

## **PART IV**

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### **MAJOR LEGISLATIVE ENACTMENTS OF 2004**

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

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# LOCAL TREASURY BILLS (AMENDMENT) ACT, NO. 1 OF 2004

[ Certified on 6th January, 2004 ]

## AN ACT TO AMEND THE LOCAL TREASURY BILLS ORDINANCE

1. This Act may be cited as the Local Treasury Bills (Amendment) Act, No. 1 of 2004.
2. Section 6 of the Local Treasury Bills Ordinance (Chapter 417) (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “at the Treasury in Colombo when the Treasury Bills fall due” of the words “when the Treasury Bills fall due:

Provided however that if the day on which a Treasury Bill falls due is a day on which the Central Bank is not open for business, payment shall be made in accordance with such procedures as may be prescribed.

3. The following new sections are hereby inserted immediately after section 7 of the principal enactment, and shall have effect as sections 7A, 7B and 7C of that enactment :—

“Central Bank to supervise or to monitor the transactions of primary dealers and non dealer bidders. 7A. Without prejudice to anything contained in this Ordinance particularly the provisions of sections 8, 9, 10 and 11, the Central Bank shall regulate, supervise and monitor the primary dealers and the designated non dealer bidders with respect to their transactions in Treasury Bills issued in the form of written certificates.

Issue of Scripless Treasury Bills 7B. The Minister may, by notification published in the *Gazette* and in two local newspapers in Sinhala, Tamil and English, notify the public of a day, from which, Treasury Bills may be issued in the form of Scripless Treasury Bills.

Conversion of Treasury Bills issued in the form of written certificates. 7C. (1) The Central Bank may by notification published in the *Gazette* and in two local newspapers in Sinhala, Tamil and English, require the holders of Treasury Bills issued in the form of written certificates having a specified date of maturity, if they so desire, to surrender such Bills for conversion into Scripless Treasury Bills in accordance with such procedure as may be prescribed. Such Treasury Bills shall upon conversion into Scripless Treasury Bills be deemed to be Scripless Treasury Bills issued under this Ordinance.

(2) Nothing contained in subsection (1) shall be construed as affecting or discharging the liability of the Government under this Ordinance in respect of a Treasury Bill which is not converted into a Scripless Treasury Bill as provided for in subsection (1).”.

4. Section 8 of the principal enactment is hereby amended in subsection (2) as follows :—

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

“(b) the period within which the maturity proceeds paid on Scripless Treasury Bills in such accounts shall be paid to customers or persons entitled thereto;”;

(2) in paragraph (e) of that subsection by the substitution for the words “pledged or encumbered.”; of the words “pledged or encumbered;”;

(3) by the addition immediately after paragraph (e) of that subsection of the following new paragraph :—

“(f) the furnishing of information to the Central Bank, the manner, means and periods at which such information shall be furnished to the Central Bank.”.

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

‘Direct Participants. 9. (1) The Central Bank, may in writing appoint any primary dealer or other person to be a direct participant who shall be entitled to maintain accounts in respect of Scripless Treasury Bills as are specified in subsection (2).

- (2) A direct participant shall maintain in a depository referred to in the Monetary Law Act, Securities Accounts to hold Scripless Treasury Bills and other scripless securities to which such direct participant has title and to record the interest of such direct participant in Scripless Treasury Bills and other Scripless securities in accordance with the rules and regulations made under the Monetary Law Act.
- (3) The Central Bank shall pay to a direct participant the maturity proceeds on Scripless Treasury Bills in respect of which such direct participant is recorded as owner in accounts maintained by a direct participant under subsection (2) on the day such maturity proceeds become payable.
- (4) The Central Bank may inspect and take copies of any books, records or accounts maintained by a direct participant relating to or affecting any Scripless Treasury Bills held in its own account or in the case of a dealer direct participant, with respect to its own account as well as those held in customers' accounts. The direct participant and its officers, directors, employees, servants and agents shall furnish to the Central Bank all such books, records correspondence or any other document as may be required by the Central Bank and shall provide the Central Bank with all such assistance as it may require to perform the duties imposed on the Central Bank by this Ordinance in respect of issue of Scripless Treasury Bills.

The provisions of this section shall apply to any book, record, accounts and correspondence maintained in an electronic form.

- (5) In the event of the Government incurring any liability or making payment of any maturity proceeds with respect to a Scripless Treasury Bill and where such liability arises or such payment is made in consequence or by reason of any default of a direct participant or a dealer direct participant, such participant shall be liable on demand by the Government, to indemnify the Government with respect to such liability or payment.
- (6) For the purpose of this section "default" includes —
  - (a) any negligence or failure on the part of a direct participant or a dealer direct participant in carrying out of any function or the discharging of any duty assigned to or imposed on, him, by this Ordinance or by any other written law in relation to any matter dealt with by this Ordinance ; and
  - (b) any act or omission on the part of direct participant or dealer direct participant which constitutes an offence under this Ordinance or any other written law in relation to any matter dealt with by this Ordinance —
    - (i) whether or not there has been any prosecution in respect of such offence; or
    - (ii) whether such act or omission was by the direct participant or the dealer direct participant or by any director, officer, employee or agent of such direct participant or dealer direct participant.

**6. Section 10 of the principal enactment is hereby amended by the repeal of subsections (2), (3), (4), (5), (6), (7), (8) and (9) of that section and the substitution therefor of the following subsections :—**

- "(2) A dealer direct participant shall, in addition to maintaining accounts required to be maintained under subsection (2) of section 9, maintain in a depository referred to in the Monetary Law Act, accounts in respect of each of its customers to hold Scripless Treasury Bills and other scripless securities to which each such customer has title and to record the interests of each such customer in Scripless Treasury Bills and other scripless securities in accordance with the regulations and rules made under the Monetary Law Act.
- (3) The Central Bank shall pay to a dealer direct participant, in addition to the payments referred to in subsection (3) of section 9, the maturity proceeds on Scripless Treasury Bills in respect of which a customer or such dealer direct participant is recorded as owner in accounts maintained by such dealer direct participant under subsection (2), on the day such maturity proceeds become payable.

- (4) No person other than a dealer direct participant may transact in Scripless Treasury Bills on behalf of any other person. Any person other than a direct participant and the Central Bank desiring either to make a transfer or to take a transfer of Scripless Treasury Bills shall do so only through a dealer direct participant.
- (5) A dealer direct participant shall maintain books and records to enable it to perform and discharge its duties and functions under this Ordinance and to discharge its obligations to its customers and shall comply with directions, if any, issued by the Central Bank for such purpose.
- (6) Upon receipt by a dealer direct participant of any amount by way of payment from the Central Bank in terms of subsection (3) in respect of Scripless Treasury Bills held in a customer account, the dealer direct participant shall pay such amount, within the time specified in any direction issued by the Central Bank, to the customer or to any other party entitled to such payment by law or in terms of a written agreement to which the dealer direct participant and the customer are party.
- (7) If a dealer direct participant is unable, for any reason to effect payment to a customer or to a party entitled to payment in terms of subsection (6), within the time specified in any directions issued by the Central Bank, the dealer direct participant shall within such period as may be specified in such directions, transfer the sum remaining unpaid to a prescribed account of the Central Bank and shall provide the Central Bank with such information as may be required by the Central Bank with regard to the payment and the customer or other party, as the case may be.
- (8) The sums of money transferred to a prescribed account of the Central Bank in terms of subsection (7) shall be paid to persons entitled thereto and any monies lying unclaimed shall be dealt with or disposed of by the Central Bank in such manner as is prescribed by regulations made for such purpose.
- (9) A dealer direct participant shall, except to the extent required for the proper conduct of its business and administration, maintain confidentiality in respect of accounts maintained for a customer and any matter connected therewith and shall not disclose to any person except to the Central Bank, any information relating to an account of a customer unless authorized to do so in writing by the customer, or except where it is required to do so under any law or by an Order of Court.”

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

“Transfer of  
Scripless  
Treasury  
Bills.

11. (1) Where a transfer of title to a Scripless Treasury Bill is made by a dealer direct participant from or into an account maintained for a customer under subsection (2) of section 10, or an interest of any customer in a Scripless Treasury Bill is recorded or any amendment or variation is made in respect of any such interest in any Scripless Treasury Bill in such account, such dealer direct participant shall issue to such customer a confirmation in accordance with such directions as may from time to time be issued by the Central Bank.
- (2) The provisions of subsection (1) shall not be construed as derogating from any obligation imposed under the Monetary Law Act on the provider of depository facilities for Scripless Securities, to issue statements or confirmations in respect of accounts maintained in such depository and in the event of any conflict or inconsistency between a statement or confirmation so issued by the depository and the statement or confirmation issued under subsection (1), the statement or confirmation issued by the depository, shall prevail.
- (3) Subject to the provisions of any applicable written law, a dealer direct participant shall be wholly responsible and liable to customers in respect of all transfers taken or made by such customer through such dealer direct participant.
- (4) The confirmation referred to in subsection (1) shall not be capable of being negotiated and shall be used solely as evidence of dealings between such dealer direct participant and the customer in respect of Scripless Treasury Bills to which it relates.
- (5) The Central Bank may permit any notification, confirmation, acknowledgment or receipt required under this section to be issued in a non written form and to be transmitted or delivered by wire, telephone, satellite cable or any other such electronic,

magnetic or optical media, as may be specified from time to time, by the Central Bank in that behalf.

- (6) An electronic record of a Scripless Treasury Bill or any notification, confirmation, acknowledgment, receipt or other document or record issued or maintained for the purposes of this Ordinance in an electronic form, shall not be denied legal effect, validity or enforceability solely on the grounds that such Scripless Treasury Bill is maintained in an electronic form or that such notification confirmation, acknowledgment, receipt or other document or record is issued or maintained in electronic form and such notification confirmation, acknowledgment, receipt or other document may be tendered in evidence in proceedings before any court or tribunal in accordance with Part II and Part III of the Evidence (Special Provisions) Act, No. 14 of 1995 or any other law for the time being in force in relation to the tendering of computer evidence before any court or tribunal.”.

8. Section 14 of the principal enactment is hereby amended in subsection (2) of that section by the repeal of subsection (2) thereof and by the substitution therefor of the following subsection :—

“(2) Any person guilty of an offence under this Ordinance shall be liable on conviction after summary trial before a Magistrate, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million rupees or where the offence has resulted in monetary loss or monetary gain or a loss or gain which is quantifiable in monetary terms to any person, to a fine equivalent to twice the value of such loss or gain or to both such imprisonment and fine.”.

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

“Transactions in Scripless Securities. 15A. The Scripless Treasury Bills issued under this Ordinance shall be transferred pledged, encumbered, lent, borrowed or otherwise transacted in, as provided by regulations and any transfer, pledge, encumbrance, loan, borrowing or any other transaction effected accordingly shall be valid and effectual notwithstanding any other written law relating to transactions in Treasury Bills issued in the form of written certificates.

Compounding of offences. 15B. (1) The Central Bank may with the consent of Court having regard to the circumstances in which an offence under this Ordinance was committed, compound such offence for a sum of money not exceeding rupees five million or where the offence has resulted in monetary loss or monetary gain or a loss or gain which is quantifiable in monetary terms to any person for a sum of money equivalent to one and a half times the value of such loss or gain.

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

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

- (1) by the substitution for the definition of the expression “customer” of the following new definition :—

“customer” in relation to a dealer direct participant means any person who purchases or sells or otherwise acquires or disposes of Scripless Treasury Bills or an interest therein through such dealer direct participant or who negotiates with such dealer direct participant for the possible acquisition or disposition of such bill or interest and shall include where the context so permits a legal representative of such customer or of the estate of such customer;’;

- (2) by the addition immediately after the definition of the expression “interdealer broker” of the following new definition :—

“Monetary Law Act” means the Monetary Law Act, (Chapter 422) as amended from time to time and shall include any enactment that replaces such Act in relation to the matters contained therein and where any section is specifically referred to in this Ordinance the reference shall be taken to include corresponding sections in the subsequent enactment ; ’;

“securities account” shall have the same meaning as in the Monetary Law Act (Chapter 422).’.

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

**REGISTERED STOCK AND SECURITIES (AMENDMENT) ACT, NO. 2 OF 2004**

[ Certified on 6th January, 2004 ]

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

1. This Act may be cited as the Registered Stock and Securities (Amendment) Act, No. 2 of 2004.
2. (1) Section 5A of the Registered Stock and Securities Ordinance (Chapter 420) (hereinafter referred to as the "principal enactment") is hereby amended as follows :—
  - (1) by the re-numbering of that section as subsection (1) of that section ; and
  - (2) by the addition immediately after the re-numbered subsection (1), of the following new subsection :—
 

“(2) Without prejudice to anything contained in this Ordinance particularly the provisions of sections 21C, 21D, 21E, and 21F, the Central Bank shall regulate, supervise and monitor the primary dealers and the designated non-dealer bidders with respect to their transactions in Treasury Bonds issued in the form of written certificates.”
3. Section 21A of the principal enactment is hereby repealed and the following section substituted therefor :—
 

“Treasury Bonds. 21A. (1) Every Treasury Bond shall, on being issued, bind the government to pay the principal sum for which the Bond is issued and the interest thereon in accordance with the provisions of this Ordinance, at the rate and on the dates specified in the Order made in terms of section 4 or in pursuance of an option reserved in such Order to redeem such Bond :

Provided that, if the day on which such payment falls due is a day on which the Central Bank is not open for business, payment shall be made in accordance with the procedure as may be prescribed in that behalf.

(2) Notwithstanding any other provisions of this Ordinance, treasury bonds may be issued either as bonds in the form of written certificates or as Scripless Treasury Bonds.”
4. Section 21C of the principal enactment is hereby amended as follows :—
  - (1) in subsection (3) of that section —
    - (a) by the repeal of paragraph (b) thereof and the substitution therefor of the following paragraph :—
 

“(b) the period within which any sum due as principal, interest or redemption proceeds if any, paid on scripless treasury bonds in such accounts should be paid to customers or persons entitled thereto.”;
    - (b) by the substitution in paragraph (e) of that subsection for the words “pledged or encumbered.” of the words “pledged or encumbered.”; and
    - (c) by the addition immediately after paragraph (e) of that subsection of the following new paragraph :—
 

(f) the furnishing of information to the Central Bank, the manner, means and periods at which such information shall be furnished to the Central Bank.”;
  - (2) by the addition immediately after subsection (3) of that section of the following new subsections :—
 

“(4) The Central Bank may by Notification published in the *Gazette* and in two local newspapers in the Sinhala, Tamil and English languages, require the holder of Treasury Bonds issued in the form of written certificates of a series to be specified in such Notification, if they so desire to surrender such bonds for conversion into Scripless Treasury Bonds in accordance with such procedure as may be prescribed. Such Treasury Bonds shall upon conversion into Scripless Treasury Bonds be deemed to be Scripless Treasury Bonds issued under this Ordinance.

- (5) Nothing contained in subsection (4) shall be construed as affecting or discharging the liability of the Government under this Ordinance to make payment on a Treasury Bond issued in the form of a written certificate belonging to a series specified in a Notification published under that subsection which has not been converted into a Scripless Treasury Bond in terms of such subsection.”.

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

“Direct  
participants.

21D. (1) The Central Bank may in writing appoint any primary dealer or other person to be a direct participant who shall be entitled to maintain accounts in respect of Scripless Treasury Bonds as specified in subsection (2).

- (2) A direct participant shall maintain in a depository referred to in the Monetary Law Act, Securities Accounts to hold Scripless Treasury Bonds and other scripless securities to which such direct participant has title and to record the interests of such direct participant in scripless treasury bonds and other scripless securities in accordance with such rules and regulations made under the Monetary Law Act.
- (3) The Central Bank shall pay to a direct participant the sum due as the principal, interest and redemption proceeds, if any, on Scripless Treasury Bonds in respect of which such direct participant is recorded as owner in accounts maintained by such direct participant under subsection (2), on the day the sum due as principal, interest, or redemption proceeds, if any, become payable.
- (4) The Central Bank may inspect and take copies of any books, records or accounts maintained by a direct participant relating to or affecting any Scripless Treasury Bonds, held in its own account or, in the case of a dealer direct participant, with respect to its own account as well as those held in customers’ accounts. The direct participant or dealer direct participant and its officers, directors, employees, servants and agents shall furnish to the Central Bank, all such books, records, correspondence or any other documents as may be required by the Central Bank, and shall provide the Central Bank with all such assistance as it may require to perform the duties imposed on the Central Bank by this Ordinance in respect of Scripless Treasury Bonds. The provisions of this subsection shall apply to any books, records, accounts and correspondence maintained in an electronic form.
- (5) In the event of the Government incurring any liability or making payment of any sum due as principal, interest or redemption proceeds with regard to Scripless Treasury Bonds, and where such liability arises or such payment is made in consequence, or by reason, of any default of a direct participant or a dealer direct participant, such participant shall be liable on demand by the Government, to indemnify the Government with respect to such liability or payment.

For the purpose of this subsection “default” includes—

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



6. Section 21E of the principal enactment is hereby amended by the repeal of subsections (2), (3), (4), (5), (6), (7), (8) and (9) of that section and the substitution therefor, of the following subsections :—

- “(2) A dealer direct participant shall, in addition to maintaining the accounts required to be maintained under subsection (2) of section 21D, maintain in a depository referred to in the Monetary Law Act, accounts in respect of each of its customers to hold Scripless Treasury Bonds and other scripless securities to which each such customer has title and to record interests of each such customer in Scripless Treasury Bonds and other scripless securities in accordance with such rules and regulations made under the Monetary Law Act.
- (3) The Central Bank shall pay to a dealer direct participant, in addition to the payments referred to in subsection (3) of section 21D, the sum due as principal, interest, and redemption proceeds, if any, on Scripless Treasury Bonds in respect of which a customer of such dealer direct participant is recorded as owner in accounts maintained by such dealer direct participant under subsection (2), on the day the sum due as principal interest or redemption proceeds if any, become payable.
- (4) No person other than a dealer direct participant may transact in Scripless Treasury Bonds on behalf of any other person. Any person, other than a direct participant and the Central Bank desiring either to make a transfer or to take a transfer of Scripless Treasury Bonds, shall do so only through a dealer direct participant.
- (5) A dealer direct participant shall maintain books and records to enable it to perform and discharge its duties and functions under this Ordinance and to discharge its obligations to its customers and shall comply with directions, if any, issued by the Central Bank for such purpose.
- (6) Upon receipt by a dealer direct participant of any amount by way of payment from the Central Bank in terms of subsection (3) in respect of Scripless Treasury Bonds held in a customer account, the dealer direct participant shall pay such amount, within the time specified in any direction issued by the Central Bank, to the customer or to any other party entitled to such payment by law or in terms of a written agreement to which the dealer direct participant and the customer are party.
- (7) If a dealer direct participant is unable for any reason to effect payment to a customer or to a party entitled to payment in terms of subsection (6), within the time specified in directions issued by the Central Bank, the dealer direct participant shall within such period as may be specified in such directions, transfer the sum remaining unpaid to a prescribed account of the Central Bank and shall provide the Central Bank with such information as may be required by the Central Bank with regard to the payment and the customer or other party, as the case may be.
- (8) The sums of money transferred to a prescribed account of the Central Bank in terms of subsection (7) shall be paid to persons entitled thereto and any monies lying unclaimed shall be dealt with or disposed of, by the Central Bank in such manner as may be prescribed by regulations.
- (9) A dealer direct participant shall except to the extent required for the proper conduct of its business and administration, maintain confidentiality in respect of accounts maintained for a customer and any matter connected therewith and shall not disclose to any person other than to the Central Bank, any information relating to an account of a customer unless authorised to do so in writing by the customer, or except where it is required to do so under any law or by an order of court.
- (10) Subject to the provisions of any applicable written law, a dealer direct participant shall be wholly responsible and liable to customers in respect of all transfers taken or made by such customer through such dealer direct participant.”.

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

“Transfer of  
Scripless  
Treasury  
Bonds.

- 21F. (1) Where a transfer of title to a Scripless Treasury Bond is made by a dealer direct participant from or into an account maintained for a customer under subsection (4) of section 21E or an interest of any customer in a Scripless Treasury Bond is recorded or any amendment or variation is made in respect of any such interest in any Scripless Treasury Bond in such account, such dealer direct participant shall issue to such customer a

confirmation in accordance with such directions as may from time to time be issued by the Central Bank.

- (2) The provisions of subsection (1) shall not be construed as derogating from any obligation imposed under the Monetary Law Act on the provider of depository facilities for scripless securities, to issue statements or confirmations in respect of accounts maintained in such depository and in the event of any conflict or inconsistency between a statement or confirmation so issued by the depository and the statement or confirmation issued under subsection (1), the statement or confirmation issued by the depository shall prevail.
- (3) The confirmation referred to in subsection (1) shall not be capable of being negotiated and shall be used solely as evidence of dealings between the dealer direct participant who issued it and the customer in respect of the Scripless Treasury Bond to which it relates.
- (4) The Central Bank may permit any notification, confirmation, acknowledgment or receipt required under this section to be issued in a non-written form and to be transmitted or delivered by wire, telephone, satellite, cable or any other such electronic, magnetic or optical media, as may be specified by the Central Bank.
- (5) An electronic record of a Scripless Treasury Bond, or any confirmation, notice, acknowledgment, receipt or other document or record issued or maintained for the purposes of this Ordinance in an electronic form shall not be denied legal effect, validity, or enforceability solely on the ground that such scripless treasury bond is maintained in an electronic form or that such confirmation, notice, acknowledgement receipt or other document or record is issued or maintained in electronic form and such confirmation, notice, acknowledgment, receipt or other document may be tendered in evidence in proceedings before any court or tribunal in accordance with Parts II and III of the Evidence (Special Provisions) Act, No. 14 of 1995 or any other law for the time being in force in relation to the tendering of computer evidence before any court or tribunal.”

8. Section 51 of the principal enactment is hereby amended by the insertion immediately after subsection (1) of that section of the following new subsection :—

“(1A) The provisions of subsection (1) shall not preclude the Registrar or the Central Bank from recognizing Treasury Bonds held in trust for customers by primary dealers or other authorized persons in accordance with directions issued from time to time by the Central Bank.”

9. Section 55 of the principal enactment is hereby amended by the insertion immediately after subsection (2) of that section of the following new subsection :—

“(2A) The Scripless Treasury Bonds issued under this Ordinance shall be transferred, pledged, encumbered, lent, borrowed or otherwise transacted in, as provided by regulations and any transfer, pledge, encumbrance, loan, borrowing or any other transaction effected accordingly shall be valid and effectual notwithstanding any other law relating to such transactions in Treasury Bonds issued in the form of written certificates.”

10. Section 56A of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following subsections :—

“(2) Any person guilty of an offence under this Ordinance shall be liable on conviction after summary trial before a Magistrate, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million rupees or where the offence has resulted in monetary loss or monetary gain or a loss or gain which is quantifiable in monetary terms to any person, to a fine equivalent to twice the value of such loss or gain or to both such imprisonment and fine.

(3) The Central Bank may, with the consent of Court, having regard to the circumstances in which an offence under this Act was committed compound such offence for a sum of money not exceeding rupees five

million, or where the offence has resulted in monetary loss or monetary gain or a loss or gain which is quantifiable in monetary terms, to any person, for a sum of money equivalent to one and a half times the value of such loss or gain.

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

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

(1) by the substitution for the definition of the expression customer of the following definition—

“customer” in relation to a dealer direct participant means any person who purchases or sells or otherwise acquires or disposes of Scripless Treasury Bonds or an interest therein through such dealer direct participant or who negotiates with such dealer direct participant for the possible acquisition or disposition of such bond or interest and shall include where the context so permits a legal representative of such customer or of the estate of such customer ;’;

(2) by the addition immediately after the definition of the expression ‘interdealer broker’ of the following new definitions—

“Monetary Law Act” means the Monetary Law Act (Chapter 422) as amended from time to time and shall include any enactment that replaces such Act in relation to the matters contained therein, and where any section is specifically referred to in this Ordinance the reference shall be taken to include the corresponding sections in the subsequent enactment ;’ ;

“securities account” shall have the same meaning as in the Monetary Law Act (Chapter 422).’.

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

**FINANCE (AMENDMENT) ACT, NO. 8 OF 2004**

[ Certified on 05th October, 2004 ]

AN ACT TO AMEND THE FINANCE ACT, NO. 11 OF 2002 ; TO PROVIDE FOR THE OPERATION OF PART VI OF THE FINANCE ACT, NO. 11 OF 1963 NOTWITHSTANDING THE REPEAL OF THE SAID PART BY ACT, NO. 11 OF 2002 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Finance (Amendment) Act, No. 8 of 2004.

**PART I****GENERAL**

2. The Finance Act, No. 11 of 2002 is hereby amended by the repeal of Part IV (sections 19 and 20) of such Act.

**PART II****RE-ENACTMENT OF PART VI OF THE FINANCE ACT, NO. 11 OF 1963**

3. (1) The provisions of Part VI of the Finance Act, No. 11 of 1963 (section 58 to section 66) as amended from time to time, shall notwithstanding its repeal by the provisions of Part IV of the Finance Act, No. 11 of 2002, be in operation with effect from the date of the coming into operation of the provisions of this Act, as if such provisions have been enacted herein.
- (2) Upon the provisions of Part VI of the Finance Act, No. 11 of 1963 (section 58 to section 66) as amended from time to time, coming into operation in terms of the provisions of subsection (1) of this section, all orders, notifications, rules or regulations made in relation to Part VI under the aforesaid Act, as amended from time to time, shall, with the re-operation of the provisions of Part VI with effect from the date of the coming into operation of the provisions of this Act, be in operation as if such orders, notifications, rules or regulations have been enacted hereunder.
4. The Finance Act, No. 11 of 1963 is hereby amended in Part VI thereof, as follows :—
  - (1) in section 58 of that Act—
    - (a) by the insertion immediately after subsection (1) thereof, of the following new subsection :—
 

“(1A) No transfer of ownership of any property in Sri Lanka, shall be effected to a person who is not a citizen of Sri Lanka, below such value as shall be specified by the Minister of Finance by regulations made in that behalf, with the concurrence of the Minister of Lands and the Chief Valuer, taking into consideration the prevailing value of land in any Administrative District, Divisional Secretary’s Division or Grama Niladhari Division as the case may be.”;
    - (b) by the addition immediately after subsection (3) thereof, of the following new subsection :—
 

“(3A) Where there is a transfer of ownership of any property within Sri Lanka to a company there shall be charged from the transferee of such property, a tax of such amount as is equivalent to the value of that property, if more than twenty five *per centum* of the issued shares in such company are owned by persons who are not citizens of Sri Lanka.”; and
    - (c) by the repeal of paragraph (g) of subsection (4) thereof and the substitution therefor of the following paragraph :—
 

“(g) the transfer of property of any such class or description or the transfer of property to any person, body of persons or category of persons as is specified by Order made by the Minister. Every such Order shall be published in the *Gazette*.”; and

- (2) by the insertion immediately after section 66 thereof, of the following new section which shall have effect as section 66A thereof :—

“Regulations. 66A. (1) The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act, and in respect of matters that are by this Act required to be prescribed.

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

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

(4) Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.”

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

**INLAND REVENUE (REGULATION OF AMNESTY) ACT, NO. 10 OF 2004**

[Certified on 20th October, 2004]

AN ACT TO PROVIDE FOR THE REGULATION OF THE GRANT OF AN AMNESTY IN RESPECT OF THE NON-PAYMENT OR NON-DISCLOSURE OF LIABILITY TO PAY INCOME TAX IN RESPECT OF DECLARATIONS MADE ON OR BEFORE AUGUST 31, 2003 IN TERMS OF THE REPEALED INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 7 OF 2002 AND THE INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 10 OF 2003 ; TO PROVIDE FOR THE REPEAL OF THE INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 10 OF 2003 ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Inland Revenue (Regulation of Amnesty) Act, No. 10 of 2004.
2. (1) Subject to the provisions of section 3 of this Act, the Inland Revenue (Special Provisions) Act, No. 10 of 2003 is hereby repealed.
- (2) Subject to the provisions of section 3 of this Act, any person who, on the day immediately prior to the enactment of the Inland Revenue (Special Provisions) Act, No. 10 of 2003, was liable, to pay any tax, levy, penalty (including any penalty in respect of any offence), or fine or to forfeiture in terms of any of the laws specified in the Schedule to the aforesaid Act, shall continue to be liable to the payment of such tax, levy, penalty (including any penalty in respect of any offence), forfeiture or fine, notwithstanding anything done or any right or liberty acquired in terms of the provisions of the aforesaid Act.
3. (1) Any person whether in Sri Lanka or abroad, who, though required under the laws relating to the payment of income tax for the time being in force, had not in relation to any period prior to March 31, 2002 declared to the Commissioner-General his liability to such tax or the sources of his income and assets as at March 31, 2002, shall if such person had on or before August 31, 2003 made a declaration to the Commissioner-General disclosing his liability or additional liability to the payment of income tax and all the sources of his income and assets as at April 1, 2002, be deemed to be a declaration made under this Act, and be entitled to an amnesty in terms of this Act:

Provided that in granting the amnesty as set out above, the Commissioner-General shall verify the correctness of the declarations received by him and grant the amnesty only in respect of such part of the declaration which discloses information in relation to undeclared income, undeclared assets and undeclared sources of income or additional income, assets and sources of income.

- (2) For the avoidance of doubt it is hereby declared—

(a) that any declaration made under the provisions—

- (i) of the Inland Revenue (Special Provisions) Act, No. 7 of 2002 shall in accordance with the provisions of subsection (2) of section 11 of the Inland Revenue (Special Provisions) Act, No. 10 of 2003 ; and
- (ii) of the Inland Revenue (Special Provisions) Act, No. 10 of 2003, shall in accordance with the provisions of subsection (1) of section 3 of this Act,

be deemed to be a declaration to which the provisions of this section shall be applicable to ; and

- (b) that any reference to the Inland Revenue (Special Provisions) Act, No. 10 of 2003 shall mean and include the Inland Revenue (Special Provisions) Act, No. 10 of 2003 as amended by the Inland Revenue (Special Provisions) (Amendment) Act, No. 31 of 2003.
- (3) The Commissioner-General or any officer not below the rank of Deputy Commissioner authorised by him in that behalf may, where necessary require the persons whose declarations have been acknowledged to furnish him with the necessary particulars or with additional particulars as may be necessary for the purpose of assisting him in determining whether or not the amnesty should be granted. The particulars shall be furnished in the prescribed form within two weeks of the date on which such information was requested from him.

4. (1) (a) Subject to the provisions of this Act, no prosecution shall be instituted for any offence committed by a declarant referred to in section 3 of this Act and no investigation shall be carried out against any declarant for the imposition of income tax, wealth tax or surcharge on income tax and wealth tax as the case may be, in accordance with the provisions of any written law relating to the same for the time being in force in so far as it relates to the amnesty granted by the Commissioner-General in terms of section 3.
- (b) Any person who has made a declaration as is referred to in section 3 of this Act, shall be entitled to immunity from the payment of any income tax, wealth tax, or surcharge on income tax and wealth tax as the case may be, together with any penalty payable in respect of any disclosure of previously undeclared income, assets or sources of income, for the period ending on or before March 31, 2002 :
- Provided that no employer shall be exempt from the payment of the tax and the penalty referred to in paragraphs (1) (a) and (1) (b) above, in terms of the provisions of Chapter XIV of the Inland Revenue Act, No. 38 of 2000 applicable to the deduction of income tax from the remuneration of the employees, or any other previous law applicable to the same.
- (2) It shall be lawful for the Commissioner-General or any other Authority administering the collection and recovery of any tax, levy or penalty, (including any penalty in respect of any offence) forfeiture or fine in terms of any law referred to in the Schedule of the Inland Revenue (Special Provisions) Act, No. 10 of 2003,—
- (a) to collect and recover any such tax, levy or penalty, (including any penalty in respect of any offence) forfeiture or fine, subsequently waived, discharged or otherwise not recovered in accordance with the provisions of the aforesaid Act, in the manner provided for in terms of any law referred to in the Schedule to the aforesaid Act under which any such tax, levy or penalty, (including any penalty in respect of any offence) forfeiture or fine was imposed; and
- (b) to issue assessments or any other orders as the case may be, for any year of assessment or taxable period ending on or before March 31, 2002, where any tax, levy or penalty, (including any penalty in respect of any offence) forfeiture or fine has been discharged or refunded in terms of any law referred to in the Schedule to the aforesaid Act notwithstanding the fact that the period for the making of the same has elapsed.
- (3) No person shall in terms of this Act, be entitled to any refund in respect of any money paid by him or recovered or deducted in terms of any law referred to in the Schedule of the Inland Revenue (Special Provisions) Act, No. 10 of 2003, or to carry forward any loss in respect of any period ending on or before March 31, 2002 to any subsequent year, by reason of the fact that he is entitled to the amnesty or immunity so granted in respect of his income or part thereof. The amount of undeclared income or the value of the undeclared assets of such person shall be deemed to be the income tax for the purpose of ascertaining the amount of any such refund or for the purpose of setting off against any refund claimed by such person or for the purpose of setting off against such loss.
- (4) Any proceedings, investigation or inquiry which was being conducted by the Commissioner-General or any Authority administering the collection and recovery of any tax, levy or penalty, (including any penalty in respect of any offence) forfeiture or fine in terms of any law referred to in the Schedule of the Inland Revenue (Special Provisions) Act, No. 10 of 2003, and which has been, stopped, suspended or withdrawn in terms of the aforesaid Act, shall from the date of the coming into operation of this Act, be revived or restored and continued with, as if such proceedings, investigation or inquiry had not been so stopped, suspended or withdrawn.
5. The Commissioner-General or any officer of the Department of Inland Revenue shall preserve and aid in preserving absolute secrecy in respect of the identity of the person making the declaration and any matter or thing contained in any declaration referred to in section 3 of this Act, as from the date of receipt of such declaration. All provisions of the Inland Revenue Act, No. 38 of 2000 applicable to the maintenance of official secrecy including punishment for the breach of such secrecy under section 172 of such Act, shall *mutatis mutandis* be applicable to a declaration made under this Act.



6. (1) The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act, and in respect of matters that are by this Act required to be prescribed.
- (2) Every such regulation shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.
- (3) Every such regulation shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation that is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.
7. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
8. In this Act unless the context otherwise requires—
  - “assets” shall include immovable property, movable property, bank balances, treasury bills, fixed deposits, time deposits or any other form of deposit and money given by way of security or loans and cash in hand ;
  - “Commissioner-General” shall have the same meaning as in the Inland Revenue Act, No. 38 of 2000 ;
  - “person” shall include a body of persons, a company and a partnership ;
  - “sources of income” shall include any income received by way of cash or in any other form.



**FINANCE ACT, NO. 11 OF 2004**

[ Certified on 28th October, 2004 ]

AN ACT TO MAKE PROVISION FOR THE IMPOSITION OF CERTAIN CHARGES AND LEVIES CONSEQUENTIAL TO THE 2004 BUDGET PROPOSALS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

1. This Act may be cited as the Finance Act, No. 11 of 2004.

**PART I****IMPOSITION OF AN ECONOMIC SERVICE CHARGE**

2. (1) An Economic Service Charge (hereinafter referred to as "the Service Charge") shall, subject to the provisions of this Act, be chargeable from every person and every partnership for each year of assessment commencing on or after April, 1, 2004 (hereinafter in this Act referred to as "the relevant year of assessment") in respect of every part of the liable turnover of such person or partnership for that relevant year of assessment, at the rate specified in the Schedule to this Act :

Provided that no Service Charge shall be charged from any person or partnership being a BOI enterprise, for the relevant year of assessment commencing on April 1, 2004.

- (2) Notwithstanding the provisions of subsection (1), the Service Charge chargeable from any person or partnership for any relevant year of assessment shall be charged if and only if, the liable turnover of such person or partnership for that relevant year of assessment exceeds rupees fifty million :

Provided that the Service Charge chargeable from any person or partnership for any relevant year of assessment shall in no case exceed rupees fifty million.

- (3) In this section—

"liable turnover" in relation to any person or partnership and to any relevant year of assessment means, the aggregate turnover of every trade, business, profession or vocation other than any trade, business, profession or vocation the commercial operations of which commenced, whether by such person or partnership or by any other person or partnership, on a date which falls within the period of thirty-six months immediately preceding the first day of that relevant year of assessment, carried on or exercised by such person or partnership as the case may be, in Sri Lanka whether directly or through an agent or more than one agent, being the turnover for the year of assessment immediately preceding that relevant year of assessment ; and

"turnover" in relation to any trade, business, profession or vocation and to any year of assessment means the total amount receivable, whether actually received or not, from every transaction entered into in that year of assessment in the course of such trade, business, profession or vocation carried on or exercised by such person or partnership, after deducting therefrom—

- (i) any sum included in such total amount being a sum which represents the value added tax in respect of that transaction, provided that the person or partnership who or which carries on or exercises such trade, business, profession or vocation is at the time of such transaction registered under section 10 of the Value Added Tax Act, No. 14 of 2002 ;
- (ii) the total proceeds from the disposal of any capital asset in respect of which an allowance for depreciation has been granted under section 23 of the Inland Revenue Act ; and
- (iii) the amount of any bad debt incurred by that trade, business, profession or vocation during that year of assessment, being an amount which had been included in the liable turnover of such trade, business, profession or vocation of any previous year of assessment,

increased by the amount of any sum received during that year of assessment on account of any bad debt written off or allowed in any previous year of assessment.

Provided that—

- (a) in the case of a bank, the receipts of such bank by way of, or on account of, interest, discounts, dividends, exchange, service charges, commissions, brokerage and any other income derived by the bank in the course of its business shall be deemed to be included in the turnover of such bank ; and
- (b) in the case of a person carrying on insurance business, insurance premia received, or receivable in respect of,—
  - (i) life insurance ; and
  - (ii) insurance against damages or destruction by strike, riot, civil commotion, or acts of terrorism and paid into the Consolidated Fund,

shall be deemed not to be included in the turnover of such insurance business.

3. (1) The amount of any Service Charge paid by any person or partnership for any relevant year of assessment may be deducted from the relevant income tax payable by that person or partnership for that relevant year of assessment (hereinafter referred to as the “first mentioned relevant year of assessment”).
- (2) The balance, if any, of such service charge after its deduction in accordance with subsection (1) shall be deducted from the relevant income tax payable by such person or partnership for the relevant year of assessment immediately succeeding the first mentioned relevant year of assessment (hereinafter referred to as the “first succeeding relevant year of assessment”).
- (3) The residue if any of the balance, of such service charge after its deduction in accordance with subsection (2) shall be deducted from the relevant income tax payable for the relevant year of assessment immediately succeeding the first succeeding relevant year of assessment (hereinafter referred to as the “second succeeding relevant year of assessment”).
- (4) In no circumstances shall—
  - (a) the aggregate deduction exceed the amount of such Service Charge ; and
  - (b) the remaining portion, if any of the residue referred to in subsection (3) after its deduction in accordance with subsection (3), be deducted from any income tax payable for any relevant year of assessment succeeding the second succeeding relevant year of assessment.
- (5) For the purposes of this section and in relation to any person or partnership and to any relevant year of assessment, the expression—

“relevant income tax payable” means the sum which bears to the aggregate statutory income of that person or partnership for that relevant year of assessment from every trade, business, profession or vocation carried on or exercised by that person or partnership, other than any trade, business, profession or vocation the commercial operations of which commenced, whether by such person or partnership or by any other person or partnership, on the date which falls within the period of thirty six months immediately preceding the first day of that relevant year of assessment, the same proportion as the total income tax payable by such person or partnership for that relevant year of assessment bears to the total statutory income of that person or partnership for that relevant year of assessment ; and

“total income tax payable” means the sum ascertained by the application of the income tax rate prescribed in the appropriate Schedule to the Inland Revenue Act, to the taxable income of such person or partnership for that relevant year of assessment.

4. Notwithstanding anything to the contrary in any law the portion of the Service Charge referred to in subparagraph (b) of subsection (4) of section 3, shall not be refunded.

5. Every person and every partnership chargeable with the Service Charge for any relevant year of assessment shall, by communication in writing addressed to the Commissioner-General, give notice of such chargeability, before the first day of June of that relevant year of assessment. Such notification shall disclose the income tax file number or the personal identification number as the case may be assigned by the Commissioner-General, to such person or partnership :

Provided that in the case of the relevant year of assessment commencing on April 1, 2004 such notice shall be given within a period of thirty days of the date of the coming into operation of this Act.

6. The Service Charge which any person or partnership is chargeable with for any relevant year of assessment shall, notwithstanding that no assessment has been made on such person or partnership by an Assessor, be paid to the Commissioner-General in the manner specified by him in four quarterly instalments on or before the thirtieth day of June, thirtieth day of September, thirty first day of December and thirty first day of March in that relevant year of assessment. Each such quarterly instalment shall be one quarter of the Service Charge payable for that relevant year of assessment :

Provided that any person liable to pay any sum to the Commissioner-General of Inland Revenue for the period commencing on or after April 1, 2004 and ending on June 30, 2004 and to whom the provisions of the proviso to section 5 applies, shall be deemed to have complied with the provisions of this section if such sum is paid to the Commissioner-General on or before September 30, 2004.

7. Every person and partnership chargeable with the Service Charge for any relevant year of assessment shall, whether or not required by an Assessor in that behalf, furnish to an Assessor, on or before the last day of that relevant year of assessment, a return in such form and containing such particulars as may be specified by the Commissioner-General, of his or its, as the case may be, liable turnover. The return for each instalment shall also show the basis of the calculation of the Service Charge and any other details as specified by the Commissioner-General under this section.
8. Every person and partnership chargeable with the Service Charge shall maintain a record of the transactions of every trade, business, profession or vocation carried on or exercised by such person or partnership, in such manner as would facilitate the reconciliation of the return of liable turnover furnished by such person or partnership under section 7 of this Act, with such record.
9. Where in the opinion of an Assessor, any person or partnership who or which being chargeable with the Service Charge for any relevant year of assessment—
- (a) has not paid the Service Charge ; or
  - (b) has paid an amount less than the proper amount which such person or such partnership ought to have paid as Service Charge for such relevant year of assessment,

such Assessor may assess the amount of the Service Charge which, in his opinion, ought to have been paid by such person or partnership as the Service Charge for that relevant year of assessment and shall by notice in writing require such person or partnership to forthwith pay—

- (a) the amount of the Service Charge so assessed for that relevant year of assessment, if that person or that partnership has not paid any Service Charge for that relevant year of assessment ; or
  - (b) the difference between the amount of the Service Charge so assessed and the amount of the Service Charge actually paid by such person or partnership for that relevant year of assessment, if such person has paid any amount as Service Charge for that relevant year of assessment.
10. Any instalment or part thereof the service charge not paid on or before the date specified for the making of the payment as are required in section 6, shall be deemed to be in default and any individual, a partner of a partnership, a director or other principal officer of a company or any other body corporate including a public corporation, any member or an officer of any unincorporated body, which is liable to pay the service charge which is in default shall be deemed to be a defaulter for the purposes of this Part of this Act.
11. The provision of Chapters XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, and XXVII of the Inland Revenue Act, relating respectively to the Appeals. Finality of Assessments and Penalty for Incorrect Returns, Tax in

Default and Sums Added Thereto. Recovery of Tax, Miscellaneous matters, Repayment, Penalties and Offences, Administration and General matters shall *mutatis mutandis*, apply respectively to the Appeals, Finality of Assessments and Penalty for Incorrect Returns, Service Charge in default and sums added thereto, Recovery of Service Charge, Miscellaneous matters, Repayment, Penalties and Offences, Administration and General matters under this Act.

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

“agent”, “allowance for depreciation” and “Assessor”, shall have the respective meanings assigned to them in the Inland Revenue Act ;

“BOI enterprise” means any enterprise with which an agreement has been entered into by the Board of Investment of Sri Lanka under the Board of Investment of Sri Lanka Law, No. 4 of 1978 ;

“business”, “capital asset”, “Commissioner General”, “disposal” shall have the respective meanings assigned to them in the Inland Revenue Act ;

“Commissioner-General” and “Deputy Commissioner” shall have the same meaning as in the Inland Revenue Act,

“Inland Revenue Act” means the Inland Revenue Act, No. 38 of 2000 ;

“partnership”, “proceeds” and “profits or income” shall have the respective meanings assigned to them in the Inland Revenue Act ;

“person” includes a company or body of persons but does not include any registered society within the meaning of the Co-operative Societies Law, No. 5 of 1972.

“statutory income”, “taxable income”, “trade”, and “year of assessment” shall have the respective meanings assigned to them in the Inland Revenue Act.

**13. (1) The provisions of this Part of this Act shall be deemed for all purposes to have come into operation on April 1, 2004.**

- (2) Where any amount has been collected by the Commissioner-General as Service Charge in terms of this Part of the Act during the period commencing from April 1, 2004 and ending on the date of commencement of this Act, the Service Charge so collected shall be deemed to have been validly charged and levied and the Commissioner-General is hereby indemnified from any action civil or criminal in respect of the collection of such Service Charge.

## PART II

### IMPOSITION OF CELLULAR MOBILE TELEPHONE SUBSCRIBERS' LEVY

**14. There shall be charged and levied from every person using a cellular mobile telephone, (hereinafter referred to as “the user”) for each year commencing on or after January 1, 2004 a levy called Cellular Mobile Telephone Subscriber Levy (hereinafter referred to as ‘the levy’) at the rate of two and half *per centum* calculated on the value of supply of services or future services by the mobile telephone operator as referred to in section 15 to the user of such cellular mobile telephone in respect of each month :**

Provided however, that no organization or individual to whom the provisions of the Diplomatic Privileges Act, No. 9 of 1996 applies shall be required to pay the levy referred to above.

For the purposes of this section the “value of supply” shall have the same meaning as is assigned to it in the Value Added Tax Act, No. 14 of 2002.

**15. The levy payable under section 14 shall be collected by the mobile telephone operators licensed under section 17 of the Sri Lanka Telecommunications Act, No. 25 of 1991 and paid to the Telecommunications Regulatory Commission of Sri Lanka (hereinafter referred to as “the Commission”) established under the aforesaid Act, within fifteen days from the end of each month commencing on or after January 1, 2004 along with such details as may be specified by the Commission.**

16. The levy, collected by the Commission on behalf of the Government in respect of each month in terms of section 15, shall be credited within seven days from the receipt of the levy as provided for in section 15 to the Consolidated Fund.
17. The Secretary to the Treasury may from time to time issue guidelines in relation to the collection and remittance of the levy on behalf of the Government.
18. (1) Any Licensed Mobile Telephone Operator who fails to pay the total amount of the levy that is due on the value of supply of services provided by such operator, as provided for in section 14, shall be deemed to be a defaulter and where such defaulter is a body corporate, the Chairman of the Board of Directors, any director or principal officer of such body corporate shall be deemed to be a defaulter for the purposes of this Part of this Act, and such levy as is not paid on or before the due date shall be deemed to be a levy in default.
- (2) The defaulter shall be liable to pay a surcharge in addition to the levy in default, calculated—
- (a) at the rate of ten *per centum* of the amount of such levy as is in default for the subsequent period of one month or part thereof, from the due date for the payment of the levy under section 15 ; and
- (b) at the rate of two *per centum* of the amount of such levy as is in default for each subsequent period of one month or part thereof, from the due date for the payment specified in paragraph (a),
- which surcharge shall be collected by the Commission.
- (3) The Commission shall take action to recover any levy which is in default for a period of more than three months, along with amount of the surcharge accrued thereon, in the manner as is specified hereafter.
- (4) The Commission shall cause to be issued on the defaulter, three weeks prior to the taking of any steps for the recovery of the levy in default along with amount of the surcharge accrued thereon, a Notice, informing the defaulter of the intention of the Commission to institute proceedings for the recovery of the amount of the levy in default and the surcharge accrued thereon in terms of the provisions of this section.
- (5) Where the Commission issues Notice on the defaulter in terms of subsection (4) but the amount of the levy in default along with the surcharge thereon remains unpaid even though the period of three weeks specified in such Notice has elapsed, the Commission shall under the hand of the Chairman, issue to the Magistrate having jurisdiction over the division in which the defaulter resides or is carrying on business, a Certificate containing the name and address of the defaulter and the total sum in default along with a statement to the effect that the person so named has defaulted in making the payment as required by this section. Where the defaulter is a body corporate, the Certificate shall contain the name of the Chairman, the Board of Directors and of every Director of such body corporate.
- (6) The Magistrate shall on receipt of the Certificate issued under subsection (5), issue summons on the defaulter requiring him to appear before him on a date to be specified and show cause as to why proceedings should not be taken against him for the recovery of the amount of the levy in default along with the surcharge accrued thereon. Where the cause shown appears to the Magistrate to be insufficient so as to explain the reason for the non-payment, the Magistrate shall after recording the same make order for the recovery of the amount of the levy in default along with the surcharge accrued thereon, from the defaulter as if it were a fine imposed by the Magistrate. The money so recovered shall be remitted to the Commission, which shall credit the same to the Consolidated Fund.
19. The provisions of this Part of this Act shall be deemed for all purposes to have come into operation with effect from January 1, 2004.
20. The amount of the levy charged and collected by any Licensed Mobile Telephone Operator from any user, during the period commencing from January 1, 2004 and ending on the date of commencement of this Act, shall be deemed to have been so validly charged and levied and such operator is hereby indemnified from any action civil or criminal in respect of the collection of such levy.

## PART III

## IMPOSITION OF INTERNATIONAL TELECOMMUNICATIONS OPERATORS LEVY

21. (1) An International Telecommunications Operators Levy (hereinafter to as “the operator’s levy”) shall be charged and levied in respect of the whole number of minutes of incoming and outgoing international calls during each calendar month from every person who obtains a license for carrying out operations (hereinafter referred to as “the licensee”) from the Commission in the manner provided for in this section :

Provided that for the purposes of this section, “International Telecommunication Operators” shall mean any operator licensed under section 17 of the Sri Lanka Telecommunications Act, No. 25 of 1991 to provide international telecommunication services :

Provided further, the operators levy payable for the period commencing on March 3, 2003 shall, until regulations made under section 26 come into operation, be calculated—

- (a) at the rate of United States Dollar cents eleven per minute, for the duration of the incoming international call and at the rate of Sri Lanka rupees four and cents forty per minute for the duration of the outgoing international call, during the period commencing March 3, 2003 and ending on March 31, 2004 ; and
  - (b) at the rate of United States Dollar cents nine per minute, for the duration of the incoming international call and at the rate of Sri Lanka rupees three and cents ninety per minute for the duration of the outgoing international call, during the second year commencing on April 1, 2004.
- (2) Where any payment is to be converted from United States Dollars to Sri Lankan rupees for the purpose of effecting payment, the selling rate of exchange as fixed by the Central Bank of Sri Lanka for the day previous to the day on which payment is made, which rate is available on the website of the Central Bank of Sri Lanka shall be used. In the event that payments are made in respect of previous periods, the average for the period of the selling rate shall be used.
22. (1) The operators levy shall be payable with effect from March 03, 2003 and shall be calculated on the duration of each incoming and outgoing international call facilitated by an operator who is a licensee, at such rates as may be prescribed by regulation.

Provided that, the Minister may having regard to—

- (a) the written representations if any, made to him by a majority of the International Telecommunication Operators Licensees requesting a review of the rates ; or
  - (b) the prevailing conditions of the domestic and international telecommunications market,
- from time to time vary the rate set out in any regulation made in terms of this section.
- (2) The amount of the operator’s levy payable for the period commencing from March 03, 2003 to March 31, 2004 by a licensee, shall be paid to the Commission within a period of one month from the date of the coming into operation of this Act.
  - (3) The operator’s levy payable for each month commencing from April 01, 2004 shall be paid within thirty working days from the end of each month to the Commission along with any details as may be specified by the Commission.
  - (4) Regulations may be made prescribing the manner and mode in which and the purposes for which any levy paid to the Commission under subsections (2) and (3) shall be disbursed.
23. The Commission may issue guidelines and other necessary instructions necessary for the implementation of the provisions of this Part of this Act.
24. (1) Any International Telecommunication Operator who fails to pay the total amount of the levy that is due on the value of supply of services provided by such operator, as provided in section 21, shall be deemed to be a defaulter and where such defaulter is a body corporate, the Chairman of the Board of Directors, any director

or principal officer of such body corporate shall be deemed to be a defaulter for the purposes of this Part of this Act, and such levy as is not paid on or before the due date shall be deemed to be a levy in default.

- (2) The defaulter shall be liable to pay a surcharge in addition to the levy in default, calculated—
- (a) at the rate of ten *per centum* of the amount of such levy as is in default for a period of one month or part thereof, and
  - (b) at the rate of two *per centum* of the amount of such levy as is in default for each subsequent period of one month or part thereof,

which surcharge shall be collected by the Commission.

- (3) The Commission shall take action to recover any levy which is in default for a period of more than three months, along with amount of the surcharge accrued thereon, in the manner as is specified hereafter.
- (4) The Commission shall cause to be issued on the defaulter, three weeks prior to the taking of any steps for the recovery of the levy in default along with amount of the surcharge accrued thereon, a Notice, informing the defaulter of the intention of the Commission to institute proceedings for the recovery of the amount of the levy in default in terms of the provisions of this section.
- (5) Where the Commission issues Notice on the defaulter in terms of subsection (4) but the amount in default along with the surcharge thereon remains unpaid even though the period of three weeks specified in such Notice has elapsed, the Commission shall under the hand of the Chairman, issue to the Magistrate having jurisdiction over the division in which the defaulter resides or is carrying on business, a Certificate containing the name and address of the defaulter and the total sum in default along with a statement to the effect that the person so named has defaulted in making the payment as required by this section. Where the defaulter is a body corporate, the Certificate shall contain the name of the Chairman, the Board of Directors and of every Director of such body corporate.
- (6) The Magistrate shall on receipt of the Certificate issue under subsection (5), issue summons on the defaulter requiring him to appear before him on a date to be specified and show cause as to why proceedings should not be taken against him for the recovery of the amount of the levy in default along with the surcharge accrued thereon. Where the cause shown appears to the Magistrate to be insufficient so as to explain the reason for the non-payment, the Magistrate shall after recording the same make order for the recovery of the amount of the levy in default along with the surcharge accrued thereon, from the defaulter as if it were a fine imposed by the Magistrate. The money so recovered shall be remitted to the Commission, which shall credit the same to the Consolidated Fund.

25. (1) Every licensee—

- (a) who contravenes or fails to comply with any of the provisions of this Part of this Act or any regulation made thereunder ; or
- (b) fails to comply with any direction or order given or made under this Part ; or
- (c) knowingly furnishes or causes to be furnished any false information under any requirement to furnish information in terms of this Part,

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

- (2) Where an offence under this Part of this Act is committed by a body of persons, then—
- (a) if that body of persons is a body corporate, every director or officer of that body corporate ; or
  - (b) if that body of persons is a firm, every partner of that firm,
- shall be guilty of such offence :

Provided that no such director, officer of that body corporate, or partner of that firm shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

26. (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act and in respect of any matter which is required or authorized by this Act to be prescribed.
- (2) Subject to the provisions of subsection (1), regulations may be made in respect of all or any of the following matters:—
  - (a) the manner and mode in which any levy paid to the Commission is to be disbursed ;
  - (b) the purposes for which any levy paid to the Commission is to be disbursed.
- (3) Every regulation made under subsection (1) shall be published in the *Gazette* and shall take effect from the date of such publication or on such later date as may be specified therein.
- (4) Every regulation made under subsection (1) shall be as soon as convenient be placed before Parliament for its approval. Any regulation which is not so approved shall be deemed to be disapproved with effect from the date of disapproval but without prejudice to anything done thereunder.
- (5) Notification of the date of disapproval of any regulation shall be published in the *Gazette*.
27. (1) The provisions of this Part of this Act shall be deemed for all purposes to have come in to operation on March 03, 2003.
- (2) The amount of the levy charged and collected by any International Telecommunication Operator from any user, during the period commencing from March 03, 2003 and ending on the date of commencement of this Act, shall be deemed to have been so validly charged and levied and such operator is hereby indemnified from any action civil or criminal in respect of the collection of such levy.
28. For the avoidance of doubts it is hereby declared that any International Telecommunication Operator to whom the provisions of this Part applies, shall be deemed to have complied with the requirements of paragraph (a) or paragraph (b) as the case may be, of the second proviso to subsection (1) of section 21, if he pays—
  - (a) in respect of the period commencing on March 3, 2003 and ending on March 31, 2004, the difference between the sum of United States Dollar cents seven point two (7.2) which amount has been actually paid by him and the United States Dollar cents eleven payable by him in terms of the aforesaid section ; and
  - (b) in respect of the second year commencing on April 1, 2004 up to the date of the coming into operation of this Act, the difference between the sum of United States Dollar cents five point two (5.2) which amount has been actually paid by him and the United States Dollar cents nine payable by him in terms of the aforesaid section.”.

#### PART IV

##### AMENDMENTS TO THE FINANCE ACT, NO. 25 OF 2003

29. Part II of the Finance Act, No. 25 of 2003 is hereby amended in section 11 thereof, by the substitution for the words “to be called the Tourism Development Levy” of the words—  
 “to be called the Tourism Development Levy :  
 Provided however such levy shall not be charged on the turnover of any General Sales Agent licensed under the Tourist Development Act, No. 14 of 1968 as a Travel Agent, with effect from January 1, 2004.”.
30. The provisions of this Part of this Act shall be deemed to have come into operation with effect from January 1, 2004.
31. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.



## SCHEDULE

[Section 2 (1)]

*Part of the Liable Turnover**Rate of the Service Charge  
applicable to that Part*

1. Such part of the liable turnover as consists of the turnover from any trade, business, profession or vocation the profits and income from which are exempt from income tax.
2. Such part of the liable turnover as consists of the turnover from any trade, business, profession or vocation of any BOI enterprise which had entered into an agreement under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978.
3. Such part of the liable turnover as consists of the turnover from any trade, business, profession or vocation the profits and income from which are chargeable with income tax at any rate specified in the Sixth Schedule to the Inland Revenue Act.
4. Such part of the liable turnover as consists of the turnover from any trade, business, profession or vocation the profits and income from which are chargeable with income tax at any rate other than a rate specified in the Sixth Schedule to the Inland Revenue Act.

*0.25 per centum**0.25 per centum**0.5 per centum**1.0 per centum*

## VALUE ADDED TAX (AMENDMENT) ACT, NO. 13 OF 2004

[ Certified on 18th November, 2004 ]

### AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 13 of 2004.
2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the “principal enactment”) is hereby further amended as follows :—
  - (1) in subsection (1) of that section—
    - (a) by the substitution for all the words and figures from “as the case may be” to the end of subparagraph (ii) thereof of the following :—
 

“ as the case may be —

      - (i) for any taxable period commencing on or after August 1, 2002, but prior to January 1, 2004,
        - (A) at the rate of 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 ;
        - (B) at the rate of 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.
      - (ii) for any taxable period commencing on or after January 1, 2004 at the rate of fifteen *per centum* (of which the Tax Fraction is 3/23) on the value of such goods and services supplied or imported, as the case may be, other than such goods and services chargeable with tax at zero *per centum*.” ; and
    - (b) by the substitution of the words and figures “subsection (3) of section 2.” of the following words and figures :—
 

“ subsection (3) of section 2 :

Provided further the tax payable on any taxable supply made on or after January 1, 2004, being a supply under an agreement which is not subject to review, not being a hire purchase agreement, entered into on or before December 31, 2003, and where such supply has been specifically identified within such agreement, shall be computed at the tax rate prevailing at the time of entering into such agreement, notwithstanding the provisions of subsection (9) of section 5.”.
  - (2) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :—
 

“ (2) Notwithstanding the provisions of subsection (1) the Commissioner-General shall defer the payment of tax due—

    - (a) on any tea supplied by any manufacturer of tea, registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No. 14 of 1975, to any registered broker for sale at the Colombo Tea Auction and where such tea is purchased by any exporter of tea registered with the Sri Lanka Tea Board established by the Sri Lanka Tea Board Law, No. 14 of 1975, until such time such tea broker furnishes the reconciliation on the disposal of such tea, as stipulated by the Commissioner-General ;
    - (b) on the supply of any taxable goods or services by a registered person to any other person who has entered into an agreement as a contractor to supply any goods or services to any Government department, utilizing funds provided by any foreign government or donor agency approved by the Minister, having regard to the interest of the national economy, where the value

of such goods or services exceeds rupees twenty thousand, for a period of three months, from the end of the month in which such goods or services were purchased by such contractor.

The registered person to whom a deferment is granted under paragraph (b) shall not be required to account for the output tax on such supplies until he recovers the tax due on such supplies.”.

- (3) in subsection (3) of that section by the substitution in paragraph (b) of the second proviso thereof, for the words “equipment of high value” of the words “equipment of high value or any goods to be used as exhibition materials or as materials in any technical demonstration”.

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

- (1) in paragraph (c) of that section, by the substitution for the words “goods supplied by him, were acquired :” of the words “goods supplied by him, were acquired; or” and

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

“(d) any person, where such goods consists of tea purchased on or after August 1, 2002, at an auction as is referred to in paragraph (a) of subsection (2) of section 2 for sale within Sri Lanka.”.

4. Section 7 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

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

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

“(ii) the repair of any foreign ship, aircraft or any merchant ship registered in Sri Lanka, or the refurbishment of marine cargo containers ;”;

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

“(ii a) any goods imported into Sri Lanka for the purpose of re-export under entre-port trade :”;

- (c) by the repeal of sub-paragraph (vii) of that paragraph ;

- (2) by the addition immediately after sub-paragraph (vi) of paragraph (b) of the following new paragraph :—

“(c) any other service, being a service not referred to in paragraph (b), provided by any person in Sri Lanka to another person outside Sri Lanka to be consumed or utilised outside Sri Lanka shall be zero rated provided that payment for such service in full has been received from outside Sri Lanka through a bank in Sri Lanka.”.

5. Section 21 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “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” of the words “Every registered person shall furnish, to the Commissioner-General not later than the fifteenth day of the month before the expiry of each taxable period”.

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

- (1) in the proviso to subsection (3) of that section, by the substitution for the words from “goods supplied under a leasing agreement for a period less than three years” to the end of that proviso of the following :—

“goods supplied under a finance leasing agreement entered into on or after July 1, 2003 but prior to January 1, 2004 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* :

Provided further, that any person who accounts for the out put tax on all or part of his taxable supplies at the rate of ten *per centum* shall be entitled to deduct as input tax in relation to such supplies as is allowable under this Act only at the rate of ten *per centum* even where such person has paid the input tax at a higher rate than the rate of ten *per centum* on the value of such supplies received by him, other than in the case of a lorry, motor coach or wagon.

For the purpose of this subsection —

“lorry” and “motor coach” shall have the respective meanings as assigned to them in the Motor Traffic Act (Chapter 203); and

“wagon” shall have the same meaning as assigned to it in the Finance Act, No.16 of 1995.”.

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

“(4) 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 buildings by another registered person, be entitled to claim such amount of input tax as determined by the Commissioner-General for the expenses incurred by him on such services provided on such land and buildings for the duration of such tenancy agreement if such registered person provides sufficient evidence to the satisfaction of the Commissioner-General to enable him to determine the amount of such input tax which such registered person is entitled to claim.”;

(3) in subsection (5) of that section, by the substitution for all the words from “Where an unregistered person” to the words “in respect of such land and buildings :” of the words —

“(5) Where any return is furnished under subsection (1) or (2) of section 21 and if at the end of the taxable period to which such return relates the amount of the input tax allowable under this Act exceeds the amount of the output tax, the excess of the input tax shall not be refunded but shall be set off against the output tax of the succeeding taxable period and so on. Any residue of such excess as has not been so set off in the period of six months from the end of the taxable period in which such excess first arose, shall, subject to the provisions of subsection (3) of section 58, be refunded; and where it is not so refunded the Commissioner-General shall pay interest, at such rate prescribed under section 59 on such amount for the period commencing on the expiration of one month from the end of the taxable period in which such refund became due and ending on the date of the refund subject to the provisions of the proviso to section 59 :

Provided that where any residue of any excess input tax refundable on or after August 1, 2002 under the Goods and Services Tax 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 :”;

(4) in subsection (7) of that section —

(i) by the substitution for all the words from “any project” to “from such commencement” of the following :—

“any project in Sri Lanka, and undertakes to make taxable supplies in respect of such business or project within a period of thirty months from commencement of such operation, then”; and

(ii) by the substitution for all the words from “to make taxable supplies” to the end of that subsection of the following :—

“to commence the making of taxable supplies, he may extend the period on the basis of an application made by such registered person to that effect :

Provided that any person, who is already registered for an existing business or project shall inform the Commissioner-General of such fact and request that such registration be extended to include any new business or project. The provisions of this subsection shall thereupon apply to such new business or project.”; and

(5) by the addition immediately after subsection (8) of that section of the following new subsection :—

“(9) Notwithstanding the provisions of the first proviso and second proviso to subsection (3), any registered person who, for any taxable period commencing from January 1, 2004, makes a taxable

- (xxxix) The import of any capital items required for the purpose of providing training by any institution, providing vocational training or practical training approved for the purposes of this item by the Minister in charge of the subject of Tertiary Education and Training in consultation with the Minister where the Government has provided funds or other assistance to such institution and the surplus funds of such institution are re-invested as to the maintenance of such institution.”;

(c) by the addition immediately after item (xxxix) Part I of the First Schedule of the following new Part :—

## “ PART II

For any taxable period commencing on or after January 1, 2004,—

(a) The supply or import of —

- (i) paddy, seed paddy, rice, wheat, cardamom, cinnamon, cloves, nutmeg, mace, pepper, desiccated coconuts, rubber, latex, fresh coconuts, green leaf, rice flour, wheat flour, bread, infants' powdered milk, eggs and liquid milk (not made out of powdered milk or any grain) ;
- (ii) pharmaceutical products and drugs (other than cosmetics including such products and drugs certified by Cosmetics, Devices and Drugs Authority, established by the Cosmetics, Devices and Drugs Act, No. 27 of 1980, and raw materials for the production or manufacture of such products or drugs ;
- (iii) 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 ;
- (iv) aircrafts, helicopters, pearls, diamonds, natural or synthetic, precious or semi precious stones, diamond powder, precious metals, metals clad with precious metals, gold coins and temporary import of any plant, machinery or equipment or any goods to be used as exhibition materials or as materials in any technical demonstration which are re-exported within twelve months from the date of import ;
- (v) books (other than cheque books, periodicals, magazines, newspapers, diaries, ledger books and exercise books), and unused postage and revenue stamps of the Government of the Democratic Socialist Republic of Sri Lanka or of a Provincial Council ;
- (vi) crude petroleum oil, kerosene, aviation fuel and oil for ships ;
- (vii) artificial limbs, crutches, wheel chairs, hearing aids, accessories for such aids or appliances which are worn or carried or implanted in the human body to compensate for a defect or disability, white canes for the blind, Braille typewriters and parts, Braille writing papers and Braille writing boards ;
- (viii) agricultural tractors ;
- (ix) cellular mobile phones ;
- (x) agricultural machinery and fertilizer (effective from 01.07.2004).

(b) The supply of —

- (i) educational services by an educational establishment or government schools or schools funded by the government or (effective from 01.07.2004) schools registered with the Ministry of Education that follow the government curricula and public library services by the government, a Provincial Council or a local authority;
- (ii) public passenger transport services (other than air transport, water transport, or transport of tourists, excursion tours and 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 if such lease agreement entered into prior to January 1, 2004;
- (iii) electricity not exceeding 40 kwh per consumer as defined under the Electricity Act (Chapter 205) per month ;

- (iv) free or subsidised meals by an employer to his employees at their places of work and transport free or at a subsidised rate by an employer to his employees using a motor coach between the place of residence and work place of such employees;
- (v) services in relation to burials and cremations by any institution or person ;
- (vi) services by a person in Sri Lanka to another person outside Sri Lanka to be consumed or utilised by such other person outside Sri Lanka for which the payment is made in Sri Lanka rupees ;
- (vii) services at a restaurant situated beyond the immigration counter at the Bandaranaike International Air Port ;
- (viii) 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 who is entitled to such benefits provided that reciprocal benefits are available to their counter parts from Sri Lanka and identified as such by the Commissioner- General ;
- (ix) goods funded directly by foreign organizations as approved by the Minister for the relief of sudden distress caused by natural or human disasters;
- (x) 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 or transfer of ownership of any equity security, debt security or participatory security ;
  - (f) the underwriting or sub-underwriting the issue of any equity security, debt security or participatory security ;
  - (g) the provision of any loan, advance or credit ;
  - (h) the provision —
    - (a) 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 ;
    - (b) of goods under any hire purchase agreement or conditional sale agreement, which have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;
  - (i) the life insurance, “Agrahara” insurance and crop and livestock insurance ;
  - (j) the transfer of non-performing loans of a licensed commercial bank by way of transfer of such loans to any other person in terms of a re-structuring scheme or other scheme of such bank as approved by the Central Bank of Sri Lanka with the concurrence of the Minister.
- (xi) 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 dollars or its equivalent in any other currency and the project relates exclusively to the aforesaid supply, lease or rental ;
- (xii) all healthcare services provided by medical institutions or professionally qualified persons providing such care, other than the supply of healthcare services by a medical 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 dollars.

## (c) The import of—

- (i) goods by the mission of any state or any organization to which the provisions of the Diplomatic Privileges Act, No.9 of 1996 applies, or by any diplomatic personnel of such mission or organization, including the import under a temporary admission carnet for re-export ;
- (ii) 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 on a re-importation certificate as provided for in Schedule A of the Customs Ordinance, or any article cleared ex-bond for use as ship stores ;
- (iii) goods by any organization approved by the Minister, where he is satisfied that such goods are gifts from persons or organizations abroad for the relief of sudden distress caused by natural or human disasters or such goods being medical machinery, medical equipment or an ambulance ;
- (iv) goods 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 the Board of Investment of Sri Lanka Law, No. 4 of 1978, which goods are prescribed as a project related article, to be utilised in the project specified in the agreement, during —

  - (i) the project implementation period of such project as specified in such agreement; or
  - (ii) upto the date of completion of such project, which date shall not be later than thirty six months from the date of the last agreement entered into prior to the 19, November, 2003, whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purpose of this paragraph.
- (v) goods by any 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, which is prescribed as a project related article, to be utilised in the project specified in the agreement, which project one completed will be solely in the business of making exempt supplies,—
  - (a) for a period of two years from August 1, 2002; or
  - (b) until the completion of the project as determined by the Board of Investment of Sri Lanka, whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purposes of this paragraph;
- (vi) personal items and samples in relation to business worth not more than ten thousand rupees through parcel post or courier ;
- (vii) a motor vehicle by a disabled person specially designed for use by disabled persons approved by the Minister, on his being satisfied that such vehicle is for use specifically by such person ;
- (viii) any capital items required for the purposes of providing training by any institution providing vocational training or practical training approved by the Minister in charge of the subject of Tertiary Education and Training in consultation with the Minister where the Government has provided funds or other assistance to such institution and the surplus funds of such institution are re-invested as to the maintenance or improvement of such institution ;

(d) The import and supply of goods at duty free shops for payment in foreign currency.”.

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

(a) by the insertion immediately after the Heading “Second Schedule” of the following :—

“ For any taxable period commencing on or after August 1, 2002 and ending prior to January 1, 2004—”

(1) by the repeal of item (xviii) of that Schedule and the substitution therefor of the following :—

- “ (xviii) the supply of finance leasing facilities by any person registered under the Finance Leasing Act, No. 56 of 2000, other than any payment received which is attributable to such leasing facility but not included in the relevant leasing agreement or any payment for the early settlement of any amount payable under any leasing agreement entered into prior to July 1, 2003 which exceeds ten *per centum* of the value of total amount due on the agreement;”;
- (2) by the repeal of item (xxiii) of that Schedule and the substitution therefor of the following :—
  - “ (xxiii) The supply or import of textiles and handloom products or the provision of services of dyeing and printing of textiles;”;
- (3) by the repeal of item (xxvi) of that Schedule and the substitution therefor of the following item :—
  - “ (xxvi) the supply or import of maize, soyabean meal or fish meal;”;
- (4) in item (xxvii) of that Schedule by the substitution for the words “health services and surgical dressing”, of the words “health services and surgical dressings;”;
- (5) in item (xxx) of that Schedule by the substitution for the words “land and improvements;” of the words “land and improvements;” and
- (6) by the addition immediately after item (xxx) of that Schedule of the following new item :—
  - “ (xxxi) The supply or import of wire and cable upto four cored unarmoured wire and cable not exceeding 16 mm conduites cross section per core.”

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

22. The amendment made to —

- (a) Section 2 of the principal enactment :—
  - (i) by section 2(2) of this Act, shall for all purposes be deemed to have come into force on June 1, 2003 ;
  - (ii) by section 2(3) of this Act, shall for all purposes be deemed to have come into force on January 1, 2004 ;
- (b) Section 7 of the principal enactment by section 4 of this Act shall for all purposes be deemed to have come into force on July 1, 2003;
- (c) Section 21 of the principal enactment by clause 5 of this Act shall for all purposes be deemed to have come into force from July 1, 2004;
- (d) Section 22 of the principal enactment :—
  - (i) by the proviso to section 6(1) of this Act shall for all purposes be deemed to have come into force on October 1, 2003,
  - (ii) by section 6(2) of this Act shall for all purposes be deemed to have come into force on August 1, 2002;
  - (iii) by sections 6(3) and 6(4) of this Act shall for all purposes be deemed to have come into force on January 1, 2004;
- (e) Chapter IIIA of the principal enactment shall for all purposes be deemed to have come into force on July 1, 2003;
- (f) Section 25A of the principal enactment by section 8 of this Act, shall be deemed for all purposes to have come into force on July 1, 2003 ;
- (g) Section 25F of the principal enactment by section 12 of this Act shall be deemed for all purposes to have come into force on July 1, 2003 ;
- (h) Section 26 of the principal enactment by section 13 of this Act shall be deemed for all purposes to have come into force on July 1, 2004;



- (xxxix) The import of any capital items required for the purpose of providing training by any institution, providing vocational training or practical training approved for the purposes of this item by the Minister in charge of the subject of Tertiary Education and Training in consultation with the Minister where the Government has provided funds or other assistance to such institution and the surplus funds of such institution are re-invested as to the maintenance of such institution.”;

(c) by the addition immediately after item (xxxix) Part I of the First Schedule of the following new Part :—

## “ PART II

For any taxable period commencing on or after January 1, 2004,—

(a) The supply or import of —

- (i) paddy, seed paddy, rice, wheat, cardamom, cinnamon, cloves, nutmeg, mace, pepper, desiccated coconuts, rubber, latex, fresh coconuts, green leaf, rice flour, wheat flour, bread, infants' powdered milk, eggs and liquid milk (not made out of powdered milk or any grain) ;
- (ii) pharmaceutical products and drugs (other than cosmetics including such products and drugs certified by Cosmetics, Devices and Drugs Authority, established by the Cosmetics, Devices and Drugs Act, No. 27 of 1980, and raw materials for the production or manufacture of such products or drugs ;
- (iii) 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 ;
- (iv) aircrafts, helicopters, pearls, diamonds, natural or synthetic, precious or semi precious stones, diamond powder, precious metals, metals clad with precious metals, gold coins and temporary import of any plant, machinery or equipment or any goods to be used as exhibition materials or as materials in any technical demonstration which are re-exported within twelve months from the date of import ;
- (v) books (other than cheque books, periodicals, magazines, newspapers, diaries, ledger books and exercise books), and unused postage and revenue stamps of the Government of the Democratic Socialist Republic of Sri Lanka or of a Provincial Council ;
- (vi) crude petroleum oil, kerosene, aviation fuel and oil for ships ;
- (vii) artificial limbs, crutches, wheel chairs, hearing aids, accessories for such aids or appliances which are worn or carried or implanted in the human body to compensate for a defect or disability, white canes for the blind, Braille typewriters and parts, Braille writing papers and Braille writing boards ;
- (viii) agricultural tractors ;
- (ix) cellular mobile phones ;
- (x) agricultural machinery and fertilizer (effective from 01.07.2004).

(b) The supply of —

- (i) educational services by an educational establishment or government schools or schools funded by the government or (effective from 01.07.2004) schools registered with the Ministry of Education that follow the government curricula and public library services by the government, a Provincial Council or a local authority;
- (ii) public passenger transport services (other than air transport, water transport, or transport of tourists, excursion tours and 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 if such lease agreement entered into prior to January 1, 2004;
- (iii) electricity not exceeding 40 kwh per consumer as defined under the Electricity Act (Chapter 205) per month ;

- (iv) free or subsidised meals by an employer to his employees at their places of work and transport free or at a subsidised rate by an employer to his employees using a motor coach between the place of residence and work place of such employees;
- (v) services in relation to burials and cremations by any institution or person ;
- (vi) services by a person in Sri Lanka to another person outside Sri Lanka to be consumed or utilised by such other person outside Sri Lanka for which the payment is made in Sri Lanka rupees ;
- (vii) services at a restaurant situated beyond the immigration counter at the Bandaranaike International Air Port ;
- (viii) 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 who is entitled to such benefits provided that reciprocal benefits are available to their counter parts from Sri Lanka and identified as such by the Commissioner- General ;
- (ix) goods funded directly by foreign organizations as approved by the Minister for the relief of sudden distress caused by natural or human disasters;
- (x) 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 or transfer of ownership of any equity security, debt security or participatory security ;
  - (f) the underwriting or sub-underwriting the issue of any equity security, debt security or participatory security ;
  - (g) the provision of any loan, advance or credit ;
  - (h) the provision —
    - (a) 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 ;
    - (b) of goods under any hire purchase agreement or conditional sale agreement, which have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;
  - (i) the life insurance, “Agrahara” insurance and crop and livestock insurance ;
  - (j) the transfer of non-performing loans of a licensed commercial bank by way of transfer of such loans to any other person in terms of a re-structuring scheme or other scheme of such bank as approved by the Central Bank of Sri Lanka with the concurrence of the Minister.
- (xi) 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 dollars or its equivalent in any other currency and the project relates exclusively to the aforesaid supply, lease or rental ;
- (xii) all healthcare services provided by medical institutions or professionally qualified persons providing such care, other than the supply of healthcare services by a medical 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 dollars.

## (c) The import of—

- (i) goods by the mission of any state or any organization to which the provisions of the Diplomatic Privileges Act, No.9 of 1996 applies, or by any diplomatic personnel of such mission or organization, including the import under a temporary admission carnet for re-export ;
- (ii) 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 on a re-importation certificate as provided for in Schedule A of the Customs Ordinance, or any article cleared ex-bond for use as ship stores ;
- (iii) goods by any organization approved by the Minister, where he is satisfied that such goods are gifts from persons or organizations abroad for the relief of sudden distress caused by natural or human disasters or such goods being medical machinery, medical equipment or an ambulance ;
- (iv) goods 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 the Board of Investment of Sri Lanka Law, No. 4 of 1978, which goods are prescribed as a project related article, to be utilised in the project specified in the agreement, during —

  - (i) the project implementation period of such project as specified in such agreement; or
  - (ii) upto the date of completion of such project, which date shall not be later than thirty six months from the date of the last agreement entered into prior to the 19, November, 2003, whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purpose of this paragraph.
- (v) goods by any 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, which is prescribed as a project related article, to be utilised in the project specified in the agreement, which project one completed will be solely in the business of making exempt supplies,—
  - (a) for a period of two years from August 1, 2002; or
  - (b) until the completion of the project as determined by the Board of Investment of Sri Lanka, whichever is earlier, other than any article in the negative list published by the Secretary to the Treasury for the purposes of this paragraph;
- (vi) personal items and samples in relation to business worth not more than ten thousand rupees through parcel post or courier ;
- (vii) a motor vehicle by a disabled person specially designed for use by disabled persons approved by the Minister, on his being satisfied that such vehicle is for use specifically by such person ;
- (viii) any capital items required for the purposes of providing training by any institution providing vocational training or practical training approved by the Minister in charge of the subject of Tertiary Education and Training in consultation with the Minister where the Government has provided funds or other assistance to such institution and the surplus funds of such institution are re-invested as to the maintenance or improvement of such institution ;

(d) The import and supply of goods at duty free shops for payment in foreign currency.”.

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

- (a) by the insertion immediately after the Heading “Second Schedule” of the following :—

“ For any taxable period commencing on or after August 1, 2002 and ending prior to January 1, 2004—”

- (1) by the repeal of item (xviii) of that Schedule and the substitution therefor of the following :—

- “(xviii) the supply of finance leasing facilities by any person registered under the Finance Leasing Act, No. 56 of 2000, other than any payment received which is attributable to such leasing facility but not included in the relevant leasing agreement or any payment for the early settlement of any amount payable under any leasing agreement entered into prior to July 1, 2003 which exceeds ten *per centum* of the value of total amount due on the agreement;”;
- (2) by the repeal of item (xxiii) of that Schedule and the substitution therefor of the following :—
- “(xxiii) The supply or import of textiles and handloom products or the provision of services of dyeing and printing of textiles;”;
- (3) by the repeal of item (xxvi) of that Schedule and the substitution therefor of the following item :—
- “(xxvi) the supply or import of maize, soyabean meal or fish meal;”;
- (4) in item (xxvii) of that Schedule by the substitution for the words “health services and surgical dressing”, of the words “health services and surgical dressings;”;
- (5) in item (xxx) of that Schedule by the substitution for the words “land and improvements;” of the words “land and improvements;” and
- (6) by the addition immediately after item (xxx) of that Schedule of the following new item :—
- “(xxxi) The supply or import of wire and cable upto four cored unarmoured wire and cable not exceeding 16 mm conduites cross section per core.”

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

22. The amendment made to —

- (a) Section 2 of the principal enactment :—
- (i) by section 2(2) of this Act, shall for all purposes be deemed to have come into force on June 1, 2003 ;
- (ii) by section 2(3) of this Act, shall for all purposes be deemed to have come into force on January 1, 2004 ;
- (b) Section 7 of the principal enactment by section 4 of this Act shall for all purposes be deemed to have come into force on July 1, 2003;
- (c) Section 21 of the principal enactment by clause 5 of this Act shall for all purposes be deemed to have come into force from July 1, 2004;
- (d) Section 22 of the principal enactment :—
- (i) by the proviso to section 6(1) of this Act shall for all purposes be deemed to have come into force on October 1, 2003,
- (ii) by section 6(2) of this Act shall for all purposes be deemed to have come into force on August 1, 2002;
- (iii) by sections 6(3) and 6(4) of this Act shall for all purposes be deemed to have come into force on January 1, 2004;
- (e) Chapter IIIA of the principal enactment shall for all purposes be deemed to have come into force on July 1, 2003;
- (f) Section 25A of the principal enactment by section 8 of this Act, shall be deemed for all purposes to have come into force on July 1, 2003 ;
- (g) Section 25F of the principal enactment by section 12 of this Act shall be deemed for all purposes to have come into force on July 1, 2003 ;
- (h) Section 26 of the principal enactment by section 13 of this Act shall be deemed for all purposes to have come into force on July 1, 2004;

- (i) Section 75A of the principal enactment by section 16 of this Act shall be deemed for all purposes to have come into force on January 1, 2004 ;
- (j) Section 76 of the principal enactment by section 17 of this Act shall be deemed for all purposes to have come into force on January 1, 2004 ;
- (k) Section 83 of the principal enactment :—
  - (i) by section 18(1) of this Act shall for all purposes be deemed to have come into force on January 1, 2004 ;
  - (ii) by section 18(2) of this Act shall for all purposes be deemed to have come into force on September 17, 2003 ;
- (l) First Schedule of the principal enactment :—
  - (i) by section 19(b)(1) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (ii) by section 19(b)(2) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (iii) by section 19(b)(3) of this Act shall be deemed for all purposes to have come into force on January 1, 2003 ;
  - (iv) by section 19(b)(4) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (v) by section 19(b)(6) of this Act shall be deemed for all purposes to have come into force on October 17, 2003.
- (m) Second Schedule to the principal enactment by section 20(1), (2), (3), (4) and (6) of this Act shall be deemed for all purposes to have come into force on July 1, 2003.

**APPROPRIATION ACT, NO. 15 OF 2004**

[ Certified on 21st December, 2004 ]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR 2005; TO AUTHORISE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE ; TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR ; TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS OF, OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES ; TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND ; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

1. This Act may be cited as the Appropriation Act, No. 15 of 2004.
2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees four hundred and seventy eight thousand five hundred and seven million six hundred and thirty two thousand for the service of the period beginning on January 1, 2005 and ending on December 31, 2005, in this Act referred to as the “financial year 2005”, shall be met—
  - (a) from payments which are hereby authorised to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government ; and
  - (b) from the proceeds of loans which are hereby authorised to be raised, whether in or outside Sri Lanka, for and on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees four hundred and fifty seven thousand one hundred and fifty million five hundred and seventy thousand.
- (2) The sum of rupees four hundred and seventy eight thousand five hundred and seven million six hundred and thirty two thousand referred to in subsection (1) may be expended as specified in the First Schedule to this Act.
- (3) The provisions of subsection (1) shall have effect, without prejudice to the provisions of any other written law authorising the raising of loans for and on behalf of the Government.
3. (1) The receipts of the Government during the financial year, 2005, from each activity specified in Column I of the Second Schedule to this Act, shall be credited to the account of such activity, but the aggregate of receipts so credited shall be not less than the minimum limit specified in the corresponding entry in Column III of that Schedule. The net surplus, if any, of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 2005.
- (2) For the purpose of determining the net surplus under subsection (1), the following charges shall be set off against the revenue of each activity :—
  - (a) the working, establishment and other expenses of the activity whether paid or accrued, properly chargeable to the revenue of the activity ; and
  - (b) provision to cover the depreciation of the movable and immovable property of the activity.
- (3) The expenditure incurred by the Government, during the financial year, 2005, on each activity specified in Column I of the Second Schedule to this Act, shall be paid out of the receipts of the Government from such activity during that financial year but such expenditure shall not exceed the maximum limit specified in the corresponding entry in Column II of that Schedule.
- (4) The debit balance, outstanding at the end of the financial year, 2005, of any activity specified in Column I of the Second Schedule to this Act, shall not exceed the maximum limit specified in the corresponding entry in Column IV of that Schedule and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in Column V of that Schedule.

4. Whenever, at any time during the financial year, 2005, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act, are insufficient to meet the expenditure incurred by the Government on such activity, the Minister may, from time to time, by Order direct that such sums as he may deem necessary to meet such expenditure shall be payable, by way of advances, out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, so however, that the aggregate of the sums so advanced shall not exceed the maximum limit of expenditure specified in the corresponding entry in Column II of that Schedule. Any sum so advanced in respect of such activity shall be refunded to the Consolidated Fund in such manner as the Minister may by Order direct.
5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head by order of the Secretary to the Treasury or any officer authorised by him.
- (2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that Programme or to any allocation of Recurrent Expenditure of that Programme.
- (3) Subject to the provisions of subsection (2), any money allocated to Recurrent or Capital Expenditure under the "Public Resources Management" Programme appearing under the Head "Department of National Budget" specified in the First Schedule may be transferred to any other Programme under any other Head in the Schedule by order of the Secretary to the Treasury or any officer authorised by him. The money so transferred shall be deemed to have been covered by a supplementary estimate submitted by the appropriate Minister.
6. Where the Minister is satisfied—
  - (a) that receipts from taxes and other sources will be less than the amounts anticipated to finance authorised expenditure ; or
  - (b) that amounts originally appropriated for a particular purpose or purposes are no longer required,
 he may, with the approval of the Government, withdraw in whole or in part, any amounts previously released for expenditure under the authority of a warrant issued by him from the Consolidated Fund or from any other fund or moneys of, or at the disposal of, the Government to meet any authorised expenditure.
7. (1) The Minister with the approval of the Government may, on or before May 31, 2006, by Order, vary or alter—
  - (a) any of the maximum limits specified in Column II, Column IV and Column V ;
  - (b) the minimum limits specified in Column III,
 of the Second Schedule to this Act.
- (2) No Order made under subsection (1) shall have effect unless it has been approved by Parliament, by resolution.
- (3) Any Order made under subsection (1) shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making such Order as may be specified therein.
8. Parliament may, by resolution, amend the Second Schedule to this Act, by adding to the appropriate Columns of that Schedule, any activity and providing for—
  - (a) all or any of the maximum limits relating to such activity;
  - (b) the minimum limit relating to such activity.
9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

- (i) Section 75A of the principal enactment by section 16 of this Act shall be deemed for all purposes to have come into force on January 1, 2004 ;
- (j) Section 76 of the principal enactment by section 17 of this Act shall be deemed for all purposes to have come into force on January 1, 2004 ;
- (k) Section 83 of the principal enactment :—
  - (i) by section 18(1) of this Act shall for all purposes be deemed to have come into force on January 1, 2004 ;
  - (ii) by section 18(2) of this Act shall for all purposes be deemed to have come into force on September 17, 2003 ;
- (l) First Schedule of the principal enactment :—
  - (i) by section 19(b)(1) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (ii) by section 19(b)(2) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (iii) by section 19(b)(3) of this Act shall be deemed for all purposes to have come into force on January 1, 2003 ;
  - (iv) by section 19(b)(4) of this Act shall be deemed for all purposes to have come into force on March 1, 2003 ;
  - (v) by section 19(b)(6) of this Act shall be deemed for all purposes to have come into force on October 17, 2003.
- (m) Second Schedule to the principal enactment by section 20(1), (2), (3), (4) and (6) of this Act shall be deemed for all purposes to have come into force on July 1, 2003.



**APPROPRIATION ACT, NO. 15 OF 2004**

[ Certified on 21st December, 2004 ]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR 2005; TO AUTHORISE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE ; TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR ; TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS OF, OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES ; TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND ; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

1. This Act may be cited as the Appropriation Act, No. 15 of 2004.
2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees four hundred and seventy eight thousand five hundred and seven million six hundred and thirty two thousand for the service of the period beginning on January 1, 2005 and ending on December 31, 2005, in this Act referred to as the "financial year 2005", shall be met—
  - (a) from payments which are hereby authorised to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government ; and
  - (b) from the proceeds of loans which are hereby authorised to be raised, whether in or outside Sri Lanka, for and on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees four hundred and fifty seven thousand one hundred and fifty million five hundred and seventy thousand.
- (2) The sum of rupees four hundred and seventy eight thousand five hundred and seven million six hundred and thirty two thousand referred to in subsection (1) may be expended as specified in the First Schedule to this Act.
- (3) The provisions of subsection (1) shall have effect, without prejudice to the provisions of any other written law authorising the raising of loans for and on behalf of the Government.
3. (1) The receipts of the Government during the financial year, 2005, from each activity specified in Column I of the Second Schedule to this Act, shall be credited to the account of such activity, but the aggregate of receipts so credited shall be not less than the minimum limit specified in the corresponding entry in Column III of that Schedule. The net surplus, if any, of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 2005.
- (2) For the purpose of determining the net surplus under subsection (1), the following charges shall be set off against the revenue of each activity :—
  - (a) the working, establishment and other expenses of the activity whether paid or accrued, properly chargeable to the revenue of the activity ; and
  - (b) provision to cover the depreciation of the movable and immovable property of the activity.
- (3) The expenditure incurred by the Government, during the financial year, 2005, on each activity specified in Column I of the Second Schedule to this Act, shall be paid out of the receipts of the Government from such activity during that financial year but such expenditure shall not exceed the maximum limit specified in the corresponding entry in Column II of that Schedule.
- (4) The debit balance, outstanding at the end of the financial year, 2005, of any activity specified in Column I of the Second Schedule to this Act, shall not exceed the maximum limit specified in the corresponding entry in Column IV of that Schedule and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in Column V of that Schedule.

4. Whenever, at any time during the financial year, 2005, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act, are insufficient to meet the expenditure incurred by the Government on such activity, the Minister may, from time to time, by Order direct that such sums as he may deem necessary to meet such expenditure shall be payable, by way of advances, out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, so however, that the aggregate of the sums so advanced shall not exceed the maximum limit of expenditure specified in the corresponding entry in Column II of that Schedule. Any sum so advanced in respect of such activity shall be refunded to the Consolidated Fund in such manner as the Minister may by Order direct.
5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any Head specified in that Schedule, but have not been expended or are not likely to be expended, may be transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head by order of the Secretary to the Treasury or any officer authorised by him.
- (2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that Programme or to any allocation of Recurrent Expenditure of that Programme.
- (3) Subject to the provisions of subsection (2), any money allocated to Recurrent or Capital Expenditure under the "Public Resources Management" Programme appearing under the Head "Department of National Budget" specified in the First Schedule may be transferred to any other Programme under any other Head in the Schedule by order of the Secretary to the Treasury or any officer authorised by him. The money so transferred shall be deemed to have been covered by a supplementary estimate submitted by the appropriate Minister.
6. Where the Minister is satisfied—
  - (a) that receipts from taxes and other sources will be less than the amounts anticipated to finance authorised expenditure ; or
  - (b) that amounts originally appropriated for a particular purpose or purposes are no longer required,
 he may, with the approval of the Government, withdraw in whole or in part, any amounts previously released for expenditure under the authority of a warrant issued by him from the Consolidated Fund or from any other fund or moneys of, or at the disposal of, the Government to meet any authorised expenditure.
7. (1) The Minister with the approval of the Government may, on or before May 31, 2006, by Order, vary or alter—
  - (a) any of the maximum limits specified in Column II, Column IV and Column V ;
  - (b) the minimum limits specified in Column III,
 of the Second Schedule to this Act.
  - (2) No Order made under subsection (1) shall have effect unless it has been approved by Parliament, by resolution.
  - (3) Any Order made under subsection (1) shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making such Order as may be specified therein.
8. Parliament may, by resolution, amend the Second Schedule to this Act, by adding to the appropriate Columns of that Schedule, any activity and providing for—
  - (a) all or any of the maximum limits relating to such activity;
  - (b) the minimum limit relating to such activity.
9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.