

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1982 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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**NATIONAL SAVINGS BANK (AMENDMENT) ACT, NO. 8 OF 1982**

[Certified on 23rd February, 1982]

AN ACT TO AMEND THE NATIONAL SAVINGS BANK ACT, NO. 30 OF 1971.

1. This Act may be cited as the National Savings Bank (Amendment) Act, No. 8 of 1982.

2. Section 47 of the National Savings Bank Act, No. 30 of 1971, is hereby amended as follows :—

(a) by the repeal of subsection (2) of that section and the substitution therefor, of the following new subsection :—

“(2) Before any moneys, which aggregate to ten rupees or more lying in an account are transferred in accordance with the provisions of subsection (1), the Bank shall send a written communication to the last known address of the person whose account has lain dormant, intimating its intention to transfer such moneys to the Unclaimed Deposits Fund, and if no reply is received within three months after the date on which such written communication is sent, publish a notice in the Sinhala, Tamil and English languages in the *Gazette* stating the name of the person in whose favour the account stands, the fact that the account has lain dormant for a period of seven years, and that it is intended on a specified date to transfer the moneys lying in that account to the Unclaimed Deposits Fund under the provisions of subsection (1).”;

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

“(3) Any moneys transferred to the Unclaimed Deposits Fund or any moneys transferred to a special reserve under paragraph (a) of subsection (1) may be retransferred to the account in which it was originally lying, at the instance of any person who furnishes proof to the satisfaction of the Board that the account was in his name or in the name of the person from whom he derives title.”; and

(c) by the repeal of subsection (5) of that section and the substitution therefor, of the following new subsection :—

“(5) Any moneys transferred to a special reserve under subsection (4) may be retransferred to the account in which it was originally lying at the instance of any person who furnishes proof to the satisfaction of the Board that the account was in his name or in the name of a person from whom he derives title”.

**COMPANIES ACT, No. 17 of 1982**

[Certified on 20 May, 1982]

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO COMPANIES

**PART XIV**

**PROVISIONS RELATING TO BANKS**

**411.** A "banking company" means a company which carries on as its principal business the accepting of deposits of money, subject to withdrawal on demand by cheque, draft, order or otherwise, notwithstanding that it engages in any one or more of the following forms of business, namely :—

- (a) the borrowing, raising or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hoondees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not ; the granting and issuing of letters of credit, traveller's cheques and circular notes; the buying, selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes, the acquiring, holding, issuing on commission, under writing and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments all kinds, the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others; the negotiating of loans, and advances; the receiving of all kinds of bonds, scrips or valuables on deposit, or for safe custody or otherwise and the carrying on of the business of safe deposit ; the collecting and transmitting of money and securities ;
- (b) acting as agents for Governments or local authorities or for any other person or persons; the carrying on of agency business of any description other than the business of a managing agent of any company, which is not a banking company, but including the clearing and forwarding of goods, the power to act as attorneys and to give discharges and receipts ;
- (c) contracting for public and private loans and negotiating and issuing the same ;
- (d) the promoting, effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue ;
- (e) carrying on and transacting every kind of guarantee and indemnity business;

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- (f) promoting or financing or assisting in promoting or financing any business undertaking or industry, either existing or new, and developing or forming the same either through the instrumentality of syndicates or otherwise;
- (g) acquisition by purchase, lease, exchange, hire or otherwise of any property immovable or movable and any rights or privileges which the company may think necessary or convenient to acquire or the acquisition of which in the opinion of the company is likely to facilitate the realization of any securities held by the company or to prevent or diminish any apprehended loss or liability ;
- (h) managing, selling and realizing all property movable and immovable which may come into the possession of the company in satisfaction or part satisfaction of its claims ;
- (i) acquiring and holding and generally dealing with any property and any right, title or interest in any property movable or immovable which may from the security or part of the security for any loans or advances or which may be connected with any such security ;
- (j) undertaking and executing trusts;
- (k) undertaking the administration of estates as executor, trustee or otherwise;
- (l) taking or otherwise acquiring and holding shares in any other company having objects similar to those of the company;
- (m) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependants or connections of such persons; granting pensions and allowances and making payments towards insurance ; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;
- (n) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company ;
- (o) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;
- (p) acquiring and undertaking the whole or any part of the business of any person or company when such business is of a nature enumerated or described in this section;
- (q) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company ;

- (r) engaging in management consultancy services;
- (s) providing for the training in banking, accounting, valuation, project and credit appraisal and allied subjects;
- (t) engaging in the business of hire-purchase services, factoring, leasing and warehousing;
- (u) providing for medium and long term credit for development.

**412.** (1) No company, association, or partnership shall carry on the business of banking unless it is registered as a public company under this Act.

(2) No company, association or partnership which is formed outside Sri Lanka shall carry on the business of banking in Sri Lanka unless—

- (a) it is formed in pursuance of some written law of the Government of a foreign country, Royal Charter or Letters Patent or is duly incorporated as a banking company outside Sri Lanka, and
- (b) has an established place of business in Sri Lanka and has complied with the provisions of Part XIII of this Act.

(3) Where any company, association or partnership carries on the business of banking in contravention of the provisions of subsection (1) or subsection (2), each of such persons—

- (a) shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment; and
- (b) shall, without prejudice to the provisions of paragraph (a), be severally liable for the payment of the whole debts of the company, association or partnership of which he is or was a member, and may be sued accordingly without the joinder in the suit of any other member of the company, association or partnership.

**413.** (1) No company formed after the appointed date for the purpose of carrying in business as a banking company or which uses as part of the name under which it proposes to carry on business the word “bank”, “banker” or “banking” shall be registered under this Act, unless the memorandum limits the objects of the company to the carrying on of the business of accepting deposits of money subject to withdrawal on demand by cheque, draft, order or otherwise along with some or all of the forms of business specified in section 411.

(2) No company other than a banking company shall use as part of its name or its description any of the words “banks”, “banker” or “banking” or any other derivative or their equivalent in another language and no company shall carry on the business of banking in Sri Lanka unless it uses as part of its name at least one of such words :

Provided that a banking company formed outside Sri Lanka and carrying on the business of banking and whose name does not contain the words "bank", "banker" or "banking" in any language may carry on such business in Sri Lanka notwithstanding the omission of these words in its name.

(3) No firm, individual or group of individuals shall, for the purpose of carrying on any business, use as part of its or his name or description any of the words "bank", "banker" or "banking" or any of their derivatives or their equivalent in another language.

(4) No banking company incorporated in Sri Lanka, and no banking company incorporated outside Sri Lanka which has established a place of business within Sri Lanka, shall after the expiry of two years from the appointed date carry on any form of business other than those specified in section 411:

Provided that the Minister may, having regard to the national interest and in the interest of the national economy, by notification published in the *Gazette* specify, in addition to the business specified in section 411, other forms of business which it may be lawful under this Part for a banking company to engage in.

**414.** No banking company shall, after the expiry of two years from the appointed date, employ or be managed by a managing agent other than a banking company.

**415.** Notwithstanding anything contained in section 107, no banking company shall commence business unless it satisfies such capital requirements as may be determined from time to time by the Central Bank of Ceylon having regard to the interest of the national economy.

**416.** No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid.

**417.** (1) Every banking company shall, after the appointed date, maintain a reserve fund.

(2) Every banking company shall out of the declared profits of each year and before any dividend is declared transfer to the reserve fund—

(a) a sum equivalent to not less than twenty *per centum* of such profits until the amount of the said reserve fund is equal to fifty *per centum* of the paid-up capital ; and

(b) thereafter, in every year in which the liabilities exceed the paid-up capital, a sum equivalent to not less than ten *per centum* of such profits until the amount of the said reserve fund is equal to the paid-up capital.

(3) A banking company shall invest the amount standing to the credit of its reserve fund in securities mentioned in section 20 of the Trusts Ordinance or in any approved security or keep such amount deposited in a special account to be opened by the company for the purpose in any prescribed banking company :

Provided that the provision of this subsection shall not apply to a banking company incorporated before the appointed date till after the expiry of two years from such date.

(4) In this section "approved security" means any security approved by the Minister by notification published in the *Gazette*.

(5) Subject as hereinafter provided, the preceding provisions of this section shall apply to every banking company incorporated in Sri Lanka and to every banking company incorporated outside Sri Lanka which has an established place of business within Sri Lanka :

Provided, however, that such provisions shall not apply to any prescribed banking company.

**418.** (1) A banking company shall not form any subsidiary company which is not a banking company.

(2) Save as provided in subsection (1), a banking company shall not hold shares in any company whether as pledgee, mortgagee or absolute owner of an amount exceeding forty *per centum* of the issued share capital of that company :

Provided that nothing in this subsection shall apply to shares held by a banking company before the appointed date.

**419.** Where default is made in complying with any of the requirements of section 413, section 414, section 415, section 416, section 417 or section 418, every director or other officer of the company who is knowingly and wilfully a party to the default shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues.

**420.** (1) The court may, on the application of a banking company which is temporarily unable to meet its obligations, make an order staying the commencement or continuance of all actions and proceedings against the company for a fixed period of time on such terms and condition as it shall think fit and proper and may from time to time extend the period.

(2) No application shall be made under the provisions of subsection (1), unless it is accompanied by a report of the Director of Bank Supervision of the Central Bank of Ceylon :

Provided, however, that the court may, for sufficient reasons grant interim relief, even if such application is not accompanied by such report.

(3) The provisions of this section shall apply to every banking company incorporated in Sri Lanka and every banking company formed outside Sri Lanka which has an established place of business within Sri Lanka.

421. For the purposes of this Part, "the business of banking" means the business of accepting deposits of money, subject to withdrawal on demand by cheque, draft, order or otherwise whether or not such business is carried on along with any one or more of the forms of business specified in section 411.

**SURCHARGE ON WEALTH TAX ACT, No. 25 OF 1982**

[Certified on 10th August, 1982]

AN ACT TO IMPOSE A SURCHARGE ON EVERY PERSON CHARGEABLE WITH WEALTH TAX FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 1981 BY REFERENCE TO THE WEALTH 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 Wealth Tax Act, No. 25 of 1982.
2. Every person chargeable with wealth tax for the year of assessment commencing on April 1, 1981, shall, notwithstanding anything contained in any written law or in any convention, grant or agreement, be liable to pay a surcharge equivalent to ten *per centum* of the wealth tax payable by him for that year of assessment.
3. Every person liable to pay a surcharge under section 2 shall, notwithstanding the fact that an assessment has not been issued to him, pay to the Commissioner-General, not less than fifty *per centum* of the amount of the surcharge payable by him on or before July 15, 1982, and the balance on or before November 30, 1982.
4. The provisions of Chapter XIII and Chapters XVII to XXVI of the Inland Revenue Act relating to the furnishing of returns, assessment, appeals against assessment, payment, recovery and refund of wealth tax shall, *mutatis mutandis*, apply to the furnishing of returns, assessment, appeals against assessment, payment, recovery and refund of the surcharge payable under section 2.

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

"Commissioner-General" has the same meaning as in the Inland Revenue Act;

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

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

"year of assessment" has the same meaning as in the Inland Revenue Act.

**SURCHARGE ON INCOME TAX ACT, No. 26 OF 1982**

[Certified on 10th August, 1982]

AN ACT TO IMPOSE A SURCHARGE ON EVERY PERSON CHARGEABLE WITH INCOME TAX FOR THE YEAR OF ASSESSMENT COMMENCING ON APRIL 1, 1981 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. 26 of 1982.

2. Every person who is chargeable with income tax for the year of assessment commencing on April 1, 1981 (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 on the income tax payable by him for the relevant year, calculated at the rates specified in the First Schedule to this Act.

3. Where the aggregate of—

(a) the income tax payable for the relevant year ; and

(b) the surcharge on income tax payable under this Act,

by any person referred to in Column I of the Second Schedule to this Act, being a person whose taxable income for the relevant year does not exceed the amount specified in the corresponding entry in Column II of that Schedule, exceeds the difference between—

(i) the taxable income of such person for the relevant year , and

(ii) the amount specified in the corresponding entry in Column III of that Schedule,

the amount of such excess shall be deducted from the amount of the surcharge payable by him under this Act.

For the purposes of this section, every reference to the taxable income of a person for the relevant year shall, in the case of a liquidator of a company, be read and construed as a reference to the taxable income for the relevant year, of the company of which he is the liquidator.

4. Every person liable to pay the surcharge under this Act shall, notwithstanding the fact that an assessment has not been issued to him, pay to the Commissioner-General not less than fifty *per centum* of the amount of the surcharge payable by him, on or before July 15, 1982, and the balance on or before November 30, 1982.

5. Every employer who employs any employee from whose remuneration income tax for the relevant year is deductible, in accordance with the provisions of Chapter V of the Inland Revenue Act, (not being an employee who is deemed by subsection (7) of section 67 of that Act to be a non-resident) shall also deduct, as the surcharge on income tax payable under this Act, in six monthly instalments commencing from the month of June, 1982, the following amounts from the remuneration payable to such employee—

(a) where the income tax deductible from the remuneration of such employee for the relevant year, not being income tax payable on any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, exceeds four thousand and twenty rupees but does not exceed fourteen thousand and two hundred rupees, an amount equal to five *per centum* of such income tax ;

- (b) where the income tax deductible from the remuneration of such employee for the relevant year, not being income tax payable on any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, exceeds fourteen thousand and two hundred rupees but does not exceed ninety-six thousand five hundred and sixty rupees, an amount equal to ten *per centum* of such income tax ;
- (c) where the income tax deductible from the remuneration of such employee for the relevant year, not being income tax payable on any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, exceeds ninety six thousand five hundred and sixty rupees, an amount equal to fifteen *per centum* of such income tax.

6. Where the aggregate of—

- (a) the income tax payable for the relevant year ;
- (b) the wealth tax payable for the relevant year ;
- (c) the surcharge on income tax payable under this Act ; and
- (d) the surcharge on wealth tax payable under the Surcharge on Wealth Tax Act, 1982,

by any person, exceeds eighty *per centum* of the aggregate of the assessable income of that person for that year and of any profits and income (other than the net annual value of a residence and any subsidy exempt from income tax under the Inland Revenue Act), being profits and income exempt from income tax under that Act or any other enactment and which but for that exemption would have been taken into account in computing the assessable income of that person for the relevant year, the amount of such excess shall be set off against such surcharge on income tax or such surcharge on wealth tax or the aggregate of such surcharge on income tax and such surcharge on wealth tax.

7. The provisions of Chapter XIII and Chapters XV to XVI of the Inland Revenue Act relating to the furnishing of returns relating to income tax payable under that Act, the deduction of income tax, assessment, appeals against assessments, payment, recovery and refund of such tax shall, *mutatis mutandis*, apply to the furnishing of returns relating to the surcharge payable under this Act, and, the deduction, assessment, appeals against assessment, payment, recovery and refund, of such surcharge.

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

“assessable income”, “Charitable Institution”; “Commissioner-General”, “executor”, “people’s company”, “person”, “profits and income”, “quoted public company”, “receiver”, “small company”, “trustee” and “year of assessment” have the respective meanings assigned to them in the Inland Revenue Act ;

“co-operative society” means a co-operative society registered or deemed to be registered under the Co-operative Societies Law, No. 5 of 1972;

“employer”, “employee” and “remuneration” have the respective meanings assigned to them in Chapter XV of the Inland Revenue Act;

“income tax” with reference to any person and the relevant year,—

(a) in section 2 and in the First Schedule to this Act, and—

(i) in relation to a resident company, means the income tax payable under the Inland Revenue Act, by that Company for the relevant year less any income tax payable by that company for that year under paragraph (b) of subsection (1) of section 33 of that Act ;

(ii) in relation to a non-resident company, means the income tax payable, under the Inland Revenue Act, by that company for the relevant year less any income tax payable by that company for that year, under sub-paragraph (i) or sub-paragraph (ii) of paragraph (b) of subsection (i) of section 34 of that Act ;

(iii) in relation to a resident individual whose profits and income for the relevant year include any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, means such income tax as would have been payable under the Inland Revenue Act, by such individual had such profits from employment not formed part of his profits and income for the relevant year ;

(iv) in relation to an individual who is deemed by subsection (7) of section 67 of the Inland Revenue Act to be a non-resident, means such income tax as would have been payable, under the Inland Revenue Act, by such individual had his profits from employment in Sri-Lanka for the relevant year not formed part of his profits and income for that year ; and

(v) in relation to any other person, means the income tax payable, under the Inland Revenue Act, by that person for the relevant year ; and

(b) in sections 3 and 6, means the income tax payable, under the Inland Revenue Act, by that person for that year ;

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

“taxable income” with reference to any person and the relevant year, means the taxable income of that person for that year, computed in accordance with the provisions of the Inland Revenue Act ; and—

- (a) in the case of a resident individual whose profits and income for the relevant year include any profits from employment referred to in paragraph (c) of section 4 of the Inland Revenue Act, be deemed to mean such amount as would have been the taxable income (computed in accordance with the provisions of the Inland Revenue Act) of such individual for that year had such profits from employment not formed part of the profits and income of such individual for that year ;
- (b) in the case of an individual who is deemed by subsection (7) of section 67 of the Inland Revenue Act to be a non-resident, be deemed to mean such amount as would have been the taxable income (computed in accordance with the provisions of the Inland Revenue Act) of such individual for the relevant year had his profits from employment in Sri Lanka for that year not formed part of his profits and income for that year ;

“wealth tax” means the wealth tax charged and levied under the Inland Revenue Act.

## **INLAND REVENUE (AMENDMENT) ACT, No. 27 OF 1982**

[Certified on 11th August, 1982.]

### **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. 27 of 1982.

2. Section 8 of the Inland Revenue Act, No. 28 of 1979 (hereinafter referred to as the “principal enactment”) is hereby amended in paragraph (a) of that section, as follows :—

- (1) by the substitution, in sub-paragraph (xxii) of that paragraph, for the words “Development Corporation.”, of the words “Development Finance Corporation” ; and
- (2) by the addition, at the end of that paragraph of the following sub-paragraphs :—

“(xxxv) the Sri Lanka Export Credit Insurance Corporation established by the Sri Lanka Export Credit Insurance Corporation Act, No. 15 of 1978 ;

(xxxvi) the Sri Lanka Export Development Board established under the Sri Lanka Export Development Act, No. 40 of 1979 ;

(xxxvii) the Sri Lanka Ex-Servicemen’s Association established by the Sri Lanka Ex-Servicemen’s Association Law, No. 8 of 1976 ;

(xxxviii) a company registered under Part VIII of the Companies Act, No. 17 of 1982, being profits and income arising to such company from a ship which is—

- (i) engaged in international operations ;
- (ii) owned or chartered by such company ; and
- (iii) deemed to be a Ceylon ship by reason of a determination made under paragraph (c) of section 30 of the Merchant Shipping Act, No. 52 of 1971.

(other than profits and income arising to such company from the carriage, by that ship, of passengers, mails, livestock and goods, to or from, a port in Sri Lanka) ;

(xxxix) the Institute of Fundamental Studies, Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka, Act, No. 55 of 1981 ;

(xL) the International Winged Bean (Dambala) Institute established by the International Winged Bean (Dambala) Institute Act, No. 7 of 1982 ;”

3. Section 9 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

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

“(kk) the emoluments earned in any year of assessment by any individual employed on a ship which is—

- (i) owned or chartered by a company registered under Part VIII of the Companies Act, No. 17 of 1982 ; and
- (ii) deemed to be a Ceylon ship by reason of a determination made under paragraph (c) of section 30 of the Merchant Shipping Act, No. 52 of 1971 ; ” ; and

(2) by the repeal of sub-paragraph (ii) of paragraph (l) of that subsection and the substitution, of the following sub-paragraph therefor :—

“(ii) profits and income not exceeding one thousand two hundred rupees from all sources of profits and income other than employment, and accordingly, when any income tax has been paid, by deduction or otherwise, by such individual in any year of assessment, in respect of any profits and income which are exempt under this paragraph, such tax shall, on an application made in writing by such individual within three years of the end of that year of assessment, be refunded to him ; ”

4. Section 10 of the principal enactment is hereby amended by the repeal of paragraph (e) of that section, and the substitution of the following paragraph therefor :—

“(e) the interest accruing to any person during the period in which he is not resident in Sri Lanka and for the three years immediately succeeding the date on which he commences to be resident in Sri Lanka, on moneys lying to his credit in foreign currency in any account opened by him or on his behalf in any commercial bank with the approval of the Central Bank of Ceylon ;”.

5. Section 11 of the principal enactment is hereby amended in paragraph (b) of that section by the substitution for the words “which are exempt from income tax under section 15”, of the words “as are exempt from income tax under section 8(a) (xxxviii), 15”.

6. Section 13 of the principal enactment is hereby amended as follows :—

(a) in paragraph (e) of that section, by the substitution, for the words “other fishing equipment.”, of the words “other fishing equipment ;” ; and

(b) by the addition, at the end of that section, of the following paragraph :—

“( f) out of the Export Development Fund established by the Sri Lanka Export Development Act, No. 40 of 1979.”.

7. Section 15 of the principal enactment is hereby amended by the insertion immediately after paragraph (c) of that section, of the following paragraph :—

“(cc) the profits and income earned in any year of assessment in foreign currency, by a resident company or a partnership which carries on or exercises any trade, business, profession or vocation in respect of services rendered by such company or partnership in that year of assessment outside Sri Lanka in the course of carrying on, exercising or carrying out a profession or vocation or construction project, if such profits and income (less such amount as the Commissioner-General considers to be reasonable expenses) are remitted by such company or partnership to Sri Lanka ;”.

8. Section 16 of the principal enactment is hereby amended in paragraph (a) of that section, by the substitution, for the words “approved by the Minister, by Order published in the *Gazette*”, of the words and figures “approved by the Minister, prior to March 31, 1983, by Order published in the *Gazette*”.

9. Section 16A of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words “approved by the Minister by Order published in the *Gazette*”, of the words and figures “approved by the Minister, prior to March 31, 1983, by Order published in the *Gazette*”.

10. Section 16B of the principal enactment is hereby amended by the substitution for the words "approved by the Minister on the recommendation of the Ceylon Tourist Board", of the words and figures "approved, prior to March 31, 1983, by the Minister, on the recommendation of the Ceylon Tourist Board".

11. Section 17 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words "approved by the Minister which commenced to carry on, on or after that date", of the words and figures "approved by the Minister, by Order published in the *Gazette*, prior to March 31, 1983, which commenced to carry on, on or after November 15, 1977".

12. Section 18 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words "approved by the Minister", of the words "approved by the Minister, by Order published in the *Gazette*".

13. Section 19 of the principal enactment is hereby amended by the substitution, for the words "approved by the Minister", of the words "approved by the Minister, by Order published in the *Gazette*".

14. Section 20 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution, for the words and figures "approved by the Minister, after November 15, 1978", of the words and figures "approved by the Minister, by Order published in the *Gazette*, after November 15, 1978, but prior to March 31, 1983".

15. Section 21 of the principal enactment is hereby amended as follows :—

- (1) in paragraph (a) of that section, by the substitution, for the words "five hundred square feet;", of the words "one thousand square feet;;
- (2) in paragraph (b) of that section, by the substitution, for the words "five hundred square feet but does not exceed one thousand two hundred and fifty square feet; and", of the words "one thousand square feet but does not exceed one thousand seven hundred and fifty square feet ; and", and
- (3) in paragraph (c) of that section, by the substitution, for the words "one thousand two hundred and fifty square feet but does not exceed two thousand square feet;", of the words "one thousand seven hundred and fifty square feet but does not exceed three thousand square feet,".

16. Section 22 the principal enactment is hereby amended by the substitution, for the words "any contract which he has entered into", of the words and figures "any contract which he has entered into prior to November 12, 1981".

17. Section 22A of the principal enactment is hereby amended in paragraph (b) of that section, by the substitution, for the words "approved by the Minister", of the words and figures "approved by the Minister by Order published in the *Gazette* prior to March 31, 1983,".

18. Section 22B of the principal enactment is hereby amended in paragraph (c) of subsection (2) of that section, by the substitution, for the words "approved by the Minister", of the words and figures "approved by the Minister by Order published in the *Gazette*, prior to March 31, 1983".

19. Section 22C of the principal enactment is hereby amended in paragraph (b) of that section by the substitution, for the words "approved by the Minister", of the words and figures "approved by the Minister, by Order published in the *Gazette*, prior to March 31, 1983,".

20. Section 22D of the principal enactment is hereby amended in sub-paragraph (iii) of paragraph(b) of subsection (2) of that section, by the substitution, for the words "approved by the Minister", of the words and figures "approved by the Minister by Order published in the *Gazette*, prior to March 31, 1983,".

21. The following new section is inserted immediately after section 22D and shall have effect as section 22E of the principal enactment :—

"Power of  
Commissioner  
General to  
recommend  
cancellation  
of approvals  
granted  
under  
sections 16,  
16A, 16B, 20,  
22A, 22B, 22C  
or 22D.

22E. Where the Commissioner-General is satisfied that—

(a) any company or undertaking approved by the Minister under section 16 or section 16A or section 16B or section 20 or section 22C or section 22D has not taken any steps to commence business ; or

(b) any construction, contract or poroject approved by the Minister under section 16B or section 22A or section 22B in relation to a company or undertaking, has not been commenced by such company or undertaking,

within a period of one year from the date on which the Minister has approved such company, undertaking, construction, contract or project, as the case may be, he shall recommend to the Minister that such approval be cancelled, and upon such recommendation, the Minister may, having regard to the interests of the economy, by Order published in the *Gazette*, cancel such approval."

22. Section 23 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

- (a) by the insertion, immediately after paragraph (e) of that subsection, of the following paragraph—

“(ee) such allowance (calculated at a fixed rate *per centum* per annum on the cost of acquisition) as the Commissioner-General considers reasonable for depreciation by wear and tear of any unit of non-residential accommodation comprised in a registered Condominium Property, within the meaning of the Apartment Ownership Law, No. 11 of 1973, acquired by such person on or after April 1, 1981, and used by him in any trade, business, profession or vocation carried on or exercised by him :

Provided that no deduction under the provisions of this paragraph shall be allowed to a person in respect of such unit if the total of the allowances for depreciation in the preceding years of assessment is equal to the cost of acquisition of such unit;”;

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

“(k) any—

- (i) business turnover tax payable under the Finance Act, No. 11 of 1963, or
- (ii) turnover tax payable under the Turnover Tax Act, No. 69 of 1981, less any deductions allowable under section 47 of that Act,

which such person is liable to pay for the period for which the profits and income are being ascertained in respect of any trade, business, profession or vocation carried on or exercised by him;”;

- (c) by the substitution, in subsection (5) of that section, for the words and figures “under subsection (1) (a), (1) (b), (1) (c), (1) (d), (1) (e) or (1) (f)”, of the words and figures “under subsection (1) (a), (1) (b), (1) (c), (1) (d), (1) (e), (1) (ee) or (1) (f)”;

- (d) by the substitution for sub-paragraph (i) of paragraph (a) of subsection (7) of that section of the following sub-paragraph :—

“(i) paragraph (a), or paragraph (b), or paragraph (c), or paragraph (d), or paragraph (e), or paragraph (ee) of subsection (1) of this section or under subsection (1) of section 162;”.

23. Section 31 of the principal enactment is hereby amended in subsection (2) of that section—

(a) by the substitution, in paragraph (b) of that subsection, for the words “to a local authority, to a fund”, of the words and figures “to a local authority, to any Higher Educational Institution established or deemed to be established under the Universities Act, No. 16 of 1978, to a fund”; and

(b) by the addition, at the end of sub-paragraph (v) of paragraph (k) of that subsection of the following sub-paragraphs :—

“(vi) the Institute of Fundamental Studies, Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka, Act, No. 55 of 1981 ;

(vii) the International Winged Bean (Dambala) Institute, established by the International Winged Bean (Dambala) Institute Act, No. 7 of 1982 ;”;

(c) by the substitution, for paragraph (l) of that subsection of the following new paragraph :—

“(l) any amount spent by a person in constructing any house or flat or the cost of purchase of any unit of residential accommodation constructed with the approval of the Urban Development Authority (established by the Urban Development Authority Law, No. 41 of 1978) and comprised in a registered Condominium Property within the meaning of the Apartment Ownership Law, No. 11 of 1973, if—

(i) such house, flat or unit is for occupation as a dwelling house by any member of the staff employed by such person,

(ii) the floor area of such house, flat or unit does not exceed two thousand square feet, and

(iii) no allowance is deductible under sub-paragraph (i) of paragraph (b) of subsection (1) of section 23 or paragraph (f) of subsection (1) of section 23 in respect of such house, flat or unit ;” ; and

(d) by the addition, at the end of that subsection, of the following :—  
“In paragraphs (e) and (g) of this subsection and in subsection

(3) the expression “purchase” shall be deemed to include a lease of any unit of residential accommodation constructed with the approval of the Urban Development Authority (established by the

Urban Development Authority Law, No. 41 of 1978) and comprised in a registered Condominium property, within the meaning of the Apartment Ownership Law, No. 11 of 1973, if—

- (i) such lease is for a period exceeding fifty years ; and
- (ii) the consideration for such lease was paid in full at the time the agreement for such lease was entered into,

24. The following new sections are hereby inserted immediately after section 32, and shall have effect as sections 32AL, 32BL, and 32C, respectively, of the principal enactment :—

Special provision relating to taxation of interest on compensation payable in respect of property vested in the Government, the Land Reform Commission or a public corporation or a local authority.

32A (1) The provisions of this section shall apply to the interest payable on the compensation payable in respect of any immovable or movable property vested in the Government or in the Land Reform Commission or in a public corporation or in a local authority, such interest being the accumulated interest payable on such compensation for the period commencing on the date on which such compensation accrues due and ending on the date of payment of such compensation (in this section referred to as "the relevant interest").

(2) Notwithstanding anything to the contrary in any law—

(a) the relevant interest received by any person shall be deemed to be income arising to that person in the year of assessment in which he receives such interest and not in the year of assessment to which such interest relates and such interest shall be liable to income tax at the rate of ten *per centum* ;

(b) the Government, the Land Reform Commission, public corporation or the local authority paying the relevant interest to any person shall deduct from such interest an amount equal to ten *per centum* of such interest and shall remit the amount so deducted to the Commissioner-General, with a statement in writing showing the particulars of the gross amount of the relevant interest payable, the tax deducted, the net amount paid, the name and address of the person to whom it is paid and the amount so remitted shall be set off against the tax payable by such person under paragraph (a).

(3) In this section,—

“Land Reform Commission” means the Land Reform Commission established by the Land Reform Law, No 1 of 1972 ; “public corporation” means any corporation board, or other body which was or is established by, or under, any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government, by way of grant, loan or other form.

32B (1) The provisions of this section shall apply to the accumulated interest (in this section referred to as “the relevant interest”) paid on a sum of money deposited in a banking institution by—

(a) any individual ; or

(b) another person on behalf of any individual,

under a scheme approved by the Commissioner-General which—

(i) is operated by such banking institution ; and

(ii) conforms to such conditions as may be specified, from time to time, by the Commissioner-General.

The Commissioner-General shall, in specifying any matter which is required by this sub-section to be specified by him, have regard to the need to encourage and facilitate savings.

(2) Notwithstanding anything to the contrary in this Act—

(a) The relevant interest paid to any individual shall be deemed to be income arising to him in the year of assessment in which such interest is paid to him and not in the year of assessment to which such interest relates and such interest shall be liable to income tax at the rate of fifteen *per centum* or the maximum rate at which he is liable to pay income tax on his profits and income (exclusive of the relevant interest) for that year of assessment, whichever is the lower rate ;

(b) the banking institution paying the relevant interest to such individual shall, notwithstanding anything in paragraph (a), deduct from such interest an amount equal to fifteen *per centum* of such interest and shall forthwith remit the sum so deducted to the Commissioner-General ;

- (c) where a banking institution, deducts income tax in accordance with paragraph (b) from the relevant interest paid to any individual, it shall issue to such individual, a statement in writing setting out the gross amount of the relevant interest payable, the rate and amount of tax deducted and the net amount actually paid;

(d) Where—

- (i) any amount is deducted, in accordance with paragraph (b), from the relevant interest paid to any individual, and
- (ii) the maximum rate at which such individual is liable to pay income tax for the year of assessment in which such deduction is made, in respect of his profits and income (exclusive of the relevant interest) is less than fifteen *per centum*,

then such individual shall be entitled, on production of the statement referred to in paragraph (c) and subject to the provisions of Chapter XXIII, to a refund of such percentage of the relevant interest as is equal to the difference between fifteen *per centum* and such maximum rate of tax ;

(3) Where a banking institution, which is required by subsection (2) to deduct any income tax from the relevant interest paid by it to any individual, fails to deduct such income tax, then, the director, general manager or other principal officer of such banking institution shall be personally liable for the tax which such institution was required to deduct under this section and such tax may be recovered from such director, manager, or principal officer, by all the means provided in this Act.

(4) Where any money is deposited in a banking institution by an individual under a scheme approved by the Commissioner-General under subsection (1) and such individual withdraws the interest on such money, in contravention of the conditions imposed by the Commissioner-General in relation to such scheme, additional assessments may, notwithstanding anything in this Act, be made in respect of every year of assessment to which the interest so withdrawn relates.

32c. The gross interest (not being interest exempt under any other provision of this Act), payable on a loan granted to any person in Sri Lanka by any company, partnership or other body of persons outside Sri Lanka, being interest which arises or is deemed,

by section 80A, to arise to such company, partnership or other body of persons shall, notwithstanding anything in this Act, be chargeable with income tax at the rate of fifteen *per centum*.'

25. Section 33 of the principal enactment is hereby amended as follows:—

(1) by the repeal of subsections (1) and (1A) of that section and the substitution therefor of the following subsections :—

“(1) The income tax to which any company resident in Sri Lanka in any year of assessment shall be liable for that year of assessment shall consist of—

(a) an amount calculated on the taxable income of such company for that year of assessment at the appropriate rate specified in the Second Schedule to this Act as the rate applicable to companies of that class ; and

(b) an amount equal to a percentage of the aggregate amount of the gross dividends distributed by such company in that year of assessment out of the profits on which the taxable income of such company is computed for any year of assessment, such percentage being—

(i) thirty-three and one third, if that year of assessment is the year of assessment commencing on April 1, 1979, and

(ii) twenty, if that year of assessment is any year of assessment commencing on or after April 1, 1980 :

Provided that a quoted public company shall not be liable to pay tax under paragraph (b) for any year of assessment commencing on or after April 1, 1980 :”.

(2) by the substitution in subsection (2) of that section for the words and “For the purpose of subsections (1) and (1A)”, figures of the words and figures “For the purposes of subsection (1)”;

(3) by the substitution in sub-paragraph (ii) paragraph (6) of subsection (2) of that section for the words “the issued capital of which does not exceed five hundred thousand rupees”, of the words “the issued capital of which does not exceed five hundred thousand rupees either throughout the year of assessment for which the taxable income computed or from the date of incorporation of the company to the end of that year of assessment,”;

(4) by the repeal of paragraph (c) of subsection (2) of that section and the substitution therefor of the following paragraph :—

(c) "amount of gross dividends" of a company other than a quoted public company means—

- (i) in any case where a deduction under section 38 is made by the company in respect of its dividends, the amount of the dividend before such deduction is made ;
- (ii) in any case where no such deduction is made by the company in respect of its dividends, the amount of the dividend increased by—
  - (a) fifty *per centum* thereof, if the dividend is payable on or before March 31, 1980 ; or
  - (b) twenty-five *per centum* thereof, if the dividends is payable on or after April 1, 1980.'

26. Section 34 of the principal enactment is hereby amended in paragraph (a) of subsection (1) of that section by the substitution, for the words and figure "specified in Part V of the Second Schedule" of the words and figures "specified in Part VII of the Second Schedule".

27. Section 37 of the principal enactment is hereby repealed and the following new section substituted therefor :—

'Resident company to deduct tax on dividends payable to non-resident company.

37. Every resident company shall deduct from the amount of any dividend which becomes payable to any non-resident company during any year of assessment (in this section referred to as "the relevant dividend") :—

- (a) if the relevant dividend consists of any part of the amount of a dividend received by such resident company from another resident company, not being part of the amount of a dividend exempt from income tax under this Act, income tax equivalent to five *per centum* of the amount of such relevant dividend increased by fifty *per centum* where the dividend is payable on or before March 31, 1980, and increased by twenty-five *per centum* where the dividend is payable on or after April 1, 1980 ;
- (b) if the relevant dividend is not a dividend exempt from income tax under this Act, and does not consist of any part of the amount of a dividend received by such resident company from another resident company, income tax equivalent to five *per centum* of such relevant dividend ;
- (c) if the relevant dividend is paid out of the amount of a dividend received by such resident company, being a dividend exempt from income tax under this Act, income tax equivalent to five *per centum* of the amount of such relevant dividend ; and

- (d) if the relevant dividend is paid out of the amount of a dividend received by such resident company from a quoted public company, income tax equivalent to five *per centum* of the amount of such relevant dividend :

Provided however, that where the Commissioner-General is satisfied that such non-resident company is not liable to pay income tax for the year of assessment in which it receives such relevant dividend or is liable to pay income tax for that year of assessment, of an amount lower than the amount required to be deducted from such relevant dividend under the preceding provisions of this section, he may, having regard to the amount of income tax that such non-resident company is liable to pay for that year of assessment, direct such resident company to deduct from the amount of such relevant dividend, income tax at a rate lower than the rate at which it is required to deduct income tax from such relevant dividend under the preceding provisions of this section,

and the amount of the income tax which a resident company is under this section, required to deduct shall be a debt due from such resident company to the Republic and shall be recoverable forthwith as such or may be assessed and charged upon such company in addition to any income tax otherwise payable by it.'

28. Section 42 of the principal enactment is hereby amended by the insertion, immediately after paragraph (f) of that section, of the following paragraphs :—

“(ff) the Institute of Fundamental Studies, Sri Lanka, established by the Institute of Fundamental Studies, Sri Lanka, Act, No. 55 of 1981 ;

“(fff) the International Winged Bean (Dambala) Institute established by the International Winged Bean (Dambala) Institute Act, No. 7 of 1982”.

29. Section 48 of the principal enactment is hereby amended in subsection (2) of that section by the addition, at the end of that Section, of the following :—

“For the purpose of this subsection, the profits and income arising to a non-resident company from a unit of accommodation constructed with the approval of the Urban Development Authority (established by the Urban Development Authority Law, No. 41 of 1978) and comprised in a registered Condominium Property, within the meaning of the Apartment Ownership Law, No. 1 of 1973, shall be deemed not to be profits and income derived by that company from immovable property.”.

30. Section 54 of the principal enactment is hereby amended in subsection (1) of that section, by the repeal of paragraphs (d) and (e) of that subsection and the substitution, of the following paragraphs therefor :—

“(d) to a charity which is an approved charity within the meaning of section 31(9) of this Act, or Section 16A of the 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, each such gift being over one thousand rupees in value, subject to a maximum of five hundred thousand rupees in value for the lifetime of such individual in respect of gifts made on or after July 18, 1958 ;

(e) to the Government or to any local authority or to any Higher Educational Institution, established or deemed to be established under the Universities Act, No. 16 of 1978 ;”.

31. The following section is inserted immediately after section 81, and shall have effect as section 81A, of the principal enactment :—

Deduction of  
income tax from  
payments made  
to foreign  
entertainers and  
artists

81 A (1) Every person who makes a payment to any other person who—

(a) is not a citizen of Sri Lanka ; and

(b) carries on or exercises the profession or vocation of entertainer or artiste,

in respect of services rendered by such other person in Sri Lanka in the course of carrying on or exercising such profession or vocation, shall deduct from such payment, income tax equal to thirty-three and one third *per centum* of the amount of such payment.

(2) Every person who deducts income tax, in accordance with subsection (1), from any payment made by him to any other person shall issue a statement to such other person setting out the following particulars :—

(a) the gross amount of the payment due ;

(b) the rate and amount of the tax deducted ;

(c) the net amount actually paid.

(3) Where the assessable income of a person for any year of assessment includes a payment referred to in this section, then,—

(a) if such person is liable to pay income tax for that year of assessment, he shall be entitled, on production of a statement relating to such payment made in accordance with sub-section (2) to deduct from the income tax payable by him, the amount of tax set out in such statement ;

(b) if such person is not liable to pay income tax for that year of assessment, he shall be entitled, on production of a statement relating to such payment made in accordance with subsection (2) and subject to the provisions of Chapter XXIII, to a refund of the amount of tax set out in such statement.

(4) Where any person who is required by subsection (1) to deduct income tax in accordance with that subsection from any payment made by him fails to deduct such tax, then,—

(a) if such person is an individual, such individual ;

(b) if such person is a company or a body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body,—

shall be personally liable to pay the tax he was required to deduct under that subsection, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all the means provided in this Act.

(5) In this section, the expression “profession or vocation of entertainer or artiste” includes the profession or vocation of actor, musician, athlete or acrobat,”

32. Section 113 of the principal enactment is hereby amended by the substitution, for all the words from “5 A non-resident person . . . . . The agent or attorney of such person in Sri Lanka” to “appointed by the President or by a Minister;”, of the words “5. A non-resident person . . . . . The agent or attorney of such person in Sri Lanka.”.

33. Section 118 of the principal enactment is hereby amended in subsection (1) of that section by the substitution, for all the words from “The members of the Board ” to the end of that subsection, of the words “Every member of the Board so appointed shall hold office for a term not exceeding three years but shall be eligible for reappointment.”.

34. Section 129 of the principal enactment is hereby amended in paragraph (c) of subsection (2) of that section as follows :—

(a) in sub paragraph (i) of that paragraph, by the substitution for all the words from “such cash” to “in default ;”, of the following :—

“such cash shall be first applied in the payment of the costs and charges of seizing and any balance applied in satisfaction of the tax in default ;” and

(b) in sub paragraph (ii) of that paragraph by the substitution for all the words from “and the proceeds” to “in default;”, of the following—

“and the proceeds therefrom applied in the payment of the costs and charges of seizing and any balance applied in satisfaction of the tax in default ; and”.

35. The Second Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefor :—

**LOANS (SPECIAL PROVISIONS) ACT, No. 40 OF 1982**

[Certified on 3rd November, 1982]

AN ACT TO AUTHORIZE THE RAISING OF LOANS IN, OR OUTSIDE, SRI LANKA FOR THE SERVICE OF THE GOVERNMENT DURING ANY PERIOD IN RESPECT OF WHICH NO APPROPRIATION ACT HAS BEEN PASSED AUTHORIZING EXPENDITURE DURING THAT PERIOD AND TO PROVIDE FOR THE PAYMENT FROM SUCH LOANS OF MONEYS REQUIRED DURING THAT PERIOD FOR EXPENDITURE ON SUCH SERVICE ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Loans (Special Provisions) Act, No. 40 of 1982.

2. Without prejudice to any other law authorizing the raising of loans for and on behalf of the Government, any expenditure of the Government, for which provision has been made by, or under any law or which has been otherwise lawfully authorized, for any period commencing on the first day of any financial year of the Government in respect of which no Appropriation Act has been passed by Parliament and ending on the date of commencement of the Appropriation Act for that financial year (in this Act referred to as the “relevant period”), may be met from the proceeds of loans which are hereby authorized to be raised, whether in or outside Sri Lanka, for or on behalf of the Government, so however, that the aggregate proceeds of the loans raised in any period of three months in the relevant period shall not exceed one-fourth of the total amount of the loans authorized to be raised for the preceding financial year of the Government by the Appropriation Act for that financial year.

**DEVELOPMENT FINANCE CORPORATION OF CEYLON (AMENDMENT)  
ACT, No. 42 OF 1982**

[Certified in 3rd December, 1982]

AN ACT TO AMEND THE DEVELOPMENT FINANCE CORPORATION OF CEYLON ACT.

1. This Act may be cited as the Development Finance Corporation of Ceylon (Amendment) Act, No. 42 of 1982.

2. Section 4 of the Development Finance Corporation of Ceylon Act, (herein after referred to as the “principal enactment”) as amended by Act No. 8 of 1958, is hereby further amended in subsection (2) of that section by the substitution, for the words “twenty *per centum*”, of the words “forty-nine *per centum*”.

3. Section 5 of the principal enactment replaced by Law, No. 12 of 1974, is hereby amended as follows :—

- (1) by the substitution, for paragraph (vii) of that section of the following paragraph :—

“(vii) to provide such services as managerial, technical and administrative advice and merchant banking services and assist in obtaining managerial, technical, administrative and merchant banking services to private industrial, agricultural and commercial enterprises in Sri Lanka ;”.

- (2) by the renumbering of paragraphs (xv) and (xvi) of that section as paragraphs (xxi) and (xxii) respectively ; and

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

“(xv) to issue debentures and to accept fixed deposits from any person in such amounts and for such periods as may be determined by the Board of Directors ;

(xvi) to establish subsidiary companies to assist in it carrying out its purposes and exercising and performing its powers and duties ;

(xvii) to participate in loans, equities, underwriting arrangements and guarantees with approved credit institutions ;

(xviii) to lease, let on hire, sell outright, or sell on a hire-purchase basis warehouses, godowns, stores and buildings, machinery, equipment and other goods ;

(xix) to convert a part or whole of its loans to industrial, agricultural or commercial enterprises and its subscriptions to bonds or debentures issued by any such enterprise into equity capital ;

(xx) to receive, in consideration of the functions the Corporation may be performing, such commission, brokerage, interest, remuneration or fees, as the Board of Directors may, from time to time, determine;”.

4. Section 7 of the principal enactment, as amended by Act No. 1 of 1967, is hereby further amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection :—

“(1) The authorized share capital of the Corporation shall be three hundred million rupees divided into three million ordinary shares of one hundred rupees each.”

5. Section 10 of the principal enactment replaced by Law No. 12 of 1974, is hereby amended as follows :—

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

“(2) The Minister in charge of the subject of Finance shall be entitled from time to time to appoint any person as a director (hereinafter called the “Government director”) of the Corporation, to remove such person from office and, on a vacancy being caused in such office whether by resignation, death, removal or otherwise, to appoint a director to fill the vacancy. The Government director shall not be liable to retire by rotation or be removed from office except by such Minister and shall not be bound to hold any qualification shares. Subject as aforesaid the Government director shall be entitled to the same rights and privileges and be subject to the same obligations as any other director of the Corporation.”;

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

“(4) The holder for the time being of the office of General Manager of the Corporation shall be an *ex officio* director of the Corporation without the right to vote. The *ex officio* director shall not be required to hold any qualification shares.” ; and

- (3) by the substitution, in subsection (5) of that section for the words “be citizens of Sri Lanka.”, of the words “be citizens of Sri Lanka. No shareholder director shall hold office for a continuous period of more than eight years.”.

6. Section 13 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:—

“(2) So long as there is outstanding any loan made by the Government to the Corporation under subsection (1) the Corporation shall set aside in each year in a special reserve fund a sum equal to not less than twenty *per centum* of the net profits of the Corporation as shown in the Corporation's financial statement for that year, until the amount so set aside equals the amount of the Government loan then outstanding.”.

7. Section 14 of the principal enactment replaced by Law No. 12 of 1974, is hereby amended in subsection (1) of that section by the substitution, for the words “seventy-two million rupees”, of the words “three thousand million rupees”.

**STAMP DUTY ACT, No. 43 OF 1982**

[Certified on 14th December, 1982]

**AN ACT TO PROVIDE FOR THE IMPOSITION OF STAMP DUTY ON INSTRUMENTS AND DOCUMENTS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

1. This Act may be cited as the Stamp Duty Act, No. 43 of 1982, and shall come into operation on such date as the Minister may, by Order published in the *Gazette* appoint (in this Act referred to as the "appointed date.")

**CHAPTER I**

**IMPOSITION OF STAMP DUTY**

2. There shall be charged on—

- (a) every instrument which is executed, drawn or presented in Sri Lanka ;
- (b) every document presented or filed, in civil proceedings instituted in the Supreme Court or the Court of Appeal or a District Court or in admiralty proceedings instituted in the High Court ;
- (c) every bill of exchange, cheque or promissory note drawn outside Sri Lanka and accepted or paid or presented for acceptance or payment or endorsed, transferred or otherwise negotiated in Sri Lanka ;
- (d) every instrument (not being a bill of exchange, cheque or promissory note) executed outside Sri Lanka and received in Sri Lanka, being an instrument which relates to any property situated, or any matter or thing done, or to be done, in Sri Lanka.

a stamp duty at the prescribed rate. Different rates may be prescribed in respect of different classes or categories of instruments.

3. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duty that would have been chargeable had each of such matters been dealt with by a separate instrument.

4. Nothing in this Act shall affect or be deemed to affect any provision of law providing for the stamping of any instrument or the exemption of any instrument from stamp duty.

**CHAPTER II**

**EXEMPTIONS**

5. The following instruments and documents shall be exempt from the payment of stamp duty:—

- (1) affidavit or affirmation made on the request of any public officer or in compliance with any requirement imposed by any written law ;
- (2) agreement or covenant secured by a mortgage contained in the same instrument therewith, such instrument being duly stamped as a mortgage ;
- (3) agreement to marry, not containing any settlement or transfer of property ;
- (4) bail bond in criminal proceedings ;
- (5) bond or mortgage made in pursuance of covenants or other agreements in that behalf, contained in some other instrument, and without additional money consideration, if such other instrument has been stamped with an *ad valorem* stamp duty on the amount of the consideration for such bond or mortgage ;
- (6) bond of indemnity given to a public officer in the execution of his duty;
- (7) bond or mortgage given by any public officer or his sureties for the due execution of his office ;
- (8) cheque drawn by any person in the service of the State in the execution of his duties ;
- (9) conveyance or transfer by the Government or by any person for or on behalf of the Government;
- (10) debenture issued by a company or other corporate body in terms of a mortgage deed, duly stamped in respect of the full amount of debenture to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to the trustee for the benefit of the debenture holder :

Provided that the debenture so issued is expressed to be issued in terms of that mortgage deed ;

- (11) deed of partition of any land held in common ;
- (12) instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument ;
- (13) instrument executed by, or on behalf of, or in favour of, the Government of any country, being a country in respect of which an Order under section 67(3) is in force ;

(14) the following documents filed in legal proceedings—

- (a) all documents filed in Magistrate's Courts and Primary Courts and all documents filed for the purposes of criminal proceedings in any other court ;
  - (b) documents filed in any court, by public officers suing, or being sued or intervening, *virtute officii*, in any proceedings in such court ;
  - (c) documents filed in any court, by a person duly admitted to sue, defend or intervene, as a pauper in any proceedings instituted in such court ;
  - (d) documents filed in any court, by a person applying to be declared as insolvent by such court ;
  - (e) all documents filed in any court for the purposes of an application for an order in the nature of a writ of habeas corpus ;
  - (f) motions filed in any court ;
  - (g) warrants issued by any court, whether on application on its own motion ;
- (15) letter of credit, whether in sets or not, sent by any person in Sri Lanka to any person outside Sri Lanka authorizing drafts on Sri Lanka ;
- (16) mortgage of food crops ;
- (17) receipts given for money or securities for money deposited in a bank ;
- (18) receipt or discharge given for any money or other property amounting to less than one hundred rupees ;
- (19) share certificate issued upon a subdivision or consolidation of existing shares in any company ;
- (20) share certificate issued in lieu of share certificate lost or destroyed, or new share certificate for a greater or less number of shares in lieu of existing share certificates but not exceeding the value of the existing share certificates ;
- (21) will, testament or codicil whether notarial or otherwise.

## CHAPTER III

### TIME AND MODE OF STAMPING

6. (1) The stamp duty with which any instrument is chargeable shall be paid before or at the time of execution of the instrument and such payment shall be indicated on such instrument by means of adhesive stamps or impressed stamps except as otherwise permitted in this Act.

(2) The following instruments shall be deemed to have been stamped before or at the time of execution of the instrument :—

- (a) share transfers executed in Sri Lanka which are stamped within one month of execution ;
- (b) any instrument, not being a bill of exchange, cheque or promissory note, executed out of Sri Lanka which is stamped within one month after it has been first received in Sri Lanka ;
- (c) any bill of exchange, cheque or promissory note drawn or made out of Sri Lanka which is stamped before the first holder of such instrument presents it in Sri Lanka for acceptance or payment or otherwise negotiates it.

(3) Where it is not practicable to use adhesive or impressed stamps to indicate the payment of the stamp duty with which such instrument is chargeable, the Commissioner-General may, on payment to him of an amount equal to the stamp duty with which such instrument is chargeable, endorse on the instrument the amount paid and date of payment of such duty. An instrument so endorsed shall be deemed to be duly stamped.

7. (1) Where the payment of stamp duty with which an instrument is chargeable is indicated by means of an adhesive stamp, the person executing such instrument, or in the case of a notarially executed instrument, the notary, shall cancel the stamp by writing his name across it in ink so as not to admit of it being used again.

(2) Where an instrument bears an adhesive stamp of the value of fifty rupees or more, such stamp shall, in addition to the writing referred to in subsection (1), be cancelled by cutting it with a prick, punch, cutter or nipper.

(3) Any instrument bearing an adhesive stamp which has not been cancelled in the manner set out in subsections (1) and (2) shall be deemed to be unstamped to the extent of the value of that stamp.

## CHAPTER IV

### HOW CERTAIN INSTRUMENTS ARE TO BE STAMPED

8. No second instrument chargeable with stamp duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with stamp duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby or for extending the time for payment of a bill of exchange or promissory note.

9. Where there are several instruments of conveyance or transfer for effecting an exchange of property, the instrument first executed shall be stamped with the stamp duty, if any, with which such exchange is chargeable, and all the other instruments shall be stamped with a stamp duty, of five rupees :

Provided, however, that the preceding provisions of this section shall not apply to any such subsequent instrument executed after a period of three months from the date on which the first instrument was executed.

10. Where a contract of agreement of any kind is effected by correspondence consisting of two or more letters, and any one of the letters bears a stamp of the proper value the contract or agreement shall be deemed to be duly stamped.

11. Every document filed in any legal proceedings and chargeable with stamp duty shall be treated as duly stamped if the proper duty payable on every such document is affixed to the list of such documents and cancelled in the manner provided for in this Act.

12. Where any instrument chargeable with stamp duty (not being a draft, order, or promissory note for the payment of money or a receipt or discharge for or upon the payment of money) is executed or acknowledged before a notary public or fiscal in the execution of his office, the stamp duty chargeable on such instrument shall be chargeable on the duplicate or counterpart thereof, instead of on the original instrument and the original instrument shall bear a stamp of one rupee.

## CHAPTER V

### COMPOSITION OF STAMP DUTY

13. (1) The Commissioner-General may authorize—

- (a) any person issuing insurance policies,
- (b) any company issuing shares, whether such issue is original or increased or creating debenture stock,
- (c) any bank doing business in Sri Lanka,
- (d) any employer making payments to employees who are liable to give stamped receipts in respect of such payments,
- (e) an officer of the Supreme Court, Court of Appeal, the High Court or a District Court,

- (f) any other person issuing instruments of a category, having regard to the fact that it is impracticable or inexpedient to stamp instruments of that category at the time, or in the manner, prescribed by this Act,

to compound for the payment of the stamp duty payable, as the case may be, on the insurance policies issued by such person or on the shares or debenture stock issued by such company or on cheques drawn and issued on forms supplied by such bank or on the receipts given by employees to such employer or on the documents presented or filed in any civil or admiralty proceedings instituted in any such court or on the instruments issued by such other person, on all or any of the following conditions :—

- (i) that such person, company, bank, employer, officer or other person, as the case may be, enters into a bond with the Commissioner-General substantially in the prescribed form ;
- (ii) that such person, company, bank, employer, officer or other person, as the case may be, maintains a record as the case may be, of the insurance policies issued by such person or the shares or debenture stock issued by such company or the cheques drawn or issued on forms supplied by such bank or the receipts given by such employees or the documents presented or filed in civil or admiralty proceedings instituted in such court or the instruments issued by such other person ;
- (iii) that such person, company, bank, employer, officer or other person, as the case may be, remits to the Commissioner-General, at the end of such periods as may be specified by the Commissioner-General, the aggregate stamp duty payable, as the case may be, on—
  - (a) the insurance policies issued by such person ;
  - (b) the shares or debenture stock issued by such company ;
  - (c) the cheques drawn or issued on the forms supplied by such banks ;
  - (d) the receipts given by such employees ;
  - (e) the documents presented or filed in civil or admiralty proceedings instituted in the court to which such officer is appointed ; or
  - (f) instruments issued by such other person, during that period.

(2) Notwithstanding the preceding provisions of this section—

- (i) any person making payments to one hundred employees or more in respect of their employment shall collect stamp duty payable on the receipt for such payment ;

- (ii) every bank or approved credit agency shall collect the stamp duty payable in respect of every bill of exchange other than a cheque, promissory note, trust receipt, letter of trust or declaration of trust taken by it, every pledge in respect of corporeal movables made to it and every application made to it for a letter of credit,

and shall, in either case, unless otherwise directed, remit to the Commissioner-General quarterly, within fifteen days of the end of each quarter ending on March 31, June 30, September 30 and December 31 of every year the sums payable as stamp duty during each preceding quarter, together with a certified statement of collections.

(3) Where the payment of the stamp duty with which an instrument or document is chargeable has been compounded in accordance with this section such instrument or document shall be deemed to be duly stamped.

(4) Where the payment of the stamp duty with which every bill of exchange, (other than a cheque) promissory note, trust receipt, letter of trust, declaration of trust, pledge in respect of corporeal movables or application made for letter of credit is chargeable with stamp duty has been compounded in accordance with this section, the company or the bank or approved credit agency, as the case may be, shall certify on such bill of exchange, (other than a cheque) promissory note, trust receipt, letter of trust, declaration of trust, pledge in respect of corporeal movables or application made for a letter of credit that the stamp duty on it has been compounded. Such certificate shall be substantially in the following form :—

“It is hereby certified that the stamp duty payable in respect of this instrument, namely Rs.——— has been compounded in terms of section 13 of the Stamp Duty Act.”

(5) Where the payment of the stamp duty payable on a document presented or filed in civil or admiralty proceedings instituted in the Supreme Court, the Court of Appeal, the High Court or a District Court has been compounded in accordance with this section, the officer of such court authorized under subsection (1) shall endorse on such document the amount of stamp duty payable on such document and that the payment of such stamp duty has been compounded in accordance with this section.

(6) Notwithstanding that the payment of stamp duty with which an instrument or document is chargeable has been compounded as aforesaid, the Commissioner-General may adjudicate on the proper duty payable in respect of such instrument or document.

## CHAPTER VI

### SPECIAL PROVISIONS RELATING TO DOCUMENTS FILED IN LEGAL PROCEEDINGS

14. (1) For the purposes of determining the stamp duty payable on documents presented or filed in—

- (a) any civil proceedings instituted in the Supreme Court or the Court of Appeal or a District Court ;

or

- (b) any admiralty proceedings instituted in the High Court,

the value of such proceedings shall, unless otherwise provided in this or any other enactment,—

- (i) be the amount of the debt, demand or damages claimed in the proceedings ;
- (ii) where the proceedings relate to the right, title or interest in land, be the value of such land ;
- (iii) in any other case, be five thousand rupees.

(2) The total stamp duty chargeable in respect of the documents filed in any proceedings in any court shall not exceed the aggregate of the stamp duty chargeable on the first ten documents filed by each party to the proceedings.

## CHAPTER VII

### VALUATION FOR STAMP DUTY

15. (1) Where any property is conveyed by an instrument, the stamp duty with which such instrument is chargeable shall be calculated on the value of the property conveyed.

(2) Where any property transferred for a consideration is subject to any mortgage, encumbrance or reservation of interest, stamp duty with which the instrument of transfer is chargeable shall be calculated on the value of the property transferred, without any deduction for the mortgage, encumbrance or reservation.

(3) Where any property is gifted subject to any reservation in favour of the donor or any other person, stamp duty with which the instrument of gift is chargeable shall be calculated on the value of the property gifted as if that property had been gifted to the donee without that reservation.

16. A bond or mortgage for the payment or repayment of money to be lent, advanced, or paid shall be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same stamp duty as on a bond or mortgage for the amount so limited. Where the total amount recoverable is unlimited, the bond or mortgage shall be available for the recovery of such an amount only as is covered by the stamp duty paid on the instrument.

17. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with stamp duty higher than that with which it would have been chargeable had no mention of interest been made therein.

18. (1) A conveyance, the consideration or any part of the consideration for which consists of money payable periodically or any instrument for the creation or sale of any annuity or other right to a periodical payment not before in existence, shall be chargeable with the same stamp duty as on a conveyance of property for the consideration set out in such instrument. Where no consideration is so set out, the consideration shall be deemed to be an amount ascertained in accordance with subsection (2).

(2) Where the periodical payment is—

- (a) for a definite period which can be previously ascertained, the total amount payable in that period ;
- (b) for an indefinite period not terminable with life, the total amount as can be ascertained as payable during the period of twenty years calculated from the date on which the first payment becomes due ;
- (c) for a period terminable with any life or lives, the total amount as can be ascertained as payable during the period of fifteen years calculated from the date on which the first payment becomes due.

19. Where the amount or value of the subject-matter of any instrument chargeable with stamp duty cannot be ascertained, then, subject to the provisions of section 18, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would at the date of such execution, have been sufficient :

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent, or part of the rent, such royalty or the value of such share shall, for the purposes of stamp duty, be estimated at two hundred thousand rupees a year or at such lower amount as may be estimated by the Commissioner-General, having regard to the probable extent and value of the produce of such mine.

20. Where any immovable property, or any part thereof, is conveyed or transferred to the same person in lots by several instruments, and it appears to the Assessor that several instruments were executed with the intention of avoiding the stamp duty which would be chargeable had the total area conveyed or transferred by such instruments been conveyed or transferred by a single instrument, he may call upon the parties to such instruments to prove to his satisfaction that such instruments were not executed with such intention and if no such proof is furnished or the proof furnished is inadequate, each such instrument shall be charged with stamp duty in proportion, to the value of the property conveyed by the instrument of such an amount as would make the aggregate stamp duty chargeable on all such instruments equal to one and a half times the stamp duty that would have been chargeable had a single instrument been executed to convey and transfer the total area transferred by such instruments.

**21. (1) Any agreement or contract for the conveyance or transfer—**

**(a) of any business or share in any business ; or**

**(b) of any other property except—**

**(i) immovable property ; or**

**(ii) property situated outside Sri Lanka ; or**

**(iii) goods, wares or merchandise ; or**

**(iv) stock, shares, or marketable securities,**

shall be charged with the same *ad valorem* stamp duty, to be paid by the grantee or transferee, as if such agreement and contract were an actual conveyance or transfer of the business, or share in the business or such other property, as the case may be.

(2) Where stamp duty has been duly paid in conformity with subsection (1) on an agreement or contract, the conveyance or transfer made in pursuance thereof shall be chargeable with a stamp duty of ten rupees and the Commissioner-General on application made in that behalf shall by endorsement denote the payment of the *ad valorem* duty on the conveyance or transfer upon production of the agreement or contract duly stamped.

## CHAPTER VIII

### DUTIES OF NOTARIES PUBLIC AND OTHER PERSONS

**22.(1)** Every person drawing, making, executing or attesting any instrument chargeable with stamp duty shall set out therein, the full names and addresses of the parties to such instrument, the consideration, the date and manner of payment and all other facts and circumstances affecting the chargeability of such instrument with stamp duty and the amount of the stamp duty with which it is chargeable.

(2) Every notary public who attests an instrument of conveyance shall before doing so take all reasonable steps to satisfy himself that the value on which the stamp duty is paid represents the value of the property conveyed.

(3) Every notary public who attests any instrument for which adhesive stamps are used shall affix stamps of the correct description and value to such instrument and cancel them in the manner directed by this Act and stage in his attestation, the number and value of the stamps affixed to such instrument.

**23. Any person—**

**(a) receiving, otherwise than as payment for any goods sold or services provided, immediately upon such sale or such provision, any money amounting to one hundred rupees or over ; or**

- (b) receiving any bill of exchange, cheque or promissory note for one hundred rupees or over ; or
- (c) receiving in satisfaction or part satisfaction of a debt, any movable property amounting to one hundred rupees or over in value,

shall give a duly stamped receipt for the same.

## CHAPTER IX

### PERSONS LIABLE TO PAY STAMP DUTY

24. Except where there is an agreement to the contrary, stamp duty shall be payable—

- (a) in the case of a policy of insurance, by the person effecting the insurance ;
- (b) in the case of a conveyance or agreement to convey, by the grantee, or intended grantee ;
- (c) in the case of a lease or agreement to lease, by the lessee or intended lessee ;
- (d) in the case of an instrument of exchange, by the parties in equal shares ;
- (e) in the case of a transfer of shares in an incorporated company or other body corporate, by the transferee ;
- (f) in the case of any other instrument, by the person drawing, making, or executing such instrument.

25. (1) If any instrument chargeable with stamp duty, is executed in Sri Lanka and is not duly stamped, then, every person executing such instrument shall be liable to pay to the Commissioner-General the amount of such duty and any penalty attached to the non-payment of such duty.

(2) If any instrument chargeable with stamp duty is executed out of Sri Lanka, then every person in Sri Lanka who has been a party to the instrument and every person in Sri Lanka using the instrument in any way shall be liable to pay to the Commissioner-General the stamp duty and any penalty attaching to the non-payment of such duty.

(3) When the stamp duty and penalty, if any, payable in respect of any instrument have been recovered by the Commissioner-General under subsection (1) from any person other than the person, who by agreement or otherwise or under section 24 was liable to pay stamp duty on such instrument, such first-mentioned person shall be entitled to recover from such second-mentioned person the amount of the duty and penalty, if any, so recovered.

(4) The provisions of subsections (1) and (2) of this section shall have effect notwithstanding anything to the contrary in section 24.

(5) An executor of the estate of a deceased person shall be liable to do all such acts, matters and things as such deceased person would be liable to do under this Act if he were alive, and shall be chargeable with stamp duty with which such deceased person would have been chargeable, if he were alive, in respect of all instruments to which such deceased person was a party :

Provided that—

- (i) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person,
- (ii) the liability of an executor under this subsection shall be limited to the sum of—
  - (a) the deceased person's estate in his possession or control at the date when notice is given to him that liability to stamp duty will arise under this subsection ; and
  - (b) any part of the estate which may have passed to a beneficiary.

26. (1) Notwithstanding anything in the Companies Act, No. 17 of 1982, where any private company is wound up and any amount, which that company is liable to pay as stamp duty, whether such liability arose before, or in the course of, or after, its liquidation, cannot be recovered, then, every person who was a director of the company at any time during the period in which the liability of the company to pay such duty arose shall be jointly and severally liable for the payment of such amount, unless he proves that the default in payment of the amount cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) In this section, the expression "private company" has the same meaning as in the Companies Act, No. 17 of 1982.

## CHAPTER X

### IMPOUNDING OF INSTRUMENTS

27. (1) Every person having by law or consent of parties authority to receive evidence, and every officer in a public office (other than a police officer) and every officer of a public corporation or bank, or approved credit agency before whom any instrument, chargeable in his opinion with stamp duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound such instrument :

Provided that, nothing in this section shall be deemed to require any Magistrate or Judge of a criminal court to impound or examine, if he does not think fit to do so, an instrument coming before him in the course of any proceedings in that court.

(2) The Commissioner-General may require any officer in a public office or corporation or bank, or approved credit agency before whom any instrument chargeable with duty is produced or comes in the performance of his functions—

(a) to examine such instrument in order to ascertain whether it is duly stamped;

(b) to impound such instrument.

(3) Where any person is required under subsection (2) to examine or impound any instrument, it shall be the duty of such person to impound or examine such instrument, as the case may be, and take such further steps as may be required by the Commissioner-General.

(4) The Commissioner-General or any officer authorized in writing by him may, after giving due notice to any person in charge of a public office, corporation, or bank or approved credit agency, examine any instrument in such office, corporation or bank or agency in order to ascertain whether such instrument is duly stamped and shall impound such instrument if it is not so stamped.

28. (1) Where any person who has, by law or consent of parties, authority to receive evidence or the Registrar-General admits in evidence, or acts upon, any instrument in accordance with the provisions of the proviso to section 33, he shall send the Commissioner-General an authenticated copy of such instrument, supplied at the expense of the person tendering it, together with a certificate in writing stating the amount of the stamp duty and penalty levied in respect thereof, and shall send such amount to the Commissioner-General.

(2) In every other case the person so impounding an instrument shall send it in the original to the Commissioner-General.

29. If any instrument chargeable with stamp duty and not duly stamped, not being an instrument chargeable with stamp duty not exceeding fifty cents or a bill of exchange, cheque, or promissory note, is produced by any person of his own motion before an Assessor within one year from the date of its execution and such person brings to the notice of the Assessor the fact that such instrument is not duly stamped and offers to pay to the Assessor the amount of the proper duty or the amount required to make up the same and the Assessor is satisfied that the omission to stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may instead of impounding the instrument receive such amount and shall by endorsement thereon state that the proper amount of stamp duty with which such instrument is chargeable has been paid.

30. (1) Where the Commissioner-General impounds any instrument under section 27 or receives any instrument under section 28 (2) not being an instrument chargeable with a duty of fifty cents or less or a bill of exchange, cheque or promissory note, he shall refer it to an Assessor who shall adopt the following procedure in respect thereof—

- (a) if he is of opinion that such instrument is duly stamped or is not chargeable with stamp duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be ;
- (b) if he is of opinion that such instrument is chargeable with stamp duty and is not duly stamped, he shall, by notice in writing, require the person liable to pay the stamp duty to pay the proper duty or the amount required to make up the same, together with a penalty not exceeding three times the amount of the proper duty.

(2) Where the proper amount of stamp duty has been paid on any such instrument and it has been impounded on account of any irregularity in the mode of execution of such instrument or because it has not been stamped at the time as required by law, the Assessor, if he is satisfied that the irregularity was due to accident, mistake or urgent necessity, may, on payment of a penalty not exceeding five hundred rupees, certify by endorsement thereon that the instrument has been duly stamped, and every instrument so endorsed shall be deemed to have been duly stamped from the date of its execution.

**31.** (1) Where the stamp duty and penalty, if any, required to be paid in respect of any instrument under section 29 or by a notice under section 30 (1) (b) or under section 33 have been paid or recovered, the Assessor or the person admitting such instrument in evidence or acting upon such instrument shall certify by endorsement thereon—

- (i) that the proper stamp duty and penalty, have been paid in respect the instrument ;
- (ii) the name and address of the person paying them ; and
- (iii) the date of payment.

Such certificate shall be conclusive evidence of the matters stated therein for the purposes of this Act.

(2) Every instrument endorsed in accordance with sub-section (1) shall be deemed to be duly stamped and shall be admissible in evidence, and be registered and acted upon, and authenticated as if it is so stamped, and shall be returned, on his application, to the person from whose possession it came into the hands of the officer impounding it.

**32.** (1) If any instrument sent to the Commissioner-General under section 28 is lost, destroyed or damaged during transmission the person sending the same shall not be liable for such loss, destruction, or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

## CHAPTER XI

### ADMISSIBILITY OF INSTRUMENTS

33. (1) No instrument chargeable with stamp duty shall be received or admitted in evidence by any person having by law or consent of parties authority to receive evidence or registered or authenticated or acted upon by any person or by any officer in a public office or corporation or bank or approved credit agency unless such instrument is duly stamped :

Provided that any such instrument may—

(a) be admitted in evidence by any person having by law or consent of parties authority to receive evidence ; or

(b) if the stamp duty chargeable on such instrument is one thousand five hundred rupees or less, be acted upon by the Registrar-General,

upon payment of the proper duty with which it is chargeable or the amount required to make up the same and a penalty not exceeding three times the proper duty.

In this proviso “instrument” does not include an instrument chargeable with stamp duty of fifty cents or less, a promissory note, cheque or bill of exchange (other than a bill of exchange referred to in section 34) :

Provided further that where any receipt which is not duly stamped is tendered to, or produced before, any officer in the course of the audit of any public accounts, such officer shall, instead of impounding such receipt under this Act, require a duly-stamped receipt to be substituted therefor.

(2) Where any instrument has been admitted in evidence under the proviso to subsection (1), such admission shall not be called in question at any stage of the same suit or proceeding on the ground that such instrument has not been duly stamped.

34. A bill of exchange which is presented for acceptance, or accepted, or payable, outside Sri Lanka shall not be invalid by reason only that it is not stamped in accordance with the provisions of this Act, and any such bill of exchange which is not duly stamped shall be admitted in evidence on payment of the stamp duty with which that bill of exchange is chargeable or in the case of any such bill of exchange which is insufficiently stamped, of the amount required to make up the proper duty, together with a penalty, not exceeding three times the amount of the proper duty.

35. When a bill of exchange is drawn in a set and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from stamp duty ; and upon proof of the loss or destruction of a duly stamped bill forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill shall, notwithstanding anything in section 33, be admitted in evidence to prove the contents of the lost or destroyed bill.

36. Where any person required to give a stamped receipt has given an unstamped receipt and such receipt if stamped would be admissible in evidence against him, then such receipt shall, notwithstanding anything in section 33, be admitted in evidence against him on payment of a penalty of five rupees by the person tendering it.

37. Notwithstanding anything in section 33, where any bill of exchange, cheque or promissory note chargeable with stamp duty of one rupee or less is presented for payment unstamped, the person to whom it is presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in accordance with the provisions of this Act, may pay the sum payable upon such bill; cheque or note and charge the stamp duty against the person who ought to have paid the same or deduct it from the sum payable as aforesaid and there upon, such bill, note or cheque shall be deemed to be duly stamped :

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, cheque or note.

## CHAPTER XII

### ADJUDICATION OF STAMP DUTY

38. (1) Where any instrument, whether executed or not and whether previously stamped or not, is brought to an Assessor together with a copy thereof, and the person bringing it applies to have the opinion of the Assessor as to the stamp duty, if any, with which it is chargeable, and pays a fee of fifty rupees, the Assessor shall determine the stamp duty, if any with which in his opinion the instrument is chargeable, and shall notify his determination to such person in writing.

(2) For the purpose of giving his opinion the Assessor may require the person bringing the instrument to produce any such document or other evidence as is necessary to prove the facts relating to the chargeability of the instrument with stamp duty or the amount of the stamp duty with which it is chargeable :

Provided that every person by whom any such evidence is furnished shall, on payment of the full stamp duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act otherwise than by reason of his omitting, to state truly in such instrument any of the facts or circumstances aforesaid.

39. (1) The Assessor shall certify by endorsement on any instrument brought to him under section 38 that any stamp duty with which such instrument is chargeable has been paid or that such instrument is not chargeable with stamp duty.

(2) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with stamp duty, as the case may be, and if chargeable with stamp duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped :

Provided that nothing in this section shall authorize the Assessor to endorse—

- (a) any instrument executed or first executed in Sri Lanka and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ; or
- (b) any instrument executed or first executed out of Sri Lanka and brought to him after the expiration of one month after it has been first received in Sri Lanka ; or
- (c) any instrument chargeable with a stamp duty of fifty cents or less or any bill of exchange, cheque or promissory note, when brought to him after the drawing or execution thereof, on paper not duly stamped.

## CHAPTER XIII

### APPEALS

40. (1) Any person who is aggrieved by an opinion given under section 38 or any requirement imposed by a notice issued under section 30(1) (b) may, within a period of thirty days after the date of the opinion or notice, appeal to the Commissioner-General against such opinion or notice :

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 set out the grounds of such appeal.

(3) Every petition of appeal which does not conform to the provisions of subsections (1) and (2) shall not be valid.

(4) 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 amount specified in the opinion or the notice shall be amended accordingly.

(5) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (4), the Commissioner-General shall fix a time and place for the hearing of the appeal.

(6) 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, from time to time, adjourn the hearing of an appeal for some 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 the 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 shall vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(7) 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.

(8) 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, require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, registers, instruments, books, accounts, stock-lists, cheques, auditor's or valuer's reports or other documents in his possession as may be specified in such notice.

(9) 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.

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

#### APPEAL TO THE BOARD OF REVIEW

41. Any person aggrieved by the determination of the Commissioner-General upon any appeal made to him under section 40 may appeal from that determination 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 of Review from a determination of the Commissioner-General under that Act shall, *mutatis mutandis*, apply to the making, hearing and determination of an appeal under this section.

42. Where no valid appeal has been lodged within the time specified in this Act against an opinion given under section 38 or a notice issued under section 30(1)(b), the amount as specified in such opinion or notice, or where agreement is reached under section 40(4) as to any such amount or where any such amount has been determined on appeal, the amount as required to be paid under such agreement or as 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 to be paid :

Provided that nothing in this Act shall prevent the Commissioner -General from requiring the payment of any other amount which does not involve re-opening any matter which has been determined on appeal.

APPEALS TO THE COURT OF APPEAL AND TO THE SUPREME COURT

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

Provided that either the appellant or the Commissioner-General may make an application requiring the Board to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the Clerk to the Board, together with a fee of fifty rupees, within one month of the date on which the decision of the Board was notified in writing, to the Commissioner-General or the applicant, as the case may be.

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

(3) (a) All proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees, or of such greater amount as is set out by the Board in the stated case as the amount of the stamp duty and penalty in dispute.

(b) Every such case stated shall, together with all books, documents and papers annexed thereto by the Board, be deemed to be a single exhibit in civil proceedings before the Court of Appeal.

(c) The Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtute officii*.

(4) At or before the time when he transmits the stated case to the Court of Appeal the party requiring it shall send to the other party, notice in writing, informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Board for amendment, and the Board shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may, in accordance with the decision of the Court upon such question, confirm, reverse, correct or modify the decision of the board or order a new or further hearing on such terms so as the Court thinks fit or remit the case to the Board with the opinion of the Court thereon. When a case is so remitted by the Court, the Board shall revise its decision as the case may require, in accordance with the opinion of the Court.

(7) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(8) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6) and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal—

- (a) an order made by the Court of Appeal under sub-section (6) shall, together with any order of the Court under subsection (7), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party ;
- (b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees :

Provided that where the Board has, in the stated case set out an amount higher than five thousand rupees as the amount of the stamp duty or penalty in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount ; and

- (c) the Commissioner-General shall not be required, in respect of any such appeal, to deposit or pay any fee or furnish any security prescribed by such written law.

## CHAPTER XIV

### RECOVERY OF DUTY

44. In this Chapter “duty” includes stamp duty and any sum added to any such duty and any fines, penalties, fees or costs, whatsoever, incurred under this Act.

45. (1) The duty required to be paid by any notice issued under section 30 (1) (b) shall be paid on or before the date specified in such notice, and, subject to the provisions of subsection (2), any duty not so paid shall be deemed to be in default and the person by whom such duty is payable shall be deemed to be a defaulter for the purposes of this Act.

(2) Where duty payable every quarter under section 13 is not paid on or before the date specified therein, such duty together with a penalty equal to ten *per centum* of the duty for every month of non-payment shall be deemed to be in default and the person liable to pay the duty shall be deemed to be a defaulter :

Provided that the total amount payable as penalty shall not exceed fifty *per centum* of the duty in default.

(3) Duty shall be paid, notwithstanding any appeal unless the Commissioner-General orders that payment of the duty or any part thereof be held over, pending the determination of such appeal, and upon such order, the amount held over shall be deemed not to be in default.

(4) Where the Commissioner-General is of opinion either that the duty or any part thereof held over under subsection (3) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection and make such fresh order as the case may appear to him to require and the amount of any duty not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(5) Where upon the final determination of an appeal under Chapter XIII or upon any order made by the Commissioner-General, any duty which has been held over under subsection (3) becomes payable or the duty payable under a notice is increased, the Commissioner-General shall give to the appellant a notice in writing fixing a date on or before which any duty or balance duty shall be paid. Any duty not paid before such date shall be deemed to be in default.

46. Any duty in default shall be a first charge upon 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 48 ; and
- (ii) as regards immovable property, the amount in default shall not rank in priority to any lease or encumbrance created bona fide for value and registered prior to the date of such seizure.

47. (1) Where any duty is in default, the Commissioner-General shall, before proceeding to recover such duty in any manner hereinafter provided, issue a notice in writing to the defaulter stating—

(a) the particulars of such duty ; and

(b) that action is being contemplated to recover the duty.

(2) If such defaulter has not appealed within the proper time against any notice under section 30 (1) (b) he may, within thirty days of the date of the notice issued under subsection (1) of this section, make any objection to the duty so charged and the Commissioner-General shall, notwithstanding the provisions of section 42, consider such objections and give his decision thereon which shall be final.

(3) Notwithstanding anything in this section, where there is an appeal against a notice under section 30(1) (b) and the payment of any duty specified in such notice is held over on the order of the Commissioner-General and the appellant agrees, during the course of the hearing of that appeal, that a certain sum is due or is likely to be due as duty in respect of that notice, the Commissioner-General may, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice. Any sum not paid before such date shall be deemed to be in default.

(4) Where upon the final determination of an appeal under Chapter XIII any stamp duty in default is reduced, the penalty payable in respect of such stamp duty shall be proportionately reduced.

48. (1) There shall be appointed stamp duty collectors for the purposes of this Act.

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

(b) A seizure of movable property shall be effected in such manner as such officer shall deem most expedient in that behalf, and as soon as any movable property is seized by such officer a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner-General.

(c) Where the property so seized is—

- (i) cash in Sri Lanka currency, such cash shall be applied in satisfaction of the duty in default ;
- (ii) cash in foreign currency, such cash shall be deposited in the Central Bank and the proceeds therefrom applied in satisfaction of the duty in default ;
- (iii) property other than cash, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the duty in default together with the costs and charges within the five days, the Government Agent, Assistant Government Agent,

Fiscal, Deputy Fiscal, or stamp duty collector shall cause such property to be sold by public auction or where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day.

(d) The sum realized by the sale referred to in sub-paragraph (iii) 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 duty in default, and any balance shall be paid to the owner of the property seized.

(3) Where any duty 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 duty and the name or names of the person or persons by whom the duty 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 or immovable, of the defaulter, or such part thereof as he may deem necessary for recovery of the duty, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Whenever the Commissioner-General issues a certificate under this section, he shall forthwith issue to the defaulter, whether resident or non-resident, a notification thereof by personal service, or registered letter sent through the post, or telegraph ; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

49. (1) Where the Commissioner-General is of the opinion in any case that recovery of duty in default by seizure and sale is impracticable or inexpedient or where full duty has not been recovered by seizure and sale, he may issue a certificate containing particulars of such duty and the name and last known place of 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 duty should not be taken against him, and in default of sufficient cause being shown, the duty in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with a 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 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.

(2) The correctness of any statement in a certificate issued by the Commissioner-General for the purposes of sub-section (1) shall not be called in question or examined by the Magistrate in any proceedings under this section and accordingly, nothing in that subsection shall be read and construed as authorizing the Magistrate to consider, or decide the correctness of any statement in such certificate or to postpone or defer such proceedings for a period exceeding thirty days by reason only of the fact that an appeal is pending against any notice requiring the payment of the duty in default.

(3) 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.

(4) 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 that fine or direct payment of that amount to be made in instalments.

(5) 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 (4) 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.

(6) Where a Magistrate directs under subsection (4) that a payment be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) In any proceedings under subsection (1), the certificate of the Commissioner-General shall be sufficient evidence that the duty has been duly required to be paid and is in default, and any plea that the amount is excessive, incorrect, or under appeal shall not be entertained.

50. (1) Where duty 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 duty 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) Any person to whom a notice has been given under subsection (1) who is unable to comply therewith owing to the fact that the moneys referred to in that subsection do not come into his hands or that no such moneys become due from him within the period referred to in that subsection 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 paid or could have paid the duty to which the notice relates or any part thereof and has not paid over such duty or part thereof as required by the notice given by the Commissioner-General, within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, 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, be personally liable, for the whole of the duty which such person has been required to pay, and such duty may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all the 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 duty which would have been payable by any person if he were alive is in default; and for the purposes 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 a probate or letters of administration in respect of the estate of a deceased person.

51. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the amount of duty required to be paid by such person, he may issue a certificate containing particulars of such

amount and the name of such person to a Magistrate, who shall, on receipt thereof, direct the Inspector-General of Police to prevent such person from leaving Sri Lanka without paying the amount 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) Production of a certificate signed by the Commissioner-General stating that the amount has been paid or that security has been furnished or that the amount has been paid to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any Police officer to whom the amount of any duty has been paid shall forthwith pay such amount to the Commissioner-General.

52. Where the Commissioner-General is of opinion that application of any of the provisions of this Chapter has failed or is likely to fail to secure the payment of the whole or any part of the duty due under this Act from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter, notwithstanding that an order has been made by a Magistrate under section 49 and carried into effect.

53. The Commissioner-General may, by notice in writing to any person, require that person to furnish, within the period specified in such notice, such information as the Commissioner-General may require for the purposes of recovery of any duty due from such person or any other person.

## CHAPTER XV

### ALLOWANCES FOR STAMPS AND REFUND OF STAMP DUTY

54. (1) The Commissioner-General may, on a written application made to him within the period specified in subsection(2) and upon being satisfied as to the facts, make an allowance for unused or spoiled stamps in the following instances :-

- (a) where a stamp has been inadvertently or undesignedly spoiled and rendered unfit for the purpose for which it was intended to be used ;
- (b) where a stamp has been affixed to an instrument which is incomplete or which is not executed or is void or has by reason of a mistake been found unfit for the purpose intended ; or
- (c) where a stamp of the wrong description or value has been inadvertently or undesignedly affixed to an instrument subsequently replaced by a duly stamped instrument ; or

(d) where a stamp has been used for a bill of exchange, cheque or promissory note which has not been made use of in any manner whatsoever.

(2) The application for an allowance under subsection (1) shall be made within one year of the date of purchase of the unused or spoiled stamps.

(3) The Commissioner-General may on an application for an allowance under subsection (1) either give to the applicant other stamps of the same description and value or the value of the stamps in money, and where he does the latter, he shall deduct five cents for each rupee or fraction of a rupee.

55. If it is proved to the satisfaction of the Commissioner-General by claim duly made in writing within one year of the date of the payment of any stamp duty or penalty, by composition or otherwise, that any person has paid any stamp duty or penalty in excess of the amount properly payable by him, such person shall be entitled to have refunded the amount so paid in excess :

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

## CHAPTER XVI

### OFFENCES AND PENALTIES

56. Any person—

- (1) who draws, makes, issues, endorses, transfers or signs, otherwise than as a witness, or presents for acceptance or repayment, or accepts, pays, or receives payment of, or in any manner negotiates, any bill of exchange, cheque or promissory note, without the same being duly stamped ; or
- (2) who executes, otherwise than as a witness, any instrument chargeable with duty without the same being duly stamped ; or
- (3) who fails to cancel an adhesive stamp in the manner prescribed by section 7 ; or
- (4) who fails or neglects to give a receipt, in contravention of the provisions of section 23 ; or
- (5) who votes or attempts to vote under any proxy not duly stamped, 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 five hundred rupees.

57. Where a company issues a share certificate or warrant without the same being duly stamped, the company and every person who, at the time when such share certificate or warrant was issued, was the managing director or secretary

or other principal officer of the company, 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 five thousand rupees or with imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

58. Any notary public who knowingly fails to comply with any requirement imposed on him by section 22 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 the stamp duty payable on the instrument in respect of which the offence is committed and five thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

59. Any person—

- (a) with intent to defraud the State, draws, attests or executes any instrument in which all the facts and circumstances required by section 22 (1) to be set out in such instrument are not fully set out ;
- (b) having received any sum of money for payment of stamp duty on any instrument executed, authenticated or attested by him, does not apply the money to the payment of the stamp duty and improperly withholds or detains the same or any part thereof ; or
- (c) in executing, authenticating or attesting any instrument, affixes or cancels any stamp which is not genuine or has been previously used ;or
- (d) does any other act calculated to deprive the State of any duty or penalty under this Act ; or
- (e) fails to comply with any requirement imposed on him by the Commissioner-General under section 27 (2) ;
- (f) resists or obstructs the Commissioner-General in the exercise by the Commissioner-General, of the powers conferred on him by section 27 (4),

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate—

- (i) in the case of an offence under subsection (b), to a fine consisting of a sum equal to the amount of the stamp duty withheld or detained by such person and an amount not exceeding five thousand rupees ;
- (ii) in the case of an offence under subsection (c), to a fine consisting of a sum equal to ten times the amount of the stamp affixed or cancelled by such person and an amount not exceeding five thousand rupees ;
- (iii) in the case of an offence under subsection (a) or (d) or (e) or (f), to a fine not exceeding five thousand rupees,

or in every case, to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

60. The institution of a prosecution against any person in respect of an offence under this Chapter or the imposition of a penalty, fine or term of imprisonment on any person in respect of any such offence shall not relieve such person from any liability to the payment of any stamp duty or penalty which he has incurred or may incur under this Act.

61. No prosecution in respect of any offence under this Act shall be instituted without the sanction of the Commissioner-General.

62. The Commissioner-General may, having regard to the circumstances in which the offence was committed, compound any offence under this Act and may, before judgement, stay or compound any proceedings thereunder.

## CHAPTER XVII

### ADMINISTRATION

63. (1) The Commissioner-General shall be in charge of the administration of this Act.

(2) The Commissioner-General may authorize an Assessor to exercise, perform or discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General by this Act.

(3) An Assessor exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function, until the contrary is proved.

(4) A Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue, may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by this Act.

## CHAPTER XVIII

### GENERAL

64. (1) Every notice to be given by the Commissioner-General or an Assessor under this Act shall bear the name of the Commissioner-General or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General 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 carrying on business,

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

(6) No notice, 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 to whom such notice or certificate is given or intended to be given or affected thereby is designated therein according to common intent and understanding.

(7) Without prejudice to the generality of subsection (6) a notice shall not be impeached or affected by reason of a mistake therein as to the name or surname of the person chargeable with the amount, if the notice is duly served on the person intended to be charged.

65. Where any discretion is conferred on the Commissioner-General or an Assessor as to the amount of any penalty to be imposed on any person under this Act, such discretion shall be exercised by the Commissioner-General or Assessor, as the case may be, after having regard to all the circumstances in which that penalty was incurred.

66. (1) When any stamp duty or penalty has been paid by any person in respect of an instrument and, by agreement or under the provisions of this Act or any other enactment, some other person was liable to pay stamp duty in respect of such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery, a certificate under the hand of the Commissioner-General, to the effect that stamp duty has been paid in respect of the instrument by the person specified in the certificate shall be conclusive evidence of the matters specified therein.

67. (1) The Minister may, by Order published in the *Gazette*, require that stamps of the description specified in the Order be used for the stamping of the instruments specified in the Order and it shall not be lawful for any person to use stamps other than the stamps of that description for the payment of duty on such instruments.

(2) Every rule made under section 6 of the Stamp Ordinance and in force on the date of commencement of this Act shall be deemed to be an Order made under subsection (1).

(3) The Minister on being satisfied, in respect of any country, that no stamp duty is chargeable in that country in the case of any instrument executed by, or on behalf of, or in favour of, the Government of Sri Lanka may declare, by Order published in the *Gazette* that the exemption granted by paragraph 13 of section 5 shall apply to a similar instrument executed by or on behalf of, or in favour of, the Government of that country.

68. The Stamp Ordinance (Chapter 247) shall not apply to any instruments executed on or after the appointed date.

69. (1) The Minister may make regulations in respect of all or any of the following matters :—

(a) any matter which is required or authorized by this Act to be prescribed;

(b) the instruments in respect of which stamp duty may be payable by means of impressed stamps.

(2) Every regulation made under this section shall come into operation on the date of its publication in the *Gazette* or on such later date as may be specified in the regulation.

(3) Every regulation made under this section shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done there under. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

70. (1) Section 39 of the Co-operative Wholesale Establishment Act (Chapter 126) is hereby amended by the repeal of paragraph (a) of that section.

(2) Section 35 of the Co-operative Societies Law, No. 5 of 1972, is hereby amended as follows :—

(a) by the repeal of paragraph (a) of subsection (1) of that section ; and

(b) by the repeal of subsection (2) of that section.

(3) Section 41 of the Peoples' Bank Act, No. 29 of 1961, is hereby repealed.

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

“adhesive stamp” means a stamp which can be pasted and in respect of which an order under section 67 (1) is in force ;

“approved credit agency” means an approved credit agency as defined in section 3 of the Mortgage Act ;

“Assessor” means an Assessor of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979, and includes a Senior Assessor of Inland Revenue appointed for the purposes of that Act ;

“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 that person ; or

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

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

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

(e) in the case of a body of persons, a member of that 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 as are specified in the authorization and who, being an individual registered as an auditor under the Companies (Auditors) Regulations, is approved by the Commissioner-General;

“bank” includes a banking institution ;

“banking institution” has the same meaning as in the Monetary Law Act ;

“bill of exchange” means a bill of exchange as defined by the Bills of Exchange Ordinance, or any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money ;

“bill of exchange payable on demand” includes—

- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;
- (b) an order for the payment of any sum of money weekly, monthly, or at any other stated periods ;

"bill of lading" includes a "through bill of lading" but does not include a mate's receipt ;

"broker's note" means the note sent by a broker or agent to his principal (except where such principal is acting as broker or agent for a principal) advising him of the sale or purchase on account of such principal, of any goods, stock, share, debenture or marketable security ;

"chargeable" in relation to an instrument executed or first executed after the date of commencement of this Act, means chargeable with stamp duty under this Act ;

"cheque" means a bill of exchange drawn on a specified bank and not expressed to be payable otherwise than on demand ;

"Commissioner-General" means the Commissioner-General of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979, and includes a Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue appointed for the purposes of that Act, and who is authorized either generally or for some specific purpose, by the Commissioner-General to act on his behalf ;

"company" means any company incorporated or registered under any law in force in Sri Lanka or elsewhere and includes a public corporation ;

"conveyance" includes conveyance on sale and every instrument by which property, whether movable or immovable, or any interest in any property, is transferred ;

"die" includes any plate, type, tool, or implement or a part thereof used under the direction of the Commissioner-General, for expressing or denoting the fact that any stamp duty or penalty has been paid in respect of an instrument, or that an instrument is duly stamped or is not chargeable with any stamp duty ;

"document" in relation to legal proceedings in any court includes an appointment of attorney, plaint, answer, replication or other pleading, petition, application, affidavit, appointment, summons, judgment, decree, order of any description, award, writ, warrant, inventory, account, mandate, bond or recognizance ;

"duly stamped" in relation to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and where such stamp is an adhesive stamp, that such stamp has been affixed and cancelled according to the provisions of this Act ;

"executed" and "execution", used in relation to an instrument means "signed" and "signature", respectively ;

“gift” means a transfer by one person to another of any movable or immovable property made voluntarily and without consideration in money or moneys, worth ;

“impressed stamp” means a stamp impressed by means of a die and in relation to any instrument chargeable with a stamp duty not exceeding ten rupees, includes stamps impressed by means of a postal franking machine, which is used under a permit issued by the Postmaster-General ;

“instrument” includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished, or recorded ;

“marketable security” means a security which is capable of being sold in any recognized stock market ;

“money” includes all sums, whether expressed in Sri Lanka or foreign currency ;

“policy of insurance” includes—

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event ;
- (b) a life policy, and any policy insuring any person against accident or sickness, and any other personal insurance ; and
- (c) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire insurance in respect of which, and of the previous renewal thereof, if any, there has not already been paid the stamp duty which would have been chargeable if the policy has originally been granted for a longer term than six months ;

“power of attorney” includes any instrument empowering a specified person to act for, an in the name of, the person executing it ;

“promissory note” means a promissory note as defined by the Bills of Exchange Ordinance ; and includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

“property” means movable as well as immovable property; and includes a right to or any interest in property ;

“public corporation” means any corporation, board or other body which was or is established by, or under, any written law other than the Companies Ordinance or the Companies Act, No. 17 of 1982, with funds or capital wholly or partly provided by the Government, by way of grant, loan or otherwise ;

“receipt” includes any note, memorandum or writing—

- (a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received ; or
- (b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt ; or
- (c) whereby any debt or demand, or any part of a debt or demand is acknowledged to have been satisfied or discharged ; or
- (d) which signifies or imports any such acknowledgement, whether the same is or is not signed with the name of any person ;

“share certificate” means a certificate or other document evidencing the right or title of the holder thereof or any other person either to any shares, scrip, stock, or debenture stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip, stock, or debenture stock in, or of, any such company or body ;

“value” with reference—

- (a) to any property (other than immovable property which is gifted) and to any date, means the price which in the opinion of the Assessor, that property would have fetched in the open market on that date ;
- (b) to any immovable property which is gifted, being immovable property which was acquired by the donor on or before March 31, 1977 means—

- (i) the price which in the opinion of the Assessor that property would have fetched if sold in the open market on March 31, 1977 increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after March 31, 1977 and prior to the date of the instrument by which such property is gifted ; or

- (ii) the price which, in the opinion of the Assessor, that property would have fetched if sold in the open market on the date of the instrument by which such property is gifted,

whichever price is the lower ;

- (c) any immovable property which is gifted, being immovable property which was acquired by the donor after March 31, 1977 means—

- (i) the price which, in the opinion of the Assessor, such property would have fetched if sold in the open market on the date on which such property was acquired by the donor, increased by an

amount equal to the cost of the improvements, alterations and additions, if any, made to such property after the date on which the property was acquired by the donor, and prior to the date of the instrument by which such property is gifted ; or

- (ii) the price which, in the opinion of the Assessor, that property would have fetched, if sold in the open market on the date of the instrument by which such property was gifted,

whichever price is the lower ;

“write” with its grammatical variations and cognate expressions includes every mode in which words or figures can be expressed upon material.