

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1994 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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**EXCISE (SPECIAL PROVISIONS) (AMENDMENT) ACT, NO. 8 OF 1994**

[Certified on 27th April, 1994]

AN ACT TO AMEND THE EXCISE (SPECIAL PROVISIONS) ACT, NO. 13 OF 1989

1. This Act may be cited as the Excise (Special Provisions) (Amendment) Act, No. 8 of 1994.

2. Section 2 of the Excise (Special Provisions) Act, No. 13 of 1989 (hereinafter referred to as the "principal enactment") is hereby repealed and the following new section substituted therefor:—

"Appointment  
of Director-  
General of  
Excise  
(Special  
Provisions).

2. (1) There may be appointed by name or by office, for the purpose of this Act—

(a) a Director-General of Excise (Special Provisions) (hereinafter referred to as the "Director-General") who shall be in charge of the administration of this Act;

(b) such number of Directors of Excise, Deputy Directors of Excise, Assistant Directors of Excise, and such other officers, as may be necessary for the implementation of the provisions of this Act; and

(c) such number of administrative, accounting, technical, legal, and clerical officers and other staff, as may be necessary to assist the aforesaid officers.

(2) The Director of Excise, a Deputy Director of Excise, an Assistant Director of Excise, may, subject to the general direction and control of the Director-General, exercise, perform or discharge all or any of the powers, duties or functions conferred or imposed on, or assigned to, the Director-General by or under this Act.

(3) Unless there is express provision to the contrary, every excise officer below the rank of an Assistant Director of Excise may, subject to the general direction and control of the Director-General, exercise, perform or discharge, all or any of the powers, duties or functions conferred or imposed on, or assigned to, the Director-General by or under this Act, other than any power, function or duty referred to in sections 5A, 8A, 10, 12, 13, 14, 16, 18 and 27.

3. The following new section is hereby inserted immediately after section 2 and shall have effect as section 2A, of the principal enactment:—

"Official  
secrecy.

2A. (1) Except in the performance of his duties under this Act, every person appointed under this Act, shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than

the person to whom such matter relates or his authorized representative or to the Minister or the Secretary to the Ministry of the Minister or suffer or permit any person to have access to any records in the possession, custody or control of the Director-General.

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

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

(4) Notwithstanding anything contained in this section, any person appointed under this Act may communicate any matter which comes to his knowledge in the performance of his duties under this Act or under any other written law administered by the Director-General to any other person appointed under this Act, if the communication of such matter is necessary for the performance of any duty under this Act or under any such other written law and the Director-General may, produce or cause to be produced in any court, in any proceedings under this Act, a copy of any particulars contained in any return or document furnished to him under this Act or other written law or otherwise in his possession certified by him or on his behalf to be a correct copy of such particulars and such copy shall notwithstanding anything in the Evidence Ordinance relating to the proof of documents, be admissible in evidence:

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

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

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

(6) Notwithstanding anything in the preceding provisions of this sec-

tion, the Director-General or any person authorized in that behalf by the Director-General may, having regard to the need to ensure the equitable administration of this Act, cause to be published in such manner as the Director-General may consider expedient in respect of any area, a list containing,—

- (a) the names and addresses of all the manufacturers and importers in that area registered under this Act; and
- (b) a description of the excisable articles, manufactured or imported by such manufacturers or importers during any given period and the wholesale price declared by them for each such article.”.

4. The following new section is hereby inserted immediately after section 3B, and shall have effect as section 3C of the principal enactment :—

“Exemption of certain articles from payment of excise duty.

3C. (1) The Minister may, having regard to the economic development of the country, by Order published in the *Gazette*, exempt from the payment of the excise duty payable under this Act, any such excisable articles or any such class or description of excisable articles as are or is specified in such Order subject to such conditions as may be specified in the Order.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette*, be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within six months of the publication of such Order in the *Gazette*, and in the computation of such period of six months no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is so revoked, the excise duty payable on the exempted articles shall be paid by the manufacturer, producer, importer or consignee of such article, to the Director-General, and such excise duty may be recovered under the provisions of this Act.

(3) Where any articles specified in an Order made under subsection (1) are subsequently sold or disposed of contrary to the conditions specified in such Order, such articles shall be liable to the same excise duty as was payable under this Act on like articles which are subject to excise duty and the manufacturer, producer, importer or consignee of such articles shall prior to such sale or disposal obtain the permission of the Director-General and pay the excise duty payable on such articles at the time of such sale or disposal.”.

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

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

“(b) in any case where such excisable article was imported into Sri Lanka, be paid by the importer of such excisable article in the prescribed manner

before its removal from the customs warehouse or other place where such excisable article was stored immediately after its importation into Sri Lanka.”;

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

“(2) (a) Notwithstanding anything in this Act, every person who imports any excisable article manufactured outside Sri Lanka (not being an exempted article within the meaning of sections 3A, 3B and 3C) shall pay to the Director-General of Customs, excise duty, in respect of such excisable article, prior to its removal from the customs warehouse or such other place at which such excisable article is stored, at the rates of excise duty determined under section 3.

(b) Where excise duty is levied on any excisable article which is imported, with reference to the value of such article, then, notwithstanding anything in section 7 or any other provision of this Act, the value of such article shall be deemed to be the aggregate of—

(i) an amount equal to the value of the cost, insurance and freight of such excisable article;

(ii) an amount equal to five *per centum* of the amount referred to in subparagraph (i), to defray banking and other charges;

(iii) an amount equal to the total of all taxes, cesses and levies payable in respect of the import of such article, under any written law.” ; and

(3) by the repeal of the proviso to subsection (3) of that section and the substitution therefor, of the following proviso:-

“Provided that—

(i) an excisable article which has been produced or manufactured in Sri Lanka for the purpose of export, shall not be liable for the payment of excise duty, if a bond is executed for the landing of such excisable article at the port of destination; and

(ii) an excisable article imported for the purpose of being used as raw material in the manufacture of articles for export by exporters, shall not be liable for the payment of excise duty if sufficient proof is furnished to the satisfaction of the Director-General that such manufactured article was manufactured for export.”.

6. Section 7 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “any excisable article, with reference to”, of the words “any excisable article, not being an excisable article imported into Sri Lanka, with reference to”.

7. Section 7A of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Power of Director-General to call for samples, books of account, registers, records or other documents.

7A. (1) The Director-General or any excise officer not below the rank of an Assistant Director of Excise authorized by the Director-General in writing may—

- (a) by notice in writing require any person, who in the opinion of the Director-General or such excise officer is a person liable to registration under section 14, to register under that section and require such person to furnish within such time as may be specified in such notice, such returns containing such particulars, as are required to be furnished by a person registered under section 14;
- (b) by order in writing require any person to give information, or produce for examination, any books of account, register, record or other document relating to any excisable article or samples of any excisable article which are in such person’s power to give or produce, at such place and within such period as may be specified in such order and to allow the Director-General or such excise officer to examine, and take copies, or make extracts from, any such books of accounts, register, record or other document, for the purpose of ascertaining the value of any excisable article or verifying any matter relative to the recovery of excise duty under this Act.
- (c) give notice in writing to any person chargeable with excise duty, requiring him to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice, for the purpose of being examined regarding the excise duty payable by such person.

(2) A Deputy Director of Excise or an excise officer not below the rank of Assistant Director of Excise authorized by a Deputy Director of Excise in writing may retain in his custody as long as such retention is necessary for the purposes of this Act, any books of account, register, record or other document which has been produced for examination in compliance with a requirement imposed under subsection (1).”

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

- (1) by the substitution for the words “a period of one year”, of the words “a period of five years”; and
- (2) by the substitution in the proviso to that subsection for the words “five years”, of the words “ten years”.

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

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

“(2) Every appeal under subsection (1) shall be preferred by a petition in writing addressed to the Director-General and shall state precisely the grounds of such appeal.

(3) Where the determination appealed against has been made in the absence of a return under section 14 in respect of the period to which the determination relates, the petition of appeal shall be sent together with a return duly made.

(4) An appeal preferred under subsection (1) shall be rejected by the Director-General if it does not conform to the provisions of subsections (1), (2) and (3).” ;

(2) by the re-numbering of subsections (3), (4), (5) and (6) of that section as subsections (5), (6), (7) and (8) respectively thereof; and

(3) in the re-numbered subsection (6) of that section, by the substitution for the words “such appeal was made”, of the words “such appeal was made and shall give notice in writing to the appellant of his decision on appeal”;

(4) in the re-numbered subsection (8) of that section by the substitution for the words and figures “subsections (3), (4) and (5) of section 31D”, of the words and figures “subsections (6) and (9) of section 31D”.

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

“Service of notice.

10A. (1) Every notice or notification to be given by the Director-General, a Director of Excise, Deputy Director of Excise or any excise officer not below the rank of Assistant Director of Excise under this Act shall bear the name of the Director-General or Director of Excise or Deputy Director of Excise or such excise officer, as the case may be, and every such notice or notification shall be deemed to be valid if the name of the Director-General, Director of Excise, Deputy Director of Excise or such excise officer is duly printed or signed thereon.

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

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

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

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

(6) No notice, notification, certificate or other document purporting to be given or issued in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of the provisions of this Act, and if the person, to whom such notice, notification, certificate or document relates or is affected thereby is designated therein according to common intent and understanding.”.

11. The following new sections are hereby inserted immediately after section 11 and shall have effect as sections 11A and 11B of the principal enactment:—

“Excise duty to be a charge on assets of defaulter.

11A. Any excise duty in default shall be a charge upon all the assets of the defaulter.

Provided that—

- (i) such charge shall not extend to or affect any assets sold by the defaulter to a *bona fide* purchaser for value prior to the seizure of the same under section 11B;
- (ii) as regards immovable property, the charge shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the seizure of such property under section 11B; and
- (iii) as regards movable property, the charge shall rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default.

11B. (1) There may be appointed persons to be tax collectors for the purposes of this Act.

(2) (a) Where any excise duty is in default, the Director-General may issue a certificate to a Divisional Secretary or tax collector containing particulars of such excise duty and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the excise duty to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

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

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

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

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

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

(4) Whenever the Director-General issues a certificate under this section, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent by post; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.”.

**12.** Section 12A of the principal enactment is hereby amended in subsection (1) of that section as follows:—

- (1) by the substitution in paragraph (b) of that subsection for the words “two *per centum*”, of the words “three *per centum*”; and
- (2) by the substitution in the proviso to that subsection for the words “fifty *per centum* of the duty in default”, of the words “the amount in default”.

**13.** Section 13 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “from the relevant date” of the words “from the date of payment.”.

**14.** Section 20 of the principal enactment is hereby amended in subsection (2) of that section as follows:—

- (a) by the repeal of sub-paragraph (i) of that subsection; and
- (b) by the re-numbering of sub-paragraphs (ii) and (iii) of that subsection as sub-paragraphs (i) and (ii) respectively thereof.

**15.** Section 23 of the principal enactment is hereby amended by the substitution for the words and figures “ [No.] 15 of 1979” of the word and figures “No. 15 of 1979”.

**16.** Section 24 of the principal enactment is hereby amended by the addition, at the end of that section, of the following subsections:—

“(7) Any person—

- (a) who being a person required to take an oath of secrecy under section 2A (2), acts under this Act, without taking such oath; or

(b) who acts in contravention of section 2A (1) or an oath taken under section 2A (2),

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

(8) Any person who, being the manufacturer, producer, importer or consignee of an article specified in any Order made under section 3C, sells or disposes of such article, without the prior permission of the Director-General or in contravention of any condition specified in such Order 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.

(9) Any person who, being a person on whom a notice or order under section 7A has been served, wilfully fails to comply with the requirements of such notice or order 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.”.

17. Section 32 of the principal enactment is hereby amended as follows:—

(1) by the insertion immediately after the definition of “agent” of the following new definitions:—

‘ “authorised person”, means any individual who is authorized in writing by a manufacturer, producer or importer registered under this Act, to act on his behalf for the purposes of this Act; ’ ;

‘ “excise duty” means any sum payable by any manufacturer, producer or importer of an excisable article under this Act and includes any sum added by reason of default under section 12A, to any such duty; ’ ;

(2) by the substitution for the definition of “manufacturer or producer” of the following definition:—

‘ “manufacturer or producer” means any person who—

(a) makes any article;

(b) adapts for sale any article;

(c) processes or assembles any article; ’ ;

(3) by the insertion immediately after the definition of “quarter” of the following new definition:—

‘ “refund” includes rebate of excise duty on excisable articles exported from Sri Lanka; ’

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

**DEBT RECOVERY (SPECIAL PROVISIONS) (AMENDMENT)  
ACT, NO. 9 OF 1994**

[Certified on 26th May, 1994]

AN ACT TO AMEND THE DEBT RECOVERY (SPECIAL PROVISIONS) ACT,  
NO. 2 OF 1990

1. This Act may be cited as the Debt Recovery (Special Provisions) (Amendment) Act, No. 9 of 1994.

2. Section 2 of the Debt Recovery (Special Provisions) Act, No. 2 of 1990 (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 therefor of the following subsection:—

“(2) No action shall be instituted by an institution in terms of the procedure laid down by this Act, for the recovery of any debt, where the sum alleged to be in default is less than one hundred and fifty thousand rupees.” ; and

(2) by the substitution, for the marginal note to that section, of the following marginal note:—

“Action by lending  
institutions for recovery  
of a debt.”.

3. Section 4 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:—

“(1) The institution suing shall on presenting the plaint, file with the plaint an affidavit to the effect that the sum claimed is lawfully due to the institution from the defendant, a draft decree *nisi*, the requisite stamps for the decree *nisi* and for service thereof and shall in addition, file in court, such number of copies of the plaint, affidavit, instrument, agreement or document sued upon, or relied on by the institution, as is equal to the number of defendants in the action.” ;

(2) in subsection (2) of that section by the substitution for the words “sum mentioned in the plaint”, of the words “sum prayed for in the plaint” ;

(3) in subsection (3) of that section, by the substitution for the words “from the defendant’s residence to the court.”, of the words “from the defendants residence to the court, and no further time shall be given to the defendant by court thereafter for appearing and showing cause against such decree *nisi*.” ;

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

“(4) The affidavit to be filed by the institution under subsection (1) shall be made by a principal officer of such institution having personal knowledge of the facts of the cause of action and such person shall in his affidavit swear or affirm that he deposes from his own personal knowledge to the matters therein contained and shall be liable to be examined as to the subject matter thereof at the discretion of the judge.”;

(5) by the repeal of subsection (5) of that section; and

(6) by the substitution for the marginal note to that section of the following marginal note:—

“Copies of instrument, agreement or document sued on to be filed.”.

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

“Service of decree *nisi* ordinarily to be by registered post.

5 (1) The decree *nisi* shall subject to the provisions of section 5B, be ordinarily served on the defendant by registered post at the address given by the defendant to the institution as the address to which process may be served on him.

(2) (a) Where the defendant is a public officer, the court may at its discretion, in addition to sending the decree *nisi* to the defendant by registered post, also forward a copy of the decree *nisi*, in duplicate, by registered post to the head of the department in which the defendant is employed, and it shall be the duty of such head of department to cause a copy of the decree *nisi* to be served personally on the defendant, and to return the other copy of the decree *nisi* to the court forthwith, with either an acknowledgement of receipt of the decree *nisi* by the defendant or with a statement of service of the decree *nisi* endorsed thereon and signed by the person effecting the service and countersigned by the head of the department if the head of the department has not himself effected the service.

(3) Where the defendant is not a public officer and is in the employment of another person, the court may at its discretion, in addition to sending the decree *nisi* by registered post to the defendant also forward a copy of the decree *nisi* in duplicate to the employer of the defendant at his usual place of business or, where the employer is a company or corporation, to any secretary, manager or other like officer of the company or corporation, and it shall be the duty of such employer or officer, as the case may be, to cause a copy of the decree *nisi* to be served personally on the defendant and to return the other copy of the decree *nisi* to the court forthwith, with either an acknowledgement of receipt of such decree *nisi* by the defendant or with a statement of service of the decree *nisi* endorsed thereon and signed by the person effecting the service and counter signed by the employer of the defendant if such employer has not himself effected the service.

(4) In this section "head of department"

- (a) when used with reference to a member of any unit of the Sri Lanka Army, Navy or Air Force, means the Commanding Officer of that unit;
- (b) when used with reference to a person employed in a Provincial Council means the Secretary of that Provincial Council;
- (c) when used with reference to a person employed in Provincial Public Service means the head of the department in which such person is employed;
- (d) when used with reference to a person employed in a local authority, if the local authority is a Municipal Council means the Municipal Commissioner of the Council; and if the local authority is an Urban Council or a Pradeshiya Sabha, means the Chairman of that Council or Sabha;
- (e) when used with reference to any other public officer, means the head of the department of Government in which such person is employed.'

5. The following new sections are hereby inserted immediately after section 5 and shall have effect as sections 5A, 5B and 5C of the principal enactment:—

"Proof of the service of decree *nisi*

5A. (1) Where a decree *nisi* is served by the registered post on any defendant under subsection (1) of section 5 the Advice of Delivery of the registered letter in which the decree is sent, shall be sufficient proof of the service of such decree *nisi* on the defendant.

(2) Where a decree *nisi* is served on a defendant under subsection (2) or (3) of section 5, an acknowledgement of the receipt of the decree *nisi* by the defendant or a statement of the service endorsed on the duplicate of the decree *nisi* shall be sufficient proof of the service of such decree *nisi* on the defendant.

(3) Where the court is satisfied that decree *nisi* has been sent to the defendant by registered post but no advice of delivery has been obtained in respect thereof, it shall authorise the Fiscal or any other officer authorized by court in that behalf to affix the decree *nisi* to some conspicuous part of the house in which the defendant ordinarily resides or in the case of a company or corporation to the usual place of business or office of such company or corporation and in such case the decree *nisi* shall be deemed to have been duly served on the defendant.

(4) Where the court is satisfied that decree *nisi* has been sent to the defendant by registered post under subsection (2) or (3) of section 5 but no acknowledgment of receipt by the defendant or statement of service on the defendant has been received in respect thereof it shall authorise the Fiscal or other officer authorized by court in that behalf to affix the decree *nisi* to

some conspicuous part of the house in which the defendant ordinarily resides, and in such case, the decree *nisi* shall be deemed to have been duly served on the defendant.

5B. (1) The court may, on application being made in that behalf immediately after decree *nisi* is entered, and in its discretion, order that in lieu of serving the decree *nisi* by registered post, the decree *nisi* be served by tendering or delivering the same on the defendant personally through a process officer.

(2) If the service referred to in subsection (1) cannot by the exercise of due diligence be effected, the process officer shall affix the decree *nisi* to some conspicuous part of the house in which the defendant ordinarily resides or in the case of a corporation or company, to the usual place of business or office of such corporation or company, and in every such case the decree *nisi* shall be deemed to have been duly served on the defendant.

(3) It shall be the duty of the process officer, on decree *nisi* being served on the defendant or any other person on his behalf, to require the signature or the thumb impression or both of such defendant or person to be made to an acknowledgement of the service of the decree *nisi*, on the original.

(4) The process officer shall return the precept to court setting out in detail the manner, the person, place and other particulars relating to the identity of the person on whom, the date on which, and the time at which, the decree *nisi* was served and also state in the report, whether the person on whom it was served placed his signature or thumb impression or both, or refused to place the signature or thumb impression or both, on the original, in acknowledgement of such service.

(5) Refusal to place the signature or thumb impression or both, as the case may be, on the original shall not invalidate the service of the decree *nisi*.

(6) For the purpose of this section—

“process officer” means the Fiscal Official of the court of Fiscal of a court of like jurisdiction within the local limits of whose jurisdiction the decree *nisi* is served or any officer specially authorised in exceptional circumstances by court to serve the decree *nisi* or any process officer of a court or Grama Niladhari or a private process server;

“private process server” means a person employed by an Attorney-at-law or any institution, and who is registered as a private process server by the Fiscal under any written law.

5C. Where a decree *nisi* is ordered to be served personally through a process officer, such decree *nisi* may be served in any part of Sri Lanka

provided that where a decree *nisi* is required to be served outside the local limits of the jurisdiction of the court issuing the same, the decree *nisi* shall be forwarded by such court to the court within whose jurisdiction the defendant is believed to be residing, and it shall be the duty of the last mentioned court to cause the decree *nisi* to be duly served on the defendant in accordance with the provisions of this Act.’

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

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

“(2) The court shall upon the filing by the defendant of an application for leave to appear and show cause supported by affidavit which shall deal specifically with the plaintiff’s claim and state clearly and concisely what the defence to the claim is and what facts are relied upon to support it, and after giving the defendant an opportunity of being heard, grant leave to appear and show cause against the decree *nisi*, either—

(a) upon the defendant paying into court the sum mentioned in the decree *nisi*; or

(b) upon the defendant furnishing such security as to the court may appear reasonable and sufficient for satisfying the sum mentioned in the decree *nisi* in the event of it being made absolute; or

(c) upon the court being satisfied on the contents of the affidavit filed, that they disclose a defence which is *prima facie* sustainable and on such terms as to security, framing and recording of issues, or otherwise as the court thinks fit.” ;

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

“(3) Where the defendant either fails to appear and show cause or having appeared, his application to show cause is refused, the court shall make the decree *nisi* absolute. For this purpose, the judge shall endorse the words “Decree *nisi* made absolute” (or words to the like effect) upon the decree *nisi* and shall date and sign such endorsement:

Provided that a decree *nisi*, if it consists of separate parts, may be discharged in part and made absolute in part and nothing herein enacted shall prevent any order being made by consent of the plaintiff and the defendant on the footing of the decree *nisi*.”.

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

“Order making decree *nisi* absolute not appealable but may be set aside.

6A. (1) No appeal by a defendant shall lie against the decree *nisi* which has been made absolute under subsection (3) of section 6, on the ground of the defendant’s non-appearance, but it shall be competent to the court, within a reasonable time after the decree absolute was entered, to entertain an application by way of summary procedure instituted by any defendant

against whom such order absolute was entered, to have it set aside on the ground that, the applicant was prevented from appearing after the decree *nisi* was served on him by reason of accident or misfortune, or that such decree *nisi* was not served on him.

(2) Where the ground on which an application is made under subsection (1) is duly established to the satisfaction of the court as against the plaintiff, the court may set aside the decree absolute upon such terms and conditions as the court shall consider it just and right to impose upon the applicant and upon the decree absolute being so set aside, the court shall proceed with the hearing and determination of the matter in accordance with the provisions of section 7 of this Act.

(3) Where an application by way of summary procedure is instituted by any defendant under subsection (1) of this section the provisions of the Civil Procedure Code (Chapter 101) relating to the applications by way of summary procedure shall apply in respect of such application.”.

8. Section 7 of the principal enactment is hereby amended by the substitution for the words and figures “sections 384, 385, 386, 387, 388, 390 and 391”, of the words and figures “sections 384, 385, 386, 387, 390 and 391”.

9. Section 8 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Court may order originals of documents filed to be made available for examination.

8. In any proceedings under this Act, the court may order that the original of the instrument, agreement or other document copies of which were filed with the plaint or on which the action is founded be made available for examination by the court when the action is supported in court and such instrument, agreement or document, thereafter, notwithstanding anything to the contrary in the Civil Procedure Code (Chapter 101) shall be returned to the plaintiff after such examination.”.

10. Section 11 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Award of compensation.

11. (1) Where it appears to the Court that a decree *nisi* entered in an action instituted under this Act was obtained by wilful suppression or non-disclosure of any relevant facts or, if after the entering of the decree *nisi*, the decree *nisi* is discharged and the action is dismissed, the court may in the same action, on the application of the party against whom the decree *nisi* was entered, award against the institution obtaining the same, such sum as it deems reasonable compensation for the expense or injury caused to such party by the entering of the decree *nisi*, and an award under this subsection shall bar any action for compensation in respect of the entering of the decree *nisi*.

(2) Notwithstanding the dismissal of any action instituted under this Act where an application is made for compensation under subsection (1) in respect of a decree *nisi* entered in such action, the action so dismissed shall be deemed to continue until the determination of such application.”.

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

“Adjustment  
of action.

12. Where the defendant appears in court in response to the decree *nisi* and does not contest the decree *nisi* but admits liability and prays to liquidate the debt in instalments, the court shall with the approval of both parties to the action, minute the fact on the record and thereafter, make the decree absolute. Such settlement shall operate as a stay of execution of proceeding unless the defendant acts in breach of any of the terms of settlement, in which event the institution shall be entitled to execute the decree.”.

12. Section 13 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Decree  
absolute  
deemed to be  
a writ.

13. (1) Subject to orders of court, where a decree *nisi* entered in an action instituted under this Act is made absolute, it shall be deemed to be a writ of execution duly issued to the Fiscal in terms of section 225 (3) of the Civil Procedure Code (Chapter 101), and notwithstanding anything to the contrary in any other written law, the execution of the same shall not be stayed.

(2) The writ of execution referred to in subsection (1) shall be valid for a period of three years from the date on which the decree *nisi* made absolute, and it shall be the duty of the Fiscal to execute the same in the manner prescribed in the Civil Procedure Code (Chapter 101) for the execution of writs.”.

13. Section 14 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section by the substitution for the words “the Fiscal shall report such resistance” of the words “the Fiscal shall within fourteen days of the execution report such resistance” ;
- (2) in subsection (2) of that section by the substitution for the words and figures “liable to the penalties prescribed for contempt of court by the Judicature Act, No.2 of 1978 and the Civil Procedure Code (Chapter 101)” of the words “liable to a fine not exceeding two thousand five hundred rupees or to imprisonment for a term not exceeding two years”.

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

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

“(2) Subject to the provisions of subsection (2A), a defendant in an action instituted under this Act or his representative in interest shall not alienate any movable or immovable property or otherwise dispose of the same in any manner whatsoever after the decree *nisi* entered in such action is served on such defendant.” ;

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

“(2A) It shall not be a contravention of the provisions of subsection (2) for a defendant to alienate any movable or immovable property or otherwise dispose of the same in any manner whatsoever after the service of the decree *nisi* on him where—

- (a) the defendant has paid into court, the sum mentioned in the decree *nisi*; or
- (b) the action on which the decree *nisi* is entered is dismissed or the decree *nisi* is discharged;
- (c) the decree absolute is satisfied, but only in respect of such of the property alienated as has not been seized and applied in satisfaction of the decree absolute; and
- (d) the alienation is undertaken with the approval of the court and subject to such terms and conditions as may be imposed by court.

(2B) Where any property is alienated or otherwise disposed of in contravention of the preceding provision:—

- (a) such alienation shall be null and void and of no force or effect in law and shall be open to seizure in whosoever’s hands such property may be:

Provided that where the property alienated is in the hands of an alienee who has come by such property in good faith for consideration without having notice of the decree *nisi* either at the time the purchase money was paid or when the conveyance was executed, or is in the hands of an alienee from such an alienee, such alienation shall not be null and void and the property shall not be open to seizure; and

- (b) the person who alienated the property shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not less than fifty thousand rupees or to a term of imprisonment of not less than two years.

(2C) The provisions of section 303 of the Code of Criminal Procedure Act, No. 15 of 1979, shall not be applicable in respect of an offender on whom a sentence of imprisonment is imposed under subsection (2b)”; and

(3) by the substitution, in subsection (6) of that section, for the words “Nothing in subsection (2)”, of the words “Nothing in subsection (2b)”.

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

“Proceedings  
in the original  
court not to be  
stayed where

16. Notwithstanding anything to the contrary in any other law, where leave to appeal is granted on an application made in respect of an order made in the course of any action instituted under this Act, proceedings in

leave to appeal is granted.

the original court shall not be stayed unless the Court of Appeal otherwise directs, and where the Court of Appeal so directs, it shall call upon the appellant, if such appellant had been granted leave by the original court, to appear and show cause, under paragraph (c) of subsection (2) of section 6, to give security in cash or by a guarantee from a banker for the satisfaction of the entire claim of that plaintiff or such part thereof as the court may deem fit in all the circumstances of the case, in the event of the appeal being dismissed.”.

16. Section 17 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Decree entered by Court of Appeal to be a writ of execution.

17. (1) Where the Court of Appeal allows an appeal preferred to it against an order made under subsection (3) of section 6 making a decree *nisi* absolute and where the writ has been executed under section 13 of this Act, the Court of Appeal shall enter decree in favour of the appellant awarding damages in such sum as it may consider appropriate.

(2) The decree entered by the Court of Appeal under subsection (1) shall be deemed to be a writ of execution duly issued to the Fiscal in terms of subsection (3) of section 225 of the Civil Procedure Code (Chapter 101) but the execution of the same shall be stayed—

(a) where no application for leave to appeal to the Supreme Court is made to the Court of Appeal or no application for special leave to appeal to the Supreme Court is made to the Supreme Court, from the decision of the Court of Appeal, until the expiration of the period within which such application may be made to the Court of Appeal or the Supreme Court, as the case may be;

(b) where the Court of Appeal grants leave to appeal to the Supreme Court or the Supreme Court grants special leave to appeal to the Supreme Court, from the decision of the Court of Appeal, until the determination by the Supreme Court of such appeal.

(3) Where leave to appeal to the Supreme Court against a decree absolute is granted by the Court of Appeal, the appellant shall be required to furnish security in cash or by a guarantee from a banker for the full amount of the decreed sum or such part thereof as the court deem fit in all the circumstances of the case.

(4) Where the Supreme Court allows the appeal preferred to it under paragraph (a) or (b) of subsection (1) the decree entered by the Supreme Court shall notwithstanding the preceding provisions be deemed to be a writ of execution duly issued to the Fiscal in terms of subsection (3) of section 225 of the Civil Procedure Code. (Chapter 101) and it shall be the duty of the Fiscal to execute the same in the manner prescribed in the Civil Procedure Code (Chapter 101) for the execution of writs.”.

17. Section 18 of the principal is enactment is hereby repealed.

**18.** Section 21 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Recovery of interest in excess of principal due. 21. Notwithstanding anything to the contrary in this Act or any other law, an institution may recover as interest in an action instituted under this Act, a sum of money in excess of the sum of money claimed as principal, in such action.”.

**19.** Section 25 of the principal enactment is hereby amended in subsection (1) thereof as follows:—

(1) by the substitution for paragraphs (a) and (b) of that subsection of the following paragraphs:—

“(a) knowingly draws a cheque which is dishonoured by a bank for want of funds; or

(b) gives an order to a banker to pay a sum of money, which payment is not made by reason of there being no obligation on such banker to make payment or the order given being subsequently countermanded with a dishonest intention, or” ; and

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

“(d) having accepted an inland bill refuses payment dishonestly;”.

**20.** The following new section is hereby inserted immediately after section 25 of the principal enactment and shall have effect as section 25A of that enactment:—

“Offences by bodies of persons. 25A. 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, manager or secretary of that body corporate;

(b) if that body of persons is a firm every partner of that firm, and

(c) if that body of persons is an unincorporated body, every individual who is a member of such body,

shall be guilty of that offence:

Provided that a director or manager or secretary 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 exercises all due diligence to prevent the commission of such offence.”.

**21.** Section 30 of the principal enactment is hereby amended as follows:—

(1) by the insertion immediately before the definition of the word “debt” of the following new definition:—

“Advice of Delivery” means the Advice of Delivery issued under Rule 9(b) of the Inland Postal (Registered and Insured Articles) Rules;”;

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

“debt” means a sum of money which is ascertained or capable of being ascertained at the time of the institution of the action, and which is in default, whether the same be secured or not, or owed by any person or persons, jointly or severally or as principal borrower or guarantor or in any other capacity, and alleged by a lending institution to have arisen from a transaction in the course of banking, lending, financial or other allied business activity of that institution, but does not include a sum of money owed under a promise or agreement which is not in writing; ’ ;

(3) by the substitution for paragraph (f) of the definition of the expression “lending institution” of the following paragraph:—

“(f) a company registered under the Finance Companies Act, No. 78 of 1988, to carry on finance business,

and includes a liquidator appointed under the Companies Act, No. 17 of 1982 or any authority duly appointed, to carry on, or wind up, the business of any bank, corporation or company referred to above;”.

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

FIRST SCHEDULE [ Section 4 (2) ]

Form of Decree *Nisi*

(Title)

This action coming on for disposal before (name and office of Judge) on the ..... day of..... 19..... and after reading the complaint and documents and being satisfied of the averments contained in the affidavit filed ..... It is ordered and decreed that the defendant do pay to the plaintiff a sum of Rs. .... together with interest at ..... *per centum* from ..... to ..... and thereafter interest at the same rate from date hereof till payment in full together with costs of action.

These are therefore to command the Fiscal of the ..... Province to levy and make of the houses, lands, goods, debts, and credits of the above named ..... by seizure and if necessary by sale thereof, the sum of Rs. .... which the plaintiff has recovered against the said ..... by this Decree of Court and have the money before this court within thirty days of this decree *nisi* being made absolute or within such extended time as this court shall allow and inform this court for what sum or sums and to what person or persons the Fiscal of the ..... Province have sold the property

respectively and this Decree *Nisi* when made absolute shall serve as a Mandate for such purpose.

It is further ordered and these are to command you, the aforesaid ..... defendant to appear before this court on the ..... day of ..... 19 ..... at (time) ..... and obtain leave from court and show cause, if any, why this decree *Nisi* should not be made absolute.

(Signed) ..... (name and office of Judge) the .....  
the day of ..... 19.....”.

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

**STATE MORTGAGE AND INVESTMENT BANK (AMENDMENT) ACT,  
NO. 10 OF 1994**

[Certified on 31st May, 1994]

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

1. This Act may be cited as the State Mortgage and Investment Bank (Amendment) Act, No. 10 of 1994.

2. Section 20 of the State Mortgage and Investment Bank Law, No. 13 of 1975 (hereinafter referred to as "the principal enactment") is hereby amended by the repeal of subsection (3) of that section and the substitution of the following subsection therefor:—

“(3) The General Manager or any other officer of the Bank specially authorised by the Board shall function as the Secretary to the Board. The General Manager and where the Board has authorised any other officer of the Bank to function as the Secretary to the Board, such officer, shall attend and take part in every meeting of the Board, unless the Board otherwise directs, but shall have no right to vote thereat.”.

3. Section 28 of the principal enactment is hereby amended by the repeal of the proviso to that section and the substitution of the following proviso therefor:—

“Provided however that the Bank may grant to its employees loans for the purchase of any land for the construction of a dwelling house or for the purchase, construction, repair, renovation of or any extension to, a dwelling house or for any other purpose prescribed by the rules made under this Law.”.

4. Section 31 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of paragraph (m) of that subsection and the substitution of the following paragraph therefor:—

“(m) to borrow or accept deposits from the Government or other institutions, on such terms and conditions as may be mutually agreed upon by them, so however, that the aggregate amount so borrowed or accepted as deposits at any time does not exceed the maximum limit imposed by the Minister;”.

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

“Nomination  
by persons  
having term  
deposits.

31A. (1) Any person over sixteen years of age who has a term deposit in the Bank may nominate person, (hereinafter called a “nominee”), to whom the moneys lying to the credit of such first-mentioned person (hereinafter called “nominator”) shall be paid upon his death and, if his death should occur while the deposit exists, the moneys shall be so paid subject to the provisions of this Law.

(2) A nomination made under subsection (1) shall have effect upon the death of the nominator notwithstanding anything in his last will to the contrary.

(3) Any nomination made under subsection (1) shall be deemed to be revoked by the death of the nominee in the lifetime of the nominator or by written notice of revocation signed by the nominator in the presence of a witness (who shall attest the signature of the nominator) or by any subsequent nomination made by the nominator.

(4) The moneys lying to the credit of a person who has made a nomination under subsection (1) in a term deposit shall, in the event of his death, be deemed not to form part of the estate or property of that person for the purpose of probate or administration proceedings under the Civil Procedure Code, and the transfer of such property shall not be an offence under that Code.

(5) No payment shall be made by the Bank to any nominee unless the nominee—

(a) submits an affidavit stating that he is the nominee; and

(b) produces a certificate as to his identity from a person acceptable to the Bank.

(6) A payment made subject to the conditions set out in subsection (5) to any nominee of a nominator who has died shall be a complete discharge of the obligations of the Bank in respect of the moneys lying to the credit of such nominator.

(7) Where, upon the death of any person who has a term deposit other than a nominator, there is a sum of money to the credit of such person in the Bank, any officer or person who is duly authorized to make payments in respect of accounts may, if satisfied that such first-mentioned person died intestate and that letters of administration to the estate of such person are not required by any written law, pay such sum of money, subject to the provisions of this Act, to the person or persons to whom such sum is required, in accordance with any rule in that behalf, to be paid:

Provided that until rules are made in that behalf, any such sum may be paid to the person legally entitled to the payment thereof.”.

6. Section 32 of the principal enactment is hereby amended as follows:—

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

“Provided however, that the Board may authorise the General Manager or any other officer of the Bank to grant loans upto any such sum as may be determined by the Board.”; and

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

“(2) All loans granted by the General Manager or other officer of the Bank

under the provisions of this section shall be reported to the Board at its next meeting.”.

7. Section 66 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution of the following subsection therefor:—

“(1) The common seal of the Bank shall be in the custody of the officer of the Bank authorised by the Board to function as the Secretary to the Board and shall not be affixed to any instrument or document except in the presence of that officer and two directors, all of whom shall sign the instrument or document in token of their presence.”.

8. Section 74 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Rules made by the Board. 74 (1) The Board may make rules for or in respect of all or any of the following matters:—

- (a) all matters stated or required by this Law to be prescribed or for which rules are authorized to be made by this Law;
- (b) the issue, registration, transfer, redemption and cancellation of debentures and all matters incidental to, or consequential upon, such issue, registration, transfer, redemption or cancellation;
- (c) the forms to be used for any of the purposes of this Law.

(2) Every rule made under subsection (1) shall be published in the *Gazette*”.

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

**INLAND REVENUE (AMENDMENT) ACT, NO. 21 OF 1994**

[Certified on 31st October, 1994]

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. 21 of 1994.
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 (LXIII), of that paragraph, by the substitution for the words and figures "J. R. Jayawardene Centre Act, No. 77 of 1988; and", of the words and figures, "J R. Jayawardene Centre Act, No. 77 of 1988;";
- (2) in sub-paragraph (LXIV) of that paragraph, by the substitution for the words and figures "Institute of Supply and Materials Management, Sri Lanka Act, No. 3 of 1981.", of the words and figures, "Institute of Supply and Materials Management, Sri Lanka Act, No. 3 of 1981;"; and
- (3) by the addition, immediately after sub-paragraph (LXIV) of that paragraph, of the following sub-paragraphs:—

"(LXV) the Stabilisation Fund for Tea, Rubber and Coconut established under Part IV of the Finance Act, No. 38 of 1971;

(LXVI) the Janasaviya Trust Fund incorporated under the Trust Ordinance (Chapter 96);

(LXVII) the Institute of Bankers of Sri Lanka established by the Institute of Bankers of Sri Lanka Act, No. 26 of 1979;

(LXVIII) the Overseas Private Investment Corporation of the United States of America;

(LXIX) the Overseas Economic Co-operation Fund of Japan; and

(LXX) the World Conservation Union."

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

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

(a) in paragraph (f) of that subsection—

- (i) by the repeal of sub-paragraph (iii) of that paragraph and the substitution therefor of the following sub-paragraph:—

"(iii) any expert, adviser, technician or official who is brought to Sri Lanka by the Government of Sri Lanka through any Specialised Agency of the United Nations Organisation or the Point Four Assistance Programme of the Government of the United

States of America or through the Colombo Plan Organisation (including its Technical Assistance Bureau) or through the Asia Foundation or any other Organisation approved by the Minister as being of a similar character; and,

(a) whose salary or principal emolument is payable out of the funds provided by way of grant or other assistance to the Government of Sri Lanka by any such Organisation, Programme or Foundation or any other Organisations as the case may be; or

(b) whose salary or principal emolument is not payable by the Government of Sri Lanka;” ;

(ii) by the substitution, in sub-paragraph (viii) of that paragraph, for the words “by the Asia Foundation:” of the words “by the Asia Foundation or by the Overseas Economic Co-operation Fund of Japan;” ; and

(b) in paragraph (h) of that subsection, by the substitution for the words “the World Bank or the International Committee of the Red Cross;”, of the words “the World Bank, the International Committee of the Red Cross or the World Conservation Union;” ;

(2) in subsection (2) of that section by the substitution for the words and figures “being an enterprise with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978” of the words and figures, “being an enterprise with which an agreement has been entered into prior to December 31, 1994 on an application made in that behalf prior to November 11, 1993 by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978”; and

(3) by the addition immediately after subsection (2) of that section of the following subsection:-

“(3) Notwithstanding the provisions of paragraph (1) of the proviso to sub-paragraph (iv) of paragraph (c) of subsection (1) and of subsection (2) the emoluments of any individual who is not a citizen of Sri Lanka and who is brought to and employed by an enterprise with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, and which has opted to be charged with income tax in lieu of the exemption from income tax granted under such agreement, shall be exempt from income tax upto the date of cessation of employment of such individual in such enterprise or the date on which the exemption from income tax granted in respect of such enterprise would, but for such option, have ended, which ever is the earlier.”.

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

(1) in paragraph (a) of that section—

(a) by the substitution for the words and figures “an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978”, of the words and figures “an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, being an agreement which has been entered into prior to December 31, 1994, on an application made in that behalf prior to November 11, 1993,” and

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

“(ii) to any person, who is not resident in Sri Lanka notwithstanding anything to the contrary in subsection (1) of section 32L of this Act;”

(2) in paragraph (cc) of that section, by the substitution for all the words from “received by that company” to the end of that paragraph of the words and figures “received by that company through one or more intermediary companies during the period for which the dividends referred to in paragraph (a) or paragraph (b) are exempt from income tax or within two years thereafter, if the first mentioned dividend is paid during the year of assessment in which the second mentioned dividend was received or within one year thereafter; and”.

5. Section 14 of the principal enactment is hereby amended in paragraph (a) of that section, as follows:—

(i) in sub-paragraph (xxii) of that paragraph by the substitution for the words “in the secondary market.” of the words “in the secondary market;” and

(ii) by the addition, at the end of that paragraph, of the following sub-paragraph:—

“(xxiii) the relinquishment or transfer of any right to a share received under a rights issue of a quoted public company.”.

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

(1) in paragraph (cc) of that section by the substitution for the words “the profits and income earned in any year of assessment in foreign currency”, of the words and figures “the profits and income earned in any year of assessment commencing prior to April 1, 1995, in foreign currency, ” ;

(2) in paragraph (ccc) of that section by the substitution for the words “the emoluments and fees earned, in any year of assessment in foreign currency” of the words and figures “the emoluments and fees earned, in any year of assessment commencing prior to April 1, 1995 in foreign currency” ;

(3) by the repeal of paragraph (j) of that section and by substitution therefor of the following paragraph:—

“(j) any royalty received by a non-resident person from a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 (being an agreement which has been entered into prior to December 31 1994, on an application made in that behalf prior to November 11, 1993), in respect of any period during which the profits and income of that company are exempt from income tax under the terms of that agreement:

Provided that where such company opts, in lieu of the exemption from income tax under the terms of such agreement, to be charged with income tax, the exemption from income tax granted by this paragraph shall apply to any royalty received by any non-resident person from such company in respect of the period during which, the profits and income of such company would, but for such option, have been so exempt from income tax ;” ; and

(4) in paragraph (w) of that section, by the substitution for the words and figures, “from the sale, before April 1, 1994 of any share,” of the words, “from the sale of any share”.

7. Section 17A of the principal enactment is hereby amended in paragraph (a) of subsection (2) of that section by substitution for the words “an undertaking for the cultivation of sugar cane;”, of the words, “an undertaking for cultivating land with any plants of whatever description other than tea, rubber, coconut or paddy ;”.

8. Section 17F of the principal enactment is hereby amended in paragraph (a) of subsection (3) of that section as follows:—

(1) in sub-paragraph (i) of that paragraph, by the substitution for the words and figure “section 3 (other than any profits and income from the sale of any capital asset) of that undertaking,” of the words and figure “section 3 (other than any profits and income from the sale of any capital asset or from the purchase and resale of any other goods or commodities) of that undertaking” ; and

(2) in sub-paragraph (ii) of that paragraph, by the substitution for the words, “the annual average of such profits and income of that undertaking”, of the words “the annual average of such profits and income as are referred to in sub-paragraph (1), of that undertaking”.

9. Section 20 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section as follows:—

(1) in sub-paragraph (i) of that paragraph, by the substitution for the words and figures “after November 15, 1978; or”, of the words and figures “after November 15, 1978, but prior to March 31, 1995, on an application in writing made in that behalf prior to November 11, 1993; or” ; and

- (2) in sub-paragraph (iii) of that paragraph, by the substitution, for the words “by Order published in the *Gazette*,” of the words “by Order published in the *Gazette* prior to March 31, 1995, on an application in writing in that behalf made prior to November 11, 1993, ”.

**10. Section 20B of the principal enactment is hereby amended as follows:—**

- (1) by the substitution, for the words “There shall be exempt from income tax”, of the words and figures “There shall be exempt from income tax for any year of assessment ending on or before March 31, 1995” ; and
- (2) in the proviso to that section by the substitution for all the words from “the exemption granted under this section shall apply if—” to the end of that proviso of the following:—

“the exemption granted under this section shall apply if such supply is covered by a letter of credit opened in a bank in Sri Lanka or such other documentary evidence as is required to satisfy himself that the exports relating to such supply were in fact made, is adduced.”.

**11. Section 20C of the principal enactment is hereby amended as follows:—**

- (1) by the substitution, in subsection (1) of that section for the words and figures “any year of assessment commencing on or after April 1, 1988”, of the words and figures “any year of assessment commencing on or after April 1, 1988 but ending on or before March 31, 1995”;
- (2) by the substitution in sub-paragraph (iv) of paragraph (b) of subsection (2) of that section for the words and figure “paragraph (a) of section 3”, of the words and figure “paragraph (a) of section 3; and ” ;
- (3) by the addition, immediately after paragraph (b) of that subsection, of the following paragraph:—

‘(c) “goods” shall, for the year of assessment commencing on April 1, 1994, not include any goods which are not used either in the manufacture of any commodity for export or in the packaging of such commodity for export.’ .

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

- (1) in paragraph (eee) of that subsection—
- (a) 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 but prior to April 1, 1993, and arising out of its use,”, of the words and figures “acquired by such person on or after April 1, 1987 and arising out of its use, ” ;
- (b) by the repeal of sub-paragraph (iia) of that paragraph; and

(c) 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 (iic) or sub-paragraph (iii)”, of the words and figures, “referred to in sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii)”; and

(2) by the insertion immediately after paragraph (eeee) of that subsection of the following paragraph:—

“(eeee) an allowance in respect of any computer software acquired by him during the period of which the profits and income are being ascertained and used by him in any trade, business, profession, or vocation carried on or exercised by him, such allowance being an amount equal, to thirty-three and one-third *per centum* of the cost of acquisition of such computer software:

Provided that no deduction under the preceding provisions of this paragraph shall be allowed to any person in respect of any computer software if the total of the allowances granted in the preceding years of assessment, in respect of such computer software is equal to the cost of acquisition of such computer software.”

13. Section 23A of the principal enactment is hereby amended in paragraph (c) of subsection (3) of that section as follows:—

(1) in sub-paragraph (i) of that paragraph, by the substitution, for the words “commodity in Sri Lanka is certified by the Export Development Board to be”, of the words “commodity in Sri Lanka is”;

(2) in sub-paragraph (ii) of that paragraph, by the substitution, for the words “commodity in Sri Lanka is certified by the Export Development Board to be of the words “commodity in Sri Lanka is”.

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

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

(2) by the repeal of paragraph (qq) of that subsection.

15. Section 29 of the principal enactment is hereby amended, by the insertion immediately after subsection (3A) of that section, of the following subsection:—

“(3B) (a) Where any enterprise, with which an agreement has been entered into by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and of which the profits and income are exempt from income tax under the terms of such agreement and which opts in lieu of such exemption, to be charged with

income tax, has incurred any loss which if it had been a profit would have been exempted from income tax under such agreement for any year of assessment during the three year period commencing on April 1, 1991, there shall be deducted from the total statutory income of such enterprise for the year of assessment commencing on April 1, 1994, the excess, if any of—

(i) the total of any such losses incurred by such enterprise during the said three year period, over

(ii) the total of any profits and income of that enterprise as were exempt during the said three year period;

(b) where the entirety or any portion of the balance of such loss referred to in paragraph (a) cannot be deducted from the total statutory income of such enterprise for the year of assessment commencing on April 1, 1994, such entirety or portion shall be deducted from the total statutory income of the enterprise for the next succeeding year of assessment and so on.”.

**16.** Section 32 of the principal enactment is hereby amended in subsection (1) of that section:—

(1) by the substitution in sub-paragraph (vii) of paragraph (a) of that subsection, for the words and figures “commencing on or after April 1, 1992 at the appropriate rate”, of the words and figures commencing on or after April 1, 1992, but prior to April 1, 1994, at the appropriate rate” ;

(2) by the addition, immediately after sub-paragraph (vii) of paragraph (a) of that subsection, of the following sub-paragraph:—

“(viii) in respect of any year of assessment commencing on or after April 1, 1994 at the appropriate rate specified in Part 11F of the First Schedule to this Act ;”.

**17.** Section 32EE of the principal enactment is hereby amended in paragraph (a) of that section as follows:—

(1) by the substitution in sub-paragraph (i) of that paragraph, for the words and figures “the year of assessment commencing on April 1, 1991, and”, of the words and figures “the year of assessment commencing on April 1, 1991 ;” ;

(2) by the substitution in sub-paragraph (ii) of that paragraph, for the words and figures “any year of assessment commencing on or after April 1, 1992, or” of the words and figures “any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1994, and ” ;

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

“(iii) six thousand rupees, if such year of assessment is any year of assessment commencing on or after April 1, 1994, or” ;

18. The following new Chapter is hereby inserted immediately after Chapter VIII and shall have effect as Chapter VIIIA of the principal enactment.

#### ‘CHAPTER VIIIA

##### SPECIAL PROVISION RELATING TO THE TAXATION OF QUALIFIED EXPORT PROFITS AND DIVIDENDS OUT OF SUCH PROFITS

22F. (1) Where an exemption from income tax for a period of five years has been granted to a company under paragraph (b) of subsection (1) of section 20 and the unexpired part of such period of five years is, on April 1, 1994, not less than four years, such company may, by communication in writing addressed to the Commissioner-General before December 31, 1994, opt to forego the exemption to which such company is entitled under that paragraph and to be charged with income tax for the unexpired part of such period.

(2) Where a company exercises the option referred to in subsection (1), it shall cease to be entitled to any exemption from income tax under paragraph (b) of subsection (1) of section 20 in respect of the balance part of the period for which it was exempted from income tax under that paragraph and where the taxable income of such company for any year of assessment commencing on or after April 1, 1994, but prior to April 1, 2014, includes any export profits and income from any undertaking approved under paragraph (b) of subsection (1) of section 20, then, such part of such taxable income as consists of such export profits and income shall notwithstanding anything in this Act, be chargeable with income tax at the rate of ten *per centum*.

For the purpose of this section “export profits and income” shall have the same meaning assigned to it in subsection (2) of section 20.

32G. Where any person (not being a company) commences after November 10, 1993 to carry on any specified undertaking and the taxable income of that person for any year of assessment commencing on or after April 1, 1994 but prior to April 1, 2014 includes any qualified export profits and income such part of the taxable income as consists of such qualified export profits and income shall, subject to the provisions of this Act, be chargeable with income tax at the rate of fifteen *per centum* including such part or entirety of such qualified export profits and income as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

32H. Where any company commences after November 10, 1993 to carry on any specified undertaking and the taxable income of that export profits and income the taxable commencing on or after April 1, 1994 but prior to April 1, 2014 includes any qualified export profits and income the taxable such part of income as consists of such qualified export profits and income shall notwithstanding anything to the contrary in this Act, be chargeable with income tax at the rate of fifteen *per centum*.

32J. Where any person other than a person referred to in section 32G not being a company and the taxable income of such person for any year of assessment commencing on or after April 1, 1995 but prior to April 1, 2015, includes any qualified export profits and income from any specified undertaking such part of the taxable income as consists of such qualified export profits and income shall, subject to the provisions of this Act, be chargeable with income tax at the rate of fifteen *per centum* including such part or the entirety of such qualified export profits and income as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

32K. Where the taxable income of any company, other than a company referred to in section 32H, for any year of assessment commencing on or after April 1, 1995, but prior to April 1, 2015, includes any qualified export profits and income, from any specified undertaking such part of such taxable income as consists of such qualified export profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the rate of fifteen *per centum*.

32L. (1) Where the taxable income of any person (other than a company) for any year of assessment includes any dividend—

(i) being a dividend—

(a) out of the export profits and income of any company referred to in section 32F paid during the period in which such profits and income are taxable at the rate of ten *per centum*, or within one year thereafter; or

(b) out of the profits and income of any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 being profits and income in respect of which such company, has in lieu of the exemption granted to it under such agreement, opted to be charged with income tax at the rate of ten *per centum*, paid during the period for which such profits are so chargeable with income tax or within one year thereafter; or

(ii) being a dividend paid by any company out of such dividend received by that company as is referred to in paragraph (i) (a) or paragraph (i) (b), if the first mentioned dividend is paid during any year of assessment in which the second mentioned dividend was received by that company, or within one year thereafter; or

(iii) being a dividend out of any such dividend as is referred to in paragraph (i) (a) or paragraph (i) (b) received by any company through one or more intermediary companies during the period for which the profits and income out of which the dividends referred to in paragraph (i) (a) or paragraph (i) (b) are paid are taxable at

the rate of ten *per centum* or within two years thereafter, and paid by such company within one year from the date of receipt of the first mentioned dividend by such company,

such part of the taxable income as consists of such dividends shall notwithstanding anything to the contrary in this Act be chargeable with income tax at the rate of ten *per centum*.

(2) Where the taxable income of any person (other than a company) for any year of assessment includes any dividend—

(i) being a dividend—

(a) out of the qualified export profits and income of any company referred to in section 32H and 32k paid during the period in which such profits and income are taxable at the rate of fifteen *per centum* or within one year thereafter;

(b) out of the qualified export profits and income of any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, other than any agreement entered into prior to December 31, 1994, on an application made in that behalf prior to November 11, 1993, being profits and income in respect of which such company has paid income tax at the rate of fifteen *per centum* paid during the period in which such profits and income are chargeable with income tax at the rate of fifteen *per centum* or within one year thereafter.

(ii) being a dividend paid by any company out of such dividend received by that company as is referred to in paragraph (i) (a) or paragraph (i) (b), if the first mentioned dividend is paid during any year of assessment in which the second mentioned dividend was received by that company or within one year thereafter; or

(iii) being a dividend out of any such dividend as is referred to in paragraph (i) (a) or paragraph (i) (b) received by any company during the period for which the profits and income out of which the dividends referred to in paragraph (i) (a) or paragraph (i) (b) are paid are taxable at the rate of fifteen *per centum* or within two years thereafter, and paid by such company within one year from the date of receipt of the first mentioned dividend by such company,

such part of the taxable income as consists of such dividend, shall, subject to the provisions of this Act be chargeable with income tax at the rate of fifteen *per centum* including such part or the entirety of such income from dividend as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

(3) Subject to the provisions of section 35 where the taxable income of any company includes any dividend referred to in subsection (1) or subsection (2) the rate of income tax applicable to such part of such taxable income as consists of such dividend shall be fifteen *per centum*.

32M. (1) Where any person or partnership who or which carries on any undertaking for the production or manufacture and supply, to any specified undertaking referred to in sub-paragraph (i) of paragraph (d) of section 32Q—

- (a) of any commodities (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology and marketed with a quality guarantee) copra, fresh coconut, coconut fibre or such other commodity as may be specified by the Minister by notice published in the *Gazette*, for export by such specified undertaking without further production or manufacture by such specified undertaking, or
- (b) of any goods for the production or manufacture by such specified undertaking of any commodity for export by such specified undertaking,

the profits and income from such supply (being profits and income within the meaning of paragraph (c) of section 3 other than any profits and income from the sale of capital assets), shall be chargeable with income tax in accordance with the succeeding provisions of this section.

(2) Where any person referred to in subsection (1) is a company (including a company being a partner of any such partnership) and the taxable income of such company for any year of assessment commencing on or after April 1, 1995, includes profits and income referred to in subsection (1) of this section then such company shall be chargeable with income tax at the rate of fifteen *per centum* in respect of such profits and income.

(3) Where any person referred to in subsection (1) is an individual (including an individual being a partner of such partnership) and the taxable income of such individual for any year of assessment commencing on or after April 1, 1995, includes profits and income referred to in subsection (1) then such individual shall, subject to the provisions of this Act be chargeable with income tax at the rate of fifteen *per centum* including such part or entirety of such profits and income as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

(4) The provisions of subsections (1), (2) and (3) shall apply if the supply referred to therein—

- (a) is made during the period for which the taxable income of the person who, or of any partner of any partnership which, carried on the specified undertaking referred to in subsection (1) is chargeable with income tax in accordance with the provisions of this Chapter,

(b) is a supply in respect of which such documentary evidence as is required to satisfy the Commissioner-General that the exports relating to such supply were in fact made, is adduced.

32N. (1). Where any resident company or any partnership in Sri Lanka, which, carries on or exercises and trade, business, profession or vocation, earns in any year of assessment commencing on or after April 1, 1995, any profits and income in foreign currency in respect of services rendered in that year of assessment, by such company or by such partnership outside Sri Lanka in the course of carrying on, exercising or carrying out such profession, vocation or any construction project in the course of carrying on any trade or business, and such profits and income so earned (less such amount as the Commissioner-General considers to be reasonable expenses) are remitted to Sri Lanka by such company or by such partnership, such profits and income shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax in accordance with the succeeding provisions of this section.

(2) Where the taxable income of any company referred to in subsection (1) for any year of assessment commencing on or after April 1, 1995, includes profits and income referred to in subsection (1) then such company shall be chargeable with income tax at the rate of fifteen *per centum* in respect of such profits and income.

(3) Where the taxable income for any year of assessment referred to in subsection (1) of any partner of any partnership (not being a company) includes any profits and income referred to in subsection (1) which accrued to him by way of his share of profits from such partnership, such profits and income shall, subject to the provisions of this Act be chargeable with income tax at the rate of fifteen *per centum* including such part or the entirety of such profits and income as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

32P. (1) Where any individual or any partnership in Sri Lanka, earns in any year of assessment commencing on or after April 1, 1995, any emoluments and fees in foreign currency in respect of services rendered in Sri Lanka by such individual or by such partnership in Sri Lanka to any person or partnership outside Sri Lanka, in the course of any profession, or any vocation in the field of literature or fine arts, carried on or exercised by such individual or by such partnership in Sri Lanka but not in the course of employment under such person or partnership outside Sri Lanka, and such emoluments and fees are remitted to such individual or to such partnership in Sri Lanka through a bank, such emoluments and fees, shall not withstanding anything to the contrary in this Act, be chargeable with income tax in accordance with the succeeding provisions of this section.

(2) Where the taxable income for any year of assessment referred to in subsection (1), of any individual includes any emoluments and fees referred to in subsection (1) earned by him or which accrued to him by way

of his share of profits from any partnership in Sri Lanka referred to in subsection (1) such emoluments and fees shall, subject to the provisions of this Act, be chargeable with income tax at the rate of fifteen *per centum* including such part of the entirety of such emoluments and fees as is in excess of the taxable income which is chargeable with income tax at the rate of ten *per centum*.

32Q. For the purposes of this Chapter—

- (a) “qualified export profits and income” in relation to any person means the sum which bears to the profits and income (within the meaning of paragraph (a) of section 3 after excluding therefrom any profits and income from the sale of gems and jewellery and any profits and income from the sale of capital assets) for that year of assessment from any specified undertaking carried on by such person, ascertained in accordance with the provisions of this Act, the same proportion as the export turnover of that undertaking for that year of assessment bears to the total turnover of that undertaking for that year of assessment;
- (b) “export turnover” in relation to any specified undertaking means the total amount receivable, whether received or not, by that undertaking from the export of goods or commodities or from the provision of any service referred to sub paragraph (ii) of paragraph (d), but does not include—
  - (i) any amount receivable, whether received or not, from the export of gems or jewellery or from the sale of any capital assets; and
  - (ii) any amount receivable, whether received or not, from the export of black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology and marketed with a quality guarantee), copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by Notice published in the *Gazette*; or
  - (iii) any profits and income not being profits and income within the meaning of paragraph (a) of section 3;
- (c) “total turnover” in relation to any specified undertaking means the total amount receivable, whether received or not, by that undertaking from any trade or business carried on by that undertaking but does not include any amount receivable, whether received or not, from the sale of capital assets, gems or jewellery or any profits and income not being profits and income within the meaning of paragraph (a) of section 3;

(d) "specified undertaking" means any undertaking which is engaged in—

(i) the export of non-traditional goods manufactured, produced or purchased by such undertaking; or

(ii) the performance of any service of ship repair, ship breaking, repair and refurbishment of marine cargo containers, provision of computer software, computer programmes, computer systems or recording computer data, or such other services as may be specified by the Minister by Notice published in the *Gazette*, for payment in foreign currency,

For the purposes of this section "non-traditional goods" means goods other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber; coconut oil, desiccated coconut (other than desiccated coconut manufactured by using continuous scale automated process technology and marketed with a quality guarantee), copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by Notice published in the *Gazette*.

19. Section 33 of the principal enactment is hereby amended in subsection (1) of that section, as follows:—

(1) in paragraph (ii) of the proviso to paragraph (b) of that subsection, by the substitution, for the words and figures "commencing on or after April 1, 1991; and", of the words and figures, "commencing on or after April 1, 1991;"; and

(2) by the addition, immediately after the proviso to paragraph (b) of that subsection, of the following proviso:—

'Provided further that any company shall not be liable to pay tax under paragraph (b) on any gross dividend distributed by such company in any year of assessment to a company or body of persons who or which is exempt from income tax under paragraph (a) of section 8.'

20. Section 33A of 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) Every resident company shall be entitled to deduct from any quarterly instalment referred to in section 97 of income tax payable by it—

(a) under section 33(1) (a), or

(b) under section 32F or section 32H or section 32K

for any year of assessment commencing on or after April 1, 1988, the advance company tax paid by it in that year of assessment, but prior to the date

on which such instalment is required to be paid under section 97, such deduction shall not exceed fifty *per centum* of the aggregate of the tax payable under—

(i) section 33(1), and

(ii) section 32F or section 32H or section 32K by that company in that year of assessment.” ; and

(2) in subsection (3) of that section, by the substitution for the words and figures from “in accordance with the provisions of section 125(2) (iv)” to the end of that subsection, of the words and figures, “in accordance with the provisions of paragraph (iv) of the proviso to section 125(2) from the tax payable under section 33(1) (a) or under section 32F, or section 32H or section 32K by that company for the next succeeding year of assessment and so on, so however, that the total amount deducted on account of advance company tax from the tax payable by that company under section 33(1) (a) or under section 32F or section 32H or section 32K for any year of assessment shall not exceed fifty *per centum* of the tax payable under section 33(1) (a) or under section 32F, or section 32H, or section 32K, by that company for that year of assessment.”.

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

(1) in sub-paragraph (c) of paragraph (1) of that section—

(a) by the insertion, immediately after item (iii), of that sub-paragraph, of the following item:—

“(iii a) dividends in relation to which advance company tax has been paid at twenty-seven *per centum* ;” ; and

(b) by the addition immediately after item (iv) of that sub-paragraph, of the following new items:—

“(iva) dividends in relation to which advance company tax has been paid at eight *per centum* ;

(iv b) dividends in relation to which advance company tax has been paid at five *per centum* ;” ; and

(2) in paragraph (2) of that section, by the repeal of sub-paragraph (b) of that paragraph and the substitution therefor of the following sub-paragraph:—

“(b) profits and income taxable—

(i) under section 32F.

(ii) under section 32H.

(iii) under section 32K.

(iv) at the rates other than those specified in the second Schedule to this Act; and”.

**22. Section 38 of the principal enactment is hereby amended as follows:—**

(1) in subsection (1) of that section, by the substitution, for the words “any dividend payable to any shareholder in the form of money”, of the words, “any dividend payable to any shareholder, other than any shareholder whose profits and income are exempt from income tax under paragraph (a) of section 8 in the form of money” ;

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

(i) in paragraph (d) of that subsection—

(a) by the insertion, immediately after sub-paragraph (iii) of that paragraph of the following sub-paragraph —

“(iii a) dividends received in relation to which advance company tax has been paid at twenty seven *per centum* ; ” ; and

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

“(iva) dividends received in relation to which advance company tax has been paid at eight *per centum*;

(iv b) dividends received in relation to which advance company tax has been paid at five *per centum*; and

(ii) 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 (ii a), (iii), or (iv), or (iv a), (iv b), of paragraph (d)”;

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

(a) by the substitution, in paragraph (ii) of that subsection, for the words and figures, “commencing on or after April 1, 1988.”, of the words and figures, “commencing on or after April 1, 1988, ” , and

(b) by the addition, immediately after paragraph (ii) of that subsection, of the following paragraph:—

“(iii) any payments made in that year of assessment, in respect of tax under section 32F or section 32H or section 32K for any year of assessment commencing on or after April 1, 1994. ” .

**23. Section 85A of the principal enactment is hereby amended as follows:—**

(a) by the re-numbering of that section as subsection (1) of that section,

(b) by the addition immediately after subsection (1) of that section of the following subsection:—

“(2) the provisions of this section shall not apply to a person—

- (a) to whom the provisions of section 32F or 32G or 32H apply;
- (b) to whom the provisions of section 32J or section 32K apply.”.

**24.** Section 113A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for all the words from “For the purposes of a deduction” to “in any year of assessment,”, of the following words:-

‘For the purposes of a deduction under this section “interest” means such part of—

- (a) the interest received by a person chargeable with income tax from a bank or financial institution; or
- (b) any sum of money received by such person as interest or discount in respect of a bond issued by a bank or financial institution not being a sum of money received as interest or discount on—
  - (i) a government security held by any person,
  - (ii) a Treasury bill held by any person other than the Central Bank of Sri Lanka,

in any year of assessment, ’ .

**25.** Section 113R of the principal enactment is hereby repealed and the following section substituted therefor:—

“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—

- (a) for the year of assessment commencing on April 1, 1993, the excess of—
  - (i) the income tax computed at the rates specified in Part 11E 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;
- (b) for any year of assessment commencing on or after April 1, 1994, the excess of—
  - (i) the income tax computed at the rates specified in Part 11F 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) six thousand rupees.”.

**26.** Section 126 of the principal enactment is hereby amended by the addition immediately after sub-paragraph (d) of that section of the following sub-paragraph:—

“(e) the whole or any part of any quarterly instalment of income tax referred to in section 97 and which any person is liable to pay for any year of assessment.”.

27. Section 149 of the principal enactment is hereby amended by the insertion immediately after subsection (6) of that section of the following subsection:—

“(7) Notwithstanding anything to the contrary in section 35, any tax deducted in accordance with section 38 in respect of a dividend distributed on or after April 1, 1991 and paid by a resident company to any person whose profits and income are exempt from income tax under paragraph (a) of section 8 shall be refunded to such person on a claim duly made by him in writing within three years of the end of the year of assessment in which such tax was deducted.”.

28. Section 163 of the principal enactment is hereby amended by the substitution for the definition of “qualifying distribution” of the following definition:—

“qualifying distribution” means—

(A) for any year of assessment commencing on or after April 1, 1988, but prior to April 1, 1994, means the whole or part of any gross dividend distributed by a resident company to a shareholder, in the form of money or of an order to pay money, out of such profits of the company which, if taxable for that year of assessment would be taxed at the appropriate rate specified in the Second Schedule to this Act, as the rate applicable to companies of that class, but does not include any dividend distributed out of—

(i) profits or income which accrued or arose, to such company, prior to April 1, 1988;

(ii) its exempt income, and

(iii) any income from dividend received by such company.

(B) for any year of assessment commencing on or after April 1, 1994, means the whole or a part of any gross dividend distributed by a resident company to a shareholder, in the form of money or of an order to pay money, out of such profits of the company being profits which—

(i) if taxable for that year of assessment, would be taxed at the appropriate rates specified in the Second Schedule to this Act, as the rate applicable to companies of that class, or

(ii) are taxed in accordance with the provisions of section 32F, or of section 32H or of section 32K.

but does not include any dividend,

(a) distributed out of—

(i) profits or income which accrued or arose to such company prior to April 1, 1988,

- (ii) its exempt income,
  - (iii) any income from dividend received by such company; or
- (b) paid to any person whose profits and income are exempt from income tax under paragraph (a) of section 8.”.

29. The First Schedule to the principal enactment is hereby amended as follows:—

- (1) in Part IIE of that Schedule by the substitution, for the words and figures “The rates of income tax for any year of assessment commencing on or after April 1, 1992, shall be as follows:—”, of the words and figures “The rates of income tax for any year of assessment commencing on or after April 1, 1992, but prior to April 1, 1994, shall be as follows:—”;
- (2) by the insertion, immediately after Part IIE of that Schedule, of the following Part:—

“Part IIF

The rates of income tax for any year of assessment commencing on or after April 1, 1994, shall be as follows:—

On the first Rs. 35,000 of the taxable income	10 <i>per centum</i>
On the next Rs. 25,000 of the taxable income	20 <i>per centum</i>
On the next Rs. 25,000 of the taxable income	30 <i>per centum</i>
On the balance of the taxable income	35 <i>per centum</i> ”.

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

- (1) by the substitution in Part IV C of that Schedule, for the words and figures, “The rate of income tax for every year of assessment commencing on or after April 1, 1993,” of the words and figures “The rate of income tax for the year of assessment commencing on April 1, 1993—”;
- (2) by the substitution for Part XI 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 the year of assessment commencing on April 1, 1993—

On the taxable income of the company	40 <i>per centum</i> ”
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- (3) by the insertion, immediately after Part XI of that Schedule, of the following Part:—

“PART XII

Company including unit trust, mutual fund and, public corporation (other than the Central Bank of Sri Lanka).

The rate of income tax for every year of assessment commencing on or after April 1, 1994—

On the taxable income of the company ... 35 per centum”.

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

- (1) by the substitution, in paragraph 1 of that Schedule for the words and figures from “For any year of assessment commencing on or after April 1, 1993—” to the end of that paragraph of the following words and figures:—

“For the year of assessment commencing on 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

For any year of assessment commencing on or after April 1, 1994—

On the taxable income ... 35 per centum”;

- (2) by the substitution for paragraph 9 of that Schedule of the following paragraph:—

“9. Governments (other than the Government of Sri Lanka and the Government of the United Kingdom);

For any year of assessment ending on or before April 1, 1994—

On the taxable income of Governments other than the Government of Sri Lanka and the United Kingdom ... 55 per centum

For any year of assessment commencing on or after April 1, 1994—

On the taxable income of Governments other than the Government of Sri Lanka and the United Kingdom... 35 per centum

- (3) In paragraph 11 of that Schedule—

(i) by the substitution in sub-paragraph (d) of that paragraph for the words and figures “for any year of assessment commencing on or after April 1, 1993”, of the words and figures “for the year of assessment commencing on April 1, 1993”;

(ii) by the addition immediately after sub-paragraph (d) of that paragraph of the following sub-paragraph—

“(e) for any year of assessment commencing on or after April 1, 1994—

(i) on the taxable income ... 35 per centum

(ii) on the balance of the profits after deduction therefrom the tax payable under paragraph (1) ... 25 per centum”.

32. 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  $\frac{1}{3}$  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 rate of advance company tax for the two years of assessment commencing respectively on April 1, 1992 and 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 a quoted public company or a people's company ... 33  $\frac{1}{3}$  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, 1994, shall be as follows:—

- (i) On the amount equal to the amount of every qualifying distribution made by a unit trust or mutual fund or any other company ... 27 per centum
- (ii) on the amount equal to the amount of every qualifying distribution made by a company out of the profits which are taxed in accordance with the provisions of section 32H or section 32K ... 8 per centum
- (iii) on the amount equal to the amount of every qualifying distribution made by a company out of the profits which are taxed in accordance with the provisions of section 32F  
5 per centum

**33.** (1) The amendment to section 8 of the principal enactment made by section 2(3) of this Act, for the exemption from income tax of the Fund for tea, rubber and coconut shall be deemed for all purposes to have come into force on June 26, 1985.

(2) The amendment to section 14 of the principal enactment, made by section 6(4) of this Act, shall be deemed for all purposes to have come into force on October 1, 1993.

(3) The amendment to section 15 of the principal enactment, made by section 6(4) of this Act, shall be deemed for all purposes to have come into force on April 1, 1994.

(4) The amendment to section 17A of the principal enactment, made by section 7 of this Act, shall be deemed for all purposes to have come into force on April 1, 1994.

(5) The amendment to section 17F of the principal enactment, made by section 8 of this Act, shall be deemed for all purposes to have come into force on April 1, 1994.

(6) The amendment to section 23 of the principal enactment, made by section 12(1) of this Act, shall be deemed for all purposes to have come into force on August 18, 1993.

(7) The amendment to section 24 of the principal enactment, made by section 14 of this Act, shall be deemed for all purposes to have come into force on August 18, 1993.

(8) The amendment to section 113A of the principal enactment, made by section 24 of this Act, shall be deemed for all purposes to have come into force on July 1, 1994.

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

## **SURCHARGE ON INCOME TAX (AMENDMENT) ACT, NO. 23 OF 1994**

[Certified on 27th December, 1994]

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. 23 of 1994.

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, ON APRIL 1, 1992 AND ON APRIL 1, 1993," 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, ON APRIL 1, 1993 AND ON APRIL 1, 1994,".

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, 1994," of the words and figures "but ending not later than March 31, 1995,".

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

(1) in paragraph (iv) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1992; and", of the words and figures "relevant year commencing on April 1, 1992, " ;

(2) in paragraph (v) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1993", of the words and figures "relevant year commencing on April 1, 1993, and" ; and

(3) by the addition, immediately after paragraph (v) of that section, of the following paragraph:—

"(vi) (a) not less than fifty *per centum*, on or before August 15, 1994; and

(b) the balance, on or before November 15, 1994,

of the amount of the surcharge payable by him for the relevant year commencing on April 1, 1994."

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

(1) in paragraph (d) 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 (e) 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 (e) of that section, of the following paragraph:—

“(f) for the relevant year commencing on April 1, 1994—

(i) from the remuneration payable to such employee for the month of July, 1994,  $7\frac{1}{2}$  per centum ; and

(ii) from the remuneration payable to such employee for the month of October, 1994,  $7\frac{1}{2}$  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 repeal of paragraph (ii) of the proviso to that subsection, and the substitution therefor 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  $7\frac{1}{2}$  per centum on or before August 15, 1989, and

(ii) not less than  $7\frac{1}{2}$  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  $7\frac{1}{2}$  per centum on or before August 15, 1990, and

(ii) not less than  $7\frac{1}{2}$  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  $7\frac{1}{2}$  per centum on or before August 15, 1991, and

(ii) not less than  $7\frac{1}{2}$  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  $7\frac{1}{2}$  per centum on or before August 15, 1992, and

(ii) not less than  $7\frac{1}{2}$  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  $7\frac{1}{2}$  per centum on or before August 15, 1993, and

(ii) not less than  $7\frac{1}{2}$  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;

(f) for the relevant year commencing on April 1, 1994—

(i) not less than  $7\frac{1}{2}$  per centum on or before August 15, 1994, and

(ii) not less than  $7\frac{1}{2}$  per centum on or before November 15, 1994,

of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1993;

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,

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

November 30, 1995, in the case of the relevant year commencing on April 1, 1994.”.

7. Section 8 of the principal enactment is hereby amended by the repeal of paragraph (i) of the definition of “income tax” and the substitution therefor of the following paragraph:—

“(i) in relation to a resident company—

(a) for any relevant year commencing prior to April 1, 1993, means the income tax payable under paragraph (a) of subsection (1) of section 33 of the Inland Revenue Act, by that company for that relevant year; and

(b) for the relevant year commencing on April 1, 1993, means the income tax payable under the Inland Revenue Act, by that company for that relevant year, after deducting therefrom the aggregate of—

(i) any income tax payable by that company for that year under paragraph (b) of subsection (1) of section 33, and

(ii) any relief granted under section 82 or section 83 and any deduction allowed under section 85A,

of that Act.”.

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

**APPROPRIATION (AMENDMENT) ACT, NO. 24 OF 1994**

[Certified on 27th December, 1994]

**AN ACT TO AMEND THE APPROPRIATION ACT, NO. 61 OF 1993**

1. This Act may be cited as the Appropriation (Amendment) Act, No. 24 of 1994.
2. Section 2 of the Appropriation Act, No. 61 of 1993 is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution for the words "rupees sixty nine thousand nine hundred and eighty-seven million five hundred and five thousand.", of the words "rupees eighty seven thousand million."
3. 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. 25 OF 1994

[Certified on 30th December, 1994]

### 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. 25 of 1994.

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 "ON JANUARY 1, 1993 AND ON JANUARY 1, 1994", of the words and figures, "ON JANUARY 1, 1993, ON JANUARY 1, 1994 AND ON JANUARY 1, 1995".

3. Section 3 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures "on January 1, 1993 and on January 1, 1994", of the words and figures "on January 1, 1993, on January 1, 1994 and on January 1, 1995".

4. Section 4 of the principal enactment is hereby amended by the substitution, for the words and figures "subject to the provisions of sections 5 and 6, every person", of the words and figures "subject to the provisions of sections 5, 5A and 6, every person".

5. Section 5 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(1) in paragraph (a) of that subsection—

(a) by the substitution, for the words, "any month in any relevant quarter, on an application made", of the words and figures "any month in any relevant quarter ending on or before December 31, 1994, on an application made"; and

(b) in sub-paragraph (iii) of that paragraph, by the substitution, for the words and figures "opened on or after January 1, 1994;" of the words and figures "opened on or after January 1, 1994 but prior to January 1, 1995,"; and

(3) in paragraph (b) of that subsection, by the substitution, for the words and figures, "any relevant quarter commencing on or after January 1, 1994, by any person", of the words and figures, "any relevant quarter commencing on or after January 1, 1994, but prior to January 1, 1995, by any person."

6. The following new section is hereby inserted immediately after section 5 of the principal enactment, and shall have effect as section 5A of that enactment:—

Director-  
General of  
Customs to  
collect levy in  
advance from  
Importers.

5A. (1) The Director-General of Customs shall collect from a person to whom this Act applies, being an importer of an article, at the time of the import of such article, an amount equal to three and one-half *per centum* of the following—

(a) the value of such article (representing the true cost insurance and freight value) ascertained for the purposes of customs duty in accordance with the Customs Ordinance; and

(b) the amount of customs duty, if any, paid on such article; and

(c) twenty-five *per centum* of the amount resulting from the addition of the amounts referred to in paragraphs (a) and (b),

and shall make an endorsement on the import invoice relating to such article specifying the amount so collected.

(2) Any amount collectible under subsection (1) shall, for the purposes of collection and recovery of such amount and notwithstanding anything to the contrary in any other provision of this Act, be deemed to be customs duty payable under the Customs Ordinance and accordingly, the provisions of the Customs Ordinance shall apply to the collection and recovery of such amount.

(3) Any amount collected by the Director-General of Customs from any person to whom this Act applies in accordance with the provisions of subsection (1), shall be deemed to have been paid to the Commissioner-General by such person on the date on which such amount was collected by the Director-General of Customs and shall be set off against the levy payable by such person for the relevant quarter in which such amount was deemed to have been paid by him.

(4) Where any article manufactured outside Sri Lanka and imported into Sri Lanka is sold—

(a) by the Director-General of Customs for any levy due under the Customs Ordinance;

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

(c) by the Commissioner-General,

the purchaser of such article shall be deemed to be a person who imports such article and the provisions of this Act shall apply to him accordingly.

(5) Where at the time of the import of any article by any importer, the Director-General of Customs is satisfied that any amount, has been collected from such importer by—

(a) the Commissioner-General; or

(b) any bank in accordance with the provisions of paragraph (a) or paragraph (b) of subsection (1) of Section 5,

in respect of such article, the Director-General of Customs shall set-off the amount so collected against the amount collectible under subsection (1).

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

“SCHEDULE		(Section 3)
<i>Quarter</i>	<i>Rate</i>	
For the quarter commencing on January 1, 1992		1 per centum
For the quarter commencing on April 1, 1992		2.3 per centum
For any quarter commencing on or after July 1, 1992 but prior to January 1, 1994		3 per centum
For any quarter commencing on or after January 1, 1994 but prior to January 1, 1996		3.5 per centum

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