

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1995 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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## APPROPRIATION ACT, NO. 6 OF 1995

[Certified on 30th March, 1995]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1995, TO AUTHORISE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE, TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR, TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS, OF, OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES, TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE AFORESAID MATTERS.

1. This Act may be cited as the Appropriation Act, No. 6 of 1995.
2. (1) Without prejudice to any other law authorizing any expenditure, the expenditure of the Government which it is estimated will be rupees one hundred and sixty-nine thousand eight hundred and two million and seven hundred and twenty-two thousand for the service of the period beginning on January 1, 1995, and ending on December 31, 1995, in this Act referred to as the "financial year 1995", shall be met—
  - (a) from payments which are hereby authorised to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government; and
  - (b) from the proceeds of loans which are hereby authorised to be raised, whether in or outside Sri Lanka, for an on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees ninety thousand six hundred and sixty-six million three hundred and ninety-seven thousand.

The sum of rupees one hundred and sixty-nine thousand eight hundred and two million and seven hundred and twenty-two thousand herein before referred to may be expended as specified in the First Schedule to this Act.
- (2) The provisions of subsection (1) of this section shall have effect without prejudice to the provisions of any other written law authorizing the raising of loans for and on behalf of the Government.
3. (1) The receipts of the Government during the financial year, 1995 from each activity specified in column I of the Second Schedule to this Act shall be credited to the account of such activity, but the aggregate of receipts so credited shall not exceed the minimum limit specified in the corresponding entry in column III of that Schedule. The net surplus, if any of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 1995.
- (2) For the purpose of determining the net surplus under subsection (1), the following charges shall be set off against the revenue of each activity:—
  - (a) the working, establishment and other expenses of activity whether paid or accrued properly chargeable to the revenue of the activity; and
  - (b) provisions to cover the depreciation of the movable and immovable property of the activity.
- (3) The expenditure incurred by the Government, during the financial year, 1995, on each activity specified in column I of the Second Schedule to this Act shall be paid out of the receipts of the Government from such activity during that financial year but such expenditure shall not exceed the maximum limit specified in the corresponding entry in column II of that Schedule.
- (4) The debit balance, outstanding at the end of the financial year, 1995, of any activity specified in column I of the Second Schedule to this Act shall not exceed the maximum limit specified in the corresponding entry in column IV of that Schedule and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in column V of that Schedule.
4. Whenever, at any time during the financial year, 1995, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act are insufficient to meet the expenditure incurred by the

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

5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head by order of the Secretary to the Treasury or any other officer authorized by him.
- (2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that allocation.

6. Where the Minister is satisfied—

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

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

7. (1) The Minister with the approval of the Government, may on or before May 31, 1996, by Order, vary or alter—

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

(2) No Order made under subsection (1) of this section shall have effect unless it has been approved by Parliament, by resolution.

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

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

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

9. Notwithstanding anything in the resolution passed by Parliament on the twenty fifth day of November, 1994, making financial provision for the service of the period commencing on January 1, 1995, and ending on the day immediately prior to the date of commencement of this Act—

- (a) any sums which have been expended during that period from moneys allocated by that resolution to any Programme appearing under any Head specified in the First Schedule to that resolution shall be deemed, for all purposes, not to have been expended under the authority of that resolution but to have been expended under the authority of this Act;
- (b) any sums which have been expended during that period from moneys allocated by that resolution to any Programme appearing under any Head specified in the First Schedule to that resolution, for which there is

no corresponding Programme under any Head in the First Schedule to this Act, shall be deemed, for all purposes, to have been expended under Programme 3 appearing under Head 361 Department of Treasury Services, in the First Schedule to this Act;

- (c) any moneys so allocated which have not been expended on the day immediately prior to the date of commencement of this Act, shall be deemed, for all purposes to be included in the moneys allocated to the corresponding Programme appearing under the corresponding Head under this Act; and
- (d) any sums paid, by way of advances, out of the Consolidated Fund, during the period commencing on January 1, 1995, and ending on the day immediately prior to the date of commencement of this Act, in respect of the activities specified in the Second Schedule to that resolution shall be deemed, for all purposes, not to have been so advanced under the authority of that resolution but to have been so advanced under the authority of this Act.

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

## EXCISE (AMENDMENT) ACT, NO. 7 OF 1995

[Certified on 12th April, 1995]

### AN ACT TO AMEND THE EXCISE ORDINANCE

1. This Act may be cited as the Excise (Amendment) Act, No. 7 of 1995.
2. Section 22 of the Excise Ordinance (hereinafter referred to as the "principal enactment") is hereby amended in subsection (3) of that section by the substitution, for the words "within a period of one month", of the words "within a period of four months".
3. Section 43 of the principal enactment is hereby amended by the substitution for the words "excisable article not licensed under this Ordinance shall", of the words "excisable article not licensed under this Ordinance or any unauthorised storage or sale of any excisable article, shall".
4. Section 48 of the principal enactment is hereby amended by the substitution for the words from "five thousand rupees" to the end of that section, of the words "five hundred thousand rupees or to both".
5. The following new section is hereby inserted immediately after section 58A of the principal enactment and shall have effect as section 58B of that enactment:—

"Payment to excise officers for special services and attendance. 58B. Where any person requires—

- (a) any service which is determined by the Commissioner-General of Excise as a special service; or
- (b) the attendance of any excise officer at any office or place other than his proper office or place of employment,

payment shall be made for such service or attendance, as the case may be, to the Commissioner-General of Excise by such person at such rates as may be specified by the Commissioner-General of Excise."

6. (1) Where in any provisions of the principal enactment or any written law, or in any notice, communication form, or other document, issued, made, required or authorised, by or under the principal enactment or such written law, the expression "Excise Commissioner" occurs, there shall be substituted for such expression, the expression "Commissioner-General of Excise".
- (2) Where in any provision of written law, the expression "Deputy Commissioner of Excise" or "Deputy Commissioner" denoting a Deputy Commissioner of Excise appointed under the principal enactment occurs, such expression shall be deemed to include a Commissioner of Excise appointed under the principal enactment.
7. Every contract, agreement or other instrument or document whatsoever made, issued or executed prior to the date of commencement of this Act, by or in favour of the Excise Commissioner shall be deemed, from and after the date of commencement of this Act, to be and to have been made, issued or executed, by or in favour of the Commissioner-General of Excise.
8. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

# CREDIT INFORMATION BUREAU OF SRI LANKA (AMENDMENT) ACT, NO. 8 OF 1995

[Certified on 27th April, 1995]

## AN ACT TO AMEND THE CREDIT INFORMATION BUREAU OF SRI LANKA ACT, NO. 18 OF 1990

1. This Act may be cited as the Credit Information Bureau of Sri Lanka (Amendment) Act, No. 8 of 1995.
2. The long title to the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 (hereinafter referred to as the "principal enactment") is hereby amended by the substitution for the words "for the provision of such information to the shareholders of the bureau" of the words "for the provision of such information on request to the shareholders of the bureau and simultaneously to any borrower or prospective borrower to whom such information relates".
3. Section 6 of the principal enactment is hereby repealed, and the following section substituted therefor:—

Functions of  
the Bureau.

6. The functions of the Bureau shall be—

- (a) to collect and collate, trade, credit and financial information on borrowers and prospective borrowers of lending institutions;
- (b) to provide credit information, on request, to lending institutions who are shareholders of the Bureau and simultaneously to borrowers and prospective borrowers to whom such information relate;
- (c) to establish a credit rating system in Sri Lanka, to undertake credit rating and to sell such credit ratings to any foreign and local agencies, or to any person making a request for such ratings; and
- (d) to undertake research projects for lending institutions who are shareholders of the Bureau,

with a view to facilitating the distribution of credit to all sectors of the economy and to the informal sector, in particular."

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

- (1) by the repeal of paragraphs (a), (b), (c) and (d) of that section and the substitution therefor of the following paragraphs:—

- "(a) to maintain a data bank on borrowers from lending institutions;
- (b) to collect and collate trade, credit and financial information on borrowers or prospective borrowers of lending institutions;
- (c) to store the information so collected;
- (d) to furnish credit information on request—
  - (i) in confidence to the shareholders of the Bureau;
  - (ii) by a shareholder of the Bureau, to a borrower or prospective borrower to whom such information relates, subject to such terms and conditions as may be determined by the Bureau,

and to prescribe the forms in which such information is to be furnished ;";

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

- "(dd) to sell credit ratings on request to foreign or local agencies or to any person;"

(3) by the insertion of the following new paragraph immediately after paragraph (n) of that section:—

“(o) to undertake research projects for lending institutions who are shareholders of the Bureau ;” ; and

(4) by the renumbering of the paragraph (o) of that section paragraph (p) thereof.

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

“(4) In granting approval for an allotment or transfer of shares under subsection (3), the Monetary Board shall endeavour to ensure that it retains at least thirty-one *per cent* of the issued share capital of the Bureau.”.

6. Section 12 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 Bureau may, from time to time, borrow sums of money from the Central Bank or lending institutions for periods not exceeding six months.”.

7. The following new section is hereby inserted immediately after section 16 and shall have effect as section 16A of the principal enactment:—

“Board to  
declare  
dividends.      16A. The Board may declare, from the net profits of the Bureau for any year, dividends of such amount as may be determined by the Board.”.

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

Audit.      18. (1) The Board shall appoint annually, a qualified auditor to audit the accounts of the Bureau.

(2) The Board shall cause the accounts of the Bureau for each year to be audited by the auditor appointed under subsection (1) before the thirtieth day of June of the succeeding year.

(3) The auditor appointed under subsection (1) shall examine the accounts of the Bureau and ascertain the correctness of the balance sheet and furnish a report stating—

(a) whether he has or has not obtained all the information and explanations required by him, and

(b) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the Bureau's affairs.

(4) The report of the auditor shall be transmitted to the Board.

(5) In this section “qualified auditor” means—

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

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

9. Section 19 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Documents  
to be trans-  
mitted to the  
Minister.      19. The Board shall on receipt of the Auditor's report, under section 18, in respect of any year cause a copy of each of the following documents relating to that year to be transmitted to the Minister and to all the shareholders:—

- (a) the Auditor's report;
- (b) the balance sheet;
- (c) the profit and loss account; and
- (d) the report of the Chairman of such Board giving an account of the work of the Bureau for that year."

10. Section 21 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words "to a lending institution which is a share holder of the Bureau at the report of such shareholder or", of the words "to a lending institution which is a shareholder of the Bureau at the request of such shareholder and simultaneously to any borrower or prospective borrower to whom such information relates or."

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

<p>"Protection for action taken under this Act by any lending institution.</p>	<p>" 25A. Notwithstanding anything in any other law, no lending institution shall be liable or subject to any action or proceeding in any court, in respect of any loss or damage suffered or incurred, or alleged to have been suffered or incurred, by any person, by reason or any act or thing done, or omitted to be done, <i>bona fide</i>, by such lending institution, for the purposes of performing or discharging any duty or function imposed on, or assigned to, such lending institution by this Act or on the faith of any information furnished to such lending institution by the Bureau."</p>
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12. Section 27 of the principal enactment is hereby amended in subsection (4) of that section by the substitution, for the words and figures "an offence under section 28 (1) (a) or (b) was committed", of the words and figures "an offence under subsection (1) (a) or (b) was committed".

13. Section 29 of the principal enactment is hereby amended in the definition of "lending institution", by the insertion of the following new paragraph at the end of that definition:—

"(g) Any other institution, engaged in providing credit, declared by the Minister in charge of the subject of Finance, having regard to the financial stability of that institution, by Order published in the *Gazette*, to be a lending institution for the purposes of this Act."

14. 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. 10 OF 1995

[Certified on 27th June, 1995]

### 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. 10 of 1995.
2. Section 4 of the Defence Levy Act, No. 52 of 1991 (hereinafter referred to as "the principal enactment") is hereby amended by the repeal of paragraph (d) of that section and the substitution therefor, of the following paragraphs:-

"(d) for every quarter commencing on or after January 1, 1994, but prior to July 1, 1995-

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

(e) for every quarter commencing on or after July 1, 1995 but prior to January 1, 1996,-

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

3. The Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefor:-

"Schedule

[Section 3]

Quarter	Rate
For the quarter commencing on January 1, 1992	1 <i>per centum</i>
For the quarter commencing on April 1, 1992	2 <i>per centum</i>
For any quarter commencing on or after July 1, 1992 but prior to January 1, 1994	3 <i>per centum</i>
For any quarter commencing on or after January 1, 1994 but prior to July 1, 1995	3.5 <i>per centum</i>
For any quarter commencing on or after July 1, 1995 but prior to January 1, 1996	4.5 <i>per centum</i> ."

4. 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. 13 OF 1995**

[Certified on 25th July, 1995]

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. 13 of 1995.
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, ON APRIL 1, 1993, AND ON APRIL 1, 1994," 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, ON APRIL 1, 1994, AND ON APRIL 1, 1995,".
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, 1995," of the words and figures "but ending not later than March 31, 1996,".
4. Section 3 of the principal enactment is hereby amended as follows:—
  - (1) in paragraph (v) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1993; and", of the words and figures "relevant year commencing on April 1, 1993, " ;
  - (2) in paragraph (vi) of that section, by the substitution, for the words and figures "relevant year commencing on April 1, 1994", of the words and figures "relevant year commencing on April 1, 1994, and" ; and
  - (3) by the addition, immediately after paragraph (vi) of that section, of the following paragraph:—

" (vii) (a) not less than fifty *per centum*, on or before August 15, 1995; and

(b) the balance, on or before November 15, 1995,

of the amount of the surcharge payable by him for the relevant year commencing on April 1, 1995."
5. Section 4 of the principal enactment is hereby amended as follows:—
  - (1) in paragraph (e) 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 (f) 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 (f) of that section, of the following paragraph:—

" (g) for the relevant year commencing on April 1, 1995—

(i) from the remuneration payable to such employee for the month of July, 1995,  $7\frac{1}{2}$  *per centum* ;

and

(ii) from the remuneration payable to such employee for the month of October, 1995,  $7\frac{1}{2}$  *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;
- (g) for the relevant year commencing on April 1, 1995—
  - (i) not less than  $7\frac{1}{2}$  per centum on or before August 15, 1995, and
  - (ii) not less than  $7\frac{1}{2}$  per centum on or before November 15, 1995,
 of the income tax payable by him under the Inland Revenue Act, for the year of assessment commencing on April 1, 1994;

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, and  
November 30, 1996, in the case of the relevant year commencing on April 1, 1995. ” .

7. Section 8 of the principal enactment is hereby amended by the repeal of sub-paragraph (b) of paragraph (1) of the definition of “income tax”, and the substitution therefor of the following sub-paragraph:—

(b) for the relevant year commencing respectively, on April 1, 1993, April 1, 1994 and April 1, 1995 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 for that year 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.

## EVIDENCE (SPECIAL PROVISIONS) ACT, NO. 14 OF 1995

[Certified on 31st July, 1995]

AN ACT TO PROVIDE FOR THE ADMISSIBILITY OF AUDIO VISUAL RECORDINGS, AND OF INFORMATION CONTAINED IN STATEMENTS PRODUCED BY COMPUTERS IN CIVIL AND CRIMINAL PROCEEDINGS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Evidence (Special Provisions) Act, No. 14 of 1995.
2. Notwithstanding anything contained to the contrary in the Evidence Ordinance or any other written law the provisions of this Act shall be applicable in respect of any matter provided for herein.
3. (1) For the determination of any matter arising out of the application of the provisions of this Act or incidental thereto and not provided for in this Act, the provisions of the Evidence Ordinance or any other law shall, where appropriate, and with suitable adaptations as the justice of the case may require, be adopted and applied.
- (2) For the purpose of applying the provisions of the Evidence Ordinance or other law for the determination of any matter not provided for in this Act, the provisions relating to documents or governing a like matter in the Evidence Ordinance or such other law shall with such suitable adaptations as the interests of justice may require, be adopted and applied in the case of a recording, reproduction, statement or other evidence admissible under this Act.
- (3) Where it is not appropriate or practical to adapt and apply the provisions of the Evidence Ordinance or other law as aforesaid for the determination of any matter not provided for in this Act, the court may in the exercise of its inherent power, determine such matter by making such order as the interests of justice may require.

### PART I

#### CONTEMPORANEOUS RECORDINGS

4. (1) In any proceeding where direct oral evidence of a fact would be admissible, any contemporaneous recording or reproduction thereof, tending to establish that fact shall be admissible as evidence of that fact, if it is shown that—
  - (a) the recording or reproduction was made by the use of electronic or mechanical means;
  - (b) subject to subsection (3) of this section, the recording or reproduction is capable of being played, replayed, displayed or reproduced in such a manner so as to make it capable of being perceived by the senses;
  - (c) at all times material to the making of the recording or reproduction the machine or device used in making the recording or reproduction, as the case may be, was operating properly, or if it was not, any respect in which it was not operating properly or out of operation, was not of such a nature as to affect the accuracy of the recording or reproduction;
  - (d) the recording or reproduction was not altered or tampered with in any manner whatsoever during or after the making of such recording or reproduction, or that it was kept in safe custody at all material times, during or after the making of such recording or reproduction and that sufficient precautions were taken to prevent the possibility of such recording or reproduction being altered or tampered with, during the period in which it was in such custody.
- (2) If the conditions set out in subsection (1) are satisfied, the recording or reproduction shall be admissible in evidence of the fact recorded or reproduced, whether or not such fact was witnessed by any person
- (3) Where any recording or reproduction referred to in subsection (1)—

- (a) cannot be played, replayed, displayed or reproduced in such a manner so as to make it capable of being perceived by the senses; or
  - (b) is capable of being so perceived but is unintelligible to a person not conversant in a specific science; or
  - (c) is of such nature that it is not convenient to perceive and receive in evidence, in its original form,
- the court may admit in evidence a transcript, translation, conversion or transformation, as the case may be of such recording or reproduction which is intelligible and is capable of being perceived by the senses.
- (4) A recording or reproduction shall be taken to have been made by the use of electronic or mechanical means, whether it was made by a single machine or device or by several machines or devices or by different machines or devices, in any combination, with or without the aid of any appropriate equipment or human intervention.
  - (5) Where evidence is admissible under the preceding provisions of this section, a duplicate of such evidence shall be admissible in the same manner and to the same extent as the source from which the duplicate is made.

## PART II

### COMPUTER EVIDENCE

- 5. (1) In any proceeding where direct oral evidence of a fact would be admissible, any information contained in any statement produced by a computer and tending to establish that fact shall be admissible as evidence of that fact, if it is shown that—
  - (a) subject to subsection (2), the statement in the form that it was produced, or the form in which it is reproduced, is capable of being perceived by the senses;
  - (b) at all material times the computer producing the statement was operating properly or, if it was not, any respect in which it was not operating properly or out of operation, was not of such a nature as to affect the production of the statement or the accuracy of the information contained therein;
  - (c) the information supplied to the computer was accurate and the information contained in the statement reproduces or is derived from, the information so supplied to the computer:

Provided that where information contained in the statement is shown to have been produced by the computer over a period during which the computer was used regularly to store or process information for the purpose of any activity carried on regularly over that period, it shall be sufficient to show that—

- (a) during the said period there was regularly supplied to the computer, in the ordinary course of such activity, information of the kind contained in the statement or of the kind from which the information so contained is derived; and
  - (b) the information contained in the statement reproduces, or is derived from, information regularly supplied to the computer in the ordinary course of such activity.
- (2) Where any statement referred to in subsection (1)—
    - (a) cannot be played, displayed or reproduced in such a manner so as to make it capable of being perceived by the senses;
    - (b) is capable of being so perceived but is unintelligible to a person not conversant in a specific science; or
    - (c) is of such a nature that it is not convenient to perceive and receive in evidence, in its original form,

the court may admit in evidence a transcript, translation, conversion or transformation, as the case may be, of such statement which is intelligible and is capable of being perceived by the senses.

- (3) Where evidence is admissible under the preceding provisions of this section a duplicate of such evidence shall be admissible in the same manner and to the same extent as the source from which the duplicate is made.
- (4) (a) Information contained in a statement shall be taken to have been produced by a computer, if such statement was produced by a single computer or several computers or any combination of computers or different computers operating in succession in any order, and all the computers used to produce the statement shall be treated, for the purpose of this Act, as constituting a single computer and any reference to a computer in this Act, shall be construed accordingly.
- (b) A statement shall be taken to have been produced by a computer whether it was produced by it directly, with or without human intervention, or by means of any appropriate equipment.
- (c) Information shall be taken to be supplied to a computer, if it is supplied thereto in any appropriate form, whether it is so supplied directly, with or without human intervention, or by means of any appropriate equipment.
- (d) Information shall be taken to be derived or reproduced from information supplied to a computer, if such information is derived or reproduced by calculation, comparison or by any other process of which the computer is capable of.
- (e) Where in the course of activities carried on by any person, information is supplied to a computer with a view to its being stored or processed for the purpose of those activities, by a computer operated otherwise than in the course of those activities, that information, if duly supplied to the computer, shall be taken to be supplied to it in the course of those activities.

### PART III

#### GENERAL PROVISIONS

6. (1) Where any party proposes to tender any evidence under section 4 or 5 of this Act in any proceeding, an affidavit dealing with any of the following matters, that is—
- (a) if such evidence consists of a recording or reproduction, that it is a contemporaneous recording of a fact sought to be proved in such proceeding or a reproduction thereof, and that the recording or reproduction satisfies the conditions set out in paragraphs (a), (b), (c) and (d) of subsection (1) of section 4;
- (b) if such evidence consists of a transcript, translation, conversion or transformation, as the case may be, of a recording or reproduction, that such recording or reproduction satisfies any of the conditions set out in subsection (3) of section 4;
- (c) if such evidence consists of a duplicate as provided for in subsection (5) of section 4, that such duplicate is authentic and has been produced by a duplicating process;
- (d) such evidence consists of information contained in any statement produced by a computer, that such statement was produced by a computer and that the conditions set out in paragraphs (a), (b) and (c) of subsection (1) of section 5 have been satisfied in respect of such statement and computer;
- (e) if such evidence consists of a transcript, translation, conversion or transformation, as the case may be, of a statement produced by a computer, that such statement satisfies any of the conditions set out in subsection (2) of section 6;
- (f) if such evidence consists of the duplicate as provided for in subsection (3) of section 5, that such duplicate is authentic and has been produced by a duplicating machine,

and purporting to be made by a person occupying a responsible position in relation to the operation of the relevant machine, device or computer or the management of the relevant activity, whichever is the case, shall be admissible in evidence without calling such person as a witness and shall be evidence of the matters stated therein.

- (2) For the purpose of this section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it:

Provided however the court may on application by the opposing party or of its own motion, examine the maker of the affidavit, and or any other person said to be acquainted with any of the matters set out in the affidavit, in open court touching any of the matters set out in the affidavit or any other relevant matter that may be connected with, or incidental thereto.

#### NOTICE, ACCESS AND INSPECTION

7. (1) The following provision shall apply where any party to a proceeding proposes to tender any evidence under section 4 or 5, in such proceeding-

- (a) the party proposing to tender such evidence shall not later than forty-five days before the date fixed for inquiry or trial file, or cause to be filed, in court, after notice to the opposing party, a list of such evidence as is proposed to be tendered by that party, together with a copy of such evidence or such particulars thereof as is sufficient to enable the party to understand the nature of the evidence;
- (b) any party to whom a notice has been given under the preceding provision may, within fifteen days of the receipt or such notice apply to the party giving such notice, to be permitted access to, and to inspect—
  - (i) the evidence sought to be produced;
  - (ii) the machine, device or computer, as the case may be, used to produce the evidence;
  - (iii) any records relating to the production of the evidence or the system used in such production;
- (c) upon receipt of the application to be permitted access to, and to inspect such evidence, machine, device, computer, records or system, the party proposing to tender such evidence shall, within reasonable time, but not later than fifteen days after the receipt of the application, comply with the request and provide a reasonable opportunity to the party applying or his agents or nominees to have access to, and inspect, such evidence, machine, device, computer, records or systems, as is mentioned in the application;
- (d) where the party proposing to tender such evidence is unable to comply, or does not comply with the application for access and inspection, or where the parties are unable to agree on any matter relating to the notice or the application for access and inspection or the manner and extent of the inspection, the court may on application made by either party, make such order or give such direction, as the interests of justice may require.

- (2) Save as provided for in sections 8 and 9 where any party proposing to tender any evidence under the provisions of this Act, fails to give notice as aforesaid, or upon application being made for access and inspection, fails to provide a reasonable opportunity therefor, or fails to comply with any order or direction given by court under paragraph (a), such party shall not be permitted to tender such evidence in respect of which the failure was occasioned.

#### ADMISSIONS

8. (1) In any proceeding it shall not be necessary for any party to tender any evidence of any fact which is admitted by the opposing party.
- (2) In any proceeding where it is proposed to tender any evidence under any provision of this Act to establish a fact, it shall not be necessary for the party tendering such evidence to show that the conditions set out in the

preceding provisions of this Act relating to the admissibility of such evidence have been satisfied, if the conditions relating to admissibility are not in dispute.

- (3) Where in any proceeding, a party to such proceeding tenders any evidence under this Act to establish a fact, and it is shown that such fact was within the knowledge of the opposing party but not admitted by him in such proceeding, the court shall award to the party tendering such evidence, the total costs incurred by him in tendering such evidence (in addition to any other costs that may be awarded to such party in such proceeding), whether or not the final judgment or order in such proceeding is in favour of such party.
9. The court may presume the accuracy of any recording, reproduction or statement produced by, or by the use of, a machine, device or computer which is in common use and where the court draws such presumption with respect to any recording, reproduction or statement, and in the absence of any evidence to the contrary, it shall not be necessary for any party proposing to tender such recording, reproduction or statement in evidence to show that the conditions set out in the preceding provisions of this Act, relating to the admissibility of such recording, reproduction or statement have been satisfied.
10. (1) Where any person in an affidavit tendered in evidence in any proceeding by virtue of section 6, wilfully makes a statement which he knows or believes to be false, or does not believe to be true, he shall be guilty of an offence under this Act and shall on conviction, after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding ten years and to a fine.
- (2) Nothing in this section shall be read or construed as derogating from, or limiting, the power of any court to punish for contempt of itself or of any other court.
11. In the event of any inconsistency between the Sinhala and Tamil text of the Act, the Sinhala text shall prevail.

#### PART IV

##### INTERPRETATION

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

“computer” means any device the functions of which includes the storing and processing of information;

“duplicate” means a counterpart, produced by the same impression as the original, or from the same matrix or by means of photography (including enlargements, reductions, and miniatures), or by electronic, mechanical or chemical reproduction or re-recording, or by other equivalent techniques which accurately reproduces the original;

“original” in relation to a recording or reproduction or statement produced by a computer, means the recording or reproduction or the statement itself or any transcript, translation, conversion, transformation or duplicate thereof intended to have the same effect by a person executing or issuing it; and includes in relation to an audio or visual recording, the negative or any print therefrom, and in relation to a statement produced by a computer, the printout or other output readable by sight or audible by ear;

“statement” includes any representation of fact whether made in words or otherwise.

# **SRI LANKA ACCOUNTING AND AUDITING STANDARDS ACT, NO. 15 OF 1995**

[Certified on 25th August, 1995]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF SRI LANKA ACCOUNTING STANDARDS AND SRI LANKA AUDITING STANDARDS; TO ESTABLISH THE SRI LANKA ACCOUNTING STANDARDS MONITORING BOARD; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995.
2. (1) The Institute of Chartered Accountants of Sri Lanka (hereinafter referred to as the "Institute") shall, from time to time, adopt such accounting standards (hereinafter referred to as "Sri Lanka Accounting Standards") as may be necessary for the purpose of maintaining a uniform and high standard in the preparation and presentation of accounts of business enterprises.  
(2) The Sri Lanka Accounting Standards adopted under subsection (1) shall be published in the *Gazette* and shall become effective from and after the date of such publication or such later date as may be specified therein.
3. (1) The Institute shall, from time to time, adopt appropriate auditing standards (hereinafter referred to as "Sri Lanka Auditing Standards") as may be necessary to govern the conduct of the audit of accounts of business enterprises.  
(2) The Sri Lanka Auditing Standards adopted under subsection (1) shall be published in the *Gazette* and shall become effective from and after the date of such publication or such later date as may be specified therein.
4. (1) The Institute shall, whenever necessary revise, alter and amend the Sri Lanka Accounting Standards and Sri Lanka Auditing Standards adopted by it under this Act and shall cause such revised, altered or amended standards to be published in the *Gazette*, and such revisions, alterations and amendments shall become effective from and after the date of such publication or such later date as may be specified therein.  
(2) The Institute shall notify the public of the Sri Lanka Accounting Standards and the Sri Lanka Auditing Standards and of the revisions, alterations and amendments made thereto, by notice published in the *Gazette* or in such other manner as is calculated to give publicity thereto.
5. The standards adopted by the Institute under sections 2 and 3 of this Act shall be applicable to all business enterprises specified in the Schedule to this Act (hereinafter referred to as "specified business enterprises").
6. (1) It shall be the duty of every specified business enterprise to prepare its accounts in compliance with the Sri Lanka Accounting Standards and take all necessary measures to ensure that its accounts are audited in accordance with the Sri Lanka Auditing Standards with the object of presenting a true and fair view of the financial performance and financial condition of such enterprise.  
(2) Any specified business enterprise which acts in contravention of the provisions of subsection (1) shall be guilty of an offence under this Act.
7. (1) The accounts of every specified business enterprise shall be audited by professionally qualified auditors who shall be members of the Institute holding a certificate to practise, issued by the Institute, and it shall be the duty of such auditors to certify in their audit report that the audit has been conducted in accordance with the Sri Lanka Auditing Standards and that accounts have been prepared and presented in accordance with the Sri Lanka Accounting Standards.  
(2) Where any qualified auditor fails to comply with the Sri Lanka Accounting Standards and the Sri Lanka Auditing Standards as required by subsection (1), he shall specify clearly the deviations made and give reasons for such deviations.

8. (1) An Accounting Standards Committee consisting of such members as are specified in subsection (2) is hereby established and such Committee shall make recommendations and otherwise assist the Institute in the adoption of accounting standards under section 2 of this Act.
- (2) The Accounting Standards Committee shall consist of—
- (a) the President of the Institute and five other members of the Institute nominated by the Council of such Institute;
  - (b) one member nominated by the Sri Lanka Division of the Chartered Institute of Management Accountant of the United Kingdom;
  - (c) the Registrar of Companies;
  - (d) the Director-General of the Securities and Exchange Commission of Sri Lanka;
  - (e) one member to represent the Central Bank nominated by the Governor of the Central Bank;
  - (f) one member who shall be a director of a company or person having extensive experience at senior managerial level in a specified business enterprise, nominated by the Ceylon Chamber of Commerce; and
  - (g) one member who shall be a director of a company or a person having extensive experience at a senior level in a specified business enterprise, nominated by the Federation of Chambers of Commerce and Industry of Sri Lanka.
- (3) Notwithstanding the provisions of subsection (1), the Accounting Standards Committee shall, where it is called upon to make recommendations regarding accounting standards to be adopted in respect of licensed commercial banks or other financial institutions coming within the supervisory control of the Central Bank, consult the Central Bank and obtain its concurrence, before making such recommendations.
9. (1) An Auditing Standards Committee consisting of such members as are specified in subsection (2) is hereby established and such Committee shall make recommendations and otherwise assist the Institute in the adoption of Auditing Standards under section 3 of this Act.
- (2) The Auditing Standards Committee shall consist of eight members of the Institute nominated by the Council of such Institute, at least four of whom shall be members of the Accounting Standards Committee nominated under paragraph (a) of subsection (2) of section 8.
- (3) Notwithstanding the provisions of subsection (2), the Institute may, as and when it considers necessary, co-opt any person with special experience in the field of auditing to serve in the Auditing Standards Committee.
10. (1) A member nominated to the Accounting Standards Committee or the Auditing Standards Committee (in this section referred to as “a nominated member”) may resign from such Committee by a letter addressed to the person nominating him.
- (2) A nominated member of the Accounting Standards Committee or the Auditing Standards Committee shall serve on such Committee for a period of four years and shall be eligible for renomination.
- (3) A person nominated to the Accounting Standards Committee or the Auditing Standards Committee in place of a nominated member, who dies or resigns from such Committee, shall serve on such Committee for the unexpired period of the term of the nominated member whom he succeeds.
11. (1) There shall be established a board which shall be called and known as the “Sri Lanka Accounting and Auditing Standards Monitoring Board”. (hereinafter referred to as “the Board”.)
- (2) The Board shall by the name assigned to it by subsection (1) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

**12. (1)** The Board shall consist of the following members:-

- (a) three members (hereinafter referred to as "*ex-officio* members") who shall be the persons holding office as—
  - (i) the Registrar of Companies;
  - (ii) the Commissioner-General of Inland Revenue; and
  - (iii) the Director-General of the Securities and Exchange Commission of Sri Lanka;
- (b) ten members appointed by the Minister (hereinafter referred to as "appointed members") and consisting of—
  - (i) an officer of the Central Bank nominated by the Governor of the Central Bank;
  - (ii) three members of the Institute selected from among persons nominated by the Institute;
  - (iii) a member of the Chartered Institute of Management Accountants of the United Kingdom selected from among three members nominated by the Sri Lanka Division of the Institute;
  - (iv) one senior lawyer selected from among three senior lawyers nominated by the Bar Association of Sri Lanka;
  - (v) two company directors or other persons with extensive managerial experience at senior level in a specified business enterprise one of whom shall be selected from a panel of three names submitted by the Ceylon Chamber of Commerce, and the other from a panel of three names submitted by the Federation of Chambers of Commerce and Industry of Sri Lanka;
  - (vi) one senior banker selected from a panel of three bankers nominated by the Sri Lanka Banks' Association; and
  - (vii) one person selected from a panel of three persons nominated by the University Grants Commission established by the Universities Act, No. 16 of 1978, to represent the Departments Faculties and Postgraduate Institute of Accounts or Business Management or Business Administration in Universities coming within its purview.

(2) The Minister shall appoint one of the appointed members of the Board to be the Chairman of the Board.

**13. (1)** Every appointed member of the Board shall, unless he vacates office earlier by death, resignation or removal, hold office for a period of four years.

**14. (1)** The Minister may, by Order published in the *Gazette* remove any appointed member of the Board from office without assigning any reason therefor.

(2) A member in respect of whom an Order under subsection (1) is made, shall be deemed to have vacated office on the date of publication of such Order in the *Gazette*.

**15.** An appointed member may at any time resign his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister.

**16.** An appointed members who vacates office, otherwise than by removal, shall be eligible for reappointment.

**17.** In the event of vacation of office by death, resignation or removal of any appointed member of the Board, the Minister may having regard to the provisions of paragraph (b) of subsection (1) of section 12, appoint any other person to succeed such member. Any member so appointed in place of such member, shall hold office for the unexpired period of the term of office of the member whom he succeeds.

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

(2) The quorum for any meeting of the Board shall be not less than six members of the Board.

- (3) Subject to the provisions of this section the Board may regulate the procedure in regard to the meetings and the transaction of business at such meetings.
  - (4) No act, decision or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any member thereof.
  - (5) The Chairman of any meeting of the Board shall, in addition to his own vote, have a casting vote.
- 19.** The members of the Board shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.
- 20.** (1) If the Chairman of the Board becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another member of the Board to act in his place.
- (2) The Minister may, without assigning any reason therefor, remove the Chairman from the office of Chairman.
  - (3) The Chairman may at any time resign from the office of Chairman by letter addressed to the Minister.
  - (4) Subject to the provisions of subsections (2) and (3), the term of office of the Chairman shall be his period of membership of the Board.
- 21.** (1) The seal of the Board shall be in the custody of the Chairman of the Board.
- (2) The seal of the Board may be altered in such manner as may be determined by the Board.
  - (3) The seal of the Board shall not be affixed to any instrument or document except in the presence of three members of the Board all of whom shall sign the instrument in token of their presence.
- 22.** The Board shall, subject to the provisions of this Act—
- (a) appoint such officers and servants as it may consider necessary for the performance or discharge of its duties and functions and may exercise disciplinary control over them;
  - (b) fix the amounts to be paid as remuneration to the officers and servants so appointed;
  - (c) determine the terms and conditions of service of such officers and servants;
  - (d) establish and regulate provident funds or schemes for the benefit of such officers and servants and make contributions to any such fund or scheme.
- 23.** The function of the Board shall be to monitor the compliance with the Sri Lanka Accounting Standards and the Sri Lanka Auditing Standards, by specified business enterprises.
- 24.** The Board shall have power—
- (a) to acquire and hold, any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise and to sell, mortgage, assign, exchange or otherwise dispose of the same;
  - (b) to enter into such contracts and agreements as may be necessary for the discharge of its functions;
  - (c) to do all such acts or things as may be necessary in the opinion of the Board for the proper discharge of its functions.
- 25.** (1) It shall be duty of every specified business enterprise to submit to the Board a copy of the annual accounts of such enterprise to enable the Board to determine whether the accounts have been prepared in compliance with the Sri Lanka Accounting Standards.
- (2) For the purpose of enabling the Board to perform its duty under subsection (1), the Board or any person authorized in that behalf by the Board may by notice in writing issued not later than one year after a

specified business enterprise has submitted its relevant accounts to the Board, require such specified business enterprise or its auditors to furnish to the Board or to the person authorized by the Board, within such time, as shall be specified in the notice, any information pertaining to its accounts and it shall be the duty of such specified business enterprise or its auditors, as the case may be, to comply with such requirement within the time specified in the notice.

- (3) The Board shall have the power for the purpose of performing its duties under subsection (1) to summon and question any director, officer or auditor of any specified business enterprise on any matter pertaining to the preparation or presentation of its accounts.

**26.** The Board or any person duly authorized in that behalf may carry out such investigations or hold such inquiries as it may by notice in writing consider necessary or expedient for the performance of its duties under this Act, and for such purpose may summon and call upon any director, officer or auditor of any specified business enterprise to appear before it at any such investigation or inquiry or to produce any such books or documents in the possession or control of such director, officer or auditor as are required for the purpose of such investigation or inquiry.

**27. (1)** Every—

- (a) person who fails to comply with, or contravene, the provisions of section 6 or section 7 or subsection (1) of section 25;
- (b) person who fails to comply with any requirement imposed on him under subsection (2) of section 25 or knowingly furnishes any false information in compliance with any such requirement;
- (c) director, officer or auditor of a specified business enterprise who fails to appear before the Board when required to do so under subsection (3) of section 25 or section 26, or who refuse to answer any question put to him by the Board or a person duly authorised by the Board or who refuses to produce any book or document in his possession or control when required to do so by the Board or a person duly authorised by the Board or knowingly gives any false answer to any question put to him by the Board or a person duly authorised by the Board,

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 five hundred thousand rupees.

- (2) Where a person is convicted of an offence under this Act and the court holds that the act constituting such offence was done with the intention of misleading the shareholders of a specified business enterprise or any financial institution dealing with such specified business enterprise or the Inland Revenue Department or where a licensed commercial bank is convicted of an offence under this Act and the court holds that the act constituting the offence was done with the intention of misleading the depositors of such bank, the court may sentence the offender to imprisonment of either description for a term not exceeding five years.
- (3) Where an offence under this Act, is committed by a body corporate, any person who is at the time of the commission of the offence, a director, manager, secretary or other similar officer of that body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and all the circumstances of the case.

**28. (1)** the Board may, having regard to the circumstance in which offence under this Act is committed compound such offence for a sum of money not exceeding one-third of the fine imposable for such offence and all sums of money received by the Board in the compounding of an offence under this section shall be credited to the Fund of the Board.

- (2) Where the Board is satisfied that a specified business enterprise or an auditor has contravened any provision of this Act and that such contravention is not of a serious nature it may—

- (a) direct such specified business enterprise to have its accounts re-audited or where such accounts have

been published, to republish them or to include suitable correction in its accounts for the following year; or

- (b) where such specified business enterprise is a public company, direct such public company to send a notification in writing to all its shareholders explaining the reason for such non-compliance and the financial effect of such non-compliance on the accounts of such public company and where such specified business enterprise is a public company listed in a stock exchange licensed by the Securities and Exchange Commission of Sri Lanka, to send in addition, a copy of such notification to such Commission and such stock exchange.

29. Where any accountant of any specified business enterprise violates any provision of this Act, it shall be duty of the Board to bring such violation to the notice of any professional body of which such accountant is a member for the purpose of enabling such body to take appropriate action against such accountant.

30. Where any specified business enterprise has failed to act in compliance with provisions of this Act, it shall be the duty of the Board to bring such fact to the notice—

- (a) of any authority which is empowered by law to regulate or supervise the activities of such specified business enterprise; and
- (b) of the Inland Revenue Department, if the Board considers that such non-compliance has resulted in a substantial reduction of the tax liabilities of such specified business enterprise.

31. (1) There shall be charged, levied and paid, by every specified business enterprise, a cess of such amount as may be determined by the Minister from time to time, by Order published in the *Gazette*; and which shall consist of a percentage of the shareholders equity as shown in the balance sheet of such enterprise for the previous year or a percentage of its after tax profits as shown in the profit and loss account of such enterprise for the previous year, whichever is higher.

- (2) Every Order made under this section shall come into force on the date of its publication in the *Gazette* or such later date as may be specified therein and shall be brought before Parliament for its approval within two months of its publication. Any Order which is not so approved shall be deemed to be revoked from the date of disapproval but without prejudice to the validity of any thing previously done thereunder. Notification of the date on which an Order is so disapproved shall be published in the *Gazette*.

32. (1) The Board shall have its own Fund. There shall be credited to the Fund of the Board—

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Board;
- (b) all such sums of money received by the Board as proceeds of the cess imposed under section 31; and
- (c) all such sums of money as may be received by the Board in the exercise and performance of its powers and duties under the Act.

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

33. (1) The financial year of the Board shall be the calendar year.

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

34. The Board shall, at the end of each financial year publish a report of its activities during the year and it shall be submitted to the Minister for approval. On being approved by the Minister, the Minister shall cause such report to be laid before Parliament.

35. (1) No suit or prosecution shall lie—

- (a) against the Board for any act which in good faith is done, or purported to be done, by the Board under this Act; or
  - (b) against any member, officer or servant of the Board for any act which is done, or purported to be done by him in good faith under this Act or on the direction of the Board.
- (2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the Fund of the Board, and any costs paid to or recovered by, the Board in any such suit or prosecution shall be credited to the Fund of the Board.
- (3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the Fund of the Board, unless such expense is recovered by him in such suit or prosecution.
36. All members, officers and servants of the Board shall be deemed to be public servants within the meaning and for the purpose of the Penal Code.
37. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.
38. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.
- (2) Every regulation made by this Act shall be published in the *Gazette* and shall come into operation on the date of its publication or on such later date as may be specified in the regulation.
- (3) Every regulation made by the Minister shall as soon as convenient after its publication be laid before Parliament for approval. Any regulation which is not approved shall be deemed to be rescinded from the date of such disapproval but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.
39. In the event of an inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
40. In this Act, unless the context otherwise requires—
- “Central Bank” means the Central Bank of Sri Lanka established under the Monetary Law Act;
- “company” shall have the same meaning as in the Companies Act, No. 17 of 1982;
- “Ceylon Chamber of Commerce” means the Ceylon Chamber of Commerce incorporated by the Chamber of Commerce Ordinance;
- “Factoring Company” means a company which—
- (a) assumes responsibility for the trade debts of a client company;
  - (b) assumes responsibility for the trade debts due to the client company, thereby relieving the client of the risk of loss;
  - (c) takes over client’s trade debts and in certain circumstances, advances a portion of their value immediately, and the balance on maturity of debts;
  - (d) purchases a debt or a number of debts from a client, usually in order to improve the client’s cash flow; or
  - (e) underwrites a client’s trade debt with or without recourse;
- “Fund Management Company” means a company which manages portfolios of their client in investing in range of assets to suit the clients preferences and needs;

“Institute of Chartered Accountants” means the Institute of Chartered Accountants established by the Institute of Chartered Accountants Act, No. 23 of 1959;

“licensed commercial bank” means a public company licensed to carry on banking business under the Banking Act, No. 30 of 1988;

“prescribed” means prescribed by regulation made by the Minister;

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

“Securities and Exchange Commission” means the Securities and Exchange Commission established by the Securities and Exchange Commission Act, No. 36 of 1987;

“share-holders’ equity” when used in relation to a public company, means the issued capital of that company and its reserves.

## SCHEDULE

[Section 5]

Companies licensed under the Banking Act, No. 30 of 1988.

Companies authorized under the Control of Insurance Act, No. 25 of 1962, to carry on insurance business.

Companies carrying on leasing business.

Factoring companies.

Companies registered under the Finance Companies Act, No. 78 of 1988.

Companies licensed, under the Securities and Exchange Commission Act, No. 36 of 1987, to operate unit trust.

Fund Management Companies.

Companies licensed under the Securities and Exchange Commission Act, No. 36 of 1987, to carry on business as stock brokers or stock dealers.

Companies licensed under the Securities and Exchange Commission Act, No. 36 of 1987, to operate a Stock Exchange.

Companies listed in a Stock Exchange licensed under the Securities and Exchange Commission Act, No. 36 of 1987.

Companies, not listed in a stock exchange licensed under the Securities and Exchange Commission Act, No. 36 of 1987—

- (a) which have a turnover in excess of the prescribed limit;
- (b) which at the end of the previous financial year, had shareholders equity in excess of the prescribed limit;
- (c) which at the end of the previous financial year, had gross assets in excess of the prescribed limit;
- (d) which at the end of the previous year, had liabilities to banks and other financial institutions, in excess of the prescribed limit;
- (e) which have a staff in excess of the prescribed limit.

Public Corporation engaged in the sale of goods or the provision of services.

A group of companies, any one of which fall within any of the above categories. For the purposes of this Schedule, “a group of companies” means a holding company and its subsidiaries, the accounts of which have to be consolidated under section 147 of the Companies Act, No. 17 of 1982.

## FINANCE ACT, NO. 16 OF 1995

[Certified on 31st August, 1995]

AN ACT TO ENACT THE PROVISIONS OF LAW NECESSARY TO GIVE LEGAL FORCE TO CERTAIN PROPOSALS FINANCIAL AND OTHERWISE, FOR THE FINANCIAL YEAR COMMENCING ON JANUARY 1, 1995.

1. This Act may be cited as the Finance Act, No. 16 of 1995.

### CHAPTER 1

#### PART I

##### IMPOSITION OF DIESEL MOTOR VEHICLE LEVY

2. There shall be charged, levied and paid, on every diesel motor vehicle, for every year commencing on or after April 1, 1995, a diesel motor vehicle levy (in this Part referred to as "the levy") of a sum equal to ten thousand rupees. The levy payable for every such year shall be paid by the registered owner of the diesel motor vehicle, on or before the relevant date:

Provided that where a diesel motor vehicle is registered, by the Commissioner, under this Chapter, in any year, as being used for the transport, of children to or from schools or of office staff to or from offices or places of work or of goods, the levy payable on such diesel motor vehicle, for such year, shall be five thousand rupees.

#### PART II

##### IMPOSITION OF A LUXURY MOTOR VEHICLE LEVY, SEMI-LUXURY MOTOR VEHICLE LEVY AND SEMI-LUXURY DUAL PURPOSE MOTOR VEHICLE LEVY

3. There shall be charged, levied and paid, on every luxury motor vehicle, (other than a semi-luxury dual purpose motor vehicle) for every year commencing on or after April 1, 1995, but not more than seven years, a luxury motor vehicle levy (in this section referred to as "the levy") at the respective rates set out in the First Schedule to this Act. The levy payable for every such year shall be paid by the registered owner of the luxury motor vehicle on or before the relevant date.
4. There shall be charged, levied and paid, on every semi-luxury motor vehicle for every year commencing on or after April 1, 1995, but for not more than seven years, a semi-luxury motor vehicle levy (in this section referred to as "the levy") at the respective rates set out in the Second Schedule to this Act. The levy payable for every such year shall be paid by the registered owner of the semi-luxury motor vehicle on or before the relevant date.
5. There shall be charged, levied and paid, on every semi-luxury dual purpose motor vehicle, for every year commencing on or after April 1, 1995, but for not more than seven years, a semi-luxury dual purpose motor vehicle levy (in this section referred to as "the levy") at the respective rates set out in the Third Schedule to this Act. The levy payable for every such year shall be paid by the registered owner of the semi-luxury dual purpose motor vehicle on or before the relevant date.

#### PART III

##### COLLECTION OF LEVY

6. For the purposes of this Part of this Chapter "levy" includes the diesel motor vehicle levy, luxury motor vehicle levy, semi-luxury motor vehicle levy and semi-luxury dual purpose motor vehicle levy and any penalty added thereto.
7. Subject to the provisions of section 8, the registered owner of every specified motor vehicle shall pay the levy payable by him for any year, commencing on or after April 1, 1995, on or before the relevant date, to the Commissioner.

8. (1) Every insurer who insures or renews an insurance policy in respect of any specified motor vehicle shall—
- (a) at the time at which he insures or renews an insurance policy in respect of a specified motor vehicle, collect from the registered owner of such vehicle an amount equal to the levy payable by such registered owner, on such specified motor vehicle;
  - (b) remit the amount so collected to the Commissioner on or before the fifteenth day of the month immediately succeeding the month in which the amount was collected, together with a declaration in such form and containing such particulars as may be specified by the Commissioner.
- (2) Every insurer who collects any amount in accordance with the provisions of subsection (1), shall duly acknowledge the receipt of the amount so collected, in such manner as may be specified by the Commissioner.
- (3) Any amount collected by any insurer from any registered owner of a specified motor vehicle in accordance with the provisions of subsection (1), shall be deemed to have been paid to the Commissioner by such registered owner on the date on which such insurer collected such amount.
- (4) Notwithstanding anything in any other law, any amount collected by any insurer under the preceding provisions of this section and held by such insurer for remittance to the Commissioner shall be deemed not to be such property of such insurer as is liable to execution or administration in the event of the bankruptcy, liquidation or dissolution of the business of such insurer or to assignment for the benefit of creditors and such amount shall remain apart from, and form no part of, the estate in bankruptcy, liquidation or assignment of such insurer.
- (5) Where any insurer fails to collect, from any registered owner of a specified motor vehicle the levy required to be collected from such registered owner under this Act or where any insurer has collected such amount and has not remitted the amount so collected to the Commissioner on or before the fifteenth day of the month immediately succeeding the month in which such amount was collected, such insurer shall be liable to the amount he was required to collect under the provisions of this Act but has not collected, or as the case may be, for the amount or part thereof, collected and not remitted to the Commissioner and such amount not collected or collected and not remitted, as the case may be, shall be deemed to be in default from the day following the day on which such amount was required to have been remitted to the Commissioner and such insurer shall be deemed to be a defaulter, with the meaning of this Act with effect from such date.
- (6) Where any insurer is deemed to be a defaulter, under the provisions of subsection (5), the amount of the levy in default, may be recovered from such insurer, in the manner provided for in section 10 and section 11.
9. The registered owner of every specified motor vehicle shall produce to the insurer at the time he applies for the issue or renewal of an insurance policy in respect of such motor vehicle for any year, proof of payment of the levy in respect of that specified motor vehicle, for that year.
10. (1) Where the levy payable by the registered owner of a specified motor vehicle, for any year commencing on or after April 1, 1995, is not paid by him on or before the relevant date, the levy shall be deemed to be in default and such registered owner shall be deemed to be a defaulter with effect from such date.
- (2) Where any levy is deemed to be in default by reason of the operation of subsection (1), the defaulter shall, in addition to the levy, be liable to pay a penalty of an amount equal to fifty *per centum* of the levy.
  - (3) Where any levy payable under this Chapter of this Act is in default, the Commissioner shall before proceeding to recover such levy as provided in section 11, require the defaulter by notice in writing to pay the levy in default within the period specified in such notice.
  - (4) A notice shall be deemed to have been duly served on the registered owner of any specified motor vehicle if such notice was served on him personally or was sent by registered post addressed to him at the address

set out in the Certificate of Registration of that vehicle. In the case of a notice sent by registered post, the notice shall be deemed to have been received by the defaulter on the date on which it would ordinarily be delivered to him.

11. Where the amount of the levy, has not been paid before the expiry of the date referred to in a notice sent under section 10, the Commissioner may issue a certificate, containing the amount of such levy and the name and last known place of residence of the registered owner who has failed to pay such levy, to a Magistrate having jurisdiction in the division in which such place is situated. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the levy should not be taken against him, and in default of sufficient cause being shown the levy in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 [except paragraphs (a), (d) and (i) thereof] of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

#### PART IV

##### MISCELLANEOUS

12. (1) A registered owner of a diesel motor vehicle may make an application to the Commissioner, for the purpose of registering such vehicle as being a vehicle which is being regularly used, for the transport of children to and from schools, or of office staff to and from offices or places of work, not less than six in number, or of goods. A declaration that any such vehicle is to be used regularly for such purpose and the number of children or officers as the case may be, transported in such vehicle shall be attached thereto.
- (2) The Commissioner shall on receipt of an application and declaration made in the specified form, under subsection (1) and on being satisfied as to the truth of the averments made therein register such vehicle, as being used regularly for the purpose referred to in the application, during the year in respect of which the application is made.
- (3) Where the Commissioner finds that the registered owner of a diesel motor vehicle has made a false or incorrect statement in any application or declaration made by him under subsection (1), or that such diesel motor vehicle is not being used for the purpose for which it has been registered, the Commissioner may, after affording such registered owner an opportunity of being heard, cancel the registration made in respect of such diesel motor vehicle, under subsection (2). Every such cancellation shall be effective from the date of commencement of the year in respect of which such registration was made.
13. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed.
- (2) Every regulation under subsection (1) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such regulation and shall be brought before Parliament within a period of three months from the date of the publication of such regulation in the *Gazette*, or, if no meeting of Parliament is held within such period, at the first meeting of Parliament held after the expiry of such period, by a motion that such regulation shall be approved. There shall be set out in a Schedule to every such motion the text of the regulation to which the motion refers.
- (3) Any regulation under subsection (1) which Parliament refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder, Notification of the date on which any such regulation is deemed to be revoked shall be published in the *Gazette*.
14. The provisions of this Chapter shall not apply to the registered owner of any specified motor vehicle where such registered owner is the Government of any foreign state or, the United Nations or any of its agencies or the representative in Sri Lanka, not being a citizen of Sri Lanka, (by whatsoever name, title or designation called) of the Government of any foreign state or of the United Nations or any of its agencies or the Trade Commissioner

or Consular Officer in Sri Lanka of any such Government or of the United Nations or any of its agencies or any person, not being a citizen of Sri Lanka, on the staff of any such representative or Commissioner or Consular officer of any such Government of any such foreign state or of the United Nations or of any of its agencies, or any specified international organization or its representative not being a citizen of Sri Lanka.

For the purposes, of this section a "specified international organization" means an organisation which is specified as such by the Minister in consultation with the Minister in charge of the subject of Finance, by Notice published in the *Gazette*.

15. The Commissioner shall be in charge of the administration of this Act.

16. Where the registered owner of a specified motor vehicle is required to pay, on or after April 1, 1995, but prior to the date of commencement of this Act, a levy in respect of such motor vehicle, such registered owner shall be deemed, for all purposes, to have complied with such requirement, if he pays the levy to the Commissioner within three months of the date of commencement of this Act. Where any such levy is not so paid, such levy shall be deemed to be in default after the expiration of a period of three months from the date of commencement of this Act, and such registered owner shall be deemed to be a defaulter within the meaning of this Act with effect from such date.

17. In this Chapter of this Act, unless the context otherwise requires—

"Commissioner" means the Commissioner of Motor Traffic appointed under the Motor Traffic Act;

"diesel motor vehicle" means a motor vehicle which uses, or is adapted to use diesel;

"insurer" means the Sri Lanka Insurance Corporation Limited incorporated as a public company under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987 by Order published in *Gazette Extraordinary* 754/7 of February 16, 1993 or a subsidiary or independent corporation established under the Insurance (Special Provisions) Act. No. 22 of 1979 or any company registered under the Control of Insurance Act, No. 25 of 1962 as being authorized to transact insurance business;

"land vehicle" means any motor vehicle adapted for the use on any terrain the model and the cylinder capacity of which is prescribed;

"luxury motor vehicle" means any diesel motor vehicle the cylinder capacity of which exceeds—2,500 c.c. or a petrol motor vehicle the cylinder capacity of which exceeds 2,000 c.c. other than a land vehicle;

"Minister" means the Minister in charge of the subject of transport;

"motor cycle", "motor tricycle", "motor ambulance", "motor hearse" and "invalid carriage" have the respective meanings assigned to them by the Motor Traffic Act;

"motor vehicle" means any mechanically propelled vehicle, not being a motor cycle, motor tricycle, motor ambulance, motor hearse or invalid carriage, lorry, tractor, hand tractor or trailer which is constructed or adapted for the carriage of not more than nine persons (including the driver) and their effects;

"petrol motor vehicle" means a motor vehicle which uses or is adapted to use petrol;

"registered" means registered under the Motor Traffic Act;

"relevant date"—

- (a) in relation to a specified motor vehicle registered on or after April 1, 1995 and the year in which it is registered, means the date on which such specified motor vehicle is registered;
- (b) in relation to a specified motor vehicle registered on or after April 1, 1995 and any year subsequent to the year in which it is registered means the date in such subsequent year which corresponds to the date on which such specified motor vehicle was registered or where there is no corresponding date in such

subsequent year, the date in such subsequent year which corresponds to the date succeeding the date on which such specified motor vehicle was registered;

- (c) in relation to a specified motor vehicle registered before April 1, 1995 and any year commencing on or after April 1, 1995, means the date in such year which corresponds to the date on which such specified motor vehicle was registered or where there is no corresponding date in such year, the date in such year which corresponds to the date succeeding the date on which such specified motor vehicle was registered;

“semi-luxury dual purpose motor vehicle” means a luxury motor vehicle which is registered as a dual purpose motor vehicle,

“semi-luxury motor vehicle” means any diesel motor vehicle the cylinder capacity of which exceeds 2,200 c.c. but does not exceed 2,500 c.c. or a petrol motor vehicle the cylinder capacity of which exceeds 1,800 c.c. but does not exceed 2,000 c.c.; and shall be deemed to include a land vehicle;

“specified motor vehicle” means any diesel motor vehicle, any luxury motor vehicle, any semi-luxury motor vehicle or any semi-luxury dual purpose motor vehicle;

“year” means the period of twelve months commencing on April 1st of any year and ending on March 31st of the succeeding year.

## CHAPTER II

### IMPOSITION AND COLLECTION OF CESS ON TEXTILES AND TEXTILE PRODUCTS EXPORTED UNDER A TEXTILE QUOTA ALLOCATION

18. There shall be charged, levied and paid, with effect from April 1, 1995, on every textile and textile product exported from Sri Lanka, under a textile quota allocation, a cess at such rates as are set out in the Fourth Schedule to this Act.
19. (1) The cess payable under section 18 on any textile or textile product exported under a textile quota allocation, shall be paid to the relevant authority, by the registered exporter to whom such textile quota allocation has been issued. Such cess shall be paid by such registered exporter after he has exported such textile or textile product and at the time he applies to the relevant authority, for an export licence or other documentation to prove that such export was under a textile quota allocation.
- (2) The relevant authority shall acknowledge in the manner specified by the authority, all cesses received by him under this Act.
20. Where the registered exporter fails or refuses to pay any cess he is liable to pay under section 18, to the relevant authority, at the time he applies for the licence or other documentation referred to in section 19, it shall be lawful for the relevant authority to refuse to issue such licence or other documentation to such registered exporter and for the Textile Quota Board to cancel any textile quota allocation issued to such registered exporter and for the time being in force.
21. The relevant authority shall cause all cesses collected by him under this Act to be credited to the Consolidated Fund.
22. All cesses payable under this Act on textile and textile products exported from Sri Lanka, after April 1, 1995 and prior to the date of commencement of this Act, and recovered from a registered exporter prior to the date of commencement of this Act, shall be deemed, for all purposes, to have been, and to be validly recovered.
23. A registered exporter liable to pay any cess under this Act on any textile or textile product exported by him during the period commencing on April 1, 1995 and ending on the date of commencement of this Act, shall pay such cess to the relevant authority, within three months of the date of commencement of this Act. Where a registered exporter fails to pay such cess within such period, the Textile Quota Board may cancel any textile quota allocation issued to such registered exporter and for the time being in force.

**24.** In this Chapter of this Act under the context otherwise requires—

“Board of Investment of Sri Lanka” means the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978;

“registered exporter” means an exporter of textile and textile products registered with the Ministry of the Minister in charge of the subject of Textile Industries or the Board of Investment of Sri Lanka, as the case may be;

“relevant authority”—

(a) in relation to an exporter registered with the Board of Investment of Sri Lanka, means the Director-General of the Board of Investment of Sri Lanka: and

(b) in relation to an exporter registered with the Ministry of the Minister in charge of the subject of Textile Industries, means the Secretary to such Ministry;

“textile export quota” means the entitlement to export, from Sri Lanka to any other country, a specified quantity of textiles and textile products, during a specified period of time, under, and in accordance with, an agreement between the Government of Sri Lanka and the Government of that other country;

“textile product” means a product made out of any or all of the following:—

cotton, wools, man-made fibre, silk blend fibre or other vegetable fibre;

“textile quota allocation” means any authorization issued by the Textile Quota Board enabling a registered exporter to export to another country, a specified quantity of textiles or textile products, during a specified period of time, under the textile export quota applicable to that country;

“Textile Quota Board” means the Textile Quota Board appointed by the Minister to administer and manage the textile export quota and includes a sub-committee thereof.

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

**RECOVERY OF LOANS BY BANKS (SPECIAL PROVISIONS)  
(AMENDMENT) ACT, NO. 24 OF 1995**

[Certified on 16th November, 1995]

AN ACT TO AMEND THE RECOVERY OF LOANS BY BANKS (SPECIAL PROVISIONS) ACT, NO. 4 OF 1990

1. This Act may be cited as the Recovery of Loans by Banks (Special Provisions) (Amendment) Act, No. 24 of 1995.
2. Section 22 of the Recovery of Loans by Banks (Special Provisions) Act, No. 4 of 1990, is hereby amended, by the substitution, for the definition of the word "bank" of the following definition:—  
    ' "bank" means—
  - (a) a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988, other than any bank established under the provisions of the Regional Rural Development Bank Act, No. 15 of 1985;
  - (b) the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act (Chapter 165); and
  - (c) the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971.'.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

# PROVINCIAL COUNCIL TURNOVER TAXES (LIMITS AND EXEMPTIONS) ACT, NO. 25 OF 1995

[Certified on 17th November, 1995]

AN ACT TO PRESCRIBE THE LIMITS WITHIN WHICH, AND THE EXEMPTIONS SUBJECT TO WHICH, PROVINCIAL COUNCILS MAY IMPOSE TURNOVER TAXES ON WHOLESALE AND RETAIL SALES.

WHEREAS the Constitution confers power on Provincial Councils to make Statutes imposing turnover taxes on wholesale and retail sales, within such limits, and subject to such exemptions, as may be prescribed by law made by Parliament:

AND WHEREAS it is expedient that Parliament prescribes such limits and exemptions, with a view to enabling the Provincial Councils to exercise this power effectually:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Provincial Council Turnover Taxes (Limits and Exemptions) Act, No. 25 of 1995.
2. (1) A turnover tax imposed by a Statute made by a Provincial Council on wholesale and retail sales shall be within the limits set out in subsection (2) of this section and subject to the exemptions set out in subsection (3) of this section read with the Schedule to this Act.
  - (2) The rate at which such turnover tax shall be levied shall in no case exceed five *per centum* of the turnover on which it is imposed.
  - (3) The turnover arising from the wholesale and retail sales set out in the Schedule to this Act shall be exempt from such turnover tax.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
4. In this Act, unless the context otherwise requires—

“article” and “manufacturer” have the respective meanings assigned to them by the Turnover Tax Act, No. 69 of 1981;

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

## SCHEDULE

[ Section 2 (1) ]

Wholesale and retail sales by a manufacturer, of any articles manufactured by him.

Wholesale and retail sales of any articles to buyers outside Sri Lanka.

Wholesale and retail sales by a Co-operative Society registered under the Co-operative Societies Law, No. 5 of 1972.

# MONETARY LAW (AMENDMENT) ACT, NO. 26 OF 1995

[Certified on 17th November, 1995]

## AN ACT TO AMEND THE MONETARY LAW ACT

1. This Act may be cited as the Monetary Law (Amendment) Act, No. 26 of 1995.
2. The following new Chapter is hereby inserted immediately after Chapter V of the Monetary Law Act (Chapter 422) (hereinafter referred to as the "principal enactment") and shall have effect as Chapter VA of that enactment:-

### "CHAPTER VA

#### THE CENTRAL BANK TO PURCHASE SHARES IN CERTAIN COMPANIES

"Central Bank to purchase shares in companies. 105A. Notwithstanding any other provision in this Act or anything in any other written law, the Central Bank may acquire and hold shares in any company which in the opinion of the Monetary Board was formed for the advancement and promotion of human resources and technological development in the banking and financial sector in Sri Lanka, or to provide for all or any of the facilities referred to in subsection (1) of section 98 or 112A of this Act."

3. The following new sections are hereby inserted immediately after section 112 of the Principal enactment and shall have effect as sections 112A and 112B of the principal enactment:-

"Accounts maintained by non-commercial bank primary dealers. 112A. The Central Bank shall provide facilities:-

- (a) for non-commercial bank primary dealers to maintain accounts at the Central Bank for the purpose of settling securities transactions;
- (b) for direct participants including any direct participants which are not commercial banks, to maintain accounts at the Central Bank for the purpose of holding scripless securities, clearing and settling transactions in scripless securities among direct participants.

For the purpose of this section-

"direct participant" means a person appointed as a direct participant under section 21D of the Registered Stock and Securities Ordinance or under the Local Treasury Bills Ordinance;

"non-commercial bank primary dealer" means a primary dealer who is not a commercial bank;

"primary dealer" means any commercial bank, company or other person appointed by the Monetary Board as a primary dealer for the purpose of dealing with the Central Bank as a counterparty in the primary and secondary market for stock and securities;

"scripless securities" means securities issued in scripless form; and

"securities" means-

- (i) treasury bills issued in accordance with the provisions of the Local Treasury Bills Ordinance, whether issued in scripless form or otherwise;
- (ii) registered stock or securities issued in accordance with the provisions of the Registered Stock and Securities Ordinance whether issued in scripless form or otherwise;
- (iii) any securities of the Central Bank whether issued in scripless form or otherwise.

"Any body corporate to provide facilities to carry out functions under section 98 (1) or 112A.

112B. The Central Bank may for the purpose of performing duties imposed on it by subsection (1) of section 98 or section 112A, authorise any body corporate to provide all or any of the facilities referred to in those sections.'

4. 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. 27 OF 1995

[Certified on 22nd November, 1995]

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

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 27 of 1995.
2. Section 9 of the Inland Revenue Act, No. 28 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended in paragraph (bb) of subsection (1) of that section as follows:—
  - (1) by the substitution, for the words and figures "the official emoluments, of any person, or any profits from employment referred to in paragraph (c) of section 4 (1), paid to—", of the words and figures "the official emoluments or any profits from employment referred to in paragraph (c) of subsection (1) of section 4, paid to—";
  - (2) by repeal of sub-paragraph (i) of that paragraph and the substitution, therefor of the following sub-paragraph:—

"(i) any individual who holds any paid office under the Republic, out of the Consolidated Fund,";
  - (3) by the addition, immediately after sub-paragraph (ix) of that paragraph, of the following sub-paragraph:—

"(x) a member or employee of any board or commission of inquiry established by or under any law being a board or commission all the members of which are appointed by the President or by a Minister."
3. Section 11 of the principal enactment is hereby amended as follows:—
  - (1) by the insertion immediately after paragraph (a) of that section, of the following paragraph:—

'(aa) any dividend paid by a flagship company (with which an agreement has been entered into by the Board of Investment of Sri Lanka) to any shareholder during the period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter out of the profits and income of such company which are exempt from income tax.

In this paragraph, "flagship company" means 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 in which has, in accordance with such agreement, invested in Sri Lanka, within the period specified in such agreement, not less than fifty million United States of America Dollars or its equivalent in any other foreign currency—

    - (a) in the purchase or construction of any building or in the purchase of any land, plant, machinery or furniture; and
    - (b) in the acquisition of any asset not included in paragraph (a),

for the use of the undertaking carried on by the company;';
  - (2) in paragraph (b) of that section by the substitution for the figures "17D, 18", of the figures "17D, 17J, 18".
4. The following new section is hereby inserted immediately after section 17H and shall have effect as section 17J of the principal enactment:—

<p>"Exemption from income tax of the profits and income of an industrial undertaking carried on by a company utilizing advanced technology.</p>	<p>17J. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company referred to in subsection (2) shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.</p>
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(2) The provisions of subsection (1) shall apply to any company which—

- (a) is incorporated on or after April 1, 1995;
- (b) is approved by the Minister to be a company to which this section applies by Order published in the *Gazette* on or before March 31, 1997, on an application in writing in that behalf made on or before September 30, 1996;
- (c) is engaged only in carrying on any industrial undertaking —
  - (i) for the production or manufacture of any goods or commodities; or
  - (ii) for the provision of any service, utilizing advanced technology;
- (d) has before the expiry of a period of two years from the date of its incorporation, invested not less than ten million rupees, in the purchase, for the use of the undertaking carried on by the company, of any plant, machinery, fixtures or equipment;
- (e) employs as at a date not later than a period of six months from the date on which it commences to carry on business and continues to employ until the expiry of the period of five years referred to in subsection (1) not less than fifty employees other than directors of such company; and
- (f) is not formed by the splitting up, reconstruction or acquisition of any business which was previously in existence.

For the purposes of paragraph (e) of this subsection the word “employee” has the same meaning assigned to it in subsection (2) of section 16D.’.

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

- (1) in paragraph (a) of that section, by the substitution for the words and figures “section 17D or section 20 or section 22C”, of the words and figures “section 17D or section 17J or section 20 or section 17J, 20”.
- (2) in the marginal note to that section by the substitution for the figures “17D, 20”, of the figures “17D, 17J, 20”.

6. Section 29 of the principal enactment is hereby amended in paragraph (a) of subsection (3) of that section by the substitution for the words and figures “section 17G, or section 17H, or section 22A,”, of the words and figures “section 17G, or section 17H, or section 17J, or section 22A.

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

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

- (a) by the substitution, in paragraph (aaaaa) of that section, for the words and figures “any year of assessment commencing on or after April 1, 1992, and”, of the words and figures “any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1995;”;
- (b) by the insertion immediately after paragraph (aaaaa) of that subsection, of the following paragraph:—

‘ (aaaaaa) an allowance of sixty thousand rupees in respect of any year of assessment commencing on or after April 1, 1995, and”;
- (c) by the substitution, in the proviso to that subsection, for the words “or paragraph (aaaa) or paragraph (aaaaa) in ascertaining”, of the words ‘or paragraph (aaaa) or paragraph (aaaaa) or paragraph (aaaaaa) in ascertaining”;

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

(a) in the first proviso to that subsection—

(i) by the substitution, in paragraph (f) of that proviso, for the words and figures “any year of assessment commencing on or after April 1, 1992:”, of the words and figures “any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1995:”;

(ii) by the insertion, immediately after paragraph (f) of that proviso, of the following paragraph:—

“(g) an allowance of sixty thousand rupees in respect of any year of assessment commencing on or after April 1, 1995:”;

(b) in the second proviso to that subsection—

(i) by the substitution, in sub-paragraph (i) of that proviso, for the words and figures “an year of assessment commencing on or after April 1, 1987, but prior to April 1, 1992; and”, of the words and figures “an year of assessment commencing on or after April 1, 1987, but prior to April 1, 1992;

(ii) by the substitution in sub-paragraph (ii) of that proviso, for the words and figures “an year of assessment commencing on or after April 1, 1992:”, of the words and figures “an year of assessment commencing on or after April 1, 1992, but prior to April 1, 1995; and”; and

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

“(iii) sixty thousand rupees, where such year of assessment is an year of assessment commencing on or after April 1, 1995:”.

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

(1) in the proviso to subsection (1) of that section—

(a) by the substitution, in sub-paragraph (iv) of that proviso, for the words and figures “for any year of assessment commencing on or after April 1, 1986, but prior to April 1, 1992; and”, of the words and figures “for any year of assessment commencing on or after April 1, 1986 but prior to April 1, 1992;”

(b) by the substitution, in sub-paragraph (v) of that proviso for the words and figures “for any year of assessment commencing on or after April 1, 1992,”, of the words and figures “for any year of assessment commencing on or after April 1, 1992, but prior to April 1, 1995; and”; and

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

“(vi) sixty thousand rupees, for any year of assessment commencing on or after April 1, 1995”;

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

(a) by the substitution, in paragraph (vi) of that subsection, 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 prior to April 1, 1992; or”;

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

“(vii) Part 11E of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1992, but prior to April 1, 1994; or

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

9. Section 32CC of the principal enactment is hereby amended by the substitution for the words “be chargeable with income tax at the rate of fifteen *per centum*.” of the following:—

“be chargeable with income tax at the rate of fifteen *per centum*;

Provided that where such person in Sri Lanka is a flagship company within the meaning of paragraph (aa) of section 11 such royalty shall be chargeable with income tax at the rate of ten *per centum*.”.

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

- (1) 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 but prior to April 1, 1994, and”, of the words and figures “any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1993,”; and
- (2) by the repeal of sub-paragraph (iii) of that paragraph.

11. The following new section is hereby inserted, immediately after section 32EE of the principal enactment, and shall have effect as section 32EEE of the principal enactment:—

“Tax credit  
against tax on  
profits from  
employment  
for any year  
of assessment  
commencing  
on or after  
April 1, 1993.

32EEE. (1) There shall be deducted from the income tax payable for any year of assessment commencing on or after April 1, 1993, by any individual not being an individual to whom the provisions of subsection (7) of section 67 apply, whose assessable income for that year of assessment includes profits from employment, an amount ascertained in accordance with the succeeding provisions of this section—

(a) where such year of assessment is the year of assessment commencing on April 1, 1993, and where for that year of assessment the amount of the relevant profits from employment of such individual—

(i) does not exceed one hundred and forty-four thousand rupees, an amount equal to—

twenty-five thousand six hundred and fifty rupees, or

the amount of income tax which is attributable to the relevant profits from employment of individual for that year of assessment, whichever is less;

(ii) exceeds one hundred and forty-four thousand rupees an amount equal to—

one thousand eight hundred rupees, or

the amount of income tax which is attributable to the relevant profits from employment of such individual for that year of assessment,

whichever is less;

(b) where such year of assessment is the year of assessment commencing on April 1, 1994, and where for that year of assessment the amount of the relevant profits from employment of such employee—

(i) does not exceed one hundred and forty-four thousand rupees, an amount equal to—

twenty-one thousand nine hundred and fifty rupees or

the amount of income tax which is attributable to the relevant profit from employment of such individual for that year of assessment,

whichever is less;

(ii) exceeds one hundred and forty-four thousand rupees but does not exceed one hundred and eighty thousand rupees, an amount equal to—

seventeen thousand nine hundred and eighteen rupees reduced by thirty-two and four-fifth *per centum* of the excess of the relevant profits from employment of such individual for that year of assessment over one hundred and forty-four thousand rupees; or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment,

whichever is less;

- (iii) exceeds one hundred and eighty thousand rupees, an amount equal to—  
six thousand rupees; or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment,

whichever is less;

- (c) where such year of assessment is any year of assessment commencing on or after April 1, 1995, and where for that year of assessment the amount of the relevant profits from employment of such individual—

- (i) does not exceed one hundred and forty-four thousand rupees, an amount equal to—

fifteen thousand seven hundred rupees, or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment,

whichever is less;

- (ii) exceeds one hundred and forty-four thousand rupees but does not exceed one hundred and seventy thousand four hundred rupees, an amount equal to—

twelve thousand two hundred and forty-four rupees reduced by thirty-five *per centum* of the excess of the relevant profits from employment of such individual for that year of assessment over one hundred and forty-four thousand rupees, or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year assessment,

whichever is less;

- (iii) exceeds one hundred and seventy thousand four hundred rupees an amount equal to—

three thousand rupees, or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment.

whichever is less,

- (2) For the purposes of this section—

- (a) “the relevant profits from employment” in relation to any individual to an year of assessment means the profits from employment of such individual for such year of assessment after deducting therefrom the aggregate of—

- (i) such part, if any, of such profits as is chargeable with income tax at the rates specified in Part IV of the First Schedule to this Act; and

- (ii) such part, if any, of such profits as is chargeable with income tax in accordance with the provisions of subsection (3) of section 32 as provided for under the proviso to subsection (2) of section 32;

- (b) "the amount of income tax which is attributable to the relevant profits from employment" in relation to any individual and to any year of assessment means the sum which bears to the relevant income tax payable by that individual for that year of assessment, the same proportion as the proportion which the relevant profits from employment of that individual for that year of assessment bears to the relevant assessable income of that individual for that year of assessment;
- (c) "relevant income tax" in relation to any individual and to any year of assessment, means the income tax payable by that individual for that year of assessment before granting any relief, whether under this section or any other section, of this Act and after deducting therefrom the income tax, in respect of the profits from employment referred to in sub-paragraphs (i) and (ii) of paragraph (a) of this section;
- (d) relevant assessable income" in relation to any individual and to any year of assessment, means—
  - the assessable income of that individual for that year of assessment after deducting therefrom the aggregate amount of profits referred to in sub-paragraphs (i) and (ii) of paragraph (a) of this subsection, or
  - an amount equal to the relevant profits from employment of such individual for that year of assessment,
 whichever is more.'

**12. Section 32M of the principal enactment is hereby amended as follows:—**

- (1) in paragraph (b) of subsection (1) of that section, by the substitution for the words "the production or manufacture by such specified undertaking", of the words "the production, manufacture or packaging by such specified undertaking";
- (2) by the repeal of paragraph (a) of subsection (4) of that section, and the substitution therefor, of the following paragraph:—

"(a) is made during the period for which—

- (i) the taxable income of the person who, or of any partner of a 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; or
- (ii) the export profits and income of the specified undertaking referred to in subsection (1) are exempt from income tax, under paragraph (b) of subsection (1) of section 20 or in terms of an agreement entered into by such specified undertaking with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 1 of 1978 and,".

**13. Section 33A of the principal enactment is hereby amended in paragraph (i) of subsection (2) of that section by the substitution for the words and figures "section 33(1) and", of the words and figures "section 33(1) (a), and".**

**14. Section 67 of the principal enactment is hereby amended in subsection (7) of that section by the substitution for the words "date on which he commences employment in Sri Lanka." of the following:—**

"date on which he commences employment in Sri Lanka:

Provided that where such individual is an individual employed in a flagship company within the meaning of paragraph (aa) of section 11, such individual shall be deemed to be non-resident for a period of five years calculated from the date on which he commences employment in Sri Lanka."

**15. Section 73 of the principal enactment is hereby amended in subsection (1A) of that section as follows:—**

(1) in paragraph (v) of that subsection, by the substitution for the words and figures “commencing on or after April 1, 1992,” of the words and figures “commencing on or after April 1, 1992, but prior to April 1, 1995; and”; and

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

“(vi) sixty thousand rupees, for any year of assessment commencing on or after April 1, 1995.”.

16. Section 99 of the principal enactment is hereby amended by the repeal of subsection (1) of that section, and the substitution therefor, of the following subsection:—

‘ (1) Every employer who employs—

(a) an individual who receives remuneration in excess of five thousand rupees per mensem or sixty thousand rupees per annum; or

(b) any non-resident individual receiving remuneration for services rendered in Sri Lanka in excess of eighty five rupees per mensem or one thousand rupees per annum; and

who has not given notice to the Commissioner-General under subsection (1) of section 107C of the Inland Revenue Act, No. 4 of 1963 or under this Chapter of this Act, shall give notice to the Commissioner-General not later than December 31, 1995, that he has in his employ such individual (hereinafter in this Chapter referred to as a “specified employee”).’.

17. The following new section is hereby inserted immediately after section 112 of the principal enactment and shall have effect as section 112A of that enactment:—

“Special provisions for refund by the employer, of taxes deducted from the remuneration of certain employees for the assessment commencing on April 1, 1993.

112A. (1) Where the aggregate amount of such part of remuneration being the relevant profits from employment (within the meaning of subsection (2) of section 32EEE) of any specified employee for the year of assessment commencing on April 1, 1993 does not exceed one hundred and forty-four thousand rupees it shall be lawful for the employer of such employee to refund to such employee the income tax deducted by such employer in accordance with the provisions of this Chapter for that year of assessment from such part of such remuneration of such employee and remitted to the Commissioner-General.

(2) Where an employer has refunded income tax to any employee under the provisions of subsection (1), such employer shall be entitled to—

(a) set off the amount so refunded or any part thereof, against any subsequent remittance required to be made by him in respect of any pay period; and

(b) a refund of the excess, if any, of the amount so refunded over the total of the sums set off under the provisions of paragraph (a), if a claim is made in writing in that behalf to the Commissioner-General, not later than March 31, 1997.

(3) The Commissioner-General may, for the purpose of permitting the set off or granting the refund under subsection (2), require such employer to produce proof of the refund of the income tax referred to in subsection (1).

(4) Where an employer has set off, under the provisions of paragraph (a) of subsection (2), any income tax referred to in subsection (1) against any subsequent remittance required to be made by him, the provisions of subsection (1) of section 107 and subsection (1) of section 108 shall not be applicable to such employer in respect of the tax so set-off.

(5) Where a specified employee has received a refund under subsection (1), such employee shall not be entitled—

(a) to a set-off under section 111, of the amount of income tax deducted under this Chapter and refunded to him under subsection (1); or

(b) to a refund under section 149, of such amount.”.

**18. Section 113M of the principal enactment is hereby amended as follows:—**

- (1) in subsection (1) of that section by the substitution for the words “any income tax otherwise payable by such employer.” of the following:—

“any income tax otherwise payable by such employer:

Provided, however, that for any year of assessment commencing on or after April 1, 1994, if the aggregate of the official emoluments of such employee for that year of assessment does not exceed one hundred and forty-four thousand rupees no income tax in respect of such emoluments of such employee shall be payable by such employer for that year of assessment.”; and

- (2) in subsection (2) of that section, by the substitution for the words and figures “section 99, section 102”, of the words and figures “section 99, section 100, section 102”.

**19. Section 113R of the principal enactment is hereby amended as follows:—**

- (1) in paragraph (b) of that section—

(a) by the substitution, for the words and figures “for any year of assessment commencing on or after April 1, 1994, the excess of—”, of the words and figures “for the year of assessment commencing on April 1, 1994, the excess of—”; and

(b) in sub-paragraph (ii) of that paragraph, by the substitution for the words “six thousand rupees.”, of the words “six thousand rupees;”;

- (2) by the addition, immediately after paragraph (b) of that section, of the following paragraph:—

“ (c) for any year of assessment commencing on or after April 1, 1995, 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 sixty thousand rupees, over

(ii) three thousand rupees.”.

**20. Section 163 of the principal enactment is hereby amended in paragraph (B) of the definition of “qualifying distribution” as follows:—**

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

“ (i) if taxable for that year of assessment, would be taxed at the appropriate rate specified in—

(a) the Second Schedule to this Act, as the rate applicable to companies of that class ; or

(b) any regulation made by the Board of Investment of Sri Lanka under the Board of Investment of Sri Lanka Law, No. 4 of 1978, and published in the *Gazette* as being applicable to any company which has entered into an agreement with such Board under section 17 of such Law, or”;

- (2) in sub-paragraph (ii) of that paragraph, by the substitution for the words and figures “section 32H or of section 32K.”, of the words and figures “section 32H or of section 32K or of section 32M.”.

- (3) in sub-paragraph (a) of that paragraph—

(i) in item (iii) of that sub-paragraph by the substitution for the words “dividend received by such company; or”, of the words “dividend received by such company;”;

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

“ (iv) profits and income on which tax payable under paragraph (a) of subsection (1) of section 33 does not exceed the amount of any tax credit referred to in section 82 for any tax paid outside Sri Lanka on such profits and income or,”.

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

“SEVENTH SCHEDULE

[ Section 33A (1) ]

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

- |  |                             |
|--|-----------------------------|
| (i) on the amount equal to the amount, of every qualifying distribution, made by a small company   | 25 per centum               |
| (ii) on the amount equal to the amount, of every qualifying distribution, made by a quoted public company, or a people's company   | 33 $\frac{1}{3}$ 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 rates of advance company tax for the every year of assessment commencing on or after 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 | 40 per centum               |

The rates of advance company tax for the every year of assessment commencing on 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 unit trust, mutual fund or company other than any small company | 33 $\frac{1}{3}$ 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, out of profits other than profits which are taxed in accordance with the provisions of section 32F, section 32H, or section 32K or section 32M 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 or section 32M   | 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  |

- 22. (1)** The amendments to section 32EE, section 32M, section 33A and the replacement of the Seventh Schedule to the principal enactment made by sections 10, 12, 13 and 21 respectively of this Act shall be deemed for all purposes to have come into force on October 31, 1994.
- 23.** Where an employer has, during the period commencing on May 18, 1994, and ending on the date of commencement of this Act, refunded under subsection (1) of section 112A or set off under subsection (2) of section 112A any income tax, such employer shall be deemed—
- (a) to have validly refunded or set off as the case may be such tax so refunded or set off; and
  - (b) not to be a defaulter respect of such tax so set off, notwithstanding the provisions of subsection (1) of section 107.
- 24.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

# NATIONAL SAVINGS BANK (AMENDMENT) ACT, NO. 28 OF 1995

[Certified on 28th November, 1995]

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

1. This Act may be cited as the National Savings Bank (Amendment) Act, No. 28 of 1995.
2. Section 2 of the National Savings Bank Act, No. 30 of 1971 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (1) of that section, by the substitution for the words "a Corporation which shall be called the "National Savings Bank" (hereinafter referred to as the "Bank"), and which shall consist of the persons who are for the time being members of the Bank under section 6.", of the words "a bank called the National Savings Bank (hereinafter referred to as the "Bank").
3. The following new section is hereby inserted immediately after section 2, and shall have effect as section 2A of the principal enactment:—

"Object of the Bank.      2A. The object of the Bank shall be the promotion of savings among the people of Sri Lanka, particularly among those with limited means, and the profitable investment of savings so mobilized."
4. Section 5 of the principal enactment is hereby repealed and the following section is substituted therefor:—

"Capital of the Bank.      5. (1) The authorized capital of the Bank shall be ten billion rupees divided into one billion shares of ten rupees each.

(2) The issued capital of the Bank shall be as determined from time to time by the Minister in consultation with the Board, by Order published in the Gazette, so however that such issued capital shall not be an amount less than one billion and two hundred million rupees divided into one hundred and twenty million shares of ten rupees each.

(3) All shares of the Bank shall be issued in the name of the Secretary to the Treasury in his official capacity and who shall not dispose of those shares in any manner whatsoever."
5. Section 6 of the principal enactment is hereby repealed and the following section is substituted therefor:—

"Authorized activities and functions of the Bank.      6. (1) Subject to the provisions of this Act, the Bank is authorized to undertake any or all of the following functions or activities.

(a) the promotion and mobilization of savings in Sri Lanka and any activity incidental thereto, including the opening of deposit accounts, savings accounts and the issue of savings certificates;

(b) the purchasing of, and trading in any securities, debentures, treasury bills or any such financial instruments issued or guaranteed by the Government;

(c) lending in the interbank call money market, subject to such overall ceiling as may be approved from time to time by the Monetary Board;

(d) undertaking wholesale lending to licensed commercial banks and other financial institutions for on-lending to their clients;

(e) undertaking retail lending to its own depositors against the security of their deposits;

(f) providing housing loans on security provided by the mortgages of immovable property;

(g) participating in the syndication of loans with other banks and financial institutions;

- (h) acquiring any immovable or movable property or any rights in such property and leasing, mortgaging, selling or otherwise disposing of such property;
  - (i) constructing buildings on land purchased, leased or otherwise acquired by the Bank;
  - (j) carrying on such other activities as may be incidental or conducive to the functions and activities referred to above.
- (2) Investment by the Bank in financial instruments referred to in paragraph (b) of subsection (1) of this section shall constitute not less than sixty *per centum* of the money deposited in savings and deposit accounts in the Bank unless otherwise determined by the Monetary Board.”.

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

“Constitution  
of the Board.

8. (1) The Board shall consist of seven directors of whom—
- (a) five shall be appointed by the Minister (hereinafter referred to as the “appointed directors”) from among persons whom he considers to be capable of directing the affairs of the Bank efficiently and effectively in such a manner as will enable the Bank to achieve its object, and each of whom—
    - (i) has had experience at a senior managerial level, in banking, commerce, business or allied fields or has had administrative experience; or
    - (ii) has professional qualifications in banking, economics, commerce, law, accountancy, business management or other discipline; and
  - (b) one shall be the Secretary to the Treasury or his nominee; and
  - (c) one shall be the Postmaster-General or his nominee.
- (2) An appointed director shall unless he vacates office earlier by death, resignation or removal hold office for a term of three years.
- (3) The Minister may, for cause assigned remove an appointed director from office where he is satisfied that the continuance of that director in office is detrimental to the interest of the Bank.
- (4) An appointed director may at any time resign his office by a letter addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.
- (5) An appointed director vacating office by resignation or effluxion of time shall be eligible for reappointment.
- (6) If an appointed director vacates his office otherwise than by expiration of his term of office, a director may be appointed in his place by the Minister, and such second mentioned director shall hold office during the unexpired part of the term of office of the director so vacating office.
- (7) If an appointed director is temporarily unable to discharge the duties of his office on account of ill health or absence from Sri Lanka, the Minister, may appoint another eligible person to act for him.’.

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

“Disqualifica-  
tions for being  
appointed a  
director of the  
Board.

9. A person shall be disqualified from being appointed or continuing as a director of the Board under paragraph (a) of subsection (1) of section 8, if he—
- (a) is a Member of Parliament or of any Provincial Council or any local authority; or

- (b) is under any law in force in Sri Lanka found or declared to be of unsound mind; or
- (c) is a person who having been declared insolvent or bankrupt under any law in force in Sri Lanka or in any other country is an undischarged insolvent or bankrupt; or
- (d) is convicted of an offence involving moral turpitude and punishable with a term of imprisonment.”.

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

“Chairman of the Board.

11. (1) The Minister shall nominate one of the directors of the Board to be its Chairman.
- (2) The Chairman if present shall preside at meetings of the Board. If a Chairman has not been appointed or is not present at the time fixed for holding of a meeting of the Board, the directors present shall choose one of their number to preside at such meeting.
- (3) Where the Minister is satisfied that the continuance of the Chairman in office is detrimental to the interests of the Bank, he may remove the Chairman from office.
- (4) The Chairman may at any time resign from the office of the Chairman by letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister.
- (5) Subject to the provisions of subsections (3) and (4), the term of office of the Chairman shall be his period of membership of the Board.”.

**9. Section 13 of the principal enactment is hereby amended by the repeal of subsection (4) of that section and the substitution therefor of the following subsection:—**

“(4) The General Manager of the Bank appointed under section 26 of this Act, shall have the right to be present at, and participate in, meetings of the Board, except at any such meeting where the work or the general conduct of the General Manager is being discussed.”.

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

“Granting of financial accommodation.

17. (1) The Bank shall grant financial accommodation under this Act on the basis of normal commercial criteria applicable to loans, and shall endeavour to obtain a return on such accommodation at the current market rate of interest chargeable for loans.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Minister may, having regard to the national economic interest of Sri Lanka and where he is of opinion that the grant of the financial accommodation is necessary to support any sector or sub-sector of the economy and having regard to any special circumstances relating to the application for the financial accommodation, direct the Board in writing to grant any financial accommodation—
- (a) which in the opinion of the Board does not conform to normal prudent banking criteria; or
  - (b) at a rate of interest lower than that which the Bank would normally have charged for such accommodation.
- (3) Where any direction is given by the Minister under—
- (a) paragraph (a) of subsection (2), the Secretary to the Treasury shall prior to the grant of such accommodation, provide an irrevocable time bound guarantee, on behalf of the Government of Sri Lanka, on terms acceptable to the Board for the repayment of such accommodation and the interest payable on it when such repayment or interest become due; or

- (b) under paragraph (b) of subsection (2) the Secretary to the Treasury shall pay as a subsidy to the Bank, the difference between the interest charged and the interest which the Bank would normally have charged for such an accommodation and such subsidy shall be paid annually or at such other intervals as may be agreed upon between the Secretary to the Treasury and the Board; or
- (c) under paragraphs (a) and (b) of subsection (2), the Secretary to the Treasury shall, prior to the grant of such accommodation, provide a guarantee as is referred to in paragraph (a) of this subsection, and also pay the subsidy as is referred to in paragraph (b) of this subsection.
- (4) Where a guarantee has been provided under subsection (3) the Minister shall, at the earliest convenient opportunity, lay a statement relating to the guarantee before Parliament.
- (5) Any sum required for the fulfilment of a guarantee provided under subsection (3) of this section shall be paid out of the Consolidated Fund, within one hundred and eighty days of demand being made therefor to the Secretary to the Treasury by the Bank."

**11.** The following new section is hereby inserted immediately after section 17 and shall have effect as section 17A of the principal enactment:—

"Information to be furnished to the Minister. 17A. The Minister may from time to time direct in writing the Board to furnish to him such information with respect to the business of the Bank as he may require and the Board shall carry out every such direction."

**12.** Section 19 of the principal enactment is hereby repealed and the following section is substituted therefor:—

"Expenses of the Bank. 19. All expenses incurred by the Bank in carrying out its functions and activities shall be met from the moneys of the Bank."

**13.** Section 20 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 Bank shall establish—

- (a) a general reserve; and
- (b) any other special reserves for such purposes as the Board thinks fit." ; and

(2) in subsection (2) of that section, by the substitution for the words "After making allowance for the reserves of the Bank", of the words "After making transfer to the reserves of the Bank".

**14.** Sections 21, 22 and 23 of the principal enactment are hereby repealed.

**15.** Section 26 of the principal enactment is hereby repealed, and the following section is substituted therefor:—

"Appointment of the General Manager. 26. (1) The Board shall appoint a fit and proper person to be the General Manager of the Bank.  
(2) The Board may appoint such other officers and servants as it may consider necessary, for the conduct of the business of the Bank.  
(3) The salaries, allowances and other benefits and conditions of service of the General Manager and officers and servants of the Bank, shall be determined by the Board."

**16.** Section 27 of the principal enactment is hereby repealed, and the following section is substituted therefor:—

"Appointment of advisers and consultants. 27. The Board may from time to time appoint as advisers and consultants to the Bank persons possessing skills or professional qualifications such as accountants, lawyers, auditors and

valuers required for the conduct of its business and discharge of its functions under this Act, and the advisers and consultants so appointed shall be remunerated in such manner and at such rates as the Board may determine.”.

17. Sections 28 and 29 of the principal enactment are hereby repealed.

18. Section 30 of the principal enactment is hereby repealed, and the following section is substituted therefor:—

“No liability for damage or loss caused otherwise than by misconduct or wilful default.

30. No director, officer or servant of the Bank or an adviser or consultant appointed under section 27 of this Act, shall be liable for any loss or damage suffered by the Bank unless such loss or damage was caused by his misconduct or wilful default.”.

19. Section 32 of the principal enactment is hereby amended, by the substitution for the words “Every director, general manager, auditor, secretary, adviser or other officer or servant of the Bank”, of the words “Every director, officer and servant of the Bank and every adviser or consultant appointed under section 27 of this Act”.

20. Section 33 of the principal enactment is hereby amended, by the substitution for the words “Every director, general manager, auditor, officer, servant, member of agency, accountant or other person employed in the business of the Bank shall”, of the words “Every director, officer and servant of the Bank, and every adviser or consultant appointed under section 27 of this Act who is required to do so by the Board, shall”.

21. Section 34 of the principal enactment is hereby amended, by the substitution for the words “Every director, general manager, auditor, secretary, adviser or other officer or servant of the Bank shall”, of the words “Every director, officer or servant of the Bank and every adviser or consultant appointed under section 27 of this Act shall”.

22. Section 35 of the principal enactment is hereby amended as follows:—

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

“(1A) The Pension Fund shall be established as a separate Fund and be separated from the balance sheet.

(1B) An actuarial valuation of the Pension Fund shall be made once in every two years in order to ensure that there are sufficient moneys available in the Fund to meet its liabilities.”; and

(2) in subsection (2) of that section, by the substitution for the words “security of immovable property”, of the words “security of movable or immovable property”.

23. Section 36 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words “determined by the Board with the approval of the Minister.”, of the words “determined by the Board.”.

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

“Audit of account of the Bank.

37. (1) The accounts of the Bank for each financial year shall be submitted to the Auditor-General for audit within three months of the close of that financial year.

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

25. Sections 39 and 40 of the principal enactment, are hereby repealed.

26. Section 41 of the principal enactment is hereby repealed and the following section is substituted therefor:—

“Interest on accounts.

41. Interest shall be payable by the Bank on moneys deposited with it, at rates determined by the Board, provided that no interest shall be payable to moneys transferred to the unclaimed Deposits Reserve.”.

27. Section 42 of the principal enactment is hereby repealed.

28. Section 44 of the principal enactment is hereby amended by the repeal of subsections (5), (6), (7), (8), (9) and (10) of that section, and the substitution therefor, of the following subsections:—

“(5) No payment shall be made by the Bank to any nominee unless the nominee makes an application supported by evidence acceptable to the Bank, in respect of his identity.

(6) A payment made to a nominee of a deceased nominator shall be a complete discharge of the obligations of the Bank in respect of the moneys lying to the credit of such nominator.”.

29. Section 46 of the principal enactment is hereby amended, by the substitution for the words “with the approval of the Minister pay the money lying to his credit to such other person as the Bank thinks proper,”, of the words “with the approval of the Board pay the money lying to his credit to such other person as the Board thinks proper,”.

30. Section 47 of the principal enactment, as amended by Act, No. 8 of 1982, is hereby repealed, and the following section is substituted therefor:—

“Unclaimed  
Deposits  
Reserve. 47. (1) Where an account has lain dormant, that is to say—

(a) in the case of a savings account, the savings book has not been, presented to the Bank either for withdrawal from or deposit into the account or, for the insertion of interest, for a period of ten years by a person who commenced the account on or after reaching the age of sixteen years or for a period of ten years on or after reaching the age of sixteen years in the case of a person who commenced his account before reaching the age of sixteen years; or

(b) in the case of a deposit account, instructions for automatic renewal on maturity have not been issued to the Bank and the deposit receipt has not been presented for renewal for a period of ten years by a person who commenced the account on or after reaching the age of sixteen years, or for a period of ten years on or after reaching the age of sixteen years in the case of a person who commenced the account before reaching the age of sixteen years,

the money lying to the credit of such accounts shall be transferred to a special reserve, to be called the “unclaimed Deposit Reserve.”.

(2) The account from which moneys; were transferred to the unclaimed Deposits Reserve shall from the date of such transfer be no longer considered as a liability of the Bank.

(3) The whole or such part of the moneys lying to the credit of the unclaimed Deposits Reserve, as may be determined by the Minister, may be capitalised and shares to the value of the money capitalised, may be issued by the Bank to the Secretary to the Treasury.

(4) Where after the transfer of any money to the unclaimed Deposits Reserve, any claim is made to the Bank in respect of moneys which were lying to the credit of an account referred to in subsection (1), the Bank shall after an examination of such claim, pay an amount equivalent to the amount which was in the account, to the claimant and shall thereafter make an application to the Secretary to the Treasury for reimbursement of the amount paid and the Secretary to the Treasury shall as soon as possible after receipt of the application, pay out of the Consolidated Fund to the Bank the amount claimed.”.

31. Section 48 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(1) in paragraph (a) of that subsection, by the substitution for the words “mortgage of immovable property; or”, of the words “mortgage of movable, or immovable property or on the basis of a guarantee; or” ; and

- (2) in paragraph (c) of that subsection, by the substitution for the words "any immovable property mortgaged to such Bank", of the words "any movable or immovable property mortgaged to such Bank".
32. Section 50 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words "has a substantial interest", of the words "has a substantial interest, except for the purpose of purchase or construction, of a house on the mortgage of an adequate immovable property."
33. Section 51 of the principal enactment is hereby amended, by the substitution for the words "on the mortgage of any immovable property,", of the words "on the mortgage of any movable or immovable property,".
34. Sections 52 to 74 of the principal enactment (inclusive of both these sections) other than section 60 are hereby repealed.
35. Section 77 of the principal enactment is hereby amended by the repeal of subsections (2) and (3) of that section, and the substitution therefor of the following subsections:—
- “(2) Where any officer in the public service is temporarily appointed to the staff of the Bank, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.
- (3) Where any officer in the public service is permanently appointed to the staff of the Bank, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.”.
36. Section 78 of the principal enactment is hereby amended by the substitution for the words "Nothing in the Debt Conciliation Ordinance", of the words "Nothing in the Debt Conciliation Ordinance or the Mediation Boards Act, No. 72 of 1988."
37. Section 79 of the principal enactment is hereby repealed.
38. Section 81 of the principal enactment is hereby repealed.
39. Section 84 of the principal enactment is hereby amended in subsection (2) of that section as follows:—
- (1) by the repeal of paragraphs (d) and (e) of that subsection, and the substitution therefor of the following paragraphs—
- “(d) the use of pass books or any similar documents by persons who have deposits and savings accounts;
- (e) facilities for the drawing of cheques by persons who have accounts subject to such restrictions and qualifications as may be specified by the Monetary Board, including restriction with regard to the type of accounts, the class of depositors, the maximum amount of each drawing and the frequency of drawings;”;
- (2) by the repeal of paragraphs (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z) and (aa) of that subsection.
40. Section 87 of the principal enactment is hereby amended as follows:—
- (1) by the repeal of the definition respectively of the expressions "approved savings group", "lottery", "Panel of Valuers", and "prize competition";
- (2) by the repeal of the definition of the expression "commercial bank", and the substitution therefor of the following definition:—
- “commercial bank” means a company carrying on banking business and licensed under the provisions of the Banking Act, No. 30 of 1988 as a licensed commercial bank;”;
- (3) by the insertion immediately after the definition of the word "director", of the following new definition:—

‘ “financial accommodation” means any direct or indirect advance granted by the Bank on behalf of a customer, where the Bank has guaranteed or otherwise committed itself on behalf, such customer; ’ ;

- (4) by the insertion immediately after the definition of “prescribe”, of the following new definition:—

‘ “Provincial Council” means a Provincial Council established under Chapter XVIIA of the Constitution; ’ ;

- (5) by the repeal of the definition of the expression “local authority” and the substitution therefor of the following definition:—

‘ “local authority” means a Municipal Council, Urban Council, a Pradeshiya Sabha and includes any authority created or established by or under any written law to exercise, perform and discharge, powers, duties and functions corresponding to or similar to the powers, duties and functions, exercised, performed and discharged by any such Council or Sabha ; ’ ; and

- (6) by the repeal of the definition of the word “purchaser” and the substitution therefor of the following definition—

‘ “purchaser” when used with reference to savings certificate means the persons or body of persons to whom a savings certificate is issued under this Act; ’ .

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

**42.** For the avoidance of doubts it is hereby declared that any resolution made under section 52 of the principal enactment shall deemed for all purposes to be valid and effectual notwithstanding the repeal of that section and accordingly all acts done in pursuance of such resolution may be continued and completed as if there was no such repeal.

# LOCAL TREASURY BILLS (AMENDMENT) ACT, NO. 31 OF 1995

[Certified on 11th December, 1995]

## AN ACT TO AMEND THE LOCAL TREASURY BILLS ORDINANCE

1. This Act may be cited as the Local Treasury Bills (Amendment) Act, No. 31 of 1995.
2. Section 2 of the Local Treasury Bills Ordinance (Chapter 417) (hereinafter referred to as the "principal enactment") is hereby amended as follows:—
  - (a) by the repeal of subsection (2) thereof, and the substitution therefor of the following new subsection:—

"(2) All acts or things necessary for the purpose of, and in connection with, the issue and repayment of Treasury Bills under this Ordinance shall be done on behalf of the Deputy Secretary to the Treasury by the Central Bank.";
  - (b) by the repeal of subsection (3) thereof; and
  - (c) by the insertion of the following new subsections (3) and (4) immediately after subsection (2) thereof:—

"(3) Treasury Bills may be issued either as bills in the form of written certificates or as Scripless Treasury Bills.

(4) Any application or bids for the purchase of Treasury Bills may having regard to the interests of the national economy be restricted to primary dealers and designated non-dealer bidders."
3. Section 5 of the principal enactment is hereby amended by the substitution for the words "fix and determine," of the words "fix and determine, but not later than one year from the date of issue."
4. Section 7 of the principal enactment is hereby repealed and the following section substituted therefor:—

"Treasury Bills other than Scripless Treasury Bills.	<p>7. (1) Every Treasury Bill issued under this Ordinance, other than Scripless Treasury Bills, shall bear the signature in facsimile of the Deputy Secretary to the Treasury.</p> <p>(2) Title to every Treasury Bill, other than a Scripless Treasury Bill shall be transferable by endorsement and delivery of the Bill.</p> <p>(3) With respect to every Treasury Bill other than a Scripless Treasury Bill—</p> <p>(a) no endorsement of the Treasury Bill shall be valid unless made by the signature of the holder written on the reverse of the Bill in one of the spaces provided for that purpose, or in a separate assignment or other instrument attached thereto which is in a form prescribed by regulation and issued by the Central Bank;</p> <p>(b) a person shall not, by reason only of his having endorsed or endorsed and delivered a Treasury Bill be liable to pay any money due thereon."</p>
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5. The following new sections are hereby inserted immediately after section 7 of the principal enactment and shall have effect as sections 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the principal enactment:—

"Issue, trading and maintenance of records of Scripless Treasury Bills.	<p>8. (1) The Central Bank shall have the authority to take any action necessary for the issue and trading of Scripless Treasury Bills in accordance with the provisions of this Ordinance. Without limiting the generality of the foregoing, the Central Bank shall have the authority to undertake and carry out the following:—</p> <p>(a) the making and maintaining of entries in the records of the Central Bank to record the issuance and trading of Scripless Treasury Bills;</p> <p>(b) the maintenance of accounts to record the ownership or custodial holdings of Scripless Treasury Bills or interests therein, for or on behalf of direct participants or the Central Bank;</p>
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- (c) the appointment from time to time of direct participants referred to in section 9, and the regulation, supervision or monitoring of such direct participants with respect to their transactions in Scripless Treasury Bills and the performance of their duties as direct participants;
  - (d) the appointment from time to time of dealer direct participants referred to in section 10, and the regulation, supervision or monitoring of such dealer direct participants with respect to their transactions in Scripless Treasury Bills and the performance of their duties as dealer direct participants;
  - (e) the appointment from time to time of interdealer brokers, and the regulation, supervision or monitoring of such interdealer brokers with respect to their brokering of Scripless Treasury Bills and the performance of their duties as interdealer brokers;
  - (f) the appointment from time to time of primary dealers, and the regulations, supervision or monitoring of such primary dealers with respect to their transactions in Scripless Treasury Bills and the performance of their duties as primary dealers;
  - (g) the appointment of designated non-dealer bidders and the regulation, supervision or monitoring of such non-dealer bidders with respect to their transactions in Scripless Treasury Bills and the performance of their duties as non-dealer bidders;
  - (h) the formulation of a code of conduct for the promotion and development of an orderly market for Scripless Treasury Bills.
- (2) The Central Bank may, to the extent not otherwise provided for in sections 8, 9, 10, and 11, issue directions to direct participants or any category thereof to provide for the following:—
- (a) the manner in which the accounts of customers of dealer direct participants are to be maintained and administered;
  - (b) the times at which payments of principal and any redemption proceeds are to be credited to such accounts;
  - (c) the fees that may be charged for maintaining and administering such accounts;
  - (d) the regulating, supervising or monitoring of direct participants, dealer direct participants, interdealer brokers or primary dealers;
  - (e) the manner and means by which Scripless Treasury Bills, or interests therein, may be purchased, sold, transferred, pledged or encumbered.

“Direct  
Participants.

9. (1) The Central Bank may appoint in writing any primary dealer or other person to be a direct participant. Each direct participant shall be entitled to maintain with the Central Bank, its own Scripless Treasury Bill account, as specified in subsection (2) of this section.
- (2) A direct participant shall maintain a single account with the Central Bank for holding Scripless Treasury Bills, on its own account. Such account shall be maintained by the direct participant in the form and manner specified in writing by the Central Bank from time to time.
- (3) The Central Bank shall maintain records of the account of a direct participant, and such records shall be conclusive evidence of the state of such account, and the same shall be binding on the Central Bank, and the direct participant.
- (4) The Central Bank shall pay, on the date they become payable, all amounts (either of principal or redemption proceeds) owing on Scripless Treasury Bills to direct participants in accordance with the accounts of Scripless Treasury Bills maintained by them

with the Central Bank, whether those accounts are in respect of Scripless Treasury Bills held in their own account or in the case of dealer direct participants in respect of such Treasury Bills held in their own account and in respect of such Treasury Bills held in aggregate customers accounts. Such payments shall be made by such means and such manner as may be specified by the Central Bank.

- (5) A direct participant shall furnish to the Central Bank such returns, details, particulars or information with respect to its own Scripless Treasury Bill account and in the case of a dealer direct participant, with respect to its own Scripless Treasury Bill account and its aggregate customers' account or its customers' or its own account as the Central Bank may from time to time specify.
- (6) The Central Bank may, through any of its officers authorized in writing by the Monetary Board, inspect and take copies of any books, records or accounts maintained by a direct participant relating to or affecting any Scripless Treasury Bills, including any books, records or accounts with respect to Scripless Treasury Bills held in its own account or, in the case of a dealer direct participant with respect to its Scripless Treasury Bills held in its own account as well as those held in aggregate customers' account. The direct participant and its officers, directors, employees, servants and agents shall furnish to the Central Bank, all such books, records, correspondence or any other documents as may be required by the Central Bank, and shall provide the Central Bank with all such assistance as it may require to perform the duties imposed on the Central Bank by this Ordinance in respect of Scripless Treasury Bills.
- (7) In the event the Government incurs any liability or makes payment of any principal or redemption proceeds with respect to a Scripless Treasury Bill, and such liability arises or such payment is made in consequence, or by reason of any default of a direct participant or a dealer direct participant, such participant shall be liable on demand by the Government, to indemnify the Government with respect to such liability or payment.

For the purpose of this subsection "default" includes—

- (a) any negligence or failure on the part of a direct participant or a dealer direct participant in the carrying out of any function, or the discharging of any duty, assigned to, or imposed on him, by this Ordinance; and
- (b) any act or omission on the part of a direct participant or dealer direct participant which constitutes an offence under this Ordinance or an offence under any other written law in relation to any matter dealt with by this Ordinance—
  - (i) whether or not there has been any prosecution in respect of such offence; or
  - (ii) whether such act or omission was by the direct participant, or the dealer direct participant, or by any Director, officer, employee or agent of such direct participant or of such dealer direct participant.

"Dealer  
direct  
participants.

10. (1) The Central Bank may appoint in writing any direct participant to be a dealer direct participant.
- (2) A dealer direct participant shall maintain with the Central Bank, in addition to and separate from its own Scripless Treasury Bill account, an aggregate customers' account which shall be a single aggregate account in respect of all transfers effected under subsection (3) of this section through such dealer direct participant. The aggregate customers' account shall be maintained by the dealer direct participant in such form and manner as may be specified from time to time in writing by the Central Bank.
- (3) Only dealer direct participants may transact in Scripless Treasury Bills on behalf of others. Any person other than a direct participant and the Central Bank desiring either to

make a transfer or take a transfer of Scripless Treasury Bills shall do so only through a dealer direct participant.

- (4) A dealer direct participant shall maintain an account in respect of each of its customers, and any other books, records and files relating to its customers as may be necessary or appropriate to enable the dealer direct participant to perform his duties under this Ordinance.
- (5) A dealer direct participant shall issue to each of its customers, a monthly or other periodic statement or statements in respect of such customer's Scripless Treasury Bills on or before the date or dates that may be specified therefor by the Central Bank. Each such statement shall be for such period and in such form, and shall contain such information as the Central Bank may specify.
- (6) Upon receipt by a dealer direct participant of such payments from the Central Bank, as are referred to in subsection (4) of section 9, of amounts owing on Scripless Treasury Bills held in the dealer direct participant's aggregate customers' account, the dealer direct participant shall pay to the party or parties entitled thereto on the date they become payable, all amounts (either of principal or redemption proceeds) payable on such Scripless Treasury Bills. Such payments shall be by such means and made at the time and in such manner, as may be specified by the Central Bank.
- (7) Every transfer of Scripless Treasury Bills effected through a dealer direct participant under subsection (3) of this section shall be transacted in the manner and for the purposes, provided for in this section and section 11.
- (8) The account maintained by a dealer direct participant under subsections (2) and (4) of this section shall in so far as it relates to a customer be confidential as between the dealer direct participant and the customer and shall, not be disclosed to any person except to the Central Bank or to the heirs, executors or assigns of the customer or as otherwise required by law, unless such disclosure is authorized in writing by the customer.
- (9) A dealer direct participant shall be wholly responsible and liable to customers in respect of all transfers taken or made by such customer through such dealer direct participant.

"Transfer of  
Scripless  
Treasury  
Bills.

11. (1) A dealer direct participant shall maintain an account in respect of every transferor and transferee of Scripless Treasury Bills other than the Central Bank or direct participant who is a party to any transfer effected through such dealer direct participant in accordance with subsection (3) of section 10; except where in respect of a transferee, a customers account is maintained by another dealer direct participant, in which case the first-mentioned dealer direct participant, shall have the Scripless Treasury Bills transferred into the transferee's account with the second-mentioned dealer direct participant.
- (2) Where a transfer of Scripless Treasury Bills is made by any person in accordance with subsection (3) of section 10 the dealer direct participant through which the transfer is effected shall forthwith issue, in the form and manner specified from time to time by the Central Bank—
  - (i) to the transferor, a confirmation or acknowledgement receipt in respect of the transfer; and
  - (ii) to the transferee, a confirmation or acknowledgement receipt in respect of the transfer, if such dealer direct participant maintains an account in respect of the transferee's Scripless Treasury Bills:

Provided however that if a dealer direct participant other than the afore-mentioned dealer direct participant maintains a customer's account in respect of the transferee's Scripless Treasury Bills, the first-mentioned dealer direct participant shall forthwith

notify, in the manner specified from time to time by the Central Bank, the second-mentioned dealer direct participant of the transfer and such second-mentioned dealer direct participant shall forthwith issue to the transferee a confirmation or acknowledgement receipt in the form and manner specified from time to time by the Central Bank.

- (3) The confirmation or acknowledgement receipt referred to in subsection (2) of this section shall not be capable of being negotiated and shall be used solely between the dealer direct participant who issued it and the customer to whom it was issued, as evidence of the transfer of Scripless Treasury Bills under subsection (3) of section 10, to which it relates.
- (4) Where the amount in the aggregate customers' account maintained by a dealer direct participant with the Central Bank is affected by a transfer effected through the dealer direct participant in accordance with subsection (3) of section 10, the dealer direct participant shall communicate forthwith to the Central Bank, information of any change in such amount caused by such transfer.
- (5) The Central Bank may, permit any notification or confirmation or acknowledgement receipt required under this section to be in non-written form and to be transmitted or delivered by wire, telephone, satellite, cable or any other such electronic, magnetic or optical media, as may be specified by the Central Bank.

"Powers of  
Central Bank  
exercised by  
officers & c.

12. Whenever by any provision of this Ordinance any power, duty or function is authorized or required to be exercised or performed by the Central Bank, such power, duty or function may be exercised or performed by an officer of the Central Bank or any other person authorized in writing in that behalf by the Monetary Board of the Central Bank.

"Protection  
of action.

13. No suit or prosecution shall lie against the Government, the Monetary Board or any officer or servant of the Central Bank in respect of any payment made, or any act which, in good faith is done, or purported to be done, under this Ordinance, by the Government the Monetary Board or any such officer or servant of the Central Bank.

"Offences.

14. (1) Any person who—
  - (a) fails to comply with any provisions of this Ordinance or any regulation, order, or direction given there under;
  - (b) furnishes for the purposes of this Ordinance any information which is, or any return the contents of which are, to his knowledge false or incorrect;
  - (c) with intent to deceive—
    - (i) makes or causes to be made a false entry; or
    - (ii) omits to make, or causes to be omitted, any entry; or
    - (iii) alters, conceals or destroys or causes to be altered, concealed or destroyed any entry,

in any of the records of the Central Bank, or in any books, records or accounts of any direct participant, or any primary dealer,

shall be guilty of an offence under this Ordinance.

- (2) Any person guilty of an offence under this Ordinance shall be liable on conviction after summary trial by a Magistrate, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million rupees or to both such imprisonment and fine.

"Offences of  
directors  
and officers.

15. Where the person convicted of an offence under this Ordinance is a body corporate, every person, who at the time of the commission of the offence was a Director or an officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to avoid the commission of such offence.

- “Regulations. 16. (1) The Minister in charge of the subject of Finance may make regulations for the purpose of giving effect to the provisions of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—
- (a) the terms of issue of Treasury Bills under this Ordinance;
  - (b) the mode and manner in which Treasury Bills, may be issued;
  - (c) the appointment of primary dealers and the conditions to be observed by, and the privileges entitled to, and the duties to be performed, by the primary dealers;
  - (d) the appointment of direct participants, dealer direct participants and interdealer brokers, and their regulation, supervision or monitoring;
  - (e) the issue, holding and administration of Scripless Treasury Bills under this Ordinance;
  - (f) the manner in which Treasury Bills including Scripless Treasury Bills, or interests therein, may be purchased, sold, transferred, pledged or encumbered;
  - (g) the procedures and conditions applicable to the primary issue of, and subsequent transfers and other transactions relating to Treasury Bills.

“Interpre-  
tation.

17. In this Ordinance unless the context otherwise requires:—

‘aggregate customers’ account” means the single account maintained by a dealer direct participant with the Central Bank in accordance with subsection (2) of section 10;

“Central Bank” means the Central Bank of Sri Lanka established by section 5 of the Monetary Law Act;

“customer” in relation to a dealer direct participant means any person who purchases or sells, or otherwise acquires or disposes of, Scripless Treasury Bills or an interest therein through such dealer direct participant, or who negotiates, with such dealer direct participant for the possible acquisition or disposition of such Treasury Bills or interests;

“dealer direct participant” means any direct participant appointed by the Central Bank in writing under subsection (1) of section 10 to be a dealer direct participant;

“designated non-dealer bidder” means any investor institution other than a primary dealer, that is specifically designated in writing by the Central Bank as eligible to bid directly at Central Bank auctions of Treasury Bills;

“direct participant” means any primary dealer or other person appointed by the Central Bank in writing under subsection (1) of section 9 to be a direct participant;

“interdealer broker” means any person or firm, appointed to be an interdealer broker by the Central Bank pursuant to subsection (1) (e) of section 8;

“Own Scripless Treasury Bill account” with reference to a direct participant means the single account maintained by a direct participant with the Central Bank, in accordance with subsection (2) of section 9, to hold Scripless Treasury Bills in his own account.

“pledge” includes a pledge of, or any security interest in, Scripless Treasury Bills as collateral for loans or advances, or to secure deposits of public moneys or the performance of an obligation;

“primary dealer” means any commercial bank, company, or other person appointed by the Monetary Board as a primary dealer for the purpose of dealing with the Central Bank as a counterparty in the primary and secondary markets for Treasury Bills;

“records of the Central Bank” includes records maintained on behalf of the Central Bank by any person appointed for that purpose by the Monetary Board and includes records kept, stored or transmitted in the form of computer film disks, tapes or other magnetic, electronic or optical media;

“Scripless Treasury Bill” means a treasury bill issued in the form of entries in the records of the Central Bank and not embodied in or represented by, a certificate or other physical instrument;

“Treasury Bill” means a Treasury Bill issued under this Ordinance and includes a Scripless Treasury Bill.’

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

# REGISTERED STOCK AND SECURITIES (AMENDMENT) ACT, NO. 32 OF 1995

[Certified on 14th December, 1995]

## AN ACT TO AMEND THE REGISTERED STOCK AND SECURITIES ORDINANCE

1. This Act may be cited as the Registered Stock and Securities (Amendment) Act, No. 32 of 1995.
2. The long title to the Registered Stock and Securities Ordinance (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “GOVERNMENT PROMISSORY NOTES, AND BEARER BONDS”, OF THE WORDS “GOVERNMENT PROMISSORY NOTES, BEARER BONDS AND TREASURY BONDS”.
3. Section 2 of the principal enactment is hereby amended as follows:—
  - (1) in subsection (1) of that section by the repeal of paragraph (c) of that subsection and the substitution of the following paragraphs therefor:—

“(c) by the issue of securities in the form of bearer bonds;

“(d) by the issue of securities in the form of treasury bonds.”
  - (2) in the marginal note to that section, by the substitution for the words “promissory notes, and bearer bonds”, of the words “promissory notes, bearer bonds, and treasury bonds”.
4. Section 4 of the principal enactment is hereby amended in subsection (1) of that section, by the repeal of paragraphs (b), (c), (d) and (e) of that subsection and the substitution of the following paragraphs therefor:—

“(b) the modes of raising the loan and the manner in which such loan is to be raised;

“(c) the rate of interest payable on the loan, or the method of determination of the rate of interest payable;

“(d) the dates on which interest on the loan shall be payable;

“(e) the rate at which and the periods at the end of which, appropriation out of the Consolidated Fund and assets of Sri Lanka shall be made as a contribution to the sinking fund established for the purpose of redeeming that loan and the date from which such contributions shall commence.”.
5. The following new section is hereby inserted immediately after section 5 and shall have effect as section 5A of the principal enactment:—

“Restrictions on purchase of stocks and securities.      5A. Any application or bids for the purchase of registered stock or securities may, having regard to the interests of the national economy, be restricted to primary dealers and designated non-dealer bidders.”.
6. The following new heading and new sections are hereby inserted immediately after section 21 of the principal enactment and shall have effect as sections 21A, 21B, 21C, 21D, 21E and 21F of that enactment:—

### “TREASURY BONDS

- “Treasury bonds.      21A. (1) Every treasury bond shall, when issued, bind the Government to pay the principal sum, for which the bond is issued and the interest thereon, in accordance with the provisions of this Ordinance at the rate and on the dates specified in the Order under section 4 or in pursuance of an option to redeem such bond reserved in that Order.
- (2) Notwithstanding any other provisions of this Ordinance, treasury bonds may be issued either as bonds in the form of written certificates or as scripless treasury bonds. In the case of treasury bonds issued in the form of written certificates, the provisions of section 21B shall apply to such written certificates. In the case of scripless treasury bond the provisions of sections 21C, 21D, 21E AND 21F shall apply to such scripless treasury bonds.

"Treasury bonds in the form of written certificates.

21B. (1) Every treasury bond issued in the form of a written certificate shall be signed by the Registrar for and on behalf of the Government, and the title thereto shall be transferable by endorsement and delivery of the bond.

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

- (a) no endorsement of a treasury bond issued in the form of a written certificate shall be valid unless made by the signature of the holder written on the reverse of the bond in one of the spaces provided for that purposes, or in a separate form prescribed by regulation;
- (b) a person shall not, by reason only of his having endorsed or endorsed and delivered a treasury bond issued in the form of a written certificate be liable to pay any money due either as principal or as interest thereon.

"Issue trading and maintenance of records of scripless treasury bonds.

21C. (1) Notwithstanding any other provisions of this Ordinance the Minister in charge of the subject of Finance, may by an Order published in the *Gazette* direct the issue of scripless treasury bonds. Such scripless treasury bonds shall be issued and maintained in accordance with the provisions of this section and sections 21D, 21E and 21F of this Ordinance.

(2) The Central Bank shall have the authority to take any action necessary for the issue and trading of scripless treasury bonds in accordance with the provisions of this Ordinance. Without limiting the generality of the foregoing, the Central Bank shall have the authority to undertake and carry out the following:—

- (a) the making and maintaining of entries in the records of the Central Bank to record the issue and trading of scripless treasury bond;
- (b) the maintenance of accounts to record the ownership or custodial holdings of scripless treasury bond or interests therein, for or on behalf of direct participants or the Central Bank;
- (c) the appointment from time to time of direct participants referred to in section 21D, and the regulation, supervision or monitoring of such direct participants with respect to their transactions in scripless treasury bonds and the performance of their duties as direct participants;
- (d) the appointment from time to time of dealer direct participants referred to in section 21E, and the regulation, supervision or monitoring of such dealer direct participants with respect to their transactions in scripless treasury bonds and the performance of their duties as dealer direct participants;
- (e) the appointment from time to time of interdealer brokers, and the regulation, supervision or monitoring of such interdealer brokers with respect to their brokering of scripless treasury bonds and the performance of their duties as interdealer brokers;
- (f) the appointment from time to time of primary dealers, and the regulation, supervision or monitoring of such primary dealers with respect to their transactions in securities and the performance of their duties as primary dealers;
- (g) the appointment of designated non-dealer bidders and the regulations, supervision and monitoring of such non-dealer bidders with respect of their transaction in securities and the performance of their duties as non-dealer bidders;
- (h) the formulation of a code of conduct for the promotion and development of an orderly market for scripless treasury bonds.

(3) The Central Bank may, to the extent not otherwise provided for in sections 21C, 21D, 21E and 21F, issue directions to direct participants or any category thereof, to provide for the following:—

- (a) the manner in which the accounts of customers of dealer direct participants are to be maintained and administered;
- (b) the times at which principal and interest payments, and any redemption proceeds, are to be credited to such account;
- (c) the fees that may be charged for maintaining and administering such accounts;
- (d) the regulating, supervising or monitoring of direct participants, dealer direct participants, or interdealer brokers;
- (e) the manner and means by which scripless treasury bonds, or interests therein, may be purchased, sold, transferred, pledged or encumbered.

"Direct  
Participant.

- 21D. (1) The Central Bank may appoint in writing any primary dealer or other person to be a direct participant. Each direct participant shall be entitled to maintain with the Central Bank its own scripless treasury bond account, as specified in subsection (2) of this section.
- (2) A direct participant shall maintain a single account with the Central Bank for holding scripless treasury bonds, on its own account. Such account shall be maintained by the direct participant in the form and manner specified in writing by the Central Bank from time to time.
  - (3) The Central Bank shall maintain records of the account of a direct participant, and such records shall be conclusive evidence of the state of such account, and the same shall be binding on the Central Bank and the direct participant.
  - (4) The Central Bank shall pay, on the date they become payable, all amounts, either of principal, interest or redemption proceeds, owing on scripless treasury bonds to direct participants in accordance with the accounts of scripless treasury bonds maintained by them with the Central Bank, whether those accounts are in respect of scripless treasury bonds held on their own account or, in the case of dealer direct participants in respect of such treasury bonds, held on their own account, and in respect of such treasury bonds held in aggregate customers accounts. Such payment shall be made by such means and in such manner as may be specified by the Central Bank.
  - (5) A direct participant shall furnish to the Central Bank such returns, details, particulars or information with respect to its own scripless treasury bond account and, in the case of a dealer direct participant, with respect to its own scripless treasury bond account and its aggregate customer account, as the Central Bank may from time to time specify.
  - (6) The Central Bank may, through any of its officers authorized in writing by the Monetary Board, inspect and take copies of any books, records or accounts maintained by a direct participant relating to or affecting any scripless treasury bonds, including any books, records or accounts with respect to scripless treasury bonds held in its own account, or in the case of a dealer direct participant with respect to scripless treasury bonds held in its own account as well as those held in its aggregate customers account. The direct participant, and its officers, directors, employees, servants and agents, shall furnish to the Central Bank, all such books, records, correspondence or any other documents as may be required by the Central Bank, and shall provide the Central Bank with all such assistance as it may require to perform the duties imposed on the Central Bank by this Ordinance with respect to scripless treasury bonds.
  - (7) In the event the Government incurs any liability, or makes payment of any interest, principal or redemption proceeds with respect to a scripless treasury bond, and such liability arises or such payment is made, in consequence, or by reason, of any default of a direct participant or a dealer direct participant, such participant shall be liable on demand by the Government, to indemnify the Government with respect to such liability or payment.

For the purposes of this subsection "default" includes—

- (a) any negligence or failure on the part of a direct participant or a dealer direct participant in the carrying out of any function, or the discharging of any duty, assigned to, or imposed on him, by this Ordinance; and
- (b) any act or omission on the part of a direct participant or a dealer direct participant which constitutes an offence under this Ordinance, or an offence under any other written law in relation to any matter dealt with by this Ordinance,—
  - (i) whether or not, there has been any prosecution in respect of such offence; or
  - (ii) whether such act or omission was by the direct participant, or the dealer direct participant, or by any Director, officer, employee, or agent of such direct participant or of such dealer direct participant.

"Dealer direct participant.

- 21E. (1) The Central Bank may appoint in writing, any direct participant to be a dealer direct participant.
- (2) A dealer direct participant shall maintain with the Central Bank, in addition to, and separate from, its own scripless treasury bond account an aggregate customers account which shall be a single aggregate account in respect of all transfers effected under subsection (3) of this section, through such dealer direct participant. The aggregate customers account shall be maintained by the dealer direct participant in such form and manner as may be specified from time to time in writing by the Central Bank.
  - (3) Only dealer direct participants may transact in scripless treasury bonds on behalf of others. Any person, other than a direct participant and the Central Bank, desiring either to make a transfer or take a transfer of a scripless treasury bond shall do so only through a dealer direct participant.
  - (4) A dealer direct participant shall maintain an account in respect of each of its customers, and any other books, records and files relating to its customers as may be necessary or appropriate to enable the dealer direct participant to perform his duties under this Ordinance.
  - (5) A dealer direct participant shall issue to each of its customers a monthly or other periodic statement or statements in respect of such customer's scripless treasury bonds on or before the date or dates that may be specified therefor by the Central Bank. Each such statement shall be for such period and in such form, and shall contain such information, as the Central Bank may specify.
  - (6) Upon receipt by a dealer direct participant of such payments from the Central Bank, as are referred to in subsection (4) of section 21D of amounts owing on scripless treasury bonds held in the dealer direct participant's aggregate customers account, the dealer direct participant shall pay to the party or parties entitled thereto, on the date they become payable, all amounts, either of interest or principal or redemption proceeds, payable on such scripless treasury bonds. Such payments shall be by such means, and made at the time and in such manner, as may be specified by the Central Bank.
  - (7) The scripless treasury bonds transacted by a dealer direct participant in respect of any transfer effected through him under subsection (3) of this section shall be transacted in the manner, and for the purposes, provided for in this section and section 21F.
  - (8) The accounts maintained by a dealer direct participant under subsections (2) and (4) of this section, shall in so far as it relates to a customer, be confidential as between the dealer direct participant and the customer and shall, notwithstanding anything in section 54 of this Ordinance, not be disclosed to any person, except to the Central Bank or to the heirs, executors or assigns of the customer or as otherwise required by law, unless such disclosure is authorized in writing by the customer.

- (9) A dealer direct participant shall wholly responsible and liable to a customer in respect of all transfers taken or made by such customer through such dealer direct participant.

"Transfers  
of scripless  
treasury  
bonds.

- 21F. (1) A dealer direct participant shall maintain an account in respect of every transferor and transferee of scripless treasury bonds other than the Central Bank or a direct participant who is a party to any transfer effected through such dealer direct participant in accordance with subsection (3) of section 21E, except where in respect of a transferee, a customer's account is maintained by another dealer direct participant in which case the first-mentioned dealer direct participant shall have the scripless treasury bonds transferred into the transferee's account with the second-mentioned dealer direct participant.

- (2) Where a transfer of scripless treasury bonds is made by any person in accordance with subsection (3) of section 21E, the dealer direct participant through which the transfer is effected shall forthwith issue, in the form and manner specified from time to time by the Central Bank—
- (i) to the transferor, a confirmation or acknowledgement receipt in respect of the transfer; and
  - (ii) to the transferee, a confirmation or acknowledgment receipt in respect of the transfer, if such dealer direct participant maintains an account in respect of the transferee's treasury bonds:

Provided however that if a dealer direct participant other than the aforementioned dealer direct participant maintains a customers' account in respect of the transferee's scripless treasury bonds, the first-mentioned dealer direct participant shall forthwith notify, in the manner specified from time to time by the Central Bank, the second-mentioned dealer direct participant of the transfer and such second-mentioned dealer direct participant shall forthwith issue to the transferee a confirmation or acknowledgement receipt in the form and manner specified from time to time by the Central Bank.

- (3) The confirmation or acknowledgment receipt referred to in subsection (2) of this section shall not be capable of being negotiated and shall be used solely between the dealer direct participant who issued it and the customer to whom it was issued, as evidence of the transfer of scripless treasury bonds, under subsection (3) of section 21F, to which it relates.
- (4) Where the amount in the aggregate customers account maintained by a dealer direct participant with the Central Bank is affected by a transfer effected through the dealer direct participant in accordance with subsection (3) of section 21E, the dealer direct participant shall communicate forthwith to the Central Bank, information of any change in such amount caused by such transfer.
- (5) The Central Bank may, permit any notification or confirmation or acknowledgement receipt required under this section to be in non-written form and to be transmitted or delivered by wire, telephone, satellite, cable or any other such electronic, magnetic or optical media, as may be specified, by the Central Bank.'

7. Section 22 of the principal enactment is hereby amended by the substitution for the words "in each half year", of the words "for each period".
8. Section 23 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 interest due on any registered stock or securities shall be payable on the dates specified by Order made under section 4."

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

- "Appropriation of revenue for the sinking fund.
27. After the date specified in the Order under section 4 as the date from which contributions to the sinking fund for any loan shall commence, there shall, for each period ending with the date specified in that Order for the payment of interest on any stock or securities issued in respect of that loan, be appropriated out of the Consolidated Fund and assets of Sri Lanka, a sum determined in accordance with the rate specified in the Order as the contribution to the sinking fund established for the purpose of redeeming that loan."
10. Section 31 of the principal enactment is hereby amended by the substitution for the words "payments of half-yearly contributions", of the words "payment of contributions."
11. Section 38 of the principal enactment is hereby repealed and the following section substituted therefor:-
- "Renewal of stock certificates and securities.
38. On the surrender to the Registrar of a stock certificate, promissory note, bearer bond, or treasury bond which is defaced or damaged or of a promissory note in which the spaces provided for endorsement have all been used for that purpose, or of a bearer bond or treasury bond at the end of the period which the interest-coupons originally attached to the bond were intended to cover, the Registrar may, if he is satisfied that the claim of the persons surrendering the certificate, note or bond is just and lawful, issue to such person, on payment of the prescribed fee, if any, a new certificate, note, or bond of the same class or series and value and thereupon cancel the certificate, note or bond surrendered to him for renewal."
12. Section 49 of the principal enactment is hereby amended by the substitution for the words "promissory note or bearer bond", of the words "promissory note, bearer bond, or treasury bond."
13. The following new sections are hereby inserted immediately after section 53 and shall have effect as sections 53A and 53B of the principal enactment:—
- "Powers of Central Bank exercised by officers etc.
- 53A. Whenever by any provision of this Ordinance any power, duty or function is authorized or required to be exercised or performed by the Central Bank such power, duty or function may be exercised or performed by an officer of the Central Bank or any other person authorized in writing in that behalf by the Monetary Board of the Central Bank.'
- "Protection of action.
- 53B. No suit or prosecution shall lie against the Government, the Monetary Board, the Registrar, or any officer or servant of the Central Bank in respect of any payment made or any act which in good faith is done, or purported to be done under this Ordinance, by the Government, the Monetary Board, Registrar, or any such officer or servant of the Central Bank."
14. Section 55 of the principal enactment is hereby amended by renumbering paragraph (h) of subsection (2) as paragraph (m) of that subsection and the insertion immediately after paragraph (g) of that subsection the following new paragraphs:—
- " (h) the appointment of primary dealers and the conditions to be observed by, and the privileges of, and the duties to be performed by, the primary dealers;
- (i) the appointment of direct participants, dealer direct participants, and interdealer brokers, and their regulation, supervision or monitoring;
- (j) the issue, holding and administration of scripless treasury bonds under this Ordinance;
- (k) the manner in which stock and securities, including scripless treasury bonds, or interests therein, may be purchased, sold, transferred, pledged or encumbered;
- (l) the procedures and conditions applicable to the primary issue of, and subsequent transfers and other transactions relating to, stock and securities; and"
15. The following new sections are hereby inserted immediately after section 56 and shall have effect as sections 56A and 56B of the principal enactment:—

"Offences. 56A. (1) Any person who—

- (a) fails to comply with any provision of this Ordinance or any regulation, order, or direction given thereunder;
- (b) furnishes for the purposes of this Ordinance any information which is, or any return the contents of which are, to his knowledge false or incorrect;
- (c) with intent to deceive—
  - (i) makes or causes to be made a false entry, or
  - (ii) omits to make, or causes to be omitted, any entry; or
  - (iii) alters, conceals or destroys, or causes to be altered, concealed or destroyed, any entry, in any of the records of the Central Bank, or in any books, records or accounts of any direct participant, including any dealer direct participant, or any primary dealer,

shall be guilty of an offence under this Ordinance.

- (2) any person guilty of an offence under this Ordinance shall be liable on conviction after summary trial by a Magistrate, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million rupees or to both such imprisonment and fine.

"Offence of directors and officers.

56B. Where the person convicted of an offence under the Ordinance is a body corporate, every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to avoid the commission of such offence."

16. Section 58 of the principal enactment is hereby amended as follows:—

- (a) by the insertion immediately before the definition of "bearer bond", of the following definition:—

"aggregate customers' account" means the single account maintained by dealer direct participant with the Central Bank, in accordance with subsection (2) of section 21E.';

- (b) by the insertion, immediately after the definition of "bearer bond", of the following definitions:—

"customers" in relation to a dealer direct participant means any person who purchases or sells, or otherwise acquires or disposes of, scripless treasury bonds or an interest therein through such dealer direct participant, or who negotiates, with such dealer direct participant for the possible acquisition or disposition of such bonds or interest;

"dealer direct participant" means any direct participant appointed by the Central Bank in writing under subsection (1) of section 21E to be a dealer direct participant;

"designated non-dealer bidder" means any institution, other than a primary dealer that is appointed in writing by the Central Bank as being eligible to bid directly at Central Bank auctions of securities;

"direct participant" means any primary dealer or other person, appointed by the Central Bank in writing under subsection (1) of section 21D to be a direct participant;

"Interdealer broker" means any person or firm appointed to be an interdealer broker by the Central Bank pursuant to subsection (2) (e) of section 21C;

"non-dealer direct participant" means any direct participant who is not a dealer direct participant;

"pledge" includes a pledge of, or any security interest in, scripless treasury bonds as collateral for loans or advances, or to secure deposits of public moneys or the performance of an obligation.';

- (c) by the insertion immediately after the definition of "prescribed" of the following definition:—

‘ “primary dealer” means any commercial bank, company, or other person appointed by the Monetary Board as a primary dealer for the purpose of dealing with the Central Bank as counterparty in the primary and secondary markets for stock and securities.’;

(d) by the insertion immediately after the definition of “promissory note”, of the following definitions:—

‘ “rate of interest” includes a rate of interest determined in accordance with the method, if any, specified in terms of an Order under subsection (1) (c) of section 4;

“records of the Central Bank” include records maintained on behalf of the Central Bank by any person authorized for that purpose by the Monetary Board, and include records kept, stored or transmitted in the form of computer files, disks, tapes or other magnetic, electronic or optical media;’;

(e) by the insertion immediately after the definition of “registered stock” of the following definitions:—

‘ “scripless treasury bond account” means the single account maintained by a direct participant with the Central Bank in accordance with subsection (2) of section 21D;

“scripless treasury bond” means a treasury bond issued in the form of entries in the records of the Central Bank and not embodied in or represented by a certificate or other instrument;’;

(f) by the repeal of the definition of “security” and the substitution of the following definition therefor:—

‘ “security” means a bearer bond or a promissory note or a treasury bond;’;

(g) by the insertion immediately after the definition of “security” of the following definition:—

‘ “treasury bond” means a treasury bond issued under this Ordinance and other than in sections 37, 38, 39, 42, 44, 46(b) and (c), 49, 52 and 55(2)(c) and (d), includes a scripless treasury bond.’.

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

## **BANKING (AMENDMENT) ACT, NO. 33 OF 1995**

[Certified on 19th December, 1995]

### **AN ACT TO AMEND THE BANKING ACT, NO. 30 OF 1988**

1. This Act may be cited as the Banking (Amendment) Act, No. 33 of 1995.
2. The long title of the Banking Act, No. 30 of 1988 (hereinafter referred to as the “principal enactment”) is hereby repealed and the following long title is substituted therefor:—

“AN ACT TO PROVIDE FOR THE INTRODUCTION AND OPERATION OF A PROCEDURE FOR THE LICENSING OF PERSONS CARRYING ON BANKING BUSINESS AND OF CARRYING ON THE BUSINESS OF ACCEPTING DEPOSITS AND INVESTING SUCH MONEY; FOR THE REGULATION AND CONTROL OF MATTERS RELATING TO SUCH BUSINESS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.”.
3. Section 2 of the principal enactment is hereby amended as follows:—
  - (1) by the repeal of the last paragraph to that section; and
  - (2) by the addition at the end of that section, the following new subsection:—

‘(6) For the purpose of this section “company” shall have the same meaning as in section 449 of the Companies Act, No. 17 of 1982, and includes a company duly incorporated outside Sri Lanka, or a body corporate formed in pursuance of any statute of any foreign country, Royal Charter or letters patent and a body corporate established by or under any written law and shall not include the Central Bank or a private company incorporated outside Sri Lanka, except the banks specified in Schedule I to this Act.’
4. Section 3 of the principal enactment is hereby amended in subsection (2) of that section by the repeal of paragraph (c) of that subsection, and the substitution therefor of the following paragraph:—

‘(c) in the case of an application by a company or body corporate incorporated outside Sri Lanka, a written undertaking supported by a resolution of its Board of Directors, stating that such company or body corporate as the case may be shall on demand by the Central Bank, provide such funds as may be necessary to meet all obligations and liabilities incurred in the carrying on of its business of banking in Sri Lanka, and a report containing such information as may be determined by the Monetary Board from the monetary authority of the country in which such company or body corporate was incorporated or formed as the case may be;’.
5. Section 4 of the principal enactment is hereby amended as follows:—
  - (1) in subsection (1) of that section, by the substitution for the words “any company incorporated outside Sri Lanka”, and “such company” of the words “any company or body corporate incorporated outside Sri Lanka”, and “such company or incorporated body” respectively;
  - (2) in subsection (3) of that section, by the substitution for the words “to all companies incorporated outside Sri Lanka”, of the words “to all companies and bodies corporate incorporated outside Sri Lanka”; and
  - (3) in the marginal note to that section, by the substitution for the words “companies incorporated outside Sri Lanka”, of the words “companies and bodies corporate incorporated outside Sri Lanka”.
6. Section 5 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “and having satisfied itself that the terms and conditions of such licence will be observed by the applicant shall,”, of the words “and being satisfied that the terms and conditions of such licence will be observed by the applicant and having regard to the interests of the national economy, may,”.
7. Section 9 of the principal enactment is hereby amended in subsection (1) of that section by the insertion immediately after paragraph (d) of that subsection, the following new paragraph—

“(e) where it is a licensed commercial bank incorporated outside Sri Lanka, had its licence or authority to operate, cancelled or withdrawn by the appropriate authority or regulatory body of the country in which such bank was incorporated;”.

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

“Section 30 of the Monetary Law Act to be applicable. 11A. Nothing contained in sections 9, 10 and 11 of this Act, shall in any way affect the powers conferred on the Monetary Board by section 30 of the Monetary Law Act.”

9. The following new section is hereby inserted immediately after section 13 and shall have effect as section 13A of the principal enactment:—

“Mobile banking units. 13A. (1) Notwithstanding the provisions contained in paragraph (a) of subsection (1) of section 12, the Deputy Governor may on, guidelines issued by the Monetary Board for such purpose, grant approval for the establishment of mobile banking units, subject to such terms and conditions as he may determine, from time to time.  
(2) The Deputy Governor may on a report of Director of Bank Supervision, by order made in writing withdraw the approval granted under subsection (1) or vary the terms and conditions of such approval, and notice of the decision shall be communicated to the relevant licensed commercial bank”.

10. The following new section is hereby inserted immediately after section 14 and shall have effect as section 14A of the principal enactment:—

“Memorandum and Articles to be altered with approval. 14A. A licensed commercial bank which is a company as defined in section 449 of the Companies Act, No. 17 of 1982, shall not alter its Memorandum of Association and the Articles of Association, without the prior written approval of the Monetary Board.”

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

- (1) in subsection (1) of that section, by the substitution for the words “shall use as part of its name” of the words “shall, except with the prior written approval of the Monetary Board, use as part of its name”; and
- (2) in subsection (2) of that section, by the substitution for the words “shall, for the purpose of carrying on any business, use as part of its or his name”, of the words “shall, except with the prior written approval of the Monetary Board, for the purpose of carrying on any business, use as part of its or his name”.

12. Section 17 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

- (1) by the substitution in the proviso to that subsection, for the words “a subsidiary which—”, of the words “a subsidiary which carries on any one or more of the following businesses—”;
- (2) by the substitution in paragraphs (a), (b), (c), (d) and (e) of the proviso to that subsection, for the words “sole business”, of the word “business”; and
- (3) by the repeal of paragraph (g) of the proviso to that subsection, and the substitution therefor of the following paragraph:—

“(g) carries on any form of business which in the opinion of the Monetary Board is not inconsistent with the business of banking and the provision of finance:”.

13. The following new section is hereby inserted immediately after section 17 and shall have effect as section 17A of the principal enactment:—

“Purchase of shares fifty percent or less by a licensed commercial bank. 17A. (1) subject to the provisions of subsection (2), a licensed commercial bank shall not acquire or hold shares in any company other than a listed public company, and—

- (a) any share holding acquired by such bank shall not be in excess of such percentage of its capital funds as the Monetary Board may determine from time to time; and
- (b) the aggregate amount invested in the shares of listed public companies (excluding companies which are subsidiaries of the bank) shall not exceed, such percentage of its capital funds as may be determined from time to time by the Monetary Board;

Provided however a licensed commercial bank may, without exceeding the limits specified above, acquire shares in a public company other than a listed company, if such acquisition becomes necessary for the purpose of rehabilitating such company to make it financially viable.

(2) The provisions of subsection (1), shall not apply to—

- (a) investment in a subsidiary company of such bank which is a licensed commercial bank;
- (b) investments in any other subsidiary company of the bank acquired with the approval of the Monetary Board;
- (c) any shareholding which the bank might acquire in the course of the satisfaction of any debt due to such bank, or as a consequence of the underwriting of a share issue:

Provided that where as a result of the acquisition of these shares the total investment of the bank exceeds the percentage of capital funds as determined by the Monetary Board under subsection (1), the Bank shall dispose of such excess shares within two years or such longer period as may be determined by the Monetary Board, of the date of such acquisition;

- (d) any acquisition or holding of shares in any company which in the opinion of the Monetary Board is established for the advancement and promotion of human resources development and technological development in the banking and financial sectors.

- (3) for the purpose of this section “listed public company” means any public company which has its securities listed or quoted in a stock exchange licensed under the Securities and Exchange Commission Act, No. 37 of 1987.”.

**14. Section 19 of the principal enactment is hereby amended as follows:—**

- (1) by the repeal of subsections (1), (2) and (3) of that section, and the substitution therefor of the following subsections:—

“(1) Subject to the provisions of subsection (3), every licensed commercial bank

- (a) which has been issued with a licence prior to the date of commencement of this section, shall at all times maintain an equity capital in an amount not less than twenty-five million rupees;
- (b) which has been issued with a licence after the date of commencement of this subsection, shall at all times maintain an equity capital in an amount not less than one hundred million rupees or such other amount as the Monetary Board may, having regard to the viability and stability of the banking system and the interest of the national economy and with the concurrence of the Minister, determine from time to time.

(2) “equity capital” shall mean—

- (a) paid up capital if it is a licensed commercial bank incorporated or established in Sri Lanka by or under any written law;

- (b) the amount assigned to such bank by the head office, if it is a licensed commercial bank incorporated or established outside Sri Lanka.
- (3) (a) The Monetary Board may, having regard to the deposit liabilities or to the total liabilities including contingent liabilities or to the total assets or to any specified category of assets of a bank, vary from time to time the amounts specified as the minimum amounts required to be maintained by a licensed commercial bank as equity capital under subsection (1) of this section.
- (b) For the purpose of computing the minimum required equity capital, when such amount is prescribed in reference to liabilities or assets, both capital and liabilities or assets shall be of such kind and computed in such manner as the Monetary Board may from time to time determine having regard to the interest of national economy.
- (c) The Monetary Board shall, in writing, communicate to all licensed commercial banks any variation made by it in respect of the equity capital required to be maintained by a licensed commercial bank.
- (d) Where any licensed commercial bank is required by such variation to augment its equity capital, it shall upon application to the Monetary Board, be afforded a period of twelve months, or such longer period as may be granted by the Monetary Board, in which to comply with that requirement.”;
- (2) by the repeal of subsection (5) of that section, and the substitution therefor of the following subsection:—
 

“ (5) A licensed commercial bank shall not reduce its equity capital without the prior written approval of the Monetary Board.”;
- (3) by the repeal of subsection (7) of that section and the substitution therefor of the following subsection:—
 

“ (7) (a) Every licensed commercial bank shall at all times maintain a capital adequacy ratio as may be determined by the Monetary Board, which shall in determining such ratio to be maintained, as far as practicable adopt the guidelines for capital adequacy set out by Bank for International Settlements in Basle.

(b) Any variation in the capital adequacy ratio referred to in paragraph (a) shall be communicated to every licensed commercial bank by the Monetary Board in writing, provided that every licensed commercial bank which is required by such variation to augment its capital, shall be afforded a period of twelve months or such longer period as may be granted by the Monetary Board, in which to comply with such requirement.”;
- (4) by the repeal of subsection (8) of that section; and
- (5) by the substitution in subsection (9) of that section, for the words “the capital or capital funds”, of the words “the equity capital or capital funds”.

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

- “Parts III, V and VI not to apply to off-shore banking in certain circumstances
24. (1) All off-shore operation of a licensed commercial bank under this Part, shall be carried on by its off-shore unit, and subject to the provisions of subsection (2), Parts III, V and VI of this Act, shall not apply in respect of such off-shore banking business.
- (2) The Monetary Board may by notice published in the *Gazette* declare, that all or any of the provisions contained in Parts III, V and VI of this Act shall apply in respect of all off-shore banking business of a licensed commercial bank in general or in respect of its off-shore banking business with residents only.”.

16. Section 26 of the principal enactment is hereby amended by the substitution for the words and figures “specified under section 25,”, of the words and figures “specified under section 25 with a resident,”.

17. Section 29 of the principal enactment is hereby repealed and the following section is substituted therefor:—

- “Parts III, VI, VII of Chapter V of the Monetary Law Act not to apply in certain circumstances.”
29. (1) Subject to the provisions of subsection (2), the provisions of Parts III, VI and VII of Chapter V of the Monetary Law Act shall not apply in respect of off-shore banking business of a licensed commercial bank.
- (2) The Monetary Board may, by notice published in the *Gazette* declare that all or any of the provisions of Parts III, VI, and VII of Chapter V of the Monetary Law Act (Chapter 422), shall apply in respect of the off-shore banking business of a licensed commercial bank in general or in respect of its off-shore banking business with residents only.”

18. Part IVA of the principal enactment other than section 34B, is hereby repealed.

19. Section 34B of the principal enactment is hereby amended as follows:—

- (1) in subsection (2) of that section by the substitution for the words “Where a licensed commercial bank authorized by the Monetary Board under this Part opens a numbered account”, of the words “Where a licensed commercial bank has opened a numbered account”;
- (2) by the addition at the end of that section, the following new subsection—
- (3) For the purpose of this section “numbered account” means an account opened with a licensed commercial bank authorized by the Monetary Board under repealed section 34A, that is identified only by a number, code, word or such other means as was determined by the Monetary Board.”

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

- (1) in subsection (1) of that section, by the substitution for the words “after the close of the financial year its balance sheet”, of the words “after the close of the financial year its audited balance sheet”; and
- (2) in subsection (2) of that section by the substitution for the words “close of each financial year its balance sheet”, of the words “close of each financial year its audited balance sheet”.

21. The following new section is hereby inserted immediately after section 38 and shall have effect as section 38A of the principal enactment:—

- “Director of Bank Supervision to issue list of qualified auditors.”
- 38A. (1) The Monetary Board may having regard to the need to ensure that experienced and competent qualified auditors are engaged in auditing the accounts of licensed commercial banks, issue guidelines to the Director of Bank Supervision who shall select from time to time in accordance with such guidelines, such number of qualified auditors to audit the accounts of licensed commercial banks and transmit a list of such selected qualified auditors to all licensed commercial banks.
- (2) It shall be the duty of all licensed commercial banks to select their auditors for purpose of auditing its accounts from and out of the list transmitted under subsection (1).”.

22. Section 39 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution for the words “appoint annually a qualified auditor to audit”, of the words “appoint annually from and out of the list issued by the Director of Bank Supervision under section 38A, a qualified auditor to audit”; and
- (2) by the insertion immediately after subsection (3) of that section, of the following new subsection:—
- “(3A) Notwithstanding the provisions of subsection (3), the Director of Bank Supervision may, on receipt of the report referred to in that subsection, call upon the auditors to—
- (a) submit such additional information in relation to the audit, as the Monetary Board considers necessary;

- (b) enlarge or extend the scope of the audit of the business and affairs of the bank;
- (c) carry out such other examination required by him or recommend to the licensed commercial bank any procedure in respect of a particular matter; and
- (d) submit a report on any of the matters referred to in paragraphs (b) and (c),

and the cost of such additional audit or such other work shall be met by the Central Bank.’

**23. Section 42 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) No person shall be appointed or elected as a director of a licensed commercial bank if he—

- (a) has been under any written law in force in Sri Lanka, found or declared to be of unsound mind; or
- (b) is a person who, having been declared insolvent or bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or
- (c) has been convicted of an offence involving moral turpitude and punishable with a term of imprisonment; or
- (d) is an employee or a director of any other licensed commercial bank or an employee (other than the chief executive officer) of the bank;”;

- (2) by the repeal of paragraph (c) of subsection (2) of that section.

**24. Section 43 of the principal enactment is hereby repealed and the following section substituted therefor:—**

“Secretary  
of a licensed  
commercial  
bank.

- 43. A licensed commercial bank shall appoint as its Secretary, a person who possesses such qualifications as may be prescribed for a secretary of a company, under subsection (1) of section 176 of the Companies Act, No. 17 of 1982 and on being appointed the Secretary, shall unless such person is already an employee of such licensed commercial bank, become an employee of that bank and shall not become an employee of any other institution so long as such person continues to be employed as the Secretary of such licensed Commercial Bank.”.

**25. Section 46 of the principal enactment is hereby amended as follows:—**

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

“(c) the maximum amount of accommodation which having regard to the equity capital, reserves and deposits of such licensed commercial bank and other relevant considerations, as may be made by such bank—

- (i) to any one, company, public corporation, firm, association of persons or individual;
- (ii) in the aggregate to—
  - (a) to an individual, his close relations or to a company or firm in which he has a substantial interest.”;
  - (b) a company and one or more of the following:—
    - (aa) its subsidiaries;
    - (bb) its holding company;
    - (cc) its associate company;
    - (dd) a subsidiary of its holding company; or

(ee) a company in which such company or its subsidiary, or its holding company, or a subsidiary of its holding company has a substantial interest.”; &

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

“For the purpose of this subsection, a company is deemed to be an “associate company” of another company, where not less than twenty *per centum* and not more than fifty *per centum* of its shares are held by that other company.”.

26. The following new section is hereby inserted immediately after section 46, and shall have effect as section 46A of the principal enactment:—

“Imposition of general and specific provisions requirements for bad and doubtful debts.

46A. The Monetary Board shall have the power to require both general and specific provisions relating to bad and doubtful debts, to be made by licensed commercial banks and it shall be the duty of all licensed commercial banks to conform with the requirement so imposed.”.

27. Section 47 of the principal enactment is hereby amended as follows:—

(1) in subsection (6) of that section, by the substitution for the words “whichever is applicable.”, of the words—

“whichever is applicable:

Provided that the provisions of this section shall not apply to a director who at the time of the grant of an accommodation, was an employee of the bank and the accommodation was granted under a scheme applicable to the employees of such bank.”; and

(2) by the insertion immediately after subsection (11) of that section the following new subsection:—

“(11A) Where any accommodation is granted by a licensed commercial bank to a director or to a close relation of such director or to any concern in which such director has a substantial interest during the course of any financial year, such accommodation shall be disclosed in the accounts for that financial year.

The requirement imposed under this subsection shall be in addition to and not in derogation of any requirement imposed by the Companies Act, No. 17 of 1982 or any other written law.”.

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

“Purchase and acquisition of immovable property.

48A. A licensed commercial bank shall not purchase or in any other way acquire any immovable property or any right therein, exceeding in the aggregate such percentage of its capital funds as may be determined by the Monetary Board from time to time, except as are reasonably required for the purpose of conducting its banking business or of housing or providing amenities for its staff:

Provided this restriction shall not prevent the bank from accepting any immovable property as security for a debt and in the event of default in payment of the debt, from holding such immovable property until its sale at the earliest opportunity.”.

29. The following new section is hereby inserted immediately after section 49 and shall have effect as section 49A of the principal enactment—

“In case of insolvency to inform Director of Bank Supervision.

49A. Any licensed commercial bank which considers that it is, or is likely to be unable to meet its obligations or is about to become insolvent or is about to suspend payments due to depositors and other creditors, shall forthwith inform the Director of Bank Supervision of that fact.”.

30. The following new Part is hereby inserted immediately after Part VII and shall have effect as Part VIIA of the principal enactment:—

‘PART VIIA

VESTING THE BANKING BUSINESS OF A LICENSED COMMERCIAL BANK

“Order vesting banking business of any licensed bank.

49B. (1) Whereupon a report made by the Director of Bank Supervision, the Monetary Board is satisfied that any licensed commercial bank is unable to carry on banking business in Sri Lanka; or is unable to meet the demands of its depositors and other persons who have had transactions with such licensed commercial bank (in this Part of this Act referred to as “the defaulting bank”) and that its continuance in business is likely to involve serious economic loss to, and to adversely affect, the monetary and banking system and the national economy, the Monetary Board may, notwithstanding the provisions of any other law to the contrary, by Order published in the *Gazette*, vest the business carried on by a defaulting bank being a business which it is authorized to carry on by or under this Act or such part thereof as the Monetary Board may determine, in another licensed commercial bank (in this Part of this Act referred to as the “acquiring bank”) which consents to sub vesting.

(2) For the purpose of subsection (1), the “business carried on by a defaulting bank” includes—

- (a) all immovable and movable property owned by the defaulting bank on, the day preceding to relevant date (including cash balances, reserve funds, investments and deposits);
- (b) all rights, powers, privileges, authorities and interests arising in, or out of, any property, movable or immovable, owned by the defaulting bank on the day preceding the relevant date;
- (c) all the liabilities of the defaulting bank and subsisting on the day preceding the relevant date; and
- (d) all books, accounts and documents relating or appertaining, to such undertaking in Sri Lanka.

“Order to be made after the acquiring bank agrees to comply with terms and conditions.

49C. No order under section 49B shall be made by the Monetary Board unless—

- (a) the Monetary Board is satisfied that the proposed acquiring bank, is capable of carrying on in a competent manner the business of the defaulting bank proposed to be vested, and of meeting liabilities of the defaulting bank to its depositors and creditors pertaining or relating to the business proposed to be vested;
- (b) the proposed acquiring bank agrees in writing to comply with such terms and conditions as may be specified by the Monetary Board relating to the manner in which—
  - (i) any existing assets of the defaulting bank pertaining or relating to the business proposed to be vested, are to be used and any existing liabilities of the defaulting bank pertaining or relating to the business proposed to be vested are to be met;
  - (ii) any payments due to a sovereign Government from the defaulting bank are to be made.

“Effect of an Order.

49D. With effect from the date of publication of the Order under section 49B in the *Gazette*, (in this Part of this Act referred to as the “relevant date”) vesting the business of the defaulting bank or part thereof in the acquiring bank—

- (a) the acquiring bank shall have control and possession of the vested business of the defaulting bank, and become the transferee of the vested business of such defaulting bank;
- (b) the licence issued under this Act to the defaulting bank to carry on the business vested in the acquiring bank shall be modified to the extent necessary to enable the defaulting bank to carry on such part of its business as has not been vested in the acquiring bank;
- (c) the acquiring bank shall comply with such terms and conditions as are agreed to by such bank under paragraph (b) of section 49C and such other directions as the Monetary Board may give to such bank under this Act; and
- (d) the licence issued under this Act to the defaulting bank to carry on banking business, shall where both domestic and off-shore banking business of such bank are vested in the acquiring bank, be deemed to be cancelled.

"The extent of the liability of the acquiring bank in respect of foreign currency depositors.

49E. Notwithstanding anything to the contrary in this Act or any other written law, the liability of the acquiring bank to meet the demands of any foreign currency depositor of the defaulting bank, in case of the foreign currency deposits of the defaulting bank not being made available to the acquiring bank, shall be only in respect of such depositors as agree to accept the terms and conditions of any scheme for the grant of relief to such depositors, as may be formulated by the Monetary Board, upon a review of the business of the defaulting bank and only to the extent set out in such scheme:

Provided, however, that in the event of such foreign currency deposits being made available to the acquiring bank or the acquiring bank recovering such foreign currency deposits or other assets abroad of the defaulting bank, the Monetary Board shall have the power to give directions to the acquiring bank with regard to the payment to such foreign currency depositors, of the deposits so made available or deposits and other assets so recovered, and the acquiring bank shall comply with such directions.

"Audit of accounts and valuations of vested business.

49F. (1) For the purpose of ascertaining the value of the vested business of the defaulting bank on the day immediately preceding the relevant date, the Director of Bank Supervision shall cause an audit of such vested business to be conducted by a qualified auditor appointed by him with the approval of the Monetary Board.

- (2) The auditor appointed under subsection (1) shall submit a report to the Director of Bank Supervision within three months from the date of his appointment and the Director of Bank Supervision shall forward such report to the Monetary Board and the Monetary Board shall consider the report and if necessary, require the Auditor to furnish any further information, or explanations as it may consider necessary.
- (3) the auditor appointed under subsection (1) shall examine the accounts of the defaulting bank and ascertain the correctness of the balance sheet and furnish a report stating—
  - (a) whether he has or has not obtained all the information and explanations required by him;
  - (b) whether the balance sheet and accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the defaulting banks affairs; and
  - (c) the value of the assets and liabilities of the vested business.
- (4) the Monetary Board after considering the report of the auditor, shall direct the acquiring bank to pay in such manner and within such time as it may specify the value of the vested business to the defaulting bank or its liquidators or successors, as the case may be.
- (5) The payment required to be made to the defaulting bank in pursuance of a direction under subsection (4) and all payments required to be made to the auditor appointed under

subsection (1), shall be made by the acquiring bank; in accordance with such terms and conditions as may be determined by the Monetary Board.

“Saving provisions.

49G. With effect from the relevant date—

- (a) all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation, and other instruments of whatever nature pertaining, or relating to the vested business of the defaulting bank and subsisting, or having effect on the day immediately preceding the relevant date, and to which the defaulting bank is a party or which are in favour of the defaulting bank, shall be deemed with effect from the relevant date to be contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation or other instruments entered in to or granted, as the case may be by the acquiring bank;
- (b) all actions and proceedings of whatever nature instituted by or against the defaulting bank pertaining or relating to the vested business of the defaulting bank and pending on the day immediately preceding the relevant date, shall be deemed with effect from the relevant date to be actions and proceedings instituted by or against the acquiring bank, and may be continued or prosecuted accordingly;
- (c) all such officers and servants of the defaulting bank as are connected with such part of the business the defaulting bank as was vested or all the officers and servants of the defaulting bank where the entirety of the business of the bank is vested, as the case may be, on the day immediately preceding the relevant date, who are not offered employment with the acquiring bank, shall be entitled to the payment of compensation.

“Payment of compensation.

49H. Where any officer or servant of the defaulting bank is entitled to be paid compensation, the acquiring bank shall determine the amount of compensation that shall be paid in consultation with the Commissioner of Labour and such determination shall be deemed not to affect the right such officer or servant may have under any other written law.

“Offence.

49J. Any person who contravenes or fails to comply with any provision of this part or term or condition imposed thereunder shall be guilty of an offence under this Act.

“Section 12(c) not to apply in respect of defaulting bank.

49K. Nothing contained in the provisions of paragraph (c) of subsection (1) of section 12 shall apply in relation to the vesting of banking business of a defaulting bank or part thereof to an acquiring bank.

“Interpretation.

49L. In this Part of this Act unless the contract otherwise requires—

“value of the vested business” means the value of the assets of the defaulting bank vested in the acquiring bank by virtue of an Order made under section 49B (excluding unrecoverable assets as determined by the auditor nominated under section 49E) less the value of the liabilities of the defaulting bank vested in the acquiring bank, by virtue of such Order;

“vested business” in relation to an acquiring bank or a defaulting bank, means the banking business of the defaulting bank or part thereof, which is vested in such acquiring bank by an Order under section 49B.’

31. The following new Part is hereby inserted immediately after Part IX and shall have effect as Part IXA of enactment:—

#### ‘ PART IXA

##### LICENSED SPECIALISED BANKS

“Licensing of certain institutions.

76A. (1) From and after such date as may be determined by the Minister by Order published in the *Gazette*, the business of accepting deposits of money and investing and lending such money shall not be carried on except by a company which has an equity capital in an

amount not less than fifty million rupees and under the authority of a licence issued by the Monetary Board for such purpose under this Part of this Act:

Provided however, the requirement to obtain a licence shall not apply in respect of a company registered as a Finance Company under Finance Companies Act, No. 78 of 1988, a Co-operative Society registered under the Co-operative Societies Law, No. 5 of 1972, a building society incorporated under the National Housing Act (Chapter 401) and to a company licensed as a licensed commercial bank under the provisions of this Act and to any organization established or registered under any written law, not being an organization established primarily for the purpose of making profit, which accepts deposits only from its registered members and has obtained permission in writing from the Monetary Board to accept such deposits and to invest or lend the monies so accepted.

- (2) Where such company is a company incorporated outside Sri Lanka, no licence shall be issued under this Part of this Act unless such company has complied with the provisions of Part XIII of the Companies Act, No. 17 of 1982.
- (3) Notwithstanding the provisions of subsections (1) and (2) of this section and of section 76B, all institutions specified in Schedule III of this Act, shall be issued a licence in accordance with the provisions, of this Part of this Act on or after the date determined by the Minister under subsection (1).
- (4) Any company carrying on business in contravention of subsection (1), shall be guilty of an offence under this Act.
- (5) For the purposes of this section "company" shall have the same meaning as defined in section 449 of the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or a body corporate formed in pursuance of any statute of any foreign country, Royal Charter or letters patent and a body corporate established by or under any written law and shall not include a private company incorporated outside Sri Lanka; and "equity capital" shall have the same meaning as in subsection (2) of section 19 of this Act.

"Application  
for licence.

- 76B. (1) Every application for a licence under section 76A shall be made to the Monetary Board in the prescribed form, and shall contain a declaration by the applicant that the particulars stated in the application are to the knowledge and belief of the applicant true and accurate.
- (2) Every application for a licence shall be accompanied by—
    - (a) a copy of the Memorandum and the Articles of Association of the Company or the constitution of the company or any other document associated with the same;
    - (b) in the case of an application by a company or body corporate incorporated outside Sri Lanka, a written undertaking supported by a resolution of its Board of Directors stating that such company or body corporate, as the case may be, shall on demand by the Central Bank provide such funds as may be necessary to cover all obligations and liabilities incurred in the carrying on of its business in Sri Lanka, and a report containing such information as may be determined by the Monetary Board from the monetary authority of the country in which such company is incorporated.
  - (3) On receipt of an application under subsection (1) the Monetary Board may, where such Board considers it necessary, require the applicant to furnish such other documents or particulars as may be necessary, in order to determine whether a licence should be issued or not to such company.
  - (4) Any applicant who submits an application and other documents under this section containing information which to his knowledge is false or misleading in any material particular shall be guilty of an offence under this Act.

- "Issue of licence. 76C. (1) On receipt of an application under section 76B, the Monetary Board having considered the documents and particulars accompanying such application, and being satisfied—
- (a) that it is appropriate to permit the applicant to use the term "bank" or any of its derivatives or its transliterations;
  - (b) that the terms and conditions of the licence will be observed by the applicant; and
  - (c) that it is not detrimental to the interests of the national economy to issue such licence to the applicant, may, with the approval of the Minister issue a licence to the applicant under this Part of this Act.
- (2) The licence shall specify the place, places or area within which such company may carry on its business, and such company shall not carry on business in any other place except with the written approval of the Monetary Board.
- (3) Any company which has been issued with a licence under this Part of this Act shall hereinafter be referred to as a "licensed specialised bank."
- (4) A licensed specialised bank may carry on such forms of business as are specified in Schedule IV to this Act, subject to such restriction as may be expressly stipulated in the licence on the form of business that it may be permitted to carry on.
- (5) A licensed specialised bank carrying on business under the authority of a licence issued under this Part of this Act shall be deemed not to act in contravention of section 2 of the Finance Companies Act, No. 78 of 1988.
- "Use of the term 'Bank'. 76D. (1) A company which has been issued with a licence under this Part of this Act shall use as part of its name or its description any of the words "bank", "banker" or "banking" in any language:
- Provided however, a company incorporated outside Sri Lanka or an institution specified in Schedule III to this Act, whose name does not contain the word "bank", "banker" or "banking" in any language may carry on its business notwithstanding the omission of these words from its name or description.
- (2) Nothing in this section shall apply to a company which, within one week of its incorporation, applies for a licence under section 76D and until such time as the decision of the Monetary Board in respect of the application is conveyed to the company.
- "Register of specialised banks. 76E. The Monetary Board shall keep and maintain in the prescribed form a register of every institution licensed as a licensed specialised bank under this Part of this Act.
- "Cancellation of licence. 76F. (1) Without prejudice to its powers under section 76M where the Monetary Board is satisfied that any licensed specialised bank has—
- (a) failed to commence business within nine months of the issue of the licence; or
  - (b) failed to pay up any debts incurred by it, on such debts becoming due; or
  - (c) where a petition or action for relief has been filed against it, had appointed in respect of it, under any bankruptcy law or any other law which provides for relief of debtors or which relates to debtors, a custodian or receiver; or
  - (d) ceased to carry on business in respect of which the licence was issued; or
  - (e) continuously violates or contravenes the provisions of this Part of this Act or any directions issued thereunder; or

- (f) had its licence or authority to operate cancelled or withdrawn by the appropriate authority or regulatory body of the country in which such bank is incorporated,

the Monetary Board may, give notice that it would cancel the licence issued to such licensed specialised bank and shall communicate such notice to such bank.

- (2) A licensed specialised bank may tender objections in writing to the Monetary Board against the notice of cancellation given under subsection (1), within thirty days of the date of receipt of such notice, giving reasons why the licence issued to it should not be so cancelled.
- (3) After the expiration of sixty days from the date of the notice of the cancellation and after considering the objections tendered to the Monetary Board under subsection (2), the Board may withdraw such notice or cancel the licence issued and shall notify such bank accordingly.
- (4) A cancellation of a licence under subsection (3), shall take effect—
- (a) where no appeal is preferred under subsection (5), after the period for preferring such appeal has expired, or
- (b) where an appeal against the cancellation is preferred under subsection (5), after the cancellation is upheld by the Court of Appeal, and notification of such cancellation shall be published in the *Gazette*.
- (5) Any person aggrieved by a decision of the Monetary Board in respect of any cancellation under subsection (3), may appeal against such decision to the Court of Appeal within fourteen days of his being informed by the Board of such cancellation.
- (6) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall apply to every appeal made under this section.
- (7) The Court of Appeal may on an appeal made to it under subsection (5), confirm, revise, modify or set aside the decision against which the appeal is made and make any other order as the interests of justice may require.
- (8) Where a licence is cancelled, the Monetary Board shall remove the name of such licensed specialised bank from the register maintained under section 76E and may issue such directions as it considers necessary, including directions for winding up of such licensed specialised bank.
- (9) Where the licensed specialised bank fails to comply with a direction issued under subsection (8) for the winding up of the company within thirty days of the issue of such directions, the Monetary Board may require the Director of Bank Supervision to file action for the winding up of the licensed specialised bank, and the provisions of section 76M shall apply to such winding up.

“Capital to be maintained by a licensed specialised bank.

- 76G. (1) A licensed specialised bank shall, at all times maintain an equity capital of not less than fifty million rupees.
- (2) A licensed specialised bank shall not reduce or impair its equity capital or statutory reserves without the prior written approval of the Monetary Board.
- (3) For the purpose of this section—
- (a) “equity capital” shall have the same meaning as in subsection (2) of section 19 of this Act; and

- (b) "statutory reserves" means any reserve funds maintained by the licensed specialised bank in pursuance of a direction issued to it under this Part of this Act.

"Part V  
of this Act  
to apply.

76H. The provisions of Part V of this Act shall apply in respect of licensed specialised banks as if the expression "licensed commercial bank" wherever that expression occurs in that Part was substituted with the expression "licensed specialised bank".

"Directions  
of the  
Monetary  
Board.

76J. (1) Notwithstanding the provisions of any other law the Monetary Board may give directions to licensed specialised banks or to any category of licensed specialised banks, regarding the manner in which any aspect of the business of such banks is to be conducted and in particular—

- (a) the maintenance of capital adequacy ratios by the licensed specialised banks of such amounts as may be determined by the Monetary Board;
- (b) the maintenance of the reserve fund of a licensed specialised bank including its reduction or impairment;
- (c) the terms and conditions under which deposits may be accepted, the maximum rates of interest payable on such deposits and the maximum periods for which deposits may be accepted and the maximum amount which may be deposited with a licensed specialised bank in the name of one person in one or more accounts;
- (d) the terms and conditions under which any loan credit facility or any type of accommodation may be granted by such banks, the maximum rates of interest that may be charged on such loans, credit facilities or other types of accommodation and the maximum periods for which any such loan, credit facility or other type of accommodation may be granted;
- (e) the maximum rates which may be paid to, or charged by, such banks by way of commissions, discounts, fees or other receipts or payments whatsoever;
- (f) the minimum initial payment a prospective hirer should make on any hire purchase agreement and specific different initial payments for different classes of transactions; such minimum initial payment may be expressed as a percentage of the value of the goods hired under such agreement;
- (g) the terms and conditions under which investments may be made by such banks;
- (h) the maximum permissible maturities for loans, credit facilities or other types of accommodation and investments made by such banks, and the nature and amount of the security that may be required or permitted for various types of lending, credit and investment operation;
- (i) the form and manner in which books of accounts or other records or documents are to be maintained by such banks;
- (j) the exclusion from the income of licensed specialised banks in whole or in part, unpaid interest in respect of loans granted, if such loans have become overdue;
- (k) the minimum ratio which the liquid assets of such banks should bear to the total deposit liabilities of such banks;
- (l) the maintenance of cash balances by licensed specialised banks with the Central Bank if so required by the Monetary Board, and the minimum ratio such cash balances should bear to the deposit liabilities of licensed specialised banks;
- (m) conditions which should be applicable to withdrawal by depositors of deposits before maturity;
- (n) prohibiting such banks from increasing the amount of their loans, credit facilities, other types of accommodation or investments;

- (o) fixing limits to the rate at which the amount of any loans, investments or accommodation made or granted by them may be increased within specified periods;
- (p) requiring the decrease of the amount of their loans, investments or accommodation to specified limits within a specified period;
- (q) the maximum percentage of the share capital in a licensed specialised bank which may be held—
  - (i) by a company an incorporated body, or an individual;
  - (ii) in the aggregate by—
    - (a) a company and one or more of the following:—
      - (aa) its subsidiary companies
      - (bb) its holding company;
      - (cc) a subsidiary company of its holding company;
      - (dd) a company in which such company or its subsidiary company, or its holding company, or a subsidiary company of its holding company has a substantial interest; or
    - (b) an individual and one or more of the following:—
      - (aa) his close relation;
      - (bb) a company in which he has a substantial interest or in which his close relation has a substantial interest;
      - (cc) the subsidiary company of such company;
      - (dd) a holding company of such company;
      - (ee) a subsidiary company of such company's holding company;
      - (ff) a company in which such company or its subsidiary company, or its holding company has a substantial interest; or
      - (gg) an incorporated body other than a company in which such individual or his close relation has a substantial interest:

Provided, however that a direction given under this paragraph shall not require the reduction of the shares of a person held in a licensed specialised bank on the date of commencement of this Part of this Act, otherwise than on a requirement imposed on such bank under the provisions of paragraph (d) of subsection (1) of section 76K or on a shareholder under the provisions of paragraph (d) of subsection (1) of section 76N;

- (r) the margins to be maintained in respect of secured advances;
  - (s) the terms and conditions relating to leasing agreements between the licensed specialised bank and a lessee;
  - (t) restriction on the types of activities that may be carried on by licensed specialised banks.
- (2) The maximum rates of interest fixed by any direction under paragraphs (c) and (d) of subsection (1) shall, if so determined by the Monetary Board, apply in respect of any deposit accepted or in respect of any loan, credit facility or any other financial accommodation granted, before the date of such direction:

Provided, however, that nothing in such direction shall—

- (a) apply to any interest accrued before the date of such direction in respect of any such deposit or loan, credit facility or other financial accommodation; or
- (b) require the reduction of the rate of interest payable on any deposit accepted, or loan

credit facility, or financial accommodation granted before the date of such direction, if such reduction would constitute a breach of the contract or agreement relating to such deposit, loan, credit facility or other financial accommodation, as the case may be.

- (3) For the purposes of this Part of this Act, the Monetary Board may give directions where necessary to any particular licensed specialised bank in particular on such matters as are specified in subsection (1).
- (4) The Monetary Board may in its discretion pay interest on any cash balance maintained by a licensed specialised bank in the Central Bank in pursuance of a direction issued to it under paragraph (1) of subsection (1) at such rate as may be determined by the Monetary Board.
- (5) A licensed specialised bank which fails to act in compliance with a direction issued under this section or acts in contravention of such direction shall be guilty of an offence under this Act.

"Procedure where Director of Bank Supervision is of opinion that a licensed specialised bank is following unsound practices.

76K. (1) Where the Monetary Board on a report made by the Director of Bank Supervision is of the opinion that a licensed specialised bank—

- (i) is following unsound or improper financial practices, detrimental to the interest of its depositors; or
- (ii) is likely to carry its business in a manner detrimental to the interests of its depositors; or
- (iii) has contravened or failed to comply with any provisions of this Part and of Part V of this Act, or any direction issued thereunder,

the Monetary Board may direct such bank—

- (a) to cease following any such practice or desist from any such contravention; or
  - (b) to comply with the provisions of this Part and Part V of this Act; or
  - (c) to take necessary action to correct the conditions resulting from such practice or contravention; or
  - (d) to secure the reduction of the number of shares held in the company by any person.
- (2) Any licensed specialised bank dissatisfied with an Order given under subsection (1) may, before the expiry of thirty days from the date of the issue of such Order, appeal in writing to the Monetary Board and the Board shall render its decision within fifteen days of receipt of such appeal.
  - (3) In order to comply with a direction issued to it under paragraph (d) of subsection (1), a licensed specialised bank may direct a person holding shares in such bank to reduce the number of shares held by such person in such bank, whether such shares were acquired by such person before or after the date of commencement of this Part of this Act, within such period as may be specified in such direction; and it shall be the duty of such person to comply with such direction.
  - (4) The licensed specialised bank or shareholder who fails to comply with a direction given to it or him under subsection (1) or subsection (3), as the case may be, shall be guilty of an offence under this Act, and shall on conviction after summary trial by a Magistrate be liable to imprisonment for a term not exceeding eighteen months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

"Power of  
Director of  
Bank Super-  
vision to  
examine  
books and  
accounts of  
a licensed  
specialised  
bank.

- 76L. (1) The Director of Bank Supervision may at any time, examine or authorize any officer of his department to examine, the books and accounts of any licensed specialised bank.
- (2) The report on any such examination shall be furnished to the Governor of the Central Bank by the Director of Bank Supervision as soon as such examination is completed. The Director of Bank Supervision may recover the costs of such examination from the licensed specialised bank.
- (3) It shall be lawful for the Director of Bank Supervision or any officer authorized by him—
- (a) to administer, in accordance with the Oaths Ordinance, oaths or affirmations to any director, manager, secretary, employee or auditor of any licensed specialised bank;
  - (b) to require any director, manager, secretary, employee or auditor of any licensed specialised bank to furnish all such information relating to the affairs of the bank, as the Director of Bank Supervision or any officer authorized by him may consider necessary to ascertain, for the purpose of this Part of this Act.
  - (c) to require any director, manager, secretary, employee or auditor of any licensed specialised bank to produce for inspection any books, records or document relating to the affairs of the bank, in his possession or custody, which is likely to contain any such information;
  - (d) in any case where there is evidence of mismanagement by a licensed specialised bank, to require any director, manager or secretary of such bank to submit the accounts of the bank for audit by an auditor authorized by the Director of Bank Supervision and to require the bank to furnish such information, or produce such books, records or documents and to pay such fees, as may be specified or authorized by the Director of Bank Supervision to such auditor.
- (4) It shall be the duty of every director, manager, secretary, employee or any auditor of any licensed specialised bank to comply with any requirement imposed on him under this section and to afford to the Director of Bank Supervision or to any officer authorized by him or to any auditor authorized by him under paragraph (d) of subsection (3), access to all books and records of that licensed specialised bank including its cash balances, assets and liabilities whenever requested to do so by the Director of Bank Supervision.
- (5) The Director of Bank Supervision may, where he considers it necessary to ascertain the true condition of the affairs of a licensed specialised bank and to ascertain whether such bank is carrying on business in a manner detrimental to its present or future depositors, by notice in writing require any person whom he considers to have information relating to the licensed specialised bank, to furnish such information to him or to any officer authorized by him or to any auditor authorized by him under paragraph (d) of subsection (3) or to attend in person before him or any officer authorized by him at such place and at such date and time as may be specified in such notice, so that the person may be examined on such matters as may be specified in such notice.
- (6) For the purpose of ascertaining the true condition of the affairs of the licensed specialised bank, the Director of Bank Supervision may if he thinks it necessary for the purpose of an examination under subsection (5), also examine the business of any company which is or has at any relevant time been—
- (a) a holding company or subsidiary company of the licensed specialised bank under examination;
  - (b) a subsidiary company of a holding company of the licensed specialised bank;
  - (c) an associate company of that licensed specialized bank,
- and may exercise in relation to any such company, any of the powers conferred on him by the preceding provisions of this section.

In this subsection "associate company" when used in relation to a licensed specialised bank, means a company in which the licensed specialised bank holds ordinary shares equivalent to twenty *per centum* or more but less than fifty *per centum* of the paid up share capital of the company.

- (7) Any person who fails to comply with any requirement imposed on him by the Director of Bank Supervision under subsections (5) or (6) shall be guilty of an offence under this Act.

"Winding-up or dissolution.

76M.(1)

In any case where the Director of Bank Supervision is satisfied after examination by himself or by any officer authorised by him of the affairs of a licensed specialised bank, or upon information received from the bank, that it is insolvent or is likely to become unable to meet the demands of its depositors or that its continuance in business is likely to involve loss to its depositors or creditors, the Director of Bank Supervision shall make a report accordingly to the Governor of the Central Bank for submission to the Monetary Board; and if such Board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinafter provided, the Monetary Board may make an order directing the bank forthwith to suspend business and direct the Director of Bank Supervision to take all measures as may be necessary to prevent the continuation of business by such bank. Any person who obstructs the Director of Bank Supervision from taking such measures to prevent the continuation of business by the company shall be guilty of an offence under this Act.

- (2) Notwithstanding anything in any other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order made in good faith under subsection (1) or in respect of any loss or damage incurred, or likely or alleged to be incurred by reason of such order.
- (3) An order made by the Monetary Board under subsection (1) in respect of any licensed specialised bank shall cease to have effect upon the expiration of a period of sixty days from the date on which it is made and it shall be the duty of the Monetary Board as soon as practicable and in any event before the expiration of such period—
- (a) to make an order permitting the bank to resume business, either unconditionally or subject to such conditions as the Monetary Board may consider necessary in the public interest; or in the interest of the depositors and other creditors of the bank; or
- (b) to cancel the licence issued to such licensed specialised bank, and—
- (i) where the licensed specialised bank is a company within the meaning of section 449 of the Companies Act, No. 17 of 1982, direct the Board of Directors of such company to apply for winding up of the company under the supervision of court in accordance with the provisions of Part IX (other than section 347) of such Companies Act;
- (ii) where the licensed specialised bank is a public corporation established by or under any written law, inform the Minister to whom such public corporation has been assigned to enable him to take all such necessary steps under the Finance Act, No. 38 of 1971, for dissolving such corporation; or
- (iii) where the licensed specialised bank is a company or other body incorporated outside Sri Lanka, its business affairs shall be wound up in accordance with the provisions contained in section 70 of this Act and the provisions of that section shall apply, *mutatis mutandis*, in respect to such winding up.
- (4) The provisions of section 66 of this Act shall apply in relation to the priority of claims in a winding up proceedings of a company referred to in sub-paragraph (i) of paragraph (b) of subsection (3).

“Power of Director of Bank Supervision to issue directions in respect of connected matters.

76N. (1) Notwithstanding the provisions of this Act or of any other written law to the contrary or the Memorandum and Articles of Association of a licensed specialised bank, the Monetary Board may, where an order has been made by the Board under paragraph (a) of subsection (3) section 76M—

- (a) make such arrangements as it considers necessary for the amalgamation of the licensed specialised bank with another licensed specialised bank or any other institution, with the consent of such other licensed specialised bank or institution;
- (b) re-organise such licensed specialised bank by increasing its capital and arranging for new shareholders and by reconstituting its board of directors; or
- (c) re-construct the licensed specialised bank in any such manner as it considers to be in the interest of depositor, including the closing down of unviable sections of the business and re-organising the management;
- (d) direct any shareholder of any licensed specialised bank to divest or transfer the ownership of the shares owned by him, to a person nominated by the Monetary Board, on payment by such person of compensation determined as follows:—
  - (i) where such shares are quoted, at the market value thereof; or
  - (ii) where such shares are not quoted, at a price to be determined by a valuer nominated by the Monetary Board.

(2) A shareholder who fails to comply with a direction given to him under paragraph (d) of subsection (1) shall be guilty of an offence.’.

32. Section 77 of the principal enactment is hereby amended by the substitution, for the words “any licensed commercial bank shall”, of the words “any licensed commercial bank or licensed specialised bank shall”.

33. Section 78 of the principal enactment is hereby amended by the substitution for the words “any licensed commercial bank for”, of the words “any licensed commercial bank or licensed specialised bank for”.

34. The following new section is hereby inserted immediately after section 79, and shall have effect as section 79A of the principal enactment:—

“Compound-  
ing of  
offences.

79A. (1) The Director of Bank Supervision may with the approval of the Monetary Board and having regard to the circumstances in which an offence under this Act was committed, compound such offence for a sum of money not exceeding two hundred and fifty thousand rupees.

(2) The compounding of any offence under this section shall have the effect of an acquittal of the accused.”.

35. Section 80 of the principal enactment is hereby amended by the substitution, for the words “licensed commercial bank” wherever those words occur in that section, of the words “licensed commercial bank or licensed specialised bank as the case may be”.

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

“Schedules  
II and IV to  
be amended  
by resolution.

81A. Parliament shall have power by resolution passed in that behalf to amend Schedules II and IV of this Act”.

37. The following new section is hereby inserted immediately after section 82, and shall have effect as section 82A of the principal enactment:—

“This Act to  
prevail over  
other laws.

82A. In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail.”.

38. The following new sections are hereby inserted immediately after section 83, and shall have effect as sections 83A and 83B of the principal enactment:—

“Pawn Bro- 83A. The provisions of the Pawn Brokers Ordinance (Chapter 99) shall not apply to a licensed  
kers Ordinance commercial bank, and such bank may carry on the business of pawn brokers subject to such  
not to apply. conditions as may be determined by the Monetary Board.

“Commer- 83B. A company incorporated outside Sri Lanka which has been issued a licence under section 5 of  
cial bank this Act as a licensed commercial bank shall with effect from the date of issue of such licence,  
deemed to be be deemed to be an exempted company for the purposes of the Companies (Special Provisions)  
exempted company. Law, No. 19 of 1974.”

39. Section 86 of the principal enactment is hereby amended as follows:—

- (1) by the repeal of the definition of the expression “capital funds”, and the substitution, of the following definition therefor:—

“capital funds” mean—

- (a) in the case of a licensed commercial bank the equity capital and the reserve fund as provided for in section 20 and includes reserves other than funds reserved for specified purposes.
- (b) in the case of a licensed specialised bank, the equity capital and the reserves of such bank other than fund reserves for a specified purpose;” and

- (2) by the insertion immediately after the definition of the expression “head office of a commercial bank”, of the following new definition:—

“Finance Company” means a company registered under the provisions of the Finance Companies Act, No. 78 of 1988, as a Finance Company;”.

40. Schedule II to the principal enactment is hereby amended as follows:—

- (1) by the substitution for item (c) of that Schedule of the following item:—

“(c) the carrying on of an agency function for and on behalf of the Government or local authorities or for or on behalf of any person in respect of any business related to the provision of financial services, or to act as the managing agent for any financial institution;”;

- (2) by the substitution for item (k) of that Schedule of the following item:—

“(k) undertaking and executing trusts including functioning as a trustee of any Unit Trust;”;

- (3) by the substitution in item (m) of that Schedule for the words “any other company having objects similar to those of the company of the words “any other company;”;

- (4) by the substitution for item (s) of that Schedule the following item:—

“(s) the provision of management consultancy services and other technical support services;”;

- (5) by the substitution in item (u) of that Schedule the word “factories,”, of the word “factoring;” and

- (6) by the addition at the end of that schedule of the following new items:—

“(w) the business of pawn broking;

(x) entering into arrangements for a joint venture with any person or company for conducting a financial services enterprise or conducting any enterprise providing support services for the conduct of its business;

(aa) any other business which the Monetary Board may authorize a licensed commercial bank to engage in.”.

41. The following new Schedules are hereby added immediately after Schedule II:—

“ SCHEDULE III

[Section 76A (3)]

1. National Development Bank of Sri Lanka established by the National Development Bank of Sri Lanka Act, No. 2 of 1979.
2. Development Finance Corporation established by the Development Finance Corporation Act, No. 35 of 1955.
3. State Mortgage and Investment Bank established by State Mortgage and Investment Bank Act, No. 13 of 1975.
4. National Savings Bank established by the National Savings Bank Act, No. 30 of 1971.

SCHEDULE IV

[ Section 76C (4) ]

- (a) accepting time and savings deposits and opening, maintaining and managing deposit, savings and other similar accounts excluding however the carrying on of banking business as defined in this Act.
- (b) granting loans and advances, or participating with other financial institutions in granting loans or advances, or participating with other financial institutions in granting loans or advances to any enterprise engaged or about to engage in industry, agriculture or commerce, or to any other enterprise;
- (c) granting loans and advances by way of re-finance of any loans or advances granted by financial institutions to industrial, agricultural, commercial and other enterprises;
- (d) granting loans or advances—
  - (i) for the purchase or lease of any land for the construction of a dwelling house;
  - (ii) for the construction, repair, renovation and extension of a dwelling house;
  - (iii) for the purchase or lease of a dwelling house;
  - (iv) for any purpose incidental, accessory or ancillary to any purpose mentioned in (i), (ii) and (iii) above:  
or
  - (v) for the liquidation of any debt already incurred for any purpose mentioned in (i), (ii), (iii) and (iv) above;
- (e) providing short-term loans and advances to any industrial, agricultural, commercial or other enterprises and financing or lending in the institutional money market;
- (f) arranging, guaranteeing, managing and syndicating loans either in rupees or foreign currency for any public or private company, corporation or association or for the Government or any local government authority whether from its own resources or from other banks and financial institutions;
- (g) participating in loans, equities, underwriting arrangements and guarantees with other financial institutions;
- (h) undertaking wholesale lending to financial institutions;
- (i) promoting and assisting in the promotion, establishment, expansion and modernisation of any industrial, agricultural, commercial or other enterprise including participating in raising capital both internal and external for such enterprise;
- (j) guaranteeing loans raised or to be raised by industrial, agricultural, commercial and other enterprises from financial institutions or participating with other financial institutions in guaranteeing such loans;
- (k) guaranteeing, deferred payments due from any industrial, agricultural, commercial and other enterprises;
- (l) guaranteeing obligations of financial institutions arising out of the underwriting of capital issues of industrial, agricultural, commercial and other enterprises;
- (m) participating in the equity of industrial, agricultural, commercial and other enterprises, and subscribing to, or

purchasing or underwriting the issue of stocks, shares, bonds or debentures of any such enterprises, and selling and dealing in such stocks, shares, bonds or debentures;

- (n) converting a part or whole of the bank's loans to industrial, agricultural, commercial and other enterprises, and its subscriptions to bonds or debentures issued by any such enterprise, into equity capital;
- (o) mobilising and promoting savings and for that purpose issuing and dealing in savings certificates and other bonds, certificates and instruments;
- (p) accepting, discounting, rediscounting, buying, selling and dealing in bills of exchange, promissory notes, coupons, drafts, debentures, certificates, scrip and other instruments and securities whether transferrable or negotiable or not, of industrial, agricultural, commercial and other enterprises;
- (q) promoting and introducing specialised financial products, services, packages and instruments;
- (r) providing money broking and margin trading facilities;
- (s) assisting in the development of capital and money markets;
- (t) undertaking trust functions including acting as managers of Unit Trusts;
- (u) borrowing or accepting deposits from the Government or agencies or institutions acting on behalf of the Government;
- (v) acting as agents and administering the funds of any statutory body, corporation or other institution;
- (w) managing, supervising, controlling or participating in managing, supervising or controlling any industrial, agricultural, commercial or other undertaking of a customer for the purpose of protecting the interest of the bank in any loan granted by the bank;
- (x) buying existing debts of organisations on a commercial basis and providing, interest swap facilities and interest arbitrage facilities;
- (y) providing such services as technical, financial, management or administrative advice and assistance to industrial, agricultural, commercial and other enterprises;
- (z) assisting industrial, agricultural, commercial and other enterprises in financial restructuring, amalgamations, reconstructions, takeovers and mergers.
- (aa) undertaking portfolio management;
- (bb) undertaking development projects, including pilot projects, in industry, agriculture, commerce and other fields;
- (cc) buying, selling and dealing in bullion and specie and engaging in operations in exchange;
- (dd) granting and issuing letters of credit and circular notes;
- (ee) receiving in consideration of the functions the bank may be performing, commissions, brokerage, interest, remuneration or fees;
- (ff) undertaking rehabilitation of sick industries;
- (gg) setting up or assisting the setting up of the necessary organisation for selling or marketing any product of any agricultural or industrial undertaking;
- (hh) engaging in the construction of warehouses, godowns, stores and buildings required for agricultural, industrial and commercial activities;
- (ii) acquiring or purchasing any movable or immovable property, or any industrial, agricultural, commercial or other enterprise, and managing or arranging for the management of such property or enterprise, and selling or otherwise disposing of such property or enterprise;
- (jj) purchasing, leasing, letting on hire, selling outright, or selling on a hire purchase basis warehouses, godowns, stores and buildings; machinery, equipment and other goods;
- (kk) investing moneys of the bank;

- (ll) conducting surveys, studies and seminars in the field of economics, finance, development, management and other related fields;
- (mm) conducting lotteries and prize competitions;
- (nn) any other business which the Monetary Board of the Central Bank of Sri Lanka may authorise a specialised licensed bank to engage in.”.

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

43. (1) Notwithstanding a conflict between the provisions of the principal enactment as amended by this Act, and the provisions of any written law by or under which any authority which is required to obtain a licence under such principal enactment was established, all acts, decisions or things commenced under such written law and pending and incomplete on the date of the coming into operation of this Act (other than section 19) may be carried on and completed as if there had been no such amendment to the principal enactment.

(2) The qualifications required to be held by a secretary of a licensed commercial bank imposed by section 43 of the principal enactment as amended by section 25 of this Act, shall not apply to any person holding office as secretary to any licensed commercial bank as on the date of commencement of this Act (other than section 19) provided such person is holding the office of Secretary as a full employee of the bank.

44. (1) Where the business of any licensed commercial bank has been vested in another licensed commercial bank under any written law, prior to the coming into force of Part VIIA of the principal enactment the Minister may by Order published in the *Gazette*, vest in the second mentioned licensed commercial bank any immovable property owned by the first mentioned commercial bank and any leasehold rights over any immovable property enjoyed by such first mentioned licensed commercial bank on the day preceding the date on which such business, was vested, in the second mentioned licensed commercial bank

(2) The second mentioned licensed commercial bank shall pay to the first mentioned licensed commercial bank, in respect of the vesting made by an Order made under subsection (1), compensation in such amount as is determined by the Monetary Board taking into account the value of the assets and liabilities vested in the second mentioned licensed commercial bank as on the date of the vesting of the business of such first mentioned licensed commercial bank in the second mentioned licensed commercial bank, and any other relevant matters relating to such vesting.

45. (1) Notwithstanding the repeal of Part IVA of the principal enactment by section 18 of this Act, the holder of a number account shall, within a period of two years commencing from such date as may be determined by the Monetary Board by Notification published in the *Gazette*, close such amount and until the close of the account be entitled to operate that account:

Provided however no funds shall be credited to any such numbered account, save and except any sum that may be payable as interest on the moneys deposited in such account.

(2) Where the owner of a numbered account fails in compliance with the provisions of subsection (1), to close such account within the period specified in that subsection, such account shall, from and after the date of expiry of that period, cease to enjoy the facilities granted to it by virtue of it being a numbered account.

For the purpose of this section “numbered account” shall have the same meaning as in section 34B of the principal enactment.

“Property acquired and all acts done prior to commencement of section 83B by a licensed commercial bank referred to in that section to be valid.

46. Notwithstanding anything to the contrary in written law, every interest in any property in Sri Lanka acquired by any licensed commercial bank referred to in section 83B of the principal enactment and all acts done by any such bank, on and after the date of issue of a licence under section 5 of the principal enactment in respect of that bank and prior to the date of commencement of section 83B of that enactment, shall be deemed for all purposes to have been validly acquired or validly done, as the case may be.

## APPROPRIATION ACT, NO. 34 OF 1995

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1996, TO AUTHORIZE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE, TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR, TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS OF OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES, TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH OR, INCIDENTAL TO THE AFORESAID MATTERS.

1. This Act may be cited as the Appropriation Act, No. 34 of 1995.

2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees one hundred and ninety thousand eight hundred and twenty million eight hundred and four thousand.

For the service of the period beginning on January 1, 1996 ending on December 31, 1996 in this Act referred to as the "financial year 1996", shall be met—

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

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

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

3. (1) The receipts of the Government during the financial year, 1996 from each activity specified in column 1 of the Second Schedule to this Act shall be credited to the account of such activity, but the aggregate of receipts so credited shall be not less than the minimum limit specified in the corresponding entry in column III of that Schedule. The net surplus, if any of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 1996.

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

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

(3) The expenditure incurred by the Government, during the financial year, 1996 on each activity specified in column I of the Second Schedule to this Act shall be paid out of the receipts of the Government from such activity during that financial year but such expenditure shall not exceed the maximum limit specified in the corresponding entry in column II of that Schedule.

(4) The debit balance, outstanding at the end of the financial year 1996, of any activity specified in column I of the Second Schedule to this Act shall not exceed the maximum limit specified in the corresponding entry in column IV of that Schedule and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in column V of that Schedule.

4. Whenever, at any time during the financial year, 1996, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act are insufficient to meet the expenditure incurred by the

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

5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other programme within that Head by order of the Secretary to the Treasury or any other officer authorized by him.
- (2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that allocation.

6. Where the Minister is satisfied—

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

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

7. (1) The Minister with the approval of the Government may on or before May 31, 1997 by Order, vary or alter—
  - (a) any of the maximum limits Specified in column II, column IV and column V of the Second Schedule to this Act;
  - (b) the minimum limits specified in column III of the Second Schedule to this Act.
- (2) No Order made under subsection (1) of this section shall have effect unless it has been approved by Parliament, by resolution.
- (3) Any such Order shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making such Order as may be specified therein.
8. Parliament may, by resolution, amend the Second Schedule to this Act, by adding to the appropriate columns of that Schedule any activity and—
  - (a) all or any of the maximum limits relating to such activity;
  - (b) the minimum limit relating to such activity.
9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## DEFENCE LEVY (AMENDMENT) ACT, NO. 36 OF 1995

### 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. 36 of 1995.
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 "IMPOSITION OF A DEFENCE LEVY FOR THE YEARS COMMENCING RESPECTIVELY, ON JANUARY 1, 1992, ON JANUARY 1, 1995", of the words and figures "IMPOSITION OF A NATIONAL SECURITY LEVY FOR THE YEARS COMMENCING RESPECTIVELY, ON JANUARY 1, 1992, ON JANUARY 1, 1993, ON JANUARY 1, 1994, ON JANUARY 1, 1995, AND ON JANUARY 1, 1996".
3. (1) In the principal enactment and in any other written law, there shall be substituted—
  - (a) for the words "Defence Levy Act", the words "the National Security Levy Act"; and
  - (b) for the words "Defence Levy", the words "National Security Levy".(2) In any notice, notification, contract, communication or other document "Defence Levy Act" and "Defence Levy" shall be read and construed as a reference respectively, to "the National Security Act" and "the National Security Levy".
4. Section 3 of the principal enactment is hereby amended as follows:—
  - (1) in subsection (1) of that section—
    - (a) by the substitution, for the words and figures "January 1, 1994 and January 1, 1995", of the words and figures "January 1, 1994, January 1, 1995 and January 1, 1996"; and
    - (b) by the substitution, for the words "on the turnover (within the meaning of section 5 of the Turnover Tax Act), of that person, of the words "on the turnover, (within the meaning of section 5 of the Turnover Tax Act) or part thereof, of that person".
  - (2) in subsection (2) of that section—
    - (i) by the substitution, in paragraph (b) of that subsection, for the words "for use in the manufacture by such person of any article for export", of the words "for use in, or for, the manufacture by such person, of any article for export";
    - (ii) by the substitution, in paragraph (c) of that subsection, for the words "person importing such article; and", of the words "person importing such article;";
    - (iii) in paragraph (d) of that subsection, by the substitution, for the words "such article has in fact been exported from Sri Lanka.", of the words "such article has in fact been exported from Sri Lanka;";
    - (iv) by the addition, immediately after paragraph (d) of that subsection, of the following paragraphs:—
      - "(e) the value of any article which is imported, if proved to the satisfaction of the Commissioner-General of Inland Revenue, that such article is imported to Sri Lanka for—
        - (i) display at an exhibition;
        - (ii) the temporary use in Sri Lanka in any project approved by the Minister;
        - (iii) for the purposes of repairs to that article to be carried out in Sri Lanka; or
        - (iv) any other similar purpose,

and is to be re-shipped by such person, within a period of one year from the date of importation of such article to Sri Lanka;

- (f) the value of any gold imported, with the approval of the Central Bank, by such person for sale in any duty free shop; and
- (g) the value of any article imported, if proved to the satisfaction of the Director-General of Customs, that such article was, prior to its importation, taken out of Sri Lanka for repairs.”.
5. Section 4 of the principal enactment is hereby amended by the repeal of paragraph (e) of that section and the substitution of the following paragraphs therefor:—
- “(e) for every quarter commencing on or after July 1, 1995 but prior to January 1, 1996—
- (i) an amount equivalent to four and one-half *per centum* of the turnover of that person for the first month of that quarter, on or before the fifteenth day of the second month of that quarter;
  - (ii) an amount equivalent to four and one-half *per centum* of the turnover of that person for the second month of that quarter, on or before the fifteenth day of the third month of that quarter; and
  - (iii) the amount of the levy payable by such person for that quarter reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraph (i) and of sub-paragraph (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter;”.
- (f) for every quarter commencing on or after January 1, 1996, but prior to January 1, 1997—
- (i) an amount equivalent to—
    - (A) four and one-half *per centum* of the turnover of that person, not being turnover arising from the import or manufacture of any plant, machinery or equipment; and
    - (B) two *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment,
 for the first month of that quarter, on or before the fifteenth day of the second month of that quarter;
  - (ii) an amount equivalent to—
    - (A) four and one-half *per centum* of the turnover of that person, not being turnover arising from the import or manufacture of any plant, machinery or equipment; and
    - (B) two *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment,
 for the second month of that quarter, on or before the fifteenth day of the third month of that quarter; and
  - (iii) the amount of the levy payable by such person for that quarter reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraph (i) and of sub-paragraph (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter.”.
6. Section 5A of the principal enactment is hereby amended in subsection (1) of that section by the substitution, for the words “an amount equivalent to three and one-half *per centum* of the following”, of the words “an amount calculated at the appropriate rates set out in the Schedule to this Act, on the following”.
7. Section 10 of the principal enactment is hereby amended as follows:—
- (1) by the insertion, immediately after the definition of “banker”, of the following definition:—
 

“Central Bank” means the Central Bank established by the Monetary Law Act; and
  - (2) by the insertion immediately after the definition of “manufacturer”, of the following definition:—

“plant, machinery or equipment” does not include any motor car, motor coach or lorry as defined in the Motor Traffic Act (Chapter 203).

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

“SCHEDULE

[ Sections 3 and 5A ]

Rate of Levy applicable in respect of turnover of any person to whom this Act applies.

Quarter	Rate
1. For the quarter commencing on January 1, 1992	1 per centum
2. For the quarter commencing on April 1, 1992	2.3 per centum
3. For any quarter commencing on or after July 1, 1992 but prior to January 1, 1994	3 per centum
4. For any quarter commencing on or after January 1, 1994 but prior to July 1, 1995	3.5 per centum
5. For any quarter commencing on or after July 1, 1995 but prior to January 1, 1996	4.5 per centum
6. For any quarter commencing on or after January 1, 1996 but prior to January 1, 1997—	
(i) on turnover other than turnover arising from the import or manufacture of any plant, machinery or equipment.	4.5 per centum
(ii) on turnover arising from the import or manufacture of any plant, machinery or equipment.	2 per centum.”.

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