

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1997

#### RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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**SAMURDHI AUTHORITY OF SRI LANKA (AMENDMENT) ACT, NO. 2 OF 1997**

[Certified on 28th February, 1997]

AN ACT TO AMEND THE SAMURDHI AUTHORITY OF SRI LANKA ACT, NO. 30 OF 1995

1. This Act may be cited as the Samurdhi Authority of Sri Lanka (Amendment) Act, No. 30 of 1996.
2. Section 4 of the Samurdhi Authority of Sri Lanka Act, No. 30 of 1995 (hereinafter referred to as the 'principal enactment') is hereby amended as follows:-
  - (i) in paragraph (f) of that section, by the substitution for the words "the programme," of the words "the programme;" ; and
  - (ii) by the insertion immediately after paragraph (f) of that section of the following paragraph:-

"(g) providing relief by way of cash or otherwise to beneficiaries of the programme."
3. Every person who is the holder of a Certificate of Entitlement issued under the regulations made under the Janasaviya Act, No. 4 of 1985 and in force of the day immediately preceding the date of the repeal of the said Act, and is in receipt of a cash payment of two hundred and fifty Rupees a month shall, notwithstanding anything to the contrary in the principal enactment, be eligible to apply for relief under the Samurdhi National Programme formulated under the principal enactment.
4. In the event of any inconsistency between the Sinhala and Tamil text of this Act, the Sinhala text shall prevail.

# TAX AND FOREIGN EXCHANGE AMNESTY ACT, NO. 4 OF 1997

[Certified on 29th April, 1997]

AN ACT TO ENABLE THE DEPOSIT IN SAVINGS ACCOUNTS IN THE NATIONAL SAVINGS BANK, OF MONEYS REPRESENTING ACCUMULATED PROFITS AND INCOME, RETAINED IN OR OUTSIDE SRI LANKA, AND IN RESPECT OF WHICH A PERSON HAS NOT FURNISHED A RETURN OF INCOME OR WHICH HAVE NOT BEEN DISCLOSED IN A RETURN FURNISHED BY SUCH PERSON UNDER THE LAW RELATING TO THE IMPOSITION OF INCOME TAX, OR OF RELEVANT FOREIGN CURRENCY HELD BY A PERSON OUTSIDE SRI LANKA AND CONVERTED INTO SRI LANKAN RUPEES FOR THE PURPOSE OF SUCH DEPOSIT ; TO ENABLE THE WITHDRAWAL OF THE MONEYS DEPOSITED IN SUCH SPECIAL ACCOUNTS FOR SPECIFIED PURPOSES ; TO INDEMNIFY PERSONS AGAINST LIABILITY TO PAY CERTAIN TAXES, AND AGAINST PROSECUTIONS OR PENALTIES FOR OFFENCES IN RELATION TO SUCH TAX LAWS AND EXCHANGE CONTROL LAWS ; WITH A VIEW TO SECURING FULL COMPLIANCE, IN THE FUTURE, BY SUCH PERSONS, WITH TAX LAWS AND LAWS RELATING TO EXCHANGE CONTROL ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Tax and Foreign Exchange Amnesty Act, No. 4 of 1997.
2. (1) This Act shall, subject to the provisions of subsection (2), apply to any person who—
  - (a) under the law for the time being applicable to the imposition of income tax or surcharge on income tax, was liable to pay income tax for any year of assessment ending on or before March 31, 1996, in respect of any profits and income which arose, or accrued, on or before March 31, 1996, and who has not furnished a return of income under the provisions of such law for any such year of assessment or who has not disclosed such profits or income in any return furnished by him under the provisions of such law for any such year of assessment; or
  - (b) holds any relevant foreign currency outside Sri Lanka.
- (2) This Act shall not apply to any person in relation to whom any investigation was pending on February 15, 1997 for—
  - (a) any alleged or suspected evasion of any tax payable under, the law for the time being applicable to the imposition of income tax or the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981, or the National Security Levy Act, No. 52 of 1991, in respect of any profits and income or turnover, as the case may be, which arose or accrued to, or was derived, by such person on or before March 31, 1996 ;
  - (b) any alleged or suspected violation, of any provision of the Exchange Control Act or the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979.
- (3) Every person referred to in subsection (1), not being a person referred to in subsection (2), shall, hereafter in this Act, be referred to as "a person to whom this Act applies".
3. A person to whom this Act applies who—
  - (a) has any moneys (not being relevant foreign currency), in or out side Sri Lanka, which represent accumulated profits or income for any year of assessment ending on or before March 31, 1996, and in respect of which such person has not made a return of income or which such person has not disclosed in the returns of income made by him under the law for the time being applicable to the imposition of, income tax or surcharge on income tax ; or
  - (b) holds any relevant foreign currency,

may, in the case of such moneys as are referred to in paragraph (a), deposit such moneys or convert and deposit such moneys, on or after February 15, 1997, but prior to August 15, 1997, to his credit, in a special account opened by him for that purpose in the Bank, and in the case of such foreign currency as is referred to in

- paragraph (b), convert and deposit such foreign currency, on or after February 15, 1997, but prior to August 15, 1997, to his credit, in a special account opened by him for that purpose in the Bank.
4. (1) Every person who deposits any moneys in a special account in the Bank under the provisions of section 3 shall make a declaration to the Bank in the Form set out in the Schedule to this Act.
  - (2) The Bank shall cause a copy of every declaration made to it under subsection (1) to be transmitted to the Commissioner-General, and in the case of a declaration made in respect of any foreign currency converted and deposited, the Bank shall cause a copy of such declaration to be transmitted to the Controllor of Exchange.
  5. Notwithstanding anything in any other law the Bank shall not permit any person who has deposited any moneys in any such special account as is referred to in section 3 to withdraw, prior to the expiration of a period of two years from the date on which the deposit was made, the whole or any part of the amount lying to the credit of such person in such special account (other than the interest accruing on such amount), except for the purposes, and after the period, specified in the proviso to subsection (1) of section 6.
  6. (1) Any person who has deposited any moneys in any such special account as is referred to in section 3 may withdraw the balance amount lying to his credit in such special account after the expiration of a period of two years from the date on which he made the deposit:  
  
Provided, however, that such person may upon being authorised in writing by the Commissioner-General to do so, withdraw, after the expiration of a period of one month from the date on which he made the deposit, the whole or any part of such balance amount, for investment in an agricultural or industrial undertaking or in any undertaking or facility for infrastructure development, being an undertaking or a facility which has been duly authorised by any Government Authority or by any local authority or the Board of Investment of Sri Lanka established by the Board of Investment of Sri Lanka Law, No. 4 of 1978.
  - (2) Where any person who withdraws after the period of one month from the date on which he has made the deposit, any moneys lying to his credit in any such special account as is referred to in section 3, for any of the purposes specified in the proviso to subsection (1), fails to apply such moneys for the purpose for which such moneys were withdrawn, such person shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine of an amount equal to the moneys withdrawn and an amount not exceeding one hundred thousand rupees.
  - (3) Where any person withdraws after the expiration of a period of one month from the date on which he made the deposit, any moneys lying to his credit in any such special account as is referred to in section 3, for any of the purposes specified in the proviso to subsection (1), the Bank shall cause to be transmitted to the Commissioner-General, the details regarding every such withdrawal.
  7. The Bank shall pay interest on the amount lying to the credit of any person in any such special account as is referred to in section 3, at the current rate of interest payable by the Bank on moneys lying to the credit of savings accounts. The interest so accruing may be withdrawn by such person after the expiration of a period of one month from the date on which he made the deposit.
  8. Any person to whom this Act applies, who has deposited any moneys in any such special account as is referred to in section 3, shall not be liable—
    - (a) to pay—
      - (i) any income tax or surcharge on income tax payable respectively, under the law for the time being applicable to the imposition of income tax and the law for the time being applicable to the imposition of surcharge on income tax, in respect of such part of his profits and income for any year of assessment ending on or before March 31, 1996, as is represented by any moneys deposited by him in such special account ;
      - (ii) any wealth tax or surcharge on wealth tax payable respectively, under the law for the time being applicable to the imposition of wealth tax and the law for the time being applicable to the imposition

of surcharge on wealth tax, in respect of such part of his net wealth for any year of assessment ending on or before March 31, 1996, as was acquired by the utilization of any such part of his profits and income as is referred to in sub-paragraph (i) ;

(iii) any business turnover tax under the Finance Act, No. 11 of 1963 or any turnover tax under the Turnover Tax Act, No. 69 of 1981 or any National Security Levy under the National Security Levy Act, No. 52 of 1991, in respect of the turnover from which such part of the profits and income as is referred to in sub paragraph (i), arose or was derived; or

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

(i) the law for the time being applicable to the imposition of, income tax or surcharge on income tax or wealth tax or the surcharge on wealth tax in relation to any year of assessment ending on or before March 31, 1996, in respect of, or in connection with, such part of his profits and income as is referred to in sub-paragraph (i) of paragraph (a) or such part of his net wealth as is referred to in sub-paragraph (ii) of paragraph (a) ;

(ii) the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981 or the National Security Levy Act, No. 52 of 1991 in respect of, or in connection with, such turnover as is referred to in sub-paragraph (iii) of paragraph (a) ;

(iii) the Exchange Control Act, in respect of the whole or any part of the relevant foreign currency converted and deposited by him in such special account.

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

(a) any assessment made under the provisions of—

(i) the law for the time being relating to the imposition of, income tax or surcharge on income tax or wealth tax or surcharge on wealth tax ; or

(ii) the Finance Act, No. 11 of 1963, the Turnover Tax Act, No. 69 of 1981, or the National Security Levy Act, No. 52 of 1991 ;

(b) any requirement imposed before March 31, 1996, on any person to whom this Act applies and in relation to any violation by him of any provision of the Exchange Control Act; or

(c) any other matter,

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

10. (1) Subject to the provisions of subsection (2), every officer or employee of the Department of Inland Revenue or of the Department of Exchange Control or of the Bank shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the administration of this Act and shall not give, divulge or reveal, any information whatsoever regarding any such special account as is referred to in section 3 to any individual, corporation, bank, court, institution, entity, department, official, agent, representative of the Government of Sri Lanka or to any other legal or natural person.

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

(i) by the person to whom such matter or information relates;

(ii) by any provision of any law giving effect to an international convention on narcotics or hijacking, in any criminal proceedings instituted under that law, in any court;

(iii) by an order of the Supreme Court, made on application therefor, on the ground that moneys in any special account referred to in section 3 have been, or are being used, in furtherance of an act which

constitutes an offence under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 ; or

- (iv) by an order of court in any legal proceedings instituted by or against the Bank or by or against the holder of a special account referred in section 3, relating to a banking transaction arising from such special account,

communicate to such person or court in so far as such communication is strictly necessary for the purposes of complying with such requirement or order of court, any matter or information which has come to his knowledge in the administration of this Act.

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

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

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

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

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

“Controller of Exchange” means the officer designated as the head of the Department of Exchange Control of the Central Bank and includes an officer designated as assistant to him;

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

“Foreign currency” means any currency other than Sri Lanka currency and includes any currency payable by a foreign Government or institution to a person in, or resident in, Sri Lanka in respect of his pension or other gratuities due to him and all deposits, credits and balances payable in any currency other than Sri Lankan currency and any such drafts, travellers’ cheques, letters of credit and bills of exchange as are expressed or drawn in Sri Lanka currency but payable in any currency other than Sri Lankan currency;

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

“relevant foreign currency” in relation to a person means foreign currency held on March 31, 1996 by such person outside Sri Lanka in violation of the provisions of the Exchange Control Act, being or being attributable to, profits and income or not being or not being attributable to profits and income, and which was acquired by him outside Sri Lanka by way of gift, donation, inheritance or otherwise;

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

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

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

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

SCHEDULE (SECTION 4)

TAX AND FOREIGN EXCHANGE AMNESTY ACT, NO. 4 OF 1997

DECLARATION UNDER SECTION 4

Income Tax File No..... if any .....

National Identity Card Number /Company Registration Number .....

Special Amnesty Savings Deposit Account No. ....

Name of Business, if any .....

Date: .....

I, Mr/Mrs/Miss/we .....  
(full name/names)

of ..... do hereby :—  
(address)

(1) request you to accept in terms of the Tax and Foreign Exchange Amnesty Act, No. 4 of 1997, a sum of Rupees ..... (Rs. ....) being moneys

- (a) Rs. .... held by me/ by the company in Sri Lanka;
- (b) Rs. .... obtained by the conversion of foreign currency (not being relevant foreign currency) held by me out side Sri Lanka ; and
- (c) Rs. .... obtained by the conversion of relevant foreign currency

to be placed in a Special Amnesty Savings Deposit Account in the name of .....  
of .....

(2) undertake not to withdraw any part of this amount before the expiration of a period of two years from the date of this deposit, except for the purposes, and after the period, specified in the proviso to subsection (1) of section 6 of the aforesaid Act ;

(3) agree to my/our Special Amnesty Savings Deposit Pass Book being kept in the safe custody of your Bank ;

(4) further agree to be bound by the rules pertaining to savings deposits in your Bank for the time being, and which may come into effect from time to time.

.....  
*Signature/Signatures of Depositor/Depositors*

Designation if declaration is on behalf of a Company.

Signed in my presence.

.....  
*Signature of Branch Manager.*

# REGIONAL DEVELOPMENT BANKS ACT, NO. 6 OF 1997

[Certified on 5th June, 1997]

AN ACT TO ENABLE THE MONETARY BOARD OF THE CENTRAL BANK TO ESTABLISH DEVELOPMENT BANKS FOR SPECIFIED REGIONS WITH A VIEW TO DEVELOPING THE ECONOMY OF THE REGION BY PROVIDING, FOR THE DEVELOPMENT OF AGRICULTURE, INDUSTRY, TRADE, COMMERCE AND OTHER DEVELOPMENT ACTIVITIES IN THAT REGION ; TO VEST THE BUSINESS OF REGIONAL RURAL DEVELOPMENT BANKS SITUATED IN SUCH SPECIFIED REGIONS IN THE CORRESPONDING DEVELOPMENT BANKS ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Regional Development Banks Act, No. 6 of 1997.

## PART I

### ESTABLISHMENT OF DEVELOPMENT BANKS FOR SPECIFIED REGIONS

2. (1) Where the Minister, on the recommendation of Monetary Board of the Central Bank (hereinafter referred to as "the Monetary Board") decides that it is necessary that a Development Bank (hereinafter referred to as "the Bank") be established for a specified region for the purpose of developing the economy of such region by providing for the development of agriculture, industry, trade, commerce and other development activities, within that region, the Monetary Board shall by Order (hereinafter referred to as the "Incorporation Order") published in the *Gazette*—
  - (a) declare that a Bank be established for the region specified in paragraph (c), for the purpose of developing the economy of that region by providing for the development of agriculture, industry, commerce and other development activities in that region ;
  - (b) assign a corporate name to the Bank ;
  - (c) specify the region within which the Bank shall operate ;
  - (d) specify the principal place of business of the Bank ; and
  - (e) fix a date on which the Bank shall commence business.
- (2) The Bank shall, by the name assigned to it by the Incorporation Order, be a body corporate and shall have perpetual succession and a common seal, and may sue and be sued in such name.
3. (1) The principal place of business of the Bank, shall be as specified in the Incorporation Order.
- (2) The Bank may where the Board of Directors of the Bank considers it necessary so to do, establish its branches and agencies at any place within the region in which it operates as specified in the Incorporation Order.
4. The object of the Bank shall be to provide for the overall economic development of the region within which it operates, with special emphasis on promoting and developing the agriculture, industry, trade, commerce and fisheries activities, and projects of Samurdhi beneficiaries, of that region and development projects undertaken by the Provincial Councils, Pradeshiya Sabhas and any other local authority in that region.
5. The Bank may, subject to the provisions of this Act, and without prejudice to any powers conferred on it by or under any law, exercise all or any of the following powers :—
  - (a) to grant short term, medium term and long term loans and other accommodation to individuals, corporate bodies and groups ;
  - (b) to open, maintain and manage, bank accounts, other than current accounts, for its customers ;



- (c) to discount, buy, sell and deal in, bills of exchange, promissory notes, drafts, shares, debentures, certificates, scrips and other instruments and securities;
- (d) to negotiate loans and advances ;
- (e) to receive securities and valuables for safe custody ;
- (f) to collect and transmit money and securities ;
- (g) to manage property both movable and immovable, and carry on agency businesses which licensed commercial banks are permitted to carry on under the Banking Act , No. 30 of 1988 ;
- (h) to borrow or raise money in such manner as the Bank shall think fit, and to secure the prompt repayment of any money borrowed, raised or owing, by mortgage, charge or lien upon the whole or any part of the property or assets of the Bank, whether present or future, and, also by a similar mortgage, charge or lien to secure and guarantee the performance by the Bank of any obligation or liability it may undertake ;
- (i) to lend and advance money on security of property and give credit to persons, groups of persons, firms or companies on such terms as it may deem expedient, either with or without security ;
- (j) to assist and promote the marketing and processing of agricultural produce or any other products ;
- (k) to carry on the business of a pawn broker ;
- (l) to acquire or purchase any movable or immovable property or agricultural, industrial, fisheries, commercial or other enterprises and to manage, or arrange for the management of, any such property or enterprise, and to sell or otherwise dispose of, such property or enterprise ;
- (m) to undertake rural development projects which are of a small-scale, including pilot projects, in order to achieve the object of the Bank ;
- (n) to assist in promoting the development of the region within which it operates by providing encouragement to such activities as tree planting as part of ecological improvement, and the improvement of villages and generally ,to provide advisory assistance which serves the object of the Bank ;
- (o) to undertake and promote the construction of warehouses, godowns, stores and buildings in the region within which it operates, required for agricultural, industrial, fisheries, trading and commercial activities ;
- (p) to enter into any agreement with any banking institution or co-operative society, subject to guidelines formulated by the Board of Directors of the Bank, for taking over any undertaking or project which is being financed by such banking institution or co-operative society or which is being carried on by such banking institution or co-operative society ;
- (q) to open accounts with the Central Bank, with any licensed commercial bank or any licensed specialised bank or co-operative society or with the approval of the Monetary Board, in any bank or financial institution outside Sri Lanka;
- (r) to lease, let on hire, sell out right, or sell on a rent purchase basis, warehouses, godowns, stores and buildings in the region within which it operates, machinery, equipment and other goods;
- (s) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (t) to participate in the development of the infrastructure of the region within which it operates;
- (u) to liaise with other institutions engaged in promoting, developing or financing developmental activities in the region within which it operates;
- (v) to provide advisory services, to and undertake skills training of, self employed persons or those engaged in agriculture, industry, commerce and trade;

- (w) to develop and manage industrial parks for small and medium scale enterprises ;
- (x) to appoint such officers and servants as may be necessary for carrying out the activities of the Bank, to fix the wages, salaries or other remuneration of such officers and servants and determine the terms and conditions of service of such officers and servants ;
- (y) to provide welfare and recreational facilities, and accommodation facilities, to officers and servants employed by the Bank ;
- (z) to enter into and perform all such contracts, whether in or outside Sri Lanka, as may be necessary for the exercise of the powers and the performance of the duties of the Bank ;
- (aa) to make rules in relation to its officers and servants including their appointment, promotion, remuneration, disciplinary control and the grant of leave to them ;
- (bb) to make rules in respect of the administration of the affairs of the Bank ; and
- (cc) to do all such other things which in the opinion of the Board of Directors of the Bank may be necessary to facilitate the proper carrying on of the business of the Bank.

## PART II

### MANAGEMENT OF THE BANK

6. (1) The management and administration of the affairs and business of the Bank shall vest in a Board of Directors (hereinafter referred to as "the Board").
- (2) The Board may exercise, all the powers of the Bank under this Act or any other law, and do all acts and things which it is authorised to do and perform under this Act or such other law as the case may be.
- (3) The Board shall in exercising its powers act on sound business principles and have due regard to the economic development of the region within which the Bank operates.
7. (1) The Board shall consist of not less than five and not more than twelve nominated and elected directors, nominated or elected as the case may be, under section 8 or 9 of this Act.
- (2) Notwithstanding the provisions of subsection (1), until the first Annual General Meeting of the Bank is held, the Board shall consist only of the nominated directors.
8. (1) The Minister shall nominate as directors of the Board :—
  - (a) an officer of the Central Bank on the recommendation of the Monetary Board, where the Central Bank holds not less than eight *per centum* of the issued share capital of the Bank :  
 Provided that the Central Bank shall, until such time as it makes its contribution under subsection (3) of section 18, be deemed to be a shareholder of the Bank holding shares in excess of eight *per centum* of the issued share capital of the Bank, and be entitled to have a director nominated on its behalf in the Board under this paragraph ;
  - (b) an officer of the Bank of Ceylon on the recommendation of the Board of Directors of such Bank, where the Bank of Ceylon holds not less than eight *per centum* of the issued share capital of the bank;
  - (c) an officer of the People's Bank on the recommendation of the Board of Directors of such Bank, where the People's Bank holds not less than eight *per centum* of the issued share capital of the Bank;
  - (d) an officer of the National Savings Bank on the recommendation of the Board of Directors of such Bank, where the National Savings Bank holds not less than eight *per centum* of the issued share capital of the Bank ;

- (e) an officer of the Central Bank to represent the Employees Provident Fund, on the recommendation of the Monetary Board, where such Fund holds not less than eight *per centum* of the issued share capital of the Bank ; and
- (f) a person who has distinguished himself in the field of business, commerce, agriculture, industry or finance and who has an abiding interest in the development of the region within which the Bank operates.

A person nominated as a director under this subsection, is hereinafter referred to as a "nominated director".

- (2) A nominated director shall hold office for a term of four years:

Provided however, where any institution referred to in subsection (1), ceases to hold the qualifying percentage of shares the director representing such institution shall resign his office and where such director so fails to resign, the Minister shall remove such director from office.

- (3) The Minister may without assigning any reason therefor remove a nominated director from office.
  - (4) A nominated director may resign from his office by a letter in that behalf addressed to the Minister.
  - (5) Where a nominated director is temporarily unable to perform the duties of his office by reason of ill-health or other infirmity or absence from Sri Lanka, the Minister may in consultation with the Board of Directors of the institution which such director represents or the Monetary Board, as the case may be, nominate another person to act as his alternate at Board meetings and the person so nominated shall have a right to vote at such meetings.
  - (6) In the event of the vacation of office by death, resignation or removal of a nominated director, otherwise than by resignation or removal under the proviso to subsection (2), the Minister shall nominate in accordance with the provisions of subsection (1) another person to represent the institution which such person vacating office had represented. The person so nominated shall hold office for the unexpired part of the term of office of the nominated director whom he succeeds.
9. (1) The elected Directors of the Board shall be elected by the shareholders of the Bank (other than the share holders referred to in subsection (1) of section 8) at every Annual General Meeting of the shareholders of the Bank on the basis of one member for every such eight *per centum* of the total issued share capital of the Bank as is held by such shareholders, so however, that the number of directors so elected shall not exceed the difference between the maximum number of directors of the Board specified under section 7 and the number of directors that may be nominated by the Minister under section 8.
- (2) The shareholders of the Bank who are entitled to elect any elected director under subsection (1), may at a meeting of such shareholders convened at the request of one-eighth of the number of shareholders who are entitled to elect the elected directors of the Board under subsection (1), remove an elected director from office and elect another director in his place.
  - (3) An elected director may resign his office by letter addressed to the Chairman of the Board in that behalf.
  - (4) Where an elected director is temporarily unable to perform the duties of his office by reason of ill-health or other infirmity or absence from Sri Lanka, such director may with the concurrence of the Board appoint another person to act as his alternate at Board meetings and the person so appointed shall have a right to vote at such meetings.
  - (5) In the event of the vacation of office by removal, death or resignation of an elected director or in the event of the number of elected directors required to be elected being increased as a result of an increase in the share holdings of the share holders (other than the shareholders referred to in subsection (1) of section 8) the Board may appoint another person to fill such vacancy or appoint a new member to the Board, as the case may be, and the person so appointed shall hold office until the first Annual General Meeting of the Bank to be held after such appointment, at which meeting he shall be eligible for re-election as a director.

- (6) At every Annual General Meeting of the shareholders of the Bank, one-third of the elected directors or where the number of elected directors is not three or a multiple of three, then the number nearest to one-third of that number, shall vacate office and other persons elected to, fill such vacancy or vacancies, as the case may be, unless the shareholders (other than the institutions referred to in subsection (1) of section 8) expressly resolve not to fill such vacancy or vacancies or the share holdings of the shareholders (other than the institutions referred to in subsection (1) of section 8), on the day preceding the date of such meeting do not justify the filling of such vacancy.
- (7) Notwithstanding the provisions of subsections (1), (5) and (6) of this section, in the event of any of the institutions referred to in subsection (1) of section 8 holding less than the percentage of issued share capital specified in respect of each of those institutions in paragraphs (a), (b) (c), (d) (e) and (f) of that subsection which entitles them to have a nominated director in the Board, such institutions shall be entitled to elect an elected director under subsections (1), (5) or (6) as the case may be together with the shareholders referred to therein.
- (8) The elected director or directors who shall retire under subsection (6) shall be the director or directors who have served longest in office as at the date of the Annual General Meeting referred to in that subsection but as between elected directors who have served for periods of equal length at that date, the director who shall retire shall be determined by lot drawn by the Chairman of the meeting.
- (9) A retiring elected director shall be eligible for re-election.
10. (1) The First Board of Directors to be constituted for the Bank shall consist of nominated directors nominated in the manner specified in section 8 of this Act, and such Board shall continue to function as the Board of Directors of the Bank until such time as the election of elected directors under section 9 at an Annual General Meeting of the shareholders to be held at any time thereafter.
- (2) The provisions of section 8 relating to vacation of office by death, resignation or removal and the temporary absence of a nominated member of the Board, shall apply to and in respect of the members of the First Board of Directors.
11. (1) The Board shall elect one of the directors of the Board as the Chairman of the Board.
- (2) If the Chairman is by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Board shall elect another Director to act in his place.
- (3) The Board may, without assigning any reason therefor, terminate the appointment of the Chairman of the Board and such termination shall not be called in question in any court.
- (4) The Chairman may resign from his office by letter addressed to the Board.
- (5) 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.
12. Until the First Annual General Meeting is held under section 10 of this Act, the directors may be paid such remuneration out of the funds of the Bank as may be determined by the Minister. Thereafter the remuneration to be paid to the directors shall be as determined by the shareholders of the Bank at every Annual General Meeting.
13. A director who is directly or indirectly interested in a contract proposed to be made by the Bank shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of such Board, and that director shall not take part in any deliberation or decision of such Board with respect to such contract.
14. (1) The Chairman of the Board shall, if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the directors present shall elect one of the directors present, to preside at such meeting.

- (2) The quorum for any meeting of the Board where the total number of directors (both elected and nominated directors) is eight or less than eight, shall be three directors and where the said total number of directors is more than eight shall be five directors.
  - (3) The person presiding at any meeting of the Board shall, in addition to his own vote, have a casting vote.
  - (4) Subject to the provisions of subsections (2) and (3) the Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.
15. No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among the directors, or any defect in the appointment or election of a director.
16. (1) The Board may from time to time delegate to the General-Manager or any other officer or servant of the Bank any of its powers and duties.
- (2) Every person to whom any power or duty is delegated under subsection (1) shall exercise or perform such power or duty delegated to him subject to such terms and conditions as may be specified by the Board and the Board may revoke or withdraw such power or duty so delegated.
17. (1) The seal of the Bank shall be in the custody of the Chairman or any other officer authorised by him.
- (2) The seal of the Bank may be altered in such manner as may be determined by the Board.
  - (3) The seal of the Bank shall not be affixed to any instrument except in the presence of two directors of the Board or one director of the Board and the General Manager, both of whom shall sign the instrument in token of their presence.

### PART III

#### FINANCE

18. (1) The authorised share capital of the Bank shall be five hundred million rupees divided into fifty million shares of ten rupees each.
- (2) Each of the following institutions, namely —
- (a) the Bank of Ceylon ;
  - (b) the People's Bank ;
  - (c) the National Savings Bank ; and
  - (d) the Employees Provident Fund,
- shall, not later than two weeks from the date of the publication of the Incorporation Order relating to the establishment of the Bank, make a contribution of such sum of money as may be determined by the Minister, being a sum not exceeding twelve million rupees, to the initial capital of such Bank, and such institution shall by virtue of such contribution, become a shareholder of the bank, and be allotted shares in the Bank in proportion to its contribution.
- (3) The Central Bank shall make a contribution to the initial capital of the Bank of such sum of money as may be determined by the Monetary Board with the concurrence of the Minister, having regard to the net worth of the Vesting Bank or Banks after such net worth has been ascertained by the Monetary Board under section 47 of this Act, and—
- (a) where the contribution so determined in respect of a Bank is equivalent to or less than the net worth of such Vesting Bank or Banks, the net worth upto the value of the sum so determined, shall be deemed to be the contribution by the Central Bank to the initial capital of such Bank, and the difference between such net worth and the contribution deemed to be made shall be dealt with in manner provided for in section 48 ;

- (b) where the contribution so determined in respect of a Bank is more than the net worth of such Vesting Bank or Banks, such net worth shall be deemed to be a part of the contribution of the Central Bank to the initial capital in such Bank, and the Central Bank shall contribute a further sum equivalent to the difference between such net worth and the contribution so determined for that Bank.
- (4) By virtue of the contribution made under subsection (3), Central Bank shall become a shareholder of the Bank and be allotted shares in proportion to the contribution made by it.
- (5) Notwithstanding the provisions of subsection (3) where a Bank is established under this Act for a specified region in which a Regional Rural Development Bank has not been established, the Central Bank shall contribute to the Capital of such Bank not later than two weeks from the date of establishment of such Bank, a sum determined by the Monetary Board with the concurrence of the Minister, and shall thereby become a shareholder of such Bank and be allotted shares in such Bank in proportion to its contribution.
- (6) The shareholders referred to in subsection (2) may in their discretion, contribute further capital or purchase shares in the Bank, in excess of the sum determined by the Minister as contribution to be made by such shareholders to the initial capital of that Bank.
19. (1) The Board may on its own or on the recommendation of the Monetary Board offer such of the shares referred to in subsection (1) of section 18 as have not been allotted under subsection (2) of that section, to any licensed commercial bank, licensed specialised bank or to any other person, at such time or times, in such amount or amounts, and in such manner, as may be determined by the Board.
- (2) Where any licensed commercial bank acquires any shares in the Bank, the provisions of section 17A of the Banking Act, No. 30 of 1988 shall not apply in respect of the acquisition and holding of such shares by such licensed commercial banks.
20. The shareholders of the Bank including the shareholders who made contributions to the initial capital of the Bank under section 18, shall have the power to transfer their shares to any other person.
21. The Bank may, from time to time, borrow from the Government, and the Government may, from time to time, lend to the Bank through the Central Bank from the Consolidated Fund any sum of money approved by Parliament subject to such terms and conditions as may be determined by the Government.
22. The Bank may, with the written prior approval of the Monetary Board granted in concurrence with the Minister from time to time, borrow from any foreign Government, or any other source whatsoever outside Sri Lanka, any sum of money on such terms and conditions as to the interest thereon, and the repayment thereof, as may be approved by the Monetary Board with the Concurrence of the Minister.
23. The Bank shall establish a General Reserve Fund and shall credit to such Fund every year such percentage of its annual profits as may be determined by the Board.
24. The Bank shall establish a Special Reserve Fund for bad and doubtful debts, and shall credit to such Fund every year, such percentage of its annual profits as may be determined by the Board.
25. (1) The Bank shall establish and maintain a fund called the "Development Fund" and shall credit to such fund every year, such percentage of its annual profits as may be determined by the Board, and any monies received by the Bank as grants or donations from local and foreign sources.
- (2) The monies lying to the credit of the Development Fund may be used—
- (a) to grant financial accommodation to, or purchase equity in, high risk enterprises with potential viability in the long term ;
- (b) to secure technological and other expertise relevant to the activities of the Bank with a view to making them available to customers of the Bank.
- (3) Notwithstanding the provisions of subsection (2) monies consisting of any grant or donation received from

any local or foreign source and which is credited to the Fund under subsection (1), shall be utilised only in accordance with such terms and conditions subject to which such grant or donation was made.

- (4) Any such monies lying to the credit of the Development Fund as are not immediately required for any of the purposes referred to in subsection (2), may be invested by the Board.
26. The Bank shall utilise for the purpose of payment of dividends to shareholders such percentage of its annual profits as may be determined by the Board.
27. The Bank shall be exempt from the payment of income tax upon the profits and income of the Bank, for a period of two years from the date of commencement of its business.
28. (1) Any loan granted by the Bank shall be on security and other terms and conditions as may be determined by the Board.
- (2) Notwithstanding anything contained in subsection (1), the Board may, in its discretion, grant loans without security in any cases in which the Board, for reasons to be recorded by it in writing, decides that such security is not necessary.

#### PART IV

##### STAFF

29. (1) The Board may appoint a person who has extensive experience in banking or finance and who —
- (a) holds a degree from a recognised University; or
  - (b) has full professional qualifications in accountancy, banking or any other relevant field,
- to be the General-Manager of the Bank, on such terms and conditions of service as the Board shall determine.
- (2) The General-Manager shall be the chief executive officer of the Bank and shall conduct, manage and administer the affairs of the Bank subject to the general direction, supervision and control of the Board and assist the Bank in achieving the object of the Bank.
30. (1) The Board may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions.
- (2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such terms and conditions of service as may be determined by the Board.

#### PART V

##### AUDIT OF ACCOUNTS OF THE BANK

31. (1) The financial year of the Bank shall be the calendar year.
- (2) The Annual General Meeting of the shareholders of the Bank shall be held not later than six months from the end of each financial year.
32. (1) The Board shall cause proper books of accounts to be kept of income and expenditure, the assets and liabilities and of all other financial transactions of the Bank.
- (2) Within one month of the expiration of each financial year of the Bank the Board shall prepare in respect of that financial year —
- (a) a balance sheet as at the last working day ;
  - (b) a profit and loss account.

33. (1) The shareholders of the Bank shall at each Annual General Meeting of the Bank appoint a qualified auditor as the auditor of the Bank and he shall hold office from the conclusion of that meeting until the conclusion of the next Annual General Meeting :

Provided that, the First Board of Directors of the Bank referred to in section 10 shall at their first meeting appoint a qualified auditor to hold office as the auditor of the Bank until the holding of the First Annual General Meeting of the shareholders thereafter.

- (2) For the purpose of this section "qualified auditor" means a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

34. (1) The auditor shall inspect the accounts, the finance, the management of the finance of the Bank, and where necessary examine —

- (a) whether the conduct of the financial affairs of the Bank has been done in accordance with the provisions of this Act, and any rules made under the Act relating to the same ;  
(b) whether maintenance of accounts by the Board is satisfactory ; and  
(c) whether the accounts audited (including the balance sheet and the profit and loss account prepared by the Board) have been so designed as to present a true and fair view of the affairs of the Bank in respect of the period under consideration, due regard being had on principles of accounting, financing and valuation.

- (2) The auditor shall make a report on the accounts examined by him and on the balance sheet and the profit and loss account prepared by the Board.

- (3) The report of the auditor shall be laid before the shareholders of the Bank at its Annual General Meeting and shall be open for inspection by any shareholder.

35. (1) The Board shall on the conclusion of every Annual General Meeting of the Bank, cause a copy each of the following documents which were considered by the shareholders at such Meeting, to be transmitted to the Minister —

- (a) the balance sheet ;  
(b) the profit and loss account ;  
(c) the auditors report ; and  
(d) a report of the Chairman of the Board, giving an account of the performance of the Bank during the financial year in respect of which accounts have been prepared.

- (2) The Minister shall where not less than fifty *per centum* of the issued capital of the Bank is owned by Government or any public corporation cause copies of the documents transmitted to him under subsection (1) to be laid before Parliament.

36. Rules may be made by the Board to provide for matters to be shown in the balance sheet, the profit and loss account, the manner in which books of accounts should be maintained by the Board, remuneration of auditors and all other matters pertaining to the audit of accounts of the Bank.

## PART VI

### GENERAL

37. The provisions of the following written laws shall not apply to the Bank :—

- (a) the Money Lending Ordinance ;



- (b) the Debt Conciliation Ordinance ; and
  - (c) the Pawn Brokers Ordinance.
38. The Bank shall be deemed to be an approved credit agency within the meaning of the Mortgage Act (Chapter 89).
39. Notwithstanding anything in the Stamp Duty Act, No. 43 of 1982, any instrument required or authorised to be made or executed by the Bank or any instrument made or executed in connection with the business of the Bank by the Bank, and any instrument made or executed by any other person in favour of the Bank in respect of any security for a loan, shall be exempt from the payment of duty under that Act.
40. Every Director, officer or other employee of the Bank shall be indemnified by the Bank against all losses and expenses incurred by him or in relation to the discharge of his duties, except such as are caused by his wilful act or default.
41. (1) Every Director, auditor, officer or servant or agent or other person employed in the business of the Bank, shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy, respecting all transactions of the Bank, its customers, the state of accounts with any person or institution and all matters relating thereto, and shall by such declaration pledge himself not to reveal any other matters which may come to his knowledge in the discharge of his duties except—
- (a) when required so to do. —
    - (i) by the Board;
    - (ii) by a court of law;
    - (iii) by the person to whom such matters relate; or
    - (iv) by the Monetary Board;
  - (b) in the performance of his duties; or
  - (c) in order to comply with any of the provisions of this Act or any other law.
- (2) Every Director, auditor, officer or servant, agent, or other person employed in the business of the Bank shall decline to answer any question concerning the business of the Bank if he cannot answer the question without infringing his pledge of secrecy under subsection (1).
- (3) Every Director, auditor, officer or servant, agent or other person employed in the business of the Bank who reveals any information in contravention of a declaration signed by him under subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees, notwithstanding that such fine exceeds the amount of fine a Magistrate may impose in the exercise of his ordinary jurisdiction.
42. The Board may make rules in respect of all or any matters for which rules are required or authorised to be made under this Act or any other matter necessary to enable the Bank to effectively carry out and perform its powers and duties under this Act.
43. The Bank shall be—
- (a) a "lending institution" within the meaning of and for the purposes of the Debt Recovery (Special Provisions) Act, No. 2 of 1990 and the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 ;
  - (b) a "bank" within the meaning of and for the purposes of the Recovery of Loans by Banks (Special Provisions) Act, No. 4 of 1990 ;
  - (c) a "licensed specialised bank" within the meaning of and for the purposes of the Banking Act, No. 30 of 1988 and shall be issued with a licence in accordance with the provisions of that Act to carry on business at

the place specified in the Incorporation Order and shall be subject to all such directions that may be issued by the Monetary Board under that Act in respect of licensed specialised banks ;

- (d) a "lending institution" within the meaning of section 47A of the Mortgage Act (Chapter. 89) ; and
  - (e) an "approved credit agency" within the meaning of and for the purpose of the Inland Trust Receipts Act, No. 14 of 1990.
44. (1) With the establishment of a Bank for any specified region under section 2 of this Act, any or all Regional Rural Development Bank or Banks carrying on business within such specified region in respect of which the Bank is being established, shall, before the publication of the Order referred to in section 45, request the depositors holding demand deposits in that Regional Rural Development Bank or Banks as the case may be, by registered letter sent in that behalf, to inform it or them within the time specified in such letter, whether such depositor consents to such demand deposit being converted into a saving or time deposit.
- (2) The Regional Rural Development Bank or Banks shall where—
- (a) the depositor consents to the conversion or fails to express his wish within the time specified in the letter, convert such demand deposit into a saving or time deposit; or
  - (b) the depositor expresses his objection to the conversion within the time specified in the letter, refund to the depositor the monies lying to the credit of such demand deposit.

## PART VII

### VESTING OF BUSINESS OF REGIONAL RURAL DEVELOPMENT BANKS

45. (1) On the establishment of a Bank for any specified region by an Incorporation Order under section 2 of this Act, (hereinafter referred to as "acquiring bank") the Monetary Board shall, notwithstanding the provisions of any other law to the contrary within a reasonable time but prior to commencement of business by the acquiring bank, by Order published in the Gazette (hereinafter referred to as "Vesting Order") vest in the acquiring bank the business carried on by any or all Regional Rural Development Banks (in this Act referred to as "Vesting Bank or Banks") being business which it or they are authorized to carry on under the Regional Rural Development Banks Act, No. 15 of 1985 and which is or are operating within the specified region for which such acquiring bank has been established.
- (2) For the purpose of subsection (1), the "business carried on by any or all Vesting Bank or Banks", includes—
- (a) all immovable and movable property owned by the Vesting Bank or Banks on, the day preceding to the date of the Vesting Order (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 Vesting Bank or Banks and any leasehold rights in any immovable property enjoyed by such Vesting Bank or Banks on the day preceding the date of the Vesting Order ;
  - (c) all the liabilities of the Vesting Bank or Banks and subsisting on the day preceding the date of the Vesting Order ; and
  - (d) all books, accounts and documents relating or appertaining, to the business of such Vesting Bank or Banks.
46. With effect from the date of vesting the business of any or all Vesting Bank or Banks as the case may be in the acquiring bank—
- (a) the acquiring bank shall have control and possession of the vested business of the Vesting Bank, or Banks and become the transferee of the vested business of such Vesting Bank or Banks; and

- (b) the Incorporation Order or Orders as the case may be made under the Regional Rural Developments Banks Act, No. 15 of 1985 by which such vesting Bank or Banks were established, shall be deemed to have been revoked.
47. (1) For the purpose of ascertaining the net worth of the business of any Vesting Bank or Banks on the day immediately preceding the date of vesting, the Monetary Board shall cause an audit of such vested business to be conducted by a qualified auditor.
- (2) The auditor appointed under subsection (1) shall submit a report to the Monetary Board within such period as may be specified by that Board and the Monetary Board shall consider the report and if necessary before accepting such report, require the auditor to furnish any further information or explanations as it may consider necessary.
48. (1) Where the net worth of the Vesting Bank or Banks is in excess of the contribution made by the Central Bank to the initial capital of a Bank under paragraph (a) of subsection (3) of section 18, such Bank shall within two weeks of the net worth of the Vesting Bank or Banks being accepted by the Monetary Board under section 47 issue to the Monetary Board, debentures to the value of such excess, earning interest at a rate of twelve *per centum per annum*.
- (2) The Monetary Board shall be entitled to transfer to any other person debentures issued to the Monetary Board under subsection (1), and the transferee of such debentures shall have the same rights as the Monetary Board in respect of such debentures.
- (3) It shall be the duty of the acquiring bank to redeem any debentures issued under subsection (1) on the expiry of ten years from the date on which such debentures were issued.
- (4) The Central Bank may at any time acquire at par value shares equivalent in value to the value of the debentures issued to the Monetary Board under subsection (1), or any part thereof and where the Central Bank decides to do so the Board shall allot to it shares in the Bank in proportion to that value.
49. With effect from the date of vesting —
- (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 Vesting Bank or Banks and subsisting, or having effect on the day immediately preceding the date of vesting and to which the Vesting Bank or Banks is or are party or which is or are in favour of the Vesting Bank or Banks shall be deemed with effect from the date of vesting 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 Vesting Bank or Banks pertaining or relating to the vested business of such Bank or Banks and pending on the day immediately preceding the date of vesting shall be deemed with effect from the date of vesting 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 Vesting Bank or Banks and were holding a permanent post in such Vesting Bank or Banks on the day immediately preceding the date of vesting shall be offered employment with the acquiring bank, and —
- (i) where such offer is accepted, such officers and servants shall be employed therein on such terms and conditions of employment as the acquiring bank considers reasonable having regard to the qualifications and experience of such officers and servants ; and
- (ii) where such offer is not accepted, such officers and servants shall be entitled to the payment of compensation as determined under section 50.
50. Where any officer or servant of the Vesting Bank or Banks is or are entitled to be paid compensation, the acquiring bank shall determine the amount of compensation that shall be paid in consultation with the Commis-

sioner of Labour and such determination shall be deemed not to affect any rights such officer or servant may have under any other written law.

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

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

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

“Bank of Ceylon” means the Bank of Ceylon established by the Bank of Ceylon Ordinance (Chapter 397) ;

“banking Institution” means a bank registered under the Banking Act, No. 30 of 1988 ;

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

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

“Employees Provident Fund” means the Employees Provident Fund established under the Employees Provident Fund Act, No. 15 of 1958 ;

“enterprise” means any body of persons, whether corporate or unincorporate, by whatsoever name or designation called, and includes a corporation sole or a sole proprietorship ;

“licensed commercial bank” means a commercial bank licensed or deemed to be licensed as a licensed commercial bank under the Banking Act, No. 30 of 1988 ;

“licensed specialised bank” means a company or institution licensed or deemed to be licensed as a licensed specialized bank under the Banking Act, No. 30 of 1988 ;

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

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

“Net worth of the Vested Bank or Banks” means the value of the assets of the Vesting Bank or Banks vested in the acquiring bank by virtue of an order made under section 45 (excluding unrecoverable assets as determined by the auditor nominated under section 47) less the value of the liabilities of the Vesting Bank or Banks vested in the acquiring bank, by virtue of such Order;

“People’s Bank” means the People’s Bank established by the People’s Bank Act, No. 29 of 1961 ;

“Regional Rural Development Bank or Banks” means a bank or banks established under the Regional Rural Development Banks Act, No. 15 of 1985 ;

“region” means one or more of the administrative districts specified in Administrative Districts Act (Chapter 392) ;

“small scale” in relation to a rural development project means a project of which the value of the fixed assets is less than four million rupees; and

“Vested business ” in relation to a Vesting Bank or Banks means the business of the Bank or Banks which is or are vested in such acquiring bank by an Order under section 45.

# HOUSING DEVELOPMENT FINANCE CORPORATION OF SRI LANKA ACT, NO. 7 OF 1997

[Certified on 18th June, 1997]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE HOUSING DEVELOPMENT FINANCE CORPORATION OF SRI LANKA; TO SPECIFY POWERS AND FUNCTIONS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

1. This Act may be cited as the Housing Development Finance Corporation of Sri Lanka Act, No. 7 of 1997 and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (hereinafter referred to as "the appointed date").

## PART I

### ESTABLISHMENT OF HOUSING DEVELOPMENT FINANCE CORPORATION OF SRI LANKA

2. (1) There shall be established a Corporation to be called the Housing Development Finance Corporation of Sri Lanka (hereinafter referred to as "the Corporation").
  - (2) The Corporation 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 such name.
  - (3) The head Office of the Corporation shall be in Colombo. Such branch offices as the Board of Directors may consider necessary shall be established in places in Sri Lanka outside Colombo.
3. (1) The administration and management of the affairs of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board") which shall consist of—
  - (a) two *ex-officio* directors, namely—
    - (i) a representative of the Ministry of the Minister in charge of the subject of Housing to be nominated by the Minister; and
    - (ii) the Secretary to the Treasury or his representative.
  - (b) four directors, of whom—
    - (i) one director shall be a representative of the Central Bank of Sri Lanka, nominated by the Minister in consultation with the Board and with the concurrence of the Minister in charge of the subject of Finance;
    - (ii) one director shall be a representative of the Minister in charge of the subject of Housing nominated by such Minister;
    - (iii) one director shall be a representative of the Ministry of the Minister in charge of the subject of Finance, nominated by the Minister in consultation with the Board and with the concurrence of the Minister in charge of the subject of Finance;
    - (iv) one director shall be a representative of the Ministry of the Minister in charge of the subject of Labour, nominated by the Minister in consultation with the Board and with the concurrence of the Minister in charge of the subject of Labour.

A director nominated under this paragraph is hereinafter referred to as a "nominated director";

- (c) one or more nominated directors shall, after the contributions of the institutions referred to in section 17 are repaid under that section, resign their posts at the first Annual General Meeting or subsequent Annual General Meetings as the case may be, in order to secure that the number of nominated

directors is proportionate to the share of equity capital held by the Government or Government Institutions in the Corporation;

- (d) four directors elected by the shareholders of the Corporation at the Annual General Meeting of the Corporation:

Provided however that a majority of such elected directors shall at all times be citizens of Sri Lanka;

Provided further, that the initial elected directors shall be appointed by the Minister;

A director appointed under this proviso is hereinafter referred to as an "appointed Director".

- (2) (a) A nominated director may resign his office by a letter in that behalf, addressed to the Minister.
- (b) The Minister may, at any time remove a nominated director from office, without assigning any reason therefor.
- (c) Subject to the provisions of paragraphs (a) and (b), the term of office of a nominated director shall be the period specified in his letter of nomination.
- (d) Where a nominated director dies, resigns or is removed from office, the Minister may, having regard to the provisions of paragraph (b) of subsection (1), nominate another person in his place. The person so nominated shall hold office for the unexpired period of the term of office of the director whom he succeeds.
- (e) Where a nominated director is, by reason of illness, absence from Sri Lanka or other cause, temporarily unable to perform the duties of his office, the Minister may nominate a person to act in his place.
- (3) (a) Two appointed directors shall vacate office at the first Annual General Meeting of the Corporation held after the appointed date, and another two appointed directors shall vacate office at the second Annual General Meeting held after the appointed date and so on until all the appointed directors have vacated office. The determination of the appointed directors who shall vacate office at any Annual General Meeting shall be made by the drawing of lots at such Annual General Meeting.
- (b) An appointed director may resign his office by a letter in that behalf addressed to the Minister.
- (c) The Minister may, at any time remove an appointed director from office, without assigning any reason therefor.
- (d) Where an appointed director vacates office otherwise than in the circumstances referred to in paragraph (a) of this subsection, the Minister may appoint another person in his place.
- (e) Where an appointed director is, by reason of illness, absence from Sri Lanka or other cause, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.
- (f) An appointed director who vacates office otherwise than by removal shall be eligible for election as a director under the succeeding provisions of this section.
- (4) (a) Where an appointed director vacates office under paragraph (a) of subsection (3) at an Annual General Meeting of the Corporation, the shareholders present at such Annual General Meeting shall elect a person to succeed such director. A person so elected is hereinafter referred to as "an elected director".
- (b) An elected director may resign his office by a letter in that behalf addressed to the Board.
- (c) The shareholders of the Corporation may remove an elected director from office by a resolution passed at a meeting of the shareholders.
- (d) Subject to the provisions of paragraphs (b) and (c) this subsection the term of office of an elected director shall be three years.

- (e) An elected director vacating Office by effluxion of time shall be eligible for re-election.
- (f) Where an elected director dies, resigns or is removed from office the shareholders of the Corporation shall, at a meeting of such shareholders, elect another person to succeed such director. The person so elected shall hold office for the unexpired period of the term of office of the director whom he succeeds.
- (g) Where an elected director, is by reason of illness, absence from Sri Lanka or other cause, temporarily unable to perform the duties of his office, the shareholders of the Corporation may at a meeting of the shareholders elect another person to act in his place.

4. (1) No person shall be qualified to be elected as a director under subsection (4) of section 3 unless—

- (a) he has; or
- (b) he is the director or officer of a body corporate which has,

Shares to the value of not less than five thousand rupees in the capital of the Corporation:

Provided however that the first directors elected under subsection (4) of section 3 shall not be required to have the qualification referred to in this subsection until two months have lapsed after the first issue of shares to the public.

(2) A person shall be disqualified from being nominated, appointed or elected, as a director or continuing in office as a director if—

- (a) he is, or becomes a Member of Parliament, a member of a Provincial Council or a member of a local authority;
- (b) he is, or becomes, an officer or servant of the Corporation;
- (c) he, being a person who has been declared an insolvent or bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt;
- (d) he is found or declared to be, of unsound mind under any law in force in Sri Lanka or in any other country;
- (e) he has served, or is serving, a sentence of imprisonment, imposed by a Court in Sri Lanka or any other country.

5. (1) The Directors shall elect from among themselves, a Chairman of the Board.

(2) The Chairman may resign from the office of Chairman by letter in that behalf addressed to the Board.

(3) The Board may, by resolution, remove the Chairman from office.

(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.

(5) Where the Chairman is by reason of ill-health, absence from Sri Lanka or other cause temporarily unable to perform the duties of his office, the directors shall elect a person from among themselves to act in the place of Chairman.

6. (1) The Chairman shall preside at all meetings of the Board and in the absence of the Chairman from any meeting of the Board, the Directors present at such meeting shall select from among themselves a Chairman for that meeting.

(2) The quorum for any meeting of the Board, shall be five.

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

- (4) A resolution in writing signed by all the directors, for the time being entitled to receive notice of a meeting of the Board, shall be valid and effectual as if such resolution had been passed at a meeting of the Board duly convened and held.
  - (5) Subject to the other provisions of this Act, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.
  - (6) All or any of the directors shall be paid such remuneration as may be determined by the shareholders of the Corporation at a meeting of such shareholders.
7. A director who is directly or indirectly interested in any contract proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of Board and such director shall not take part in any deliberation or decision of the Board with respect to such contract.
8. The Board of Directors may exercise, discharge and perform the powers, functions and duties of the Corporation under this Act or any other law, and do all acts and things necessary for administering and for managing the affairs of the Corporation.
9. The Board may delegate any of its powers, duties and functions to any committee thereof consisting of not less than three directors. The Board may, notwithstanding any such delegation, exercise, perform or discharge any such power, duty or function.
10. (1) The seal of the Corporation shall be in the custody of the Board.
- (2) The seal of the Corporation may be altered in such manner as may be determined by the Board.
- (3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of two directors both of whom shall sign the instrument or document in token of their presence.
11. No act or proceeding of the Board or any committee thereof shall be or deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the nomination, appointment or election of any of its members.

## PART II

### FUNCTIONS AND POWERS OF THE CORPORATION

12. The functions of the Corporation shall be—

- (a) to grant loans and other forms of financial assistance, for housing purposes, and for the redemption of residential property in accordance with such guidelines as the Minister may prescribe by regulations made under this Act, to individuals and housing finance corporations;
- (b) to subscribe for, and purchase, shares and securities of every description, in companies having as their object, the development of housing;
- (c) to engage in, and promote, the development of the infrastructure related to housing;
- (d) to provide amenities and facilities to persons living in housing schemes;
- (e) to provide legal, engineering, architectural, surveying and other support services, to individuals and institutions engaged in the construction of houses;
- (f) to undertake research, surveys and studies on construction techniques, building materials and other matters related to housing and human settlement;
- (g) to formulate schemes for the mobilization of resources for the purpose of extending credit for housing purposes;



- (h) to formulate and implement schemes for the provision of housing for the economically disadvantaged sections of the society;
- (i) to conduct training programmes, seminars and symposia on matters relating to housing;
- (j) to provide technical and management assistance to housing finance corporations, including assistance relating to the preparation of standard instruments and documents;
- (k) to act as an agent of the Government or the Central Bank;
- (l) to guarantee the financial obligations of housing finance corporations and to underwrite the issue of stocks, shares, bonds, debentures and securities of housing finance corporations and of companies having as their object, the development of housing;
- (m) to purchase the rights of any housing finance corporation under any mortgage entered into by such housing finance corporation with any other person.

13. The Board shall, for the purposes of discharging its functions, have the power—

- (a) to grant loans or financial assistance to individuals and to housing finance corporations;
- (b) to acquire, hold, take on lease or hire, sell, mortgage or otherwise dispose of, any movable or immovable property;
- (c) to enter into and perform, either directly or through any officer or agent authorised in that behalf, all such contracts or agreements as may be necessary for that purpose;
- (d) to employ such officers and servants as may be necessary for such purpose;
- (e) to make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control and the grant of leave to them;
- (f) to establish a provident fund or pension scheme for its officers and servants, to make contributions to such fund or scheme and to provide welfare and recreation facilities to such officers and servants;
- (g) to make charges for any services provided by the Corporation;
- (h) to guarantee any loans or financial accommodation granted to housing finance corporations;
- (i) to underwrite the issue of stocks, shares, bonds, debentures and securities of housing finance corporations and companies having as their object, the development of housing;
- (j) to accept term deposits from the public for such periods as may be determined by the Board and to pay interest on such deposits;
- (k) to invest the funds of the Corporation in such securities as it may think fit;
- (l) to borrow money on such terms and conditions as are recognized as sound financial practice and approved by the Minister in charge of the subject of Finance;
- (m) to receive gifts, grants and donations, whether in cash or otherwise, and to apply them to such purposes.

### PART III

#### OFFICERS AND STAFF OF THE CORPORATION

- 14. (1) The Board shall, with the prior written approval of the Minister appoint a General Manager to the staff of the Corporation on such salary and with such allowances as may be fixed by the Board.
- (2) The General Manager shall be a full time officer of the Corporation and shall be the Chief Executive Officer of the Corporation.

- (3) The General Manager shall attend every meeting of the Board unless the Board otherwise directs, but he shall have no right to vote.
15. (1) For the purpose of carrying out the provisions of this Act, the Board may appoint such other officers and servants as the Board considers necessary.
- (2) The Board may, from time to time, fix and alter the salaries and allowances of such officers and servants subject to any Governmental circulars relating to the salary scales and allowances applicable to state owned companies.
- (3) Every officer or servant required by the Board to furnish security shall furnish security to the satisfaction of the Board for the due and faithful performance of his duties.
- (4) No director or officer or servant of the Corporation shall guarantee the repayment of any loan granted by the Corporation to any other person.

#### PART IV

#### FINANCE

16. (1) The authorized capital of the Corporation shall be two thousand million rupees divided into twenty million shares of one hundred rupees each.
- (2) The issued capital of the Corporation shall, subject to the provisions of subsection (3), be one thousand million rupees.
- (3) The Corporation may, subject to the provisions of subsection (1), raise sums of money as contributions to the capital of the Corporation by the issue of shares.
17. (1) Every institution set out in Column I hereunder shall, within five years of the appointed date, contribute to the capital of the Corporation, an amount equal to the amount specified in the corresponding entry in column II hereunder—

#### *Column I*

Sevana Fund  
National Housing Development Authority  
Employees Trust Fund

#### *Column II*

Five hundred million rupees in cash  
One hundred million rupees in cash  
Fifty million rupees in cash.

The National Savings Bank may within one year of the appointed date contribute to the capital of the Corporation an amount not exceeding one hundred million rupees in cash.

- (2) Upon the members of the building society registered under the National Housing Act (Chapter 401) as the Housing Development Finance Corporation of Sri Lanka Ltd., resolving to transfer its assets and liabilities to the Corporation, every person who held shares in the Housing Development Finance Corporation of Sri Lanka Ltd., on the day preceding the date of the resolution, shall be allotted shares in the Corporation equal to the value of the shares held by him on that day in the Housing Development Finance Corporation of Sri Lanka Ltd.
- (3) The balance of the shares referred to in subsection (2) of section 16, after the allotments made under subsection (2) of this section, shall be offered for sale to the public in such manner as may be determined by the Board.
- (4) After the sale of shares to the public, under subsection (3) is completed, the Corporation shall repay to the institutions referred to in subsection (1), the respective contributions made by such institutions under that subsection to the capital of the Corporation.
- (5) (1) The Corporation shall not allot any shares, or register any shares—

- (a) in the name of any company, incorporated body or an individual if such allotment or registration would result in such company, incorporated body or individual owning more than fifteen *per centum*, of the total issued share capital of the Corporation;
- (b) in the name of a company and any one or more of the following:
  - (i) any of its subsidiaries;
  - (ii) its holding company;
  - (iii) a subsidiary of its holding company; or
  - (iv) a company, in which such company or its subsidiary or its holding company or a subsidiary of its holding company, has a substantial interest,

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

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

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

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

- (6) For the purpose of subsection (1)—

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

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

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

**19.** The Corporation may, under and in accordance with the provisions of this Act, raise such sums of money in or outside Sri Lanka, by way of loan or otherwise, as may be necessary for discharging its functions and exercising and performing its powers and duties.

20. The Corporation may, from time to time, borrow from the Government, and the Government may, from time to time, lend to the Corporation from the Consolidated Fund any sum of money, subject to such terms and conditions as may be determined by the Government.
21. The Corporation may, with the approval of the Monetary Board from time to time, borrow from any foreign Government, or any other source whatsoever outside Sri Lanka, any sum of money on such terms and conditions as to the interest thereon and the repayment thereof as may be determined by agreement between the Corporation and such Government or such other source, as the case may be.
22. (1) The Board may create and issue debentures and stock, and the debentures and stock so created and issued shall in this Act be referred to as "Housing Development Finance Corporation Debentures" and "Housing Development Finance Corporation Stock", respectively.
- (2) Housing Development Finance Corporation Debentures and Housing Development Finance Corporation Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms and conditions as may be determined by the Board.
23. (1) The Government may guarantee the repayment of the principal sum, and the payment of the interest on—
- (a) any Housing Development Finance Corporation Debentures, and any Housing Development Finance Corporation Stock, created and issued by the Board under section 22;
- (b) any loan raised by the Corporation from any foreign Government, or any other source under section 21;
- (2) Any sum required for the fulfilment of any guarantee provided under subsection (1) shall be paid out of the Consolidated Fund.
- (3) Immediately after a guarantee is given under subsection (1), the Minister in charge of the subject of Finance shall lay a statement of such guarantee before Parliament.
- (4) Where any sum is paid out of the Consolidated Fund in fulfilment of any such guarantee, the Minister in charge of the subject of Finance shall lay before Parliament, a statement that such sum has been so paid.
24. (1) All sums of money received by the Corporation—
- (a) as contributions towards the capital of the Corporation;
- (b) in discharging the functions of the Corporation;
- (c) in exercising and performing the powers and duties of the Corporation,
- shall be credited to the funds of the Corporation.
- (2) All financial commitments or liabilities of the Corporation arising from, or incurred in connection with—
- (a) the discharge of the functions of the Corporation;
- (b) the exercise and performance of the powers and duties of the Corporation,
- shall be charged on the funds of the Corporation.
25. No dividend shall be declared or paid by the Corporation for any financial year out of the profits of the Corporation for that year, arrived at after providing for depreciation in accordance with provisions prescribed in that behalf, except after the transfer to the reserves of the Corporation, of such percentage of the profits of the Corporation for that year not exceeding ten *per centum* as may be prescribed:

Provided that nothing in this section shall be deemed to prohibit the Corporation from voluntarily transferring a higher percentage of its profits in that year, to its reserves.

PART V  
ACCOUNTS AND AUDIT

26. (1) The Board shall cause the accounts of the Corporation to be kept in such form and manner as may be determined by the Board.

(2) The accounts of the Corporation shall be audited by a qualified auditor annually appointed at a meeting of the share-holders of the Corporation:

Provided that, so long as the majority of the issued shares of the Corporation is held by the Government of Sri Lanka, or a public Corporation, the accounts of the Corporation shall be audited by the Auditor-General.

(3) The shareholders shall determine the remuneration payable to the auditor of the Corporation.

(4) The auditor of the Corporation shall be supplied with a copy of the annual balance sheet of the Corporation, and it shall be his duty to examine such balance sheet together with the accounts and vouchers relating thereto. He shall at all reasonable times have access to the books, accounts and vouchers of the Corporation and shall be entitled to require from the directors and officers of the Corporation such information and explanations as may be necessary for the performance of his duties.

(5) The auditor of the Corporation may, if he so desires, make a continuous audit of the accounts of the Corporation.

(6) The auditor of the Corporation shall make a written report upon the annual balance sheet and accounts of the Corporation and shall in such report state whether he has or has not had access to the books and accounts of the Corporation and whether he has or has not obtained all the information and explanations required by him and whether, in his opinion such accounts are properly drawn up so as to exhibit a true and correct view of the Corporation's affairs according to the best of his information and the explanations given to him and as shown by the books of the Corporation.

(7) The report of the auditor of the Corporation shall be transmitted by him to the Board.

(8) The Board shall cause a copy of the report of the auditor of the Corporation together with a copy of the balance sheet and profit and loss account to which such report refers, to be transmitted to each shareholder and to the Minister in charge of the subject of Finance.

(9) The Financial year of the Corporation shall be the calendar year.

(10) In this section, "qualified auditor" means—

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

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

PART VI

GENERAL

27. (1) The Board may make rules dealing with matters not provided for by this Act which in the case of a company formed under the Companies Act, No. 17 of 1982 would be dealt with by its articles of association.

- (2) Subject to the provisions of this Act, the shareholders may by special resolution, amend or rescind any rule made under subsection (1) or add to the rules so made.

In this subsection the expression "special resolution" means a resolution passed by a majority of not less than three fourths of such shareholders as, being entitled so to do, vote in person or by proxy at a meeting of the shareholders of which not less than twenty one days notice has been duly given to the shareholders specifying the resolution intended to be proposed at that meeting.

28. The provisions of the Companies Act, No. 17 of 1982 shall, *mutatis mutandis*, apply to the Corporation in regard to any matter for which there is no provision in this Act or any rule made under section 27:

Provided that the Corporation shall not be required to be registered under that Act nor shall the Registrar of Companies have any power with respect to the Corporation.

29. The provisions of the Debt Conciliation Ordinance (Chapter 81) and the Money Lending Ordinance (Chapter 80) shall not apply to and in relation to, the Corporation.

30. For the purpose of deciding whether any immovable property tendered as security for a loan should or should not be accepted by the Corporation, the Corporation shall have access free of charge to the valuation rolls of any local rating authority, and the officers of every such authority shall, upon application made therefor, submit to the Corporation full particulars as to any valuation of rateable property in respect of which such local rating authority has power to levy rates.

31. A bill of exchange or promissory note shall be deemed to have been made, executed or endorsed on behalf of the Corporation, if made, executed or endorsed in the name of, or on behalf, or on account of, the Corporation by any person duly authorised thereto as hereinafter provided.

32. No person, other than a director or an officer of the Corporation expressly authorised by the Board and acting within the limits of the authority so conferred on him, shall have the authority to make, draw, accept or endorse any promissory note, bill of exchange, cheque or order for the payment of money in the name of, or on behalf of, the Corporation or to enter into any contract, so as to impose thereby any liability on the Corporation otherwise to pledge the credit of the Corporation.

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

34. (1) Every director, officer or auditor of the Corporation shall before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions, of the Corporation and all matters relating to such transactions and shall by such declaration pledge himself not to reveal any such transaction or matter except—

- (a) when required so to do by the Board, a court of law, or the person to whom that transaction or matter relates;
- (b) in the performance of his duties under this Act; and
- (c) in order to comply with any of the provisions of this Act or any other law.

- (2) Every director, officer or auditor of the Corporation shall decline to answer any question concerning the business of the Corporation if he cannot answer the question without infringing his pledge of secrecy under subsection (1).

35. An Annual General Meeting of the shareholders of the Corporation shall be held within nine months after the close of each financial year of the Corporation, at which the Annual Report and Accounts presented by the Board shall be considered and decisions as to the declaration of dividends taken. The manner of summoning the Annual General Meeting and the procedure for transaction of business at such meeting shall be as prescribed. At every Annual General Meeting, directors shall be elected to the Board in accordance with the share holdings in the Corporation on the day preceding the date of such meeting.

36. No director or officer of the Corporation shall be liable for any damage or loss suffered by the Corporation, unless such damage or loss was caused by his misconduct or wilful loss.

37. (1) Every person who—

- (a) knowingly allots, or registers, any shares in the Corporation, to or in the name of, any person, in contravention of the provisions of section 17(5); or
- (b) knowingly secures the allotment or registration of any shares in the Corporation, to, or in the name of, any person, in contravention of the provisions of section 17(5); or
- (c) being a director, officer or auditor of the Corporation, discloses any matter relating to a transaction of the Corporation, to any person for any purpose other than a purpose for which he is authorised to disclose such matter by this Act,

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

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

- (a) if that body of persons is a body corporate, every director and officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm, shall be deemed to be guilty of that offence:

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

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 required by this Act to be made.

- (2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on such date as may be specified in the regulation or if no such date is so specified, on the date of such publication.
- (3) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette* be brought before Parliament by a motion that such regulation be approved.
- (4) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity or anything previously done thereunder. The date on which the regulation shall be deemed to be rescinded shall be the date on which Parliament refuses to approve such regulation.
- (5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.

39. Notwithstanding anything to the contrary in any other Law, the members of the building society registered under the National Housing Act (Chapter 401) as the Housing Development Finance Corporation of Sri Lanka Ltd., may resolve to transfer all its assets and liabilities to the Corporation, and upon such resolution, the assets and liabilities of the Housing Development Finance Corporation of Sri Lanka Ltd., shall stand transferred to the Corporation with effect from the date of such resolution and the Housing Development Finance Corporation of Sri Lanka Ltd., shall be deemed to have been dissolved with effect from that date.

40. Notwithstanding the dissolution of the Housing Development Finance Corporation of Sri Lanka Ltd.—

- (a) every action or proceeding instituted by or against the Housing Development Finance Corporation of Sri Lanka Ltd., and pending in any court, whether original or appellate, on the day preceding the date on which the Housing Development Finance Corporation of Sri Lanka Ltd., is deemed to have been dissolved, shall

be deemed with effect from that date to be an action or proceeding instituted by or against the Corporation and every such action or proceeding may be proceeded with to completion and enforced accordingly;

- (b) every decree, order or award entered or made in favour of or against the Housing Development Finance Corporation of Sri Lanka Ltd., by any court or tribunal in any action, matter, proceeding or thing and remaining unsatisfied on the day preceding the date on which the Housing Development Finance Corporation of Sri Lanka Ltd., is deemed to have been dissolved, shall with effect from that date be deemed to be a decree, order or award entered or made in favour of or against the Corporation and may be enforced accordingly.

41. Section 22 of the Recovery of Loans by Banks (Special Provisions) Act, No. 4 of 1990, is hereby amended by the substitution, in the definition of "Bank", for the words and figures "Development Finance Corporation of Ceylon Act, (Chapter 165)", of the words and figures "Development Finance Corporation of Ceylon Act, (Chapter 165) and the Housing Development Finance Corporation of Sri Lanka established by the Housing Development Finance Corporation or Sri Lanka Act, No. 7 of 1997."

42. (1) Every officer and servant of the Housing Development Finance Corporation of Sri Lanka Ltd., registered under the National Housing Act (Chapter 401), on the day immediately preceding the date of dissolution of that body shall be offered employment in the Corporation.

(2) Every officer or servant of the said Housing Development Finance Corporation of Sri Lanka Ltd., who is employed by the Corporation, shall be so employed on such terms and conditions as may be agreed upon by such officer or servant and the Corporation.

(3) any officer or servant of the Housing Development Finance Corporation of Sri Lanka Ltd., who is not employed by the Corporation shall in addition to any retrial benefit that may be due to him, be paid compensation of an amount to be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance having regard to his years of service in that body.

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

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

"Chairman" means the Chairman of the Board;

"Director" means a director of the Board;

"Employees Trust Fund" means the Employees Trust Fund established by the Employees Trust Fund Act, No. 40 of 1980;

"Housing Finance Corporation" means any corporation, established by or under law and empowered to grant loans for the purposes of housing;

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

"National Housing Development Authority" means the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979;

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

"Provincial Council" means a Provincial Council established by Chapter XVIIA of the Constitution;

"Sevana Fund" means the Fund established under section 5 of the National Housing Development Authority Act, No. 17 of 1979.



# TURNOVER TAX (AMENDMENT) ACT, NO. 8 OF 1997

[Certified on 18th June, 1997]

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

1. This Act may be cited as the Turnover Tax (Amendment) Act, No. 8 of 1997.
2. Section 2 of the Turnover Tax Act, No. 69 of 1981 (hereinafter referred to as the "principal enactment"), is hereby amended by the substitution for all the words from, "shall be charged for the period" to 'a tax (hereinafter referred to as the "turnover tax")', of the following words and figures :—  
'shall be charged—
  - (a) for the period November 13, 1981 to December 31, 1981 and for every quarter commencing on or after January 1, 1982 but prior to the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation, from every person who—
    - (i) carries on any business in Sri Lanka ; or
    - (ii) renders services outside Sri Lanka for which payment is made from Sri Lanka ; and
  - (b) for every quarter commencing on or after the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation, from every person who carries on the business of—
    - (i) a financier, money lender or pawn-broker ; or
    - (ii) a bank licensed under the Banking Act, No. 30 of 1988 ; or
    - (iii) owner of a ship or a charterer of a ship ; or
    - (iv) buying and selling any article, in any area where there is no statute in force imposing turnover tax on such sales,a tax (hereinafter referred to as the "turnover tax"),'.
3. Section 5 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution, of the following subsection therefor :—  
“(2) For the purposes of subsection (1), the turnover—
  - (i) in relation to any business shall, not include any amount received or receivable by the sale of capital assets ;
  - (ii) arising, in the case of a financier or bank which functions as a primary dealer in treasury bills, treasury bonds or government securities, pursuant to such financier or bank being appointed as such by the Monetary Board of the Central Bank of Sri Lanka, under the Local Treasury Bills Ordinance or the Registered Stock and Securities Ordinance, from dealing in any such bill, bond or security, shall be the interest or discount received or receivable in respect of such bill, bond or security, after deducting there from the interest paid or the discount allowed in relation to any repurchase transaction in respect of such bill, bond or security .”.
4. Section 48A of the principal enactment is hereby amended, by the addition, at the end of that section, of the following subsections :—
  - (3) Notwithstanding the preceding provisions of this section, where there remains any residue of the turnover tax which is deductible in accordance with the provisions of subsection (1), after its deduction from the turnover tax payable by any person in respect of the turnover referred to in subsection (1), for each of the

quarters preceding the last quarter, such residue shall be deducted, to the extent it can be so deducted, from the turnover tax payable by that person, in respect of the turnover referred to in subsection (1) for the last quarter, and any balance of the residue after such deduction shall, subject to the provisions of section 49, be refunded after the expiry of six months reckoned from the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation.

For the purposes of this subsection, "last quarter" means the quarter ending on the day immediately preceding the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation.

(4) The provisions of subsection (3) shall not apply to any business referred to in paragraph (b) of section 2.

5. Section 48B of the principal enactment is hereby amended by the addition, at the end of that section, of the following subsections:—

(3) Notwithstanding the preceding provisions of this section, where there remains any residue of the turnover tax which is deductible in accordance with the provisions of subsection (1), after its deduction from the turnover tax payable by any person in respect of the turnover referred to in subsection (1), for each of the quarters preceding the last quarter, such residue shall be deducted, to the extent it can be so deducted, from the turnover tax payable by that person, in respect of the turnover referred to in subsection (1) for the last quarter, and any balance of the residue after such deduction shall, subject to the provisions of section 49, be refunded after the expiry of six months reckoned from the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation.

For the purposes of this subsection, "last quarter" means the quarter ending on the day immediately preceding the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation.

(4) The provisions of subsection (3) shall not apply to any business referred to in paragraph (b) of section 2.

6. Section 49 of the principal enactment is hereby amended in the proviso to subsection (4A) of that section, by the substitution, for all the words from, "by the Commissioner General if—", to the end of that proviso, of the words, "by the Commissioner General, if such supply is covered by a letter of credit opened in a bank in Sri Lanka, or such other documentary evidence, as is required by the Commissioner-General to satisfy himself that the exports relating to such supply were in fact made, is adduced."

7. Section 50 of the principal enactment is hereby amended as follows :—

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

(a) by the substitution, for the words, "Every person who makes any payment in pursuance of a contract", of the words and figures, "Every person who, on or before the date on which the Goods and Services Tax Act, No. 34 of 1996 comes into operation, makes any payment in pursuance of a contract";

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

Provided that—

(i) where the total consideration payable for the performance of such contract, not being any contract referred to in paragraph (vi) of the definition of "contract" in subsection (4), or

(ii) where the amount resulting from the division of the gross rent (inclusive of premium) payable to a company in pursuance of a contract referred to in paragraph (vi) of subsection (4), by the number of completed quarters comprised in the period of tenancy covered by such contract,

does not exceed one hundred thousand rupees, no such deduction shall be made.' ;

(2) in subsection (4) of that section—

(i) by the substitution, in paragraph (iv), for the words “not including a contract of employment ; or”, of the words “not including a contract of employment ;” ;

(ii) by the substitution, in paragraph (v), for the words “any contract for the supply of cinematograph films by a producer”, of the words “any contract for the supply of cinematograph films by a producer ;or”; and

(iii) by the addition, at the end of that subsection, of the following paragraph :—

“(vi) any contract in respect of the letting, by any company, of any commercial premises.”.

8. Every article—

(a) imported into Sri Lanka on or after May 14, 1992 but prior to November 9, 1995 by a company with which the Board of Investment of Sri Lanka has entered into an agreement, under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 ; and

(b) which is not exempt from the payment of turnover tax by virtue of the Orders made under section 8 of the principal enactment and published in *Gazette* No. 714/13 of May 14, 1992 and *Gazette* No. 751/20 of January 29, 1993,

shall be deemed to have been, and to be, exempt from any turnover tax payable under the principal enactment with effect from May 14, 1992.

9. Every person other than any unit trust or any investment company engaged in the business of buying and selling shares shall, so far as his turnover relates to the sale of shares, be exempt from turnover tax, notwithstanding anything to the contrary in the Order made under section 7 of the principal enactment and published in *Gazette* Extraordinary No. 751/20 of January 29, 1993.

10. The provisions of section 9 shall, for all purposes, be deemed to have come into force on January 29, 1993.

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

## MEDIATION BOARDS (AMENDMENT) ACT, NO. 15 OF 1997

[Certified on 22nd July, 1997]

### AN ACT TO AMEND THE MEDIATION BOARDS ACT, NO. 72 OF 1988

1. This Act may be cited as the Mediation Boards (Amendment) Act, No. 15 of 1997.
2. Section 7 of the Mediation Boards Act, No. 72 of 1988 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (1) of that section by the substitution, for the words and figures "the certificate of non-settlement referred to in section 12 or section 14(2):" of the words and figures "a certificate of non-settlement referred to in section 14A:".
3. Section 9 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 subsections:—
    - (1) Upon receipt of an application under section 6 or upon a reference made to him under section 7 or section 8, the Chairman of a Panel appointed for a Mediation Board area shall, ascertain from the disputants their preferences as to the manner of constituting a Mediation Board, and shall in accordance with the preferences expressed by the disputants, do either of the following:—
      - (i) constitute a Mediation Board under subsection (2); or
      - (ii) allow the disputants to select a pre-constituted Board under subsection (3).
    - (2) Where all the disputants express a preference for the constitution of a Mediation Board under subsection (1), the Chairman of a Panel appointed for a Mediation Board area shall, constitute a Mediation Board (hereinafter referred to as the "Board") of three members, consisting of—
      - (a) one member selected by each disputant; and
      - (b) one member selected by the members selected under paragraph (a),from the Panel appointed for that Mediation Board area:

Provided that, where the disputants referred to in paragraph (a) or the members referred to in paragraph (b), are unable to agree as to their respective selections, the Chairman of the Panel shall make the necessary selection:

Provided further that, where any disputant referred to in paragraph (a), expresses in writing, his unwillingness to make a selection under that paragraph, such selection shall be made by lot drawn by the Chairman of the Panel. Where the disputant for any reason, objects to the member first selected by the drawing of lots, the Chairman shall make a further selection by drawing lots.
    - (3) Where all the disputants express a preference for the reference of the dispute or offence in respect of which the application or reference is made, to a pre-constituted Board, the Chairman of the panel shall allow the disputants to select any Board from among the Boards, each consisting of three members, (including a Chief Mediator appointed by the Chairman), previously constituted by the Chairman, from the Panel appointed for that Mediation Board area.;
  - (2) by the renumbering of subsections (2) and (3) of that section, as subsections (4) and (5) of that section, respectively.
  - (3) in the renumbered subsection (4) of that section, by the substitution, for all the words and figures from "The member selected" to "(hereinafter referred to as the "Chief Mediator") : " of the following:—

"The member selected under paragraph (b) of subsection (2) shall act as the Chief Mediator of the Board constituted under that subsection:";

(4) in the renumbered subsection (5) of that section, by the substitution, for the words "Upon the constitution of the Board," of the words "Upon the constitution or selection of the Board".

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

(1) by the substitution, for the words and figures "under subsection (3) of section 9", of the words and figures "under subsection (5) of section 9";

(2) in paragraph (a) of that section, by the substitution, for the words "at a specified time and place;" of the words "at a specified time and place, and shall state in such notification that if any one of the disputants fails to be present at any such conference, the absence of such disputant shall be stated in the certificate of non-settlement that may be issued under section 14A, or in the report submitted to court under paragraph (b) of section 12.;

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

"(d) complete its proceedings within the time limit specified in section 13 and in the event of failure to do so, proceed under section 14A".

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

"Where no settlement is possible.

12. Where it is not possible to constitute a Board under section 9, due to the absence, after due notification of one of the disputants or where, after the constitution of a Board under section 9, the disputants do not agree to a settlement or it is not possible to arrive at a settlement due to the absence, after due notification of, one of the disputants, the chairman or the Chief Mediator, as the case may be, shall—

(a) in the case of an application made under section 6, proceed under section 14A;

(b) in the case of a dispute referred by any court under section 7 or section 8, report to such court in the prescribed form signed by the Chairman or the Chief Mediator, as the case may be, that it has not been possible to settle the dispute by mediation and stating therein the reasons for non-settlement."

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

"Time limit within which Board must act.

13. The Board shall, in respect of every dispute or offence before it for settlement by mediation, take the steps specified in subsection (1) of section 11 or in section 12—

(a) in the case of a dispute, within sixty days of the constitution of the Board;

(b) in the case of an offence, within thirty days of the constitution of the Board."

7. Section 14 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for all the words from "Where, the resolution of such differences is not possible, the Board" to the end of that subsection, of the words "Where, the resolution of such differences is not possible, the Board shall proceed under section 14A."

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

"Certificates of non-settlement.

14A. Where a settlement of any dispute or offence or the resolution of any differences that have arisen between the disputants after a settlement, has not been possible under the provisions of this Act, the Chairman or the Chief Mediator, as the case may be, shall issue a certificate of non-settlement in the prescribed form signed by the Chairman or the Chief Mediator, as the case may be, stating that it has not been possible to settle such dispute or offence by mediation and stating therein the reason for non-settlement.

"Certificates of non-settlement receivable in evidence.

14B. (1) A certificate of non-settlement purporting to be issued under section 14A and signed by the Chairman or the Chief Mediator, as the case may be, may be given in evidence in

any action or proceeding instituted in any court although such person is not called as a witness.

- (2) The court may presume that the signature on any certificate of non-settlement is genuine and that the person signing it held the office he professed to hold at the time he signed it:

Provided that, if in any case the court is of opinion on the application of any party or otherwise, and for reasons to be recorded, that it is necessary that the Chairman of the Panel or the Chief Mediator should be present to give evidence at any proceeding before such court, such Chairman or Chief Mediator shall be summoned as a witness for the purpose of giving evidence relating to the signing of such certificate only.”.

9. Section 17 of the principal enactment is hereby amended by the substitution, for the words and figures “certificate issued under section 12 or subsection (2) of section 14” of the words and figures “certificate issued under section 14A”.
10. Section 24 of the principal enactment is hereby amended by the insertion, immediately before the definition of “disputant”, of the following new definition:—

“Chief Mediator” means the member of the Board selected under paragraph (b) of subsection (2) of section 9 or appointed by the Chairman of the Panel under subsection (3) of that section;’.

11. The First Schedule to the principal enactment is hereby amended by the substitution, for item 12 of that Schedule, of the following item:—

“12. The Chairman and other members shall be paid such allowances at such rates and subject to such conditions as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.”.

12. The Second Schedule to the principal enactment is hereby amended by the substitution, for the item “Causing hurt by an act which endangers life” appearing in Column I of that Schedule and the corresponding entry in Column II thereof of the following:—

“Causing hurt by an act which endangers life.....328”.

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

**DEVELOPMENT FINANCE CORPORATION OF CEYLON (AMENDMENT) ACT, NO. 23 OF 1997**

[Certified on 21st August, 1997]

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

1. This Act may be cited as the Development Finance Corporation of Ceylon (Amendment) Act, No. 23 of 1997.
2. (1) Section 2 of the Development Finance Corporation of Ceylon Act (hereinafter referred to as the "principal enactment") is hereby amended in subsection (1) of that section as follows :—
  - (1) by the substitution for the words 'referred to as the "Corporation",' of the words 'referred to as the "Bank" '; and
  - (2) by the repeal of paragraph (b) of that subsection and the substitution of the following paragraph therefor :—

" (b) shall be called the DFCC Bank .".
3. (1) In the principal enactment (other than in the Long Title) and in any other written law, there shall be substituted for the words "Development Finance Corporation of Ceylon" and "Corporation" (denoting the Development Finance Corporation of Ceylon), of the words "DFCC Bank" and "Bank" respectively.
- (2) Every reference to the "Development Finance Corporation of Ceylon" in any notice, notification, contract, communication, form or other document shall be read and construed as a reference to the "DFCC Bank".
4. Section 4 of the principal enactment as last amended by Act, No. 25 of 1993, is hereby further amended as follows :—
  - (1) in subsection (1) of that section —
    - (a) by the substitution in paragraph (a) of that subsection for the words "of private, industrial, agricultural and commercial enterprises", of the words "of industrial, agricultural and commercial enterprises," ; and
    - (b) by the substitution in paragraph (b) of that subsection, for the words "of private capital," of the words "of capital."
  - (2) by the repeal of subsection (2) of that section.
5. Section 5 of the principal enactment as last amended by Act, No. 25 of 1993 is hereby further amended in paragraph (vii) of that section by the substitution for the words "to or for private, industrial, agricultural and commercial enterprises," of the words "to or for industrial, agricultural and commercial enterprises".
6. Section 14 of the principal enactment as last amended by Act, No. 25 of 1993 is hereby further amended in subsection (1) of that section by the repeal of all the words from "No guarantee shall be given under this subsection" to the end of that subsection.
7. (1) All contracts, agreements and other instruments of the Development Finance Corporation of Ceylon subsisting on the day immediately prior to the date of commencement of this Act, shall be deemed to be contracts, agreements or other instruments entered into by the DFCC Bank.
- (2) All suits, actions and other legal proceedings instituted by or against the Development Finance Corporation of Ceylon and pending on the day, immediately prior to the date of commencement of this Act, shall be deemed to be suits, actions and other legal proceedings instituted by or against the DFCC Bank.

- (3) All the rights, liabilities and obligations of the Development Finance Corporation of Ceylon on the day immediately prior to the date of commencement of this Act, shall be deemed to be the rights, liabilities and obligations of the DFCC Bank.
  - (4) Every decree, order or judgment entered in favour of or against the Development Finance Corporation of Ceylon by any court in any action or proceeding, shall with effect from the date of commencement of this Act, be deemed to be a decree, order or judgment entered in favour of or against the DFCC Bank and may be enforced accordingly.
8. 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. 24 OF 1997

[Certified on 4th September, 1997]

## 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. 24 of 1997.
2. Section 4 of the Inland Revenue Act, No. 28 of 1979 as amended by Act, No. 14 of 1984 (hereinafter referred to as the "principal enactment") is hereby further amended in subsection (1) as follows:—
  - (1) in paragraph (c) of that subsection, by the addition, immediately after sub-paragraph (iv), of that paragraph, of the following sub-paragraph :—

"(v) any sum paid from the Employees' Trust Fund established by the Employees' Trust Fund Act, No. 46 of 1980.;"
  - (2) in the proviso to paragraph (d) of that subsection—
    - (i) by the substitution in sub-paragraph (i) of that proviso, for the words and figures "any year of assessment commencing on or before April 1, 1983, and", of the words and figures "any year of assessment commencing on or before April 1, 1983 ;" ;
    - (ii) by the substitution in sub-paragraph (ii) of that proviso, for the words and figures "any year of assessment commencing on or after April 1, 1984", of the words and figures "any year of assessment commencing on or after April 1, 1984 but prior to April 1, 1997 ; and" ; and
    - (iii) by the addition immediately after sub-paragraph (ii) of that proviso of the following sub-paragraph :—

"(iii) one hundred and twenty thousand rupees, for any year of assessment commencing on or after April 1, 1997 ;".
3. Section 8 of the principal enactment as amended by Act, No. 16 of 1996, is hereby further amended in paragraph (a) of that section as follows :—
  - (1) in sub-paragraph (LXXI) of that paragraph, by the substitution for the words and figures "Institute of Personnel Management, Sri Lanka Law, No. 34 of 1976", of the words and figures "Institute of Personnel Management, Sri Lanka Law, No. 34 of 1976" ;
  - (2) in sub-paragraph (LXXII) of that paragraph, by the substitution for the words and figures "the Public Enterprises Reform Commission of Sri Lanka, Act, No. 1 of 1996." of the words and figures "the Public Enterprises Reform Commission of Sri Lanka, Act, No. 1 of 1996 ;" ;
  - (3) by the addition, immediately after sub-paragraph (LXXII) of that paragraph, of the following sub-paragraph:—

"(LXXIII) the Securities and Exchange Commission of Sri Lanka established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 .".
4. Section 9 of the principal enactment as amended by Act, No. 27 of 1995 is hereby further amended in subsection (1) of that section as follows :—
  - (1) in paragraph (bb) of that subsection, by the substitution for the words and figures "the official emoluments or any profits from employment referred to in paragraph (c) of subsection (1) of section 4, ", of the words and figures "the official emoluments, or any pension, or any profits from employment referred to in paragraph (c) of subsection (1) of section 4," ;
  - (2) in paragraph (bbb) of that subsection, by the substitution for the words and figures "any year of assessment

commencing on or after April 1, 1993", of the words and figures "any year of assessment commencing on or after April 1, 1993 but prior to April 1, 1997";

(3) by the substitution, for paragraph (1) of that subsection of the following paragraph :—

"(1) profits and income not exceeding in the aggregate —

- (a) one thousand two hundred rupees, for any year of assessment ending on or before March 31, 1991;
- (b) two thousand four hundred rupees, for any year of assessment commencing on or after April 1, 1991 but prior to April 1, 1997; and
- (c) four thousand eight hundred rupees, for any year of assessment commencing on or after April 1, 1997,

from all sources other than employment, derived by or arising or accruing to, an individual or any child whose total statutory income is aggregated with the income of that individual, if the total statutory income, for that year of assessment, of that individual consists only of—

(i) profits and income from employment not exceeding—

- (a) thirty thousand rupees, in any year of assessment commencing on or after April 1, 1979 but prior to April 1, 1986;
- (b) forty-two thousand rupees, for the year of assessment commencing on April 1, 1986;
- (c) forty-five thousand rupees, for any year of assessment commencing on or after April 1, 1987 but prior to April 1, 1991;
- (d) sixty thousand rupees, for any year of assessment commencing on or after April 1, 1991 but prior to April 1, 1997; and
- (e) one hundred and fifty thousand rupees, for any year of assessment commencing on or after April 1, 1997;

(ii) profits and income not exceeding—

- (a) one thousand two hundred rupees, for any year of assessment ending on or before March 31, 1991,
- (b) two thousand four hundred rupees, for any year of assessment commencing on or after April 1, 1991; and
- (c) four thousand eight hundred rupees, for any year of assessment commencing on or after April 1, 1997,

from all sources of profits and income other than employment,

and accordingly, where any income tax has been paid by deduction or otherwise, by such individual in any year of assessment, in respect of any profits and income which are exempt under this paragraph, such tax shall, on an application in that behalf being made in writing by such individual within three years of the end of that year of assessment, be refunded to him;

(4) in paragraph (n) of that subsection by the substitution for the words and figures "commencing on or after April 1, 1987, from investments made by it; and", of the words and figures "commencing on or after April 1, 1987, from investments made by it;";

(5) by the substitution for paragraph (o) of that subsection of the following paragraph :—

“(o) such part of any sum referred to in paragraph (c) of section 4(1) paid to any employee at the time of his retirement from any employment in any company formed under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, as is attributable to the period of service by such employee prior to April 1, 1997, in any public corporation or any government owned business undertaking, as the case may be; and”;

(6) by the insertion, immediately after paragraph (o) of that subsection, of the following paragraph :—

“(p) such part of any sum referred to in paragraph (c) of section 4(1) paid to any employee at the time of his retirement from any employment in any public corporation other than any public corporation referred to in sub-paragraph (ii) of paragraph (bb) of subsection (1), as is attributable to the period of service of such employee prior to April 1, 1997 in such public corporation.”.

5. Section 10 of the principal enactment as amended by Act, No. 49 of 1991, is hereby further amended, by the insertion immediately after paragraph (c) of that section, of the following paragraph:—

“(cc) interest accruing to any person or partnership outside Sri Lanka from any security, note or coupon issued by the Government of Sri Lanka in respect of a loan granted in foreign currency by that person or partnership to the Government of Sri Lanka, if such loan is approved by the Minister as being essential for the economic progress of Sri Lanka ;”.

6. Section 11 of the principal enactment as amended by Act, No. 16 of 1996 is hereby further amended in paragraph (b) of that section, by the substitution for the figures and letters “17J, 17K, 18”, of the figures and letters “17J, 17JJ, 17K, 17KK, 18”.

7. Section 12 of the principal enactment as amended by Act, No. 8 of 1988, is hereby further amended, in paragraph (c) of subsection (1) of that section by the substitution for the words “income tax under paragraph (b) of this subsection”, of the words “income tax under paragraph (b) or (bb) of this subsection”.

8. Section 14 of the principal enactment as amended by Act, No. 21 of 1994 is hereby further amended as follows :—

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

(2) in paragraph (a) of the re-numbered subsection (1) of that section—

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

“(xxiia) the sale by any person of any treasury bond, registered stock or any other security, issued under the Registered Stock and Securities Ordinance and held by such person, in the secondary market” ;

(b) in paragraph (xxiii) of that paragraph, by the substitution for the words, “any right to a share received under a rights issue, of, of the words “any right to a share received under a rights issue or a bonus issue of”;

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

“(2) For the purposes of sub-paragraphs (xxii) and (xxiia) of paragraph (a) of subsection (1), “capital gain” means the excess, if any, of the capital gain computed in accordance with the provisions of subsections (2) and (4) of section 7, over such part of the interest which but for such sale, would have accrued to such person in respect of such bill, bond, stock or other security had such bill, bond stock or other security been held by such person until such bill, bond, stock or other security matured, as is attributable to the period during which such bill, bond, stock or other security was held by such person.”.

9. The following new section is hereby inserted, immediately after section 15A, and shall have effect as section 15B of the principal enactment :—

“Exemption from certain profits and income of any resident guest.

15B. (1) The profits and income of any resident guest—

- (a) not being profits and income arising in or, derived from Sri Lanka ; and
- (b) accruing from moneys lying to his credit in any account opened by him in a commercial bank for the deposit of sums remitted to him in foreign currency from any country outside Sri Lanka,

shall be exempt from income tax.

- (2) For the purpose of this section “resident guest” means a person to whom a tax exemption has been granted under the Resident Guest (Tax Exemption) Act, No. 6 of 1979.’.

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

“Exemption from income tax of the profits and income of an industrial undertaking carried on, by acquiring and utilizing advanced technology.

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.

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

- (a) is incorporated on or after April 1, 1996 ;
- (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, 1998, on an application in writing in that behalf made on or before December 31, 1997 ;
- (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 December 31, 1998 invested not less than four 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 ;

In this subsection the expression—

- (i) “industrial undertaking” includes any undertaking for animal husbandry, fishreies, tourism and community development projects formulated under the Samurdhi National Programme ;

- (ii) the "employee" has the same meaning assigned to it in subsection (2) of section 16D.

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

"Exemption from income tax of the profits and income of an undertaking acquiring and utilizing advanced technology.

- 17KK. (1) The profits and income attributable to the new capital expenditure of any undertaking for the production or manufacture of any goods or commodities or for the provision of any service and referred to in subsection (2), shall be exempt from income tax for a period of five years reckoned from the relevant date.
- (2) The provisions of subsection (1) shall apply to any undertaking which—
- (a) has incurred, within a period of 12 months commencing from the relevant date, new capital expenditure of not less than four million rupees in amount on the acquisition and utilization of advanced technology ; and
- (b) is approved by the Minister by notice published in the Gazette on or before March 31, 1998, to be an undertaking to which this section applies, on an application in writing in that behalf made on or before December 31, 1997 ; and
- (c) employs, as at the relevant date or not later than six months from that date, and continue to employ, until the expiry of the said period of five years not less than fifty employees more than the average number of employees, employed by that undertaking during the year ending on the relevant date :

Provided that where at any time during any year of assessment within the five years referred to in subsection (1), the number of employees employed in such undertaking does not exceed such average number by fifty, such profits and income of that undertaking as are referred to in subsection (1), shall not be exempt.

In this subsection—

- (i) the expression "undertaking" includes any undertaking for animal husbandry, fisheries, tourism or any community development project formulated under the Samudhi National Programme ; and
- (ii) the expressions "employee" and "average number" have the respective meanings assigned to them in sub-paragraph (iv) of paragraph (a) of subsection (2) of section 16D.
- (3) For the purpose of this section—
- (a) the expression "profits and income attributable to the new capital expenditure" in relation to any year of assessment and to any undertaking means the excess of—
- (i) the profits and income, within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of any capital assets or from the purchase and resale of any goods or commodities.) of that undertaking for that year of assessment reduced by the appropriate *per centum* specified in the Schedule to this paragraph as being applicable for that year of assessment, over ;
- (ii) the annual average of such profits and income of that undertaking as are referred to in sub-paragraph (i), such average being computed for a

period of three years immediately preceding the relevant date where the undertaking has been carrying on business for a period of three years or more prior to the relevant date or for the entire period during which it has been carrying on business, where the undertaking has been carrying on business for a period of less than three years prior to the relevant date,

but shall not exceed one hundred and twenty *per centum* of the sum which bears to the profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of any capital assets or from the purchase and resale of any goods or commodities) of that undertaking for that year of assessment, the same proportion as the proportion which the amount of the new capital expenditure bears to the aggregate of the new capital expenditure and the value at the time of acquisition of any—

- (i) plant, machinery, fixtures or equipment ; and
- (ii) asset not included in sub-paragraph (i) (other than any land or building),

which has been used for the production or manufacture of any goods or commodities by such undertaking on the relevant date :

Provided that in relation to any year of assessment where the undertaking referred to in subsection (2) is also an undertaking to which the provisions of section 17F or 17K apply, the provisions of the section which ever provides, for the higher relief shall apply in respect of such year of assessment.

#### SCHEDULE

The year of assessment (hereinafter in this Schedule referred to as the "relevant year" in which the relevant date falls	10 <i>per centum</i>
The first year succeeding the relevant year	10 <i>per centum</i>
The second year succeeding the relevant year	12.5 <i>per centum</i>
The third year succeeding the relevant year	15 <i>per centum</i>
The fourth year succeeding the relevant year	17.5 <i>per centum</i>
The fifth year succeeding the relevant year	20 <i>per centum</i>

- (b) the expression "relevant date" means the first day of any calendar month not earlier than November 1996, and not later than April 1998, and selected by that undertaking and notified to the Commissioner-General in writing not later than thirty days from the last date of that month:

Provided that where the relevant date is not so notified to the Commissioner-General the relevant date shall be deemed to be April 1, 1997 ;

- (c) the expression, "new capital expenditure" means expenditure incurred by the undertaking in the purchase of any new—
- (i) plant, machinery, fixtures or equipment ; and

(ii) asset not included in sub-paragraph (i) (other than any land or building)

on the acquisition and utilization of advanced technology:

Provided that any expenditure incurred for the replacement after the relevant date of any equipment which formed part of the assets of that undertaking on or before the relevant date, shall be deemed not to be new capital expenditure.

12. Section 23 of the principal enactment as amended by Act, No. 16 of 1996 is hereby further amended as follows:—

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

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

(i) by the substitution in sub-paragraph (i) of that paragraph, for the words and figures “acquired by such person on or after April 1, 1987 and arising out of its use,” of the words and figures “acquired by such person on or after April 1, 1987, but prior to April 1, 1997, and arising out of its use ;” ;

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

“(ia) any plant, machinery or fixtures (other than plant machinery or fixtures referred to in sub-paragraph (ii)) acquired by such person on or after April 1, 1997, and arising out of their use, in any trade, business, profession or vocation, carried on, or exercised, by him, at the rate of fifty *per centum*, on their cost of acquisition ;”;

(iii) in the proviso to that paragraph, by the substitution, for the words and figures “sub-paragraph (i) or sub-paragraph (ii) or sub-paragraph (iii)”, of the words and figures, “sub-paragraph (i) or sub-paragraph (ia) or sub-paragraph (ii) or sub-paragraph (iii) ”;

(iv) by the addition, immediately after the proviso to that paragraph, of the following further proviso:—

“Provided further that where such person carries on the business of leasing, any such allowance as is referred to in subparagraphs (i), or (ia), or (ii), in respect of any plant, machinery, fixture, motor vehicle, lorry, bus, tractor, trailer or office furniture acquired by him and given out on lease in the course of such business of leasing shall, for any year of assessment commencing on or after April 1, 1997, be so deducted only in ascertaining the profits and income from such business ;”;

(b) in paragraph (eeee) of that subsection, by the substitution for the words, “such allowance being an amount equal to thirty-three and one-third *per centum* of the cost of acquisition of such computer software ;”, of the words and figures “such allowance being an amount equal to—

(i) thirty-three and one-third *per centum* of the cost of acquisition of such computer software, where such computer software is so acquired prior to April 1, 1997, and

(ii) fifty *per centum* of the cost of acquisition of such computer software, where such computer software is so acquired on or after April 1, 1997;” and

(c) in paragraph (o) of that subsection by the substitution for the words “in the formation of that company ;” of the words “in the formation or in the liquidation of that company;”;

(2) in subsection (7) of that section by the substitution in subparagraph (1) of paragraph (a) of that subsection

for the words and figures "paragraph (eee) of subsection (1)", of the words and figures "paragraph (eee) or paragraph (eeee) of subsection (1)".

13. Section 24 of the principal enactment amended by Act, No. 21 of 1994 is hereby further amended in subsection (1) of that section as follows :—

- (1) in paragraph (q) of that subsection, by the substitution, for the words and figures "entered into by him on or after April 1, 1987, in any year" of the words and figures "entered into by him on or after April 1, 1987 but prior to April 1, 1997, in any year"; and
- (2) by the insertion immediately after paragraph (q) of that subsection, of the following paragraph :—

"(qq) such part of the rental paid by him under any agreement entered into by him on or after April 1, 1997, in any year of assessment in respect of any—

- (i) plant, machinery, fixtures or equipment other than plant, machinery, fixtures or equipment referred to in sub-paragraph (ii), as is in excess of an amount equal to one-half of the total rental payable under such agreement ; and
- (ii) motor vehicle, lorry, bus, tractor, trailer or office furniture, as is in excess of any amount equal to one-fourth of the total rental payable under such agreement;"

14. Section 29 of the principal enactment amended by Act, No. 16 of 1996 is hereby further amended as follows :—

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

- (a) by the substitution in paragraph (a) for all the words and figures from 'For the purposes of this paragraph the term "interest" for any year of assessment commencing on or after April 1, 1996', to the end of that paragraph, of the following words and figures :—

' For the purposes of this paragraph the term "interest" for any year of assessment commencing on or after April 1, 1996 means any interest paid on a loan the proceeds of which are utilized—

- (i) for the construction or purchase of any building, or for the purchase of any site for the construction of any building;
- (ii) purchase of any share in any company;
- (iii) in any trade, business, profession or vocation. '

(b) in paragraph (b) of that subsection—

- (i) by the substitution for the words and figures from, '(b) the amount of a loss (other than "a capital loss," to "previous year under those Acts,' of the following words and figures :—

"(b) where such year of assessment is any year of assessment—

- (i) ending on or before March 31, 1997, the amount of a loss (other than a capital loss, a loss referred to in subsection (7), or a loss referred to in subsection (7A),) incurred by him in any trade, business, profession or vocation during any year of assessment which if it had been a profit would have been assessable under this Act, or the Inland Revenue Act, No. 4 of 1963, and which has not been allowed against his total statutory income of a previous year of assessment under those Acts; and

(ii) commencing on or after April 1, 1997,

- (a) the amount of a loss (other than such part, if any, of such loss as consists of a capital loss, a loss referred to in subsection (7) a loss referred to in subsection (7A), a loss referred to in paragraph (b) of this sub-paragraph, a loss attribut-



able to any allowance for depreciation referred to in section 23(1) (*eee*) or to any allowance referred to in section 23(1) (*eeee*) or to any sum referred to in section 23(1)(*f*) incurred by him in any trade, business, profession or vocation during any year of assessment commencing on or after April 1, 1997 (being any year of assessment within the period of six years immediately preceding the first mentioned year of assessment), or

- (*b*) the amount of a loss incurred by him in any agricultural undertaking (other than such part, if any, of such loss as is attributable to any allowance for depreciation referred to in section 23(1) (*eee*), or to any allowance referred to in section 23(1) (*eeee*) or to any sum referred to section 23(1) (*f*),) during any year of assessment commencing on or after April 1, 1997 (being any year of assessment within the period of eleven years immediately preceding the first mentioned year of assessment),

which if it had been a profit would have been assessable under this Act and which has not been allowed against his total statutory income for any year of assessment within such period of six years or eleven years, as the case may be, under this Act.

- (*c*) such part, if any, of such loss as is attributable to any allowance for depreciation referred to in section 23(1) (*eee*) or to any allowance referred to in section 23(1) (*eeee*) or to any sum referred to in section 23(1) (*f*) incurred by him in any trade, business, profession or vocation during any year of assessment commencing on or after April 1, 1997 which, if it had been a profit, would have been assessable under this Act, and which has not been allowed against his total statutory income of a previous year of assessment, under this Act :”;

- (*c*) by the substitution in sub-paragraph (*iii*) of the proviso to that paragraph, for the words, “year of assessment in which the losses were incurred.” of the words, “in which the losses were incurred”;

- (*d*) by the addition, at the end of the proviso to that paragraph, of the following paragraph :—

“(iv) the balance, if any, of any loss (other than a capital loss, a loss referred to in subsection (7) or in subsection (7A),) incurred in any year of assessment ending on or before March 31, 1997, after its deduction, in accordance with the provisions of sub-paragraph, (*i*) of this paragraph, from the total statutory income for the year of assessment ending on March 31, 1997, shall, for the purposes of sub-paragraph (*ii*) of this paragraph, be deemed to be a loss incurred in the year of assessment ending on March 31, 1998.” ;

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

- (*a*) by the substitution in paragraph (*a*), for the words and figures “section 17H, or section 17J, or section 22A”, of the words and figures “section 17H, or section 17J, or section 17JJ, or section 22A;”;

- (*b*) by the substitution in paragraph (*b*), for the words, “such entirety or portion shall be deducted from his total statutory income for the next succeeding year of assessment and so on”, of the words “such entirety or portion shall be deemed to be a loss incurred—

in the year ending on March 31, 1997, where such exemption ceases in any year of assessment ending on or before March 31, 1997, or

in the year of assessment in which such exemption ceases, where such exemption ceases, in any year of assessment commencing on or after April 1, 1997,

and be deducted in the manner provided for in paragraph (*b*) of subsection (2)”;

- (3) in subsection (4A) of that section, by the addition at the end of that subsection of the following proviso :—

"Provided that where remains, as at the end of the year of assessment in the course of which the exempt period ends, any balance of such total after deduction therefrom such aggregate, such balance shall, for the purposes of paragraph (b) of subsection (2), be deemed to be a loss incurred in the year of assessment immediately succeeding the year of assessment in which the exempt period ends."

15. Section 30 of the principal enactment as amended by Act, No. 16 of 1996 is hereby further amended as follows:—

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

(a) by the substitution, in paragraph (aaaaaaa) of that subsection, for the words and figures "any year of assessment commencing on or after April 1, 1996, and", of the words and figures "the year of assessment commencing on April 1, 1996;"

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

'(aaaaaaa) an allowance of one hundred and forty thousand rupees in respect of any year of assessment commencing on or after April 1, 1997, and";

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

"(b) any allowance to which he is entitled under section 31 or section 31A," ; and

(d) by the substitution, in the proviso to that subsection, for the words "or paragraph (aaaaaa), or paragraph (aaaaaaa) in ascertaining", of the words "or paragraph (aaaaaa) or paragraph (aaaaaaa) or paragraph (aaaaaaa) in ascertaining";

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

(a) by the substitution for the word and figures "section 31," wherever they occur in that subsection of the words and figures "section 31 or section 31A" ;

(b) in the first proviso to that subsection—

(i) by the substitution, in paragraph (h) of that proviso, for the words and figures "any year of assessment commencing on or after April 1, 1996", of the words and figures "the year of assessment commencing on April 1, 1996" ;

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

"(j) an allowance of one hundred and forty four thousand rupees in respect of any year of assessment commencing on or after April 1, 1997" ; and

(3) in the second proviso to that subsection—

(i) by the substitution, in sub-paragraph (iii) of that proviso, for the words and figures "the year of assessment commencing on or after April 1, 1995; and", of the words and figures "the year of assessment commencing on or after April 1, 1995";

(ii) by the substitution in sub-paragraph (iv) of that proviso, for the words and figures "any year of assessment commencing on or after April 1, 1996", of the words and figures "the year of assessment commencing on April 1, 1996; and"; and

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

"(v) one hundred and forty thousand rupees, where such year of assessment is an year of assessment commencing on or after April 1, 1997."

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

“An allowance in respect of qualifying investment.

- 31A. (1) Subject to the succeeding provisions of this section, there shall be deducted, for the purposes of section 30, an allowance (hereinafter in this section referred to as the “investment tax allowance”) from the assessable income of any person for any year of assessment, in respect of every qualifying investment referred to in subsection (2) made or deemed to have been made by such person in that year of assessment.
- (2) For the purposes of subsection (1)—
- (a) “qualifying investment” in relation to any person and to any year of assessment means any sum expended by such person—
- (i) on or after November 6, 1996 but prior to April 1, 1998;
- (ii) in the acquisition of any new capital asset, (being any capital asset in respect of which an allowance for depreciation is deductible under section 23 read with section 24) for use, in any undertaking carried on by him, for the production or manufacture of any goods or commodities, or in any wholesale or retail trade, or for the provision of any specified service;
- (b) where any capital asset acquired by any person (being a capital asset comprised in any qualifying investment made by such person) is put to use in any undertaking referred to in sub-paragraph (ii) of paragraph (a), not later than three hundred and sixty five days after the date of acquisition of such capital asset, the qualifying investment in relation to such capital asset shall be deemed to have been made in the year of assessment in which such date of acquisition occurs.
- (3) Where the qualifying investment is—
- (i) an amount not less than two hundred and fifty million rupees, or is made in any undertaking located outside the limits of all the Municipal Councils situated within the administrative district of Colombo the investment tax allowance in respect of that investment shall be an amount equal to the entirety of that investment ; and
- (ii) an amount less than two hundred and fifty million rupees and is made in any undertaking located within the limits of any Municipal Council situated within the administrative district of Colombo the investment tax allowance in respect of such investment shall be an amount equal to seventy-five *per centum* of such investment.
- (4) The deduction, from the assessable income of any person for the year of assessment in which any qualifying investment is made, of the investment tax allowance in relation to that qualifying investment shall—
- (i) where such qualifying investment is any qualifying investment referred to in paragraph (i) of subsection (3), be an amount equal to seventy five *per centum* of such assessable income, or the entirety of such investment whichever is less,
- (ii) where such qualifying investment is any qualifying investment referred to in paragraph (ii) of subsection (3), be an amount equal to fifty *per centum* of such assessable income, or the entirety of such investment whichever is less.
- (5) The balance, if any, of any investment tax allowance after its deduction, in accordance with subsection (4), shall be carried forward to the year of assessment immediately succeeding that year of assessment, and such balance so carried forward shall be deemed to be the investment tax allowance for such succeeding year of assessment, and so on, until the full amount of the investment tax allowance is deducted.

- (6) The provisions of this section shall, not apply in relation to the amount invested in the acquisition of any capital asset—
- (i) in respect of which the entitlement, if any, to any rebate or waiver of customs duty in terms of the incentive scheme approved by the Government for the utilization of advanced technology, has been availed of ; or
  - (ii) if such asset is used or is to be used, in any undertaking referred to in sub-paragraph (ii) of paragraph (a) of subsection (2), the whole, or any part of the profits and income (within the meaning of paragraph (a) of section 3) of which, for any period during the period commencing on November 6, 1996 and ending on March 31, 1999, is entitled to any exemption from income tax ; or
  - (iii) if such capital asset is disposed of before the expiry of three years reckoned from the date of acquisition of such capital asset.
- (7) Where an investment tax allowance has been deducted from the assessable income of any person, in relation to any capital asset—
- (a) which is not used, in any undertaking referred to in sub-paragraph (ii) of paragraph (a) of subsection (2) before the expiry of three hundred and sixty five days after the date of acquisition of such capital asset ; or
  - (b) referred to in subsection (6),

then, in respect of the year of assessment for which such allowance was granted, an additional assessment consisting of the difference between the income tax to which the person who has been granted the allowance would have been liable if no such allowance had been granted and the amount of income tax charged for that year of assessment shall, notwithstanding anything in this Act be made in respect of that person and the provisions of this Act relating to notice of assessment appeal and other proceedings shall apply accordingly.

- (8) For the purposes of this section—
- (a) the expression “provision of any specified service” means
    - (i) the supply of electricity, gas, environmental protection services, hospital services, computer software, computer programmes or computer systems ; or
    - (ii) the provision of the services of telecommunication, training in computer applications, transport, ship or aircraft repair, refurbishment of marine cargo containers, ware housing and storage, house construction ;
    - (iii) operation of hotel for tourist with the approval of the Ceylon Tourist Board ; or
  - (b) the expression “date of acquisition” in relation to any capital asset and to any person means the date on which such capital asset is acquired by such person, or such other date as may be accepted as the date of acquisition by the Commissioner-General having regard to any documentary evidence adduced before him, relating to the arrangements made by such person for the acquisition of such asset ;
  - (c) the term “disposal” in relation to any capital asset, has the same meaning assigned to it in section 23 (7) ;
  - (d) the term “new” in relation to any capital asset means any capital asset which is proved to the satisfaction of the Commissioner-General by documentary evidence not to have been used in Sri Lanka prior to the date of acquisition of such capital asset ;

- (e) "capital asset" means any plant, machinery or equipment other than any building, fixture, fitting, utensil or any motor vehicle ;
- (f) "allowance for depreciation" has the same meaning assigned to it in section 23 (7) ;
- (g) "motor vehicle" means any mechanically propelled vehicle not being a motor ambulance, lorry, tractor, hand tractor, trailer or a motor coach constructed for the carriage of not less than thirty persons ;
- (h) "hospital services" means the services authorised to be provided by an institution registered under the Nursing Home Regulation Act (Chapter 220) for indoor patients.

17. Section 32 of the principal enactment as amended by Act, No. 16 of 1996 is hereby further amended as follows :—

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

(a) in sub-paragraph (ix) of that paragraph by the substitution, for the words and figures "any year of assessment commencing on or after April 1, 1996", of the words and figures "the year of assessment commencing on April 1, 1996"; and

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

"(x) in respect of any year of assessment commencing on or after April 1, 1997, at the appropriate rates specified in Part III of the First Schedule to this Act ;";

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

(a) by the substitution, in sub-paragraph (vi) of that proviso, for the words and figures "for any year of assessment commencing on April 1, 1995 ;" and, of the words and figures "for the year of assessment commencing on April 1, 1995 ;";

(b) by the substitution, in sub-paragraph (vii) of that proviso, for the words and figures "for any year of assessment commencing on or after April 1, 1996;"; of the words and figures "for the year of assessment commencing on April 1, 1996; and"; and

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

"(viii) one hundred and forty four thousand rupees for any year of assessment commencing on or after April 1, 1997"; and

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

(a) by the substitution, in paragraph (b) of that subsection, for the words "one million five hundred thousand rupees", of the words "one million eight hundred thousand rupees";

(b) by the substitution, in sub-paragraph (ix) of that subsection for the words and figures "any year of assessment commencing on or after April 1, 1996"; of the words and figures "the year of assessment commencing on April 1, 1996; or"; and

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

"(x) Part III of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1997;".

18. Section 32EEE of the principal enactment amended by Act, No. 16 of 1996 is hereby further amended in paragraph (d) of subsection (1) of that section by the substitution for the words and figures "any year of

assessment commencing on or after April 1, 1996", of the words and figures "the year of assessment commencing on April 1, 1996".

19. Section 33A of the principal enactment amended by Act, No. 27 of 1995 is hereby further amended as follows:—

- (1) in subsection (2) of that section by the substitution for all the words and figures from "Such deduction", to the end of that subsection, of the words and figures, "Such deduction shall, where such year of assessment is any year of assessment ending prior to April 1, 1997, not exceed fifty *per centum* of the aggregate of the tax payable under—
  - (i) section 33 (1) (a) ; and
  - (ii) section 32F or section 32H or section 32K or section 32M or section 32N,by that company in that year of assessment ; and".
- (2) in subsection (3) of that section by the substitution for the words "for any year of assessment shall not exceed fifty *per centum*", of the words and figures, "for any year of assessment ending prior to April 1, 1997, shall not exceed fifty *per centum*."

20. Section 73 of the principal enactment as amended by Act No. 16 of 1996 is hereby further amended in subsection (1A) of that section as follows :—

- (1) in paragraph (vi) of that subsection by the substitution for the words and figures "for the year of assessment commencing on April 1, 1995 ; and", of the words and figures "for the year of assessment commencing on April 1, 1995";
- (2) in paragraph (vii) of that subsection by the substitution for the words and figures "any year of assessment commencing on or after April 1, 1996;", of the words and figures "the year of assessment commencing on April 1, 1996 ; and"; and
- (3) by the addition at the end of that subsection, of the following paragraph :—

“(viii) one hundred and forty four thousand rupees for any year of assessment commencing on or after April 1, 1997”.

21. Section 81A of the principal enactment amended by Act, No. 27 of 1982 is hereby further amended in subsection (1) of that section by the substitution for the words "income tax equal to thirty-three and one-third *per centum* of the amount of such payment", of the words and figures "income tax equal to—

- (i) thirty-three and one-third *per centum* of the amount of such payment, where such payment is made prior to April 1, 1997; and
- (ii) fifteen *per centum* of the amount of such payment where such payment is made on or after April 1, 1997.”.

22. Section 99 of the principal enactment as amended by Act, No. 16 of 1996 is hereby further 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 twelve thousand rupees per mensem or one hundred and forty four 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 September 30, 1997 that he has in his employ such individual (hereinafter in this Chapter referred to as a "specified employee")’.

23. Section 113 of the principal enactment is hereby amended as follows :—

- (1) in the definition of “employer” by the substitution for the words “The secretary, manager or other principal officer”, of the words “The director, secretary, manager, or other principal officer”;
- (2) by the insertion, immediately after the definition of “pay period”, of the following definition :—

“principal officer” in relation to any company or body of persons means any person to whom a notice has been given under any provision of this Chapter or of Chapter XXI on behalf of that company or, body of persons unless he proves that he has no connection with that company or body of person or that some other person resident in Sri Lanka is the principal officer thereof.’

24. Section 113A of the principal enactment as amended by Act, No. 21 of 1994 is hereby further amended in subsection (1) of that section as follows :—

- (1) in paragraph (i) of that subsection, by the substitution for the words and figures “any year of assessment commencing on or after April 1, 1986 but prior to April 1, 1992; and”, of the words and figures “any year of assessment commencing on or after April 1, 1986 but prior to April 1, 1992”;;
- (2) in paragraph (ii) of that subsection, by the substitution 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, 1997; and”; and
- (3) by the insertion, immediately after paragraph (ii) of that subsection, of the following paragraph :—

“(iii) ten *per centum* of the interest so payable where such year of assessment is any year of assessment commencing on or after April 1, 1997”.

25. Section 113C of the principal enactment inserted by Act, No. 56 of 1985 is hereby amended in paragraph (a) of subsection (4) by the substitution for the words “the interest paid by it, in any year of assessment, to persons chargeable with income tax under this Act”, of the words “the interest paid to any person in any year of assessment”.

26. Section 113K of the principal enactment inserted by Act, No. 16 of 1996 is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words “income tax at the rate of three *per centum* of such specified fee”, of the words “income tax at the rate of—
  - (i) three *per centum* of such specified fee where such year of assessment is any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1997; and
  - (ii) five *per centum* of such specified fee where such year of assessment is any year of assessment commencing on or after April 1, 1997.”;
- (2) in paragraph (a) of subsection (2) by the substitution for the words “on behalf of any other person or partnership”, of the words “on behalf of any other person or persons, or partnership or partnerships”.

27. Section 113M of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “any year of assessment commencing on or after April 1, 1993”, of the words and figures “any year of assessment commencing on or after April 1, 1993, but prior to April 1, 1997”.

28. Section 113N of the principal enactment is hereby amended by the substitution for the words and figures “any year of assessment commencing on or after April 1, 1993”, of the words and figures “any year of assessment commencing on or after April 1, 1993, but prior to April 1, 1997”.

29. Section 113P of the principal enactment is hereby amended by the substitution for the words and figures “for any year of assessment commencing on or after April 1, 1993, in respect of”, of the words and figures “for any year of assessment commencing on or after April 1, 1993 but prior to April 1, 1997, in respect of”.

30. Section 113S of the principal enactment is hereby amended by the substitution for the words "employer and which is paid by such employer", of the words and figure "employer and which is paid, in accordance with the provisions of section 113M, by such employer".

31. Section 151 of the principal enactment is hereby amended in paragraph (iii) of subsection (2) of that section, by the substitution for the words and figures "or (e) of section 103,", of the words and figures "or (e) of section 103, or subsection (2) of section 113A,".

32. The First Schedule to the principal enactment as amended by Act No. 16 of 1996, is hereby further amended as follows :—

(1) in Part IIG of that Schedule by the substitution, for the words and figures "The rates of income tax for any year of assessment commencing on or after April 1, 1996, shall be as follows :—", of the words and figures "The rates of income tax for the year of assessment commencing on April 1, 1996, shall be as follows :—";

(2) by the insertion immediately after Part IIG of that Schedule, of the following Part :—

**" PART IIH**

The rates of income tax for any year of assessment commencing on or after April 1, 1997, shall be as follows:—

On the first Rs. 100,000 of the taxable income	...	...	...	10 per centum
On the next Rs. 100,000 of the taxable income	...	...	...	15 per centum
On the next Rs. 100,000 of the taxable income	...	...	...	25 per centum
On the balance of the taxable income	...	...	...	35 per centum".

(3) Part IV of that Schedule is hereby amended as follows :—

(a) in paragraph (c) of that Part by the substitution for the words and figures "for any year of assessment commencing on or after April 1, 1990—", of the words and figures "for any year of assessment commencing on or after April 1, 1990 but prior to April 1, 1997";

(b) by the addition immediately after paragraph (c) of that Part, of the following paragraph :—

"(d) for any year of assessment commencing on or after April 1, 1997—

On the first Rs. 400,000	...	...	...	Nil
On the next Rs. 100,000	...	...	...	5 per centum
On the next Rs. 100,000	...	...	...	10 per centum
On the balance	...	...	...	15 per centum".

33. The Seventh Schedule to the principal enactment as amended by Act No. 16 of 1996 is hereby further amended as follows :—

(1) by the substitution, for the words and figures "for every year of assessment commencing on April 1, 1994 ; shall be as follows :—", of the words and figures "for every year of assessment commencing on or after April 1, 1994 but prior to April 1, 1997 shall be as follows :—";

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

"The rates of advance company tax for every year of assessment commencing on or after April 1, 1997, shall be as follows :—



- (i) on the amount equal to the amount of every qualifying distribution, made by a quoted public company—
  - (a) out of the profits other than the profits which are taxed in accordance with the provisions of section 32F or section 32H or section 32K or section 32M or section 32N *54 per centum*
  - (b) out of the profits which are taxed in accordance with the provisions of section 32H or section 32K or section 32M or section 32N *17 per centum*
  - (c) out of profits which are taxed in accordance with the provisions of section 32F *11 per centum ;*
- (ii) on the amount equal to the amount of every qualifying distribution made by a unit trust or mutual fund or any other company other than a quoted public company—
  - (a) out of profits other than profits which are taxed in accordance with the provisions of section 32F or section 32H or section 32K or section 32M or section 32N *27 per centum*
  - (b) out of profits which are taxed in accordance with the provisions of section 32H or section 32K or section 32M or section 32N *8 per centum*
  - (c) out of profits which are taxed in accordance with the provisions of section 32F *5 per centum ;”.*

34. (1) The amendment to section 9(1) (bb) of the principal enactment made by section 4(1) of this Act shall be deemed for all purposes to have come into force on November 22, 1995.
- (2) The amendment to section 29 of the principal enactment made by section 14(1)(a) of this Act shall be deemed for all purposes to have come into force on April 1, 1996.
- (3) Section 16 of this Act shall be deemed for all purposes to have come into force on November 6, 1996.
- (4) The amendments to sections 4(1)(d), 9(1)(bbb), 9(1)(o) of the principal enactment and the insertion of 9(1)(p) in the principal enactment made by sections 2(2) and 4(2) to 4(6) of this Act shall be deemed for all purposes to have come into force on April 1, 1997.
- (5) The amendments to sections 23, 24, 29, 30, 32, 32EEE, 33A, 73, 81A, 113A, 113K, 113M, 113N, 113P, 113S of the principal enactment made by sections 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 25, 26, 27, 28 and 29 of this Act shall be deemed for all purposes to have come into force on April 1, 1997.
- (6) The amendments made to the First and Seventh Schedules to the principal enactment made by sections 32 and 33 of this Act shall be deemed for all purposes to have come into force on April 1, 1997.

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

FINANCE (AMENDMENT) ACT, NO. 35 OF 1997

[Certified on 10th December, 1997]

AN ACT TO AMEND THE FINANCE ACT, NO. 11 OF 1963

1. This Act may be cited as the Finance (Amendment) Act, No. 35 of 1997.
2. Section 11 of the Finance Act, No. 11 of 1963 (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor :—

"Audit of Accounts. 11. 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 Fund of the Board."

3. Section 14 of the principal enactment is hereby repealed and the following section substituted therefor :—

"National lotteries. 14. (1) The Board shall, in addition to any lotteries conducted by it under subsection (2), conduct the prescribed number of lotteries every year. Every such lottery shall be conducted by the Board, in such manner as may be prescribed.

(2) The Board may conduct lotteries for, or on behalf of, any Ministry, government department or public corporation on such terms as may be agreed between the Board and such Ministry, government department or public corporation, as the case may be, (including, *inter alia*, terms providing for the crediting of prizes which are not won in any lottery conducted under such agreement, to a prize reserve account, to be used for the award of prizes in subsequent lotteries conducted under such agreement and the manner in which prizes which are forfeited, in lotteries conducted under such agreement, are to be disposed of).

(3) Every lottery conducted by the Board under this part of this Act is hereinafter referred to as a "national lottery."

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

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

"(1) (a) The number of prizes to be awarded in a national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, and the value of each such prize shall be as prescribed.

(b) The number of prizes to be awarded in a lottery conducted by the Board under an agreement entered into under subsection (2) of section 14, and the value of each such prize shall be as specified in such agreement."

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

"(3) (a) The prize winners in every national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, shall be determined in such manner as may be prescribed.

(b) The prize winners in a national lottery conducted by the Board, under an agreement entered into under subsection (2) of section 14, shall be determined in such manner as may be specified in such agreement."

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

"(4) After the expiration of a period of six months reckoned from the date of determination of the winners in a national lottery conducted by the Board, any prize in such national lottery which has not been granted to the person entitled thereto by reason of the fact that such person is not to be found

shall be forfeited, and shall, if such prize relates to a national lottery, conducted by the Board otherwise than under an agreement entered into under subsection (2) of section 14, be paid to the Fund of the Board, and if such prize relates to a national lottery conducted by the Board, under an agreement entered into under subsection (2) of section 14, be disposed of in accordance with the terms of such agreement :

Provided however, that where any action or proceeding arising out of any claim made in respect of such prize is pending before any court at the expiration of the period aforesaid, such forfeiture shall not be made, and if in the final determination of that action or proceeding any person is declared to be entitled to such prize, the Board shall grant such prize to that person, and if no person is so declared, such prize shall be forfeited and shall, if such prize relates to a national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, be paid to the Fund of the Board, and if such prize relates to a lottery conducted by the Board under an agreement entered into under subsection (2) of section 14, be disposed of in accordance with the terms of such agreement.”.

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

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

“(1A) Where a prize consisting of money in a national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, is not won by any person, such prize money shall notwithstanding anything to the contrary in this section, be credited to a Prize Reserve Account and the monies accumulated in such account shall be used for the award of prizes at subsequent national lotteries conducted by the Board otherwise than under an agreement entered into under subsection (2) of section 14.”.

(2) in subsection (2) of that section, by the substitution for the words “every national lottery after the deduction from such proceeds of an amount approved by the Permanent Secretary” of the words “every national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, after deducting therefrom such proceeds of an amount approved by the Secretary to the Ministry of the Minister.”.

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

“(3) The Board shall pay to the Ministry, government department or public corporation with which the Board has entered into an agreement under subsection (2) of section 14, through the Consolidated Fund, the proceeds of every national lottery conducted by the Board for such Ministry, government department or public corporation, as the case may be, under such agreement, after deduction from such proceeds, of the value of the prizes awarded in such national lottery, and of any fees payable, under the terms of that agreement, to the Board for conducting such national lottery.

(4) All prizes in a national lottery conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, which have been forfeited and paid to the Fund of the Board, under section 16, shall be credited by the Board to the Consolidated Fund.”.

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

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

“Application of Lotteries Ordinance. 19. The Lotteries Ordinance shall not apply to or in relation to any national lottery conducted by the Board under this Part of this Act.”.

8. Section 20 of the principal enactment is hereby amended in paragraph (a) of subsection (2) of that section, by the substitution, for the words “in every national lottery are to be sold”, of the words “in every national lottery, conducted by the Board, otherwise than under an agreement entered into under subsection (2) of section 14, are to be sold”.

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

- (1) by the repeal of the definition of “financial year”, and the substitution, of the following definition therefor :—

“financial year” means the period commencing on January 1 in any year and ending on December 31 of that year.”;

- (2) by the repeal of the definition of “Minister” and the substitution, of the following definition therefor :—

“Minister” means the Minister to whom the subject of Finance has been assigned.”; and

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

“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, No. 17 of 1982, with funds or capital wholly or partly provided by the Government, by way of grant, loan or otherwise.”.

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

## APPROPRIATION ACT, NO. 36 OF 1997

[Certified on 19th December, 1997]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1998, 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. 36 of 1997.
2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees two hundred and eighteen thousand three hundred and thirty four million four hundred and fifty six thousand for the Services of the period beginning on January 1, 1998 and ending on December 31, 1998, in this Act referred to as the "financial year 1998", 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 and thirteen thousand eighty nine million.

The sum of rupees two hundred and eighteen thousand three hundred and thirty four million and four hundred and fifty six 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, 1998, 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 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, 1998.
  - (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, 1998 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, 1998, 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, 1998 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, 1999 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 made under subsection (1) of this section 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.

# NATIONAL SECURITY LEVY (AMENDMENT) ACT, NO. 37 OF 1997

[Certified on 23rd December, 1997]

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

1. This Act may be cited as the National Security Levy (Amendment) Act, No. 37 of 1997.
2. The long title of the National Security Levy Act, No. 52 of 1991 (hereinafter referred to as "the principal enactment") is hereby amended by the substitution, for the words and figures "ON JANUARY 1, 1996 AND ON JANUARY 1, 1997 ; TO PROVIDE FOR", of the words and figures, "AND ON JANUARY 1, 1996 AND FOR EVERY YEAR COMMENCING ON OR AFTER JANUARY 1, 1997 ; TO PROVIDE FOR".
3. Section 3 of the principal enactment is hereby amended as follows :—
  - (1) in subsection (1) of that section, by the repeal of all the words from "January 1, 1995, on January 1, 1996 and on January 1, 1997" to the end of that subsection, and the substitution of the following therefor :—

"January 1, 1995 and on January 1, 1996 and for every quarter of every year commencing on or after January 1, 1997, (hereinafter referred to as "the relevant quarter") a National Security Levy (hereinafter referred to as "the levy"), on the turnover or part thereof of that person for that quarter, calculated at the appropriate rates specified in the Schedule to this Act ; and
  - (2) in subsection (2) of that section, by the repeal of paragraph (f) of that subsection, and the substitution of the following paragraphs therefor :—
    - (f) the value of any gold imported by such person ;
    - (ff) the value of any gem or jewellery imported, by such person ;
    - (fff) the proceeds from the sale, of any gem or jewellery manufactured in Sri Lanka by such person ;"
4. Section 4 of the principal enactment is hereby amended by the substitution in paragraph (g) of that section for the words and figures, "for every quarter commencing on or after January 1, 1997 but prior to January 1, 1998", of the words and figures, "for every quarter of every year commencing on or after January 1, 1997".
5. Section 10 of the principal enactment is hereby amended as follows :—
  - (1) by the insertion, immediately after the definition of "Central Bank", of the following definition :—

' "gem" means a gem within the meaning of the National Gem and Jewellery Authority Act, No. 50 of 1993 and includes platinum and silver ' ;
  - (2) by the insertion, immediately after the definition of "importer", of the following definition :—

' "jewellery" means jewellery within the meaning of the National Gem and Jewellery Authority Act, No. 50 of 1993 ; ' and
  - (3) by the insertion immediately after the definition of "person", of the following definition :—

' "turnover" when used in relation to a person to whom this Act applies —

    - (a) who is not an importer, means the turnover, within the meaning of section 5 of the Turnover Tax Act, of that person; and
    - (b) who is an importer, means the aggregate of—
      - (i) the value of any article imported by such person (representing the true cost, insurance and freight value) ascertained for the purposes of customs duty in accordance with the Customs Ordinance;

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

(iii) twenty-five *per centum* of the amount resulting from the addition of the amounts referred to in sub-paragraphs (i) and (ii) ; '.

6. The Schedule of the principal enactment is hereby amended in item 7 of that Schedule by the substitution for the words and figures, "for any quarter commencing on or after January 1, 1997 but prior to January 1, 1998", of the words and figures, "for every quarter of every year commencing on or after January 1, 1997".
7. The amendment made to section 3 of the principal enactment by section 3 read with section 5 of this Act shall be deemed for all purposes to have come into force on November 6, 1997.
8. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.



**SAVE THE NATION CONTRIBUTION (AMENDMENT) ACT, NO. 38 OF 1997**

[Certified on 23rd December, 1997]

**AN ACT TO AMEND THE SAVE THE NATION CONTRIBUTION ACT, NO. 5 OF 1996**

1. This Act may be cited as the Save the Nation Contribution (Amendment) Act, No. 38 of 1997.
2. The long title of the Save the Nation Contribution Act, No. 5 of 1996 (hereinafter referred to as "the principal enactment") is hereby amended by the substitution, for the words and figures, "FOR EVERY QUARTER OF THE YEARS COMMENCING RESPECTIVELY ON APRIL 1, 1996 AND ON APRIL 1, 1997", of the words and figures, "FOR EVERY QUARTER OF THE YEAR COMMENCING ON APRIL 1, 1996 AND FOR EVERY QUARTER OF EVERY YEAR COMMENCING ON OR AFTER APRIL 1, 1997".
3. Section 3 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words and figures, "the years commencing respectively, on April 1, 1996 and on April 1, 1997", of the words and figures, "the year commencing on April 1, 1996 and of every year commencing on or after April 1, 1997".
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.