may be owned by any person under the Land Reform Law or the extent of the land acquired from such statutory lessee under the Land Acquisition Act, whichever is less.

(3) Where it is not practicable for the Commission to grant approval for the transfer by the statutory lessee of any agricultural land under subsection (2) of section 14 of the Land Reform Law, the Commission shall alienate land to the extent of the land acquired from such statutory lessee under the Land Acquisition Act, to any child or to a parent of such statutory lessee.

(4) Where no compensation has been paid for the lands acquired under the Land Acquisition Act deemed to be vested in the Commission under subsection (1) and where no determination is made under subsection (2) or where no approval is granted under subsection (3), the statutory lessee shall be entitled to receive compensation for such lands under this Act.

22. In this Part of this Act—

“the Commission” means the Land Reform Commission established by the Land Reform Law; and

“Land Reform Law” means the Land Reform Law, No. 1 of 1972, as amended by Law No. 39 of 1975.

### **INLAND REVENUE (AMENDMENT) ACT, No. 40 OF 1981**

(Certified on 10th June, 1981)

#### **AN ACT TO AMEND THE INLAND REVENUE ACT, No. 28 OF 1979**

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 40 of 1981.
2. Section 8 of the Inland Revenue Act, No. 28 of 1979, (hereinafter referred to as the “principal enactment”) as amended by Act No. 24 of 1980, is hereby further amended as follows :—

(1) in paragraph (a) of that section—

- (a) by the substitution in sub-paragraph (xxxi) of that paragraph, for the words and figures “Ayurveda Act, No. 31 of 1961; and”, of the words and figures “Ayurveda Act, No. 31 of 1961;” ; and

(b) by the insertion, immediately after sub-paragraph (xxxii) of that paragraph, of the following new sub-paragraphs :—

“(xxxiii) the Ceylon College of Physicians established by the Ceylon College of Physicians (Incorporation) Act, No. 9 of 1971 ; and

(xxxiv) the Institute of Engineers, Ceylon incorporated by the Institute of Engineers, Ceylon, Act, No. 17 of 1968 ;” ; and

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

“(e) the profits and income of any undertaking for operating yachts and pleasure craft registered with the Director of Merchant Shipping if such undertaking is—

(i) carried on by individuals who are not citizens of Sri Lanka or by a company the shares of which are owned entirely by individuals who are not citizens of Sri Lanka or by non-resident companies ; and

(ii) approved by the Minister.”.

3. Section 9 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended by the substitution, in paragraph (i) of subsection (1) of that section, for the words “ to come to Sri Lanka to assume duties,” of the words “to come to Sri Lanka to assume duties or to visit his home abroad,”.

4. Section 11 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended as follows :—

(i) in paragraph (b) of that section, by the substitution for the words and figures “under sections 15, 16, 16A, 16B, 17, 18, 19, 20, 21, 22A, 22B and 22C of this Act”, of the words and figures “under section 15, 16, 16A, 16B, 17, 18, 19, 20, 21, 22A, 22B, 22C or 22D of this Act ” ; and

(ii) in paragraph (c) of that section, by the substitution for the expression “referred to in paragraph (b),”, of the expression “ referred to in paragraph (a) or (b),”.

5. Section 12 of the principal enactment is hereby amended as follows :—

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

(a) by the substitution in sub-paragraph (iii) of paragraph (b) of that subsection, for the words “ not exceeding two thousand square feet :”, of the words “ not exceeding three thousand square feet : ” ; and

(b) by the substitution in the proviso to paragraph (b) of that subsection, for the words “one thousand square feet or less, ”, of the words “one thousand and five hundred square feet or less,” ; and

(2) in subsection (2) of that section—

(b) by the substitution in paragraph (a) of that subsection, for the words “specified in the certificate ;”, of the words “specified in the certificate ; and”;

(b) by the substitution in paragraph (b) of that subsection for the words “a co-owner ; and”, of the words “a co-owner.” ; and

(c) by the omission of paragraph (c) of that subsection.

6. Section 15 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended as follows:—

(1) in paragraph (p) thereof—

(a) by the substitution for sub-paragraph (ii) thereof of the following sub-paragraph :—

“ (ii) any petroleum, gas or petroleum product, or ” ; and

(b) by the substitution for all the words “being stones, metals or products,”, to the end of that paragraph, of the following words :—

“being stones, metals, petroleum, gas or products, as the case may be, brought to Sri Lanka on a consignment basis, and re-exported, without subjecting such stones, metals, petroleum, gas or products, as the case may be, to any process or manufacture ;” and

(2) by the insertion, immediately after paragraph (r) thereof, of the following new paragraph :—

“(s) the profits and income arising to any person from an undertaking approved by the Minister for the operation and maintenance of facilities for the storage of goods or commodities brought into in Sri Lanka for re-export.”.

7. Section 17 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “ending on March 31, 1983.”, of the words and figures “ending on March 31, 1985.”.

8. Section 20 of the principal enactment is hereby amended as follows :—

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

“(1A) There shall be exempt from income tax for each of the five years immediately succeeding the relevant date, so much of the profits and income of an undertaking as consists of the excess of the export profits and income of that undertaking for that year over the average of its export profits and income for the three years preceding the relevant date if—

- (a) such undertaking commenced to carry on its trade or business on a day prior to April 1, 1972, and is approved by the Minister under section 7A of the Inland Revenue Act, No. 4 of 1963 prior to April 1, 1982 ; and
- (b) no part of the export turnover of the undertaking arose in consequence of the amalgamation of the whole or a part of the trade or business of that undertaking.” ;
- (2) by the relettering of paragraph (c) of subsection (2) of that section as paragraph (d) ; and
- (3) by the insertion, immediately after paragraph (b) of subsection (2) of that section of the following new paragraph :—
  - “(c) “relevant date ” when used in relation to any company or undertaking, means such date not earlier than April 1, 1965 and not later than April 1, 1974, as is selected by that company or the person carrying on that undertaking or, in the case of a partnership, by the precedent partner of that partnership and as is notified to the Commissioner-General in writing ;.

9. The following new section is hereby inserted immediately after section 22C, and shall have effect as section 22D, of the principal enactment :—

“Exemption from income tax of profits and income of undertakings engaged in cultivating land with certain plants.

22D. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company referred to in subsection (2) shall be exempt from income tax for a period of ten years calculated from the date on which such company commences commercial production.

(2) The provisions of subsection (1) shall apply to any company which—

(a) is engaged solely—

- (i) in cultivating land with any plant of whatever description other than tea, rubber, coconut or paddy ; or
- (ii) in cultivating land with any plant of whatever description other than tea, rubber, coconut or paddy and processing the product of such cultivation ; and

(b) is a quoted public company—

- (i) incorporated on or after January 1, 1981 ; and
- (ii) the paid-up equity capital of which is not less than one hundred million rupees ; and
- (iii) approved by the Minister.”.

10. Section 23 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (1) of that section as follows :—

- (1) by the substitution in sub-paragraph (ii) of paragraph (b) of that subsection for the words and figures “ in paragraph (a) of section 16”, of the words and figures “ in paragraph (a) of section 16 or section 16A or section 16B ” ;
- (2) by the substitution in sub-paragraph (1) (a) of paragraph (d) of that subsection, for the words and figures “ referred to in section 16 ”, of the words and figures “referred to in section 16 or section 16A or section 16B” ;
- (3) by the substitution in sub-paragraph (ii) of paragraph (n) of that subsection, for the words “ of employment or *vice versa* ; and ”, of the words “of employment or *vice versa* ; ” ;
- (4) by the substitution in paragraph (o) of that subsection, for the words “ formation of that company.”, of the words “ formation of that company ; and ” ; and
- (5) by the insertion, immediately after paragraph (o) of that subsection, of the following new paragraph :—

“ (p) the expenditure incurred by such person in operating a motor coach used for transporting employees of such person to, and from their place work.”.

**11.** Section 29 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (6) of that section, as follows :—

- (1) by the substitution in paragraph (b) that subsection, for all the words “his share of the capital of such business or company”, to the end of that paragraph, of the following :—

“his share of the capital of such business or company at the time when such share was acquired by him ; and

(iv) includes the amount of any debt (other than a trade debt) which is proved to be due by documentary evidence and which is proved to be irrecoverable.”; and

- (2) by the insertion, immediately after sub-paragraph (ii) of paragraph (d) of that subsection, of the following new sub-paragraphs :—

“(iii) Where a company is liquidated and such company has any capital loss for the last year of assessment for which it was liable to be assessed for income tax, the amount of such capital loss shall, as far as practicable, be deducted from the statutory income from all sources of such company for such last year of assessment, and, if it cannot be so deducted, from the statutory income from all sources of such company for any of the three years of assessment in order of recession immediately preceding such last year of assessment.

(iv) Where a deduction is made from the statutory income of any company for any year of assessment under paragraph (iii), the tax for that year of assessment in respect of such company shall, notwithstanding the provisions of section 123, be revised, taking into consideration such deduction, and the

difference between the amount of the tax paid by such company in respect of that year of assessment and the amount of the revised tax for that year of assessment shall be refunded.”.

12. Section 31 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (2) of that section as follows :—

(1) by the insertion, immediately after sub-paragraph (iv) of paragraph (k) of that subsection, of the following new sub-paragraph :—

“(v) the S. W. R. D. Bandaranaike National Memorial Foundation established by the S. W. R. D. Bandaranaike National Memorial Foundation Law, No. 2 of 1975 ; ” ; and

(2) by the substitution in paragraph (m) of that subsection, for the words and figures “ approved under section 16A or section 22B,” of the words and figures “ approved under section 16A or section 22B or section 22D,”.

13. Section 32 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in paragraph (c) of subsection (1) of that section, by the substitution for the words “Third Schedule to this Act.”, of the following :—

“ Third Schedule to this Act :

Provided that the incometax payable for any year of assessment by an individual who is deemed to be non-resident under subsection (7) of section 67 shall not be more than the amount by which his assessable income exceeds twelve thousand rupees. ”.

14. (1) Section 33 of the principal enactment, as amended by Act, No. 24 of 1980, is hereby further amended as follows :—

(a) in subsection (1A) of that section, by the substitution in sub-paragraph (i) of paragraph (a) of that subsection for the words and figures “ specified in Part IV” of the words and figures “ specified in Part II ”; and

(b) by the insertion, immediately after subsection (1A) of that section, of the following new subsection :—

‘ (1B) (a) Where for any year of assessment commencing on or after April 1, 1979, the taxable income of any company, other than a small company, includes any capital gain, the tax payable on such part of the taxable income shall be at the rate of twenty-five *per centum* notwithstanding anything to the contrary in this Act.

(b) Where for any year of assessment commencing on or after April 1 1979, the taxable income of a small company includes any capital gain, and the rate of income tax payable on a part of such income (hereafter in this subsection referred to as the “ relevant part of the income ”) exceeds twenty-five *per centum*, then, in regard to the relevant part of the income, tax shall be computed as follows :—

(i) if the relevant part of the income exceeds the amount of such capital gain—

(aa) the tax payable on such portion of the relevant part of the income as is equal to the amount of such capital gain shall be at the rate of twenty-five *per centum* ; and

(bb) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of tax above twenty-five *per centum* as are applicable thereto under this Act ;

(ii) if the relevant part of the income does not exceed the amount of the net capital gain, the tax payable on the entirety of the relevant part of the income shall be twenty-five *per centum* notwithstanding anything to the contrary in this Act.’.

(2) The amendment made to subsection (1A) of section 33 of the principal enactment by paragraph (a) of subsection (1) of this section shall be deemed to have come into force from the year of assessment commencing on or after April 1, 1980.

15. Section 42 of the principal enactment is hereby amended as follows :—

(1) by the relettering of paragraphs (t) and (u) of that section, as paragraphs (w) and (x) respectively ; and

(2) by the insertion, immediately after paragraph (s) of that section, of the following paragraphs :—

“(t) the Sri Lanka Foundation established by the Sri Lanka Foundation Law, No. 31 of 1973;

(u) the S.W.R.D. Bandaranaike National Memorial Foundation established by the S. W. R. D. Bandaranaike National Memorial Foundation Law, No. 2 of 1975 ;

(v) the Tower Hall Theater Foundation established by the Tower Hall Theatre Foundation Act, No. 1 of 1978 ;”.

16. Section 54 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended in subsection (2) of that section by the substitution for the words and figures “ Inland Revenue Act, No. 4 of 1963,” of the words and figures “ Inland Revenue Act, No. 4 of 1963, or to any Institute, Foundation or Commission referred to in paragraph (k) of subsection (2) of section 31.”.

17. Section 68 of the principal enactment is hereby renumbered as section 68A thereof.

18. The following new section is hereby inserted immediately after the heading “ E—Liability of Non-Resident Persons ”, and shall have effect as section 68 of the principal enactment :—

“Chargeability of certain profits of non-resident persons.

68. Where a person in Sri Lanka, acting on behalf of a non-resident person, effects or is instrumental in effecting any insurance or sells or disposes of or is instrumental in selling or disposing of any property, whether such property is in Sri Lanka or is to be brought into Sri Lanka and whether the insurance, sale or disposal is effected by such person in Sri Lanka or by or on behalf of the non-resident person outside Sri Lanka and whether the moneys arising therefrom are paid to or received by the non-resident person directly or otherwise, the profits arising from any such insurance, sale, or disposal shall be deemed to be derived by the non-resident person from business transacted by him in Sri Lanka, and the person in Sri Lanka who acts on his behalf shall be deemed to be his agent for all the purposes of this Act :

Provided that where the property sold or disposed of is produced or manufactured by such non-resident person outside Sri Lanka, the profits from the sale or disposal shall—

- (a) if the sale or disposal was by wholesale, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by wholesale, and
- (b) if the sale or disposal was by retail, be deemed to be not more than the profits which might reasonably be expected to be made by a merchant selling the property by retail.”.

19. Section 73 of the principal enactment is hereby amended by the insertion, immediately after subsection (1) of that section, of the following new subsection :—

“(1A) Where the assessable income for any year of assessment commencing on or after April 1, 1980, of an individual deemed to be non-resident under subsection (7) of section 67, consists solely of income from services rendered in Sri Lanka and does not exceed twelve thousand rupees, such income shall not be taxable.”.

20. The following heading is hereby substituted for the heading “ H ” occurring immediately preceding section 81 of the principal enactment :—

“ H—Interest, &c. Payable to Persons Outside Sri Lanka. ”.

21. The following new sections are hereby inserted immediately after the heading “ H ” in the principal enactment :—

“Interest on certain loans deemed to be profits and income.

80A. Where interest is payable to a non-resident person on a loan obtained from such person and the interest on such loan is borne—

- (a) directly or indirectly by a person resident in Sri Lanka ; or
- (b) by a non-resident person where the amount of such loan or part thereof has been brought to or used in Sri Lanka,

such interest shall be deemed to be profits and income arising in or derived from Sri Lanka.



Certain royalties  
deemed to be  
profits and  
income.

80B. Where royalties are—

(a) borne directly or indirectly by a person resident in Sri Lanka ;  
or

(b) deductible under section 29,

such royalties shall be deemed to be profits and income arising in or  
derived from Sri Lanka.”

22. Section 89 of the principal enactment, as replaced by Act No. 24 of 1980, is hereby amended by the insertion at the end of that section, of the following proviso :—

“ Provided that the provisions of paragraphs (b) and (c) of this section shall not be applicable if the sum realized is in respect of a capital asset which is replaced, and in such event the deduction for depreciation in accordance with the provisions of paragraph (e) of subsection (1) of section 23, shall be computed on the cost of replacement of such capital asset less the amount realized under a contract of insurance.”.

23. Section 125 of the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended by the insertion immediately after subsection (2) of that section, of the following new subsection :—

“(2A) Notwithstanding the provisions of section 96B of the Inland Revenue Act, No. 4 of 1963, where any tax payable by any person for any year of assessment preceding the year of assessment commencing on April 1, 1979, is in default on or after April 1, 1981, the defaulter shall, in addition to the tax in default, pay as a penalty any sum payable as penalty in terms of subsection (6) of section 96B of the Inland Revenue Act, No. 4 of 1963, and a further sum equivalent to twenty-five *per centum* of the amount in default on or after April 1, 1981.”.

24. Section 126 of the principal enactment is hereby repealed and the following section substituted therefor—

‘Tax to include  
fines, &c.

126. In this Chapter, “ tax ” includes :—

(a) income tax, wealth tax and gifts tax charged and levied under this Act ;

(b) any income tax, wealth tax and gifts tax charged and levied under the Inland Revenue Act, No. 4 of 1963, and which was in default or goes into default on or after April 1, 1981 ;

(c) any income tax which an employer is required to pay under the provisions of Chapter XV,

and any sum or sums added to any such tax by reason of default, any sum or sums added to such income tax, wealth tax or gifts tax under subsection (2) or (2A) of section 125 of this Act or under

subsection (6) of section 96B of the Inland Revenue Act, No. 4 of 1963, and any fines, penalties, fees or costs whatsoever incurred under this Act or the Inland Revenue Act, No. 4 of 1963.’

25. The Third Schedule to the principal enactment, as amended by Act No. 24 of 1980, is hereby further amended by the substitution, in item 6 of that Schedule for the figures and words “35 *per centum*”, of the figures and words “20 *per centum*”.

**STATE MORTGAGE AND INVESTMENT BANK (AMENDMENT) ACT,  
No. 62 OF 1981**

(Certified on 28th September, 1981)

AN ACT TO AMEND THE STATE MORTGAGE AND INVESTMENT BANK LAW, NO. 13 OF 1975.

1. This Act may be cited as the State Mortgage and Investment Bank (Amendment) Act, No. 62 of 1981.

2. Section 31 of the State Mortgage and Investment Bank Law, No. 13 of 1975, (hereinafter referred to as the “principal enactment”) is hereby amended as follows:—

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

(a) by the substitution in paragraph (y) of that subsection, for the words “preceding paragraphs ; and”, of the words “preceding paragraphs ;”;

(b) by the substitution in paragraph (z) of that subsection, for the words “prescribed undertaking.”, of the words “prescribed undertaking ; and”;

(c) by the insertion, immediately after paragraph (z) of that subsection, of the following new paragraph :—

“(a) to purchase, take on lease or exchange, or otherwise acquire any immovable property which the Bank may consider necessary in order to carry on and transact any business of the Bank.”; and

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

“(1A) Where a loan has been granted by the Bank and the property mortgaged as security for that loan is not encumbered by any mortgage to any person other than the Bank, the Bank may, subject to the other provisions of this Law relating to the grant of loans, grant an additional loan the repayment of which shall be secured by a further mortgage of that property, and such further mortgage shall be deemed to be a primary mortgage”.

3. The following new section is hereby inserted immediately after section 50 of the principal enactment and shall have effect as section 50A of that enactment :—

“Authorization of any other person in place of person authorized under section 50, to sell property mortgaged to the Bank.

50A. (1) Where any person authorized under section 50 dies or is unable at any stage due to illness or any other cause to act under that section, the Board may, by resolution to be recorded in writing, authorize any other person, to sell by public auction such immovable or movable property mortgaged to the Bank as security for any loan in respect of which default has been made.

(2) All acts and things done by the person authorized by the Board under section 50 in connection with a sale by public auction prior to the date on which such other person was authorized under subsection (1), shall be deemed to be acts and things done by the person appointed under subsection (1) who shall take all necessary action to complete such sale.”.

4. Section 85 of the principal enactment is hereby amended in subsection (2) of that section as follows :—

(1) by the substitution in paragraph (b) of that subsection for the words “in the name of the Board of Directors of the Ceylon State Mortgage Bank or in the name of the Board of Directors of the Agricultural and Industrial Credit Corporation”, of the words “in the name of the Ceylon State Mortgage Bank or in the name of the Agricultural and Industrial Credit Corporation ;”;

(2) by the substitution for paragraph (e) of that subsection of the following new paragraph :—

“(e) all contracts, deeds, mortgage bonds and other bonds, agreements and other instruments which subsist or have effect immediately prior to that date in or to which the Ceylon State Mortgage Bank or the Agricultural and Industrial Credit Corporation has been named or subscribed as a party, shall have effect against, or in favour of, the Bank, as the case may be, as fully and effectively as if instead of such Ceylon State Mortgage Bank or the Agricultural and Industrial Credit Corporation, the Bank had been a party thereto and every reference therein to the Ceylon State Mortgage Bank Ordinance or the Agricultural and Industrial Credit Corporation Ordinance shall be deemed to be a reference to this Law, and all rules and regulations made thereunder.” ;

(3) by the substitution in paragraph (f) of that subsection :—

(i) for the words “by, or against, the Board of Directors of the Ceylon State Mortgage Bank or the Board of Directors of the Agricultural and Industrial Credit Corporation”, of the words “by, or against, the Ceylon State Mortgage Bank or the Agricultural and Industrial Credit Corporation” ; and

(ii) for the words “by, or against, the Bank.”, of words “by, or against, the the Bank ;” ; and

(4) by the insertion, immediately after paragraph (f) of that subsection, of the following new paragraphs :—

- '(g) (i) the rights, obligations, assets, liabilities and moneys lying to the credit of the Ceylon State Mortgage Bank Provident Fund established under paragraph (c) of subsection (1) of section 94 of the Ceylon State Mortgage Bank Ordinance, on the day immediately preceding that date, shall be the rights, obligations, assets, liabilities and moneys of the State Mortgage and Investment Bank Provident Fund "A" established under section 31 of this Law ; and
- (ii) the rights, obligations, assets, liabilities and moneys lying to the Credit of the Agricultural and Industrial Credit Corporation Provident Fund established under paragraph (k) of subsection (1) of section 51 of the Agricultural and Industrial Credit Corporation Ordinance, on the day immediately preceding that date, shall be the rights, obligations, assets, liabilities and moneys of the State Mortgage and Investment Bank Provident Fund " B " established under section 31 of this Law ;
- (h) every investment made in the name of the Ceylon State Mortgage Bank Provident Fund shall be deemed to be investments made by the State Mortgage and Investment Bank Provident Fund "A", and every investment made in the name of the Agricultural and Industrial Credit Corporation Provident Fund shall be deemed to be investments made by the State Mortgage and Investment Bank Provident Fund "B" . established under Section 31 of this Law ;
- (i) all contracts, deeds, bonds, agreements and other instruments of the Ceylon State Mortgage Bank Provident Fund or the Agricultural and Industrial Credit Corporation Provident Fund which subsist or have effect immediately prior to that date shall have effect against, or in favour of, the State Mortgage and Investment Bank Provident Fund " A " or the State Mortgage and Investment Bank Provident Fund " B ", as the case may be, established under section 31 of this Law, as fully and effectively as if, instead of the Ceylon State Mortgage Bank Provident Fund or the Agricultural or Industrial Credit Corporation Provident Fund, as the case may be, the State Mortgage and Investment Bank Provident Fund " A " or the State Mortgage and Investment Bank Provident Fund " B " had been a party thereto respectively ; and
- (j) all suits, appeals or other legal proceedings instituted by or against the Ceylon State Mortgage Bank Provident Fund or the Agricultural and Industrial Credit Corporation Provident Fund, and pending immediately prior to that date shall not abate or be discontinued or in any way prejudicially be affected by reason of such repeal, and accordingly may be continued or enforced by, or against, the State Mortgage and Investment Bank Provident Fund " A " or the State Mortgage and Investment Bank Provident Fund " B " established under section 31 of this Law, as the case may be.'

5. The amendments made to the principal enactment by the preceding provisions of this Act, shall be deemed for all purposes to have come into force on January 1, 1979.

## **TURNOVER TAX ACT, No. 69 OF 1981 )**

(Certified on 12th November, 1981)

### **AN ACT TO PROVIDE FOR THE IMPOSITION OF TURNOVER TAX**

1. This Act may be cited as the Turnover Tax Act, No. 69 of 1981.

## **CHAPTER I**

### *Imposition of Turnover Tax*

2. Subject to the other provisions of this Act there shall be charged for the period November 13, 1981 to December 31, 1981 and for every quarter commencing on or after January 1, 1982 from every person who—

(a) carries on any business in Sri Lanka ; or

(b) renders services outside Sri Lanka for which payment is made from Sri Lanka, a tax (hereinafter referred to as the “ turnover tax ”) in respect of the turnover made by that person from that business or from services rendered outside Sri Lanka computed at such rate as the Minister may fix by Order published in the *Gazette*.

For the purposes of this Act the expression “ business ” shall include services rendered outside Sri Lanka for which payment is made from Sri Lanka.

3. (1) A person shall, in respect of any business carried on by him in Sri Lanka, be chargeable with turnover tax for each quarter if the turnover of that business for that quarter is not less than twenty-five thousand rupees and where that business is carried on by him for only a part of any quarter, the turnover of that business for that part of the quarter is not less than the sum which bears to twenty-five thousand rupees the same proportion as the number of days in that part of the quarter bears to ninety.

(2) Where a person is chargeable with turnover tax in respect of any business carried on by him and a change of ownership of that business occurs, then notwithstanding the provisions of subsection (1), the new owner of that business shall be chargeable with turnover tax as though he had been the owner of that business immediately before the occurrence of the change of ownership.

## **CHAPTER II**

### *Exemptions*

4. (1) The Minister may, if he is of opinion that it is essential for the economic progress of Sri Lanka, exempt by Order published in the *Gazette* any business or such business as may be specified, which is carried on by any person, from the turnover tax.

(2) Every Order under subsection (1) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such Order and shall be brought before Parliament within a period of three months from the date of the publication of such Order in the *Gazette* or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such Order shall be approved.

(3) Any Order which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of such Order until the date of such refusal, and the notification of the date on which such Order is deemed to be revoked shall be published in the *Gazette*.

### CHAPTER III

#### *Turnover*

5. (1) For the purposes of this Act “turnover” in relation to any business means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business and includes—

- (a) in the case of a financier, moneylender or pawnbroker, the interest received or receivable by him on loans and the sums received by him as fees or other charges in respect of such loans ;
- (b) in the case of a person carrying on any educational establishment or school, the total amount received or receivable by him in carrying on such educational establishment or school ;
- (c) in the case of a person carrying on a business of insurance, the total amount excluding premia received or receivable in respect of life insurance ;
- (d) in the case of an importer of articles manufactured outside Sri Lanka—
  - (1) when such articles were imported the aggregate of—
    - (a) the value of such articles ascertained for the purpose of custom duty in accordance with the Customs Ordinance ; and
    - (b) the amount of custom duty, if any, paid on such articles ;
  - (2) if such articles are sold the amount received or receivable ;
- (e) in the case of a manufacturer where the sale is to another manufacturer for the purpose of manufacture of another article, the amount received or receivable in respect of any transaction before adding any amount due as turnover tax in respect of that transaction ;
- (f) in the case of a bank the receipts of such bank by way of or on account of interest, discounts, dividends, exchange, service charges, commissions, brokerage and any other income derived by such bank in the course of its business or otherwise but shall not include receipts attributable to the operation of the foreign currency banking unit of such bank ;

In this paragraph " foreign currency banking unit " means a unit or department of a commercial bank authorized by the Central Bank of Ceylón to operate as a foreign currency banking unit.

(g) in the case of a person who renders services outside Sri Lanka the amount received or receivable from Sri Lanka in respect of such services.

(2) For the purposes of subsection (1) the turnover shall not include any amount received or receivable by the sale of capital assets.

(3) Where in respect of any quarter, turnover tax has been paid in respect of any sum receivable during that quarter, no such tax in respect of that sum need be paid in respect of the quarter in which such sum is actually received.

6. (1) Where businesses of a like nature are carried on by a person in the same place or in different places, the businesses so carried on by him shall be deemed to be one business.

(2) Different businesses carried on by the same person in one place shall be deemed to be one business.

## CHAPTER IV

### *Rates of Tax*

7. (1) The rate of turnover tax in respect of any business may be determined by reference to the nature of such business and accordingly different rates of such tax may be determined in respect of different classes or descriptions of businesses and published in the *Gazette*.

(2) The rate of turnover tax in respect of any class or description of business may from time to time be varied by the Minister by Order published in the *Gazette*.

(3) Every determination under subsection (1) and every Order made under subsection (2) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such determination or Order and shall be brought before Parliament within a period of three months from the date of the publication of such determination or Order in the *Gazette*, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period by a motion that such determination or Order shall be approved. There shall be set out in a schedule to every such motion the text of the determination or Order to which the motion refers.

(4) Any determination under subsection (1) or any Order under subsection (2) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such determination or Order is deemed to be revoked shall be published in the *Gazette*.

8. (1) The Minister may, by Order published in the *Gazette*, declare any article specified in such Order to be an excepted article for the purposes of this Act. Different articles may be declared to be excepted articles in respect of different classes or descriptions of businesses.

(2) Where an article is, under subsection (1), declared to be an excepted article in respect of any class or description of business, no turnover tax shall be payable in respect of the sum realized by the sale of such article or in respect of the import of such article.

## CHAPTER V

### *Returns*

9. (1) Every person who carries on any business in Sri Lanka shall, where the turnover of that business for any quarter is not less than twenty-five thousand rupees and where that business is carried on by him for only a part of any quarter, the turnover of that business for that part of the quarter is not less than the sum which bears to twenty-five thousand rupees the same proportion as the number of days in that part of the quarter bears to ninety, furnish to the Commissioner-General not later than fifteen days after the expiry of that quarter or part of the quarter, as the case may be, a return setting out the turnover of that business for that quarter or part of the quarter. Every such return shall be in the prescribed form and shall contain all such particulars as may be required to be set out in such form.

(2) An Assessor may, by notice in writing, direct any person who, in the judgment of that Assessor, is a person chargeable with turnover tax to furnish within the time specified in such notice a return containing such particulars as the Assessor may require.

(3) For the purpose of obtaining full information in respect of the turnover from any business carried on by any person, an Assessor may give notice in writing to such person requiring him—

(a) to produce for examination, or transmit to the Assessor, within the period specified in such notice, any such books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents in his possession as may be specified in such notice ;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the turnover in respect of that business.

(4) For the purposes of this Act, a Deputy Commissioner may give notice in writing to any person requiring him—

(a) to produce, or transmit, to such Deputy Commissioner within the period specified in such notice any books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents in his possession as may be specified in such notice ;



(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter or matters as may be specified in such notice.

(5) A person who attends in compliance with a notice given under subsection (4) may be allowed by the Commissioner-General the expenses reasonably incurred by him in so attending.

(6) A Deputy Commissioner, or an Assessor with the approval of a Deputy Commissioner, may retain in his custody as long as such retention is necessary for the purposes of this Act any books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditors' reports or other documents which are or have been produced before him or transmitted to him under subsection (3) or subsection (4) or which otherwise come or have come into his possession.

(7) An Assessor may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within the time specified in such notice—

(a) fuller or further returns ; or

(b) fuller or further information relating to any matter as will in the opinion of the Assessor be necessary or relevant for the assessment of turnover tax payable by such person.

(8) A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters contained therein.

## CHAPTER VI

### *Payment of Tax*

10. The turnover tax in respect of any quarter shall be paid not later than the fifteenth day of the month following the end of that quarter. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, or by a partnership then each of such persons and each partner in the partnership shall be deemed to be a defaulter for the purposes of this Act.

11. (1) Where any turnover tax is in default, the defaulter shall, in addition to such tax in default, pay as a penalty—

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

(b) where any amount in default is not paid before the fifteenth day of the month succeeding the month in which such tax has begun to be in default, a further sum equivalent to two *per centum* of the amount in default in respect of each period ending on the fifteenth day of each succeeding month or part of such period during which it is in default :

Provided, however, that the total amount payable as penalty under this subsection shall in no case exceed fifty *per centum* of the tax in default and any such amount may be waived or reduced if the Commissioner-General is satisfied that by reason of any special circumstances in which the default occurred a waiver or reduction of such amount would be just and equitable.

(2) Where upon the final determination of an appeal under section 17 any tax in default to which any sum or sums under subsection (1) has or have been added is reduced then such sum or sums shall be calculated on the tax as so reduced.

## CHAPTER VII

### *Levy and Collection of Turnover Tax on articles manufactured abroad and imported in to Sri Lanka*

12. (1) Notwithstanding anything in this Act, there shall be charged from every person who imports any article manufactured outside Sri Lanka turnover tax in respect of his turnover, whether the turnover for any quarter is less than the amount specified in section 3 or not, at the rates specified in an Order made by the Minister under section 7 and collected by the Principal Collector of Customs, which tax shall be in addition to any other tax, duty or levy imposed under the Customs Ordinance.

(2) The turnover tax referred to in subsection (1) shall, for the purposes of the levy and collection of such tax, be deemed to be customs duty leviable under the Customs Ordinance and accordingly the provisions of the Customs Ordinance shall apply to the levy, collection and recovery of such tax, granting exemption from or drawback of such tax and settling any appeals or any other matter in relation to such tax.

(3) Where an article manufactured outside Sri Lanka and imported into Sri Lanka is sold—

(a) by the Principal Collector of Customs for any levy due under the Customs Ordinance ;

(b) by the Sri Lanka Ports Authority for any dues under the Sri Lanka Ports Authority Act, No. 51 of 1979 ;

(c) by the Commissioner-General,

the purchaser of such article shall be deemed to be an importer for the purposes of this Act.

## CHAPTER VIII

### *Assessments*

13. (1) Where any person—

(a) who, in the opinion of an Assessor, is chargeable with turnover tax fails to furnish under section 9, a return for any quarter and to pay the tax for that quarter ; or

- (b) who is chargeable with the turnover tax furnishes under section 9, a return in respect of any quarter but fails to pay tax for that quarter,

the Assessor shall assess the amount of the turnover tax, which such person, in the judgment of the Assessor, ought to have paid for that quarter and shall, by notice in writing, require that person to pay such amount immediately. The amount so assessed in respect of any person for a quarter shall, subject to the provisions of section 14, be deemed to be the amount of the turnover tax payable by him for that quarter :

Provided that the Assessor may assess any person for any quarter at any time prior to the fifteenth day after the end of such quarter, if he is of the opinion that such person is about to leave Sri Lanka or that it is expedient to do so for the protection of revenue and require such person to pay such tax to the Commissioner-General earlier than as required under section 10. Any tax not so paid shall be deemed to be in default for that quarter.

(2) An assessment made under subsection (1) in respect of any person for any quarter shall not affect the liability of such person to a penalty under section II as though the amount assessed were the amount of turnover tax due from him for that quarter.

(3) Where, in the opinion of the Assessor, the amount paid as turnover tax for any quarter by any person who has failed to furnish under section 9, a return in respect of that quarter is less than the proper amount payable by that person for that quarter, the Assessor shall assess the amount which, in the judgment of the Assessor, ought to have been paid by such person and shall, by notice in writing, require that person to pay on or before a date specified in that notice, the difference between the amount so assessed and the amount paid by that person.

(4) Where an assessment is made under subsection (3) in respect of any person for any quarter, the difference between the amount so assessed and the amount paid by that person as turnover tax for that quarter shall be deemed to be the turnover tax in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 10, be liable in respect of that amount to the penalty under subsection (1) of section II.

14. (1) Where it appears to an Assessor that a person chargeable with turnover tax has for any quarter paid as tax an amount less than the proper amount of the tax payable by him for that quarter, or chargeable from him for that quarter, an Assessor may, at any time, assess such person at the additional amount at which, according to the judgment of the Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of assessment.

(2) Where an assessment is made under subsection (1) in respect of any person for any quarter, the amount so assessed shall be deemed to be turnover tax in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 10, be liable to the penalty under subsection (1) of section 11 in respect of such amount.

15. Where an Assessor does not accept a return furnished by any person under section 9 for any quarter and makes an assessment or additional assessment on that person for that quarter under section 13 or section 14 he shall communicate to such person in writing by registered letter sent through the post his reasons for not accepting the return.

16. Where any person who carries on the business of a manufacturer of any article sells such article for the purposes of distribution at a price which, in the opinion of the Assessor, reduces or would reduce the turnover tax payable by him, then for the purposes of this Act, such article shall be deemed to have been sold at a price which in the opinion of the Assessor, it would have fetched in an open market on the date of such sale, and the turnover of such person from such business shall be computed accordingly.

## CHAPTER IX

### *Appeals*

17. (1) Any person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, or a penalty imposed under this Act, appeal against such assessment or additional assessment or penalty to the Commissioner-General within thirty days after the service of notice of such assessment, additional assessment or imposition of penalty. Such person shall, notwithstanding the appeal, pay the turnover tax charged by such assessment or additional assessment together with any penalty imposed on him by this Act :

Provided that the Commissioner-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.

(3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be sent together with a return duly made.

(4) Every petition of appeal which does not conform to the provisions of subsections (2) and (3) shall not be valid.

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

(6) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (5) the Commissioner-General shall fix a time and place for the hearing of the appeal.

(7) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General may dismiss the appeal :

Provided that, if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

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

(9) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person requires that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books, accounts, trade lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or other documents in his possession as may be specified in such notice.

(10) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.

(11) In determining an appeal under this section the Commissioner-General may confirm, reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.

18. Any person aggrieved by the decision of the Commissioner-General upon any appeal made to him under subsection (1) of section 17, may appeal from that decision to the Board of Review constituted under the Inland Revenue Act, No. 28 of 1979, and the provisions of that Act relating to appeals to such Board shall, *mutatis mutandis*, apply to an appeal under this section.

19. (1) The decision of the Board of Review shall be final :

Provided that either the appellant or the Commissioner-General may make an application requiring the Board of Review to state a case on a question of law for the opinion of the Court of Appeal.

(2) The provisions of the Inland Revenue Act, No. 28 of 1979, relating to appeals to the Court of Appeal and to the Supreme Court shall, *mutatis mutandis*, apply to an appeal under this section.

## CHAPTER X

### *Finality of Assessments and Penalty for Incorrect Returns*

20. Where no valid appeal has been lodged within the time specified in this Act against an assessment in respect of the turnover tax, or where the amount of such tax has been determined on appeal, the assessments as made, or reduced, or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax :

Provided that nothing in this Act shall prevent an Assessor from making an assessment or additional assessment for any quarter if it does not involve reopening any matter which has been determined on appeal for that quarter.

21. Where in an assessment made in respect of any person, the amount of turnover tax exceeds the amount already paid by him as the amount due from him in respect of the turnover specified in his return and the assessment is final and conclusive under section 20 the Commissioner-General may, unless that person proves to the satisfaction of the Commissioner-General that there is no fraud or wilful neglect involved in the disclosure of the turnover made by that person in his return, in writing, order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the tax on the difference between the turnover on which the assessment was made and the turnover specified in his return.

## CHAPTER XI

### *Special Cases*

22. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated person, be deemed to be required to be done by the trustee of such incapacitated person.

23. Any act or thing required by or under this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership :

Provided that any person to whom a notice has been given under the provisions of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.

24. (1) The secretary, manager, director or other principal officer of every company or body of persons, corporate or unincorporate, shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Act by such company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with that company or body of persons or that some other person resident in Sri Lanka is the principal officer thereof.

(2) Where an offence under this Act is committed by a company or body of persons, corporate or unincorporate, every person who at the time of the commission of the offence was the secretary, manager, director or other principal officer of the company or body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity and to all the other circumstances.

25. (1) Subject as hereinafter provided, where during the course of a quarter a person chargeable with turnover tax ceases to carry on any business in respect of which he is chargeable with such tax, he shall, notwithstanding that he has ceased to carry on such business, be liable to pay such tax for the period during which he carried on that business in that quarter.

(2) Where any person carrying on a business transfers such business to any other person, any turnover tax payable in respect of such business for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

26. (1) Where any person chargeable with turnover tax dies, the executor of such deceased person shall, in respect of all periods prior to the date of death of such person, be chargeable with turnover tax which such person would be chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive would be liable to do under this Act :

Provided that—

- (a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person ;
- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after three years from the end of the quarter in which the death occurred ; and

(c) the liability of the executor under this section shall be limited to the sum of—

(i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to turnover tax will arise under this section; and

(ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on any business which is a part of such estate, such executor shall, in respect of such business, be chargeable with turnover tax with which such person would be chargeable if he were alive.

27. Where any business in respect of which turnover tax is payable is carried on by any person on behalf of any other person as the agent of such other person, the first mentioned person shall be chargeable with turnover tax in respect of that business in like manner and to the like amount as the latter-mentioned person would be chargeable under this Act.

28. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with turnover tax with which they are chargeable under this Act, and shall be jointly and severally liable for payment of such tax.

29. (1) Notwithstanding anything in the Companies Ordinance, where a company is wound up and where any turnover tax to which that company is liable cannot be recovered, then, every person who was a director of the company at any time during the period in respect of which such tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

(2) Where a body of persons is dissolved and where any turnover tax to which such body of persons is liable cannot be recovered, then, every person who was a member of that body of persons during the period in respect of which the tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of that body, and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

## CHAPTER XII

### *Recovery of Tax*

30. (1) For the purposes of section 31, section 32, section 33, section 34, section 35, section 36, section 37 and section 38 "turnover tax" includes any penalty imposed or incurred under this Act.



(2) Whenever the Commissioner-General issues a certificate under section 33 or section 34 or a notice under section 35, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent through the post or by telegraph ; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

31. Any turnover tax in default shall be a first charge all the assets of the defaulter :  
Provided that—

- (i) such charge shall not extend to or affect any assets sold by the defaulter to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 33 ;
- (ii) as regards immovable property, the turnover tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of such seizure ; and
- (iii) as regards movable property, where turnover tax for more than four quarters is in default, the tax for four quarters only, to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default.

32. (1) Where any turnover tax is in default, the Commissioner-General shall, before proceeding to recover such tax, issue notice in writing to the defaulter stating—

- (a) the particulars of such tax ; and
- (b) that action is being contemplated to recover such tax.

(2) If such defaulter has not appealed within the proper time against the assessment in respect of which such tax is charged, he may within thirty days of the date of such notice make any objection to the tax so charged, to the Commissioner-General and the Commissioner-General shall, notwithstanding the provisions of section 20, consider such objections and give his decision thereon which shall subject to subsection (3) be final.

(3) Where such defaulter has failed to make the objection referred to in subsection (2) to the Commissioner-General, he may make an objection to the tax charged to the Commissioner-General within a period of thirty days from the date of the certificate issued under section 33 or section 34 or a notice issued under section 35.

33. (1) The Commissioner-General may appoint persons to be tax collectors for the purposes of this Act.

(2) (a) Where any turnover tax is in default, the Commissioner-General may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector containing particulars of such tax and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or Tax Collector shall cause the said property to be sold by public auction.

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

(i) firstly in payment of the costs and charges of seizing, keeping and selling the property ; and

(ii) secondly in satisfaction of the tax in default, and any balance shall be paid to the owner of the property seized.

(3) It shall be lawful for a tax collector to recover from any defaulter reasonable expenses incurred by him in proceeding against the defaulter under this section notwithstanding that the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the amount so seized.

(4) Where any turnover tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of such tax and the name or names of the person or persons by whom the tax is payable, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

For the purposes of this section “ movable property ” shall include plant and machinery.

34. (1) Where the Commissioner-General is of opinion in any case that recovery of turnover tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence :

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner-General.

(2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made by instalments.

(4) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (3) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(5) Where payment in instalments is directed under subsection (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

35. (1) Where the turnover tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person—

- (a) owes or is about to pay money to the defaulter or his agent ; or
- (b) holds money for or on account of the defaulter or his agent ; or
- (c) holds money on account of some other person for payment to the defaulter or his agent ; or
- (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(3) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith owing to the fact that moneys in question do not come into his hands or become due from him within the period referred to in subsection (1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3), or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, be liable, or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body shall be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.

(5) For the purposes of this section, the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default ; and for the purpose of the application of those provisions in any such case, the expression "defaulter" in subsection (1) means—

- (a) the executor or administrator of a deceased person ; or
- (b) any person who takes possession of, or intermeddles with, the property of a deceased person ; or
- (c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person.

36. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the turnover tax assessed upon him, the Commissioner-General may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General for payment thereof.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner-General shall issue to such person a notification thereof by personal service, or registered letter sent through the post or telegraph ; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) The production of a certificate signed by the Commissioner-General or a Deputy Commissioner stating that the tax has been paid or that security has been furnished to the payment of the tax or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka.

(4) Any police officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner-General.

37. Where the Commissioner-General is of opinion that application of any one of the means of recovery provided in this Act has failed or is likely to fail to secure payment of the whole of the turnover tax due under this Act from any person, it shall be lawful for the Commissioner-General to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Act, notwithstanding that an order has been made by a Magistrate under section 34 and carried into effect.

38. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any turnover tax due from such person or any other person.

39. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers or functions conferred on or assigned to the Commissioner-General by this Chapter.

(2) Every Assessor to whom any power or function has been delegated under subsection (1) shall exercise or discharge that power or function subject to the general or special directions of the Commissioner-General.

## CHAPTER XIII

### *Miscellaneous*

40. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was, during the period to which the notice relates, carrying on business :

Provided that a notice of assessment under section 13 or section 14 shall be served personally or by being sent by post by registered letter to any such place as aforesaid.

(3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

41. (1) No notice, assessment, certificate or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impunged—

- (a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of turnover or the amount of turnover tax charged, or
- (b) by reason of any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this subsection.

42. (1) Any officer of the Department of Inland Revenue who is specially authorized by the Commissioner-General in that behalf may, accompanied by a peace officer, do all or any of the following acts :—

- (a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found, and examine them if found ;
- (b) seize any such books of account, registers, records or other documents or place marks of identification thereon or make extracts or copies therefrom ;
- (c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act,

and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection “ peace officer ” shall have the same meaning as in the Code of Criminal Procedure Act, No. 15 of 1979.

(2) Before authorizing any officer to exercise the powers under subsection (1), the Commissioner-General shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) Where any officer authorized by the Commissioner-General under subsection (1) seizes any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

43. (1) The Commissioner-General or any other officer of the Department of Inland Revenue who is specially authorized in that behalf by the Commissioner-General in writing may do all or any of the following acts :—

- (a) enter and inspect any place or building where any business is carried on by any person for the purpose of ascertaining whether the provisions of this Act are being complied with ;
- (b) open and examine any receptacle where any book of account, register, record or any other document may be found and make an inventory of any of the articles found therein ;
- (c) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;
- (d) take possession of any book of account, register, record or other document or place marks of identification thereon ;
- (e) count and make a record immediately of the cash found in such place or building ;
- (f) require any person whom he finds in such place or building to give such information as is in his power to give with respect to matters under this Act ;
- (g) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in such place or building.

(2) Where an officer authorized by the Commissioner-General under subsection (1), takes into his possession any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for the scrutiny of such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

44. Every person chargeable with turnover tax other than a manufacturer shall, in respect of each transaction entered into by him, in carrying on his business, prepare or cause to be prepared a voucher setting out—

- (a) the date on which such transaction was entered into ;
- (b) the nature of such transaction ;

- (c) the amount of money received or receivable in respect of such transaction ; and
- (d) the name and address, of the person with whom such transaction was entered into.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the quarter in which such voucher was prepared.

Notwithstanding anything in this section the Commissioner-General may prescribe the form and manner in which transactions may be recorded in different businesses.

45. (1) Every person chargeable with turnover tax shall, in respect of transactions entered into by him in carrying on his business, keep and maintain in respect of each quarter a register of transactions.

(2) The register of transactions kept by any person in respect of any quarter shall be retained and preserved by him for a period of five years after the expiry of that quarter.

## CHAPTER XIV

### *Registration of Manufacturers*

46. (1) Every manufacturer chargeable with turnover tax shall, register himself with the Commissioner-General who shall assign him a registration number :

Provided, however, that no such registration shall be necessary in the case of a person who brings into Sri Lanka any article manufactured outside Sri Lanka, other than in the course of a business.

(2) Every manufacturer registered under subsection (1) (hereafter in this Chapter referred to as a "registered manufacturer") shall in respect of each transaction entered into by him in carrying on his business in relation to which such tax is payable prepare or cause to be prepared a voucher setting out—

- (a) his name, postal address and his registration number ;
- (b) the name, postal address and the registration number, if any, of the buyer ;
- (c) the date on which each transaction was entered into ;
- (d) the nature of the transaction ;
- (e) the quantity of the goods supplied and the amount of money received or receivable in respect of each transaction before any charge for the turnover tax ; and
- (f) the turnover tax attributable to each such transaction.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the quarter in which such voucher was prepared.



47. Where a registered manufacturer has paid to another registered manufacturer during any quarter any sum in respect of any transaction which includes turnover tax on articles used by the first-mentioned registered manufacturer in his business of manufacture of articles liable to turnover tax, the turnover tax so included shall be deducted from the turnover tax payable by the first-mentioned registered manufacturer for that quarter :

Provided that—

- (a) no deduction shall be made for tax in respect of any plant, machinery, fixtures, buildings, vehicles or other capital assets used in that business ;
- (b) no deduction shall be made for turnover tax in respect of articles used in any business which is exempt from turnover tax under section 4 or in the manufacture of excepted articles ;
- (c) no deduction shall be made unless he has obtained from the manufacturer from whom such articles were purchased by him a voucher as required by subsection (2) of section 46 ;
- (d) any turnover tax included in any sum paid prior to the date of registration as a registered manufacturer shall be allowed as a deduction from the tax payable for the quarter in which such registered manufacturer becomes chargeable to turnover tax ;
- (e) any excess of such deduction over the tax payable for the quarter shall not be refunded but deducted from the tax payable for the subsequent quarter and so on.

48. Where a registered manufacturer has paid turnover tax to the Principal Collector of Customs under section 12 he shall be entitled on production of a receipt issued to him in respect of that payment to a deduction of the amount paid from the turnover tax payable by him to the Commissioner-General for that quarter and any excess of such deduction over the tax payable for the quarter shall not be refunded but deducted from the tax payable for the subsequent quarter and so on.

49. (1) if it is proved to the satisfaction of the Commissioner-General by claim duly made in writing within three years after the end of a quarter that any person has paid turnover tax in excess of the amount with which he was properly chargeable for that quarter, such person shall be entitled to have refunded the amount so paid in excess :

Provided that, nothing in this section shall operate to extend or reduce the time limit for appeal or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive :

Provided further that, no refund shall be made if such tax paid in excess has been deducted under section 47 or section 48 or has been included in any amount recovered from another person.

(2) Where it is proved to the satisfaction of the Commissioner-General by claim made in writing that any person has paid any sum referred to in subsection (1) of section 11 which is in excess of the sum which he should have paid if such sum were calculated in accordance with the provisions of subsection (2) of that section, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within three years of the end of the quarter in which the sum referred to in the aforesaid subsection (1) was paid.

(3) Subject to the provisions of subsection (6), where any article is exported from Sri Lanka by any person (hereafter in this section referred to as the " exporter " ) and the Commissioner-General is satisfied—

- (a) that such article was produced or manufactured in Sri Lanka and was purchased by the exporter from the manufacturer or producer of such article ;
- (b) that the price paid by the exporter for the purchase of such article forms part of the turnover of the business of that manufacturer or producer ; and
- (c) that turnover tax has in fact been paid by that manufacturer or producer in respect of the turnover of his business,

such amount of the turnover tax paid in respect of the turnover of that business by the manufacturer or producer of that article as is attributable to the purchase price paid for that article by the exporter, shall be paid to the exporter by the Commissioner-General.

(4) Subject to the provisions of subsection (5) where the exporter is himself the manufacturer or producer of any article manufactured or produced in Sri Lanka and the Commissioner-General is satisfied—

- (a) that such article was in fact manufactured or produced in Sri Lanka by such exporter ;
- (b) that the price paid by such exporter for the purchase of such raw materials as is attributable to the manufacture or production of such article was paid by the manufacturer or producer from whom such raw materials were purchased ; and
- (c) that turnover tax has in fact been paid by that manufacturer or producer in respect of the turnover of his business as is attributable to such raw materials,

such amount of the turnover tax as is attributable to the raw materials used in the manufacture or production of such article shall be paid to such exporter by the Commissioner-General.

(5) The provisions of subsections (3) and (4) shall apply in relation to any container, receptacle or wrapper in which an article referred to in those subsections is exported in the same manner as if all reference to " article " in those provisions were references to such container, receptacle or wrapper, as the case may be.

(6) No payment under subsection (3) or subsection (4) shall be made by the Commissioner-General in respect of any article or any article and container, receptacle or wrapper in which such article is exported, unless a claim in writing for such payment is made by the exporter of such article not earlier than three months, and not later than nine months, after the export of such article.

## CHAPTER XV

### *Deduction of Turnover Tax from Payments*

50. (1) Every person who makes any payment in pursuance of a contract to which he is a party or on behalf of any other person who is a party to a contract shall, whether or not such contract was entered into before the coming into operation of this Act, deduct from such payment turnover tax which shall be a percentage of such payment at a rate to be prescribed by the Minister by Order published in the *Gazette* and the amount of tax so deducted shall be a debt due from such person to the Republic and shall be recoverable forthwith or may be assessed and charged upon such person in addition to any turnover tax, if any, payable by him under this Act :

Provided that where the total consideration payable for the performance of such contract does not exceed five hundred thousand rupees no such deduction shall be made.

(2) Any person who deducts turnover tax in accordance with the provisions of subsection (1) shall—

(a) issue to the person from whose payment the deduction is made a statement showing—

- (i) the gross amount of such payment ;
- (ii) the rate and amount of tax so deducted ; and
- (iii) the net amount actually paid ;

(b) remit within seven days of making such deduction the sum so deducted to the Commissioner-General together with a statement showing :—

- (i) the name and address of the person to whom the payment was made ;
- (ii) the gross amount of such payment ;
- (iii) the rate and amount of tax so deducted ; and
- (iv) the net amount actually paid.

(3) Where the turnover of a person includes a sum from which turnover tax has been deducted in accordance with subsection (1), he shall be entitled on production of a statement relating to such sum issued in accordance with subsection (2) to a set off against the tax payable by him of the amount shown on such statement as the amount of tax deducted.

(4) For the purposes of this section—

“contract ” means—

(i) any contract in respect of construction work of whatever nature ;

(ii) any contract for the supply of goods or services in respect of any contract specified in paragraph (1) ; or

(iii) any sub-contract in respect of any contract specified in paragraph (i) or (ii)

(5) Any person who fails to deduct turnover tax in terms of subsection (1) or fails to remit under subsection (2) any turnover tax to the Commissioner-General shall be deemed to be in default and the provisions of this Act relating to recovery of turnover tax shall accordingly apply to any such default.

(6) Any person who has made any deduction under subsection (1) or any remittance in pursuance of subsection (2) shall be deemed to have acted under the authority of the person by whom the turnover tax was payable and of all other persons concerned, and is hereby indemnified in respect of such deduction or remittance, as the case may be, against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.

(7) Where any person has entered into two or more contracts and the Assessor, having regard to the nature and the parties to such contracts, is of opinion that the recipient of the payments made in respect of such contracts by such person is one and the same person or his agent, the sum paid or payable shall be aggregated for the purposes of subsection (1).

## CHAPTER XVI

### *Penalties and Offences*

**51.** Every person —

(a) who being a person required to take an oath of secrecy under section 57, acts under this Act without taking such oath ; or

(b) who acts in contravention of the provisions of section 57 ; or

(c) who aids, abets or incites any other person to act in contravention of any of the provisions of this Act,

shall be guilty of an offence under this Act, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**52. Any person who—**

- (a) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Act ; or
- (b) Omits from a return made or furnished under this Act any particulars which he should have included in such return ;
- (c) makes any false return or false entry in any return made under this Act,

and thereby evades or attempts to evade turnover tax or assists any other person to evade or attempt to evade such tax shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to a fine consisting of—

- (i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he, or as the case may be, the other person so assisted, is liable under this Act for the quarter in respect of or during which the offence was committed, and
- (ii) a sum not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**53. Every person who—**

- (a) fails to comply with the provisions of section 9 or section 44 or section 45 or subsections (1) and (2) of section 46 or subsection (1) of section 50 ; or
- (b) fails to comply with the requirements of a notice issued to him under section 9 or section 17 ; or
- (c) having appeared before an officer of the Department of Inland Revenue in compliance with a notice issued to him under section 9 or section 17 fails without sufficient cause to answer any question lawfully put to him by such officer ; or
- (d) gives any incorrect information relating to any matter or thing affecting his own liability to turnover tax or the liability of any other person ; or
- (e) wilfully obstructs or delays the Commissioner-General or any other officer in the exercise of his powers under section 42 or section 43; or
- (f) aids, abets or incites any other person to act contrary to the provisions 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 six months or to both such fine and imprisonment.

**54. The Commissioner-General may compound any offence under section 51, section 52 or section 53 and may before judgment stay or compound any proceedings thereunder.**

55. No prosecution in respect of an offence under section 51, section 52 or section 53 shall be commenced except at the instance, or with the sanction, of the Commissioner-General.

## CHAPTER XVII

### *Administration*

56. (1) Subject to the provisions of Chapter VII, the Commissioner-General of Inland Revenue shall be in charge of the administration of this Act.

(2) A Commissioner or Deputy Commissioner exercising or performing or discharging any power, duty or function of the Commissioner-General under this Act shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function until the contrary is proved.

(3) A Commissioner or a Deputy Commissioner may exercise any power conferred on an Assessor by this Act.

57. (1) Except in the performance of his duties under this Act, every person who is or has been employed in carrying out or in assisting any person in carrying out the provisions of this Act shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative or to the Minister or the Secretary to the Ministry of Finance nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.

(2) Every person employed in carrying out the provisions of this Act shall before acting under this Act, and the Minister and the Secretary to the Ministry of Finance may before acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person employed in carrying out the provisions of this Act shall be required to produce in any court any return, document or assessment or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or any other written law administered by the Commissioner-General.

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Commissioner-General to any other officer of that Department if the communication is necessary for the performance of any duty under this Act or under any such other written law and the Commissioner-General may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any court, in any proceedings under this Act, a copy of any

particulars contained in any return or document received by him or in his possession under this Act or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars :

Provided, that the Commissioner-General may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further, that the Commissioner-General shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section, the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this subsection shall be deemed to be a person employed in carrying out the provisions of this Act for the purpose of subsection (2).

58. The Commissioner-General may from time to time prescribe the forms and register of transactions to be used for all or any of the purposes of this Act ; and any forms or register of transactions so prescribed may from time to time be amended or varied by the Commissioner-General, or some other forms or register of transactions may be substituted by the Commissioner General in place of any forms or register of transactions so prescribed.

## CHAPTER XVIII

### *Interpretation*

59. (1) In this Act, unless the context otherwise requires—

“agent ” includes any person having the direction, control or management of any business on behalf of any other person ;

“ article ” includes any goods, material or any agricultural or horticultural produce ;

“ Assessor ” means an Assessor of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979 ;

“ authorized representative ” means any individual—

(1) who is authorized in writing by a person to act on his behalf for the purposes of this Act and who is—

(a) in any case—

(i) a member of the Institute of Chartered Accountants of Sri Lanka ;

(ii) an accountant approved by the Commissioner-General ;

(iii) an attorney-at-law ; or

(iv) an employee regularly employed by the person concerned ;

(b) in the case of an individual, a relative ;

(c) in the case of a company, a director or a secretary ;

(d) in the case of a partnership, a partner ;

(e) in the case of a body of persons, a member of such body ; or

(2) who is authorized in writing from time to time by a person to act on his behalf for the purposes of this Act in respect of such matters relating to such quarter as is specified in the authorization and who being an individual registered as an auditor under the Companies (Auditors) Regulations is approved by the Commissioner-General ;

“body of persons” means any body corporate or unincorporate, local authority, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, any partnership and any Hindu undivided family and includes any Government department or any undertaking of the Government of Sri Lanka ;

“business” includes any trade, profession, vocation, or agricultural undertaking, the racing of horses or the letting of commercial premises by a company or the business of a manufacturer or the business of any person, taking commissions or fees in respect of any transactions or services rendered or the business of an independent contractor or every adventure and concern in the nature of trade ;

“Commissioner” means a Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979 ;

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed under the Inland Revenue Act, No. 28 of 1979, and includes a Commissioner, and a Deputy Commissioner specially authorized by the Commissioner-General either generally or for some specific purpose to act on behalf of the Commissioner-General ;

“company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere ;

“Deputy Commissioner” means a Deputy Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979 ;



“excepted article” means any article declared to be an excepted article under section 8 ;

“executor” means an executor or administrator of a deceased person and includes—

- (a) any person who takes possession of or intermeddles with the property of a deceased person ;
- (b) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person ; or
- (c) a trustee acting under a trust created by the last will of the author of the trust ;

“incapacitated person” means any minor, lunatic, idiot or person of unsound mind ;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority established by or under any law to exercise, perform and discharge powers, duties and functions, corresponding to or similar to the powers, duties and functions, exercised, performed and discharged by any such Council ;

“manufacturer” means any person who—

- (a) makes an article ;
- (b) assembles or joins any article whether by chemical process or otherwise ;
- (c) adapts for sale any article ;
- (d) packages, bottles, puts into boxes, cuts into pieces, cleans, polishes, wraps, labels or in any other way whatsoever prepares for sale any article otherwise than in a retail stores for the purpose of sale in such store exclusively and directly to the consumer ;
- (e) purchase or receives for sale from any enterprise with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, any article manufactured in Sri Lanka by such an enterprise ;
- (f) imports any article manufactured outside Sri Lanka ;
- (g) brings into Sri Lanka any article manufactured outside Sri Lanka ;

“person” includes a company or body of persons ;

“precedent partner” means the partner who, of the active partners resident in Sri Lanka—

- (a) is first named in the agreement of partnership ; or
- (b) if there is no agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership ; or
- (c) is first named in the statement made under section 4 of the Business Names Ordinance ;

“ quarter ” means the period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year ;

“ trustee ” includes any trustee, guardian, curator, manager, agent or other person having the direction, control or management of any property on behalf of any person but does not include an executor.

## CHAPTER XIX

### *Application of Part XII of the Finance Act, No. 11 of 1963*

60. Part XII of the Finance Act, No. 11 of 1963, shall not apply to the imposition of business turnover tax for any period commencing on or after November 13, 1981

## APPROPRIATION ACT, No. 77 OF 1981

(Certified on 29th December, 1981)

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1982, 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 THE 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. 77 of 1981.

2. (1) Without prejudice to any other law authorizing any expenditure, the expenditure of the Government, which it is estimated will be rupees thirty-three thousand five hundred and twenty-six million five hundred and sixty-one thousand for the service of the period beginning on January 1, 1982, and ending on December 31, 1982, in this Act referred to as the “financial year 1982”, 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 twenty-two thousand six hundred and twelve million.

The sum of rupees thirty-three thousand five hundred and twenty-six million five hundred and sixty-one thousand 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 1982, from each activity specified in column I of the Second Schedule to this Act shall be credited to the account of such activity, and the aggregate of receipts so credited shall be not less than the minimum limit specified in the corresponding entry in column III of that Schedule. The net surplus, if any, of such activity shall, after setting off against the revenue of such activity of the following charges namely :—

- (a) the working, establishment and other expenses of the activity whether paid or accrued properly chargeable to the revenue of the activity ; and
- (b) provision to cover the depreciation of the movable and immovable property of the activity,

be paid to the Consolidated Fund before the expiry of six months after the close of the financial year 1982.

(2) The expenditure incurred by the Government, during the financial year 1982, 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 1982, 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 1982 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 the 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 authorized 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 March 31, 1983, 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 or minimum limit relating to such activity.