

## **PART IV**

### **MAJOR LEGISLATIVE ENACTMENTS OF 1993 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA**

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## EMPLOYEES' TRUST FUND (AMENDMENT) ACT, NO. 18 OF 1993

[Certified on 31st March, 1993]

### AN ACT TO AMEND THE EMPLOYEES' TRUST FUND ACT, NO. 46 OF 1980

1. This Act may be cited as the Employees' Trust Fund (Amendment) Act, No. 18 of 1993.

2. Section 23 of the Employees, Trust Fund Act, No. 46 of 1980 (hereinafter referred to as the "principal enactment"), is hereby amended in subsection (2) of that section by the addition at the end of that subsection of the following proviso:—

"Provided that where a non pensionable post held by an employee in any service referred to in paragraphs (ii) and (iv) is subsequently made pensionable with effect from the date on which he was first employed in the non-pensionable post, the amount of the contributions standing to the credit of the individual account of that employee on the date on which the post was made pensionable shall be refunded to his employer."

3. Section 25 of the principal enactment is hereby amended by the insertion, immediately after subsection (3) of that section of the following new subsection:—

"(3A) Where no nomination has been made under the provisions of this Act and such member is also a member of the Employees' Provident Fund established under the Employees' Provident Fund Act or an approved provident fund under that Act, any nominee nominated under the regulations made under that Act shall be deemed to be a nominee under this Act and the provisions of this Act shall, *mutatis mutandis*, apply in respect of that nominee."

4. The following new section is hereby inserted immediately after section 37, and shall have effect as section 37A of the principal enactment:—

"Imposition of  
surcharge on  
defaulting  
employers.

37A. Where an employer, who is required by the Act or any regulation made there under or any direction issued by the Board, to furnish a return relating to contributions, has failed to furnish that return within the period specified therein, or has furnished an incorrect or deficient return and is unable to explain to the satisfaction of the Board or an officer authorised in that behalf by the Board the reason for the failure to furnish the return within that period, or to furnish an accurate or complete return, as the case may be, he shall be liable to pay to the fund a surcharge at the rate of one per cent of the amount of the contribution to which the return relates for every completed month or part thereof from the last date on or before which the return was due to the date of receipt by the Board of a duly completed and correct return."

5. Section 44 of the principal enactment, as amended by Act, No. 47 of 1988, is hereby further amended as follows:—

(1) by the substitution for the definition of "earnings" of the following definition:—

“earnings,” means —

- (a) wages; salary or fees;
  - (b) cost of living allowance, special living allowance, and any other similar allowances;
  - (c) payment in respect of holidays;
  - (d) the cost value of any cooked or uncooked food provided by the employer to employees in employments provided by regulations made under the Employees’ Provident Fund Act, and any such commodity used in preparation or composition, of any food as so provided, such value being assessed by the employer, subject to an appeal to the Commissioner of Labour whose decision on such appeal shall be final;
  - (e) meal allowances; and
  - (f) such other forms of remuneration as may be prescribed by regulations made under the Employees’ Provident Fund Act.’ ;
- (2) by the substitution, in the definition of the word “employer” for the words “company, corporation or trade union”, of the words “company, corporation, local authority or trade union”.

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

## **EMPLOYEES TRUST FUND (SPECIAL PROVISIONS) ACT, NO. 19 OF 1993**

[Certified on 31st March, 1993]

AN ACT TO MAKE THE PROVISIONS OF THE EMPLOYEES TRUST FUND ACT, NO. 46 OF 1980 APPLICABLE TO EMPLOYEES OF, THE UNIVERSITY GRANTS COMMISSION AND OF, HIGHER EDUCATIONAL INSTITUTIONS; TO REPEAL SECTION 79A OF THE UNIVERSITIES ACT, NO. 16 OF 1978; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Employees Trust Fund (Special Provisions) Act, No. 19 of 1993.

2. Section 97A of the Universities Act, No. 16 of 1978 is hereby repealed.

3. (1) The provisions of the principal enactment shall be deemed to apply to the University Grants Commission and to every Higher Educational Institution with effect from December 9, 1980, and the liability of the University Grants Commission and every Higher Educational Institution to make contributions to the Fund under section 16 of the principal enactment shall be deemed to have commenced on March 1, 1981.

(2) The University Grants Commission and a Higher Educational Institution shall be deemed, for all purposes, to have complied with the provisions of section 16 of the principal enactment, requiring the payment of contributions by the University Grants Commission or such Higher Educational Institution in respect of a person who is, or was, an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, for any period prior to the date of commencement of this Act, if it pays to the Fund, within six months of the date of commencement of this Act—

- (a) in any case where such person was an employee of the University Grants Commission or a Higher Educational Institution on March 1, 1981 and continues to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, on the date of commencement of this Act, an amount equal to three *per centum* of the total earnings of such person for each month in the period commencing on March 1, 1981 and ending on the date of commencement of this Act, less the amount of any contributions made to the Fund, in respect of such person by the University Grants Commission or such Higher Educational Institution, as the case may be, during that period;
- (b) in any case where such person became an employee of the University Grants Commission or a Higher Educational Institution on any date after March 1, 1981 and continues to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, on the date of commencement of this Act, an amount equal to three *per centum* of the total earnings of such person for each month in the period commencing on the date on which such person became an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, and ending on the date of commencement of this Act, less the amount of any contributions made to the Fund, in respect of such person, by the University

Grants Commission or such Higher Educational Institution as the case may be during that period;

- (c) in any case where such person was an employee of the University Grants Commission or a Higher Educational Institution on March 1, 1981 and has ceased to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, on a date prior to the date of commencement of this Act, an amount equal to three *per centum* of the total earnings of such person for each month in the period commencing on March 1, 1981 and ending on the date on which such person ceased to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, less the amount of any contributions made to the Fund, in respect of such person by the University Grants Commission or such Higher Educational Institution, as the case may be, during that period;
- (d) in any case where such person became an employee of the University Grants Commission or such Higher Educational Institution on any date after March 1, 1981 and has ceased to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, on a date prior to the date of commencement of this Act, an amount equal to three *per centum* of the total earnings of such person for each month in the period commencing on the date on which such person became an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, and ending on the date on which he ceased to be an employee of the University Grants Commission or such Higher Educational Institution, as the case may be, less the amount of any contributions made to the Fund in respect of such person, by the University Grants Commission or such Higher Educational Institution, as the case may be, during that period.

(3) Any payments made under subsection (1) by the University Grants Commission or a Higher Educational Institution in respect of any person shall be credited by the Board to the individual account of such person in the Fund.

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

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

“the Board” means the Employees Trust Fund Board established by the principal enactment;

“the Fund” means the Employees Trust Fund established by the principal enactment;

“Higher Educational Institution” has the same meaning as in the Universities Act, No. 16 of 1978;

“principal enactment” means the Employees Trust Fund Act, No. 46 of 1980;

“University Grants Commission” means the University Grants Commission established by the Universities Act, No. 16 of 1978.

**LOCAL LOANS AND DEVELOPMENT (AMENDMENT) ACT,  
NO. 24 OF 1993**

[Certified on 24th June, 1993]

**AN ACT TO AMEND THE LOCAL LOANS AND DEVELOPMENT ORDINANCE**

1. This Act may be cited as the Local Loans and Development (Amendment) Act, No. 24 of 1993.

2. Section 2 of the Local Loans and Development Ordinance (hereinafter referred to as the "principal enactment") is hereby amended as follows:—

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

"(2) The commissioners shall consist of at least thirteen persons all of whom shall be appointed by the Minister, and—

(a) one of whom shall be the Secretary to the Ministry of the Minister who shall also be the Chairman thereof;

(b) one of whom shall be a public officer nominated, by name or by office, by the Minister in charge of the subject of Finance;

(c) eight of whom shall be members of the provincial public services of the respective provinces nominated, by name or by office, by the respective Governors of such provinces;

(d) three other persons nominated by the Minister, of whom at least one shall be a person who has had experience in banking";

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

"(4) The commissioners shall meet as often as may be deemed necessary by the Chairman:

Provided however that a meeting of the commissioners shall be held at least once in every three months.

(5) The quorum for any meeting of the commissioners shall be five, of whom at least one shall be a commissioner appointed under paragraph (c) of subsection (2)."

3. Section 3 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) The commissioners may be paid remuneration at such rates as may be determined by the commissioners, with the approval of the Minister, in addition to such travelling allowances or other expenses as may be authorized to be paid to them, by regulations made under this Ordinance."

4. Section 8 of the principal enactment is hereby amended by the repeal of paragraph (b) of subsection (3) of that section and the substitution therefor of the following paragraph:—

“(b) all such sums as may from time to time be ordered by the Minister, by way of contribution to a special fund which shall be called the “Local Loans and Development Trust Fund”, and to be established and maintained by the commissioners;”.

5. Section 9 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Purpose for which loans may be granted.

9. The commissioners may, with the approval of the Minister, grant loans to any local authority or to anybody to which a local authority has transferred any of its functions, for the purpose of any work of public utility, which such local authority or body may be authorised by law to undertake including technical assistance.”.

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

(1) by the substitution for the definition of “local authority” of the following definition:—

““local authority” means any Municipal Council,; Urban Council or Pradeshiya Sabha;”;

(2) by the substitution for the definition of “Minister” of the following definition:—

““Minister” means the Minister to whom the subject of the Local Loans and Development Fund has been assigned and “Ministry” shall be construed accordingly;”.

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

**DEVELOPMENT FINANCE CORPORATION OF CEYLON (AMENDMENT)  
ACT, NO. 25 OF 1993**

[Certified on 30th June, 1993]

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. 25 of 1993. The provisions of this Act other than section 7(1) shall come into operation on the date on which this Act becomes an Act of Parliament. The provisions of section 7(1) shall come into operation on such date as the Minister may appoint by Order published in the Gazette.

2. Section 4 of the Development Finance Corporation of Ceylon Act (hereinafter referred to as "the principal enactment") is hereby amended by the repeal of paragraph (a) of that subsection, and the substitution, of the following paragraph therefor:-

“(a) to assist in the promotion, establishment, expansion, carrying on and modernization, of private, industrial, agricultural and commercial enterprises, and”.

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

(1) in paragraph (1) of that section, by the substitution, for the words “form of long term or medium term loans”, of the words “in the form of loans”;

(2) by the repeal of paragraph (vii) of that section, and the substitution, of the following paragraph therefor:-

“(vii) to provide such services as management, technical, secretarial and administrative advice and merchant bank services, and to assist in obtaining management, technical, secretarial, administrative and merchant bank services, to or for, private, industrial, agricultural and commercial enterprises in Sri Lanka;”;

(3) by the repeal of paragraph (xiii) of that section and the substitution, of the following paragraph therefor :-

“(xiii) subject to such conditions as may be determined by the board of directors, to accept, discount, rediscount, buy, sell and deal in, bills of exchange, promissory notes, coupons, drafts, debentures, certificates, scrips, obligations and other instruments and securities, whether negotiable, transferable or not, of industrial, agricultural or commercial enterprises;”;

(4) by the repeal of paragraph (xv) of that section, and the substitution, of the following paragraph therefor:-

“(xv) to issue bonds and debentures, convertible or otherwise and to accept term deposits from any person in such amounts and on such terms and for such periods as may be determined by the board of directors;”;

- (5) by the renumbering of paragraph (xxii) of that section, as paragraph (xxiii) of that section; and
- (6) by the insertion immediately after paragraph (xxi) of that section, of the following paragraph:—

“(xxii) to guarantee, deferred payments due from, or the performance of any obligation by, any industrial, agricultural or commercial enterprises;”.

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

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

“(1) The authorized capital of the Corporation shall be five thousand million rupees divided into five hundred million ordinary shares of ten rupees each.”;

- (2) in subsection (2) of that section, by the omission of the words “to the public”, from that subsection; and

- (3) by the addition, of the end of that section, of the following subsections:—

“(3) The Corporation shall not allot any shares under subsection (1) or register any shares—

(a) in the name of any company, incorporated body or an individual, if such allotment or registration would result in such company, incorporated body or individual owning more than fifteen *per centum*, of the total issued share capital of the Corporation;

(b) in the name of a company and any one or more of the following:—

(i) any of its subsidiaries;

(ii) its holding company;

(iii) a subsidiary of its holding company; or

(iv) a company, in which such company or its subsidiary or its holding company or a subsidiary of its holding company, has a substantial interest,

if such allotment or registration would result in such company and one or more of the persons referred to in sub-paragraphs (i), (ii), (iii) and (iv) owing, in the aggregate, more than fifteen *per centum* of the total issued share capital of the Corporation;

(c) in the name of an individual and of any one or more of the following:—

- (i) his close relations;
- (ii) a company in which he has a substantial interest or in which his close relation has a substantial interest;
- (iii) the subsidiary of a company referred to in sub-paragraph (ii);
- (iv) a holding company of a company referred to in sub-paragraph (ii);
- (v) a subsidiary of a holding company of a company referred to in sub-paragraph (ii);
- (vi) a company in which a company, referred to in sub-paragraph (ii) or its subsidiary or its holding company or a subsidiary of its holding company has a substantial interest; or
- (vii) an incorporated body other than a company in which such individual or his close relation has a substantial interest,

if such allotment or registration would result in such individual and one or more of the persons referred to in sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) owning, in the aggregate, more than fifteen *per centum* of the total issued share capital of the Corporation.

A company or individual shall be deemed to have a substantial interest in a company or incorporated body other than a company within the meaning of this subsection where such company or individual owns more than fifty-one *per centum* of shares in such company or incorporated body, as the case may be.

(4) For the purposes of subsection (3)—

“close relation” in relation to a person, means a parent, spouse, or child of that person or the spouse of a child of that person;

“subsidiary” shall have the same meaning as in the Banking Act, No. 30 of 1988.”

5. Section 10 of the principal enactment is hereby amended as follows:—

- (1) by the repeal of subsection (3) of that section;
- (2) by the renumbering subsections (4), (5), (6) and (7) of that section, as subsections (3), (4), (5) and (6) respectively, of that section;
- (3) in the renumbered subsection (4) of that section—
  - (a) by the substitution for the words “elected under subsection (6)”, of the words “elected under subsection (5)”; and
  - (b) by the omission of the words “No shareholder-director shall hold office for a continuous period of more than eight years”, from that subsection;

(4) in the renumbered subsection (5) of that section, by the substitution for the words "Member of Parliament or a member of a local authority," of the words "Member of Parliament or a member of a Provincial Council or a local authority,"; and

(5) in the renumbered subsection (6) of that section, by the omission of the words "such election shall not take effect unless approved by the Minister in charge of the subjects of Finance and Planning" from that subsection.

6. Section 10A of the principal enactment is hereby repealed.

7. Section 14 of the principal enactment is hereby amended by the repeal of subsection (9) of that section.

8. The following new sections are inserted immediately after section 14 and shall have effect as sections 14A and 14B of the principal enactment:—

"Development  
Finance  
Corporation  
Debentures  
and Stock.

14A. (I) The board of directors may create and issue debentures and stock, and the debentures and stock so created and issued shall in this Act be referred to as "Development Finance Corporation of Ceylon Debentures" and "Development Finance Corporation of Ceylon Stock", respectively.

(2) "Development Finance Corporation of Ceylon Debentures" and "Development Finance Corporation of Ceylon Stock" shall be issued, transferred, dealt with, redeemed and cancelled, in accordance with such terms and conditions as may be determined by the board of directors.

(3) The Government may guarantee the repayment of the principal sum, and the payment of the interest on any Development Finance Corporation of Ceylon Debentures, and on any Development Finance Corporation of Ceylon Stock, created and issued by the board of directors.

(4) Any sum required for the fulfilment of any guarantee provided under subsection (3) shall be paid out of the Consolidated Fund.

"Accounts &c.  
to be laid  
before  
Parliament.

14B. The Minister in charge of the subject of Finance shall as soon as possible after the end of each financial year, cause to be laid before Parliament, the report on the statement of accounts of the Corporation and a statement of—

(a) every loan raised by the Corporation from the International Bank for Reconstruction and Development or from any other international or foreign organisations approved by the Government; and

(b) every guarantee given by the Government, under section 14 or 14A

during the course of that financial year.'.

9. Section 16 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution, for the words "by two qualified auditors", of the words "by a qualified auditor";
- (2) in subsection (2) of that section, by the substitution, for the words "the auditors of the Corporation.", of the words "the auditor of the Corporation.";
- (3) in subsection (3) of that section, by the substitution, for the words "Each auditor of the Corporation" of the words "The auditor of the Corporation";
- (4) in subsection (4) of that section, by the substitution, for the words "Each auditor of the Corporation", of the words "The auditor of the Corporation";
- (5) in subsection (5) of that section, by the substitution—
  - (a) for the words "Each Auditor of the Corporation", of the words "The auditor of the Corporation"; and
  - (b) for the words "a true and correct view", of the words "a true and fair view";
- (6) in subsection (6) of that section, by the substitution, for the words "the report of each auditor" of the words "the report of the auditor";
- (7) in subsection (7) of that section, by the substitution, for the words "each auditor of the Corporation", of the words "the auditor of the Corporation"; and
- (8) by the addition, at the end of that section of the following subsection:—
  - (8) In this section, "qualified auditor" means—
    - (a) an individual who being a member of the Institute of Chartered Accountants of Sri Lanka or any other institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute; or
    - (b) a firm of accountants, each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or any other Institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute.'.

10. The following new sections are hereby inserted immediately after section 16, and shall have effect as sections 16A and 16B respectively, of the principal enactment:—

"Corporation deemed to be a bank within the meaning of the Evidence Ordinance.

16A. The Corporation shall be deemed to be a bank within the meaning of Chapter VI of the Evidence Ordinance, notwithstanding the fact that it does not accept demand deposits, and accordingly, the provisions of that Chapter shall apply to, and in relation to, the Corporation.

16B. (1) Every person who—

- (a) knowingly allots, or registers, any shares in the Corporation, to or

in the name of, any person, in contravention of the provisions of section 7(3); or

- (b) knowingly secures the allotment or registration of any shares in the Corporation, to, or in the name of, any person, in contravention of the provisions of section 7(3); or
- (c) being a director, employee or auditor of the Corporation, discloses any matter relating to a transaction of the Corporation to any person for any purpose other than a purpose for which he is authorised to disclose such matter by this Act,

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

(2) Where an offence under this Act is committed by a body of persons, then,—

- (a) if that body of persons is a body corporate, every director and officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided, however, that a director or officer of such body corporate, or a partner of such firm, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

**11.** Section 18 of the principal enactment is hereby amended as follows:—

- (a) by the insertion, immediately after the definition of “industrial enterprise”, of the following definition:—

““Loan” includes any form of financial accommodation, howsoever described;” and

- (b) by the insertion immediately after the definition of “local authority”, of the following definition:—

““Provincial Council” means a Provincial Council established by Chapter XVIIA of the Constitution;”.

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

## TURNOVER TAX (AMENDMENT) ACT, NO. 27 OF 1993

[Certified on 16th July, 1993]

### AN ACT TO AMEND THE TURNOVER TAX ACT, NO. 69 OF 1981

1. This Act may be cited as the Turnover Tax (Amendment) Act, No. 27 of 1993.

2. Section 5 of the Turnover Tax Act, No. 69 of 1981 (hereinafter referred to as the "principal enactment") is hereby amended in sub-paragraph (1) of paragraph (d) of subsection (1) of that section, by the substitution, for the words "increased by ten *per centum*", of the words "increased by twenty-five *per centum*".

3. Section 9 of the principal enactment is hereby amended by the repeal of subsections (9), (10) and (11) of that section and the substitution therefor, of the following subsections :-

"(9) Where any person fails to furnish within the time specified in subsection (1), a return which he is required to furnish under that subsection, or fails to comply with the requirements of a notice given to him by an Assessor under subsection (2) directing him to furnish, within the time specified in such notice, a return containing such particulars as the Assessor may require, the Commissioner-General may—

- (a) impose on such person, a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing, to such person of the imposition of such penalty;
- (b) by notice in writing require such person—
  - (i) to pay such penalty; and
  - (ii) to furnish the return he is required to furnish under subsection (1) when such return has not been furnished or to comply with the requirements of the notice given to him under subsection (2) when such requirements have not been complied with, as the case may be,

within such period as may be specified in such notice.

(10) The Commissioner-General may reduce or waive any penalty imposed on any person under subsection (9) (a) if such person proves to the satisfaction of the Commissioner-General that his failure to furnish such return which he is required to furnish under subsection (1) or to comply with the requirements of the notice given to him under subsection (2), as the case may be, was due to circumstances beyond his control and that he has subsequently furnished such return or has complied with the requirements of such notice, as the case may be.

(11) Where a penalty is imposed on any person under subsection (9) for failure to furnish a return under subsection (1), or to comply with the requirements of a notice given to him under subsection (2), as the case may be, such person shall not be liable to prosecution for any offence under paragraph (a) or (b) of section 53 relating to that return or that notice."

4. Section 17 of the principal enactment is hereby amended as follows:—

- (1) by the insertion immediately after subsection (3) of that section, of the following subsection:—

“(3A) Every person preferring an appeal under subsection (1) against any assessment or additional assessment as the case may be, for any quarter commencing, on or after April 1, 1993 (unless such person has done so already) pay to the Commissioner-General, the amount of the turnover tax - payable by such person on the basis of the return made by him for that quarter together with any penalty accrued thereon upto the date of the notice of such assessment or additional assessment as the case may be, and shall attach, to the petition of appeal a receipt in proof of such payment:

Provided, that the Commissioner-General upon being satisfied that owing to serious financial hardship suffered by the appellant at or about the time of such notice of assessment or additional assessment, as the case may be, or, owing to other reasonable cause, the appellant was prevented from paying such tax and such penalty, may grant an extension of time for the payment of such tax and the penalty accrued thereon upto the date of payment and accordingly, a receipt in proof of payment of such tax and penalty accrued thereon upto the date of payment, furnished within such extended time shall, be deemed to be sufficient compliance with the requirements of this section.”

- (2) in subsection (4) of that section, by the substitution for the words and figures, “provisions of subsections (2) and (3) shall not be valid.”, of the words and figures, “provisions of subsections, (2) and (3) and (3A) shall not be valid.”

5. Section 48A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “commencing on or after October 1, 1991 paid—”, of the words and figures “commencing on or after October 1, 1991, but prior to January 1, 1993 paid—”.

6. The following new section is hereby inserted immediately after section 48A of the principal enactment, and shall have effect as section 48B of that enactment:—

“Deduction by manufacturer of turnover tax paid on machinery or equipment for any quarter commencing on or after January 1, 1993.

48B. (1) Where any registered manufacturer (hereinafter in this section referred to as the “first-mentioned manufacturer”), has during any quarter commencing on or after January 1, 1993 paid—

- (i) to another registered manufacturer (hereinafter in this section referred to as the “second-mentioned manufacturer”) in respect of any transaction entered into during that quarter any sum which includes turnover tax, or  
(ii) to the Director-General of Customs under section 12, during that quarter, any turnover tax,

in respect of machinery or equipment used by the first-mentioned manufacturer in his business of manufacture of any article, the turnover tax so

included or so paid, as the case may be, shall, notwithstanding the provisions of section 47 or section 48, be deducted, to the extent it can be so deducted, from any turnover tax payable by the first-mentioned manufacturer in respect of his turnover arising from the sale of such article.

Provided that—

- (a) the amount of the deduction shall not exceed twelve and one-half per centum of the turnover tax so included or so paid;
- (b) the deduction shall, subject to the provisions of paragraph (a), be made first from the turnover tax payable in respect of such turnover for the quarter immediately succeeding the quarter in which the use of such machinery or equipment for such manufacture commenced, and then from the turnover tax payable in respect of such turnover for the next succeeding quarter and so on;
- (c) the deduction of the turnover tax so included or so paid shall not be made—
  - (i) if such turnover tax is in respect of machinery or equipment used in any business of manufacture of excepted articles or in any business which is exempt from turnover tax under section 4;
  - (ii) unless the first-mentioned manufacturer has obtained a voucher, as required by section 46 (2), from the second-mentioned manufacturer, or, a voucher from the Director-General of Customs, in respect of the sum so included or of the turnover tax so paid, as the case may be; and
  - (iii) from the turnover tax payable in respect of such turnover for any quarter if the use of such machinery or equipment in such business ceases in such quarter.
- (d) any turnover tax so included or so paid, as the case may be, by any registered manufacturer prior to his registration as a registered manufacturer, shall notwithstanding anything in paragraph (b) be deducted first from the turnover tax in respect of such turnover payable for the quarter in which he becomes chargeable to turnover tax and then from the turnover tax, in respect of such turnover payable for the next succeeding quarter and so on.

(2) The residue of the turnover tax which is deductible in accordance with the provisions of subsection (1), after its deduction from the turnover tax in respect of the turnover referred to in subsection (1) for each of the eight quarters reckoned from the quarter in which the deduction was first made shall, subject to the provisions of section 49, be refunded:

Provided that no refund shall be made unless the machinery or equipment referred to in subsection (1) has been used in the business of manufacture referred to in subsection (1), in each of the eight quarters referred to in this subsection.

7. The amendment made to section 5 of the principal enactment by section 2 of this Act, shall be deemed for all purposes to have come into operation on February 1, 1993 and accordingly—

- (a) any turnover tax collected during the period commencing on February 1, 1993 and ending on the date of commencement of this Act from an importer on his turnover calculated in accordance with section 5 of the principal enactment as amended by section 2 of this Act, shall be deemed to have been and to be, validly levied and collected;
- (b) the turnover tax payable by an importer on his turnover calculated in accordance with section 5 of the principal enactment as amended by section 2 of this Act shall be deemed not to be in default if such turnover tax or the difference between such turnover tax and the turnover tax paid by such importer for the relevant quarter, as the case may be, is paid within one month of the date of commencement of this Act.

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

# **SURCHARGE ON INCOME TAX (AMENDMENT) ACT, NO. 28 OF 1993**

[Certified on 16th July, 1993]

AN ACT TO AMEND THE SURCHARGE ON INCOME TAX ACT, NO. 7 OF 1989

1. This Act may be cited as the Surcharge on Income Tax (Amendment) Act, No. 28 of 1993.

2. The long title to the Surcharge on Income Tax Act, No. 7 of 1989 (hereinafter referred to as the "principal enactment"), is hereby amended by the substitution, for the words and figures "YEARS OF ASSESSMENT COMMENCING RESPECTIVELY ON APRIL 1, 1989, ON APRIL 1, 1990, ON APRIL 1, 1991 AND ON APRIL 1, 1992", of the words and figures "YEARS OF ASSESSMENT COMMENCING RESPECTIVELY ON APRIL 1, 1989, ON APRIL 1, 1990, ON APRIL 1, 1991, ON APRIL 1, 1992 AND ON APRIL 1, 1993".

3. Section 2 of the principal enactment is hereby amended by the substitution, for the words and figures "but ending not later than March 31, 1993," of the words and figures "but ending not later than March 31, 1994."

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

- (1) in paragraph (iii) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1991; and", of the words and figures "relevant year commencing on April 1, 1991;";
- (2) in paragraph (iv) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1992.", of the words and figures "relevant year commencing on April 1, 1992; and";
- (3) by the addition, immediately after paragraph (iv) of that section, of the following paragraph:—

“(v) (a) not less than fifty *per centum*, on or before August 15, 1993; and

(b) the balance on or before November 15, 1993,

of the amount of the surcharge payable by him for the relevant year commencing on April 1, 1993.”.

5. Section 4 of the principal enactment is hereby amended as follows:—

- (1) in paragraph (c) of that section, by the substitution for the words "from the remuneration of that employee for that year; and", of the words "from the remuneration of that employee for that year;";
- (2) in paragraph (d) of that section, by the substitution, for the words "from the remuneration of that employee for that year.", of the words "from the remuneration of that employee for that year; and"; and

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

“(e) for the relevant year commencing on April 1, 1993—

(i) from the remuneration payable to such employee for the month of July, 1993, *7 1/2 per centum*; and

(ii) from the remuneration payable to such employee for the month of October, 1993, *7 1/2 per centum*,

of the total income tax deductible from the remuneration of that employee for that year,”.

6. Section 5 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for paragraph (ii) of the proviso to that subsection, of the following paragraph:—

“(ii) where any person who is liable to pay the surcharge under this Act, for a relevant year pays as such surcharge—

(a) for the relevant year commencing on April 1, 1989—

(i) not less than *7 1/2 per centum* on or before August 15, 1989, and

(ii) not less than *7 1/2 per centum* on or before November 15, 1989,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1988;

(b) for the relevant year commencing on April 1, 1990—

(i) not less than *7 1/2 per centum* on or before August 15, 1990, and

(ii) not less than *7 1/2 per centum* on or before November 15, 1990.

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1989;

(c) for the relevant year commencing on April 1, 1991—

(i) not less than *7 1/2 per centum* on or before August 15, 1991, and

(ii) not less than *7 1/2 per centum* on or before November 15, 1991,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1990;

(d) for the relevant year commencing on April 1, 1992—

(i) not less than *7 1/2 per centum* on or before August 15, 1992, and

(ii) not less than *7 1/2 per centum* on or before November 15, 1992,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1991;

(e) for the relevant year commencing on April 1, 1993—

(i) not less than 7 1/2 *per centum* on or before August 15, 1993, and

(ii) not less than 7 1/2 *per centum* on or before November 15, 1993,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1992,

such person shall not be liable to any penalty under this section, in respect of the payments he is required to make under section 3 if he pays the excess of the surcharge payable by him for that relevant year over the amount paid by him, on or before—

November 30, 1990, in the case of the relevant year commencing on April 1, 1989,

November 30, 1991, in the case of the relevant year commencing on April 1, 1990,

November 30, 1992, in the case of the relevant year commencing on April 1, 1991,

November 30, 1993, in the case of the relevant year commencing on April 1, 1992;  
and

November 30, 1994, in the case of the relevant year commencing on April 1, 1993.”.

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

- (1) by the substitution for the words “non-resident company”, “person”, “profits and income”, of the words “non-resident company”, “profits and income”;;
- (2) by the substitution, in paragraph (v) of the definition of “income tax”, for the words “by that person for that relevant year; and”, of the words, “by that person for that relevant year;”;
- (3) by the substitution, in the definition of, “Inland Revenue Act”, for the words and figures, “means the Inland Revenue Act, No. 28 of 1979;”, of the words and figures “means the Inland Revenue Act, No. 28 of 1979; and”; and
- (4) by the addition, immediately after the definition of “Inland Revenue Act”, of the following definition;

“person” includes a company or body of persons or any government, but does not include the Central Bank of Sri Lanka;”.

8. The amendment to section 8 of the principal enactment, made by section 7(4) of this Act, shall be deemed for all purposes to have come into force on April 1, 1989.

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

## **STAMP DUTY (AMENDMENT) ACT, NO. 29 OF 1993**

[Certified on 29th July, 1993]

**AN ACT TO AMEND THE STAMP DUTY ACT, NO. 43 OF 1982.**

**1. This Act may be cited as the Stamp Duty (Amendment) Act, No. 29 of 1993.**

**2. Section 5 of the Stamp Duty Act, No. 43 of 1982 (hereinafter referred to as the "principal enactment"), as last amended by Act No. 27 of 1991, is hereby further amended as follows:—**

**(1) by the repeal of paragraphs (20a) and (20b) of that section, and the substitution therefor of the following paragraphs:—**

**"(20a) share certificate issued in respect of any share, in any quoted public company or the Credit Information Bureau of Sri Lanka, established by the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990;**

**(20b) instrument executed for the transfer of any share, in any quoted public company or the Credit Information Bureau of Sri Lanka, established by the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990;**

**(20c) convertible debenture certificate or such other instrument of a similar character as shall be determined by the Minister, issued in respect of any convertible debenture or other convertible security as the case may be, in any quoted public company and any instrument executed for the transfer of such debenture or of such other convertible security, where such issue was made or transfer was done on or after April 21, 1993; and**

**(2) by the addition, immediately after paragraph (22) of that section, of the following new paragraph:—**

**"(23) certificate of deposit (other than any such certificate which bears the name of the depositor or his nominee) issued on or after April 1, 1993 for a period not less than four years and which is not encashed at any time prior to the expiry of that period."**

**3. Section 6 of the principal enactment is hereby amended in subsection (2) of that section as follows:—**

**(1) by the substitution in paragraph (c) of that subsection, for the words "otherwise negotiates it.", of the words "otherwise negotiates it;"; and**

**(2) by the addition immediately after paragraph (c) of that subsection, of the following new paragraph:—**

**"(d) a certificate of deposit referred to in paragraph (23) of section 5 of this Act, and which is encashed prior to the expiry of the period referred to therein and stamped on the date of such encashment."**

4. Section 13 of the principal enactment as last amended by Act No. 27 of 1991 is hereby further amended as follows:—

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

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

“(bb) any company supplying proxy forms to shareholders of such company,”;

(b) by the substitution for the words “shares or debenture stock issued by such company or” of the words “shares or debenture stock issued or created by such company or on proxy forms supplied by such company or”;

(c) by the substitution in paragraph (ii) of that subsection, for the words “shares or debenture stock issued by such company or”, of the words “shares or debenture stock issued or created by such company or on proxy forms supplied by such company or”;

(d) by the insertion immediately after sub-paragraph (b) of paragraph (iii) of that subsection, of the following sub-paragraph:—

“(bb) the proxy forms supplied to shareholders by such company,”;  
and

(e) by the omission of all the words from “For the purpose”, to the end of that paragraph;

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

“(ii) every bank, approved credit agency or institution 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, every application made to it for a letter of credit, every certificate of deposit issued by it, and any one of the documents of payment presented to it in respect of any corporeal movable (being any corporeal movable in respect of which a letter of credit has not been opened with it),”;

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

“(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, application made for a letter of credit or certificate of deposit or any one of the documents of payment presented to it in respect of any corporeal movable (being

any corporeal movable in respect of which a letter of credit has not been opened with it) has been compounded or collected and remitted, as the case may be, in accordance with this section the company bank approved credit agency or the institution 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 movable, application made for a letter of credit or certificate of deposit or document of payment, as the case may be, that the stamp duty on it has been compounded or collected and remitted as the case may be. 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 or collected and remitted in terms of section 13 of the Stamp Duty Act.”;

- (4) in subsection (6) of that section, by the substitution for the words “has been compounded as aforesaid,” of the words “has been compounded or collected and remitted as aforesaid,”; and
- (5) by the addition, immediately after subsection (6) of that section, of the following new subsection:—

“(7) For the purposes of this section “institution” means any person or a body of persons authorised by the Central Bank of Sri Lanka established by the Monetary Law Act to encash travellers cheques or issue certificate of deposit.”.

5. Section 45 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) Where the duty authorized to be compounded or required to be collected and remitted under section 13, is not remitted at the end of such periods as are specified by the Commissioner-General under subsection (1) of that section or at the end of each such quarter as is referred to in subsection (2) of that section, such duty together with a penalty equivalent to ten per centum of the duty payable for every month of non payment shall be deemed to be in default and the person who is so authorized to be compounded or so required to collect and remit such duty shall be deemed to be a defaulter for the purposes of this Act:

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

6. Section 54 of the principal enactment as amended by Act No. 27 of 1991 is hereby, further amended as follows:—

- (1) in subsection (1) of that section—
  - (a) by the substitution for the words, “an allowance for unused or spoiled stamps in the following instances:—”, of the words, “an allowance for unused or spoiled stamps or where stamp duty has been paid other than by affixing stamps, in the following instances:—”;

- (b) by the substitution, in paragraph (e) of that subsection, for the words, "has not been made use of in any manner whatsoever.", of the words, "has not been made use of in any manner whatsoever."; and
- (c) by the addition, immediately after paragraph (e) of that subsection, of the following new paragraph:-
  - "(f) where a letter of credit, issued in pursuance of a duly stamped application made for such letter of credit has been made use of only in part, so however that allowance made shall be on such part of the stamp duty paid as is attributable to that part of the value the letter of credit which has not been made use of.";
- (2) in subsection (2) of that section, by the substitution for the words, "from the date of purchase of the unused or spoiled stamps.", of the words, "from the date of purchase of the unused or spoiled stamps, or from the date of payment of the stamp duty, as the case may be."; and
- (3) by the repeal of subsection (3) of that section and the substitution therefore of the following subsection-
  - "(3) the Commissioner-General may, on an application for an allowance under subsection (1) -
    - (a) where the stamps are unused or spoiled, give to the applicant either -
      - (i) other stamps of the same description and value, or
      - (ii) the value of the stamps in money or by an order to pay money, after deducting five *per centum* of such value, or
    - (b) where stamp duty has been paid other than by affixing stamps, refund the stamp duty paid, after deducting five *per centum* of the duty so paid".

7. Section 71 of the principal enactment at last amended by Act No. 27 of 1991 is hereby further amended in the definition of the word "document" by the substitution in paragraph (a) thereof for words "citation, application other than motion, interrogatories," of the words "citation, application other than motion, interrogatories,".

8. The amendments to section 54 of the principal enactment made by section 6 of this Act, shall be deemed for all purposes to have come into force on November 12, 1986, and every person entitled to make an application for an allowance under section 54, as amended by section 6 of this Act, shall be deemed to have complied with subsection (2) of that section if he makes such application within a period of three months from the date of commencement of this Act.

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

## FOREIGN EXCHANGE (AMNESTY) ACT, NO. 32 OF 1993

[Certified on 11th August, 1993]

AN ACT TO PROVIDE FOR TAX CONCESSIONS TO PERSONS WHO REMIT OR BRING TO SRI LANKA ANY FOREIGN CURRENCY HELD BY SUCH PERSONS OUTSIDE SRI LANKA AND WHICH REPRESENTS UNDISCLOSED PROFITS AND INCOME OR TURNOVER, OR WHICH HAS NOT BEEN DECLARED TO THE CONTROLLER OF EXCHANGE, WITH A VIEW TO SECURING FULL COMPLIANCE, IN THE FUTURE, BY SUCH PERSONS WITH TAX LAWS AND LAWS RELATING TO EXCHANGE CONTROL; TO INDEMNIFY SUCH PERSONS AGAINST PROSECUTIONS FOR OFFENCES IN RELATION TO SUCH LAWS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Foreign Exchange (Amnesty) Act, No. 32 of 1993.
2. (1) This Act shall, subject to the provisions of subsection (2), apply to any person who holds any relevant foreign currency outside Sri Lanka and who—
  - (a) (i) remits, through a commercial bank, such currency to Sri Lanka on or after November 12, 1991, but on or before December 31, 1993; or
  - (ii) brings such currency to Sri Lanka upon his entering Sri Lanka at an approved Port of entry, on or after November 12, 1991, but on or before March 5, 1993, and makes a declaration in respect of such currency under the Customs Ordinance; and
  - (b) deposits the currency so remitted or brought, in a designated foreign currency, in any foreign currency account, opened in his name in any commercial bank in Sri Lanka.
- (2) This Act shall not apply to any person in relation to whom any investigation was pending on November 12, 1991, for—
  - (i) any alleged or suspected evasion of any tax payable under the law for the time being applicable to the imposition of income tax or the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981, in respect of any profits and income or turnover, as the case may be, which arose or accrued to, or was derived, by such person on or before November 12, 1991; or
  - (ii) any alleged or suspected violation, of any provision of the Exchange Control Act or the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979.
- (3) Every person referred to in subsection (1), not being a person referred to in subsection (2), shall, hereafter in this Act, be referred to as “a person to whom this Act applies”.

3. A person to whom this Act applies shall not be liable—

(a) to pay—

- (i) for any year of assessment ending on or before March 31, 1992, any income tax or surcharge on income tax payable, respectively, under the law for the time being applicable to the imposition of income tax or the law for the time being applicable to the imposition of surcharge on income tax, in respect of such part of the aggregate of—
  - (A) the amount of the relevant foreign currency lying to his credit on December 31, 1993, in any account referred to in section 2(1) (b); and
  - (B) such part of the relevant foreign currency deposited by him in any foreign currency account referred to in section 2(1) (b) as has been converted by him, on or before December 31, 1993, to Sri Lanka currency; and
  - (C) such part of the relevant foreign currency deposited by him in any foreign currency account referred to in section 2(1) (b) as has been remitted by him outside Sri Lanka on or before December 31, 1993, with the written approval of the Controller of Exchange,

as represents his profits and income;

- (ii) for any year of assessment ending on or before March 31, 1992, any wealth tax or surcharge on wealth tax payable, respectively, under the law for the time being applicable to the imposition of, wealth tax or of surcharge on wealth tax, in respect of such part of his net wealth for the acquisition of which such part of his profits and income as is referred to in sub-paragraph (i), had been, utilized; or
- (iii) for any quarter ending on or before December 31, 1991, any business turnover tax payable under the Finance Act, No. 11 of 1963 or any turnover tax payable under the Turnover Tax Act, No. 69 of 1981, in respect of such part of the turnover from which such part of his profits and income as is referred to in sub-paragraph (i) arose or was derived; or

(b) to a prosecution or to a penalty for any offence under—

- (i) the law for the time being applicable to the imposition of, income tax or surcharge on income tax, or wealth tax or surcharge on wealth tax, in relation to any year of assessment ending on or before March 31, 1992, in respect of, or in connection with, such part of his profits and income as is referred to in paragraph (a) (i) or such part of his net wealth as is referred to in paragraph (a) (ii); or
- (ii) the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981, in relation to any quarter ending on or before December 31, 1991,

in respect of such part of his turnover as is referred to in paragraph (a) (iii); or

- (iii) the Exchange Control Act, in respect of the whole or any part of the relevant foreign currency deposited by him in a foreign currency account referred to in section 2(1) (b), in respect of which no return has been furnished by him or which has not been disclosed in any return furnished by him under the Exchange Control Act.

4. Nothing in the preceding provisions of this Act, shall be read or construed as authorizing the revision of—

- (a) any assessment made under the provisions of—
  - (i) the law for the time being relating to the imposition of, income tax or surcharge on income tax or wealth tax or surcharge on wealth tax; or
  - (ii) the Finance Act, No. 11 of 1963, the Turnover Tax Act, No. 69 of 1981;
- (b) any requirement imposed before November 12, 1991, on any person to whom this Act applies and in relation to any violation by him of any provision of the Exchange Control Act; or
- (c) any other matter,

which has become final and conclusive under the provisions of any such law.

5. (1) Subject to the provisions of subsection (2), every officer or employee of the Department of Inland Revenue, or of any commercial bank or of the Central Bank of Sri Lanka, shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the administration of this Act and shall not give, divulge or reveal any information whatsoever regarding a foreign currency account referred to in section 2 (1) (b) to any individual, corporation, bank, court, institution, entity, department, official, agent, representative of the Government of Sri Lanka or to any other legal or natural person.

(2) Notwithstanding the provisions of subsection (1), the Commissioner-General or the Controller of Exchange, or an officer or employee of a commercial bank, as the case may be, shall if he is required to do so—

- (i) by the person to whom such matter or information relates;
- (ii) by any provision of any law giving effect to an international convention on narcotics or hijacking in any criminal proceedings instituted under that law, in any court;
- (iii) by an order of the Supreme Court, made on application therefor, on the ground that moneys in any account referred to in section 2 (1) (b) have been or are being used in furtherance of an act which constitutes an offence under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979; or

- (iv) by an order of court in any legal proceedings instituted by or against a commercial bank, or by or against the holder of an account referred in section 2(1) (b) relating to a banking transaction arising from such account,

communicate to such person or court any matter or information which has come to his knowledge in the administration of this Act.

(3) Any officer or employee of the Department of Inland Revenue, or of the Central Bank of Sri Lanka or of any commercial bank, who acts in contravention of the provisions of subsection (1) shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

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

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

“commercial bank” means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988;

“Commissioner-General”, “foreign currency”, “net wealth”, “profits and income”, “year of assessment” shall have the respective meanings assigned to them by the Inland Revenue Act, No. 28 of 1979;

“Controller of Exchange” means the Controller of Exchange appointed under the Monetary Law Act;

“designated foreign currency” means any of the following foreign currencies, that is to say, the United States Dollar, Sterling Pound, Deutsche Mark, Swiss Franc, Japanese Yen, Australian Dollar, Singapore Dollar, French Franc, Canadian Dollar, Danish Kroner, Netherland Guilder, Swedish Kroner and Hongkong Dollar and includes any other foreign currency approved in writing by the Controller of Exchange;

“Exchange Control Act” means the Exchange Control Act (Chapter 423);

“foreign currency account” means an account in the Domestic Banking Unit of any commercial bank in Sri Lanka opened in accordance with the rules made by the Central Bank of Sri Lanka but does not include an account opened in the foreign currency banking unit of a commercial bank;

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

“relevant foreign currency” in relation to a person means foreign currency held on November 12, 1991 by such person outside Sri Lanka or foreign currency into which any movable or immovable property held by such person on November 12, 1991 outside Sri Lanka, has been converted and—

(A) being, or being attributable to, profits and income—

- (i) were derived by such person, or arose or accrued to him, during any period ending before November 12, 1991; and
- (ii) in respect of which no return has been furnished by him or has not been disclosed in any return furnished by him or has not been assessed to income tax, under the law for the time being applicable to the imposition of income tax; and
- (iii) were chargeable with income tax under the law for the time being applicable to the imposition of income tax,

but not including—

- (a) any amount receivable in foreign currency for any exports made by him from Sri Lanka, under any permit issued by the Controller of Exchange;
- (b) any amount receivable in foreign currency for services rendered by him in or outside Sri Lanka and declared in a return furnished by him under the provisions of the Inland Revenue Act, No. 28 of 1979 or the Exchange Control Act;
- (c) any amount due in foreign currency on any decree or writ of any court of law outside Sri Lanka for the recovery of any debt or the enforcement of any civil liability; or

(B) not being profits and income or attributable to profits and income, is attributable to property acquired by him outside Sri Lanka, by way of gift, donation, inheritance or otherwise, and in respect of which, no return has been furnished by him or has not been disclosed in any return furnished by him, under the Exchange Control Act;

“the law for the time being applicable to the imposition of income tax” means the Inland Revenue Act, No. 28 of 1979;

“the law for the time being applicable to the imposition of surcharge on income tax” means the Surcharge on Income Tax Act, No. 26 of 1982, the Surcharge on Income Tax Act, No. 12 of 1984 and the Surcharge on Income Tax Act, No. 7 of 1989;

“the law for the time being applicable to the imposition of wealth tax or surcharge on wealth tax” means the Inland Revenue Act, No. 28 of 1979, the Surcharge on Wealth Tax Act, No. 25 of 1982 and the Surcharge on Wealth Tax Act, No. 8 of 1989;

“turnover” and “quarter” shall have the respective meanings assigned to them by the Turnover Tax Act, No. 69 of 1981.

## INLAND REVENUE (AMENDMENT) ACT, NO. 35 OF 1993

[Certified on 18th August, 1993]

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. 35 of 1993.
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) in sub-paragraph (LXI) of that paragraph, by the substitution, for the words and figures "for any year of assessment commencing on or after April 1, 1991; and", of the words and figures "for any year of assessment commencing on or after April 1, 1991;";
  - (2) in sub-paragraph (LXII) of that paragraph, by the substitution, for the words and figures "the Buddha Sasana Fund Act, No. 35 of 1990.", of the words and figures "the Buddha Sasana Fund Act, No. 35 of 1990;"; and
  - (3) by the addition, immediately after sub-paragraph (LXII) of that paragraph of the following sub-paragraphs:-
    - "(LXIII) the J.R. Jayawardene Centre established by the J.R. Jayawardene Centre Act, No. 77 of 1988; and
    - (LXIV) the Institute of Supply and Materials Management, Sri Lanka established by the Institute of Supply and Materials Management, Sri Lanka Act, No. 3 of 1981."
3. Section 9 of the principal enactment is hereby amended in subsection (1) of that section as follows:-
  - (1) in paragraph (b) of that subsection, by the substitution, for the words "the official emoluments of-", of the words and figures "for any year of assessment ending on or before March 31, 1993, the official emoluments of-";
  - (2) by the insertion immediately after paragraph (b) of that subsection of the following paragraphs:-
    - "(bb) for any year of assessment commencing on or after April 1, 1993, the official emoluments, of any person, or any profits from employment referred to in paragraph (c) of section 4(1) paid to-
    - (i) any individual out of the Consolidated Fund;
    - (ii) any employee of any public corporation being a public corporation which pays such emoluments or such pension or such profits from employment wholly or partly out of the sums voted annually by Parliament to such corporation from the Consolidated Fund;

- (iii) the Governor for any Province appointed under Article 154B of the Constitution;
  - (iv) any member of any Provincial Council;
  - (v) any employee of any Provincial Council or to any officer of any Provincial Public Service;
  - (vi) any member of any local authority;
  - (vii) any employee of any local authority;
  - (viii) any employee of any University which is established or deemed to be established by the Universities Act, No. 16 of 1978;
  - (ix) any employee of the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988;
- (bbb) for any year of assessment commencing on or after April 1, 1993, any such pension or any such profits from employment referred to in paragraph (c) of section 4(1) as are received by any individual in respect of past services performed by such individual or by any other individual, whether before or after the commencement of this Act, as an employee of any public corporation other than any public corporation referred to in sub-paragraph (ii) of paragraph (bb);”.

4. Section 11 of the principal enactment is hereby amended in paragraph (b) of that section by the substitution, for the figures “16B, 16C, 17, 17A”, of the figures “16B, 16C, 16D, 17, 17A”.

5. Section 14 of the principal enactment is hereby amended in paragraph (a) of that section by the addition, at the end of that paragraph, of the following sub-paragraph:-

“(xxii) the sale, by any person of any Treasury bill held by such person, in the secondary market.”.

6. Section 22DDD of the principal enactment is hereby amended in subsection (2) of that section by the substitution, for the words and figures “by notice published in the *Gazette* before April 1, 1992,” of the words and figures “by notice published in the *Gazette* before April 1, 1993”.

7. Section 23 of the principal enactment is hereby amended in paragraph (eee) of subsection (1) of that section as follows:-

- (1) in sub-paragraph (ii) of that paragraph, by the substitution, for the words and figures “acquired by such person on or after April 1, 1987 and arising out of its use,” of the words and figures “acquired by such person on or after April 1, 1987, but prior to April 1, 1993, and arising out of its use,”;
- (2) by the insertion, immediately after sub-paragraph (ii) of that paragraph, of the following sub-paragraph:-

- “(iia) any motor vehicle, lorry, bus, tractor, trailer, or office furniture acquired by such person on or after April 1, 1993 and arising out of its use in any trade, business, profession or vocation, carried on or exercised by him, at the rate of sixteen and two-third *per centum* per annum on its cost of acquisition;”;
- (3) in sub-paragraph (iii) of that paragraph, by the substitution, for the words and figures “construction of which was completed on or after April 1, 1987 and arising out of its use,”, of the words and figures “construction of which was completed on or after April 1, 1987 but prior to April 1, 1993, and arising out of its use,”;
- (4) by the insertion, immediately after sub-paragraph (iii) of that paragraph, of the following sub-paragraph:
- “(iia) any qualified building constructed by such person the construction of which is completed on or after April 1, 1993 and arising out of its use in any trade, business, profession or vocation carried on or exercised by him, at the rate of six and two-third *per centum* per annum on its cost of construction;”;
- (5) in sub-paragraph (iv) of that paragraph, by the substitution, for the words and figures “acquired by such person on or after April 1, 1987 and arising out of its use”, of the words and figures “acquired by such person on or after April 1, 1987 but prior to April 1, 1993 and arising out of its use;”;
- (6) by the insertion immediately after sub-paragraph (iv) of that paragraph, of the following sub-paragraph:—
- “(iva) 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, 1993 and arising out of its use in any trade, business, profession or vocation carried on or exercised by him, at the rate of six and two-third *per centum* per annum on its cost of acquisition.”;
- (7) in the proviso to that paragraph, by the substitution, for the words and figures, ‘referred to in sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii) or sub-paragraph (iv) of this paragraph,’’, of the words and figures “referred to in sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iia) or sub-paragraph (iii) or sub-paragraph (iia) or sub-paragraph (iv) or sub-paragraph (iva) of this paragraph,”.

8. Section 24 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

- (1) by the insertion, immediately after paragraph (c) of that subsection of the following sub-paragraph:—
- “(cc) any expenditure incurred on or after April 1, 1993 in travelling outside Sri Lanka in connection with any undertaking of operating any hotel for

tourists other than the expenditure incurred in travelling outside Sri Lanka solely in carrying out a programme, approved by the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966, for the promotion of tourism in Sri Lanka;”;

(2) in paragraph (f) of that subsection, by the substitution, for the words “cost of advertisement in connection with”, of the words and figures “cost of advertisement, incurred before April 1, 1993, in connection with”;

(3) in paragraph (g) of that subsection, by the substitution, for the words and figures “entered into by him on or after April 1, 1987, in any year”, of the words and figures “entered into by him on or after April 1, 1987 but prior to April 1, 1993, in any year”;

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

(qq) such part of the rental paid by him under any agreement entered into by him on or after April 1, 1993, in any year in respect of—

(i) any plant, machinery, fixtures or equipment other than plant, machinery, fixtures or equipment referred to in sub-paragraph (ii) as is in excess of an amount equal to one-third of the total rental payable under such agreement; and

(ii) any motor vehicle, lorry, bus, tractor, trailer or office furniture, as is in excess of an amount equal to one-sixth of the total rental payable under such agreement;”;

9. Section 31 of the principal enactment is hereby amended in paragraph (d) of subsection (2) of that section, by the substitution, for the words “in an approved undertaking referred to in paragraph (g):

Provided that where such undertaking is a company”, of the words “in an approved undertaking other than an approved undertaking referred to in paragraph (g):

Provided that where such undertaking is a company”.

10. Section 32 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution, for the words “to be non-resident, at the rate specified”, of the words “to be non-resident, at the appropriate rate specified”.

11. The following new section is hereby inserted immediately after section 32C of the principal enactment and shall have effect as section 32CC of that enactment:—

“The rate of income tax on royalty payable to any company, partnership or body of persons outside Sri Lanka.

32CC. The gross royalty payable for any year of assessment commencing on or after April 1, 1993 by any person in Sri Lanka to any company, partnership or body of persons outside Sri Lanka, being royalty which arises or is deemed by section 80B to arise in Sri Lanka to, such company, partnership or body of persons shall, notwithstanding anything to the contrary in any other provision of this Act, be chargeable with income tax at the rate of fifteen *per centum*.”.

**12.** Section 33 of the principal enactment is hereby amended in paragraph (b) of sub-section (2) of that section as follows:—

- (1) in sub-paragraph (vi) of that paragraph by the substitution, for the words and figures “for any year of assessment commencing on or after April 1, 1992, does not exceed,” of the words and figures “for the year of assessment commencing on April 1, 1992, does not exceed,”; and
- (2) by the addition immediately after sub-paragraph (vi) of that paragraph, of the following sub-paragraph:—

“(vii) the taxable income of which for any year of assessment commencing on or after April 1, 1993, does not exceed two hundred and seventy-seven thousand seven hundred and seventy-eight rupees.”.

**13.** Section 33C of the principal enactment is hereby amended in sub-paragraph (c) of paragraph (1) of that section, by the insertion, immediately after item (ii) of that paragraph, of the following item:—

- “(iia) dividends in relation to which advance company tax has been paid at 40 *per centum*,”.

**14.** Section 38 of the principal enactment is hereby amended in sub-section (2) of that section as follows:—

- (1) in paragraph (d) of that sub-section, by the insertion, immediately after sub-paragraph (ii) of that paragraph of the following sub-paragraph:—

“(iia) dividends received, in relation to which advance company tax has been paid at 40 *per centum*;”;

and
- (2) in paragraph (f) of that subsection, by the substitution, for the words and figures “referred to in sub-paragraph (ii) or (iii) or (iv) of paragraph (d)”, of the words and figures “referred to in sub-paragraph (ii) or (iia) or (iii) or (iv) of paragraph (d)”.

**15.** Section 84A of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution, for the words “over the income tax, in respect of such income, payable by him or it in such other country.”, of the words “over the income tax, in respect of such income, payable by him or it in such other country. Where however such person or such partnership is not liable to pay income tax, in respect of such profits and income, for such corresponding period in such other country, such person or partnership shall be entitled to relief equal to the amount of income tax payable in Sri Lanka by such person or partnership in respect of such profits and income for such year of assessment.”;
- (2) (i) in paragraph (a) of subsection (2) of that section—
  - (a) by the substitution, in item (b) of sub-paragraph (ii) of that paragraph for the words, “for the use of the undertaking;”, of the words “for the use of the undertaking; or”;

- (b) by the addition, immediately after sub-paragraph (ii) of that paragraph, of the following sub-paragraph:-

“(iii) to any non-resident person or to any partnership registered outside Sri Lanka who or which provides in Sri Lanka architectural, engineering, quantity surveying or construction management services and such other services as may be ancillary thereto, to any non-resident person or partnership referred to in sub-paragraph (ii);”;

- (ii) in sub-paragraph (ii) of paragraph (b) of that subsection by the substitution, for the words and figures “referred to in sub-paragraph (ii) of paragraph (a)”, of the words and figures “referred to in sub-paragraph (ii), or sub-paragraph (iii) of paragraph (a)”.

16. Section 113A of the principal enactment is hereby amended in subsection (1) of that section by the substitution, for the Schedule to that subsection, of the following Schedule:-

“Schedule

<i>Column I</i> <i>Treasury Bill</i>	<i>Column II</i> <i>Rate of Tax</i>
Any Treasury bill which matures in twelve months after the date of its issue.	2 <i>per centum</i> of the face value of that Treasury bill.
Any Treasury bill which matures in six months after the date of its issue.	1 <i>per centum</i> of the face value of that Treasury bill.
Any Treasury bill which matures in three months after the date of its issue.”.	0.5 <i>per centum</i> of the face value of that Treasury bill.”.

17. The following new Chapter is hereby inserted immediately after Chapter XVB and shall have effect as Chapter XVC of the principal enactment:-

‘CHAPTER XVC

SPECIAL PROVISIONS RELATING TO THE PAYMENT OF TAX BY SPECIFIED EMPLOYERS  
IN RESPECT OF EMPLOYEES.

Income tax of employee to be paid by specified employers.

113M. (1) Notwithstanding anything contained in section 2 and in Chapters XIV and XV, the income tax attributable to the official emoluments of any employee of any specified employer for any year of assessment commencing on or after April 1, 1993, shall be paid by such employer in addition to any income tax otherwise payable by such employer.

(2) The income tax payable by any specified employer under subsection (1), shall be payable in monthly instalments and accordingly, the provisions of section 98, section 99, section 102, section 105, section 106, section 107, section 110, and section 112, shall apply to such income tax payable by such employer subject to the modification that the word "deduct" appearing in the above-mentioned sections shall be substituted by the word "pay" and the word "remuneration" by the word "official emoluments"

Total statutory income not to include employment income in respect of which tax is paid.

113N. Notwithstanding anything contained in section 27, the total statutory income for any year of assessment commencing on or after April 1, 1993 of any employee of any specified employer shall be the aggregate of his statutory income for that year of assessment from every source of his profits and income, other than employment in respect of which tax is payable by the employer under subsection (1) of section 113M.

No deduction for qualifying payment referred to in section 31(2) (i) to be made from assessable income of any employee of any specified employer.

113P. Notwithstanding anything contained in any other provision of this Act, no deduction for the purpose of section 30(2) shall be made, from the assessable income of any employee of any specified employer for any year of assessment commencing on or after April 1, 1993, in respect of any qualifying payment referred to in paragraph (i) of subsection (2) of section 31 and made in that year of assessment by such employee.

Income tax payable by specified employer to be allowed as deduction.

113Q. Notwithstanding anything contained in any other provision of this Act, the income tax for any year of assessment, payable by any specified employer in accordance with section 113M shall be allowed as a deduction in ascertaining the profits and income for that year of assessment of any trade or business carried on by such employer.

Computation of income tax.

113R. For the purposes of this Chapter, the income tax attributable to the official emoluments in relation to any employee of any specified employer shall be the excess of—

- (i) the income tax computed at the rates specified in Part II E of the First Schedule to this Act on such emoluments of such employee after deducting therefrom a sum of forty-two thousand rupees, over;
- (ii) one thousand eight hundred rupees.

"Income tax paid by specified employer not to form part of the profits from employment.

113s. Notwithstanding anything contained in section 4, the income tax in respect of the official emoluments of any employee of any specified employer and which is paid by such employer shall be deemed, not to form part of the profits from employment of such employee.

For the purposes of this Chapter—

"employee" in relation to any specified employer includes a Director of the Board of Directors of such specified employer;

“specified employer” means a public corporation other than a public corporation referred to in section 9 (1) (bb).’.

18. The First Schedule to the principal enactment is hereby amended by the substitution for Part III of that Schedule, of the following Part:—

“PART III

The rates of income tax applicable to any individual who is not a citizen of Sri Lanka and who is deemed, under subsection (7) of section 67, to be a non-resident—

For any year of assessment commencing on or after  
April 1, 1979, but prior to April 1, 1993 ... 25 per centum

For any year of assessment commencing on or after  
April 1, 1993. ... 15 per centum”.

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

(1) by the substitution, for Part I of that Schedule, of the following Part:—

“PART I

Company resident in Sri Lanka other than a company referred to in Part II or Part III or Part IV or Part IVA or Part IVB or Part V or Part VA or Part VB or Part VI or Part VIII or public corporations (other than the Central Bank of Sri Lanka) referred to in Part IX or Unit Trust or Mutual Fund referred to in Part X.

The rate of income tax for any year of assessment commencing on or after April 1, 1979 but prior to April 1, 1992—

On the taxable income of the company ... 50 per centum

The rate of income tax for the year of assessment commencing on April 1, 1992—

On the taxable income of the company ... 45 per centum”;

(2) in Part IVB of the Schedule, by the substitution, for the words and figures “The rate of income tax for every year of assessment commencing on or after April 1, 1992,” of the words and figures “The rate of income tax for the year of assessment commencing on April 1, 1992-”;

(3) by the insertion, immediately after Part IVB of that Schedule of the following Part:—

“PART IV C

SMALL COMPANY

The rate of income tax for every year of assessment commencing on or after April 1, 1993—

- (1) if the taxable income of the company does not exceed two hundred and fifty thousand rupees—

On the taxable income of the company ... 33 1/3 *per centum*;

- (2) if the taxable income of the company exceeds two hundred and fifty thousand rupees but does not exceed two hundred and seventy-seven thousand seven hundred and seventy-eight rupees the tax shall be the aggregate of—

(i) a sum equal to 33 1/3 *per centum* of two hundred and fifty thousand rupees, and

(ii) the amount by which the taxable income of the company exceeds two hundred and fifty thousand rupees.”;

- (4) in Part VB of that Schedule, by the substitution, for the words and figures “any year of assessment commencing on or after April 1, 1992 and in respect of which the Assessor is satisfied that on the last day of that year of assessment”, of the words and figures “the year of assessment commencing on April 1, 1992, and in respect of which the Assessor is satisfied that as on March 31, 1993”;

- (5) in Part VI of that Schedule, by the substitution, for the words and figures “every year of assessment commencing on or after April 1, 1979”, of the words and figures “for the year of assessment commencing on or after April 1, 1993”;

- (6) in Part VII of that Schedule, by the substitution, for the words and figures “every year of assessment commencing on or after April 1, 1992—”, of the words and figures “for the year of assessment commencing on April 1, 1992—”;

- (7) in Part IX of that Schedule, by the substitution, for the words and figures “for any year of assessment commencing on or after April 1, 1992—”, of the words and figures “for the year of assessment commencing on April 1, 1992—”;

- (8) in Part X of that Schedule, by the substitution, for the words and figures “for every year of assessment commencing on or after April 1, 1992—”, of the words and figures “for the year of assessment commencing on April 1, 1992—”; and

- (9) by the insertion, immediately after Part X of that Schedule, of the following Part:—

#### “PART XI

Company including unit trust, mutual fund and public Corporation (other than the Central Bank of Sri Lanka) but not including the small company referred to in Part IV.C.

The rate of income tax for every year of assessment commencing on or after April 1, 1993—

On the taxable income of the company ... 40 *per centum*.”.

20. The Third Schedule to the principal enactment is hereby amended as follows:—

- (1) in paragraph 1 of that Schedule, by the substitution, for the words and figures from “For any year of assessment commencing on or after April 1, 1992—” to the end of that paragraph, of the following words and figures:—

“For the year of assessment commencing on April 1, 1992—

On the first Rs. 25,000 of the taxable income ... 30 *per centum*

On the next Rs. 25,000 of the taxable income ... 40 *per centum*

On the balance of the taxable income ... 45 *per centum*

For any year of assessment commencing on or after April 1, 1993—

On the first Rs. 25,000 of the taxable income ... 30 *per centum*

On the balance of the taxable income ... 40 *per centum*”;

- (2) in paragraph 11 of that Schedule—

- (i) by the substitution, for sub-paragraph (c) of that paragraph, of the following sub-paragraph:—

“(c) for the year of assessment commencing on April 1, 1992—

(i) On the taxable income ... 45 *per centum*

(ii) On the balance of the profits after deduction therefrom,  
of the tax payable under paragraph (i) ... 25 *per centum*”;

- (ii) by the addition, immediately after sub-paragraph (c) of that paragraph, of the following sub-paragraph:—

“(d) for any year of assessment commencing on or after April 1, 1993—

(i) On the taxable income ... 40 *per centum*

(ii) On the balance of the profits after deduction therefrom,  
of the tax payable under paragraph (i) ... 25 *per centum*”.

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

#### “SEVENTH SCHEDULE

##### Section 33A(1)

The rates of advance company tax for every year of assessment commencing on or after April 1, 1988, but prior to April 1, 1992, shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution  
made by a small company ... 25 *per centum*

- (ii) on the amount equal to the amount of every qualifying distribution made by a quoted public company or a people's company ... 33 1/3 per centum
- (iii) on the amount equal to the amount of every qualifying distribution made by a unit trust or mutual fund or a company other than a small company, or a quoted public company or a people's company ... 50 per centum

The rates of advance company tax for the year of assessment commencing on April 1, 1992, shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution made by a small company ... 25 per centum
- (ii) on the amount equal to the amount of every qualifying distribution made by a quoted public company or a people's company ... 33 1/3 per centum
- (iii) on the amount equal to the amount of every qualifying distribution made by a unit trust or mutual fund or a company other than a small company, or a quoted public company or a people's company ... 40 per centum

The rates of advance company tax for every year of assessment commencing on or after April 1, 1993, shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution made by a small company ... 25 per centum
- (ii) on the amount equal to the amount of every qualifying distribution made by unit trust, mutual fund or company other than any small company ... 33 1/3 per centum

22. (1) Where any company referred to in section 22DDD of the principal enactment is approved by the Minister before April 1, 1993, and notice of such approval is published in the *Gazette* within one month of the date of commencement of this Act, such company shall be deemed for all purposes to have been approved by the Minister by notice published in the *Gazette*, before April, 1, 1993.

(2) The amendment to section 113A of the principal enactment made by section 16 of this Act, shall be deemed for all purposes to have come into force on April 1, 1993.

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

## **AGRARIAN SERVICES (AMENDMENT) ACT, NO. 40 OF 1993**

[Certified on 8th September, 1993]

### **AN ACT TO AMEND THE AGRARIAN SERVICES ACT, NO. 58 OF 1979**

1. This Act may be cited as the Agrarian Services (Amendment) Act, No. 40 of 1993.
2. Section 27 of the Agrarian Services Act, No. 58 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended by the repeal of paragraph (c) of subsection (3) of that section.
3. Section 29 of the principal enactment, as amended by the Agrarian Services (Amendment) Act, No. 9 of 1990, is hereby further amended by the repeal of subsection (1) of that section and the substitution therefor, of the following subsection:-

“(1) Where under the provisions of this Part, default is made, or deemed to be made, by an owner cultivator or occupier of agricultural land in respect of the whole of the unpaid portion of any loan granted by a prescribed bank and the interest due on such loan, such bank, may notify the Magistrate's Court that such owner cultivator or occupier is in default of the sum of money specified in such notice.”.
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## **AGRARIAN SERVICES (SPECIAL PROVISIONS) ACT, NO. 41 OF 1993**

[Certified on 8th September, 1993]

AN ACT TO AMEND THE REGULATIONS MADE UNDER THE AGRARIAN SERVICES ACT, NO. 58 OF 1979, AND TO VALIDATE ACTS DONE TO RECOVER LOANS GRANTED BY CERTAIN BANKS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Agrarian Services (Special Provisions) Act, No. 41 of 1993.

2. From and after the date of commencement of this Act, the Agrarian Services Regulations, No. 1 of 1979, made under section 66 of the Agrarian Services Act, No. 58 of 1979 (hereinafter referred to as the "principal enactment") and published in *Gazette Extraordinary* No. 66/14 of December 14, 1979, shall have effect as if for regulation 46 thereof, there were substituted the following regulations:—

‘46. for the purposes of Part II of the Act, “prescribed bank” means any banking institution within the meaning of section 127 of the Monetary Law Act (Chapter 422).’

3. (1) Every instrument executed, prior to the date of commencement of this Act, creating a mortgage or charge on any land or interest therein in respect of a loan granted to any owner cultivator or occupier of an agricultural land by a specified bank shall be deemed not to have been, or to be, invalid or to be improperly stamped, by reason only of the fact that such bank was not, at the time of the execution or stamping of such instrument, as the case may be, a prescribed bank within the meaning of the principal enactment and every such instrument shall have the priority referred to in section 30 of the principal enactment.

(2) Every notification made to the Commissioner, under subsection (1) of section 29 of the principal enactment by a specified bank, prior to the date of commencement of this Act, shall be deemed not to have been, or to be, invalid by reason only of the fact that such bank was not, on the date of such notification, a prescribed bank within the meaning of the principal enactment.

(3) Every order made, prior to the date of commencement of this Act, under subsection (4) of section 29 of the principal enactment, for the payment of any sum of money to a specified bank shall be deemed not to have been, or to be, invalid by reason only of the fact that such bank was not, on the date of such order, a prescribed bank within the meaning of the principal enactment.

(4) Every application made, prior to the date of commencement of this Act, by a specified bank to a Magistrate's Court, under subsection (5) of section 29 of the principal enactment shall be deemed not to have been, or to be, invalid by reason only of the fact that such bank was not, on the date of such application, a prescribed bank within the meaning of the principal enactment.

(5) Every order made prior to the date of commencement of this Act, by a Magistrate's Court, under subsection (5) of section 29 of the principal enactment, in pursuance of an application made to it under that subsection, by a specified bank shall be deemed not to have been, or to be, invalid by reason only of the fact that such bank was not, on the date of such order, a prescribed bank within the meaning of the principal enactment.

(6) Every certificate issued, prior to the date of commencement of this Act, by or on behalf of a specified bank, under subsection (6) of section 29 of the principal enactment shall be deemed not to have been or to be, invalid by reason only of the fact that such bank was not, on the date of such certificate, a prescribed bank within the meaning of the principal enactment.

(7) In this section "specified bank" means any banking institution within the meaning of section 127 of the Monetary Law Act.

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

# NATIONAL GEM AND JEWELLERY AUTHORITY ACT, NO. 50 OF 1993

[Certified on 21st October, 1993]

AN ACT TO ESTABLISH THE NATIONAL GEM AND JEWELLERY AUTHORITY FOR THE DEVELOPMENT, REGULATION AND PROMOTION OF THE GEM INDUSTRY AND THE JEWELLERY INDUSTRY; TO PROVIDE FOR THE ESTABLISHMENT OF INSTITUTIONS TO PROMOTE SUCH DEVELOPMENT, FOR THE REPEAL OF THE STATE GEM CORPORATION ACT, NO. 13 OF 1971; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. (1) This Act may be cited as the National Gem and Jewellery Authority Act, No. 50 of 1993.

(2) (a) The provisions of this section, and section 55 and 56 and Part III of this Act shall come into operation on the date of enactment of this Act.

(b) The Provisions of Parts I, II, and IV (other than sections 55 or 56) shall come into operation on such date (hereinafter referred to as "appointed date") as the Minister may appoint by Order published in the *Gazette*.

## PART I

### ESTABLISHMENT OF THE NATIONAL GEM AND JEWELLERY AUTHORITY

2. (1) There shall be established an Authority which shall be called the National Gem and Jewellery Authority (in this Act referred to as the "Authority").

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

3. The administration and management of the affairs of the Authority shall be vested in a Board of Directors, (hereinafter in this Part referred to as the "Board") consisting of the Chairman and the following members,—

- (a) the Secretary to the Ministry of the Minister in charge of the subject of Finance or any senior officer of that Ministry nominated by the Minister;
- (b) the Chairman of the Sri Lanka Export Development Board established by the Sri Lanka Export Development Act, No. 40 of 1979;
- (c) a senior officer of the Central Bank nominated by the Monetary Board;
- (d) the Chairman of the Gem Trading Bank;
- (e) the Chairman of the Institutions established under this Act;
- (f) the Director-General of the Department of Customs or any senior officer of the Department nominated by the Minister;

- (g) a senior officer of the Ministry of the Minister in charge of the subject of Industries nominated by the Minister;
- (h) five other members appointed by the Minister (hereinafter referred to as "appointed members") who appear to the Minister to have wide experience, capacity and recognition in matters connected with mineralogy, geology, mining, lapidary or the manufacture, sale and export of gems and jewellery.

4. A person shall be disqualified from being appointed or continuing as a member of the Board—

- (a) if he is or becomes a member, of Parliament or any Provincial Council or any local authority; or
- (b) if he is not, or ceases to be, a citizen of Sri Lanka; or
- (c) if he is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind; or
- (d) if he is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country; or
- (e) if he holds or enjoys any right or benefit under any contract made by or on behalf of the Authority; or
- (f) if he has any financial or other interest as is likely, to affect prejudicially the discharge by him of his functions as a member of the Board.

5. Every appointed member unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall unless he has been removed from office, be eligible for re-appointment.

6. (1) The Minister may by Order published in the *Gazette* remove any appointed member from office without assigning any reason therefor. A member in respect of whom an Order is made under this section shall be deemed to have vacated office on the date of publication of the Order in the *Gazette*.

(2) In the event of the vacation of office by death, resignation or removal of any appointed member, the Minister may having regard to the provisions of section 3, appoint any other person to succeed such member. Any member so appointed shall hold office for the unexpired term of office of the member whom he succeeds.

(3) Any appointed member, may at any time resign from office by letter to that effect addressed to the Minister and sent by registered post.

(4) Where an appointed member, by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, is temporarily unable to perform his duties it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may having regard to the provisions of section 3 appoint some other person to act in his place.

7. The members of the Board may be paid such remuneration out of the Fund of the Authority as the Minister may, determine in consultation with the Minister in charge of the subject of Finance.

8. (1) The Chairman of the Board shall be appointed by the Minister.

(2) If the Chairman is, by reason of illness or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

(3) The Minister may, for reasons assigned, terminate the appointment of the Chairman.

(4) The Chairman may at any time resign from the office of Chairman by a letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

(5) Subject to the provisions of subsections (3) and (4), the term of office of the Chairman shall be three years.

(6) The Chairman shall be the Chief Executive Officer of the Authority, and shall subject to the direction and control of the Board, be charged with the administration and management of the affairs of the Authority.

9. (1) The Chairman of the Board shall, if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting the members present shall elect one of the members present, to preside at such meeting.

(2) The quorum for any meeting of the Board shall be seven members.

(3) The Chairman or the member presiding at any meeting of the Board, shall in addition to his own vote, have a casting vote.

(4) Subject to the provisions of this section, the Board shall regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

10. No act, decision or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy in the Board or any defect in the appointment of any member thereof.

11. (1) The seal of the Authority may be determined and devised by the Board, and may be altered in such manner as may be determined by the Board.

(2) The seal of the Authority shall be in the custody of such person as the Board may decide from time to time.

(3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and one member who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments and documents to which the seal of the Authority has been affixed.

12. In the exercise of its powers and the discharge of the functions, the Authority shall comply with the general policy of the Government in relation to the gem industry and with any general or special directions issued to it by the Minister in relation to such policy.

13. (1) The Board may delegate any of the powers and functions of the Authority to the Chairman.

(2) The Chairman to whom any of the powers and functions of the Authority have been delegated under subsection (1) shall exercise or discharge such powers and functions so delegated, subject to the special or general directions of the Board.

14. (1) The functions of the Authority shall be—

- (a) to promote and develop the gem industry and the jewellery industry;
- (b) to initiate and implement schemes for the promotion and development of the gem industry and the jewellery industry;
- (c) to exploit the market for gems and jewellery whether in or outside Sri Lanka and to promote the demand for such gems and jewellery in world markets;
- (d) to promote and sponsor technical training of personnel on every aspect relating to the gem industry and the jewellery industry and especially on heat treatment and gem cutting, with a view to developing such industries;
- (e) to take such steps that are necessary to generate confidence in the gem industry and the jewellery industry among prospective buyers;
- (f) to prevent unlawful gemming and the unlawful removal of gems from Sri Lanka;
- (g) subject to the provisions of Article 33 of the Constitution to act as the sole authority responsible for the alienation of the right to mine for gems in or over State land, or in or over land disposed of by the State or the State Gem Corporation where the mining or gemming rights remain with the State, whether by reason of any reservation or otherwise:

Provided however, every such alienation shall be with the concurrence of the Minister in charge of the subject of Lands and of the Minister in charge of the subject of Environment, and where the land to which such rights relate is in the possession of the Mahaweli Authority, with the concurrence also of the Minister in charge of the subject of Mahaweli Development:

Provided further, that where there is disagreement amongst such Ministers as regards an alienation, the matter shall be referred to the Cabinet of Ministers, and thereafter, such alienation shall be with the concurrence of the Cabinet of Ministers;

- (h) to provide technical and other advice and the infrastructural support necessary for the marketing of gems and jewellery;
- (i) the administration of any scheduled written law in so far only—
  - (i) as it is applicable in the case of gems or the gem industry; or

- (ii) as it may be necessary so to do for the purpose of enabling the Authority to exercise, discharge and perform its powers, functions, and duties under this Act;
- (j) to establish offices for certification of gems and assaying of precious metal;
- (k) to provide for the jewellery manufactured in Sri Lanka to be stamped with a hall mark in the prescribed manner, at the request of a manufacturer;
- (l) to collect statistics from persons engaged in the gem industry and the jewellery industry on any matter relating to the gem industry or the jewellery industry, and to publish such statistics in its discretion;
- (m) to provide the necessary liaison between the gem industry, the jewellery industry and Government departments, in order to promote and co-ordinate the development of the gem industry and the jewellery industry in Sri Lanka;
- (n) to regulate and control the terms and conditions of employment of persons who work in the gem industry and the jewellery industry and in particular the safety measures to be taken to protect such persons from danger to life and limb.

(2) For the purpose of discharging the functions referred to in subsection (1) the Authority shall have the following powers:—

- (a) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) to obtain loans on such terms and conditions as may be approved by the Minister for the purpose of discharging its functions;
- (c) to accept gifts grants or donations whether in cash or otherwise, and to apply them for discharging its functions;
- (d) to appoint a Director-General of the Authority;
- (e) to appoint such other officers and servants as may be necessary for carrying out the work of the Authority;
- (f) to determine the remuneration payable to the officers and servants so appointed;
- (g) to pay such remuneration out of the Fund of the Authority;
- (h) to pay rewards in the prescribed manner to—
  - (i) any person;
  - (ii) a public officer or an employee of the Authority,

Providing information or assisting in any raid leading to the discovery of the commission of an offence under this Act, out of the funds of the Authority;

- (i) to establish a provident fund, a social security scheme, and provide welfare and recreational facilities, houses, hostels and other like accommodation, to persons employed by the Authority;
- (j) to enter into and perform all such contracts whether in or outside Sri Lanka as may be necessary for the exercise of the powers and discharge of the functions of the Authority;
- (k) to make rules in respect of the administration of the affairs of the Authority; and
- (l) generally to do all such other things as are necessary to facilitate the proper discharge of the functions of the Authority.

15. (1) Notwithstanding anything to the contrary in any other written law, the Authority shall be the sole authority responsible for the issue of licences to carry on the gem industry whether such industry is, or is proposed to be, carried on in or over any State or private land.

(2) No person shall carry on the gem industry except under the authority of a licence issued by the Authority.

(3) Every application for a licence to carry on the gem industry shall be made to the Authority in such form as may be prescribed.

(4) (a) No licence shall be issued by the Authority to any person under this Act to carry on the gem industry except upon the payment by such person to the Authority of such fee or fees as may be prescribed.

(b) Every such licence shall—

- (i) be in the prescribed Form;
- (ii) be subject to such terms and conditions as may be prescribed;
- (iii) unless it is cancelled earlier be in force for a period of twelve months from the date of its issue.

(5) Where a licence has been issued to mine for gems or gemming on any paddy land, the cultivator of such land if he is not the owner of such land or the holder of such licence, shall be paid compensation by the owner of such land assessed in such manner as may be prescribed, for loss of income from such paddy land during the period of the licence.

(6) No licence issued under this Act to any person shall be transferable to any other person, and accordingly any such transfer shall be null and void.

(7) The Authority may at any time revoke any licence issued under subsection (2), in the event of any default in the payment of any money payable thereunder or on the failure of the licensee to comply with any of the terms and conditions of the licence.

(8) Where the Authority—

- (a) refuses an application for a licence made under subsection (3);
- (b) revokes a licence under subsection (7),

the applicant or the licensee may before the expiry of a period of thirty days from the date of such refusal or revocation, as the case may be, appeal to the Secretary to the Ministry of the Minister (hereinafter referred to as the "Secretary")

(9) The Secretary may on any appeal made to him under subsection (8)—

- (a) allow the appeal and direct the Authority to issue or renew the licence; or
- (b) disallow the appeal.

(10) The Authority shall comply with any direction issued to it under subsection (9),

(11) An applicant or licensee dissatisfied with a decision of the Secretary disallowing, under subsection (9), an appeal made to such Secretary under subsection (8), may appeal from such decision of the Secretary, to the Supreme Court, within thirty days of the date on which such decision is communicated to him.

(12) The relevant provisions of the Supreme Court's Rules shall apply to an appeal preferred under subsection (11).

(13) Supreme Court may, on an appeal preferred to it under subsection (11)—

- (a) allow such appeal and direct the Authority to issue or renew the licence which is the subject of that appeal; or
- (b) disallow such appeal.

(14) Every lease granted or deemed to have been granted by the State Gem Corporation of the right to mine or gem in any State land or in any land, which has been disposed of by the Corporation with a reservation of mining rights in favour of the State shall, if such lease is in force on the day immediately preceding the appointed date be deemed for all purposes to be a lease granted by the Authority:

Provided however that the Authority may vary the terms and conditions subject to which any such lease was granted or may, in addition to the terms and conditions of such lease, add further terms and conditions thereto.

16. No person shall export any gems from Sri Lanka except with the approval of the Authority.

17. (1) No person shall carry on the jewellery business in any premises unless such premises is registered with the Authority.

(2) Notwithstanding anything in subsection (1), any person who was, on the day preceding the appointed date, carrying on the jewellery industry in any premises shall register such premises with the Authority within three months of the appointed date.

(3) Every person carrying on the jewellery industry and who is desirous of obtaining any assistance from the Authority shall register such industry with the Authority.

(4) For the purposes of this section "premises" shall mean a premises where the trade or business of jewellery is carried on and for carrying on for which a tax is levied under the Municipal Councils Ordinance or the Urban Councils Ordinance.

18. (1) Subject to the provisions of subsection (2) where any person who mines for gems on State land or on any land over which any mining or gemming rights remain with the State and such person has acquired such land and such mining or gemming rights by way of an auction, the price paid at such auction by such person shall be deemed to include a royalty in lieu of any gems that may be found on such land.

(2) Notwithstanding the provisions of subsection (1) where any person who mines for gems on State land or on any land over which the mining or gemming rights remain with the State and such person has acquired such land or such mining or gemming rights otherwise than by way of an auction, such person shall deliver to the Authority any gems obtained by him from such land.

(3) Where any gem is delivered to the Authority under subsection (2), the Authority may—

- (a) make arrangements to sell such gem to any other person or persons with the consent of the licensee; or
- (b) decline to make arrangements to sell such gem.

(4) Where any gem delivered to the Authority under subsection (2) is sold to any other person as a result of arrangements made by the Authority, the Authority shall retain as its royalty a prescribed portion of the proceeds of the sale of such gem.

(5) Where the Authority declines to make arrangements to sell any gem delivered to the Authority under subsection (2), the Authority shall return such gem to the person who delivered it to the Authority together with a document stating that the Authority has declined to make arrangements for the sale of such gem, but shall charge as royalty a prescribed portion of the market value of such gem as may be determined by the Authority.

(6) No person shall purchase from any other person any gem obtained by such other person by mining on any such land as is referred to in subsection (2), unless the Authority has declined to make arrangements for its sale.

## PART II

### FINANCE AND STAFF OF THE AUTHORITY

19. (1) The initial capital of the Authority shall be Rupees one hundred and fifty million comprising of—

- (i) all such sums of money lying to the credit of the State Gem Corporation and transferred to the Authority with effect from the appointed date; and
- (ii) such amount as may be made available to the Authority out of the Consolidated Fund.

(2) The Capital of the Authority may be increased from time to time by such amount as may be determined by the Authority with the approval of the Minister.

20. (1) The Authority shall have its own fund (hereinafter referred to as the "Fund").

(2) There shall be paid into the Fund—

- (a) all such sums of money that may be made available to the Authority out of the Consolidated Fund;
- (b) all such sums of money lying to the credit of the State Gem Corporation and transferred to the Authority with effect from the appointed date;
- (c) all such sums of money that may be received by the Authority in the exercise, performance and discharge of its powers, duties and functions; and
- (d) all such sums of money received by the Authority by way of donations.

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

21. (1) The financial year of the Authority shall be the calendar Year.

(2) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Authority.

22. Any sum of money belonging to the Authority may be invested by the Board in such manner as the Board may determine.

23. (1) The Authority may with the approval in writing of the Minister, appoint a Director-General of the Authority.

(2) The Director-General appointed under subsection (1) shall at all times act under the direction of the Authority.

(3) The Director General shall be paid such remuneration as may be determined by the Authority in consultation with the Minister.

24. (1) At the request of the Authority any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority, or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978 shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

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

### PART III

#### ESTABLISHMENT OF INSTITUTIONS

25. (1) Where the Minister considers it necessary that an Institution should be established for the purpose of assisting in the development of the gem industry or the jewellery industry, the Minister may, with the approval of the Cabinet of Ministers by Order (hereinafter referred to as an "Incorporation Order") published in the Gazette—

- (a) declare that an Institution shall be established to perform such functions as may be specified in such Order;
- (b) assign a corporate name to the Institution;
- (c) specify the Initial Capital of the Institution and specify the amount that may be payable out of the Consolidated Fund and the amount, if any, payable by the Authority from its Fund or by any Institution established under this Part;
- (d) specify the objects of the Institution;
- (e) specify the powers of the Institution;
- (f) fix the number of members of the Board of Directors of the Institution, the number so fixed being not more than five and not less than three;
- (g) appoint the first members of the Board of Directors in accordance with the provisions of this Part;
- (h) appoint the first Chairman of the Board of Directors in accordance with the provisions of this Part;
- (i) specify the quorum for meetings of the Board of Directors.

(2) Upon the publication of an Incorporation Order under subsection (1) in the *Gazette*, an Institution (hereinafter in this Part referred to as the "Institution") with the corporate name specified in such Order and with perpetual succession shall be deemed to have been established.

(3) The Authority may, from time to time, give the Institution, general or special directions in writing as to the exercise of its powers and the performance of its duties and such directions shall be carried out by the Institution.

26. (1) The Minister shall appoint the members of the Board of Directors (hereinafter in this Part referred to as the "Board") of the Institution, of whom one member shall be the Director-General and shall nominate one of the members to be the Chairman of the Board.

(2) A member of the Board shall hold office for a period of three years unless he vacates office earlier.

(3) The Minister may, if he thinks it expedient to do so, remove any member of the Board for reasons assigned.

(4) A member may resign his office by written communication addressed to the Minister.

(5) In the event of a vacation of office by a member by death, resignation or removal from office, the Minister may appoint another person to take his place. Any person so

appointed shall hold office for the unexpired part of the term of office of the member whom he succeeds.

(6) Where a member is temporarily unable to perform the duties of his office on account of ill-health, absence from Sri Lanka or for any other cause, the Minister may appoint another person to act in place of such member.

(7) The members of the Board shall be remunerated on such terms and conditions as are determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(8) If the Chairman is temporarily unable to discharge the duties of his office on account of ill-health, absence from Sri Lanka or any other cause, the Minister may appoint another member of the Board to act as Chairman.

(9) Subject to the provisions of this Act and the Incorporation Order, the Board may make rules to regulate the conduct of its meetings and the transaction of business at such meetings.

(10) A member who is interested in any contract proposed to be made by the Institution shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of such meeting and such member shall not take part in any deliberation or decision of such Board with respect to such contract.

(11) No act or decision of the Board shall be invalidated by reason only of the existence of a vacancy among its members or any defect on the appointment of any member.

27. (1) The Institution shall have a common seal which shall be in the custody of the Board.

(2) The seal of the Institution may be affixed in such manner as may be determined by the Board.

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

(4) The Board shall maintain a register of the instruments or documents to which the seal of the Institution is affixed.

28. The Minister may in consultation with the Board from time to time, give the Board general or special directions as to the exercise of the powers and the performance of the duties of the Institution and such directions shall be carried out by the Board.

29. (1) The general supervision, direction and control of the affairs and business of the Institution shall vest in the Board.

(2) Without prejudice to the generality of the powers conferred on the Institution by this Part of this Act, the Institution shall have the special powers specified in the Incorporation Order.

(3) The Board shall have the power to do any thing necessary for, or conducive to, the carrying out of the objects set out in the Incorporation Order and for this purpose may—

- (a) acquire, hold, take on hire or lease, any movable or immovable property and give on hire or lease or sell or otherwise dispose of, any such property:

Provided, however that no immovable property vested in the Institution shall be sold without the prior approval of the Minister;

- (b) accept grants, gifts or donations, whether in cash or in kind;
- (c) borrow money for carrying out its objects and secure the payment of any sum of money by the mortgage of any of its properties;
- (d) appoint such officers, servants and agents as are necessary for carrying out its objects and discharging its functions;
- (e) enter into and perform all such contracts as may be necessary for the discharge of the functions or the performance of its duties;
- (f) make rules in respect of the administration of the affairs of the Institution;
- (g) do all such other acts as are incidental to, or are consequential upon or connected with, the exercise, performance or discharge of its powers, duties and functions.

30. The Capital of the Institution shall be the sum specified in the Incorporation Order and may be increased from time to time by resolution of Parliament.

31. The liability of the Institution shall be limited to the capital of the Institution.

32. (1) The financial year of the Institution shall be the calendar year.

(2) The Institution shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Institution.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Institution.

33. (1) The Board may appoint such officers, servants and agents as it considers necessary for the efficient exercise, performance and discharge of its powers, duties and functions of the Institution.

(2) The officers, servants and agents appointed under subsection (1) shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Board.

(3) At the request of the Board, any officer in the public service may with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Institution for such period as may be determined by the Board or with like consent, be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Institution, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to, and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Institution the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to, and in relation to him.

(6) Where the Institution employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Institution by that person shall be regarded as service to the government for the purpose of discharging the obligations of such contract.

34. (1) Where any immovable property of the State is required for the purpose of the Institution, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Institution.

(2) Where any movable property of the State is required for the purpose of the Institution, the Minister may, by Order published in the *Gazette*, transfer to, and vest in the Institution the possession and use of such movable property:

Provided, however that no order affecting any movable property of the State shall be made by the Minister under the preceding provisions of this subsection, without the concurrence of the Minister having control over such property.

35. All members, officers and servants of the Institution shall deemed to be public servants within the meaning and for the purposes of the Penal Code.

36. No writ against person or property shall be issued against any member of the Institution in any action brought against the Institution.

37. The Institution shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act, and the provisions of that Act, shall be construed accordingly.

38. (1) The Minister may make regulations relating to any matter in respect of which regulations are authorized by this Part to be made.

(2) Every regulation made under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made under subsection (1) shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

## PART IV

### GENERAL

39. The Authority shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

40. All members, officers and servants of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

41. (1) Where any immovable property of the State is required for any purpose of the Authority, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property of the Authority.

(2) Where any movable property of the State is required for any purpose of the Authority, the Minister may, by Order published in the *Gazette*, transfer to, and vest in the Authority the possession and use of such movable property:

Provided, however, that no Order affecting any movable property of the State shall be made by the Minister under the preceding provisions of this subsection, without the concurrence of the Minister having control over such property.

42. (1) Where any immovable property is required to be acquired for any specific purpose of the Authority and the Minister by Order published in the *Gazette* approves of the proposed acquisition for that purpose, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and transferred to the Authority.

(2) Any sum payable, for the acquisition of any immovable property under the Land Acquisition Act for the Authority shall be paid out of the Fund of the Authority.

43. (1) No suit or prosecution shall lie against any member, officer, servant or agent of the Authority for any act which in good faith is done or purported to be done by him under this Act, or on the direction of the Authority.

(2) Any expenses incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the Fund and any costs paid to, or recovered by the Authority in any such suit or prosecution shall be credited to the Fund.

(3) Any expenses incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act was done in good faith, be paid out of the Fund, to such person, unless such expense is recovered by him in such suit or prosecution.

44. No writ against person or property shall be issued against any member of the Board of Directors of the Authority in any action brought against the Authority.

45. (1) The Board of Directors of the Authority may make rules which are not inconsistent with the provisions of this Act, in respect of all or any of the matters in respect of which rules are authorized or required by this Act to be made.

(2) No rule made under subsection (1) shall have effect until it has been approved by Parliament and notification of such approval is published in the *Gazette*.

46. No person carrying on the gem industry or the jewellery industry shall sell or offer for sale any gem or jewellery under any representation, description or circumstances having the capacity and tendency or effect of, or deceiving or misleading a purchaser or prospective purchaser or creating an erroneous impression, on the purchaser or prospective purchaser, as regards the type, quality, quantity, size, weight or value of such gem or jewellery.

47. The Authority may, where it considers it necessary for the purpose of discharging the functions of the Authority, authorize in writing any officer to enter and search at all reasonable hours of the day any premises in which the gem industry or the jewellery industry is being carried on. An officer so authorized is hereinafter referred to as an "authorized officer".

48. Any authorized officer may—

- (a) for the purpose of ascertaining whether the provisions of this Act are complied with, enter and inspect any place in which the gem industry is being carried on under the authority of a licence issued under this Act;
- (b) enter and inspect any place, where he has reason to believe that the gem industry is being carried on without the authority of a licence issued under this Act;
- (c) stop, enter and inspect any vehicle or vessel, in which he has reason to believe any gem is being transported or exported, as the case may be, in contravention of the provisions of this Act or any regulation made thereunder;
- (d) examine any books, registers or records maintained under this Act, and make extracts or copies therefrom;
- (e) search any person on any such premises, vehicle or vessel where he has reason to believe that such person has gems secreted about his person:

Provided that no person being a female shall be searched by any person other than a female duly authorized for that purpose by the Authority;

- (f) interrogate any person in any such premises or in any such vehicle or vessel.

(2) Every person who obstructs or resists such officer in the exercise of any power conferred on him by subsection (1) shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees or to imprisonment of either description for a term not less than six months or to both such fine and imprisonment.

49. (1) Any authorizing officer may, if he has reason to believe that any offence under this Act, has been or is being committed, seize and detain—

- (a) for such time as may be necessary, any article by means of or in relation to which the offence is alleged to have been committed;
- (b) any book, register, record or other document which in his opinion will be necessary or useful for the prosecution of any person for an offence under this Act.

(2) Where any authorized officer seizes any article under subsection (1), such article shall be kept in the custody and control of the Authority pending its disposal as hereinafter provided.

50. (1) Where after, due inquiry by an authorized officer, such officer is satisfied that any article seized was used for the commission or in connection with the commission of an offence under this Act, such article shall stand forfeited to the State.

(2) Any person aggrieved by the seizure and forfeiture to the State of any article by any authorized officer under subsection (1), may within sixty days after the date of such forfeiture, make an application in writing against such seizure and forfeiture to any District Court within the local limits of whose jurisdiction such seizure and forfeiture was effected.

(3) An application to the District Court under subsection (2) shall be in writing and in the form of a plaint in a civil suit. In the application such person shall be described as the plaintiff and the authorized officer as the defendant. The application shall contain—

- (a) the name of the District Court and the date of making of the application to the court;
- (b) the name and address of the authorized officer;
- (c) a plain and concise statement of the matter which has to be determined by the court, namely, that the seizure and forfeiture of the article, which is the subject matter of the application was unlawful and that the court shall determine—
  - (i) that such seizure and forfeiture was unlawful; and
  - (ii) that such article shall be forthwith returned to the plaintiff.

(4) In any proceeding in any District Court on any application made to it in respect of the seizure and forfeiture of any article the burden of proving that such seizure and forfeiture under that subsection was unlawful, shall lie on the plaintiff.

(5) When an article is forfeited to the State under subsection (1) and—

- (a) no application against the seizure of such article by any authorized officer under subsection (1) is made to any District Court under subsection (2) within the period specified in that subsection; or
- (b) any application made under that subsection is dismissed by the District Court, and no appeal against such dismissal is preferred within the time allowed therefor;

- (c) any appeal preferred against the dismissal of an application made under that subsection is itself dismissed,

the Authority shall take possession of such article and may sell or otherwise dispose of it as it may think fit.

- (6) For the purposes of this section and section 49 "an article" means—

- (a) any gem or jewellery;
- (b) any cash;
- (c) anything used or capable of being used in carrying on the gem industry and the jewellery industry.

- 51. (1) Every person who—

- (a) contravenes the provisions of this Act or any regulation or rule made thereunder;
- (b) being a member, officer or servant of the Authority discloses any information obtained by him in or in connection with the exercise of his powers or the performance of his duties under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act;
- (c) makes any mark on any jewellery, with the intention of causing it to be believed that such mark is a hall mark, made by the Authority or with the approval of the Authority;

shall be guilty of an offence under this Act.

- (2) Every person who commits an offence under this Act shall on conviction after trial before a Magistrate, be liable to a fine not exceeding one million rupees or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

- (3) Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate every director or officer of that body corporate;
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided, however that a director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all such diligence to prevent the commission of such offence.

- (4) Any officer or servant authorized in writing by the Authority shall be deemed to be public officers within the meaning of section 136 of the Code of Criminal Procedure Act, No. 15 of 1979, for the purpose of instituting proceedings in respect of offences under this Act.

52. The Authority may with the consent of the parties having regard to the circumstances in which any offence under this Act was committed compound such offence for a sum not exceeding one-third the maximum fine imposable for that offence. All sums received by the Authority in composition for an offence under this section, shall be credited to the Fund.

53. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

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

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

(4) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.

54. (1) The State Gem Corporation Act, No. 13 of 1971, is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Act—

- (a) all moneys lying to the credit of the State Gem Corporation on the day immediately preceding the appointed date shall stand transferred with effect from that date to the Fund of the Authority established under this Act;
- (b) all property movable or immovable owned by the State Gem Corporation and used for the purposes of the Corporation on the day immediately preceding the appointed date shall vest in the Authority with effect from the appointed date;
- (c) all debts and liabilities of the State Gem Corporation subsisting on the day immediately preceding the appointed date shall be deemed to be debts and liabilities of the Authority with effect from the appointed date;
- (d) all contracts and agreements entered into for the purposes of the State Gem Corporation and subsisting on the day immediately preceding the appointed date shall be deemed with effect from that date to be contracts and agreements entered into by the Authority;
- (e) all actions and proceedings instituted by or against the State Gem Corporation and pending on the day immediately preceding the appointed date shall be deemed with effect from that date to be actions and proceedings instituted by or against the Authority;
- (f) all decrees and orders entered or made by any competent court in favour of or against the State Gem Corporation which remain unsatisfied on the day preceding the appointed date shall with effect from that date be deemed to have been entered or made in favour of or against the Authority and may be enforced accordingly;

- (g) all officers and servants of the State Gem Corporation on the day immediately preceding the appointed date—
  - (i) who are offered employment with the Authority or in any Institution established under Part III, and accepts such offer, shall be employed therein on such terms and conditions as are not less favourable than the terms and conditions of employment that were applicable to them on the day immediately preceding the appointed date,
  - (ii) who are not offered employment with the Authority or in any Institution established under Part III or who are offered employment with such Authority or such Institution and who do not accept such offer, shall be entitled to the payment of such compensation as may be determined by the Minister;
- (h) every rule and every by-law made under the State Gem Corporation Act, No. 13 of 1971, and in force on the day immediately preceding the appointed date and which are not inconsistent with the provisions of this Act shall be deemed to be rules and by-laws made under this Act;
- (i) all licences issued or deemed to have been issued under the State Gem Corporation Act, No. 13 of 1971 and in force on the day immediately preceding the appointed date shall be deemed to be licences issued under this Act.

**55. In this Act, unless the context otherwise requires—**

“Chairman” means the Chairman of the Authority appointed under section 8;

“Director-General” means the Director-General of the Authority appointed under section 23;

“Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka constituted under section 8 of the Monetary Law Act; (Chapter 422)

“export any gems” means the carrying or taking out of Sri Lanka or causing to be carried out or taken out of Sri Lanka any gem, whether by sea or air, except gems worn on any person or carried or taken out of Sri Lanka by such person subject to the limits imposed by the Controller of Exchange;

“import any jewellery” means the importing or bringing into Sri Lanka or causing to be imported or brought into Sri Lanka, any jewellery whether by sea or by air of such jewellery except jewellery worn on any person or brought into Sri Lanka by such person subject to the limits imposed by the Controller of Exchange;

“gem” includes a precious stone or a semi-precious stone or a product of any gem or any such stone;

“gem industry” means any trade or business of all or any of the following classes or descriptions:—

- (a) mining for gems or gemming,
- (b) importing gems into or exporting gems from Sri Lanka,
- (c) selling, purchasing or supplying gems,

- (d) valuing gems,
- (e) cutting, polishing, engraving or carving gems,
- (f) heat treatment of gems and any other method of enhancing the value of gems,
- (g) examination and certification of gems and assaying of precious metals,
- (h) lapidary training;

“jewellery” means any ornament made from precious metals or precious stones for personal adornment or any curio made out of such metal or such stone;

“jewellery industry” means any trade or business relating to the assaying of precious metals or the manufacture of ornaments from precious metals or precious stones, for personal adornment, or the export of such ornaments;

“scheduled written law” means the provisions of written law specified in the Schedule to this Act;

“State Gem Corporation” means the State Gem Corporation established by the State Gem Corporation Act, No. 13 of 1971.

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

## SCHEDULE

### PROVISIONS OF WRITTEN LAW

Sections 2 (6), 8, 17, 18, 20, 77 (1), 78, 87, 88 and 89 of the Crown Lands Ordinance.

Sections 2, 3, 7, 8, 9, 10, 11, 12, 15, 16, 17 (2), 18, 19, 39, 41, 42 and 43 of the Minerals, Mines and Quarries Ordinance.

# **GEM TRADING BANK ACT, NO. 51 OF 1993**

[Certified on 21st October, 1993]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE GEM TRADING BANK, FOR THE PURPOSE OF PROMOTING THE FLOW OF CREDIT TO, AND DEVELOPING, THE GEM INDUSTRY AND THE JEWELLERY INDUSTRY; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Gem Trading Bank Act, No. 51 of 1993, and shall come into operation on such date (hereinafter referred as the "appointed date") as the Minister may appoint by Order published in the *Gazette*.

## **PART I**

### **ESTABLISHMENT OF THE GEM TRADING BANK**

2. There shall be established a Bank which shall be called the "Gem Trading Bank". (hereinafter referred to as "the Bank") and which shall consist of the persons who are shareholders thereof.

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

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

5. (1) The administration and management of the affairs of the Bank shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of-

- (a) two persons nominated by the Monetary Board, one of whom shall be the Chairman of the Board;
- (b) the Chairman of the National Gem and Jewellery Authority established by the National Gem and Jewellery Authority Act, 1993;
- (c) a person elected by the shareholding financial institution; and
- (d) a person nominated by the Monetary Board, from among persons engaged in the Gem industry or the jewellery industry.

(2) The provisions of the Schedule to this Act shall have effect in relation to the term of office of the directors of the Board, the remuneration payable to such directors, meetings of the Board and the seal of the Bank.

(3) The Board shall exercise, perform and discharge all powers, duties and functions conferred or imposed on, or assigned to, the Bank by this Act.

6. The functions of the Bank shall be to promote the flow of credit to, and to develop, the gem industry and the jewellery industry of Sri Lanka and to provide re-finance facilities for commercial banks lending, to the gem industry and the jewellery industry and to provide credit facilities to persons engaged in the gem industry and the jewellery industry.

7. In discharging its functions the Bank may exercise and perform all or any of the following powers and duties:—

- (a) to grant loans and other accommodation on securities and property (including gems, jewellery or precious metal) and to give credit to persons, or companies on such terms as it may deem expedient, either with or without security, for the development of the gem industry or the jewellery industry;
- (b) to open, maintain and manage current, deposit, savings and other accounts;
- (c) to buy, stockpile and sell, or enter into such other dealings in, gems, precious metals and jewellery as may necessary for the discharge of its functions;
- (d) to subscribe to, purchase or underwrite, the issue of, stocks, shares, bonds and acceptable instruments, of any company engaged in the gem industry or the jewellery industry;
- (e) to issue bid bonds and guarantees, in or outside Sri Lanka, on behalf of the gem industry or the jewellery industry;
- (f) to accept, collect, discount, re-discount, sell or negotiate, in or outside Sri Lanka, bills of exchange or promissory notes arising out of transactions relating to the export or import of gems or jewellery, and to grant loans and advances, in or outside Sri Lanka, against such bills of exchange or promissory notes;
- (g) to open, issue, confirm or endorse, letters of credit and to negotiate or collect, bills of exchange and other documents drawn thereunder, pertaining to the gem industry or the jewellery industry;
- (h) to grant loans and advances, within and outside Sri Lanka, to any person engaged in the gem industry or the jewellery industry;
- (i) to finance the export or import of, machinery and equipment, on an outright or lease basis to be used, for the gem industry or the jewellery industry;
- (j) to buy or sell, foreign exchange or enter into, dealings in foreign exchange, as may be necessary for the discharge of its functions, subject to the existing foreign exchange laws;
- (k) to acquire or purchase any movable or immovable property, used for the gem industry or the jewellery industry;
- (l) to convert a part or whole of its loans to bonds or debentures issued by companies engaged in the gem industry or the jewellery industry, and to subscribe to bonds and debentures issued by companies engaged in the gem industry or the jewellery industry;

- (m) to open accounts in commercial banks or any other financial institutions, in or outside Sri Lanka, or to make any agency arrangement with, or act as an agent or correspondent of, any commercial bank or any other financial institution, within or outside Sri Lanka;
- (n) to transfer for consideration, any instrument relating to loans or advances granted by it;
- (o) to raise such sums of money, in or outside Sri Lanka, by way of loans or otherwise as may be necessary for discharging its functions;
- (p) to hold stocks of gems and jewellery, for the purpose of trading, buffer stocks or otherwise or as may be otherwise necessary for the discharge of its functions;
- (q) to subscribe to, invest in, or purchase, stocks, shares, bonds or debentures to the extent necessary for the enforcement of a lien, pledge or contractual right;
- (r) to undertake and finance, research, surveys, techno-economic or any other studies, in connection with the planning, promotion and development of the gem industry or the jewellery industry;
- (s) to provide technical, marketing, administrative and financial assistance of any kind to the gem industry and the jewellery industry;
- (t) to form such subsidiaries as are necessary for carrying out activities related to the discharge of the functions of the Bank;
- (u) to collect, compile and disseminate, market and credit information in respect of the gem industry or the jewellery industry;
- (v) to provide training facilities in marketing and valuation of gems and jewellery, banking and management, and allied subjects;
- (w) to provide re-finance facilities to any bank or financial institution approved by the Monetary Board, for the development of the gem industry or the jewellery industry;
- (x) to enter into and perform, all such contracts, whether in or outside Sri Lanka, as may be necessary for the exercise of the powers and the discharge of the functions of the Bank;
- (y) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (z) to appoint a General Manager who shall be the chief executive officer of the Bank; and to appoint such other officers and servants as may be necessary for the discharge of the functions of the Bank;
- (aa) to establish a provident fund, and provide welfare and recreational facilities, houses, hostels and other like accommodation for officers and servants employed by the Bank;
- (bb) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;
- (cc) to make rules in respect of the administration of the affairs of the Bank; and

(dd) to do all other things which, in the opinion of the Board are necessary to facilitate the proper discharge of the functions of the Bank.

## PART II

### FINANCE

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

(2) The initial issued capital of the Bank shall be five hundred million rupees divided into five million shares of one hundred rupees each.

(3) The Bank may subject to subsection (1) from time to time, raise such sums of money as further contributions to the capital of the Bank, with the approval of the Monetary Board.

9. (1) The Monetary Board shall invite and receive applications for the initial issue of shares of the Bank and shall on receipt of such applications, allot shares to the Monetary Board, financial institutions and any public corporation or statutory institution in the following proportions:—

Monetary Board:	fifty <i>per centum</i> of such issued share capital.
financial institutions other than public corporations:	thirty <i>per centum</i> of such issued share capital.
public corporations or statutory institutions other than financial institutions or the Monetary Board:	twenty <i>per centum</i> of such issued share capital.

(2) No allotment or transfer of shares of the Bank after the initial issue of shares, shall be made by the Bank except with the written approval of the Monetary Board.

(3) In granting approval for an allotment or transfer of shares under subsection (2), the Monetary Board shall subject to the provisions of subsection (4), endeavour to ensure that the proportions referred to in subsection (1) are maintained in the shareholding of the Bank.

(4) The Monetary Board may, after a period of two years from the appointed date offer its shares to the public in such manner as may be determined by the Monetary Board.

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

11. (1) All sums of money received by the Bank—

(a) as subscriptions towards the capital of the Bank;

- (b) in discharging the functions of the Bank;
- (c) in exercising and performing the powers and duties of the Bank; and
- (d) in conducting the business and affairs of the Bank,

shall be credited to the funds of the Bank.

(2) The financial commitments or liabilities of the Bank arising from or incurred in connection with—

- (a) the discharge of the functions of the Bank;
- (b) the exercise and performance of the powers and duties of the Bank; and
- (c) the conduct of the business and affairs of the Bank,

shall be charged on the funds of the Bank.

12. The Bank may raise such sums of money in or outside Sri Lanka, by way of loan or otherwise as may be necessary for discharging its functions and exercising and performing its powers and duties.

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

14. (1) The Bank shall establish a Gem Reserve for the purpose of—

- (a) preserving gems as collector's items;
- (b) stock piling gems for the purpose of trading and with a view to stabilizing the price of gems in the market.

(2) The bank may, with the prior approval of the Monetary Board—

- (a) purchase for the purpose of preservation, any gems which, in its opinion are desirable to be acquired for the Gem Reserve;
- (b) accept any gems from local or foreign organisations and the public, to be kept and preserved in the Gem Reserve;
- (c) sell, exchange or otherwise dispose of any gems referred to in paragraph (b) of subsection (1).

(3) The Board may make rules with the approval of the Monetary Board as regards the management and the administration of the Gem Reserve.

15. (1) The Bank may establish and maintain a Gem Reserve Fund (hereinafter referred to as the "Reserve Fund").

(2) There shall be paid into the Reserve Fund—

- (a) any sums of money realized from the sale of any gems under section 14(2) (c);
- (b) all grants made to the Reserve Fund and received by the Bank; and

- (c) all moneys transferred out of the funds lying to the credit of any other account.
- (3) There shall be paid out of the Fund—
- (a) all sums of money required for the acquisition of gems for the Gem Reserve; and
  - (b) all sums of money required to defray any expenditure incurred by the Bank in maintaining the Gem Reserve.
- (4) (a) The stock of gems of the Gem Reserve shall be valued at the end of each financial year and any revaluation profits realized or any revaluation losses incurred by such valuation shall be credited to or debited to a special account to be maintained by the Board which shall be named "Gem Reserve Revaluation Account".
- (b) The Board may make rules with the approval of the Monetary Board in respect of the administration and management of the Reserve Fund and the Gem Reserve Revaluation Account.
16. (1) The Board shall, every three years, appoint such number of fit and proper persons as it may deem fit to constitute a panel of valuers.
- (2) The duty of each members of such panel shall be to—
- (i) inspect and value the gems that are to be purchased by the Bank under section 14;
  - (ii) value the gems and jewellery that are offered as security in respect of any loan or other accommodation to be obtained from the Bank.
- and submit reports in respect of such gems and jewellery to the Board when required to do so.
- (3) A member of the panel of valuers shall, unless he dies or is removed from, or resigns from the panel, earlier, remain as a member of the panel for a period of three years from the date of his appointment.
- (4) Rules may be made by the Board governing—
- (a) the appointment of members, the resignation and removal of members from the panel of valuers and the remuneration payable to such members;
  - (b) the submission of the valuation reports to the Board.
17. The financial year of the Bank shall be the calendar year.
18. (1) The Auditor-General shall audit the accounts of the Bank at such intervals not exceeding a period of twelve months as the Board may determine.
- (2) The Auditor-General may appoint a qualified auditor or auditors to audit the accounts of the Bank and shall inform such auditor or auditors that he proposes to

utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Bank and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) Every qualified auditor appointed under the provisions of subsection (2) shall submit a report to the Auditor-General.

(4) The auditor shall examine the accounts of the Bank and ascertain the correctness of the balance sheet and any other accounts and report to the Board—

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

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

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

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

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

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

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

20. Any moneys belonging to the Bank may be invested by the Board in such nanner as the Board may determine.

### PART III

#### GENERAL

21. Every director of the Board and all officers and servants of the Bank, shall before entering upon his duties, sign a declaration pledging himself to observe strict secrecy in respect of all matters connected with the affairs of the Bank, and shall by such declaration pledge himself not to reveal any matter which may come to his knowledge in the performance or discharge of his duties and functions except--

- (a) when required to do so by a court of law or by any person or body of persons to whom such matters relate; and
- (b) in order to comply with any of the provisions of this Act.

22. (1) No suit or prosecution shall lie against any director, officer, servant or agent of the Bank for any act which in good faith is done or purported to be done, by him under this Act, or on the direction of the Board.

(2) Any expenses incurred by the Bank in any suit or prosecution brought by or against the Bank before any court shall be paid out of the funds of the Bank and any costs paid to, or recovered by, the Bank in any such suit or prosecution shall be credited to the funds of the Bank.

(3) Any expenses incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him, under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Bank, to such person, unless such expense is recovered by him in such suit or prosecution.

23. Nothing in the Debt Conciliation Ordinance shall apply to any debt due to the Bank.

24. (1) Notwithstanding anything in section 117 of the Monetary Law Act, the Monetary Board is hereby empowered to subscribe to the capital of the Bank, and to purchase, guarantee or accept as security, any share, promissory note or other security of the Bank.

(2) Every financial institution, public corporation and statutory institution shall be deemed to have the power to subscribe to the capital of the Bank, notwithstanding anything to the contrary in any law or instrument establishing such financial institution, public corporation or statutory institution.

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

26. No writ against person or property shall be issued against any director of the Board in any action brought against the Bank.

27. (1) The Board may make rules, which are not inconsistent with the provisions of this Act in respect of all or any of the matters in respect of which rules are authorised or required by this Act to be made.

(2) No rule made by the Board under subsection (1) shall have effect until it has been approved by the Minister and approved by Parliament.

28. (1) Every person who—

- (a) contravenes the provisions of this Act or any rule made thereunder;
- (b) being a director, officer or servant of the Bank discloses any information obtained by him in or in connection with the exercise of his powers or the performance of his duties under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act,

shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act shall on conviction after trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a period not exceeding three years or to both such fine and imprisonment.

(3) Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every director or officer of that body corporate;
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided however that a director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all such diligence to prevent the commission of such offence.

(4) The Board may, having regard to the circumstances in which an offence under subsection (1) was committed, compound such offence for a sum not exceeding fifty thousand rupees. All sums received by the Board in composition for an offence under this section shall be credited to the funds of the Bank.

29. The Bank shall be deemed to be a licensed commercial Bank within the meaning of the Banking Act, No. 30 of 1988.

30. The Monetary Board may from time to time given general or special directions in writing as to the performance of the duties and the exercise of the powers of the Bank and it shall be the duty of the Bank to comply with such direction.

31. Every Director of the Board and every officer or servant of the Bank shall be deemed to be public servants within the meaning, and for the purposes, of Chapter IX of the Penal Code.

32. No person other than a director or a person expressly authorized by the Board, shall sign and execute any documents required to be signed or executed by the Board in the exercise, discharge or performance of any powers, functions or duties conferred or imposed on, or assigned to, the Bank under this Act.

(2) Receipts signed by a director or by any person expressly authorized by the Board to sign such receipts shall be an effectual discharge of the amounts paid to the Bank.

33. Notwithstanding anything in the Stamp Duty Act, No. 43 of 1982, any instrument required or authorized to be made or executed by the Bank or any instrument made or executed in connection with the business of the Bank by the Bank, and any instrument made or executed by any other person in favour of the Bank in respect of any security for a loan, shall be exempt from the payment of duty under that Act.

34. Every donation made of money or otherwise to the Bank shall, for the purposes of paragraph (b) of subsection (2) of section 31 of the Inland Revenue Act, No. 28 of 1979, be deemed to be a donation made in money or otherwise to a fund established by the Government.

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

“accommodation” means any loan or overdraft or any commitment to grant any loan or overdraft or advance, including a commitment to accept a contingent liability;

“Central Bank” means the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422);

“Development Finance Corporation of Ceylon” means the Development Finance Corporation established by the Development Finance Corporation of Ceylon Act (Chapter 165);

“finance company” means a company registered under the Finance Corporation Act, No. 78 of 1988 to carry on finance business;

“Financial institution” means—

- (a) a licensed commercial bank,
- (b) a finance company,
- (c) The National Savings Bank,
- (d) The National Development Bank of Sri Lanka,
- (e) State Mortgage and Investment Bank,
- (f) Development Finance Corporation of Ceylon;

“gem” includes a precious stone or a semi-precious stone, and a product of any gem or any such stone;

“gem industry” means any trade or business of all or any of the following classes or descriptions:—

- (a) mining for gems or gemming;
- (b) importing gems into, or exporting gems from, Sri Lanka;
- (c) selling, purchasing, or supplying gems;
- (d) valuing gems;
- (e) cutting, polishing, engraving or carving of gems;
- (f) heat treatment of gems and any other method of enhancing the value of gems;
- (g) examination and certification of gems and assaying of precious metals; and
- (h) lapidary training;

“jewellery” means any ornament made from precious metals or precious stones for personal adornment or any curio made out of such metal or such stone.

“jewellery industry” means any trade or business relating to the assaying of precious metals or the manufacture of ornaments from precious metals or precious stones for personal adornment or the export of such ornaments;

“licensed commercial bank” means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988 authorised to carry on banking business;

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

“National Development Bank of Sri Lanka” means the National Development Bank established by the National Development Bank Act, No. 2 of 1979;

“National Savings Bank” means the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971;

“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 funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

“State Mortgage and Investment Bank” means the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Act, No. 13 of 1975;

“statutory institution” means any body or institution established by a Statute, not being a public corporation and includes a company established under the Companies Act, No. 17 of 1982 in which more than fifty *per centum* of the share capital is owned by the Government of Sri Lanka.

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

## SCHEDULE

[ Section 5 (2) ]

1. A person shall be disqualified from being nominated, elected or continuing as a director of the Board—

- (a) if he is or becomes a Member of Parliament any Provincial Council or any local authority;
- (b) if he is not, ceases to be a citizen of Sri Lanka; or
- (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind; or
- (d) if he is serving or served a sentence of imprisonment imposed by any court in Sri Lanka or any other country.

2. Except the Chairman and the director referred to in section 5(1) (b), every other director shall, unless he vacates office earlier by death, resignation or removal hold office for a term of three years and shall be eligible for re-nomination, or re-election as the case may be:

Provided that a director nominated or elected in place of a director who had vacated office by death, resignation or removal, shall hold office for the unexpired term of office of the director whom he succeeds.

The director referred to in section 5(1) (b) shall hold office for so long as he is the Chairman of the National Gem and Jewellery Authority.

3. If any director is temporarily unable to perform his duties of his office during any period due to ill-health or absence from Sri Lanka, or for any other cause, another person may be nominated or elected to act in his place.

4. A director referred to in section 5(1) (a) may be removed from office for reasons assigned by the Monetary Board.

5. The directors (other than the Chairman) and the director referred to in section 5(1) (b), may resign his office by letter addressed to the Chairman and such resignation shall take effect upon it being accepted by the Chairman.

6. The Directors may be paid such remuneration out of the funds as may be determined by the Monetary Board.

7. (1) The Board shall meet at least once a month and also as frequently as necessary for the purpose of discharging its functions under this Act.

(2) The quorum for any meeting shall be three directors, and subject to the other provisions of this Act, the procedure to be followed in regard to the transaction of business at meetings of the Board shall be as determined by rules made by the Board.

(3) All questions for decision at any meeting of the Board, shall be decided by the vote of the majority of the directors present. In the case of an equality of votes, the director presiding shall have a casting vote.

8. No act or proceeding of the Board shall be deemed to be invalidated by reason only of the existence of a vacancy among the directors or of any defect in the appointment of any such director.

9. (1) The seal of the Bank shall be in the custody of the Chairman.

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

(3) The seal of the Bank shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of two directors who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments and documents to which the seal of the Bank has been affixed.

10. (1) The term of office of the Chairman shall, subject to the provisions of subsection (3), be four years commencing on the date of appointment as Chairman.

(2) In the event of the vacation of office of the Chairman before the expiration of his term of office the Monetary Board shall in terms of section 5(1)(a) appoint another person to hold office for the un-expired part of the term of office of the Chairman so vacating office.

(3) The Chairman may resign his office by a letter addressed to the Monetary Board and such resignation shall take effect on it being accepted by the Monetary Board.

(4) The Chairman shall preside at every meeting of the Board in the absence of the Chairman, the Monetary Board shall nominate a Chairman from among other directors.

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

## APPROPRIATION ACT, NO. 61 OF 1993

[Certified on 27th December, 1993]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1994, TO AUTHORIZE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE, TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR, TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS, OF, OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH, OR INCIDENTAL TO, THE AFORESAID MATTERS.

1. This Act may be cited as the Appropriation Act, No. 61 of 1993.

2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees One hundred and thirty four thousand eight hundred and fifty million four hundred and twenty thousand for the service of the period beginning on January 1, 1994, and ending on December 31, 1994, in this Act referred to as the "financial year 1994", shall be met—

- (a) from payments which are hereby authorised to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government; and
- (b) from the proceeds of loans which are hereby authorized to be raised, whether in or outside Sri Lanka, for and on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees sixty-nine thousand nine hundred and eighty-seven million five hundred and five thousand.

The sum of rupees One Hundred and Thirty Four Thousand Eight Hundred and Fifty Million Four Hundred and Twenty Thousand herein before referred to may be expended as specified in the First Schedule to this Act.

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

3. (1) The receipt of the Government during the financial year, 1994, from each activity specified in column 1 of the Second Schedule to this Act shall be credited to the account of such activity, and the aggregate of receipts so credited shall be not than the minimum limit specified in the corresponding entry in column III of that Schedule. The net surplus, if any of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 1994.

(2) For the purpose of determining the net surplus under subsection (1), the following charges shall be set off against the revenue of each activity:—

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

(3) The expenditure incurred by the Government, during the financial year, 1994, on each activity specified in column I of the Second Schedule to this Act shall be paid out of the receipts of the Government from such activity during that financial year but such expenditure shall not exceed the maximum limit specified in the corresponding entry in column II of that Schedule.

(4) The debit balance, outstanding at the end of the financial year, 1994, of any activity specified in column I of the Second Schedule to this Act shall not exceed the maximum limit specified in the corresponding entry in column IV of that Schedule and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in column V of that Schedule.

4. Whenever, at any time during the financial year, 1994, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act are insufficient to meet the expenditure incurred by the Government on such activity, the Minister may, from time to time, by Order direct that such sums as he may deem necessary to meet such expenditure shall be payable, by way of advances, out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, so however, that the aggregate of the sums so advanced shall not exceed the maximum limit of expenditure specified in the corresponding entry in column II of that Schedule. Any sums so advanced in respect of such activity shall be refunded to the Consolidated Fund in such manner as the Minister may by Order direct.

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

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

6. Where the Minister is satisfied—

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

he may, with the approval of the Government, withdraw in whole, or in part, any amounts previously released for expenditure under the authority of a warrant issued by him from

the Consolidated Fund or from any other fund or moneys of, or at the disposal of, the Government.

7. The Minister with the approval of the Government, may on or before May 31, 1995, by Order, vary or alter—

- (a) any of the maximum limits specified in column II, column IV and column V of the Second Schedule to this Act;
- (b) the minimum limits specified in column III of the Second Schedule to this Act.

No Order made under this section shall have effect unless it has been approved by Parliament, by resolution.

Any such Order shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making such Order as may be specified therein.

8. Parliament may, by resolution, amend the Second Schedule to this Act, by adding to the appropriate columns of that Schedule, any activity and—

- (a) all or any of the maximum limits relating to such activity;
- (b) the minimum limit relating to such activity.

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

## DEFENCE LEVY (AMENDMENT) ACT, NO. 62 OF 1993

[Certified on 29th December, 1993]

### AN ACT TO AMEND THE DEFENCE LEVY ACT, NO. 52 OF 1991

1. This Act may be cited as the Defence Levy (Amendment) Act, No. 62 of 1993.
2. The long title of the Defence Levy Act, No. 52 of 1991 (hereinafter referred to as "the principal enactment") is hereby amended by the substitution, for the words and figures, "FOR THE YEARS COMMENCING RESPECTIVELY, ON JANUARY 1, 1992 AND ON JANUARY 1, 1993", of the words and figures, "FOR THE YEARS COMMENCING RESPECTIVELY, ON JANUARY 1, 1992, ON, JANUARY 1, 1993 AND ON JANUARY 1, 1994".
3. Section 3 of the principal enactment is hereby amended as follows:—
  - (1) in subsection (1) of that section, by the substitution for the words and figures, "for every quarter of the years commencing respectively, on January 1, 1992 and on January 1, 1993", of the words and figures, "for every quarter of the years commencing respectively, on January 1, 1992, on January 1, 1993 and on January 1, 1994"; and
  - (2) in subsection (2) of that section by the repeal of paragraph (d) of that subsection and the substitution therefor of the following paragraph:—

"(d) the proceeds from the sale of any article to any exporter, if the Commissioner-General is satisfied, on the production of a letter of credit opened in any bank in Sri Lanka in respect of the export of that article or other documentary evidence, that such article has in fact been exported from Sri Lanka."
4. Section 4 of the principal enactment is hereby amended by the repeal of paragraph (c) of that section and the substitution therefor of the following paragraphs:—
  - "(c) for every quarter commencing on or after July 1, 1992 but prior to January 1, 1994 –
    - (i) an amount equivalent to three *per centum* of the turnover of that person for the first month of that quarter, on or before the fifteenth day of the second month of that quarter;
    - (ii) an amount equivalent to three *per centum* of the turnover of that person for the second month of that quarter, on or before the fifteenth day of the third month of that quarter; and
    - (iii) the amount of the levy payable by such person for that quarter, reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraph (i) and of sub-paragraph (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter;

(d) for every quarter commencing on or after January 1, 1994 —

- (i) an amount equivalent to three and one-half *per centum* of the turnover of that person for the first month of that quarter, on or before the fifteenth day of the second month of that quarter;
- (ii) an amount equivalent to three and one-half *per centum* of the turnover of that person for the second month of that quarter, on or before the fifteenth day of the third month of that quarter; and
- (iii) the amount of the levy payable by such person for that quarter reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraph (i) and of sub-paragraph (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter.”.

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

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

“(i) every bank shall—

- (a) at the time at which it opens any letter of credit in any month in any relevant quarter, on an application made in that behalf being made by any person to whom this Act applies, being an importer of any article, collect from such person an amount equal to—
  - (i) one *per centum* of the value of that letter of credit, where such letter of credit is opened prior to August 7, 1992;
  - (ii) three *per centum* of the value of that letter of credit, where such letter of credit is opened on or after August 7, 1992 but prior to January 1, 1994; and
  - (iii) three and one-half *per centum* of the value of that letter of credit, where such letter of credit, is opened on or after January 1, 1994;
- (b) at the time when one of the documents of payment in respect of an article (not being an article in respect of which a letter of credit has been opened by such bank) is presented to it, in any month in any relevant quarter, commencing on or after January 1, 1994, by any person to whom this Act applies, collect from such person an amount equal to the amount which such bank would have been required to collect in accordance with the preceding provisions of this section, had a letter of credit been opened by it, on the date on which such document is presented to it, in respect of such article,

and shall remit the amount so collected to the Commissioner-General on or before the fifteenth day of the month immediately succeeding the month in which the amount was collected, together with a declaration in

such form and containing such particulars as may be specified by the Commissioner-General.”.

- (2) in subsection (2) of that section, by the substitution for the words, “the letter of credit with reference to which”, of the words “the letter of credit or, to the document of payment referred to in paragraph (b) of subsection (1), as the case may be, with reference to which”.

6. Section 8 of the principal enactment is hereby amended by the substitution for the words and figures, “Chapters, V, VII, IX, X and XII of the Turnover Tax Act”, of the words and figures “Chapters V, VIII, IX, X, XII and XIV of the Turnover Tax Act”.

7. Section 10 of the principal enactment is hereby amended as follows:—

- (1) by the substitution for the expressions “Commissioner-General”, “person” and “quarter” of the expressions “Commissioner-General” and “quarter”; and
- (2) by the insertion, immediately, after the definition of “manufacture”, of the following definition:—

“person” includes a company or body of persons or any Government department but does not include the United Nations Organization or any specialized agency of such Organization or the diplomatic mission of any foreign Government or any member of the diplomatic staff of such mission;”.

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

#### “SCHEDULE

[Section 3]

Quarter	Rate
For the quarter commencing on January 1, 1992	1 per centum
For the quarter commencing on April 1, 1992	2.3 per centum
For every quarter commencing on or after July 1, 1992 but prior to January 1, 1994	3 per centum
For every quarter commencing on or after January 1, 1994 but prior to January 1, 1995	3.5 per centum

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

## **STAMP DUTY (AMENDMENT) ACT, NO. 63 OF 1993**

[Certified on 29th December, 1993]

### **AN ACT TO AMEND THE STAMP DUTY ACT, NO. 43 OF 1982**

1. This Act may be cited as the Stamp Duty (Amendment) Act, No. 63 of 1993, and shall come into operation on January 1, 1994.

2. Section 5 of the Stamp Duty Act, of No. 43 of 1982 (hereinafter referred to as the "principal enactment") as last amended by Act No. 29 of 1993, is hereby further amended as follows:—

- (1) in paragraph (20a) of that section by the substitution for the words "share, in any quoted public company or the Credit Information Bureau", of the words "share in the Credit Information Bureau"; and
- (2) in paragraph (20b) of that section, by the substitution for the words "share, in any quoted public company or the Credit Information Bureau", of the words "share in the Credit Information Bureau".

3. Section 13 of the principal enactment as last amended by Act No. 29 of 1993, is hereby further amended as follows:—

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

"(ii) every bank, approved credit agency, institution, company or licensed stock broker 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, every application made to it, for a letter of credit, every certificate of deposit issued by it, any one of the documents of payment presented to it in respect of any corporeal movable (being any corporeal movable in respect of which a letter of credit has not been opened with it), share certificate issued by it, and the instrument effecting a transfer of shares in a quoted public company effected by him or it;" and

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

"(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, application made for a letter of credit or certificate of deposit, any one of the documents of payment presented to it in respect of any corporeal movable (being any corporeal movable in respect of which a letter of credit has not been opened with it), share certificate or instrument effecting a transfer of shares in a quoted public company

has been compounded or collected and remitted as the case may be, in accordance with this section, the bank, the approved credit agency, institution, company or licensed stock broker 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, application made for a letter of credit or certificate of deposit, document of payment, share certificate or instrument effecting transfer of shares in a quoted public company, as the case may be, that the stamp duty on it has been compounded or collected and remitted as the case may be. 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 or collected and remitted in terms of section 13 of the Stamp Duty Act.”’.

4. Section 27 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section by the substitution for the words “or approved credit agency”, of the words “approved credit agency, institution, company or a licensed stock broker”;
- (2) in subsection (2) of that section by the substitution for the words “or approved credit agency”, of the words “approved credit agency, institution, company or a licensed stock broker”; and
- (3) by the repeal of subsection (4) of that section, and the substitution therefor of the following subsection:—

“(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, bank, an approved credit agency, institution or company, examine any instrument in such office, corporation, bank, agency, institution or company in order to ascertain whether such instrument is duly stamped and shall compound such instrument if it is not so stamped.”.

5. Section 71 of the principal enactment, as last amended by Act No. 29 of 1993, is hereby further amended by the insertion immediately after the definition of the word “instrument” of the following new definition—

““license stock broker” means a person who is licensed as a licensed stock broker under the provisions of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987;”.

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