

PART IV

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MAJOR LEGISLATIVE ENACTMENTS OF 2002 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 7 OF 2002

[Certified on 5th June, 2002]

AN ACT TO ENABLE PERSONS WHO HAVE NOT FURNISHED A RETURN OF INCOME OR A FULL RETURN OF THE INCOME FOR ANY YEAR OF ASSESSMENT COMMENCING PRIOR TO APRIL 1, 2002, TO MAKE A DECLARATION IN RESPECT THEREOF, TO INDEMNIFY SUCH PERSONS AGAINST LIABILITY TO PAY CERTAIN TAXES AND AGAINST INVESTIGATIONS, PROSECUTIONS OR PENALTIES IN RESPECT THEREOF, WITH A VIEW TO SECURING COMPLIANCE IN THE FUTURE BY SUCH PERSONS WITH TAX LAWS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Inland Revenue (Special Provisions) Act, No.7 of 2002.
2. Any person who, under the law for the time being in force relating to the imposition of income tax, is liable to pay income tax for any year of assessment commencing prior to April 1, 2002, and who has not furnished in respect of such year of assessment a return in relation to his profits and income or any part thereof, which is liable to income tax, and who—
 - (a) invests prior to April 1, 2003, the monies representing such undeclared profits and income—
 - (i) in agriculture, industry or utility services; or
 - (ii) in any security issued under the Registered Stocks and Securities Ordinance (Chapter 420) ; or
 - (b) has invested, prior to April 1, 2002, the monies representing such undeclared profits and income in the purchase of any movable or immovable property or in the construction of buildings for industrial, commercial, agricultural or residential purposes,
- shall make a declaration in respect of the same to the Commissioner-General setting out the full particulars of such investment or purchase, together with proof thereof. Such declaration shall, in case of an investment referred to in paragraph (a), be made within a period of two months of the date of the making of such investment or before May 31, 2003, whichever is earlier, and in the case of a purchase or construction referred to in paragraph (b), be made before May 31, 2003.
3. Where any person makes a declaration in terms of the provisions of section 2 and tenders proof in respect of such investment, purchase or construction, to the satisfaction of the Commissioner-General –
 - (a) where the investment is in agriculture, industry, or utility services or in any security issued under the Registered Stocks and Securities Ordinance (Chapter 420), such person shall not be liable to the payment of any additional income tax or surcharge on income tax in respect of any such year of assessment ;
 - (b) where the monies representing such undeclared profits and income have been utilized for the purchase of any movable or immovable property or in the construction of buildings for industrial, commercial, agricultural or residential purposes, such person shall not be liable to the payment of any additional income tax or surcharge on income tax in respect of any such year of assessment.
4. Any person who makes a declaration under section 2 and tenders proof in respect thereof, shall not be liable for any investigation, penalty or prosecution for any offence under any law for the time being applicable to the imposition of income tax or surcharge on income tax, in respect of any such year of assessment.
5. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
6. In this Act, unless the context otherwise requires—

“Commissioner-General” shall have the same meaning as in the Inland Revenue Act, No.38 of 2000; and

“undeclared profits and income” means any profits and income chargeable with income tax under the law for the time being applicable to the imposition of income tax in respect of which a person has not furnished a return of income or which has not been declared in a return furnished by such person.

SAVE THE NATION CONTRIBUTION (ABOLITION) ACT, NO. 8 OF 2002

[Certified on 19th June, 2002]

AN ACT TO ABOLISH THE CHARGING OF SAVE THE NATION CONTRIBUTION, UNDER THE SAVE THE NATION CONTRIBUTION ACT, NO.5 OF 1996, FROM PERSONS TO WHOM THAT ACT APPLIES, WITH EFFECT FROM OCTOBER 1, 2001.

1. This Act may be cited as the Save the Nation Contribution (Abolition) Act, No.8 of 2002.
2. Notwithstanding anything in the Save the Nation Contribution Act, No.5 of 1996—
 - (a) the Save the Nation Contribution shall not be charged and recovered from any person to whom that Act applies, for any quarter of any year ; and
 - (b) the employer of any person to whom that Act applies shall not be required to deduct any amount that such employer is required to deduct from the emoluments payable to such person, under section 4 of that Act, for any month,commencing on or after October 1, 2001.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

BOARD OF INVESTMENT OF SRI LANKA (AMENDMENT) ACT, NO. 9 OF 2002

[Certified on 19th June, 2002]

AN ACT TO AMEND THE BOARD OF INVESTMENT OF SRI LANKA LAW, NO. 4 OF 1978

1. This Act may be cited as the Board of Investment of Sri Lanka (Amendment) Act, No.9 of 2002.
2. Schedule B to the Board of Investment of Sri Lanka Law, No.4 of 1978, (hereinafter referred to as the "principal enactment") is hereby amended by the insertion immediately after the item "The Inland Revenue Act, No.28 of 1979", of the following new items:—

"The Inland Revenue Act, No.38 of 2000.

The National Film Corporation of Sri Lanka Act, No.47 of 1971."
3. Schedule C to the principal enactment is hereby amended by the addition immediately after the item "The Air Navigation Act (Chapter 365)", of the following new item:—

"The National Film Corporation of Sri Lanka Act, No.47 of 1971."
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

INLAND REVENUE (AMENDMENT) ACT, NO.10 OF 2002

[Certified on 21st June, 2002]

AN ACT TO AMEND THE INLAND REVENUE ACT, NO.38 OF 2000

1. This Act may be cited as the Inland Revenue (Amendment) Act, No.10 of 2002.
2. Section 3 of the Inland Revenue Act, No.38 of 2000 (hereinafter referred to as "the principal enactment") is hereby amended by the repeal of paragraph (h) of that section, and the substitution, therefor of the following paragraph :—

“(h) capital gains arising on or before March 31, 2002”.
3. Section 7 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “arising from—”, of the words and figures “arising on or before March 31, 2002 from—”.
4. Section 8 of the principal enactment as amended by Act, No.8 of 2001 is hereby further amended in paragraph (a) of that section as follows :—
 - (1) in subparagraph (lxxiv) of that paragraph by the substitution for the words “Investment Bank.”, of the words “Investment Bank :”.
 - (2) by the addition at the end of that paragraph of the following :—

“Provided however that except in the case of a body of persons referred to in subparagraphs (ix), (xi), (xv), (xvii), (xx), (xxi), (xxxix), (li), (liv), (lxiv), (lxv), (lxvi), (lxxii), (lxxiii) and (lxxiv), the exemption from income tax, of the profits and income of any other body of persons referred to in this paragraph shall not extend to any such profits and income of that body of persons as consists of dividends or interest, in respect of which tax has been deducted under subsection (1A) of section 61 or section 122A respectively.”.
5. Section 10 of the principal enactment is hereby amended as follows :—
 - (1) in paragraph (a) of that section, by the substitution for the words “payable to an individual”, of the words “payable prior to April 1, 2002 to an individual” ;
 - (2) by the insertion, immediately after paragraph (e) of that section of the following paragraphs :—

“(ee) the interest accruing to any person on moneys invested in Reconstruction Bonds issued by the Government of Sri Lanka denominated in United States Dollars ;”.

“(eee) the interest accruing to any person on moneys invested in Sri Lanka Development Bonds denominated in United States Dollars issued by the Central Bank of Sri Lanka on or after April 1, 2001;”
 - (3) in paragraph (f) of that section by the substitution for the words “Tax Reserve Certificate ;”, of the words “Tax Reserve Certificate surrendered prior to April 1, 2002 ;” ;
 - (4) in paragraph (h) of that section, by the substitution for the words “accruing to any financial institution” of the words “accruing prior to April 1, 2002 to any financial institution”.
6. Section 11 of the principal enactment is hereby amended in paragraph (f) of that section, by the substitution, for the words and figures “18, 19, 20 or 21 of this Act”, of the words and figures “18, 18A, 19, 20, 20A, 21, 21A, or 21B of this Act,”.
7. Section 14 of the principal enactment is hereby amended in subsection (1) of that section as follows :—
 - (1) in paragraph (c) of that subsection by the substitution for the words “for the three years of assessment.”, of the words “ for the three years of assessment ;” ;
 - (2) by the addition immediately after paragraph (c) of that subsection of the following paragraph :—

“(d) the aggregate amount of the capital gains of any person for any year of assessment commencing on or after April 1, 2002 arising from any transaction stipulated in section 7.”.

8. Section 17 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for the words “Order published in the *Gazette*” of the words “Order published in the *Gazette*, prior to April 1, 2002”.
9. Section 18 of the principal enactment is hereby amended by the substitution for the words and figures “commences business on or after April 1, 2000,” of the words and figures “commences business on or after April 1, 2000 but prior to April 1, 2002”.
10. Section 18A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “which commences business on or after April 1, 2001,” of the words and figures “which commences business on or after April 1, 2001 but prior to April 1, 2003”.
11. Section 19 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “which commences business on or after April 1, 2000,” of the words and figures “which commences business on or after April 1, 2000 but prior to April 1, 2002”.
12. Section 20 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures “which commences business on or after April 1, 2000”, of the words and figures “which commences business on or after April 1, 2000 but prior to April 1, 2002”.
13. The following new sections are hereby inserted immediately after section 21 of the principal enactment and shall have effect as sections 21A and 21B of that enactment :—

“Exemption from income tax of certain agricultural and industrial projects.

21A. (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 from any specified undertaking referred to in subsection (2) and carried on by such company on or after April 1, 2002 shall be exempt from income tax for a period of three years reckoned from the commencement of the year of assessment in which the undertaking commences to carry on commercial operations.

(2) For the purposes of subsection (1) “specified undertaking” in relation to a company means an undertaking carried on by such company and which is engaged in—

- (a) agriculture, agroprocessing, industrial and machine tool manufacturing, information technology and allied services, electronics or the export of non-traditional products ;
- (b) any other designated project or in a project in which the investment is in excess of rupees five hundred million, and which conforms to the prescribed guidelines.

For the purpose of this subsection—

- (i) “agriculture” means the cultivation of land with plants of any description and the rearing of fish ;
- (ii) “export of non-traditional products” means the export of any goods, other than goods referred to in sub-paragraph (ii) of paragraph (b) of section 52 of this Act.

“Exemption from income tax of certain undertakings for infrastructure development.

21B. (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 from any specified undertaking referred to in subsection (2) shall be exempt from income tax for a period not less than five years but not more than ten years as may be determined by the Minister by Order published in the *Gazette*, if the amount of the investment made by such company in such undertaking is not less than one thousand two hundred and fifty million rupees. Such period shall be reckoned from the commencement of the year of assessment in which the undertaking commences to carry on commercial operations.

- (2) For the purposes of subsection (1) "specified undertaking" in relation to company means an undertaking carried on by such company on or after April 1, 2002 and which is engaged in any such activity relating to infrastructure development as may be determined by the Minister by Order published in the *Gazette*, having regard to the interests of the national economy."

14. The following new section is hereby inserted immediately after section 22 of the principal enactment and shall have effect as section 22A of that enactment :—

22A. Notwithstanding anything contained in this Act, the profits and income within the meaning of paragraph (a) of section 3 of any person who makes a declaration under section 2 of the Inland Revenue (Special Provisions) Act, No.7 of 2002 shall not be exempted from income tax for any year of assessment commencing on or after April 1, 2003."

"The profits and income of a person making a declaration under section 2 of the Inland Revenue (Special Provisions) Act, No.7 of 2002, shall not be exempted from income tax."

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

- (1) in sub-paragraph (i) of paragraph (b) of that subsection by the substitution, for the words "or subparagraph (iii)", of the words "or subparagraph (iii) or (vi)";
- (2) by the insertion immediately after sub-paragraph (v) of paragraph (b) of that subsection of the following sub-paragraph :—

"(vi) any computer hardware acquired by such person on or after April 1, 2002 and arising out of its use in any trade, business, profession or vocation carried on or exercised by him at the rate of one hundred per centum on its cost of acquisition;"

- (3) in paragraph (c) of that subsection by the substitution for all the words from "a sum equal to one tenth" to "business carried on by him" of the following :—

"(c) A sum equal to —

- (i) one-tenth of any payment made for any year of assessment commencing prior to April 1, 2002;
- (ii) a sum equal to one-fourth of any payment made in any year of assessment commencing on or after April 1, 2002,

by such person as consideration for obtaining a licence, in his favour, of any manufacturing process used by such person in any trade or business carried on by such person;"

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

"(cc) a sum equal to one-fourth of any payment made by such person in any year of assessment commencing on or after April 1, 2002 in the acquisition of any intangible asset such as a patent, copyright or trade mark (other than any goodwill) used by him in any trade or business carried on by him :

Provided that no deduction shall be allowed to any person under this paragraph in respect of any such payment if the total of the sum deducted in the preceding years of assessment is equal to the amount of such payment ;"

- (5) in paragraph (d) of that subsection, by the substitution for all the words from "such allowance being" to "computer software", of the following :—

"such allowance being :—

- (i) in the case of the year of assessment commencing prior to April 1, 2002, an amount equal to fifty *per centum* ;
- (ii) in the case of every year of assessment commencing on or after April 1, 2002, an amount equal to one hundred *per centum*,

of the cost of acquisition of such computer software.”;

- (6) by the repeal of the proviso to paragraph (f) of that subsection and the substitution of the following proviso therefor :—

“Provided that the sum deductible under this sub-paragraph shall, in the case of a company carrying on the business of letting premises for commercial purposes —

- (i) for any year of assessment commencing prior to April 1, 2002, not exceed ten *per centum* ;
- (ii) for any year of assessment commencing on or after April 1, 2002, insofar as it relates to the repairs of such premises, not exceed twenty-five *per centum*,

of the gross rent receivable by such company for such premises;”;

- (7) in paragraph (k) of that subsection by the substitution for the words “the expenditure incurred” of the words and figures “the expenditure incurred in any year of assessment commencing on or after April 1, 2000 but prior to April 1, 2002”;

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

“(kk) the expenditure including capital expenditure incurred in any year of assessment commencing on or after April 1, 2002 by such person in carrying on any scientific, industrial, agricultural or any other research for the upgrading of any trade or business carried on by such person;”;

- (9) in sub-paragraph (iii) of paragraph (t) of that subsection by the substitution for the words “performance of such trade or business.”, of the following :—

“performance of such trade or business :

Provided that any expenditure incurred in any year of assessment commencing on or after April 1, 2002 by such person in training shall be deductible, irrespective of the length of the period of training.”.

16. Section 24 of the principal enactment is hereby amended as follows :—

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

- (a) in sub-paragraph (iii) of paragraph (c) of that subsection by the substitution for the words “in accordance with such paragraph,” of the following :—

“in accordance with such paragraph :

Provided that a deduction may be allowed in respect of any expenditure incurred, by such person in any year of assessment commencing on or after April 1, 2002 if such expenditure incurred in travelling outside Sri Lanka is directly related to any trade, business, profession or vocation carried on, or exercised by such person. ;” ;

- (b) in sub-paragraph (ii) of paragraph (d) of that subsection, by the substitution for the words “accordance with the provision of such paragraph;”, of the following :—

“accordance with the provisions of such paragraph :

Provided that a deduction may be allowed in respect of any such expenditure incurred by such person in any year of assessment commencing on or after April 1, 2002, if such expenditure incurred in travelling outside Sri Lanka is directly related to the carrying on of such business;”;

- (c) in paragraph (e) of that subsection by the substitution for the words "exercised by him;" of the following :—

"exercised by him :

Provided that a deduction may be allowed in respect of such entertainment expenses incurred by such person or on his behalf, in any year of assessment commencing on or after April 1, 2002, if the expenses so incurred are directly related to any trade, business, profession or vocation carried on, or exercised by such person;"

- (d) in paragraph (f) of that subsection, by the substitution, for the words "his executive officer", of the words "his executive officer, in any year of assessment commencing prior to April 1, 2002"; and

- (2) by the addition, immediately after subsection (3) thereof of the following subsection :—

- "(4) In computing the statutory income of any person from any trade, business, profession or vocation carried on or exercised by such person, no deduction shall be allowed under section 23 or section 24 in respect of any expenditure unless the amount of such expenditure is paid within three years from the end of the year of assessment in which such expenditure is incurred."

17. Section 29 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) The assessable income of a person (other than a company) for any year of assessment commencing on or after April 1, 2002, shall notwithstanding anything contained in subsection (1), be his total statutory income for that year other than the—

- (a) statutory income from interest on which income tax has been deducted under section 122A; and
- (b) statutory income from dividends on which income tax has been deducted under subsection (1A) of section 61, whether received directly from such company which distributes the dividend or through any other company,

subject to the deductions, specified in this section :

Provided however, where such income from interest or dividends from which income tax has been deducted under section 122A or subsection (1A) of section 61, as the case may be, have been received by a person in the course of carrying on any trade or business as a receipt from such trade or business, such income from interest or dividends shall form part of the total statutory income of such person;"

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

- (a) by the substitution, in paragraph (a) of that subsection for the words "payable by such person", of the words "payable for that year of assessment being a year of assessment commencing prior to April 1, 2002 by such person;"

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

- "(aa) sums paid by such person for any year of assessment commencing on or after April 1, 2002 by way of an annuity, ground rent, royalty or interest not deductible under section 23 :

Provided that —

- (i) no deduction shall be allowed in respect of any sum paid by way of interest, annuity, ground rent or royalty by a person out of Sri Lanka to another person out of Sri Lanka ;
- (ii) where for any year of assessment any such sum paid exceeds the total statutory income for that year, the excess shall be treated for the purposes of this section in the same manner as a loss incurred in a trade during that year;
- (iii) where any sum is paid by such person by way of an annuity no deduction shall be allowed in respect of such sum unless such annuity is—

- (a) paid under an order of court by way of payment of alimony or maintenance ;
- (b) paid to his spouse under a duly executed deed of separation;
- (c) in return, for full consideration in money or moneys worth.

For the purposes of this paragraph the term "interest" means any interest paid during any year of assessment on any loan obtained from a bank, financial institution or any other institution recognised by the Commissioner-General."

18. Section 30 of the principal enactment is hereby amended in subsection (1) of that section as follows :-

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

"(a) and allowance of—

- (i) one hundred and forty four thousand rupees, in respect of every year of assessment commencing prior to April 1, 2002; or
- (ii) two hundred and forty thousand rupees, in respect of every year of assessment commencing on or after April 1, 2002 ;";

- (2) by the insertion immediately after the first proviso to that subsection of the following :-

"Provided further, that any person who makes a declaration under section 2 of the Inland Revenue (Special Provisions) Act, No.7 of 2002, shall not, in ascertaining his taxable income, be entitled to deduct any allowance under paragraph (b) on any investment or expenditure made or incurred relating to any investment made in such declaration."

19. Section 31 of the principal enactment is hereby amended as follows :-

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

- (a) in paragraph (h) of that subsection by the substitution for the words "projection on a screen in a cinema."; of the words "projection on a screen in a cinema ;";

- (b) by the addition, immediately after paragraph (h) of that subsection, of the following paragraphs :-

- "(i) any expenditure incurred, otherwise than out of a loan referred to in paragraph (j) on or after April 1, 2002, by an individual in either the construction or the purchase of a house being in either case the first house constructed or purchased by such individual on or after April 1, 2001 ;
- (j) any expenditure incurred, on or after April 1, 2002, by an individual on the repayment of the capital of any approved housing loan either for the construction or the purchase of a house being in either case the first house constructed or purchased by such individual on or after April 1, 2001.

For the purpose of this paragraph "approved Housing loan" means any housing loan obtained from the Government, or any banking institution within the meaning of the Monetary Law Act, or any Provincial Fund, any local authority or any other institution approved by the Minister in charge of the subject of Housing."

- (2) in paragraph (a) of subsection (4) of that section -

- (a) in sub-paragraph (v) of that paragraph by the substitution for the words "twenty five thousand rupees", of the words "twenty-five thousand rupees ;";

- (b) by the insertion immediately after sub-paragraph (v) of that subsection of the following sub-paragraph :-

- "(vi) in respect of all qualifying payments referred to in paragraphs (i) and (j) of subsection (2) made by him in that year of assessment, shall not exceed one-third of the assessable income or one hundred thousand rupees which ever is less."

(3) by the addition immediately after subsection (6) of that section of the following subsection :-

“(6A) The excess of the allowance of any qualifying payment referred to in paragraph (i) of subsection (2) which cannot be deducted from the assessable income in the year of assessment in which such expenditure is incurred may be apportioned over a period of not more than nine years immediately succeeding the year of assessment in which such expenditure was incurred and such apportioned amount shall be deemed to be a qualifying payment made in each such year of assessment.”.

20. Section 32 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section, by the substitution, in paragraph (a) of that subsection, for the words and figures “Part I of the First Schedule”, of the words and figures “Parts I and IA of the First Schedule”;
- (2) in subsection (2) of that section -
 - (a) by the substitution, for the words and figures, “Part III of the First Schedule”, of the words and figures “Parts III and IIIA of the First Schedule”;
 - (b) in the proviso to that subsection by the substitution for all the words from “such sum”, to the end of that proviso, of the words “such sum shall be chargeable with income tax in the manner provided for in subsection (3) as if the references in that subsection to ‘capital gain’ were references to ‘such sum’”;
- (3) in subsection (4) of that section, by the substitution, for the words “a person includes any capital gain”, of the words “a person, for any year of assessment commencing prior to April 1, 2002, includes any capital gain”;
- (4) in subsection (5) of that section, by the substitution, for the words “a person includes any capital gain”, of the words and figures “a person, for any year of assessment commencing prior to April 1, 2002, includes any capital gain”; and
- (5) in subsection (6) of that section, by the substitution, for the words “a person includes any capital gains”, of the words and figures “a person, for any year of assessment commencing prior to April 1, 2002, includes any capital gain”.

21. The following new sections are hereby inserted immediately after section 40 of the principal enactment and shall have effect as sections 40A and 40B respectively of that enactment :-

“Rate of
income tax
applicable to
specialized
housing banks.

40A. (1) Where the taxable income of any company carrying on the business of a specialized housing bank for any year of assessment commencing on or after April 1, 2002 includes any profits and income within the meaning of paragraph (a) of section 3 from such business such part of such taxable income as consists of such profits and income, shall, notwithstanding anything to the contrary in this Act, be chargeable with income tax at the rate of twenty *per centum*.

(2) For the purposes of this section “specialized housing bank” means a licensed commercial or specialized bank within the meaning of the Banking Act, No.30 of 1988 which is engaged in lending money only for activities relating to residential housing.

“Rate of
income tax
applicable to
certain
companies
after the expiry
of tax
exemption.

40B. (1) The profits and income within the meaning of paragraph (a) of section 3 of any company referred to in section 21B for any year of assessment commencing after the expiry of the period during which the profits and income of such company were exempt from income tax shall, notwithstanding anything contained in this Act, be chargeable with income tax at the rate of fifteen *per centum*.

(2) The profits and income within the meaning of paragraph (a) of section 3 of any company referred to in section 21A, shall notwithstanding anything containing in this Act, for-

(a) each of the two years of assessment immediately succeeding the period during which the profits and income of such company were exempt from income tax, be taxed at the rate of ten *per centum* ;

(b) every year of assessment commencing after the expiry of the period referred to in paragraph (a) –

(i) if such company is a company engaged in agriculture or the export of non-traditional products, be taxed at fifteen *per centum*; and

(ii) if such company is a company other than a company engaged in agriculture or the export of non-traditional products, be taxed at twenty *per centum*.’.

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

“Rate of income tax on certain dividends. 48A. Where the taxable income of any person (other than a company) for any year of assessment includes a dividend declared on or after April 1, 2002 in the form of shares or debentures, the taxable income representing such dividend shall be taxed at the rate of ten *per centum*.”.

23. Section 53 of the principal enactment amended by Act, No.8 of 2001, is hereby further amended in subsection (1) of that section as follows :—

(1) in paragraph (a) of that subsection, by the substitution for the words “to this Act ; and”, of the words “to this Act ;

Provided that where the income tax payable by a company for any year of assessment commencing on or after April 1, 2002 exceeds one million rupees, the amount by which the income tax payable by such company exceeds one million rupees shall not be more than the amount by which the taxable income of such company exceeds five million rupees ; and

(2) in paragraph (b) of that subsection, by the substitution for the words “in that year of assessment”, of the words and figures “in that year of assessment being a year of assessment commencing prior to April 1, 2002 ;”;

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

“(bb) equal to ten *per centum* of the aggregate amount of the gross dividends distributed by such company in that year of assessment; being an year of assessment commencing on or after April 1, 2002 out of the profits on which the taxable income of such company is computed for any year of assessment ;”;

(4) in paragraph (c) of that subsection by the substitution for the words “that year of assessment”, of the words “that year of assessment being an year of assessment commencing prior to April 1, 2002 ;”.

24. Section 54 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “for every year of assessment” of the words “for every year of assessment commencing prior to April 1, 2002”.

25. Section 57 of the principal enactment is hereby amended in paragraph (a) of subsection (1) of that section by the substitution for the words “specified in the Second Schedule; and” of the words “specified in the Second Schedule to this Act :

Provided that where the income tax payable by such company for any year of assessment on or after April 1, 2002 exceeds one million rupees, the amount by which the income tax payable by such company exceeds one million rupees shall not be more than the amount by which the taxable income of such company exceeds five million rupees.

26. Section 60 of the principal enactment is hereby amended by the substitution for all the words from “which becomes payable to fifteen *per centum*” of the words :—

“ which becomes payable in any year of assessment commencing prior to March 31, 2002 to any non resident person if the relevant dividend consists of the whole or any part of the amount of a dividend not being the whole or

any part of a dividend which is exempt from income tax under this Act, distributed by any quoted public company on or before March 31, 2002 and received either directly or through one or more intermediary companies, by such resident company, income tax equivalent to ten *per centum*.”.

27. Section 61 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section, by the substitution for the words “payable to any shareholder” of the words “payable to a shareholder in any year of assessment commencing prior to April 1, 2002”; and
- (2) by the insertion, immediately after subsection (1) of that section, of the following subsection :-
 “(1A) Every resident company, shall be entitled to deduct from the amount of any gross dividend payable to any shareholder, on or after April 1, 2002, in the form of money or an order to pay money out of profits on which the taxable income of that company is computed for any year of assessment, income tax equal to ten *per centum*.”; and
- (3) in subsection (6) of that section, by the substitution, for the words and figures “under subsection (1)”, of the words and figures “under subsection (1) or (1A)”.

28. Section 122 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “in any year of assessment”, of the words and figures “in any year of assessment commencing prior to April 1, 2002”.

29. The following new section is hereby inserted immediately after section 122 of the principal enactment and shall have effect as section 122A of that enactment :-

“Bank or financial institution to deduct income tax on interest paid.

122A.(1) Every bank or financial institution shall, subject to the provisions of this Chapter, deduct at the time of payment, from the interest payable by it in any year of assessment commencing on or after April 1, 2002, on any sum of money—

- (a) deposited with it by any person or partnership in his or its own name or in the name of any other person or without the name of any person or partnership ; and
- (b) the interest payable on which is not less than six thousand rupees per month or seventy two thousand rupees a year,

income tax at the rate of ten *per centum* on the total amount of the interest earned on such deposit :

Provided however, the provisions of this section shall not apply in respect of a institution certified by the Commissioner-General, as a charitable institution on any interest which is not in excess of twelve thousand rupees per month or one hundred and forty four thousand rupees a year accruing to such institution on any deposit :

Provided further that where a person or a partnership requests in writing to a bank or financial institution to deduct income tax at the rate of ten *per centum* from any interest payable to such person or partnership in any year of assessment, on a sum of money deposited by such person or partnership with such bank or financial institution, then such bank or financial institution shall comply with such request notwithstanding that the interest payable on such sum of money for that year of assessment is less than seventy two thousand rupees.

(2) For the purposes of a deduction under this section –

- (a) “interest” in relation to the deposit of a sum of money includes interest, discount or any other amount payable to, or accruing to the benefit of the person or partnership in whose name, or on whose behalf the sum of money is deposited but does not include any interest exempt under section 10 or any interest payable to any Ministry, Government Department or any local government institution or any institution under a Provincial Council or any Foreign Government ;

(b) in the case of a discount, interest shall be deemed to have been paid at the time such discount is allowed.

- (3) Where the Commissioner-General is satisfied that any bank or financial institution has devised a method to contravene the provisions of subsection (1) as regards the deduction of tax, the Commissioner-General may impose on such bank or financial institution a penalty of a sum equivalent to five hundred *per centum* of the tax avoided by the use of such method.

For the avoidance of doubt it is hereby declared that "deduct at the time of payment from the interest payable" in subsection (1) shall include any amount of interest credited to any account."

30. Section 124 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words "any year of assessment is less", of the words "any year of assessment commencing prior to April 1, 2002 is less".

31. Section 131 of the principal enactment amended by Act, No.8 of 2001 is hereby further amended in subsection (2) of that section as follows :—

- (1) in paragraph (b) of the definition of "specified fee", by the substitution for the words and figures "to any year of assessment commencing on or after April 1, 2001", of the words and figures "to the year of assessment commencing on April 1, 2001".

- (2) by the addition at the end of that subsection of the following :—

(c) in relation to any year of assessment commencing on or after April 1, 2002, means any sum or sums aggregating to not less than—

(i) fifty thousand rupees per month ; and

(ii) five hundred thousand rupees a year in any other case,

payable by any specified person in that year of assessment to any person or partnership in consideration of services rendered by that person or partnership as the case may be, in the course of any business, profession, vocation or other activities of an independent character carried on or exercised by that person or partnership, as the case may be, and includes any commission, brokerage or other sums of like nature payable by such specified person, but does not include any sum payable by such specified person to any employee of such specified person in the course of employment under such specified person or any rent or other payment payable for the use or occupation of any specified land or building as defined in subsection (2) of section 131B."

32. The following new Chapter is hereby inserted immediately after Chapter XVI of the principal enactment and shall have effect as Chapter XVII of that enactment :—

"CHAPTER XVII

DEDUCTION OF INCOME TAX FROM RENT, LEASE RENT OR OTHER PAYMENT PAID BY ANY PERSON OR PARTNERSHIP FOR THE USE OR OCCUPATION OF ANY LAND OR BUILDING OTHER THAN FOR RESIDENTIAL PURPOSES

"Persons paying rent, lease rent etc. to deduct income tax. 131A. Every person or partnership paying any rent, lease rent or other payment for the use or occupation otherwise than as a residence, of any specified land or building on or after April 1, 2002 shall deduct at the time of the payment of such rent, lease rent or other payment, income tax at the rate of ten *per centum* of such rent, lease rent or other payment.

"Application of the provisions of Chapter XV to this Chapter. 131B. (1) The provisions of Chapter XV relating to the deduction of income tax from interest paid by banks and financial institutions, credit for income tax so deducted, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments

on banks and financial institutions, appeals and penalty for default shall, *mutatis mutandis* apply to the deduction of income tax from such rent, lease rent or other payments as is mentioned in section 131A, credit for income tax so deducted, duties of persons liable to pay such rent, lease rent, or other payment, default in the deduction of income tax, issue of assessments on such persons, appeals and penalty for default under this Chapter, as if there were substituted in Chapter XV for the words "banks and financial institutions" of the words "persons liable to pay such rent, lease rent or other payment" and for the word "interest" of the words "rent, lease rent or other payment" wherever they appear in that Chapter, subject however, to the modification that credit for income tax deducted under the provisions of this Chapter by any person from any rent, lease rent or any other payment paid to any co-owners of such property shall be apportioned among such co-owners in proportion to their rights of ownership in such property.

(2) For the purposes of this Chapter—

"specified land or building" means a land or building in respect of which the amount of rent, lease rent or other payment payable for any calendar month or part thereof is not less than fifty thousand rupees or the aggregate rent, lease rent or other payment payable for any year is not less than five hundred thousand rupees."

33. Section 186 of the principal enactment is hereby amended in the definition of "executive officer" by the substitution for the words "not less than five thousand rupees"; of the words "not less than twenty thousand rupees";

34. The First Schedule to the principal enactment amended by Act, No.8 of 2001 is hereby further amended as follows :—

- (1) In Part I of that Schedule by the substitution for the words and figures "referred to in Part II" of the words and figures "referred to in Part II for any year of assessment commencing prior to April 1, 2002";
- (2) by the insertion immediately after Part I of that Schedule of the following Part :—

"PART 1A

Individuals other than those referred to in Part II, for any year of assessment commencing on or after April 1, 2002

On the first Rs. 180,000 of the taxable income	10 per centum
On the next Rs. 180,000 of the taxable income	20 per centum
On the balance	35 per centum";

- (3) In Part III of that Schedule by the substitution for the words and figures "subsection (2) of section 32", of the words and figures "subsection (2) of section 32 for every year of assessment commencing prior to April 1, 2002"; and
- (4) by the addition at the end of that Schedule, of the following :—

"PART IIIA

The rate of income tax applicable to certain profits from employment specified in subsection (2) of section 32, for any year of assessment commencing on or after April 1, 2002—

on the first Rs. 1,000,000	... Nil
on the next Rs. 500,000	... 5 per centum
on the next Rs. 500,000	... 10 per centum
on the balance	... 15 per centum."

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

- (1) by the substitution, for the words "unit trust and mutual fund", enactment of the words and figures "unit trust and mutual fund for every year of assessment commencing prior to April 1, 2002" ; and
- (2) by the addition, at the end of that Schedule of the following :—

"company, including unit trust and mutual fund for every year of assessment commencing on or after April 1, 2002—

where the taxable income of the company, unit trust or mutual fund does not exceed Rs. 5,000,000 in that year of assessment

20 per centum

where the taxable income of the company, unit trust or mutual fund exceeds Rs. 5,000,000 in that year of assessment

35 per centum."

36. The Fifth Schedule to the principal enactment is hereby amended by the substitution for the words "advance company tax shall be as follows :—" of the following :—

"advance company tax for every year of assessment commencing on or after April 1, 2000 but prior to April 1, 2002 shall be as follows :—".

37. (1) Any person who, or any partnership which, deducts tax and remits such tax to the Commissioner-General as provided for in section 122A, 131 or 131A, as the case may be during the period commencing on April 1, 2002 to the date of commencement of this Act, shall be deemed to have acted with due authority and is hereby indemnified from any civil or criminal prosecution in respect of such deduction and remittance.
- (2) Any bank or financial institution which for reasons beyond its control has been unable to deduct such tax as is provided for in section 122A for the period commencing on April 1, 2002 to the date of commencement of this Act, shall where the Commissioner-General is satisfied that the inability to deduct such tax was for reasons beyond the control of such bank or financial institution, be deemed not to have contravened the said provisions of this Act.

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

FINANCE ACT, NO.11 OF 2002

[Certified on 8th July, 2002]

AN ACT TO ENACT THE PROVISIONS OF LAW NECESSARY TO GIVE LEGAL FORCE TO CERTAIN BUDGET PROPOSALS AND OTHER MATTERS FOR THE FINANCIAL YEAR COMMENCING ON APRIL 1, 2002 ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Finance Act, No.11 of 2002.

PART I**IMPOSITION OF PORTS AND AIRPORTS DEVELOPMENT LEVY**

2. Subject to the provisions of section 5, there shall be charged and levied on every article originating from outside Sri Lanka and imported into Sri Lanka, a levy to be called the Ports and Airports Development Levy (hereinafter in this Part referred to as the "levy") at the rate of one *per centum* on the cost, insurance and freight value of that article.
3. The levy payable under section 2 on an article imported into Sri Lanka, shall be paid by the person importing the article to the Director-General of Customs, at the time of the import of the article, and upon payment of the levy the Director-General of Customs shall cause an endorsement to be made on the import invoice relating to that article specifying the amount recovered as the levy.
4. Where any article originating from outside Sri Lanka and imported into Sri Lanka is sold—
 - (a) by the Director-General of Customs for the recovery of any customs duty, surcharge or other levy payable or deemed to be payable under the Customs Ordinance or for any contravention of the provisions of the Customs Ordinance ;
 - (b) by the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act, No.51 of 1979, for the recovery of any dues under that Act ; or
 - (c) by the Commissioner-General of Inland Revenue, for any taxes administered by him,the purchaser of that article shall be deemed for the purposes of section 3 to be the person importing that article and the provisions of this Act shall apply to him accordingly.
5. Nothing in section 2 shall apply to any article imported into Sri Lanka in respect of the provision of any service by a mission of any State or any organization under the provisions of the Diplomatic Privileges Act, No.9 of 1996.
6. The levy shall, for purposes of recovery of the levy and notwithstanding anything to the contrary in this Act, be deemed to be a customs duty payable under the Customs Ordinance and accordingly, the provisions of the Customs Ordinance shall apply to the recovery of such levy.
7. The Director-General of Customs shall transmit to the Consolidated Fund, all sums recovered by him under this Part, as the levy.
8. In this Part, unless the context otherwise requires, "article" means any goods, materials, any agricultural or horticultural products or merchandise but does not include diamonds, gems, gold, jewellery and electronic items imported for the purpose of processing and re-export.
9. Part I of this Act shall be deemed, for all purposes, to have come into force on May 1, 2002.
10. Where the Director-General of Customs collects during the period commencing on May 1, 2002 and ending on the date of commencement of this Act, from a person importing an article an amount equal to one *per centum* on the

cost, insurance and freight value of such article, such collection shall be deemed for all purposes to have been, and to be, validly made, and the Director-General of Customs is hereby indemnified against all action, civil or criminal, in respect of such collection.

PART II

AMENDMENT TO THE BETTING AND GAMING LEVY ACT, No.40 OF 1988

11. Section 3 of the Betting and Gaming Levy Act, No.40 of 1988 (hereinafter in this Part referred to as the "principal enactment") is hereby amended by the substitution for the words and figure "Where any business of gaming, as is referred to in paragraph (b) of section 2," of the words and figure "Where any business, as is referred to in subsection (1) of section 2,".

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

(1) in subsection (1) of that section, by the substitution, for the words, "levy under this Act shall pay", of the words and figures "levy under this Act for any year commencing prior to April 1, 2002 shall pay";

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

"(1A) A person liable to pay the levy under this Act for any year commencing on or after April 1, 2002 shall pay the levy to the Commissioner-General in four equal instalments on or before the first day respectively, of April, July, October and January of that year. For the purposes of payment of the levy the Commissioner-General may issue an identification number to the person liable to pay the levy :
Provided however, that the levy payable by any person for the year of assessment commencing on April 1, 2002, shall be paid by him in three equal instalments on or before the first day respectively, of July, October and January of the year :

Provided further that, a person who commences to carry on any such business as is referred to in section 2 after the first day of April of any such year shall pay the levy he is liable to pay under this Act for that year in such number of instalments not exceeding four, and on such dates as the Commissioner-General may consider reasonable, having regard to all the circumstances of the case.";

(3) in subsection (2) of that section, by the substitution, for the words and figure "under subsection (1)," of the words and figures "under subsection (1) or (1A)"; and

(4) by the addition at the end of that section, of the following subsection :—

"(6) Where any instalment of the levy is in default, the Commissioner-General may issue a certificate containing particulars of the instalment in default and the name of the defaulter to the Inspector-General of Police and the Inspector-General of Police shall on receipt thereof, take such measures as may be necessary to stop the defaulter from carrying on the business of bookmaker or gaming, as the case may be, at the place as shall be specified in such certificate."

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

(1) in Part I of that Schedule —

(a) by the substitution for the words and figures "for every year commencing on or after April 1, 2001", of the words and figures "for the year commencing on or after April 1, 2001 but prior to April 1, 2002"; and

(b) by the addition at the end of that Part of the following :—

"For every year commencing on or after April 1, 2002

Where live telecast facilities are used in carrying on the business Five hundred thousand rupees.

Where live telecast facilities are not used in carrying on the business Ten thousand rupees." and;

(2) in Part II of that Schedule —

- (a) by the substitution for the words and figures "for every year commencing on or after April 1, 2001", of the words and figures "for the year commencing on or after April 1, 2001 but prior to April 1, 2002"; and
- (b) by the addition at the end of that Part, of the following :—
"For every year commencing on or after April 1, 2002 Twelve million rupees."

14. Part II of this Act, shall be deemed, for all purposes, to have come into force on April 1, 2002.

PART III

ABOLITION OF CERTAIN LEVIES OF STAMP DUTY WITH EFFECT FROM MAY 1, 2002

- 15. No stamp duty shall be imposed or paid under the Stamp Duty Act, No.43 of 1982 (hereinafter in this Part referred to as the "principal enactment") on any instrument executed or any document presented or filed on or after the date on which the provisions of this Part shall come into force.
- 16. Part III of this Act shall be deemed, for all purposes, to have come into force on May 1, 2002.
- 17. Where any person, liable to pay the stamp duty under the principal enactment on or after May 1, 2002, pays such stamp duty to the Commissioner-General in respect of any instrument executed or document presented or filed prior to the date of commencement of this Act, such person shall be entitled to a refund of the sum so paid as stamp duty on an application made to the Commissioner-General in that behalf.
- 18. For the avoidance of doubt it is hereby declared that the provisions of this Part shall not derogate from the powers of any Provincial Council to levy to recover any stamp duty on any instrument or document referred to in List I of the Ninth Schedule to the Constitution.

PART IV

AMENDMENT OF THE FINANCE ACT, NO.11 OF 1963

- 19. Part VI of the Finance Act, No.11 of 1963 is hereby repealed.
- 20. Part IV of this Act shall be deemed, for all purposes, to have come into force on April 1, 2002.

PART V

AMENDMENT OF THE NATIONAL SECURITY LEVY ACT, NO.52 OF 1991

- 21. Section 3 of the National Security Levy Act, No.52 of 1991 (in this Part referred to as the "principal enactment") as last amended by Act, No.4 of 2001 is hereby further amended in subsection (2) of that section as follows :—
 - (1) by the repeal, of sub-paragraph (xid) of paragraph (j) of item A of that subsection and the substitution, of the following sub-paragraph therefor—
" (xid) client support services provided, on or after April 1, 2001 over the internet or the telephone by an enterprise set up exclusively for the provision of such services to one or more identified clients outside Sri Lanka, for which payment is received in foreign currency, through a bank ;
 - (2) in paragraph (l) of that subsection by the substitution for the words "for the use of any aircraft.", of the words "for the use of any aircraft ; "; and
 - (3) by the addition, at the end of that subsection, of the following :—
" (m) the proceeds from the sale of such percentage of garments as is permitted for sale locally, and where a sum of rupees twenty-five has been paid in respect of each garment, which is manufactured by a person for export, from fabric imported into Sri Lanka;".

22. Part V of this Act shall be deemed, for all purposes, to have come into force on April 1, 2002.

PART VI

AMENDMENT TO THE GOODS AND SERVICES TAX ACT, No.34 OF 1996

23. (1) Section 2 of the Goods and Services Tax Act, No.34 of 1996 as last amended by Act, No.26 of 2000 (hereinafter in this Part referred to as the "principal enactment") is hereby further amended in subsection (3) of that section by the substitution for the words from "goods imported into Sri Lanka are dutiable and liable to customs duty" to "Provided however the Director-General of Customs" of the following :-

"goods imported into Sri Lanka are dutiable and liable to customs duty :

Provided however no tax shall be charged on—

- (a) any goods which entered into a customs bonded area; or
- (b) any fabric imported by any person for the purpose of manufacture of garments for export, who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law for the manufacture of garments for export under such agreement or on the transfer of such fabric with the approval of the Director- General of Customs or the Board of Investment of Sri Lanka, with or without value addition, to any other person for the purpose of manufacture of garments for export ;
- (c) any fabric imported by any person, who has registered with the Board of Investment of Sri Lanka as a Trading House, for the purpose of manufacture of garments for export through other garment manufacturers as are approved by the Board of Investment of Sri Lanka and the transfer with the approval of the Director-General of Customs or the Board of Investment of Sri Lanka, of such fabric to such manufacturers for the purposes of manufacture of garments for the export ;
- (d) any fibre, yarn, gray cloth, finished cloth, chemicals and dyes used for the manufacture of fabric, imported by any fabric manufacture who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, for the purpose of such manufacture";

Provided further that, the Director-General of Customs".

"(2) In the second proviso to subsection (3) of that section—

- (a) by the substitution for the words "referred to in subsection (6) of section 22, for a period" of the words "referred to in subsection (6) of section 22 or the purchase of any fabric, manufactured by a person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law for the manufacture of fabric, by another person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law for the manufacture of garments for export under such agreement and who utilises the fabric so purchased for the manufacture of garments for export or a period";
- (b) by the substitution for the words "from the date of importation" of the words "from the date of importation or purchase";

24. Section 7 of the principal enactment as last amended by Act, No.5 of 2001 is hereby further amended by the repeal of sub-paragraph (ii) of paragraph (d) of that section, and the substitution therefor of the following :-

" (ii) client support services provided, on or after April 1, 2001 over the internet or the telephone by an enterprise set up exclusively for the provision of such services to one or more identified clients outside Sri Lanka, for which payment is received in foreign currency, through a bank ;"

25. Section 22 of the principal enactment as last amended by Act, No.26 of 2000 is hereby amended as follows :-

- (1) in subsection (1) of that section by the substitution for the words "as may be specified in the Act" of the following:—

“as may be specified in this Act :

Provided however, the amount of tax, due on the supply of any garments within such percentage as is permitted for sale locally by the Board of Investment of Sri Lanka under any agreement entered into by any manufacturer of garments for export under section 17 of the Board of Investment of Sri Lanka Law, shall be twenty-five rupees for each such garment supplied within Sri Lanka ;

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

“(c) there is in excess of input tax, in any taxable period, in the case of a registered person who has entered into an agreement with the Board of Investment of Sri Lanka and that taxable period, falls within the period referred to in item (xxvii) of the Schedule or with the project implementation period as stipulated in any agreement referred to in item (xxviii) of the Schedule or up to the commencement of commercial activities whichever is earlier ; or ” ;

- (3) by the insertion, immediately after subsection (6) of that section, of the following subsection :—

“(6A) Notwithstanding anything contained in subsection (3) and paragraph (ii) of subsection (5) and item (xxvi) of the Schedule to this Act, credit for input tax shall be allowed in respect of a registered person who is engaged in the business of distribution of power where such power is purchased by the supplier of power from the Ceylon Electricity Board established under the Ceylon Electricity Board Act, No.17 of 1969.”.

26. The Schedule to the principal enactment as last amended by Act, No.5 of 2001 is hereby further amended by the substitution for sub-paragraph (ii) of paragraph (a) of item (xxviii) of that Schedule of the following :—

“(ii) a period, on or before June 30, 2002 from the appointed date, in the case of any person making only exempt supplies after completion of the project ; or”.

27. (1) The amendment made to section 22 of the principal enactment—

- (a) by section 25(1) of this Act shall be deemed, for all purposes, to have come into force on April 1, 2001 ;
(b) by section 25(2) of this Act shall be deemed, for all purposes, to have come into force on April 1, 1998.

- (2) The amendments made to section 2 and the Schedule to the principal enactment by sections 23 and 26 respectively, of this Act shall be deemed for all purposes to have come into force on April 1, 2002.

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

VALUE ADDED TAX ACT, NO. 14 OF 2002

[Certified on 26th July, 2002]

AN ACT TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A VALUE ADDED TAX ON GOODS AND SERVICES SUPPLIED IN SRI LANKA OR IMPORTED INTO SRI LANKA: TO PROVIDE FOR THE ABOLITION OF THE NATIONAL SECURITY LEVY AND THE GOODS AND SERVICES TAX: AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Value Added Tax Act, No. 14 of 2002 and shall come into operation on August 1, 2002.

CHAPTER I

IMPOSITION OF VALUE ADDED TAX

2. (1) Subject to the provisions of this Act, a tax, to be known as the Value Added Tax (hereinafter referred to as "the tax") shall be charged –
- (a) at the time of supply, on every taxable supply of goods or services, made in a taxable period, by a registered person in the course of the carrying on, or carrying out, of a taxable activity by such person in Sri Lanka;
 - (b) on the importation of goods into Sri Lanka, by any person,
- and on the value of such goods or services supplied or the goods imported, as the case may be, at the following rates:–
- (i) *ten per centum* (of which the Tax Fraction is 1/11) on the value of goods and services referred to in the Second Schedule, which are chargeable with the tax other than zero rated supplies;
 - (ii) *twenty per centum* (of which the Tax Fraction is 1/6) on the value of all other taxable goods and services which are chargeable with the tax other than zero rated supplies.

The Tax Fraction referred to above shall be applied to ascertain the amount of tax charged in the case of a tax inclusive consideration :

Provided, however the Commissioner-General shall not collect the tax under subsection (1) where the tax is –

- (a) recovered in respect of any garments sold locally, which are referred to in the proviso to subsection (1) of section 22;
 - (b) deferred by the Director-General of Customs in respect of supplies referred to in sub paragraph (iv) of paragraph (a) of the second proviso to subsection (3) of section 2.
- (2) Notwithstanding the provisions of subsection (1) the Commissioner-General shall defer the tax due on any tea supplied by any tea manufacturer registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, [No.14 of] 1975, to any auction conducted by a registered tea broker and if such tea broker has supplied such tea to any tea exporter registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No.14 of 1975, until such time the relevant tea broker furnishes the reconciliation on the disposal of such tea as stipulated by the Commissioner-General.
- (3) The tax on the importation of goods, shall be charged, levied and collected as if it is a customs duty and as if all goods imported into Sri Lanka are dutiable and liable to customs duty:

Provided however, no tax shall be charged on –

- (a) any goods which entered into a customs bonded area;
- (b) any fabric imported by any person, for the purpose of manufacture of garments for export, who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No.4 of 1978 for the manufacture of garments for export under such agreement, and the transfer of such fabric with or without value addition with the approval of the Director-General of Customs or the Board of Investment of Sri Lanka, to any other person for the purposes of such manufacture of garments for export;

- (c) any fabric imported by any person, who has registered with the Board of Investment of Sri Lanka as a Trading House for the purpose of manufacture of garments for export through other garment manufacturers as approved by the Board of Investment of Sri Lanka and transfer of such fabric with the approval of the Director-General of Customs or the Board of Investment of Sri Lanka to such garment manufacturers for the purposes of manufacture of garments for export;
- (d) any fibre, yarn, grey cloth, finished cloth, chemicals and dyes used for the manufacture of fabric imported by any Fabric manufacturer who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No.4 of 1978 for the purpose of such manufacture;
- (e) any ship:

Provided further, the Director-General of Customs may, defer the payment of the tax due on –

- (a) (i) any goods imported, including any goods received from a customs bonded area, by a registered person who imports or receives such goods to be used by such person for the purpose of manufacture and export of the goods so manufactured;
- (ii) any goods imported by any registered person referred to in subsection (6) of section 22 which are project related goods during such project implementation period;
- (iii) any goods being any plant, or machinery imported for any infrastructure project funded mainly by a foreign government or any regional or multilateral agency including the United Nations Organization and its affiliates, during the implementation period;
- (iv) any purchase of fabric, manufactured by a person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law for the manufacture of fabric by another person who has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law No.4 of 1978 for the manufacture of garments for export under such agreement and utilizes such fabric for the manufacture of garments for export;

for a period of sixty days or such other period not exceeding ninety days from the date of importation, receipt or purchase of such goods, as maybe determined by the Minister by notification published in the *Gazette*;

- (b) any goods being plant, machinery or other equipment of high value temporarily imported into Sri Lanka and re-exported within twelve months, for a period upto the date of such re-export;

subject to the furnishing of a bank guarantee or a corporate guarantee which covers the amount of the tax due on the goods so imported, received or purchased.

3. Notwithstanding the provisions of section 2, the tax shall not be charged on the wholesale or retail supply of goods, other than on the wholesale or retail supply of goods, by–

- (a) a manufacturer of such goods ; or
- (b) an importer of such goods; or
- (c) a supplier who is unable to satisfy the Commissioner-General, as to the source from which the goods supplied by him, were acquired:

Provided however, such tax shall be charged on such wholesale or retail supply of goods, if–

- (a) any registered person makes an application to that effect to the Commissioner-General;
- (b) any other person makes an application to that effect to the Commissioner-General and obtains a registration as provided for in sections 10 or 12.

4. (1) The supply of goods shall be deemed to have taken place at the time of the occurrence of any one of the following whichever, occurs earlier:–

- (a) the issue of an invoice by the supplier in respect of the goods ; or
- (b) a payment for the goods is including any advance payment received by the supplier ; or
- (c) a payment for the goods is due to the supplier in respect of such supply; or
- (d) the delivery of the goods have been effected.

- (2) Notwithstanding the provisions of paragraph (d) of subsection (1), where an invoice is issued in respect of goods delivered, within ten days from the date of delivery of such goods, the time of supply of such goods, shall be deemed to be the time at which the invoice was issued.
 - (3) The supply of services shall be deemed to have taken place, at the time, of the occurrence of any of the following whichever, occurs earlier:-
 - (a) the service was performed ; or
 - (b) a payment is received for the services rendered or for future services; or
 - (c) a payment is due for the services rendered or for future services; or
 - (d) an invoice is issued in respect of the services rendered.
 - (4) Notwithstanding the provisions of paragraph (a) of subsection (3), where an invoice is issued in respect of services supplied, within ten days from the date of performance of such service, the time of supply of such service shall be deemed to be the time at which the invoice was issued.
 - (5) Notwithstanding the provisions of subsections (1) and (3), a supply shall be deemed to take place-
 - (a) where a supply is made under an agreement entered into, or after April 1, 1998, other than a hire purchase agreement, which provides for periodical payments, when the payment is due or when the payment is received, whichever is earlier; and
 - (b) where goods are supplied under a hire purchase agreement, at the time the agreement is entered into.
 - (6) Where the Commissioner-General directs any registered person to account for the tax on a payment basis under section 23, the time of supply of goods or services supplied by such persons shall be the time at which the payment in respect of such supply is received.
 - (7) Where the time of supply falls within any taxable period or portion of a taxable period ending on or before July 31, 2002 under the Goods and Services Tax Act, No.34 of 1996 and any event referred to in this section takes place under this Act in relation to the same supply, such event shall not be considered as a time of supply.
5. (1) The value of a taxable supply of goods or services, shall be such amount where the supply is-
- (a) for a consideration in money, be such consideration less any tax chargeable under this Act which amount shall not be less than the open market value;
 - (b) not for a consideration in money or not wholly in consideration of money, be the open market value of such supply.
- (2) Subject to the provisions of subsection (3), where a supply of goods or services is made by a registered person for an amount which is less than the open market value to a person not being a registered person the value of such supply, shall be the open market value of the supply.
 - (3) Where a supply of goods or services is made by an employer, to his employee as a benefit from employment, the consideration in money for the supply shall be the open market value of such supply or where the open market value of such supply cannot be ascertained, the consideration in money of such supply shall be the cost of a similar benefit enjoyed by any other employee, as may be determined by the Assessor.
 - (4) Where a supply of services is made under any lottery, or any taxable activity of entering into or negotiating a wagering contract or any business of like nature, the value of such supply shall be the total amount of money receivable in respect to of such supply less the consideration of the prizes or winnings awarded in such lottery, wagering contract, or any business of like nature as the case may be.
 - (5) Where a supply of goods or services-
 - (i) is made by a person at the time of cancellation of the registration under section 16; or
 - (ii) is made to any person who makes a supply which is exempted under section 8; or
 - (iii) made by any person, not being a registered person or being a registered person who had not opted to charge tax under the proviso to section 3, who carries on or carries out any wholesale or retail trade; or
 - (iv) is appropriated by the supplier for his personal use or any other purpose other than the making of a taxable supply,
 the value of such supply shall be not less than the open market value.

- (6) The value of the supply of goods under a hire purchase agreement shall be the cash price determined in accordance with the provisions of the Consumer Credit Act, No.29 of 1982, and shall not be less than the open market value:

Provided however in the case of a hire purchase agreement—

- (a) where the cash price of any goods supplied under a hire purchase agreement includes the tax charged, by the supplier on the seller of such goods to be supplied under such agreement for which the seller cannot claim input tax credit being a person who is not registered under this Act, the cash price and the market value of such goods shall be adjusted for the purposes of charging the tax so charged on the seller;
 - (b) under which second hand goods, which have been in circulation for a period over one year, are supplied, the cash price and the market value of such goods for the purposes of charging the tax shall be the value specified in the hire purchase agreement less any charge made for such hire purchase facility included in such agreement.
- (7) The value of supply of land and improvements thereon, shall be the value of such supply less the value of land at the time of supply and the value of any improvements on the land as at March 31, 1998 which shall not be less than the open market value of such supply excluding the value of such land at the time of supply and the value of any improvements on such land as at March 31, 1998.
- (8) Where goods or services are supplied either on the issue of a ticket or by the deposit of money the value of such supply shall be the amount paid for such ticket less the tax payable under this Act or the amount deposited less the tax payable under this Act, not being any amount which is refundable as the case may be.
- (9) The value of a supply, under any non reviewable agreement not being a hire purchase agreement entered into prior to April 1, 1998, shall be the total amount payable or paid under such agreement for any taxable period and shall be considered as a tax inclusive consideration.
- (10) Where any goods supplied under a lease agreement is subsequently transferred to the lessee at the termination of such agreement for a consideration not exceeding ten *per centum* of the total consideration of the lease agreement, such consideration shall be deemed to be a lease rental recovered under such agreement. Further, where such consideration is more than ten *per centum* of the total consideration of the lease agreement such supply shall be deemed to be a separate supply.
- (11) Where the consideration in respect of a supply of goods or services relates to a taxable supply and a supply which is not taxable, the consideration for such taxable supply shall be deemed to be such part of the consideration as is attributed to such taxable supply and shall not be less than the open market value of such taxable supply.
- (12) Where goods are manufactured or produced or a service is provided, by using other goods, whether provided by the supplier or any other person, such other goods shall be deemed to be used in the manufacture or production or the provision of service as the case may be, and the value of the supply of the goods so manufactured or produced and the supply of services in connection with such manufacture or production or the supply of the service shall be the open market value or the sum received as consideration for such supply, whichever is higher:

Provided however, where it is proved to the satisfaction of an Assessor that the supply of goods, and the supply of services are two separate supplies, each such supply shall be treated as a separate supply by such Assessor.

6. (1) The value of goods imported, shall be the aggregate of—
- (a) the value of the goods determined for the purpose of customs duty ; and
 - (b) the amount of any customs duty payable, in respect of such goods with the addition of any surcharge, cess and any excise duty payable under the Excise (Special Provisions) Act, No.13 of 1989 on such goods.
7. (1) A supply of—
- (a) goods shall be zero rated where the supplier of such goods has exported such goods; and
 - (b) services shall be zero rated where the supply of such services are directly connected with—
 - (i) any movable or immovable property outside Sri Lanka;

- (ii) the repair of any foreign ship or aircraft, refurbishment of marine cargo containers or any other goods imported for the purpose of re-export;
 - (iii) a copyright, patent, licence, trade mark or similar intellectual property right, to the extent that such right is for use outside Sri Lanka;
 - (iv) the international transportation (including transshipment) of goods or passengers as are specified by the Commissioner-General by a Notification published in the *Gazette*;
 - (v) computer software development, in respect of software developed by the developer for use wholly outside Sri Lanka, and for which payment is received in foreign currency through a bank if, and only if, documentary evidence is produced to the satisfaction of the Commissioner-General of the supply of such services;
 - (vi) client support services provided, on or after April 1, 2001 over the internet or the telephone by an enterprise set up exclusively for the provision of such services to one or more identified clients outside Sri Lanka, for which payment is received in foreign currency, through a bank;
 - (vii) any other services consumed outside Sri Lanka to the extent that the payment for such services is received in foreign currency, through a bank in Sri Lanka.
- (2) Where a registered person supplies any goods or services which is zero rated
- (a) no tax shall be charged in respect of such supply;
 - (b) the supply shall in all other respects be treated as a taxable supply and accordingly the rate at which tax is charged on the supply shall be zero.
8. No tax shall be charged on the supply of goods or services and the importation of goods specified in the First Schedule to this Act as such supplies and imports are not taxable unless zero rated under section 7.
9. For the purposes of this Act goods or services shall be deemed to be supplied in Sri Lanka where the supplier carries on or carries out a taxable activity in Sri Lanka and the goods are in Sri Lanka at the time of supply or the services are performed in Sri Lanka by the supplier or his agent.

CHAPTER II

REGISTRATION

10. (1) Every person who, on or after August 1, 2002 carries on or carries out any taxable activity in Sri Lanka shall be required to be registered under this Act, if—
- (a) at the end of any taxable period of one month or three months, as the case may be, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka in that taxable period of one month or three months, as the case may be, has exceeded five hundred thousand rupees; or
 - (b) in the twelve months period then ending, the total value of his taxable supplies of goods or services or goods and services made in Sri Lanka has exceeded one million and eight hundred thousand rupees; or
 - (c) at any time, there are reasonable grounds to believe that the total value of his taxable supplies in Sri Lanka of goods or services or goods and services in the succeeding one month or three months taxable period, as the case may be, is likely to exceed five hundred thousand rupees or in the succeeding twelve months period is likely to exceed one million and eight hundred thousand rupees:
- Provided however, where the Commissioner-General is of opinion that the supply of goods relate to a single isolated transaction, the value of such supply may be excluded in calculating the total value of taxable supplies for the purposes of this section.
- (2) Every person who is required to be registered under subsection (1), shall make an application for registration in the specified form to the Commissioner-General not later than fifteen days from the date on which is so liable to be registered.
- For the purpose of this section the total value of taxable supplies shall not include the supplies of any wholesale or retail trading activity excluded from the payment of tax under section 3.
11. (1) Every person who is an importer of goods into Sri Lanka shall notify the Commissioner-General not later than fourteen days prior to the clearing of such goods that he has imported such goods and obtain from the Commissioner-General an identification number for the clearing of such goods:

Provided however, any importer who imports into Sri Lanka goods under the Passengers Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance or a person who is registered under section 10 or section 12, or paragraph (c) of section 14, or be deemed to be registered under subsection (2) of section 77 or is deemed to be registered person under subsection (1) of section 75 of the Goods and Services Tax Act, No.34 of 1996 shall not be liable to notify the Commissioner-General.

- (2) Every importer referred to in subsection (1) shall make an application in the specified form to the Commissioner-General.

12. Notwithstanding the provisions of section 3 and 10, any person who supplies goods or services and carries on or carries out a taxable activity or imports any taxable goods may make an application in the specified form to the Commissioner-General for registration under this Act:

Provided however, the Commissioner-General may after affording the applicant an opportunity of being heard, and having regard to the nature of the business carried on or carried out by such applicant, the value of the taxable supplies made by such applicant in the two preceding taxable periods and the probability that the value of his taxable supplies will not exceed the value referred to in section 10, refuse to register such applicant.

13. For the purpose of registering a person under section 14, the Commissioner-General may call for any information from such persons at any time relating to any taxable activity carried on or carried out by such person.

14. (1) The Commissioner-General shall—

- (a) where an application has been made by any person for registration under section 10;
- (b) where an application for registration under section 12 has been made and such application has not been refused by the Commissioner-General; or
- (c) where an application for registration, has not been made but the Commissioner-General is of opinion having regard to the nature of the activities carried on or carried out by such person, that such person is required to be registered under this Act, and after affording such person an opportunity of being heard, register such person with effect from such as may be determined by him.

- (2) Any person registered under subsection (1) or deemed to be registered under subsection (2) of section 77 or deemed to be registered under section 75 of the Goods and Services Tax Act, No.34 of 1996 on August 1, 2002 and where such person is carrying on or carrying out a taxable activity shall be a registered person under this Act.

15. (1) The Commissioner-General shall, issue to a person registered under this Act upon such registration under section 14—

- (a) a tax registration number; and
- (b) a Certificate of registration.

- (2) The Certificate of registration shall set out the name and other relevant details of the registered person, the date on which registration comes into effect, and the tax registration number of such person.

- (3) The person to whom a certificate of registration is issued under subsection (1) shall, display such certificate at a conspicuous place in the place where he carries on or carries out the taxable activity. Copies of such certificate may be displayed in the event of there being more than one place of business.

- (4) Every registered person who makes an exempt supply specified in the First Schedule shall display the categories of such goods and services supplied by him as given in the First Schedule at each such place of supply.

- (5) Where any person fails to comply with the provisions of subsection (3) or (4) the Commissioner-General may—

- (a) impose on such person a penalty of a sum not exceeding fifty thousand rupees and give notice in writing to such person of the imposition of such penalty;
- (b) by notice in writing require such person—
 - (i) to pay such penalty ; and
 - (ii) to comply with the provisions of subsections (3) or (4) as the case may be,

within such period as may be specified in such notice.

- (6) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of

subsection (5) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (3) or (4) was due to circumstances beyond his control and that he has subsequently complied with such provisions.

16. (1) A registered person may make an application to have his registration cancelled at any time after the lapse of a period of twelve months following the date of registration, either under this Act or under the Goods and Services Tax Act, No.34 of 1996 where such registered person has ceased to carry on or carry out a taxable activity or the total value of his supplies during any taxable period within such period does not exceed the value set out in section 10.
- (2) The Commissioner-General –
 - (a) shall on receipt of an application made under subsection (1);
 - (b) may at any time,
 and upon being satisfied that the applicant or any registered persons as the case may be, has ceased to carryout a taxable activity or that the total value of his taxable supplies does not exceed the value referred to in section 10, or the facilities under the Customs Ordinance in respect of him have been suspended by the Director-General of Customs or that the continuation of such registration may impeded the protection of revenue, cancel his registration.
- (3) The Commissioner-General may refuse to cancel the registration of any person where he is of the opinion that such person has not ceased to carry on or carry out a taxable activity or that it is necessary and expedient to continue with his registration for the protection of revenue.
- (4) Where the Commissioner-General cancels the registration of a registered person he shall inform such person of the date of cancellation of the registration by registered post.
- (5) With effect from the date of cancellation of the registration, any goods or services then forming part of the assets of a taxable activity carried on or carried out by that person shall be deemed to be supplied by that person in the course of carrying on or carrying out a taxable activity at a time immediately prior to the date of cancellation, unless the taxable activity (inclusive of all such assets) is carried on or carried out by another person who is a registered person.
17. (1) Where the registration of a registered person has been cancelled by the Commissioner-General, such person shall–
 - (a) return to the Commissioner-General the certificate of registration issued to him not later than fourteen days from the last day of the last taxable period during which the registration was valid;
 - (b) not, display in any place where such taxable activity is carried on or carried out, the certificate of registration or a copy thereof;
 - (c) not, issue any tax invoice, tax debit note or tax credit note as the case may be.
- (2) Where any person fails to comply with the provisions of subsection (1) the Commissioner-General may–
 - (a) impose on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty;
 - (b) by notice in writing require such person–
 - (i) to pay such penalty; and
 - (ii) comply with the provisions of subsection (1) within such period as may be specified in such notice.
- (3) The Commissioner-General may reduce, or annul any penalty imposed on any person under paragraph (a) of subsection (2) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (1) was due to circumstances beyond his control and that he has subsequently complied with such provisions.
18. Notwithstanding the cancellation of registration under section 16, a registered person, shall be liable for any act done or omitted to be done while he remained a registered person in respect of the taxable supplies made by such person under this Act or under the Goods and Services Tax Act, No.34 of 1996.
19. Every registered person shall notify the Commissioner-General in writing of any change–
 - (a) in the name, address and place at which any taxable activity is carried on or carried out by such person;

- (b) in the nature of the taxable activity carried on or carried out by such person;
- (c) in the person authorised to sign returns and other documents ; and
- (d) in ownership of the taxable activity,

not later than fourteen days after the occurrence of the charge.

26. (1) A registered person who makes a taxable supply shall issue to the person to whom such supply is made, if he has made a written request within fourteen days from the time of supply stating that he is a registered person under this Act or is deemed to be a registered person under this Act, and requires that a tax invoice be issued, a tax invoice shall be issued not later than twenty eight days after the time of such supply:

Provided however, where a request has been made by a person registered or deemed to be registered under this Act after the receipt of the first supply such person shall not be required to make any further request in respect of any subsequent supply.

- (2) The tax invoice shall set out—
- (a) The name, address and the registration number of the supplier;
 - (b) The name and address of the person to whom the supply was made;
 - (c) The date on which the tax invoice was issued and its serial number;
 - (d) The date of supply and the description of the goods or services;
 - (e) The quantity or volume of the supply;
 - (f) The value of the supply, the tax charged and the consideration for the supply; and
 - (g) The words "TAX INVOICE" at a conspicuous place in such invoice.

Any valid tax invoice issued under the Goods and Services Tax Act, No.34 of 1996 prior to August 1, 2002 shall be deemed to be a tax invoice issued under this Act.

- (3) Where goods have been imported into Sri Lanka the customs goods declaration or any other document authenticated by the Director-General of Customs shall be treated as a tax invoice.

Any customs goods declaration or any other document authenticated by the Director-General of Customs and issued under the Goods and Services Tax Act, No.34 of 1996 prior to August 1, 2002 shall also be treated as a tax invoice.

- (4) The original of the tax invoice shall be issued to the person to whom the supply was made and the duplicate of such invoice shall be retained by the person who makes such supply for a period of five years after the expiry of the taxable period in which such invoice was issued.
- (5) It shall not be lawful to issue more than one tax invoice for each supply. If a registered person claims to have lost the original tax invoice the person who makes the supply, may issue to such registered person a copy clearly marked "copy only".
- (6) Notwithstanding the provisions of subsection (2), where a registered person makes a taxable supply and the recipient of such supply is not a registered person such supplier shall issue an invoice giving the total consideration of such supply including the tax charged. Where the supplier has not kept adequate records on such supplies covered by such invoices all such supplies shall be considered as supplies made under the standard rate of tax. An invoice issued under this subsection shall not be considered as a tax invoice for the purposes of this Act.
- (7) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate, to a fine not less than rupees twenty-five thousand and not exceeding rupees two hundred an fifty thousand and thereafter in the event of the offence being continued to be committed, after conviction to a fine of rupees five hundred for each day on which the offence is so continued to be committed.
- (8) Where any person convicted of an offence under subsection (7) continues to commit such offence beyond a period of fourteen days from the date of his conviction, the court may, upon an application for closure of the business being made by the Commissioner-General or any officer authorized in that behalf by the Commissioner-General, order the closure of such business.
- (9) In any case where such person fails to comply with the closure order issued under subsection (8), the

Magistrate shall forthwith order the fiscal of the country requiring and authorizing such fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order to close such business. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises in which the business is carried on or carried out with such assistants and the fiscal or such police officer shall deem necessary to close such business.

CHAPTER III

RETURNS AND CALCULATION OF TAX

21. (1) Every registered person shall furnish, to the Commissioner-General not later than the last day of the month after the expiry of each taxable period a return of his supplies during that taxable period. Every such return shall be in the specified form and shall contain all such particulars as may be required to be set out in such form:
- Provided however, a return for the period of two months commencing from August 1, 2002 shall be furnished not later than the last day of October, 2002 by any person who has been allocated with a taxable period of three months.
- (2) An Assessor may, by notice in writing, require any person who is not a registered person but, in his judgement is a person chargeable with tax, to furnish, a return in the specified form within the time specified in such notice.
- (3) Any return due under subsections (1) or (3) of section 21 of Goods and Services Tax Act, No.34 of 1996 for any taxable period commencing prior to August 1, 2002 shall be deemed to be a return due under this Act.
- (4) For the purposes of obtaining full information in respect of the supply of goods or services made by any person, an Assessor may give notice in writing to such person requiring him—
- (a) to produce for examination or transmit to the Assessor, within the period specified in such notice any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in slips, accounts, auditors' reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts;
- (b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the taxable activity carried on or carried out by that person.
- (5) For the purposes of this Act, a Deputy Commissioner may give notice in writing to any person requiring him—
- (a) to produce or transmit to such Deputy Commissioner within the period specified in such notice any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in slips, accounts, auditors' reports or other documents in his possession as may be specified in such notice;
- (b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter as may be specified in such notice.
- (6) A person who attends in compliance with a notice given under subsection (5) may be allowed by the Commissioner-General any reasonable expenses, necessarily incurred by him in so attending.
- (7) A Deputy Commissioner or an Assessor with the approval of a Deputy Commissioner, may retain in his custody as long as such retention is necessary for the purpose of this Act any books of accounts whether contained in a manual, mechanical or electronic format or combination thereof, trade lists, stock lists, registers, invoices, cheques, bank statements, paying-in-slips, accounts, auditors' reports or other documents in his possession as may be specified in order to verify the entries in such books, documents and accounts.
- (8) An Assessor may give notice in writing to any person where he thinks, it is necessary, requiring him to furnish within the time specified in such notice—
- (a) fuller or further returns ; or
- (b) fuller or further information relating to any matter which in the opinion of the Assessor be necessary or relevant for the assessment or tax payable by such person.

- (9) A return, statement or form purporting to be furnished under this Act by or on behalf of any persons shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing such return, statement or form shall be deemed to be cognizant of all matters contained therein.
- (10) Where any person fails to comply with the provisions of subsection (1), or fails to comply with the requirements of a notice given to such person by an Assessor under subsection (2) directing him to furnish within the time specified in such notice, a return containing such particulars as the Assessor may require, the Commissioner-General may—
- impose on such person a penalty of a sum not exceeding fifty thousand rupees, and give notice in writing to such person of the imposition of such penalty;
 - by notice in writing require such person—
 - to pay such penalty; and
 - to furnish the return he is required to furnish under subsection (1) if such return has not been furnished or to comply with the requirements or the notice given to him under subsection (2) if such requirements have not been complied with, as the case may be, within such period as may be specified in such notice.
- (11) The Commissioner-General may reduce or annul any penalty imposed on any person under paragraph (a) of subsection (10) if such person proves to the satisfaction of the Commissioner-General that his failure to comply with the provisions of subsection (1) of the direction under subsection (2), as the case may be, was due to circumstances beyond his control and that he has subsequently complied with such provisions or direction.
- (12) Except where the Commissioner-General, imposes a penalty under subsection (9), every person who contravenes the provisions of subsection (1) or subsection (2), shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.
22. (1) A registered person shall, in respect of any taxable supply made by him, account for and pay the tax by reference to such taxable period at such time and in such manner as may be specified in this Act:
- Provided however the amount of tax, due on the supply of any garments within such percentage as is permitted for sale locally by the Board of Investment of Sri Lanka, under any agreement entered into by a manufacturer of garments for export under section 17 of the Board of Investment of Sri Lanka Law, No.4 of 1978 shall be twenty five rupees for each such garment supplied within Sri Lanka.
- (2) Subject to the provisions of this Act, a registered person shall be entitled at end of each such period to credit for so much of his input tax as is allowable under this Act, and then to deduct such amount from any output tax that is due from him:
- Provided, however, any person adopting a payment basis of accounting, shall be entitled to claim credit on so much of his input tax as is allowable under this Act, only in respect of a supply for which the payment of the tax has been made by such person.
- (3) Where a supply of goods or services received by a registered person, or goods imported by such person are used or are to be used partly for the purposes of a taxable activity carried on or carried out by such persons on which tax can be levied and partly for other purposes, the tax on such supplies and importation shall be apportioned so however that only so much of the tax on such supplies or importation as is referable to his taxable activity on which tax can be levied shall be counted as his input tax.
- Provided however, in the case of a person providing leasing facilities under the Finance Leasing Act, No.56 of 2000, the input tax on goods supplied under a leasing agreement for a period less than three years shall be counted at the rate of ten *per centum* or less, even if the tax charged on such goods is more than ten *per centum*.
- (4) Where any return is furnished under subsection (1) or (2) of section 21 and if at the end of any taxable period to which the return relates, the amount of the input tax exceeds the amount of the output tax, the excess of the input tax shall, subject to the provisions of section 58 be refunded. Where such excess is not so refunded, the Commissioner-General shall pay interest at the rates prescribed under section 59 on such amount, for the period commencing on the expiration of two months from the end of the taxable period in which such refund became due and ending on the date of the refund:

Provided that where any residue of any excess input tax refundable on or after August 1, 2002 under the Goods and Services Act, No.34 of 1996 is outstanding on August 1, 2002, such excess shall not be deducted from any output tax due for any taxable period under this Act, but shall accordingly be refunded under the Goods and Services Tax Act, No.34 of 1996.

- (5) Where an unregistered person leases out his land and buildings in terms of a tenancy agreement, to a registered person, such registered person shall notwithstanding that the unregistered person is not entitled to claim any input tax in respect of any expenses incurred in connection with the services provided on such land and building, be entitled to claim input tax for the expenses incurred by him in connection with the services provided on such land for the duration of such tenancy agreement if such registered person provides sufficient evidence to the satisfaction of the Commissioner-General, which establish the existence of a tenancy agreement in respect of such land and building:

Provided however, that where in a taxable period—

- (a) there is an excess of input tax in any taxable period, in the case of a registered person who has entered into an agreement with the Board of Investment of Sri Lanka and that taxable period falls within the period referred to in item (xxvii) of the Schedule to the Goods and Services Tax Act, No.34 of 1996 or Item (xx) of the First Schedule to this Act or, within the project implementation period as stipulated in any agreement referred to in item (xxvii) of the Schedule to the Goods and Services Tax Act No.34 of 1996 or Item (xx) of the First Schedule to this Act or up to the commencement of commercial activities which ever is earlier;
- (b) there is an excess of input tax and that taxable period falls before the taxable period, in which the making of taxable supplies commenced as undertaken by such person in the case of a person referred to in subsection (6);
- (c) there is an excess of input tax including the tax deferred under section 2, in the case of a registered person the value of whose zero rated supplies for the taxable period was more than fifty *per centum* of his total taxable supplies for that taxable period, the excess of the input tax inclusive of any excess input tax brought forward from a preceding taxable period;
- (d) any registered person who has obtained a deferment tax under section 2 in any taxable period and not made any zero rated supplies or made zero rated supplies of fifty *per centum* or less of the total taxable supply for such taxable period, the excess of input tax not exceeding the amount of such deferred tax under section 2,

such part of the excess or such excess as the case may be, including any excess brought forward from any taxable period under this Act or the Goods and Services Tax Act, No.34 of 1996 for any taxable period or part of a taxable period ending on or before July 31, 2002 shall be refunded, subject to the provisions of section 58 not later than one month after the end of the taxable period or from the date of the receipt of the return for such taxable period, in which the excess arose, whichever is later:

Provided further, in case of a registered person who imports goods for re-sale without processing, the excess input tax representing the tax paid under subsection (3) of section 2 shall not be refunded.

In the event of a failure to pay such refund within such period, interest on such refund shall be payable from the date on which the refund becomes due to the date of payment thereof at such rate as may be prescribed under section 59 subject to the provisions of the proviso to that section.

- (6) Any input tax attributable to the supply of goods or services received shall not be deducted under subsection (2) in respect of the following:—
- (i) if the supply is in respect of motor vehicles other than motor cycles, bicycles, motor coaches provided by an employer for the transportation of his employees, motor vehicles used for excursion tours, or for the transportation of tourists or transportation of goods or hiring cars, or motor vehicle forming part of any stock in trade of any taxable activity;
 - (ii) if the supply of goods or services received is not connected with the taxable activity;
 - (iii) if the supply of goods or services received is not supported by—
 - (a) tax invoice;
 - (b) a customs goods declaration or other authenticated document issued by the Director-General of Customs;
 - (i) duly issued under the Goods and Services Tax Act, No.34 of 1996 or under this Act; and

- (ii) received within twelve months from the end of the taxable period in respect of which the tax invoice was issued ; or
- (iv) if the input tax on such invoice as mentioned in subparagraph (iii) has not been deducted from output tax for any taxable period ending before the lapse of six months from the last day of the taxable period in which such invoice was received:

Provided however, notwithstanding the provisions of subsection (3) and paragraph (ii) of subsection (5) registered person who has obtained a licence under the Electricity Act, (Chapter 205) and engages in the distribution of electricity may be allowed input tax on the purchase of electricity for such distribution notwithstanding the exemption under items (xxvi) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 or under item (xviii) of the First Schedule to this Act.

- (7) Where any person has proved to the satisfaction of the Commissioner-General, that such person has commenced any business or any project to carry on a business or project in Sri Lanka, and undertakes to make taxable supplies in such business within a period of thirty months from such commencement, he may register such person subject to such conditions as may be specified by him, notwithstanding the provisions of section 14 and allow credit for input tax in respect of such business or project subject to the provision of sub-paragraph (iii) of subsection (5). Further, where the Commissioner-General is satisfied that in consideration of the nature of the project that the period of thirty months is not sufficient to make taxable supplies he may extend such period on the basis of an application made by such registered person to that effect.
- (8) Notwithstanding the provisions of section 33, any refund in excess of the amount due, or any excess amount of input tax claimed under this Act or the Goods or Services Tax Act, No.34 of 1996 shall be assessed by an Assessor on the registered person to whom the refund has been made or making such claim, as the case may be, and such amount shall be deemed to be a tax in default on the first day of the taxable period in which the excess of input tax first arose resulting in such refund or claim in excess as the case may be.

For the purpose of this subsection, input tax claimed in a return by any person—

- (a) who has not commenced any commercial operation within or on completion of the project implementation period referred to in item (xxvii) or item (xxviii) of the Schedule to the Goods and Services Tax Act, No. 34 of 1996 or item (xix) or (xx) of the First Schedule to this Act, as the case may be;
 - (b) who has obtained approval under subsection (6) and has not commenced business of making taxable supplies as stated in the undertaking given, by such person prior to obtaining such approval,
- shall be deemed to be an excess amount of input tax claimed by such person.

23. Every registered person shall account for tax on an invoice basis:

Provided however that, the Commissioner-General may direct such person to account for tax on a payment basis on such conditions as may be specified by him on an application made in that behalf by a registered person.

24. In ascertaining the amount of tax payable in any taxable period, there shall be deducted an amount of tax corresponding to any bad debt incurred in the taxable activity of a registered person on a debt created on or after April 1, 1998 and which has become bad during such taxable period. The amount of tax deductible shall not exceed the amount paid as tax in previous taxable period in respect of the bad debt which is to be written off:

Provided that, any amount written off as bad debt before or after the commencement of this Act is received in any taxable period by that person on account of the bad debt so written off, notwithstanding the provisions of section 33, the amount received shall be treated as a taxable supply during the taxable period under this Act or the Goods and Services Tax Act, No. 34 of 1996 in which it was received and shall be liable to tax:

Provided further, that where any amount for tax corresponding to a bad debt has been deducted by any person, the amount so deducted shall be an output tax for the corresponding period of the person in respect of whom the bad debt was incurred if he is a registered person.

25. (1) Where a registered person, has issued a tax invoice and accounted for an incorrect amount of tax by undercharging or overcharging tax on a supply made to another person, he shall be entitled to issue to such other person a tax debit note or a tax credit note, as the case may be, for the purpose of adjusting the amount of tax so undercharged or overcharged.

- (2) Upon the issue of the tax debit note or tax credit note, as the case may be, in respect of a supply and in relation to the period in which such note was issued—
- (a) the supplier shall pay as output tax such amount of the tax that was chargeable in respect of the supply as is in excess of the amount that was accounted for or deduct as input tax such amount as was accounted for as output tax as exceeds the amount of tax chargeable; and
 - (b) the person to whom the supply was made shall if such person is a registered person pay as output tax such amount of the tax that was deducted by him as input tax as exceeds the proper amount that should have been deducted or deduct as input tax such amount as was deductible as exceeds the actual amount deducted by him, as the case may be.
- (3) The tax debit note or tax credit note referred to in subsection (1) shall be in the specified form.

CHAPTER IV

PAYMENT OF TAX

26. (1) The tax in respect of any taxable period shall be paid not later than the last day of the month following the end of that taxable period. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, each such person shall be deemed to be a defaulter for the purposes of this Act.
- (2) The Commissioner-General may, defer the due date for the payment of any tax assessed under paragraph (a) or (b) of subsection (1) of section 28 or subsection (1) of section 31, under an appeal against such assessment where—
- (a) a request in writing has been made to the Commissioner-General for a deferment; and
 - (b) it has been proved to the satisfaction of the Commissioner-General that the tax due on the alleged supplies on which the assessment has been made has not been charged by such person:
- Provided however, such deferred tax or part thereof shall become payable on the settlement of the appeal or withdrawal of the deferment by the Commissioner-General, and shall be deemed to be tax in default of the original due date of such tax.
27. (1) Where any tax is in default; the defaulter shall, in addition to such tax in default pay as penalty—
- (a) a sum equivalent to ten *per centum* of the amount in default; and
 - (b) where the amount in default is not paid before the last day of the month succeeding the month in which such tax has begun to be in default, a further sum, equivalent to two *per centum* of the amount in default in respect of each period ending on the last day of each succeeding month or part of such period during which it is in default:
- Provided however, that the total amount payable as penalty under this subsection shall in no case exceed one hundred *per centum* of the tax in default and any such amount maybe waived or reduced if the Commissioner-General is satisfied that by reason of any special circumstances in which the default occurred waiver or reduction of such amount would be just and equitable.
- (2) Where upon the final determination of an appeal under Chapter VI any tax in default to which any sum or sums under subsection (1) has or have been added is reduced, then such sum or sums shall be calculated on the tax so reduced.

CHAPTER V

ASSESSMENT OF TAX

28. (1) Where—
- (a) any registered person who in the opinion of the Assessor is chargeable with tax, fails to furnish a return for any taxable period ; or
 - (b) any registered person, who is chargeable with tax, furnishes a return in respect of any taxable period but fails to pay tax for that taxable period ; or
 - (c) any person requests the Commissioner-General in writing to make any alteration addition to any return furnished by such person for any taxable period,
- the Assessor shall assess the amount of the tax, which such person, in the judgement of the Assessor, ought

to have paid for that taxable period and shall, by notice in writing, require such person to pay such amount forthwith. The amount so assessed in respect of any person for a taxable period shall, be deemed to be the amount of the tax payable by him for that taxable period.

For the purpose of this section the notice given under this section may refer to one or more taxable periods.

- (2) An assessment made under subsection (1) in respect of any person for any taxable period shall not affect the liability of such person to a penalty under section 27 as though the amount assessed was the amount of tax due from him for that taxable period.
 - (3) Where, in the opinion of the Assessor, the amount paid as tax for any taxable period by any person who has failed to furnish a return in respect of that taxable period is less than the actual amount payable by such person for that taxable period the Assessor shall assess the amount which, in the judgement of such Assessor, ought to have been paid by such person and shall, by notice in writing, require that person to pay on or before a date specified in that notice, the difference between the amount so assessed and the amount paid by such person.
 - (4) Where an assessment is made under subsection (3) in respect of any person for any taxable period the difference between the amount so assessed and the amount paid by that person as tax for the taxable period shall be deemed to be the tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for such taxable period, be liable in respect of that amount to the penalty.
29. Where an Assessor does not accept a return furnished by any person under section 21 for any taxable period and makes an assessment or an additional assessment on such person for such taxable period under section 28 or under section 31, as the case may be, the Assessor shall communicate to such person by registered letter sent through the post why he is not accepting the return.
30. Where the Assessor is of opinion—
- (a) that a registered person has made a taxable supply for a value less than the open market value of such supply or for no value; or
 - (b) the transaction in respect of which taxable supply has been made, is between two associated persons,
- in order to avoid the payment of tax, he shall determine the open market value of such supply on which tax shall be charged having regard to the circumstance of the transaction and the time of supply.
31. (1) Where it appears to an Assessor that a person chargeable with tax has for any taxable period paid as tax an amount less than the proper amount of the tax payable by him for that taxable period, or chargeable from him for that taxable period, the Assessor may, at any time, assess such person at the additional amount at which, according to the judgement of such Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of the assessment.
- (2) Where an assessment is made under subsection (1) in respect of any person for any taxable period, the amount so assessed shall be deemed to be tax in default for that taxable period and accordingly such person shall, from the date on which such person ought to have paid the tax for that taxable period be liable to the penalty in respect of such amount.
32. The production of any document under the hand of the Commissioner-General purporting to be a copy of or extract from any return or assessment made under this Act shall be admissible in all courts and shall be sufficient evidence of the original.
33. (1) Where any registered person has furnished a return under subsection (1) of section 21 in respect of a taxable period or has been assessed for tax in respect of any period, it shall not be lawful for the Assessor, where an assessment—
- (a) has not been made, to make an assessment; or
 - (b) has been made, to make an additional assessment, after the expiration of three years from the end of the taxable period in respect of which the return is furnished, or the assessment was made, as the case may be.
- (2) Notwithstanding the provisions of subsection (1) where the Assessor is of opinion that a person has wilfully or fraudulently failed to make a full and true disclosure of all the material facts necessary to determine the amount of tax payable by him for any taxable period, it shall be lawful for the Assessor where an

assessment—

- (a) has not been made, to make an assessment; or
- (b) has been made to make an additional assessment, at any time

CHAPTER VI

APPEALS

34. (1) Any registered person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, or a penalty imposed under this Act, appeal against such assessment, additional assessment or penalty, as the case may, to the Commissioner-General within thirty days after the service of notice of such assessment, additional assessment or imposition of penalty, as the case may be. Such person shall, notwithstanding the appeal, but subject to subsection (2) of section 26, pay the tax charged by such assessment or additional assessment together with any penalty imposed on him by this Act:

Provided that, the Commissioner-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

- (2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall state precisely the grounds of such appeal.
- (3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be accompanied by a return with the proof of payment of the tax and penalty due on such return.
- (4) Every person preferring an appeal under subsection (1) against an assessment for any taxable period shall (unless such person has done so already), pay to the Commissioner-General the amount of the tax payable by such person on the basis of the return furnished by him for such period together with any penalty thereon accrued up to the date of such notice of assessment, and shall attach, to the petition of appeal a receipt in proof of such payment:

Provided that the Commissioner-General upon being satisfied that owing to serious financial hardship suffered by the appellant at or about the time of such notice of assessment or, owing to other reasonable cause, the appellant was prevented from paying such tax and such penalty, may grant an extension of time for the payment of such tax and penalty thereon accrued up to the date of payment, and the receipt furnished within such extended time shall, for the purposes of this subsection, be deemed to have been attached to the petition of appeal.

- (5) Every petition of appeal which was not made within the period specified under subsection (1) or does not conform to the provisions of subsections (2), (3) and (4) shall not be valid.
- (6) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by an Assessor, and if in the course of such inquiry and agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made:
- (7) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (6), the Commissioner-General shall fix a time and place for the hearing of the appeal.
- (8) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appellant in person or by an authorized representative. The Commissioner-General may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he shall fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal and may, if he considers that, the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed to the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General shall dismiss the appeal:

Provided that, if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner-General that he or his authorized representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other

reasonable cause, the Commissioner-General may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

Provided further, that every petition of appeal under this Chapter shall be agreed to or determined by the Commissioner-General within three years from the date on which such petition of appeal is received by the Commissioner-General unless the agreement or determination of such appeal depends on the furnishing of any document or the taking of any action by any person other than the appellant or the Commissioner-General or an Assessor. Where such appeal is not agreed to or determined within such period the appeal shall be deemed to have been allowed and the tax charged accordingly. The receipt of any appeal under this section shall be acknowledged and the date of the letter of acknowledgement shall for the purposes of this section be deemed to be the date of receipt of such appeal.

For the purposes of this proviso where an extension of time has been granted to an appellant for the payment of tax under subsection (4) the date of the receipt in proof of the payment of tax shall be deemed to be the date of receipt of such Appeal.

- (9) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence in respect of the appeal to attend before him and examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by such person in so attending.
 - (10) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, instruments, books of accounts, trade lists, stock lists, registers, cheques, paying in slips, auditors reports or other documents in his possession as may be specified in such notice. Further, the Commissioner-General may obtain the assistance of any other Commissioner, Deputy Commissioner or an Assessor who is familiar with the issues involved in such hearing of an appeal.
 - (11) Where the Commissioner-General hears the evidence of the appellant or any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.
 - (12) In determining an appeal under this section the Commissioner-General may confirm reduce, increase or annul the assessment appealed against and shall give notice in writing to the appellant of his determination on the appeal.
 - (13) The Commissioner-General, any at any time prior to the determination of an appeal cancel the deferment of the due date for under subsection (2) of section 26, if he is satisfied that the appellant has not taken adequate steps to settle the appeal and inform the appellant in writing of such cancellation.
35. Any person aggrieved by the determination of the Commissioner-General upon an appeal made to him under subsection (1) of section 34 may appeal from such determination to the Board of Review constituted under the Inland Revenue Act, No.38 of 2000 and provisions of that Act relating to appeals to such Board shall, *mutatis mutandis*, apply to and appeal under this section.
36. (1) The decision of the Board of Review shall be final:
- Provided that either the appellant or the Commissioner-General may make an application requiring the Board of Review to state a case on a question of law for the opinion of the Court of Appeal.
- (2) The provisions of, the Inland Revenue Act, No.38 of 2000 relating to appeals to the Court of Appeal and to the Supreme Court shall, *mutatis mutandis*, apply to an application and reference under this section.

CHAPTER VII

FINALITY OF ASSESSMENT AND PENALTY FOR INCORRECT RETURN

37. Where no valid appeal has been preferred within the time specified in this Act against an assessment in respect of tax or where the amount of tax has been determined on appeal, the assessment as made or reduced or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax:

Provided that, nothing in this section shall prevent an assessor from making an Assessment or additional assessment for any taxable period if it does not involve reopening any matter which has been determined on appeal for that taxable period.

38. Where in an assessment made on any person, the tax exceeds, the tax paid by him as the amount due from him in respect of the taxable supplies specified in his return and the assessment is final and conclusive under section 37, the Commissioner-General may unless that person proves to the satisfaction of the Commissioner-General that there was no fraud or wilful neglect involved in the disclosure of the taxable supplies made or input tax claimed by that person in such return, in writing, order that person to pay, on or before a specified date, as penalty for making an incorrect return, a sum not exceeding twenty five thousand rupees and a sum equal to twice the amount of the difference between the total tax claimed in the assessment and the tax paid on the return:

Provided however, any such person on whom a penalty is imposed under this section shall not be liable to prosecution for an offence relating to that taxable period under section 66.

CHAPTER VIII

RECOVERY OF TAX

39. (1) For the purposes of this Chapter "tax" includes a penalty imposed or incurred under this Act.
- (2) Whenever the Commissioner-General issues certificate under section 42 or section 43 or a notice under section 44, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent through the post or by telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.
40. Any tax in default shall be a first charge on all the assets of the defaulter:
- Provided that—
- (i) such charge shall not extend to or affect any assets sold by such person to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 42;
 - (ii) as regards immovable property the tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the seizure;
 - (iii) as regards movable property, where the tax for more than four taxable period is in default, the tax for four taxable periods only to be selected by the Commissioner-General, shall rank in priority to any lien or encumbrance treated *bona fide* for value prior to the date of default of such tax.
41. (1) Where any tax is in default, the Commissioner-General shall, before proceeding to recover such tax, issue notice in writing to the defaulter stating—
- (a) the particulars of such tax; and
 - (b) that action is being contemplated to recover such tax.
- (2) Where an assessment has been made and the defaulter has not appealed within the specified time against the assessment in respect of which such tax is charged, he may within thirty days of date of such notice make any objection to the tax so charged to the Commissioner-General and the Commissioner-General shall notwithstanding the provisions of section 37 consider such objections and give his decision thereon which shall be final.
42. (1) The Commissioner-General may appoint persons to be tax collectors for the purposes of this Act.
- (2) Where any tax is in default, the Commissioner-General may issue a certificate to a Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or Tax Collector containing particulars of such tax and the name and address of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.
- (3) The seizure referred to in sub section (2) shall be effected in such manner as the said officer shall deem most expedient in that behalf and any property so seized shall be kept for seven days at the costs and charges of the defaulter. If the defaulter fails to pay the said tax in default together with the costs and charges within the said seven days the Divisional Secretary, Assistant Divisional Secretary, Fiscal, Deputy Fiscal or Tax Collector, as the case may, shall cause such property to be sold by public auction.
- (4) The sum realized by sale shall be applied—
- (i) firstly in payment of the costs and charges of seizing, keeping and selling the property; and
 - (ii) secondly in satisfaction of the tax in default,
- and any balance shall be paid to the owner of the property seized.

- (5) It shall be lawful for a Tax Collector to recover from the defaulter reasonable expenses incurred by him in proceeding against the defaulter under this section notwithstanding that the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the amount so seized. Any amount so recovered or set off shall be informed to the defaulter in writing.
- (6) Where any tax is in default, and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or in expedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing such particulars of tax and the name and address of the person or person by whom, the tax is payable, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

For the purposes of this section "movable property" shall include plant and machinery whether fixed to a building or not.

43. (1) Where the Commissioner-General is of opinion in any case that recovery of tax in default by seizure and sale is impracticable, or inexpedient or where the full amount of the tax in default has not been recovered, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter, to a Magistrate having jurisdiction in the division in which such place of business or residence of the defaulter is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment and the provisions of subsection (1) of section 291 except paragraphs (a), (d) and (i), thereof of the Code of Criminal Procedure Act, No.15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence:

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner-General.

- (2) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No.15 of 1979, shall apply in any case referred to in subsection (1).
- (3) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that section to have been imposed on him, the Magistrate may allow time for the payment of the amount of the said fine or direct payment of that amount to be made in instalments.
- (4) The court may be required bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (3) for the payment of the fine; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No.15 of 1979, shall apply where the defaulter is so required to be given bail.
- (5) Where payment in instalments is directed under subsection (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.
44. (1) Where the tax payable by any person is in default and it appears to the Commissioner-General to be probable that any person –
 - (a) owes or is about to pay money to the defaulter or his agent; or
 - (b) holds money for or on account of the defaulter or his agent; or
 - (c) holds money for or on account of some other person for payment to the defaulter or his agent; or
 - (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

- (2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract or agreement.
- (3) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith owing to the fact that moneys in question do not come into his hands or custody or become due from him during the period referred to in subsection (1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.
- (4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3) or where such person had deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as required by the Commissioner-General the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, be liable or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager, or the principal officer of such company or body be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all means provided in this Act.
- (5) For the purposes of this section the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been payable by any person if he were alive is in default, and for the purpose of the application of these provisions in any such case, the expression "defaulter" in subsection (1) means—
 - (a) the executor or administrator of such deceased person; or
 - (b) any person who takes possession of, or intermeddles with, the property of such deceased person; or
 - (c) any person who has applied, or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of such deceased person.
45. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the tax due from him, the Commissioner-General may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Sri Lanka without paying the tax or furnishing security to the satisfaction of the Commissioner-General for payment thereof.
 - (2) At the time of issue of the certificate to the Magistrate the Commissioner-General shall issue to such person a notification thereof by personal service, or registered letter sent through the post or telegraph; but the non receipt of any such notification by such person shall not invalidate proceedings under this section.
 - (3) The production of a certificate signed by the Commissioner-General stating that the tax has been paid or that security has been furnished for the payment of the tax or payment of the tax to a police officer in charge of a police station shall be sufficient authority for allowing such person to leave Sri Lanka.
 - (4) Any police officer to whom the amount of any tax specified in such certificate has been paid shall forthwith pay such amount to the Commissioner-General.
46. Where the Commissioner-General is of opinion that application of any one of the means of recovery provided in this Act has failed or is likely to fail to secure payment of the full amount of tax due from any person it shall be lawful for the Commissioner-General to proceed to recover any sum remaining unpaid, by any means of recovery provided in this Act, notwithstanding that an order has been made by a Magistrate under section 43 and carried into effect.
47. The Commissioner-General may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner-General may require for the purpose of recovering any tax due from such person or any other person.
48. (1) Where a body corporate has not paid any tax on or before the due date, as provided in Chapter IV it shall be lawful to proceed under all or any of the provisions of this Chapter against a manager, director, secretary or any other principal officer of such body corporate, as if such officer is responsible for such default unless he proves the contrary to the satisfaction of Commissioner-General notwithstanding anything in any other written law relating to such body corporate.

- (2) Where an unincorporate body of persons has not paid any tax on or before the due date, as provided in Chapter IV, it shall be lawful to proceed under all or any of the provisions of this Chapter against any partner or office-bearer of such unincorporate body of persons as it he is responsible for such default unless he proves the contrary to the satisfaction of the Commissioner-General, notwithstanding anything in any other written law.
49. (1) The Commissioner-General may, by writing under his hand, delegate to any Assessor any of the powers and functions conferred on or assigned to the Commissioner-General by this Chapter.
- (2) Every Assessor to whom any power or function has been delegated under subsection (1) shall exercise or discharge such power or function subject to the general or special directions of the Commissioner-General.

CHAPTER IX

SPECIAL CASES

50. Any act or thing required by or under this Act to be done by any person shall, if such person is an incapacitated person be deemed to be required to be done by the trustee of such incapacitated person.
51. Any act or thing required by or under this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership:
Provided that any person to whom a notice has been given under the provisions of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.
52. (1) The secretary, manager, director or other principal officer of every company or body of persons shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Act by such company or body of persons:
Provided that any person to whom a notice has been given under the provisions of this Act on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with such company or body of persons or that some other person resident in Sri Lanka is the principal officer thereof.
- (2) Where an offence under this Act is committed by a company or body of persons, every person who at the time of the commission of the offence was the secretary, manager, director or other principal officer of the company or body of persons shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions in such capacity.
53. (1) Subject as hereinafter provided, where during the course of a taxable period a person chargeable with tax ceases to carry on or carry out any taxable activity in respect of which he is chargeable with such tax, he shall, notwithstanding that he has ceased to carry on or carry out such taxable activity, be liable to pay such tax for the period during which he carried on or carried out that taxable activity in that taxable period.
- (2) Where any person carrying on or carrying out a taxable activity transfers the assets of such taxable activity to another person, as a going concern, resulting in a change of ownership of any trade or businesses, tax payable in respect of such taxable activity for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of tax shall apply accordingly.
54. (1) Where any person chargeable with the tax dies, the executor of such deceased person shall, in respect of all taxable periods prior to the date of death of such person, be chargeable with tax which such person would be chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive, would be liable to do under this Act;
Provided that—
- (a) no proceedings shall be instituted against the executor in respect of any act or default of action of the deceased person;
- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after three years from the end of the taxable period in which the death occurred; and

- (c) the liability of the executor under this section shall be limited to the sum of-
 - (i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to tax will arise under this section; and
 - (ii) any part of the estate which may have passed to a beneficiary.
 - (2) Where an executor on behalf of the estate of a deceased person carries on any taxable activity which is a part of such estate, such executor shall, in respect of such taxable activity, be chargeable with the tax with which such person would be chargeable if he were alive.
55. Where any taxable activity in respect of which tax is payable is carried on or carried out by any person on behalf of any other person as the agent of such other person, the first mentioned person shall be chargeable with the tax in respect of that taxable activity in like manner and to the like amount as the second mentioned person would be chargeable under this Act.
56. Where two or more persons act in the capacity as trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with the tax with which they are chargeable in the capacity under this Act and shall be jointly and severally liable for the payment of such tax.
57. (1) Notwithstanding anything in the Companies Act, No.17 of 1982, where a company is wound up and where any tax to which that company is liable cannot be recovered, then every person who was a director of the company at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, malfeasance or breach of duty on his part in relation to affairs of the company, and the provisions of this Act as to collection and recovery of tax shall apply accordingly.
- (2) Where a body of persons is dissolved any tax to which such body of persons is liable, cannot be recovered then every person who was a partner or office bearer of such body of persons at any time during the period in respect of which such tax is payable shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of the tax cannot be attributed to any gross neglect malfeasance or breach of duty on his part in relation to the affairs of such unincorporate body and the provisions of this Act relating to collection and recovery of tax such apply accordingly.

CHAPTER X

REFUND OF TAX

58. (1) Where a registered person makes an application for a refund of any tax or any penalty paid by him in excess during the taxable period and satisfies the Commissioner-General that such person has paid any tax or any penalty in excess, of any amount which he was liable to pay for that period, such person shall be entitled to a refund of the amount paid in excess, subject to the provisions of subsection (3);
- Provided however, that any such amount paid in excess by a registered person referred to in paragraphs (a), (b), (c) or (d) of subsection (4) of section 22, shall be refunded to such person within one month from the end of the taxable period, or from the date of the receipt of the return for the taxable period, in which the excess arose which ever is later.
- (2) Where through death, incapacity, bankruptcy, liquidation or other cause a registered person who would but for such cause have been entitled to make a claim under subsection (1) is unable to do so, his executor, trustee or receiver as the case may be, shall entitled to a refund of any tax or penalty paid in excess within the meaning of subsection (1) by such person for the benefit of such person or his estate.
- (3) Notwithstanding anything in subsection (1) where any registered person-
- (a) has failed to pay the Commissioner-General in whole or in part, any tax in respect of any taxable period, any amount of tax payable before the due date may be set off after due notice to such person against that unpaid tax, any amount or any part of any amount otherwise refundable to that person or any amount or part of any amount of interest payable to that person under section 59 and shall treat any amount so set off as a payment received from such registered person;
 - (b) has not furnished a return, in respect of, any taxable period the Commissioner-General may withhold payment of any amount otherwise refundable or any amount of interest payable under section 59 of this Act, until the registered person has furnished such return.

59. (1) Where any amount refundable under this Act to a registered person has not been refunded within a period of thirty days from the due date of such refund there shall be paid by the Commissioner-General to such person interest on such amount for the period commencing on the thirtieth day from the due date up to the date of refund of the amount as is required to be refunded by the Commissioner-General to such person under this Act, at the rate prescribed by the Minister from time to time:

Provided however, no such interest shall be payable where there was a delay on the part of the registered person in complying with any requirement made by the Assessor in respect of any records of the registered person.

- (2) For the purposes of this section "due date" means the period ending ninety days—
- (i) from the date of agreement with an Assessor or from the date of determination of an appeal in respect of the assessment appealed against; or
 - (ii) from the date on which a claim, other than a claim for a refund made in writing under subsection (4) of section 22 was received from such person by the Commissioner-General.

CHAPTER XI

MISCELLANEOUS

60. (1) Every notice to be given by the Commissioner-General, a Deputy Commissioner or an Assessor under this Act shall bear the name of the Commissioner-General or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General, Deputy Commissioner or Assessor is duly printed or signed thereon.
- (2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or during the period to which the notice relates, was carrying on or carrying out a taxable activity.
- (3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.
- (4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.
- (5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Act, which purports to be name the person authorised to give or issue the same, shall be judicially noticed.
61. (1) No notice, assessment, certificate or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.
- (2) Without prejudice to the generality of subsection (1) an assessment shall not be affected or impugned by reason of—
- (a) a mistake therein as to the name or surname of person chargeable, the amount of the value of taxable supplies or the amount of tax charged; or
 - (b) any variance between the assessment and the notice therefore.
- if notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars set out in paragraph (a) of this subsection.
62. (1) Any officer of the Department of Inland Revenue who is specially authorised by the Commissioner-General in that behalf may, accompanied by a peace officer, to do all or any of the following acts :—
- (a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found, and examine them if found;
 - (b) seize any such books of account, registers, records, or other documents or place marks of identification thereon or make extracts or copies therefrom;

(c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Act, and the provisions of the Code of Criminal Procedure Act, No.15 of 1979, relating to searches shall apply so far as may be to searches under this section.

In this subsection "peace officer" shall have the same meaning as in the Code of Criminal Procedure Act, No.15 of 1979.

- (2) Before authorising any officer to exercise the powers under subsection (1), the Commissioner-General shall record the circumstances which necessitate the exercise of such powers by such officer.
 - (3) Where any officer authorised by the Commissioner-General under subsection (1) take into possession any possession any book of account, register, record or other document from any person, such officer shall issue to such person a memorandum specifying the book, register, record or other document he has taken into this possession.
 - (4) Any book of account, register, record or other document taken to his possession under subsection (1), by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.
63. (1) The Commissioner-General or any other officer of the Department of Inland Revenue who is specially authorised in that behalf by the Commissioner-General in writing may do all or any of the following acts:-
- (a) enter and inspect any place or building where any taxable activity is carried on by any person for the purpose of ascertaining whether the provisions of this Act are being complied with;
 - (b) open and examine any book of account, register, record or any other document which may be found therein and make an inventory of any of the articles found therein;
 - (c) examine and take copies of, or make extracts from any book of account, register, record or other document found in such place or building;
 - (d) take possession of any book of account, register, record or other document or place marks of identification thereon;
 - (e) count and make a record immediately of the cash found in such place or building;
 - (f) require any person whom he finds in such place or building to give such information within his knowledge with respect to matters under this Act;
 - (g) examine, either alone or in the presence of any other person, as he thinks fits, with respect to matters under this Act, every person whom he finds in such place or building.
- (2) Where an officer authorised by the Commissioner-General under subsection (1), takes into his possession any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.
 - (3) Any book of account, register, record or other document taken into his possession under subsection (1), by any officer may be retained in the possession of such officer for a period not exceeding three years from the date of taking such possession for the purposes of scrutinizing such book, register, record or document or for the institution of legal proceedings against the person to whom such book, registers, record or other document belongs:

Provided, however where the Commissioner-General has instituted action in the case of wilful evasion under sections 66 or 67 as the case may be, such book, register, record or document may be retained as long as it is required for the purposes of such prosecution.

64. (1) Every registered person shall keep and maintain records in respect of the taxable activity carried on or carried out by him to enable the Commissioner-General or any other officer authorised by the Commissioner-General or that behalf to ascertain the liability for the payment of the tax.
- (2) The form of the records, to be maintained under subsection (1) and the particulars to be set forth therein shall be as prescribed.
- (3) For the purpose of this section "records" includes-

- (a) books of account, (whether contained in a manual, mechanical or electronic format or combination thereof) recording receipts or payments or income or expenditure and also includes vouchers, bank statements, invoice tax invoices, tax credit notes, tax debit notes, receipts and such other documents as are necessary to verify the entries in any such books of account;
- (b) details of any warehouse, go-down or any other place where stock of goods are kept and the stock of goods kept in such warehouse, go-down, or any other place as the case may be;
- (c) any list or record required to be maintained or kept in accordance with the provisions of this Act or under any regulations made thereunder.

CHAPTER XII

OFFENCES AND PENALTIES

65. Every person who—

- (a) being a person required to take an oath fails to take an oath of secrecy when so required under section 73; or
 - (b) acts in contravention of the provisions of section 73; or
 - (c) aids, abets or incites any other person to act in contravention of any of the provisions of this Act,
- shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

66. Any person who—

- (a) gives any false answer whether orally or in writing to any question or when requested to furnish information in accordance with the provisions of this Act, or under the Good and Services Tax Act, No.34 of 1996;
 - (b) omits from a return made under this Act any particulars which he should have included in such return; or
 - (c) makes any false return or false entry in any return made under this Act,
- and thereby evades or attempts to evade tax or assists any other person to evade or to attempt to evade tax shall be guilty of an offence under this Act, and shall be liable, after summary trial before a Magistrate, to a fine consisting of—
- (i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he is liable under this Act for the taxable period in respect of which the offence was committed; and
 - (ii) a sum not exceeding twenty five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

67. Every person who—

- (a) fails to apply for registration as required under section 10; or
- (b) fails to notify the Commissioner-General of any matters required to be notified under section 19; or
- (c) fails to issue a tax invoice as required under subsection (1) of section 20 or an invoice under subsection (6) of section 20; or
- (d) issues more than one tax invoice for each taxable supply; or
- (e) issues a tax invoice where such person is not, entitled to issue such tax invoice under section 20; or
- (f) fails to furnish a return under section 21 or comply with a notice issued under section 21; or
- (g) having appeared before an officer of the Department of Inland Revenue in compliance with a notice issued to him under section 21 or section 34 fails, without sufficient cause, to answer any question lawfully put to him by an officer acting under this Act; or
- (h) gives any incorrect information relating to any matter or thing affecting his own liability to tax or the liability of any other person; or
- (i) permits the payment to any other person, other than the Commissioner-General of any amount to be paid under section 44; or
- (j) wilfully obstructs or delays the Commissioner-General or any other officer in the exercise of his power under section 62 or 63; or
- (k) fails to maintain records as required under section 64;
- (l) not being a person registered under this Act, issues a tax invoice,

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

68. No prosecution in respect of an offence under this Chapter shall be commenced except at the instance, or with the sanction of the Commissioner-General.
69. The Commissioner-General may with the consent of the parties, having regard to the circumstances in which any offence under this Act was committed compound, such offence for a sum not exceeding one third the maximum fine imposed for that offence under this Act. Any sum received by the Commissioner-General in compounding an offence under this section shall be credited to the Consolidated Fund.

CHAPTER XIII

ADMINISTRATION

70. (1) The Commissioner-General shall, be in-charge of the administration of this Act, assisted by such number of Commissioners of Inland Revenue, Deputy Commissioners of Inland Revenue, Senior Assessors of Inland Revenue, Assessors of Inland Revenue and Tax Officers of Inland Revenue as may be necessary for the purpose of giving effect to the provisions of this Act.
- (2) (a) The Commissioner-General may authorise any Commissioner of Inland Revenue or Deputy Commissioner of Inland Revenue to exercise, perform or discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General by this Act.
- (b) A Commissioner of Inland Revenue or Deputy Commissioner of Inland Revenue exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorised to exercise, perform or discharge that power, duty or function, until the contrary is proved.
- (3) A Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue or a Senior Assessor of Inland Revenue may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by any provisions of this Act.
71. (1) There shall be established a Fund called the Value Added Tax Refund Fund. (hereinafter referred to as "the Fund")
- (2) There shall be credited to the Fund twenty five *per centum* of the tax collected every month commencing from the month commencing from August 1, 2002 on or before the fifteenth day of the month immediately succeeding that month.
- (3) There shall be paid out of the Fund all refunds required to be paid in accordance with the provision of this Act or the Goods and Services Tax Act, No.34 of 1996.
- (4) (a) The Commissioner-General or any other officer of the Department of Inland Revenue authorised by him in that behalf in writing shall administer the Fund.
- (b) Regulations may be made as regards the manner and mode in which the refunds may be made.
72. The Commissioner-General may pay, from sums appropriated for that purpose by Parliament, such sums of money as he considers reasonable in the circumstances of the case, to any individual who provides information which results in the assessment of the tax payable by any other person and the collection of tax from such other person.
73. (1) Every person, who is or has been employed or engaged in carrying out or in assisting any person in carrying out the provisions of this Act shall preserve, and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or to the Minister or to the Secretary to the Ministry of the Minister-in-charge of the subject of Finance or suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner-General.
- (2) Every person employed in carrying out the provisions of this Act shall, before acting under this Act, and the Minister and the Secretary to the Ministry of the Minister-in-charge of the subject of Finance shall before

acting under this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form:

Provided however, such oath taken under the Goods and Services Tax Act, No.34 of 1996 shall be deemed for all purposes to have taken under this Act.

- (3) No person employed in carrying out the provisions of this Act shall be required to produce in any Court any return, document or to divulge or communicate to any Court any matter or thing coming to his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act or any other written law administered by the Commissioner-General.
- (4) Notwithstanding anything contained in this section any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Act to any other officer of the Department if the communication is necessary for the performance of any duty under this Act or under any other written law administered by the Commissioner-General and the Commissioner-General may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any Court, in any proceedings under this Act, a copy of any return or document received by him or in his possession under this Act or under any other written law administered by him and certified by him or on his behalf to be correct copy:

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

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

- (5) Notwithstanding anything contained in this section the Commissioner-General may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorised by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorised by him under this section shall be deemed to be a person employed in carrying out the provision of this Act for the purposes of subsection (2).
 - (6) Notwithstanding anything contained in this section where it appears to the Commissioner-General from any matter which comes to his knowledge in the performance of his duties under this Act, that any person has committed an offence under the Customs Ordinance or the Excise Ordinance or Excise (Special Provisions) Act, No. 13 of 1989, he may communicate with or deliver to the Commissioner of Excise or the Director-General of Excise or the Director-General of Customs as the case may be, any information relating to the commission of the offence or any articles, books of accounts or any other documents necessary or useful for the purpose of proving the commission of such offence.
74. The Commissioner-General may from time to time specify the forms to be used for all or any of the purposes of this Act, any form so specified may from time to time be amended or varied by the Commissioner-General or some other form may be substituted by the Commissioner-General in place of any form so specified.
75. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of matters authorized by this Act to be made.
- (2) Every regulation made by the Minister shall come into operation on the date of its publication in the Gazette or on such date as may be specified in the regulation.
 - (3) Every regulation shall within two months after its publication in the Gazette, be brought before the Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. A notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

CHAPTER XIV

TRANSITIONAL AND SAVINGS

76. Where the Commissioner-General is satisfied that a registered person or any other person, as the case may be, on or after August 1, 2002, has paid tax on the acquisition of goods for the purpose of making an exempt supply, the

tax so paid by such person shall be deemed to be input tax where such supply has subsequently become a taxable supply and the goods so acquired are being used in making such taxable supply:

Provided however the Commissioner-General shall determine the allowable portion of such input tax where the goods so acquired are being used only partly for the purpose of making a taxable supply.

77. All reference to Goods and Services Tax and Goods and Services Tax Act, No.34 of 1996 in the Inland Revenue Act, No.38 of 2000, shall on or after August 1, 2002, be read and construed to include a reference to the Value Added Tax and the Value Added Tax Act, No.14 of 2002, for any year of assessment or part of a year of assessment.
78. (1) Where it is proved to the satisfaction of the Commissioner-General on a claim made in writing on or before December 31, 2002, that any registered person has paid the National Security Levy under section 5A of the National Security Levy Act, No.52 of 1991 on the importation into Sri Lanka of any article, for sale without using such article in the manufacture of any other goods by such person prior to August 1, 2002 and the supply of such articles is taxable at the rate of twelve and one half *per centum* prior to August 1, 2002 under the Goods and Services Tax Act, No.34 of 1996, and such Articles imported or a portion thereof are remaining as stock-in-trade as at July 31, 2002 of such registered person and if such stock-in-trade will be supplied in the course of making taxable supplies under this Act, such National Security Levy, paid in full or part shall be deemed to be input tax and may be allowed as input tax credit under section 22 during any taxable period commencing from the taxable period in which such claim was accepted by the Commissioner-General.
- (2) Any excess of input tax attributable to such deemed input tax shall not be refunded but carried forward to the next taxable period and so on notwithstanding the provisions of subsection (3) of section 22.
- (3) Any excess claim or undue claim under subsection (1) and allowed as input credit shall be considered as excess input tax claimed and shall be assessed under subsection (7) of section 22.
79. Any person who is unable to comply with the requirements under subsections (1) and (6) of section 20 due to specific problems in converting existing invoicing system to comply with such requirements and undertakes to comply with such requirements on or before September 30, 2002, and makes arrangements to issue such invoices complying with such requirements to the maximum possible extent with effect from August 1, 2002, shall not be liable to any prosecution of penalty for such noncompliance during the period August 1, 2002 to September 30, 2002.
80. (1) (a) All directions issued by the Commissioner-General under section 23;
- (b) Any notification issued by the Commissioner-General under subsection (1) of section 7;
- (c) All regulations made by the Minister—
- (i) under section 74;
- (ii) under section 65; and
- (d) All forms specified under section 73,
- under the Goods and Services Tax Act, No.34 of 1996 and in force on the day immediately preceding August 1, 2002, shall be deemed to be directions, notifications, regulations and forms issued under this Act and shall be in force until such directions, notifications, regulations and forms are rescinded or replaced by directions, notification or regulations made under this Act.
- (2) Every person registered under section 15 of the Goods and Services Tax Act, No.34 of 1996 shall be deemed to be a registered person under this Act and every certificate of registration issued and every tax registration number assigned to a registered person under section 15 of the Goods and Services Tax Act, No.34 of 1996 and in force on the day preceding August 1, 2002 shall be deemed for all purposes to be certificate of registration issued and a tax registration number assigned under this Act.

CHAPTER XV

ABOLITION OF NATIONAL SECURITY LEVY AND THE GOODS AND SERVICES TAX

81. Notwithstanding anything in the National Security Levy Act, No.52 of 1991 the National Security Levy shall not be charged from any person to whom such Act applies for any quarter or part of a quarter commencing on or after August 1, 2002.

Provided however, any person to whom the National Security Levy Act, No.52 of 1991 applies, shall furnish a return under that Act for the month of July, 2002 notwithstanding anything to the contrary in that Act.

82. Notwithstanding anything in the Goods and services Tax Act, No.34 of 1996, the Goods and Services Tax shall not be charged from any person to whom such Act applies, for any taxable period or part of a taxable period commencing on or after August 1, 2002:

Provided however, any person registered under the Goods and Services Tax Act No. 34 of 1996, shall furnish return under that Act for the month of July, 2002 notwithstanding anything to the contrary in that Act.

CHAPTER XVI

INTERPRETATION

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

“Assessor” means an Assessor or Senior Assessor appointed under the Inland Revenue Act, No. 38 of 2000;

“associated persons” means—

- (a) any two or more companies which consist of the same shareholders or are managed and controlled by the same Directors; or
- (b) any company and any shareholder, where such shareholder or the spouse or child of such shareholder or any trustee of such shareholder or any trustee of the spouse or the child of such shareholder hold jointly or severally twenty-five *per centum* or more of the paid up capital or twenty-five *per centum* or more of the nominal value of the allotted shares of that company ; or
- (c) any two individuals one of whom is the spouse or child of the other or is a trustee for such spouse or child; or
- (d) a partnership and an individual where such individual is related to any partner of such partnership; or
- (e) a joint venture and any person who is related to a member of such joint venture; or
- (f) any two persons one of whom is a trustee for the other;
- (g) any two individuals related to each other; or
- (h) any two or more persons carrying on any activity separately or jointly which has resulted in the supply of identical goods or services which cannot be produced by any other person or persons.

“authorized representative” shall have the meaning assigned to it by the Inland Revenue Act, No.38 of 2000.

“body of persons” means any body corporate or unincorporate, provincial council, local authority, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, any partnership, and includes any Government department or any undertaking of the Government of Sri Lanka or any Co-ownership of immovable property;

“books” shall not include diaries, cheque books, exercise books or ledger books;

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed under the Inland Revenue Act, No. 38 of 2000 and includes a Commissioner, and a Deputy Commissioner specially authorized by the Commissioner-General either generally or for a specific purpose to act on behalf of the Commissioner-General;

“Commissioner” means a Commissioner of Inland Revenue appointed under the Inland Revenue Act, No.38 of 2000;

“Company” means any company incorporated or registered under any law in force in Sri Lanka or elsewhere;

“customs bonded area” means—

- (a) a bonded warehouse approved under section 69 of Customs Ordinance;
- (b) a bonded warehouse approved under section 84A of Customs Ordinance;
- (c) a warehouse of the Republic as defined in section 167 of Customs Ordinance;
- (d) a Free Trade Zone declared by the Board of Investment of Sri Lanka which is subject to monitoring by the Department of Customs.

"construction contractor or sub contractor" means any person who has entered into a contract with another person and provide services in Sri Lanka in constructing of a building, road, bridge, water supply systems, drainage system, sewerage systems, electricity generation or transmission system or any other infrastructure for that other person.

"Director" means a director as defined in the Companies Act, No.17 of 1982 and includes a working director;

"Deputy Commissioner" means a Deputy Commissioner of Inland Revenue appointed under the Inland Revenue Act, No.38 of 2000;

"educational establishment" means—

- (a) a higher educational institution established under the Universities Act, No.16 of 1978 or the Buddhist and Pali University Act, No.74 of 1981 ;
- (b) any recognized institution providing vocational training or training for persons engaged in any trade, profession, or employment and includes an incorporated examination body;

"educational services" means the provision of services by any educational establishment in relation to education, vocational training or retraining;

"executor" includes an administrator;

"goods" means all kinds of movable or immovable property but does not include money;

"incapacitated person" means any minor, lunatic, idiot or person of unsound mind;

"importation" includes the bringing into Sri Lanka of goods from outside Sri Lanka by any person or goods received from a custom bonded area the purchase of goods on a sale by the Director-General of Customs, the Sri Lanka Ports Authority or the Commissioner-General, for the levy of the tax and other dues;

"input tax" in relation to a registered person, means—

- (a) the tax charged by another registered person on any goods or services to be used by such registered person in carrying on or carrying out a taxable activity;
- (b) the tax paid by him or tax deferred under the proviso to subsection (3) of section 2, on the importation or purchase of goods or purchase of services which are used by such person for the purpose of making taxable supplies under this Act or Goods and Services Tax Act, No.34 of 1996.

"international transportation" means any service directly related to the transportation of goods or passengers—

- (a) from a place in Sri Lanka to a place outside Sri Lanka;
- (b) from a place outside Sri Lanka to a place in Sri Lanka up to the point of landing unless such services are carried out under a specified carriage contract according to the Documents of carriage issued by a freight forwarder who is registered with the Central Bank of Sri Lanka.
- (c) From a place outside Sri Lanka to another place outside Sri Lanka.

"manufacture" means the making of an article, the assembling or joining of an article by whatever process, adapting for sale any article, packaging, bottling, putting into boxes, cutting, cleaning, polishing, wrapping, labelling or in any other way preparing an article for sale other than in a wholesale or retail activity;

"output tax" in relation to any registered person, means the tax chargeable in respect of the supply of goods and services made or deemed to be made by such person under this Act or Goods and Services Tax Act, No.34 of 1996.

"open market value" in relation to the value of a supply of goods or services at any date means, the consideration in money less any tax charged under this Act, which a similar supply would generally fetch if supplied in similar circumstance at that date in Sri Lanka, being a supply freely offered and made between persons who are not associated persons.

"person" includes a company, or body of persons;

"prescribed" means prescribed by regulations made under this Act;

"standard rate" means the rate specified under subsection (1) of section 2, applicable to the supply of taxable goods and services other than such supplies of goods and services and imports specified in the Second Schedule;

"supply of goods" means the passing of exclusive ownership of goods to another as the owner of such goods or under the authority of any written law and includes the sale of goods by public auction, the transfer of goods under a hire purchase agreement, the sale of goods in satisfaction of a debt and the transfer of goods from a taxable activity to a non-taxable activity.

"supply of services" means any supply which is not a supply of goods but includes any loss incurred in taxable activity for which an indemnity is due;

"supplier", in relation to any supply of goods and services, means the person making the supply;

"taxable period" means—

(a) a period of one month—

(i) where the value of taxable supplies of any person has exceeded thirty million rupees during the preceding twelve months; or where the value of taxable supplies of any person for the period of the succeeding twelve months is estimated to exceed thirty million rupees; or

(ii) where any person makes zero rated supplies;

(iii) where any person has entered into an agreement with the Board of Investment of Sri Lanka referred to in items (XXVII) or (XXVIII) of the Schedule to the Goods and Services Tax Act, No.34 of 1996 prior to April 1, 2001; during the project implementation period;

(iv) where any person has commenced a business or started a project and undertakes to comply with the requirements of subsection (6) of section 22 under this Act or Goods and Services Tax Act, No.34 of 1996.

(v) Where any person has entered into any such agreement with the Board of Investment of Sri Lanka, as referred to in item (XXVIII) of the Schedule to the Goods and Services Tax Act, No.34 of 1996 and such person could not commence making taxable supplies under the project to which the agreement relates, by March 31, 2001.

(b) a period of three months commencing respectively on the first day of January, the first day of April, the first day of July and the first day of October of each year in respect of a registered person whom is not referred to in paragraph (a) of who opts to submit quarterly returns on the approval by the Commissioner-General.

"taxable activity" means—

(a) any activity carried on as a business, trade, profession or vocation other than in the course of employment or every adventure or concern in the nature of a trade;

(b) the provision of facilities to its members or others for a consideration and the payment of subscription in the case of a club, association of organisation;

(c) anything done in connection with the commencement or cessation of any activity or provision of facilities referred to in (a) or (b);

(d) the hiring, or leasing of any movable property or the renting or leasing of immovable property or the administration of any property;

(e) the exploitation of any intangible property such as patents, copyrights or other similar assets where such asset is registered in Sri Lanka or the owner of such asset is domiciled in Sri Lanka.

"taxable supply" means any supply of goods or services made or deemed to be made in Sri Lanka which is chargeable with tax under this Act and includes a supply charged at the rate of zero percent other than an exempt supply.

84. In the event of any inconsistency between the Sinhala and tamil texts of this Act, the Sinhala text shall prevail".

FIRST SCHEDULE

(i) The supply or import of—

(a) unprocessed agricultural products other than potatoes, onions, chillies, all other grains (other than rice and paddy) and planting material;

(b) unprocessed horticultural products;

(c) unprocessed animal husbandry products other than any variety of meat and live birds, including day old chicks;

- (d) unprocessed fishing products;
- (e) unprocessed forestry products other than timber;
- (f) Cardamom, cinnamon, cloves, nutmeg, pepper, desiccated coconuts, rubber, paddy and seed paddy;
- (ii) The supply or import of rice, rice flour, wheat, wheat flour and eggs;
- (iii) The supply or import of bread of any description;
- (iv) The supply or import of liquid milk (not made out of powdered milk or any grain) and infants powdered milk;
- (v) The supply or import of air crafts, helicopters and temporary import of any plant, machinery, equipment which are re-exported with twelve months from the date of such import;
- (vi) The supply of educational services by an educational establishment or government schools or schools funded by the government;
- (vii) The supply or import of any books other than chequebooks, periodicals, magazines, news papers, diaries, ledger books or exercise books;
- (viii) The supply or import of kerosene, bunkerfuel and aviation fuel;
- (ix) The supply of public library services by the Government, a Provincial Council or a local authority;
- (x) The supply or import of crude petroleum oil;
- (xi) The supply of the following financial services—
 - (a) the operation of any current, deposit or savings account;
 - (b) the exchange of currency;
 - (c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit;
 - (d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt security, being any interest in or right to be paid money owing by any person;
 - (e) the issue, allotment, transfer of ownership of any equity security or a participatory security;
 - (f) underwriting or sub underwriting the issue of an equity security, debt security or participatory security;
 - (g) the provision of any loan, advance or credit;
 - (h) the provision of the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made and the goods supplied under such hire-purchase agreement have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement;
 - (i) life insurance, 'Agrahara' Insurance and crop and livestock insurance;
- (xii) the import or supply of goods and services to the mission of any State or any organization to which the provisions of the Diplomatic Privileges Act, No.9 of 1996 applies or to any diplomatic personnel of such mission or organization, or entitled to these benefits provided that reciprocal benefits are available to their counterparts from Sri Lanka and identified as such by the Commissioner-General, including the import under a temporary admission carnet for re-export. Such identifications under Goods and Services Tax Act, No.34 of 1996 will be remained valid under this Act.
- (xiii) The import and the supply of goods at duty free shops for payment in foreign currency;
- (xiv) The import and supply of unused postage or revenue stamps of the Government of the Democratic Socialist Republic of Sri Lanka or of a Provincial Council;
- (xv) The import of any article entitled to duty free clearance under the Passenger's Baggage (Exemptions) Regulations made under section 107 of the Customs Ordinance, or any article cleared duty free re-importation certificate as provided in Schedule A under the Customs Ordinance, or any article cleared ex-bond for use as ship stores;
- (xvi) The import of goods by any organisation approved by the Minister in charge of the subject of Finance and proved to his satisfaction to be gifts from persons or organizations overseas or supply of goods directly funded by foreign organizations for the relief of distress caused by natural or other disasters, or similar cause or for religious or charitable purposes.
- (xvii) The supply of public passenger transport services (other than air or water transport or transport of tourists by way of excursion tours or taxi services) or the provision of leasing facilities for such motor coaches with seating capacity not less than twenty eight passenger seats and used for such public passenger transport.

- (xviii) The supply of electricity not exceeding 30 kwh per consumer as defined under the Electricity Act, (Chapter 205) per month;
- (xix) The import by any person who has entered into an agreement—
 - (a) prior to May 16, 1996; or
 - (b) prior to April 1, 1998 in respect of a project the total cost of which is not less than Rs.500 Million; with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law, No.4 of 1978, of any article which is prescribed as a project related article to be utilized in the project specified in the agreement during the project implementation period of such project as specified in such agreement or up to the date of completion of such project, which ever is earlier;
- (xx) the import by any person who has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of Board of Investment of Sri Lanka Law, No.4 of 1978, of any article which is prescribed as a project related article to be utilized in the project specified in the agreement, who will be making only exempt supplies after completion of the project—
 - (a) for a period of two years from August 1, 2002; or
 - (b) until the completion of the project,
 which ever is earlier.
- (xxi) The supply of services at a restaurant situated beyond the immigration counter at the Bandaranaike International Air Port;
- (xxii) The supply of services by a person in Sri Lanka to another person, to be consumed or utilized by such other person outside Sri Lanka where the payment is made in rupees;
- (xxiii) The supply, lease or rent of residential accommodation other than the supply, lease or rent of residential accommodation by an enterprise which has entered into an agreement with the Board of Investment of Sri Lanka, under section 17 of the Board of Investment of Sri Lanka Law, No.4 of 1978, on or after April 1, 2001 and the total cost of the projects which such agreement relates is not less than ten million United States of America dollars or its equivalent in any other currency and the project relates exclusively to the aforesaid supply, lease or rental;
- (xxiv) The supply of all health care services provided by medical institutions or professionally qualified persons providing such care, other than the supply of health care services by a medial institution which has entered in to an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No.4 of 1978, on or after April 1, 2001 and the total cost of the project to which such agreement relates is not less than ten million United States of America dollars or its equivalent in any other currency;
- (xxv) The supply or import of pearls, diamonds, natural or synthetic precious or semi-precious stones, diamond powder, precious metals or metals clad with precious metal and gold coins;
- (xxvi) The supply or import of machinery, medical and surgical instruments, apparatus and accessories including medical and dental equipment and ambulances for the provision of health services;
- (xxvii) The supply or import of artificial limbs, crutches, hearing aids, accessories for such aids or other appliances which are worn or carried or implanted in the human body to compensate for a defect or disability;
- (xxviii) The supply or import of wheel chairs, prepared culture media for development of micro organisms, diagnostic or laboratory reagents, surgical gloves, contact lenses, X-ray tubes, white canes for the blind and Braille typewriters and parts;
- (xxix) The supply of services in relation to burials and cremations by the government, a Provincial Council, a local authority or any other person;
- (xxx) The supply of free or subsidised meals by an employer to his employees at their places of work;
- (xxxi) The supply of transport free or at a subsidized rate by an employer to his employees using a vehicle on which the input tax has been disallowed or a motor coach provided by such employer to transport employees to and from their homes and their place of work;
- (xxxii) The import of personal items and samples in relation to business worth not more than Rs.10,000/- through parcel post or courier.
- (xxxiii) The supply or import of pharmaceutical products (other than cosmetics) and raw materials for such products;
- (xxxiv) The supply or import of ayurvedic preparations which belong to the Ayurveda pharmacopoeia or Ayurveda

preparations (other than cosmetic preparations) or unani, siddha or homeopathic preparations (other than cosmetic preparations) and raw materials for such preparations.

- (xxxv) The supply or import of agricultural tractors;
- (xxxvi) The supply or import of agricultural machinery.

SECOND SCHEDULE

- (i) The supply of electricity exceeding 30 kwh per consumer as defined under the Electricity Act, (Chapter 205) per month, and the supply of electricity in bulk to the national grid;
- (ii) The supply of services by construction contractors or sub-contractors;
- (iii) The supply of services by hotels, guest houses, restaurants or similar institutions and travel agents in relation to inbound tours;
- (iv) The supply of cinematic films, other than video films, either produced in Sri Lanka or imported into Sri Lanka import such films, exhibition of such films and theatrical productions;
- (v) The supply of educational services other than services referred to in item (vi) of the First Schedule;
- (vi) The supply or import of coconut poonac, prawn feed, and poultry feed.
- (vii) The supply or import of tea, coconut oil, potatoes, onions, chillies, copra, vegetable seeds (other than seed paddy), planting materials, live birds, day old chicks, dressed chicken including chicken parts and any other variety of unprocessed meat;
- (viii) The supply or import of magazines and journals.
- (ix) The supply or import of powdered milk (other than infants powdered milk) condensed milk and lentils;
- (x) The supply or import of sugar, juggery and sakkara;
- (xi) The supply or import of dried fish, maldivian fish, fertilizer including rock phosphate and water;
- (xii) The supply or import of petrol, diesel, fuel, liquified petroleum gas;
- (xiii) The supply or import of motor coaches and chassis or bodies of motor coaches with twenty eight or more seating capacity, used for public passenger transport as described under item (xvii) of the First Schedule.
- (xiv) The supply or import of photo voltaic, solar batteries, energy, efficient compact fluorescent lamps and spare parts for such lamps and Solar Home Systems;
- (xv) The supply of services in relations to the fees collected by the Sri Lanka Bureau of Foreign Employment from prospective migrants;
- (xvi) The supply or import of industrial machinery other than fans and parts, air conditioners, refrigerators, cabinets for refrigerators, dish washing machines (house hold type), personal weighing machines, lawn or sports ground rollers and spares, lawn movers and parts, household washing machines, household type sewing machines, but including electric motors and generators, electric generating sets and rotary converters and parts for such motors, generators, generating sets and converters;
- (xvii) The supply of services in the course of carrying on a profession or vocation either singly or jointly with another person or persons, if all such persons are qualified members of a recognized professional body or carrying on a vocation in the fields of literature, art, music or any other fine art;
- (xviii) The supply of leasing facilities by a person registered under Finance Leasing Act, No. 56 of 2000.
- (xix) The supply of land transport services to transport goods;
- (xx) The collection of membership fee or similar charges from the members of a society, club or association;
- (xxi) The supply or import of bicycles and motor bicycles.

NATIONAL SECURITY LEVY (AMENDMENT) ACT, NO.15 OF 2002

[Certified on 30th July, 2002]

AN ACT TO AMEND THE NATIONAL SECURITY LEVY ACT, NO. 52 OF 1991 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the National Security Levy (Amendment) Act, No. 15 of 2002.
2. Section 3 of the National Security Levy Act, No. 52 of 1991 (hereinafter referred to as "the principal enactment") as last amended by Act, No.4 of 2001 is hereby amended in subsection (2) of that section as follows :—
 - (1) by the insertion, immediately after paragraph (c) of that subsection, of the following new paragraphs :—
 - (cc) the value of any wheat or wheat flour imported by such person ;
 - (ccc) proceeds from the sale of any wheat flour or bread manufactured in Sri Lanka by such person ; and
 - (2) by the repeal of paragraph (k) of that subsection.
3. Section 4 of the principal enactment as last amended by Act, No.4 of 2001, is hereby further amended as follows :—
 - (1) in paragraph (l) of that section, by the substitution, for the words and figures "on or after April 1, 2001 ", of the words and figures "on or after April 1, 2001 but prior to October 1, 2001-" ; and
 - (2) by the addition at the end of that section, of the following new paragraphs :—
 - " (m) for the quarter commencing on October 1, 2001—
 - (i) an amount equivalent to—
 - (A) Seven and one half *per centum* of the turnover of that person, not being turnover referred to in item (B) of this sub-paragraph ; and
 - (B) One half *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry, within the meaning of the Motor Traffic Act [Chapter 203],

for the period commencing on October 1, 2001, and ending on October 12, 2001, on or before the fifteenth day of November, 2001 ;
 - (ii) an amount equivalent to—
 - (A) Six and one half *per centum* of the turnover of that person, not being turnover referred to in item (B) of this sub-paragraph ; and
 - (B) One half *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry within the meaning of the Motor Traffic Act [Chapter 203],

for the period commencing on October 13, 2001, and ending on November 30, 2001, on or before the fifteenth day of December, 2001 ; and
 - (iii) the amount of the levy payable by such person for that quarter, reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraphs (i) and (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter ; and
 - (n) for every quarter commencing on or after January 1, 2002—
 - (i) an amount equivalent to—

- (A) six and one half *per centum* of the turnover of that person, not being turnover referred to in item (B) of this sub-paragraph ; and
- (B) one half *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry, within the meaning of the Motor Traffic Act (Chapter 203),

for the first month of that quarter, on or before the fifteenth day of the second month of that quarter,

- (ii) an amount equivalent to—

- (A) six and one half *per centum* of the turnover of that person, not being turnover referred to in item (B) of this sub-paragraph ; and
- (B) one half *per centum* of the turnover of that person arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry, within the meaning of the Motor Traffic Act (Chapter 203),

for the second month of that quarter, on or before the fifteenth day of the third month of that quarter ; and

- (iii) the amount of the levy payable by such person for that quarter, reduced by the aggregate of the amounts paid by him in accordance with the provisions of sub-paragraph (i) and sub-paragraph (ii) of this paragraph, on or before the fifteenth day of the month immediately succeeding the end of that quarter ;”.

4. The Schedule to the principal enactment, as last amended by Act, No.4 of 2001, is hereby further amended as follows :—

- (1) by the substitution, in item 12 of that Schedule, for the words and figures “on or after April 1, 2001”, of the words and figures “on or after April 1, 2001, but prior to October 1, 2001”; and

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

“(13) For the quarter commencing on October 1, 2001—

- (i) on turnover other than turnover referred to in paragraph (ii)—

- (a) arising for the period commencing on October 1, 2001, and ending on October 12, 2001

7.5 per centum.

- (b) arising for the period commencing on October 13, 2001 and ending on December 31, 2001

6.5 per centum.

- (ii) on turnover arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry, within the meaning of the Motor Traffic Act (Chapter 203).

0.5 per centum

(14) For every quarter commencing on or after January 1, 2002—

- (i) on turnover other than turnover referred to in paragraph (ii) of this item,

6.5 per centum

- (ii) on turnover arising from the import or manufacture of any plant, machinery or equipment, not being any motor car, motor coach or lorry, within the meaning of the Motor Traffic Act (Chapter 203).

0.5 per centum”.

5. Where the Director General of Customs collects during the period commencing on October 13, 2001, and ending on the date on which this Act is certified as an Act of Parliament, from an importer of an article not being plant, machinery or equipment, an amount less than seven and one half *per centum* but not less than six and one half *per centum* of the value of such article, such collection shall be deemed for all purposes to have been, and to be, validly made, and the Director-General of Customs is hereby indemnified against all actions, civil or criminal, in respect of such collection.
6. Where a person to whom this Act applies is liable, by reason of the operation of section 2 of this Act, read with Save the Nation Contribution (Abolition) Act, to pay any sum to the Commissioner-General as National Security Levy for the period commencing on October 13, 2001 and ending on the date on which this Act is certified as an Act of Parliament, such person shall be deemed for all purposes, to have complied with the provisions of the principal enactment as amended by this Act, if he pays that sum to the Commissioner-General within thirty days of the date on which this Act is certified as an Act of Parliament. Where such sum is not so paid, such sum shall be deemed to be in default after the expiration of thirty days from the date on which this Act is certified as an Act of Parliament and such person shall be deemed to be a defaulter with effect from that date.
7. The amendments made to section 3 of the principal enactment :—
 - (a) by paragraph (1) of section 2 of this Act, shall be deemed for all purposes to have come into force on February 21, 2002 ; and
 - (b) by paragraph (2) of section 2 of this Act, shall be deemed for all purposes to have come into force on October 13, 2001.
8. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

DEBITS TAX ACT, NO.16 OF 2002

[Certified on 19th August, 2002]

AN ACT TO PROVIDE FOR THE IMPOSITION OF A TAX ON DEBITS FROM CERTAIN ACCOUNTS IN COMMERCIAL BANKS AND ON SUMS REALIZED BY THE ENCASHMENT OF CERTIFICATES OF DEPOSIT AND TRAVELLERS CHEQUES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

1. This Act may be cited as the Debits Tax Act, No.16 of 2002.
2. Subject to the provisions of section 13, there shall be charged and levied,—
 - (a) the total amount of the debits made during each calendar month against each current account maintained at a commercial bank ;
 - (b) an amount ; realized by the encashment of a certificate of deposit or travellers cheque,
 a tax to be called a debits tax, at the rate of one tenth of one *per centum* of the amount of the total debit or the amount encashed, as the case may be.
3. The debits tax imposed under section 2 shall – ;
 - (a) in the case of a debit from a current account maintained at a commercial bank, be paid by the person or persons in whose name or names that account is maintained ;
 - (b) in the case of an amount realized by the encashment of a certificate of deposit, be paid by the holder of the certificate ; and
 - (c) in the case of an amount realized by the encashment of a travellers cheque, be paid by the person presenting the travellers cheque for encashment.
4. The liability of a person to pay the debits tax shall—
 - (a) in the case of a debit from a current account maintained at a commercial bank, commence at the end of the month in which the debit was made ;
 - (b) in the case of an amount realized by the encashment of a certificate of deposit or travellers cheque, commence immediately upon such encashment.
5. Every commercial bank, specialised bank, finance company or authorised dealer shall be liable to collect the debits tax arising out of current account transactions, encashment of certificates of deposit and travellers cheques and remit the same in accordance with the provisions of this Act.
6. (1) Every commercial bank shall, at the beginning of every month, withdraw from every current account maintained at that bank, a sum equal to the sum payable as debits tax from that account in the preceding month, and shall remit such sum to the Commissioner-General, on or before the last working day of each month.

Provided that, if the beginning of any month falls on a non-working day, such withdrawal may be made on the first working day thereafter :

Provided further that, debits tax should not be withdrawn from a current account if the tax liability of a current account during a particular month is less than rupees ten.
- (2) Every commercial bank, specialized bank, finance company, or authorized dealer shall, on the encashment of a certificate of deposit or travellers cheque, deduct from the amount realized by such encashment, a sum equal to the debits tax payable on such amount and shall remit such sum to the Commissioner-General, on or before the last working day of each month following the month in which the certificate of deposit or travellers cheque was encashed.

- (3) Where any sum is withdrawn and remitted under subsection (1) or deducted and remitted under subsection (2), in payment of the debits tax, such payment shall be deemed to be made with the authority of the person or persons in whose name or names the current account is being maintained at the commercial bank, the person who is the holder of the certificate of deposit or the person presenting the travellers cheque for encashment, as the case may be, and shall, subject to the provisions of subsection (2) of section 10, be a valid discharge of that persons liability to pay the debits tax.
- (4) Where owing to there being no funds in a current account or there being an insufficiency of funds in a current account, the commercial bank in which such account is being maintained is unable to collect the debits tax in full or part, payable on the debits made from that account in the immediately preceding month, the bank shall report to the Commissioner-General, on or before the last working day of each month in which the default occurs, the names and address or the names and addresses of the person or persons in whose name or names the account is being maintained, the total amount of the debits made from that account in the immediately preceding month and the debits tax payable on that amount :

Provided that the commercial bank may defer the making of such report as aforesaid for a period of two months, in the event that the debits tax so payable can be recovered within such period of two months.

- (5) Nothing in the preceding provisions of this section shall be deemed to authorize a commercial bank to refuse to pay out of the funds in any current account maintained at that bank, the whole or part of any amount of which payment is demanded by cheque, draft, order or other instruction of the person or persons in whose name or names that account is being maintained, on the ground only that debits tax on the debits made from that account, has to be paid :

Provided however, any amount of debits tax due to be remitted to the Commissioner-General shall be recovered before the payment of such cheque, draft, order or other instruction.

7. Where the holder of a current account fails to provide sufficient funds to meet the debits tax payable by him in terms of this Act, the banks liability for the collection of debits tax ceases upon the bank reporting such fact to the Commissioner-General.
8. (1) A person who pays debits tax in terms of this Act, may on request obtain a "Tax Deduction Certificate" from the person deducting such tax.
- (2) The tax deduction certificate issued under subsection (1) shall include information relating to :—
 - (a) the sum total of the debits made from a current account or the sum total of the encashed proceeds received on encashment of certificates of deposits or travellers cheques as the case may be ;
 - (b) the sum deducted as debits tax,
 for the period in respect of which the Certificate is requested.
- (3) The Certificate shall include confirmation of the remittance of such amount to the Commission-General.
9. (1) A commercial bank shall, when remitting the sums referred to in subsection (1) of section 6, furnish a statement to the Commissioner-General in respect of any current account, other than a special current account setting out the following :—
 - (a) the total amount of debits made from all current accounts maintained by that bank in the preceding month ;
 - (b) the total amount of debits from all special current accounts maintained by that bank in the preceding month ;
 - (c) the sums withdrawn as debits tax from all current accounts in that month ;
 - (d) the sums refunded under paragraph (i) of subsection (1) of section 12 and subsection (2) of section 12 ;
 - (e) The names and addresses of account holders who have claimed refunds in respect of exempt debits under paragraph (d) of section 13, where the total amount of exempt debits in each current account in a month exceeds fifty *per centum* of the total debits in the relevant current account or rupees fifty thousand, whichever is lower.

- (2) A commercial bank, specialized bank, finance company or authorized dealer shall, when remitting the sums referred to in subsection (2) of section 6, furnish a statement along with such remittance, to the Commissioner-General, setting out the following :—
- (a) the amount realized by the encashment of the certificate of deposit, or travellers cheque, as case may be ;
 - (b) the sum deducted from that amount as the debits tax payable on that amount.
10. (1) Where a commercial bank reports under subsection (4) of section 6 that it is unable to collect the debits tax due on the debits made during a calendar month, from a current account maintained at that bank by any person, an officer authorized in writing by the Commissioner-General shall in writing direct such person to pay, within fourteen days of the direction, the amount of such debits tax to the Commissioner-General to be credited to the Consolidated Fund. If such person fails to pay such amount to the Commissioner-General within such fourteen days, such amount shall be deemed to be in default and such person shall be deemed to be a defaulter.
- (2) Where the sum remitted by a commercial bank, specialized bank, finance company or authorized dealer, under section 6, as the debits tax payable, on—
- (a) the total amount of the debits made from a current account maintained at that commercial bank, in any month; or
 - (b) the amount realized on the encashment of a certificate of deposit or travellers cheque,
- is less than the actual amount payable as debits tax on the total amount of such debits or the amount so realized, as the case may be, the Commissioner-General shall by notice in writing, require such bank, finance company, or dealer or the person liable to pay the debits tax, to pay, within fourteen days of the date of the notice, the difference between the actual amount payable as debits tax and the sum remitted as debits tax, to the Commissioner-General to be credited to the Consolidated Fund. If such bank, company, dealer or person fails to pay the amount of such difference within such fourteen days, such amount shall be deemed to be in default and such bank, company, dealer or person, as the case may be, shall be deemed to be a defaulter.
11. Where the amount of any debits tax or part thereof is in default, the Commissioner-General may issue a certificate containing particulars of the amount in default and the name and last known place of residence or business of the defaulter to the Magistrate having jurisdiction in the division in which such place is situated. The Magistrate shall thereupon summon the defaulter to show cause why proceedings for the recovery of the amount of the debits tax in default should not be taken against him, and if sufficient cause is not shown, the amount of the debits tax in default shall by order of the Magistrate be recovered as if it were a fine imposed by the Magistrate on such defaulter, and shall, when recovered, be remitted to the Commissioner-General to be credited to the Consolidated Fund.
12. (1) Refunds may be made in respect of debits tax payments made in excess of the liable amount or tax payments made on exempt accounts, to the person from whom such amount is so deducted, as follows :—
- (i) in the case of a refund being requested by the account holder prior to the remittance of the debits tax payment to the Commissioner-General, the commercial bank, specialised bank, finance company or authorised dealer may refund the excess debits tax so deducted ;
 - (ii) in the case of a refund being requested by the account holder after the remittance of the debits tax payment to the Commissioner-General, the Commissioner-General may refund the debits tax so paid to the person from whom such amount is so deducted on a claim made in writing to the Commissioner-General within twelve months from the date of such payment. The Commissioner-General shall satisfy himself of the authenticity of the claim, prior to making such refund.
- (2) In the case of a refund made under the provisions of paragraph (i) of subsection (1) on the basis of a declaration referred to in subsection (2) of section 13, the bank to which the declaration is addressed shall verify the amount of debits identified as exempt by the account holder with the bank's records and refund the debits tax on such exempt debits, provided such debits tax was withdrawn from the account holder previously.

- (3) All sums payable as refunds under this section shall either be paid by the commercial bank, specialised bank, finance company or authorised dealer out of the funds of such banks, company or dealer, or by the Commissioner-General out of the Consolidated Fund, as the case may be.

13. (1) There shall be exempt from debits tax –

- (a) debits made from any current account maintained by the Government of Sri Lanka, the Central Bank of Sri Lanka any Provincial Council any local authority, any Foreign Government, by the mission of any State or any organisation to which the provisions of the Diplomatic Privileges Act, No. 9 of 1996 applies, or any diplomatic personnel of such mission or organization, or any International or Foreign Organization, approved by the Minister by Order published in the Gazette;
- (b) debits made from any current account, being a special account opened by any person in a commercial bank on the basis of a declaration and an undertaking by the account holder that such account is solely for the purpose of making –
 - (i) payment of any loan or interest thereon, to the Deputy Secretary to the treasury ;
 - (ii) payment of any tax to the Commissioner-General of Inland Revenue ;
 - (iii) payment of tax, duty, levy or cess to the Director-General of Customs ;
 - (iv) payment of any tax or duty to the Commissioner of Excise or the Director-General of Excise; or
 - (v) any other payment which may be approved by the Minister by Order published in the *Gazette* ;
- (c) debits made from any current account, being a special account opened by any person specified hereunder, in a commercial bank on the basis of a declaration and undertaking by the account holder that such account is solely for the purpose of making –
 - (i) payments that represent benefits to contributors from any fund or scheme such as the Employees Provident Fund, the Employees Trust Fund or any approved provident fund or contributory pension scheme, within the meaning of the Employees Provident Fund Act or non-contributory pension scheme within the meaning of the Payment of Gratuity Act or Contributory Survivor Pension Scheme ;
 - (ii) payments for the purchase of commodities for and on behalf of customers and payments that represent remittance of the sale proceeds of such commodities, made by a licensed produce broker ;
 - (iii) payments in relation to trading in government securities made by a primary dealer ;
 - (iv) payments in relation to outright (both sales and purchases) and repurchase and reverse repurchase transactions of all debt securities (government and corporate) in the secondary market, made by a primary dealer or a commercial bank, a finance company, a licensed finance leasing company or a limited liability company or a person or a body of persons ;
 - (v) payments in relation to the settlement of transactions carried out in the Colombo Stock Exchange on behalf of a customer, made by a licensed stock broker, or by a limited liability company or a person or a body of persons ;
 - (vi) payments to any resident individuals utilizing funds transferred to that account from a foreign banking institution abroad ;
 - (vii) payments from any such account maintained at a Commercial Bank by another Commercial Bank, specialized bank, licensed finance leasing company or other financial intermediary approved by the Commissioner-General—
 - (a) being debits made in connection with the activities and the settlement of financial obligations, both interest and principal, arising from such activities as is set out in schedule II of the Banking Act, other than items (o), (p), (v) and (x) of such Schedule in the case of commercial banks :
 Provided however, that in the case of item (u) in Schedule II of the Banking Act, the exemption granted shall be applicable only in relation to factoring activities ;

- (b) being debits made in connection with the activities as are set out in Schedule IV of the Banking Act, other than items (ii), (jj), (ll), (mm) and (nn) of such Schedule and settlement of financial obligations both principal and interest, arising from such activities in the case of specialized bank; or
 - (c) being debits made in connection with the intermediation activities and settlement of financial obligations, both interest and principal, arising from such activities in the case of licensed finance leasing companies or any other financial intermediaries approved by the Commissioner-General, provided the debits in relation to licensed activities of a commercial bank or a specialized bank that are excluded from the exemptions set out in paragraphs (a) and (b) above, would also apply to a licensed finance leasing company or a licensed financial intermediary approved by the Commissioner-General. (The Deputy Secretary to the Treasury will be the final authority in determining whether an activity amounts to financial intermediation for the purposes of this paragraph) ;
 - (viii) debits made from any such account which is maintained by any person at any commercial bank as a collection account, solely for the purpose of receiving funds and facilitating the transfer of funds, to accounts maintained by such person at other branches or at the head office of such bank;
 - (d) debits made from any current account of an account holder, in relation to—
 - (i) debits made from such account kept in a commercial bank that represents transfer of funds from that account to another current account in the same or any other commercial bank, maintained in the name of the same account holder ;
 - (ii) debits made from such account in respect of sums withdrawn from that account for the payment of debits tax ;
 - (iii) debits made in respect of dishonoured cheques, error correction or contra entries that do not represent withdrawal of funds by the account holder ;
 - (e) debits made from any current account in relation to the —
 - (i) account of the Head Office in Sri Lanka, of a Commercial Bank as is maintained in a branch in Sri Lanka, of that bank ;
 - (ii) account of a branch in Sri Lanka of a commercial bank as is maintained in the Head Office in Sri Lanka, of that bank ;
 - (iii) account of a branch in Sri Lanka of a commercial bank as is maintained in another branch in Sri Lanka, of that bank ;
 - (f) such other accounts, debits or classes of debits made from current accounts as may from time to time be determined by the Minister, by Order published in the *Gazette*, having regard to the interests of the national economy.
- (2) To qualify for the exemptions specified in sub-paragraphs (i), (ii) and (iii) of paragraph (d), the account holder shall furnish a declaration to the commercial bank, in a format to be prescribed by the Commissioner-General on or before the fifteenth day of the month, in respect of exempt debits made to any current account of such account holder in the preceding calendar month :
- Provided however, that if the fifteenth day falls on a non- working day, such declaration shall be made on the first working day thereafter.
- (3) Where an account holder fails to furnish a declaration within the time specified in subsection (2), such person may apply for the refund from the Commissioner-General within a period of twelve months from the date of the payment of the debits tax, provided such claim is in writing and evidence acceptable to the Commissioner-General is furnished, to establish the fact that the refund relates to debits tax on an exempt debit.
- (4) A commercial bank shall upon the opening of a collection account or special account report to the

Commissioner-General, on or before the last working day of the calendar month following that in which such account was opened, the name and address of the person or persons in whose name or names the accounts are maintained. A copy of the declaration and undertaking given by such person shall also be sent.

- (5) For the avoidance of doubts it is hereby declared that, other than in the case of a person whose debits in a current account are totally exempt as provided for in paragraph (a), the exemptions granted by paragraphs (b), (c), (d), (e) and (f) shall not be applicable to payments made by a commercial bank, specialised bank, authorised dealer, finance company, licensed finance leasing company, financial intermediary or any other person specified under paragraphs (b), (c), (d), (e) and (f) for defraying other expenses including expenses of a capital nature such as the cost of purchasing any movable or immovable property or for the construction of any building :

Provided however, in the case of commercial banks, specialized banks, licensed finance leasing company and other financial intermediaries approved by the Commissioner-General in terms of paragraph (c) (vii), any interest payment for a liability related to financial intermediation activity, for which exemption is granted shall be excluded from debits tax.

14. (1) An officer authorized in that behalf by the Commissioner-General may, by notice in writing, require a commercial bank, specialized bank, finance company or authorized dealer to furnish such returns and information as may be necessary for the purpose of ascertaining whether "the provisions of this Act are being or have been complied with, and may" inspect, and make copies of any entries in, any books, records or other documents maintained by such bank, finance company or dealer.
- (2) Every commercial bank, specialized bank, finance company and authorized dealer shall, notwithstanding anything to the contrary in any law, comply with a requirement imposed under subsection (1) and shall provide the officer referred to in that subsection with all such facilities as are necessary for the inspection of any books, records or other documents maintained by such bank, finance company or dealer.
- (3) Except in the performance of his duties under this Act, an officer referred to in subsection (1) shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any commercial bank, specialized bank, finance company or authorized dealer that may come to his knowledge in the performance of his duties under this section and shall not communicate any such matter except to the Deputy Secretary to the Treasury, the Commissioner-General or to a Court of Law.
15. (1) Where any commercial bank, specialized bank, finance company or authorized dealer –
- (a) fails to comply with, or contravenes, any provision of this Act or any requirement imposed under this Act or any regulation made under this Act ;
- (b) knowingly makes any false statement in, or knowingly omits any material particular from, any return or information furnished by such commercial bank, specialized bank, finance company or authorized dealer,

that bank or finance company or that authorized dealer, as the case may be, 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 million rupees :

Provided however the Commissioner-General may compound the offence by imposing a penalty not exceeding one million rupees, which shall be credited to the Consolidated Fund.

- (2) Any person who, holding an account in a commercial bank, opens a collection or special current account on the basis of a false declaration or acts in breach of an undertaking furnished at the time of opening the current account, shall be liable to pay to the Commissioner-General a sum not exceeding rupees one million plus twice the amount of the debits tax not recovered as a result of such action, as penalty, upon the issue of notice under section 10 of this Act.
- (3) Every person who contravenes the provisions of subsection (3) of section 14 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 six months.

16. (1) The Minister may make regulations for the purposes of giving effect to the principles and provisions of this

Act and in respect of matters which are required by this Act to be prescribed.

- (2) Every regulation made under this section shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.
- (3) Every such regulation shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, without prejudice to the validity of anything previously done thereunder.
- (4) Notification of the date on which any such regulation is deemed to be rescinded shall be published in the *Gazette*.

17. The provisions of this Act shall be deemed for all purposes to have come into effect on June 1, 2002.

18. (1) Any commercial bank, specialized bank, finance company or authorized dealer who collects or remits the debits tax as provided for in section 6, during the period commencing on June 1, 2002 and the date on which this Act is passed as an Act of Parliament, shall be deemed to have acted with due authority and is hereby indemnified from any civil or criminal prosecution in respect of such collection.

- (2) Any commercial bank, specialized bank, finance company or authorised dealer who collects from any person debits tax in excess of the amount he was liable to pay in respect of debits from a current account maintained by him or in respect of any amount realized by him by the encashment of a certificate of deposit or travellers cheque, or a commercial bank collects from any person, debits tax on any such debits made from a current account maintained by him in a bank as are exempt from debits tax by or under section 13, is hereby indemnified from any civil or criminal prosecution in respect of such collection, from and after June 1, 2002 and the date on which a refund of such amount is made or the date on which such amount is remitted to the Commissioner-General, as the case may be.

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

“Banking Act” means the Banking Act, No.30 of 1988 ;

“collection account” means an account maintained with a commercial bank which facilitates the transfer of funds, but on which no cheques can be drawn ;

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

“Commissioner-General” means the Commissioner-General of Inland Revenue, appointed or deemed to be appointed under the provisions of the Inland Revenue Act, No.38 of 2000 ;

“current account” means —

- (a) an account (other than a savings account, a non resident currency account, a resident foreign currency account, an account in a foreign currency banking unit and a share investment external rupee account) whether in credit or otherwise, which is maintained at a commercial bank for any person or persons, including any such bank, and from which payments are made on demand by that person or persons by cheque, draft, order or other instruction ;and
- (b) an internal account of a commercial bank from which payments are made for defraying any expenses of such bank, including—
 - (i) expenses of a capital nature such as the cost of purchasing any movable or immovable property or constructing any building; and
 - (ii) all business expenses, which involves a payment and in respect of which debits are made either internally or externally;

“debit” means an entry made against a current account of any person or persons in respect of a withdrawal of funds from that account by cheque, draft, order or any other instruction of that person or persons, and includes the charges made by a commercial bank, in the course of business, on a current account maintained at that bank ;

"Employees Provident Fund" means the Employees Provident Fund established by the Employees Provident Fund Act, No.15 of 1958 ;

"Employees Trust Fund" means the Employees Trust Fund established by the Employees Trust Fund Act, No.46 of 1980 ;

"Finance Company" means a company registered under the Finance Companies Act, No.78 of 1988, to carry on finance business ;

"Foreign Currency Banking Account" means an account maintained at a commercial bank and designated as such by the Central Bank ;

"licensed finance leasing company" means a company licensed under the Finance Leasing Act, No.56 of 2000;

"licensed stock broker" means a stock broker licensed under the Securities and Exchange Commission Act, No.36 of 1987 ;

"licensed produce broker" means a produce broker licensed under the Licensing of Produce Brokers Act, No.9 of 1979 ;

"Non-Resident Foreign Currency Account" means an account maintained at a commercial bank and designated as such by the Central Bank ;

"Payment of Gratuity Act" means the Payment Gratuity Act, No.12 of 1983 ;

"Resident Foreign Currency Account" means an account maintained at a commercial bank and designated as such by the Central Bank ;

"savings account" means an account which is maintained at a commercial bank and funds deposited in which earn interest and the withdrawal of funds from which can be made only after such intervals as are specified, or subject to such rules as are specified, by that bank ;

"specialized bank" means a licensed specialized bank within the meaning of the Banking Act, No.30 of 1988.

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

FINANCE (AMENDMENT) ACT, NO.30 OF 2002

[Certified on 11th December, 2002]

AN ACT TO AMEND THE FINANCE ACT, NO.11 OF 2002

1. This Act may be cited as the Finance (Amendment) Act, No.30 of 2002.
2. The Finance Act, No.11 of 2002 (hereinafter referred to as the "principal enactment") is hereby amended in section 2 of Part I of that Act, (Port and Airport Development Levy) by the substitution for the words "on the cost, insurance and freight value of that article." of the words "on the cost, insurance and freight value of that article:

Provided that in the case of an article imported into Sri Lanka, for the purpose of processing and re-export, the levy on the cost, insurance and freight value of that article shall be charged and levied at the rate of 0.75 *per centum*."

3. The amendment made to the principal enactment by section 2 of this Act, shall be deemed for all purposes to have come into effect on May 1, 2002.
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

MONETARY LAW (AMENDMENT) ACT, NO. 32 OF 2002

[Certified on 17th December, 2002]

AN ACT TO AMEND THE MONETARY LAW ACT

1. This Act may be cited as the Monetary Law (Amendment) Act, No. 32 of 2002.
2. Section 5 of the Monetary Law Act (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor :—

"Establishment and objectives of the Central Bank. 5. An institution, which shall be called and known as the Central Bank of Sri Lanka (hereinafter referred to as "the Central Bank") is hereby established as the authority responsible for the administration, supervision and regulation of the monetary, financial and payments system of Sri Lanka, and without prejudice to the other provisions of this Act, the Central Bank is hereby charged with the duty of securing, so far as possible by action authorised by this Act, the following objectives, namely—

 - (a) economic and price stability ; and
 - (b) financial system stability,

with a view to encouraging and promoting the development of the productive resources of Sri Lanka."
3. Section 8 of the principal enactment is hereby amended as follows :—
 - (a) by the repeal of subsection (1) thereof, and substitution therefor, of the following subsection :—

"(1) The Monetary Board of the Central Bank shall, in addition to determining the policies or measures authorized to be adopted or taken under this Act, be vested with the powers, duties and functions of the Central Bank under this Act, and be generally responsible for the management, operations and administration of the Bank :

Provided, however, where the Monetary Board considers it appropriate, it may delegate to the Governor, or to any officer of the Central Bank or to a Committee of such officers, any power, duty or function conferred or imposed on, or assigned to, the Board by section 10 (a), (b), (bb), (d) and section 27."
 - (b) by the insertion, immediately after subsection (1) of that section of the following new subsection :—

"(1A) Where any power, duty or function is delegated by the Monetary Board under subsection (1), the person or the group of persons to whom such power, duty or function is delegated shall exercise, perform or discharge such power, duty or function, in accordance with such general or special directions or guidelines as may be issued by the Monetary Board."; and
 - (c) by the repeal of paragraph (c) of subsection (2) of that section and substitution therefor of the following paragraph :—

"(c) three members appointed by the President on the recommendation of the Minister of Finance, with the concurrence of the Constitutional Council."
4. Section 11 of the principal enactment is hereby amended as follows :—
 - (a) in paragraph (a) of subsection (1) of that section, by the substitution for the words "any local authority" of the words "any Provincial Council or any local authority";
 - (b) in paragraph (a) of subsection (2) of that section, by the substitution for the words "any local authority" of the words "any Provincial Council or any local authority";

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

“(c) he is a director, officer, employee or shareholder of any banking institution (other than the Central Bank) or any other institution supervised or regulated by the Central Bank.”.

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

- (a) in subsection (1) of that section by the substitution for all the words from “The term of office” to “shall”, of the following :—

“The term of office of the Governor, and of any person appointed under paragraph (c) of subsection (2) of section 8 (hereinafter referred to as “an appointed member”) shall,”; and

- (b) in subsection (2) of that section by the substitution for the words “by the appointed member” of the words “by an appointed member”.

6. Section 14 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “The appointed member”, of the words “An appointed member”.

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

- (a) in subsection (1) of that section by the substitution for the words “Where the appointed member”, of the words “Where an appointed member”;

- (b) in subsection (3) of that section by the substitution for the words “to be the appointed member”, of the words “to be an appointed member”.

8. Section 16 of the principal enactment is hereby amended by the substitution for the words “or the appointed member” of the words “or an appointed member”.

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

- (a) in subsection (3) of that section by the substitution for the words “two members” of the words “three members”;

- (b) in subsection (4) of that section—

(i) by the substitution for the words “at least two members,” of the words “at least three members,”; and

(ii) by the substitution for the words “three members” of the words “five members.”.

10. Section 30 of the principal enactment is hereby amended by the insertion immediately after subsection (9) of that section, the following subsection :—

“(10) (a) Where an order has been made by the Monetary Board under subsection (1) of section 76M of the Banking Act, No. 30 of 1988 (hereinafter referred to as the “Banking Act”) in respect of a licensed specialised bank, the provisions of subsections (3), (4), (5), (6), (7), (8) and (9) of this section shall, notwithstanding subsections (3) and (4), of section 76M of the Banking Act and subject to paragraph (ii) of this subsection, apply, *mutatis mutandis*, to such bank as if it were a banking institution.

- (b) Where under paragraph (i) of this subsection, the application of the provisions of subsection (3) of this section requires—

(i) the winding up of a licensed specialised bank, the Monetary Board shall cancel the licence issued to such bank under Part IXA of the Banking Act and, the provisions of Part VIII of that Act shall apply to such winding up as if it were a compulsory winding up of the bank, in the case of a bank incorporated or established within Sri Lanka or a compulsory winding up of the affairs or closure of the business of the bank, in the case of a bank incorporated outside Sri Lanka ;

- (ii) the resumption of business of a licensed specialised bank, the Monetary Board may exercise the powers conferred on it under section 76N of the Banking Act ;

(c) In this subsection "licensed specialised bank" shall have the same meaning as in the Banking Act'.

11. Section 31 of the principal enactment is hereby repealed and the following section substituted therefor :—

"Winding up
of a banking
institution.

31. Where an order is made by the Monetary Board under section 30 requiring the winding up of a banking institution—

- (a) in the case of a commercial bank, the Monetary Board shall cancel the licence issued to it under the Banking Act and the provisions of Part VIII of that Act shall apply as if it were a compulsory winding up of the bank, in the case of a bank incorporated or established within Sri Lanka or a compulsory winding up of the affairs or closure of the business of the bank, in the case of a bank incorporated outside Sri Lanka ;
- (b) in the case of any other banking institution, not being a licensed specialised bank to which subsection (10) of section 30 is applicable, the Director of Bank Supervision shall nominate a person to be the liquidator for the purpose of winding up and subject to such nomination, such institution shall be wound up in accordance with the law applicable to such institution."

12. Section 34 of the principal enactment is hereby repealed and the following section substituted therefor :—

"Monthly
statement.

34. The Central Bank shall publish a general balance sheet showing the volume and composition of its assets and liabilities as at the last day of each month before the last day of the succeeding month."

13. Section 62 of the principal enactment is hereby repealed and the following section substituted therefor :—

"Expression of
the definition
of the money
supply.

62. For the purposes of this Act, the expression "the money supply" means all currency, demand deposits, time and savings deposits and such other financial assets as may be prescribed by the Monetary Board from time to time and are owned by persons other than the Government, commercial banks and such financial institutions or categories of financial institutions as may be prescribed by the Monetary Board and for the purposes of this section "financial institutions" shall have the same meaning assigned to it in subsection (5) of section 93."

14. The principal enactment is hereby amended by the insertion immediately after section 62, of the following :—

'PART III

PAYMENT AND SETTLEMENT SYSTEMS

"Establishment
of systems for
transfer of
funds and
transfer and
settlement of
scripless
securities.

62A. (1) The Central Bank may establish and operate one or more systems—

- (a) for the transfer of funds by and between the Central Bank, commercial banks and such other institutions or persons that maintain a settlement account with the Central Bank and who are admitted as participants to such system by the Central Bank ;
- (b) for the transfer and settlement of scripless securities by and between the Central Bank and direct participants ;
- (c) for the settlement of payment obligations in respect of transfer and settlement of scripless securities under paragraph (b).
- (2) A system established under subsection (1) may be linked to another system in Sri Lanka or elsewhere for the clearing or settlement of payment obligations or securities.
- (3) The Central Bank may enter into agreements with the participants of a system established under subsection (1) and issue in writing to the participants of the system rules for the operation of the system.

- (4) Without prejudice to the generality of subsection (3), such rules may provide—
- (a) for the provision of intra-day credit against the collateral of securities to the participants and the conditions attaching to the provision of such credit ;
 - (b) for the appointment of the Central Bank as a certification authority for the purpose of issuing certificates to participants under any law applicable to the appointment of certification authorities in respect of electronic signatures ;
 - (c) for the formulation and adoption of a code of conduct for participants ;
 - (d) for the authentication of transactions carried out electronically ;
 - (e) for the Central Bank, if it considers necessary in the interest of the system, to cease or suspend the operation of the system, or to withdraw or suspend the privileges or rights of any participant or category of participants or to suspend or revoke the membership in the system of a participant ;
 - (f) for the appointment of auditors or inspectors for the auditing or inspection of the operating systems of participants in respect of the settlement system ; and
 - (g) for the payment of charges and fees to the Central Bank by the participants.
- (5) A payment or transfer made through a system established under subsection (1), is final and irrevocable—
- (a) in the case of a transaction involving a funds transfer only, upon the settlement account of the participant requesting the funds transfer being debited ;
 - (b) in the case of a transaction involving a securities transfer only, upon the securities account of the participant requesting the securities transfer being debited ;
 - (c) in the case of a transaction involving both, a funds transfer and a securities transfer, upon debiting the settlement account or the securities account of a participant requesting the funds transfer or the securities transfer as the case may be, whichever occurs earlier,
- and notwithstanding anything to the contrary in any other law, such payment or transfer shall not be required to be reversed, repaid or set aside nor shall any court, order such payment or transfer to be rectified or stayed.
- (6) Scripless securities issued under this Act or the Local Treasury Bills Ordinance or the Registered Stock and Securities Ordinance shall be transferred, pledged, encumbered, lent, borrowed or transacted in only as provided by or under the regulations made under this Act or the Local Treasury Bills Ordinance or the Registered Stock and Securities Ordinance, as the case may be. A transfer, pledge, encumbrance, loan, borrowing or transaction effected accordingly shall be valid and effectual notwithstanding any other written law, and the claim of a participant of the system on any scripless securities posted as collateral in accordance with those regulations as may be applicable shall have priority over the claims on such scripless securities of a person who is not a participant of the system.
- (7) Nothing in subsections (5) and (6) shall affect any other legal right or remedy available to a person who has suffered any loss or damage by a payment, transfer or settlement effected through a system established under subsection (1).
- (8) Notwithstanding the provisions of any written law relating to the winding up of companies, if proceedings for the winding up of a participant of a system have commenced—
- (a) the Central Bank may do anything permitted or required by the rules of the system in order to net obligations incurred before or on the day on which the proceedings commenced ;

- (b) the obligations that are netted under the rules of the system shall be disregarded in the proceedings ; and
 - (c) the netting made by the Central Bank and any payment made by the participant under the rules of the system shall not be voidable in the proceedings.
- (9) If proceedings for the winding up of a participant is commenced and a payment or settlement owed by such participant has been made as referred to in subsection (5) or (8), and if a payment or settlement of such funds or securities would have been void or voidable under any other written law if made outside the system, the liquidator of such participant may recover from the person to whose benefit such payment or settlement was made such amount as would have been recoverable if such payment or settlement had been made outside the system.
- (10) Without prejudice to the generality of the provisions of section 47, the Monetary Board, any member of the Monetary Board, any officer or employee of the Central Bank or any person acting under the direction of the Monetary Board shall not be liable for any loss or damage suffered by any person or participant, arising directly or indirectly, from the use of the system by any participant, unless such loss or damage results from gross negligence or willful misconduct of the Monetary Board or any member of the Monetary Board or any officer or employee of the Central Bank or any person acting under the direction of the Monetary Board.
- (11) Where any transaction effected through a system established under subsection (1) is carried out electronically, such transaction shall not be denied legal effect, validity or enforceability solely on the ground that such transaction is carried out electronically or that the information relating to such transaction is maintained in the form of an electronic record, and such record may be tendered in evidence in proceedings before any court or tribunal in accordance with the provisions of Parts II and III of the Evidence (Special Provisions) Act, No. 14 of 1995 or any other law for the time being in force relating to the tendering of computer evidence, before any court or tribunal.
- (12) Any or all of the functions referred to in subsection (1) may, be carried out by a body corporate authorised for the purpose by the Monetary Board, subject to such terms and conditions as may be imposed by the Monetary Board.
- (13) For the purposes of this section—
- “direct participant” and “scripless securities” shall have the same meaning as in section 112A ;
 - “rules” means any rule issued by the Central Bank under subsection (3) of this section ;
 - “securities” shall have the same meaning as in section 112A except that for the purposes of paragraph (a) of subsection (4), securities shall not include securities of the Central Bank issued in scripless form or otherwise ;
 - “settlement account” means an account maintained by a participant with the Central Bank under this Act and used for the purposes of the system with the approval of the Central Bank ;
 - “securities account” means an account maintained by a participant with the Central Bank in terms of paragraph (b) of section 112A.”.

15. Section 72 of the principal enactment is hereby amended as follows :—

- (a) by the deletion of subsection (2) thereof and by renumbering subsection (1) as section 72 ; and
- (b) in the renumbered section 72, by the substitution for the words “the Central Bank shall buy” of the words “the Central Bank may buy”.

16. Section 74 of the principal enactment is hereby amended by the repeal of subsection (5) of that section.

17. Section 76 of the principal enactment is hereby amended by the repeal of subsection (4) of that section.

18. Section 76A of the principal enactment is hereby repealed and the following section substituted therefor :—

"Governor's
powers in
relation to
exchange rates.

76A. (1) Where the Governor is of opinion that it is inexpedient to determine and certify, in accordance with the provisions of section 73, the parities with respect to the Sri Lanka Rupee of foreign currencies ordinarily required for the international transactions of Sri Lanka, the Governor—

- (a) may desist from determining and certifying the parities of such foreign currencies under that section ; and
- (b) may or may not determine the rates at which the Central Bank may buy and sell foreign exchange in spot or other transactions.

(2) Where the Governor acts in terms of subsection (1), the provisions of sections 73, 74 and 76 shall cease to have any force or effect in law.

(3) Where the Governor determines, under paragraph (b) of subsection (1) the rates at which the Central Bank may buy and sell foreign exchange in spot or other transactions, the following provisions shall apply determination—

- (a) such determination may be limited to such foreign currencies as the Governor may deem appropriate ;
- (b) the rates determined under paragraph (b) of subsection (1) shall not apply in the case of the purchases and sales of foreign notes and coins, in which case the Central Bank may have regard to the additional costs of, or costs incidental to, such purchases or sales ;
- (c) the Central Bank shall not accept any commission or impose any charge of any description in respect of the purchase or sale of foreign exchange, except the telegraphic or other costs actually incurred in connection with such purchase or sale ;
- (d) it shall be competent for the Governor to authorise, in writing, any officer by name or by office, to vary from time to time within such limits as may be specified by the Governor, the rates determined by the Governor under paragraph (b) of subsection (1) ;
- (e) where the Governor makes a determination under paragraph (b) of subsection (1) with respect to foreign currency but makes no determination under that subsection with respect to any particular foreign currency, the Central Bank may buy and sell such currency in respect of which no determination has been made at a rate calculated on the basis of the exchange rate for that currency in the international markets in relation to any foreign currency with respect to which the Governor has made a determination under paragraph (b) of subsection (1).

(4) Where the Governor desists from determining and certifying parities under subsection (1)(a) and does not determine the rates at which the Central Bank may buy and sell foreign exchange in spot or other transactions under paragraph (b) of subsection (1) the Central Bank may buy and sell foreign exchange at such rates as the Governor or an officer authorised by the Governor for the purpose may deem appropriate.

(5) (a) Where the Governor determines under subsection (1)(b) the rates at which the Central Bank may buy and sell foreign exchange, the Governor may determine the minimum rate at which any Commercial bank may buy spot foreign exchange and the maximum rate at which any commercial bank may sell spot foreign exchange.

- (b) Notwithstanding that the Governor has desisted from determining and certifying parities under subsection (1)(a) and has not determined the rates at which the Central Bank may buy or sell foreign exchange under paragraph (b) of subsection (1) the Governor may determine the minimum rate at which any commercial bank may buy spot foreign exchange and the maximum rate at which any commercial bank may sell spot foreign exchange.
- (c) The provisions of paragraph (d) of subsection (3) shall, *mutatis mutandis*, apply to and in relation to, the minimum and maximum rates determined under paragraph (a) or paragraph (b) of this subsection.
- (d) Where no determination is made under paragraph (a) or paragraph (b) of this subsection, a commercial bank may buy, sell or carry out any transaction in foreign currency at rates calculated on the basis of the exchange rates for that currency in the international markets.
- (e) Where a determination is made under paragraph (a) or paragraph (b) of this subsection as to the minimum and the maximum rates at which commercial banks may buy and sell spot foreign exchange—
 - (i) no commercial bank shall buy spot foreign exchange at any rate below the minimum rate determined under those paragraphs as may be applicable or sell spot foreign exchange at any rate exceeding the maximum rate so determined as may be applicable ; and no commercial bank shall in respect of the purchase or sale of such exchange accept any commission or impose any charge of any description except telegraphic or other costs actually incurred in connection with such purchase or sale ; and
 - (ii) no commercial bank shall carry out any transaction in foreign exchange, not being a spot transaction, at any rate which differs from the rates determined under paragraph (a) or paragraph (b) of this subsection as may be applicable by a margin greater than is reasonable having regard to the additional costs, expenses or risks of the transaction, or by such margin, if any, as may be prescribed in that behalf by the Governor.”.

19. The heading appearing in Part VI immediately before section 93 of the principal enactment is hereby repealed and the following heading substituted therefor :—

“REGULATION OF THE RESERVES OF COMMERCIAL BANKS AND PRESCRIBED FINANCIAL INSTITUTIONS”.

20. Section 93 of the principal enactment is hereby repealed and the following section substituted therefor:—

- ‘Reserve requirements.
93. (1) The Monetary Board shall, in order to limit the volume of money created by the credit operations of the financial system, require commercial banks and such other financial institutions operating in Sri Lanka as may be prescribed by the Monetary Board (in this Part referred to as the “prescribed financial institutions”) to maintain reserves against their deposit liabilities and such of their other financial liabilities as the Monetary Board may consider necessary and shall, for that purpose, prescribe the classes of deposit liabilities and the categories of other financial liabilities against which reserves are required to be maintained.
- (2) The reserves required to be maintained by a commercial bank or a prescribed financial institution under subsection (1), shall be proportionate to the volumes respectively, of each class of its deposit liabilities and each category of its other financial liabilities and shall, subject to subsection (4), take the form of rupee deposits in the Central Bank.
- (3) The accounts maintained at the Central Bank by prescribed financial institutions under subsection (2), shall be maintained only for the purpose of keeping the rupee deposits required to be maintained as reserves by such financial institutions.

- (4) The Monetary Board may in the interest of the national economy and the banking and financial systems of the country, permit the maintenance of any part of the reserves required to be maintained under subsection (1), in the form of assets other than rupee deposits in the Central Bank.

- (5) In this Part –

“financial business” in relation to a financial institution means the accepting of money in any form from the public, in the ordinary course of business, by way of deposit or by the issue of bills of exchange, promissory notes, bonds, certificates, notes, commercial paper or other similar instruments by means of which money is raised from the public, and the use of that money, in whole or in part, for the grant of loans or making that money available to third parties or for the benefit of third parties, as a business ;

“financial institution” means a licensed specialised bank as defined in the Banking Act, No. 30 of 1988, or a finance company as defined in the Finance Companies Act, No. 78 of 1988, and includes any person or body of persons carrying on financial business ;

“other financial liabilities” in relation to a licensed commercial bank or a prescribed financial institution, means liabilities (other than deposit liabilities) incurred by any such bank or financial institution by the acceptance of money in any form from the public, in the course of its business, by the issue of bills of exchange, promissory notes, bonds, certificates, notes, commercial paper or other similar instruments by means of which money is raised from the public.’.

21. Section 94 of the principal enactment is hereby repealed and the following section substituted therefor :–

“Monetary Board to prescribe reserve ratios.

94. (1) The Monetary Board shall prescribe, and may, from time to time, vary, the reserve ratios applicable to each class of deposit liabilities and each category or other financial liabilities against which reserves are required to be maintained under section 93.
- (2) Any increase in a reserve ratio which is to be applicable in respect of any liability that existed on the date of the increase shall be made by the Monetary Board in a gradual manner and shall not exceed four percentage points in any one period of thirty days.
- (3) The Monetary Board shall, other than in exceptional circumstances, endeavour to give commercial banks and other prescribed financial institutions not less than fourteen days notice of the date on which any increase in a reserve ratio is to become effective.”.

22. Section 95 of the principal enactment is hereby repealed and the following section substituted therefor :–

“Interest on reserves when payable.

95. Where any commercial bank or any prescribed financial institution is required to maintain a reserve against any class of deposit liabilities or any category of other financial liabilities, the Central Bank shall, if so determined by the Monetary Board, in the interest of the national economy and the banking and financial systems of the country, pay to that bank or to that financial institution, as the case may be, interest at such rate as may be determined by the Monetary Board, on the amount maintained as a reserve or a part thereof.”.

23. Section 96 of the principal enactment is hereby repealed and the following section substituted therefor :–

“Computation of required reserves.

96. (1) The reserves required to be maintained by a commercial bank or a prescribed financial institution shall be calculated on such basis as may be prescribed by the Monetary Board.
- (2) For the purposes of subsection (1), the principal office in Sri Lanka of a commercial bank or a prescribed financial institution and the respective branches and agencies of such bank or financial institution shall be deemed to be one unit.”.

24. Section 97 of the principal enactment is hereby repealed and the following section substituted therefor :—

- "Consequences of reserve deficiencies. 97. (1) Where the reserves maintained by a commercial bank or a prescribed financial institution are below the reserves required to be maintained by such bank or financial institution calculated on the basis prescribed under section 96, the commercial bank or the prescribed financial institution, as the case may be, shall pay to the Central Bank, interest on the amount of the deficiency at such rate as may be determined by the Monetary Board.
- (2) Where a commercial bank or a prescribed financial institution regularly fails to maintain the reserves required to be maintained by such bank or financial institution calculated on the basis prescribed under section 96, the Monetary Board may, in the interests of the national economy, make order—
- prohibiting or restricting the making of loans or investments by that bank or financial institution ;
 - prohibiting the application of the whole or any specified part of the net profits of that bank or financial institution for the purpose of payment of a dividend to its shareholders."

25. Section 98 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for the words "under the preceding provisions of this Part", of the words "under this Part".

26. The following new section is inserted immediately after section 98, and shall have effect as section 98A of the principal enactment :—

- "Powers of the Director of Bank Supervision. 98A. (1) The Director of Bank Supervision may examine, or cause an examiner of his department to examine the books, accounts and records of a prescribed financial institution and may require any such financial institution or its directors or officers to furnish from time to time or within such periods as may be specified, such books, accounts, records or information as may be required for the purpose of ascertaining whether such institution is complying with the provisions of this Part.
- (2) Any person who resists or obstructs the Director of Bank Supervision or an examiner of his department, in the exercise by such Director or examiner, of the powers conferred on him by subsection (1) shall be guilty of an offence."

27. Section 112A of the principal enactment is hereby amended as follows :—

- by the repeal of the marginal note to that section and substitution therefor of the following new marginal note :—
"Facilities for maintenance of accounts at the Central Bank and a depository for scripless securities ." ;
- in paragraph (b) of that section, by the substitution for the words "among direct participants." of the words "among direct participants ; and" ; and
- by the addition immediately after paragraph (b) thereof of the following new paragraph :—
"(c) for the maintenance of a depository for recording of title to scripless securities of the Central Bank, of direct participants and, in the case of dealer direct participants, of their customers. The Central Bank may make such rules and regulations as it may consider necessary in relation to the depository ;"
- by the repeal of the definition of the expression "direct participant" and the substitution therefor of the following definition :—
"dealer direct participant " and "direct participant" shall have the respective meanings assigned to them in the Local Treasury Bills Ordinance and the Registered Stock and Securities Ordinance ;"
- by the repeal of the definition of the expression "primary dealer" and substitution therefor of the following definition :—

“primary dealer” shall have the meaning assigned to it in the Local Treasury Bills Ordinance and the Registered Stock and Securities Ordinance’.

28. Section 112B of the principal enactment is hereby repealed and the following section substituted therefor :—

“Any body corporate to provide facilities under sections 98 (1) and 112A. 112B. (1) Any or all of the functions referred to in subsection (1) of section 98 and section 112A may, notwithstanding the provisions of such section, be carried out by a body corporate authorised for the purpose by the Monetary Board subject to such terms and conditions as may be imposed by the Monetary Board.

(2) A body corporate referred to in subsection (1) may hold an account with the Central Bank for the purpose of carrying out such functions.”.

29. Section 122 of the principal enactment is hereby amended as follows :—

(a) in subsection (2) of that section, by the deletion of all the words from “Every person who is guilty of an offence” to “shall be liable”, and substitution of the following words therefor :—

“Every person who is guilty of an offence by reason of the contravention of, or failure to comply with, section 30 or section 32 (2) or section 45 or section 46 or section 50 or section 98A (2) or any rule, regulation, order, direction or requirement made or given under section 30 or section 79 (2) (c) or section 98A (1) or section 101 or section 102 shall be liable”;

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

(i) in paragraph (a) thereof, by the substitution for the words “two thousand five hundred rupees” of the words “five hundred thousand rupees.” ;

(ii) in paragraph (b) thereof, by the substitution for the words “ten thousand rupees” of the words “one million rupees, ” ;

(c) in subsection (2A) of that section by the substitution for the words “three thousand rupees” of the words “five hundred thousand rupees” ;

(d) in subsection (3) of that section by the substitution for the words “five hundred rupees” of the words “one hundred thousand rupees”.

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