

PART IV

PART IV

MAJOR LEGISLATIVE ENACTMENTS OF 2008 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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FINANCE (AMENDMENT) ACT, NO. 7 OF 2008

[Certified on 29th February, 2008]

AN ACT TO AMEND THE FINANCE ACT, No. 11 OF 2004

1. This Act may be cited as the Finance (Amendment) Act, No. 7 of 2008.
2. The Finance Act, No. 11 of 2004 is hereby amended in Part II of that Act, (Imposition of Cellular Mobile Telephone Subscribers' Levy) by the substitution for the words "mobile telephone" wherever such words occur in that Part, of the words "mobile or cordless land telephone".
3. In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail.

FINANCE (AMENDMENT) ACT, NO. 8 OF 2008

[Certified on 29th February, 2008]

AN ACT TO AMEND THE FINANCE ACT, No. 5 OF 2005

1. This Act may be cited as the Finance (Amendment) Act, No. 8 of 2008.
2. The Finance Act, No. 5 of 2005 (hereinafter referred to as the "principal enactment") is hereby amended in section 2 of Part I of that Act (Imposition of Social Responsibility Levy) as follows :—
 - (1) by the repeal of paragraph (b) of that section, and the substitution therefore of the following new paragraphs :—
 - “(b) for the period commencing on January 1, 2006 and ending on December 31, 2007 at the rate of 1 *per centum* ; and
 - (c) for the period commencing on January 1, 2008 at the rate of 1.5 *per centum*.”; and
 - (2) by the repeal of second proviso to that section and the substitution therefore of the following :—

“ Provided futher that the Social Responsibility Levy chargeable —

 - (a) under the provisions of the Inland Revenue Act, No. 38 of 2000, in terms of the provisions of this Part of this Act on income tax, shall, in respect of the period commencing on January 1, 2006 and ending on March 31, 2006 be calculated at the rate of 0.25 *per centum* ; and
 - (b) under the provisions of the Inland Revenue Act, No. 10 of 2006 in terms of the provisions of this Part of this Act on income tax shall —
 - (i) in respect of the period commencing on April 1, 2006 and ending on March 31, 2008 be calculated at the rate of 1.0 *per centum* ;
 - (ii) in respect of the period commencing on April 1, 2008 be calculated at the rate of 1.5 *per centum* ;”.
3. The following new section is inserted immediately after section 6 of the principal enactment shall have effect as section 6A of that enactment:—

“ Interpretation 6A. For the purposes of this Part —
for this Part. “ company ” shall have the same meaning in as in the Inland Revenue Act, No. 10 of 2006.”.
4. Schedule 1 of the principal enactment is hereby amended by the substitution for item 5 thereof the following new items:—
 - “5. The Inland Revenue Act, No. 10 of 2006, other than the provisions of Chapters XVI, XVII and XXI and sections 36 and 65 in so far as such Act applies to the period commencing April 1, 2006 and ending on March 31, 2008.”.

6. The Inland Revenue Act, No. 10 of 2006 (other than the provision of Chapters XVI, XVII and XXI and sections 36 to 65, in so far as such Act applies to any company and to any period commencing on or after April 1, 2008.”.
5. The amendment made to —
- (a) subsection (1) of section 2 of the principal enactment, by subsection (1) of section 2 of this Act shall for all purposes to be deemed to have come into operation on January 1, 2008 ;
- (b) subsection (2) of section 2 of the principal enactment, by subsection (2) of section 2 of this Act and the amendment to the First Schedule made by section 4 of this Act shall come into operation on April 1, 2008.
6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala text shall prevail.

STAMP DUTY (SPECIAL PROVISIONS) (AMENDMENT) ACT, NO. 10 OF 2008

[Certified on 29th February, 2008]

AN ACT TO AMEND THE STAMP DUTY (SPECIAL PROVISIONS) ACT, NO. 12 OF 2006

1. (1) This Act may be cited as the Stamp Duty (Special Provisions) (Amendment) Act, No. 10 of 2008.
- (2) The provisions of this Act, shall be deemed for all purposes to have come into operation from January 1, 2008.
2. Section 6 of the Stamp Duty (Special Provisions) Act, No. 12 of 2006 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:—
- (1) in paragraph (d) of that section, by the substitution for the words “credit card holder; and”, of the words “credit card holder;”;
- (2) by the insertion, immediately after paragraph (d), of the following new paragraphs:—
- “(dd) in the case of a warrant to act as Notary Public, by the person applying for the office of Notary;
- (ddd) in the case of a licence, by the person applying for the same; and”.
3. Section 8 of the principal enactment is hereby repealed and the following section substituted therefore:—
- “Manner of payment of stamp duty.
8. (1) Otherwise than, when stamp duty is compounded in terms of section 7, the stamp duty payable on any specified instrument shall be paid by means of affixing adhesive stamps to the required value, prior to, or at the time of, the execution of the instrument. The value of the stamp duty so paid shall be specified on the face of the instrument so executed:
- Provided that, share transfers executed in Sri Lanka shall be stamped within one month from the execution of the same.
- (2) Stamp duty payable on any specified instrument relating to a mortgage or lease of any immovable property may be paid, prior to, or at the time of, the execution of the specified instrument, to a prescribed bank. Where however, the stamp duty cannot be so paid due to reasons beyond the control of the person by whom the stamp duty is payable, the stamp duty shall be paid to the prescribed bank within seven days from the date of such execution. The bank shall thereupon issue a certificate in the prescribed form certifying that the stamp duty has been duly paid and such certificate shall be affixed to the instrument so executed.
- (3) Any person executing a specified instrument shall at the time of the execution of such specified instrument which is not stamped with an impressed stamp, cancel the stamps thereon by writing or marking in ink on or across each stamp, his name or initials, thereby preventing the stamp from being used again. Further, where such specified instrument bears an adhesive stamp of the value of fifty rupees or more, such stamp shall be cancelled by the person executing a specified instrument by perforating the same by either cutting or pricking the stamp with a suitable instrument.

- (4) Any specified instrument bearing an adhesive stamp which has not been cancelled in the manner set out in subsection (3) shall be deemed to be unstamped to the extent of the value of such stamp.”.

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

ECONOMIC SERVICE CHARGE (AMENDMENT) ACT, NO. 11 OF 2008

[Certified on 29th February, 2008]

AN ACT TO AMEND THE ECONOMIC SERVICE CHARGE ACT, NO. 13 OF 2006

1. This Act may be cited as the Economic Service Charge (Amendment) Act, No. 11 of 2008.
2. Section 2 of the Economic Service Charge Act, No. 13 of 2006 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section, by the substitution for the words “at the appropriate rate specified in the Schedule to this Act, ” of the following :—

“at the appropriate rate specified in the Schedule to this Act :

Provided that notwithstanding anything to the contrary in this Act and the rates specified in the Schedule to this Act, the rate of the Economic Service Charge, chargeable in respect of the turnover arising on or after April 1, 2008 from the export of any articles or goods, shall not exceed *0.25 per centum*.”.

3. Section 3 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words “tax payable by such person or partner of such partnership for that year of assessment” of the words —

“tax payable by such person or partner of such partnership for that year of assessment :

Provided that, where there remains as at March 31, 2006, any amount of the economic service charge paid in accordance with the provisions of Part I of the Finance Act, No. 11 of 2004 after its deduction in accordance with the provisions of that Act from the relevant income tax payable for any relevant year of assessment commencing before April 1, 2006 —

- (a) if such amount includes any part of the economic service charge paid for the year of assessment ended on March 31, 2005 such part may be apportioned to each year of assessment falling within the three years of assessment immediately succeeding the year of assessment which ended on March 31, 2006 ; or
- (b) if such amount includes any part of the economic service charge paid for the year of assessment ended on March 31, 2006, such part may be apportioned to each year of assessment falling within the four years of assessment immediately succeeding the year of assessment which ended on March 31, 2006,

and the parts of the economic service charge so apportioned, shall be deducted to the extent it can be so deducted from the income tax payable by such person or such partnership for each such year of assessment.”.

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

- (1) by the substitution for items 4 and 5 of the Schedule of the following items :—

“4. Such part of the relevant turnover arising before April 1, 2008 as consists, of turnover from any trade, business, profession or vocation —

- (i) the profits and income from which are chargeable with income tax at any rate specified in the Fifth Schedule to the Inland Revenue Act, other than in item 28 of that Schedule ;

0.5 per centum.

- (ii) carried on by any enterprise which has entered into an agreement under the Board of Investment of Sri Lanka Law No. 4 of 1978, being the relevant turnover during the period for which the profits and income of such enterprise are taxable at the rate equal to a rate specified in the Fifth Schedule to the Inland Revenue Act, No. 10 of 2006.

0.5 per centum.

4A. Such part of the relevant turnover arising on or after April 1, 2008 as consists, of turnover from any trade, business, profession or vocation —

(i) the profits and income from which are chargeable with income tax at any rate specified in the Fifth Schedule to the Inland Revenue Act, other than in item 24 and item 28 of that Schedule ;

0.5 per centum.

(ii) carried on by any enterprise which has entered into an agreement under the Board of Investment of Sri Lanka Law No. 4 of 1978, being the relevant turnover during the period for which the profits and income of such enterprise are taxable at the rate equal to a rate specified in the Fifth Schedule to the Inland Revenue Act, No. 10 of 2006.

0.5 per centum.

5. Such part of the relevant turnover as consists of the turnover from any trade or business which deals in the wholesale or retail (other than as distributor) of motor vehicles or liquor not manufactured by the dealer :—

(i) arising prior to April 1, 2008

0.5 per centum.

(ii) arising on an after April 1, 2008

1.0 per centum”.

(2) by the substitution for item 11 of the Schedule of the following items :—

“11. Such part of the relevant turnover arising prior to April 1, 2008 as consists of —

(i) the turnover from the export of apparels or the supply of locally manufactured textiles to apparel exporters to be used in the manufacture of apparels for export by such exporter.

0.1 per centum.

(ii) the turnover of a trading house approved by the Board of Investment so far as such trading house engages in the business of the export of apparels.

0.1 per centum.

11A. Such part of the relevant turnover arising on of after April 1, 2008 as consists of —

(i) the turnover from —

(a) the export of apparels ; or

(b) supply of locally manufactured apparels to any exporter of apparels for export :

(c) supply of locally manufactured textiles to any exporter of apparels to be used in the manufacture of apparels for export by such exporter.

(ii) the turnover of a trading house approved by the Board of Investment in so far as such trading house engages in the business of the export of apparels.

0.1 per centum”.

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

REGIONAL INFRASTRUCTURE DEVELOPMENT LEVY (AMENDMENT) ACT, NO. 12 OF 2008

[Certified on 29th February, 2008]

AN ACT TO AMEND THE REGIONAL INFRASTRUCTURE DEVELOPMENT LEVY ACT, NO. 51 OF 2006

1. (1) This Act may be cited as the Regional Infrastructure Development Levy (Amendment) Act, No. 12 of 2008.
- (2) The provisions of this Act shall be deemed, for all purposes to have come into effect from January 1, 2008.
2. Section 2 of the Regional Infrastructure Development Levy Act, No. 51 of 2006 (hereinafter referred to as the “principal enactment”) as amended by Act, No. 47 of 2007 is hereby repealed and the following section substituted therefore:—
- “Imposition of the Regional Infrastructure Development Levy.
2. (1) There shall be charged and levied at the point of import a levy called the Regional Infrastructure Development Levy (hereinafter referred to as “the Levy”) on any motor vehicle liable to the payment of Excise Duty under the Excise (Special Provision) Act, No. 13 of 1989, falling under the Harmonized System Code Number specified in Column I of the Schedule hereto and having a cylinder capacity, seating capacity or weight as is specified in the corresponding entry in Column II of that Schedule, an amount calculated at the rate specified in Column III of that Schedule on the aggregate value comprising the customs value of such motor vehicle determined in terms of Schedule E of the Customs Ordinance (Chapter 235) and all taxes, duties and levies charged thereon at the point of import.
- (2) For the purpose of this section, the expression “motor vehicle” shall not include an auto trishaw.”.
3. The principal enactment is hereby amended by the addition immediately after section 7 thereof, of the following Schedule:—

SCHEDULE

Section 2

No.	Column I <i>H. S. Code No.</i>	Column II <i>Cylinder capacity / Seating capacity / Weight</i>	Column III <i>Rate</i>
1.	8703	Motor vehicle having a cylinder capacity not exceeding 1600	5.0 per centum
2.	8703	Motor vehicle having a cylinder capacity exceeding 1600 but not exceeding 2000	7.5 per centum
3.	8703	Motor vehicle having a cylinder capacity exceeding 2000	10 per centum
4.	8702	Motor vehicle having a seating capacity of less than 13 persons	10 per centum
5.	8702	Motor vehicle having a seating capacity of 13 or more persons but less than 17 persons	5.0 per centum
6.	8702	Motor vehicle having a seating capacity of 17 persons or more	7.5 per centum
7.	8704	Motor vehicle (possessing the specified weight)	5.0 per centum

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

VALUE ADDED TAX (AMENDMENT) ACT, NO. 15 OF 2008

[Certified on 29th February, 2008]

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. 15 of 2008.
2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the "principal enactment") is hereby amended in the second proviso to subsection (3) of that section, by the repeal of paragraph (b) thereof and the substitution thereof of the following:—

"(b) any goods temporarily imported into Sri Lanka —

 - (i) being plant, machinery or equipment of high value to be used for any project; or
 - (ii) being goods to be used as exhibition material or as materials in any technical demonstration,

and which are re-exported after the completion of such project, exhibition or demonstration, as the case may be, with the approval of the Minister, up to the date of such competition, exhibition or demonstration."
3. Section 22 of the principal enactment is hereby amended as follows:—
 - (1) by the repeal of subparagraph (iv) of subsection (6) and all the words and figures up to the end of that subsection, and the substitution thereof of the following:

"(iv) if the input tax on any invoice or customs declaration referred to in paragraph (iii), as the case may be, has not been deducted as provided for in this Act, from the output tax for any taxable period ending on or before the expiry of twelve months from the date of such tax invoice or customs declaration by furnishing within the said period of twelve months the return for that taxable period:

Provided however, notwithstanding the provisions of subsection (2), and the exemptions specified in item (i) and item (ii) of sub-paragraph (f) of Part II of the First Schedule to this Act, any registered person who is engaged in supplying of goods or services to any strategic development project or any other special project as is referred to in the aforesaid items, where the payment is borne by the Government, may be allowed input tax on the purchase of goods or services connected to supply of goods or services to such projects.";
 - (2) in subsection (10) of that section, by the addition at the end of the proviso to that subsection, of the following:—

"Provided further, that for the purpose of ascertainment of the input tax allowable in terms of this subsection, of any person supplying goods or services to any strategic development project or any other special project, specified in item (i) and item (ii) of sub-paragraph (f) of Part II of the First Schedule to this Act, the value of the supply of the suppliers for the relevant period of such project shall be deemed to be a taxable supply on which the output tax is computed."
4. Section 25A of the principal enactment is hereby amended in subsection (1) of that section, by the repeal of paragraph (ii) thereof and the substitution thereof of the following:—
 - (ii) by any person on or after July 1, 2003 but prior to December 31, 2007; and
 - (iii) by any person other than a Co-operative Society registered under the Co-operative Societies Law, No. 5 of 1972, on or after January 1, 2008."
5. Section 25c of the principal enactment is hereby amended in subsection (1) of that section, as follows:—
 - (1) by the substitution for the words "being an asset which forms part of the leasing stocks of such person" of the words "being an asset which is leased under the provisions of the aforesaid Act."; and
 - (2) by the addition, immediately at the end of that subsection of the following:—

"For the avoidance of doubts it is hereby declared that the value addition of such institution shall be computed, based on the net profit or loss before deducting the tax payable under this Chapter."

6. Section 25H of the principal enactment is hereby amended by the addition immediately after subsection (3) thereof, of the following new subsection :—

"(4) Every person or partnership registered under this Chapter shall furnish to the Commissioner-General of Inland Revenue not later than the twentieth day of the month immediately following the expiry of the relevant quarter, a return in such form and containing such particulars as may be specified by the Commissioner-General."

7. Section 26A of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section, by the substitution for the words "deduct from such payment one-third of the tax included in such payment, and" of the words "deduct from such payment one-third of the tax included in such payment as the 'VAT Advance Payment', and"; and

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

"Deduction of VAT Advance Payments."

8. Section 48A of the principal enactment is hereby repealed and the following section substituted therefore:—

<p>"Time Limit for the recovery of the tax in default.</p>	<p>48A. The Commissioner-General shall not, commence any action under sections 42, 43, 44 or 48 of this Act, for the recovery of tax in default where a period of five years has lapsed from the completion of three months from the end of any taxable period in which the assessment by which such tax was charged or levied becomes final and conclusive under section 37."</p>
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9. The First Schedule to the principal enactment is hereby amended in Part II thereof as follows :—

"(1) in paragraph (a) of that Part —

(a) in item (iv), by the substitution for the words "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, and which are re-exported within twelve months from the date of import;" of the words "gold coins (effective from 17.07.2007);";

(b) in item (xii) by the substitution for the words "yarn and dyes used for handloom industry and" of the words "yarn used for the textile industry and dyes used for the handloom industry, as identified under the Harmonized Commodity Description and Coding System Numbers for Customs purposes, and (effective from 01.01.2008)";

(2) in paragraph (b) of that Part —

(a) in item (i) (a) thereof, by the substitution for the words "education service by an education" of the words "education service by an education (effective from 01.01.2006)";

(b) by the repeal of item (xii) and the substitution therefore of the following:—

"(xii) all healthcare services provided by medical institutions or professionally qualified persons providing such care (effective from 01.07.2007)";

(c) by the addition immediately after item (xxi), the following:—

"(xxii) clay roof tiles (effective from 01.07.2007) or chemical naphtha (effective from 17.07.2007), to the extent that such clay roof tiles or chemical naphtha are manufactured in Sri Lanka;

(xxiii) unprocessed agricultural, horticultural or fishing products produced in Sri Lanka, including the local supply of unprocessed agricultural, horticultural or fishing products where value added tax has not been collected or paid to the Department of Inland Revenue on or after 01.07.2007;

(xxiv) unprocessed prawns produced in Sri Lanka, including the local supply of unprocessed prawns, where value added tax has not been collected or paid to the Department of Inland Revenue on or after January 1, 2004 (effective from 01.01.2008);

(xxv) imported rattans (effective from 01.07.2007);

(xxvi) locally produced dairy products out of locally produced fresh milk in so far as such milk is produced in Sri Lanka and locally produced rice products containing rice produced in Sri Lanka (effective from 01.01.2008); and

(xxvii) locally manufactured sugar (effective from 01.01.2008).";

(3) in paragraph (c) of that Part, by the addition immediately after item (xviii) of the following:—

"(xix) (a) plant, machinery or equipment of high value to be used for any project; or
(b) goods to be used as exhibition material or as materials in any technical demonstration.

and which are re-exported after the completion of such project, exhibition or demonstration, as the case may be, and in respect of which tax is differed in terms of paragraph (b) of the second proviso to subsection (3) of section 2 (effective from 17.07.2007);

(xx) aircraft engines or aircraft spare parts identified under specified Harmonized Commodity Description and Coding System Numbers for Customs purposes (effective from 17.07.2007);

(xxi) rattans under HS Code No. 1401.20 (effective from 01.07.2007);

(xxii) plant and machinery by an undertaking qualified for a tax holiday under section 24c of the Inland Revenue Act, No. 10 of 2006, for use by such undertaking for the purpose of manufacturing or for the provision of services. (effective from 01.01.2008)";

(xxiii) goods for any strategic development project or specified project referred to in paragraph (f) with the approval of the Minister of Finance.”;

(4) by the insertion immediately after paragraph (e) of that Part, the following new paragraph :—

"(f) the supply of —

(i) goods or services to any project identified as a Strategic Development Project, in terms of section 3(4) of the Strategic Development Projects Act, No. 14 of 2008 (effective from 01.01.2008); or

(ii) goods or services to any specified project identified by the Minister in charge of the subject of Finance, taking into consideration the economic benefit to the country, on which project the tax is borne by the Government (effective from 01.01.2008) ; or

(iii) goods or services by any co-operative society registered under the Co-operative Societies Law, No. 5 of 1972 (effective from 01.01.2008).".

10. The Third Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefore:—

“THIRD SCHEDULE

BASIC RATE

(a) the supply or import of —

(i) Sugar upto December 31, 2007;

(ii) Dhall;

(iii) Potatoes upto June 30, 2007;

(iv) Onions upto June 30, 2007;

(v) Dried fish;

(vi) Chillies;

(vii) Hi-tech medical equipment or any machinery used for the manufacture of ticket issuing machinery, identified by the Commissioner-General of Inland Revenue under the Harmonized Commodity Description and Coding System Numbers, for Customs purposes;

(viii) Jewellery ;

[The import or supply of goods referred to in items (i) and (ii) of this Schedule shall be deemed for all purposes to have been exempt from Value Added Tax from October 1, 2004 to November 18, 2004.]

- (b) the import of —
- (i) Cine Films, cinematographic films exposed or developed, magnetic cine sound recorders, cinematographic cameras and projector parts and accessories, apparatus and equipment for cinematographic laboratories, electric filament or discharge lamps and arc lamp carbon, identified by the Commissioner-General of Inland Revenue under the Harmonized Commodity Description and Coding System Numbers, for Customs purposes with the approval of the Chairman, National Film Corporation;
 - (ii) Sugar (effective from 01.01.2008);
 - (iii) Canned Fish, Chick Peas, Green Gram (effective from 05.06.2007);
 - (iv) Potatoes (effective from 01. 07. 2007);
 - (v) Onions (effective from 01. 07. 2007)."
- 11.** The amendments made to —
- (1) subsection (3) of section 2 of the principal enactment by section 2 of this Act, shall be deemed for all purposes to have come into operation from July 17, 2007;
 - (2) subsection (6) and subsection (10) of section 22 of the principal enactment by section 3 of this Act, shall be deemed for all purposes to have come into operation from January 1, 2008;
 - (3) section 25H [addition of new subsection (4) of the principal enactment by section 6 of this Act, shall be deemed for all purposes to have come into operation from January 1, 2007;
 - (4) subsection (1) of section 26A of the principal enactment by section 7 of this Act, shall be deemed for all purposes to have come into operation from January 1, 2008;
 - (5) section 48A [replacement of section] of the principal enactment by section 8 of this Act, shall be deemed for all purposes to have come into operation from January 1, 2006.
- 12.** Any person who collects the value added tax as provided for in this Act during the period commencing July 1, 2007 and ending on the date of the coming into operation of this Act, shall be deemed to have acted with due authority and such collection shall be deemed to have been, and to be, validly made and such person is hereby indemnified against all actions civil or criminal, in respect of such collection.
- 13.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

PRADESHIYA SANWARDANA BANK ACT, NO. 41 OF 2008

[Certified on 01st December, 2008]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE PRADESHIYA SANWARDANA BANK AND FOR THE ABSORPTION OF THE ASSETS, LIABILITIES, CONTRACTS, EMPLOYEES &C. OF THE DEVELOPMENT BANKS ESTABLISHED UNDER THE REGIONAL DEVELOPMENT BANKS ACT, NO. 6 OF 1997 AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

- 1.** This Act may be cited as the Pradeshiya Sanwardana Bank Act, No. 41 of 2008.
- 2.** (1) There shall be established a Bank to be called the Pradeshiya Sanwardana Bank (hereinafter referred to as the "Bank").
- (2) The Bank shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.
- 3.** (1) The Seal of the Bank shall be in the custody of the Chairman or any other officer authorized by him.
- (2) The Seal of the Bank shall be approved by the Board and may be altered in such manner as may be determined by the Board.

- (3) The Seal of the Bank shall not be affixed to any instrument except in the presence of two directors of the Board of Directors or one Director of the Board of Directors and the Chief Executive Officer (who shall be designated as the General Manager of the Bank), both of whom shall sign the instrument in token of their presence.
4. The head office of the Bank shall be established at Colombo in Sri Lanka.
5. The Bank may establish and maintain branches in Sri Lanka at such places as the Board of Directors of the Bank considers necessary so to do, including any location where Development Banks offices have presently been established in terms of Regional Development Banks Act, No. 6 of 1997 and which are in terms of section 42 of this Act, vested with the Bank.

PART I

POWERS AND OBJECTS OF THE BANK

6. The objects of the Bank shall be to facilitate the overall regional economic development of Sri Lanka by promoting the development of agriculture, industry, trade, commerce, livestock, fisheries activities and empowerment of women, mainly by granting financial assistance to Micro Finance Institutions and Small and Medium Enterprises.
7. The Minister may by Order published in the *Gazette* specify such percentage of lending required to be allocated to any priority sector, taking into consideration priorities of the Government in relation to its development activities.
8. The Bank may, subject to the provisions of this Act, and without prejudice to any powers conferred on it by or under any law, engage in all or any activity permitted to be carried on by a Licensed Specialized Bank in terms of the Banking Act, No. 30 of 1988.

PART II

MANAGEMENT OF THE BANK

9. (1) The management and administration of the affairs and business of the Bank shall vest in a Board of Directors (hereinafter referred to as “the Board”).
- (2) The Board may exercise, all or any of the powers of the Bank under this Act or any other law relating to the objects of the Bank and do all acts and things which it is authorized to do and perform under this Act or such other law, as the case may be.
- (3) The Board shall in the exercise of its powers act on the basis of sound business principles and have due regard to the economic development programmes of the Government.
10. The Board shall consist of not less than seven and not more than eleven directors, nominated or elected as the case may be, in the manner set out in section 11 of this Act.
11. (1) The following shall be *ex-officio* members of the Board :—
- (a) a Deputy Secretary to the Treasury nominated by the Secretary to the Treasury;
- (b) a Deputy General Manager of the Bank of Ceylon nominated by the Board of Directors of the Bank of Ceylon;
- (c) a Deputy General Manager of the People’s Bank nominated by the Board of Directors of the People’s Bank;
- (d) a Deputy General Manager of the National Savings Bank nominated by the Board of Directors of the National Savings Bank.
- (2) There shall be not less than three and not more than seven nominated Directors (hereinafter referred to as “nominated directors”), who shall be appointed by the Minister in consultation with the Secretary to the Treasury from among persons possessing academic or professional qualifications or experience in the fields of Banking, Accounts, Finance, Law, Management, Human Resource Management, Co-operative activities, Rural Development or Empowerment of Women. The Minister shall when making such nomination endeavour as far as possible to ensure adequate female representation on the Board.

- (3) A nominated Director shall hold office for a term of three years.
 - (4) A nominated Director may be reappointed for a second term of three years, provided that the Director has not been removed from office under subsection (5) of this section.
 - (5) The Minister may remove a nominated Director from office, for reasons to be assigned for such removal.
 - (6) A nominated Director may resign from his office by a letter in that behalf addressed to the Minister.
 - (7) Where a nominated Director is temporarily unable to perform the duties of his office by reason of ill-health or other infirmity or absence from Sri Lanka, the Minister may nominate another person to act in his place.
 - (8) In the event of the vacation of office by death, resignation or removal of a nominated Director, the Chairman shall nominate in accordance with the provisions of subsection (2) another person to represent the institution which such person vacating office had represented. The person so nominated shall hold office for the unexpired part of the term of office of the nominated Director whom he succeeds.
- 12.** (1) The Minister shall appoint from amongst the nominated Directors a member of the Board to be the Chairman.
- (2) If the Chairman is by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Board shall elect another Director to act in his place.
 - (3) The Minister may, remove the Chairman of the Board from office for reasons assigned.
 - (4) The Chairman may resign from his office by letter addressed to the Minister.
 - (5) Subject to the provisions of subsections (2) and (3), the term of office of the Chairman shall be his period of membership in the Board as a member.
- 13.** The Chairman in consultation with the members of the Board shall designate as Executive Directors, two members of the Board from amongst the nominated Directors to advise the Chairman where specialized knowledge is required in relation to specific areas of development activities of national importance that are to be supported by the Bank.
- 14.** The Directors may be paid such remuneration out of the funds of the Bank as may be determined by the Board in conformity with the relevant government circulars.
- 15.** A director who is directly or indirectly interested in a contract proposed to be entered into by the Bank, shall disclose the nature of his interest at a meeting of the Board. The disclosure shall be recorded in the minutes of such Board and that Director shall not thereafter take part in any deliberation or decision of such Board, with respect to such contract.
- 16.** (1) The Chairman of the Board shall, if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the Directors present shall elect one of the Directors present, to preside at such meeting.
- (2) The quorum for any meeting of the Board shall —
 - (a) where the total number of Directors is seven, be five; and
 - (b) where the total number of Directors is more than seven, be six,inclusive of both *ex-officio* and nominated directors.
 - (3) The person presiding at any meeting of the Board shall, in addition to his own vote, have a casting vote.
 - (4) Subject to the provisions of subsections (2) and (3) the Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.
- 17.** No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among the directors or any defect in the appointment or election of a director.
- 18.** (1) The Board may from time to time delegate to any officer or employee of the Bank any of its powers and duties.
- (2) Every person to whom any power or duty is delegated under subsection (1) shall exercise or perform such power or duty delegated to him subject to such terms and conditions as may be specified by the Board and the Board may at any time revoke or withdraw the powers or duties so delegated.
- 19.** The Board shall appoint as Secretary to the Bank a full time officer of the Bank.

PART III

FINANCE

20. (1) The capital of the Bank shall consist of such sums of money comprising contributions made by the Government, the Bank of Ceylon, the People's Bank and the National Savings Bank, to the Development Banks established in terms of Regional Development Banks Act, No. 6 of 1997 and which have been vested with the Bank in terms of section 42 of the Act.
- (2) The Government, the Bank of Ceylon, the People's Bank and the National Savings Bank shall by virtue of such contribution become shareholders of the Bank and be allotted shares in the Bank in proportion to their respective contributions.
- (3) The shareholders referred to in subsection (2) may in their discretion, contribute further capital or purchase shares in the Bank, in excess of the sum specified herein as contribution to be made by such shareholders to the initial capital of that Bank.
21. The shareholders of the Bank may transfer shares only amongst themselves as may be approved by the Board.
22. All sums of money comprising of General Reserve Fund of the Development Bank established in terms of the Regional Development Banks Act, No. 6 of 1997 and have been vested under section 42 of the Act shall form the General Reserve Fund of the Bank and the Board may credit to such General Reserve Fund, twenty *per centum* of the annual profits.
23. (1) All sums of money comprising the Special Reserve Fund of the Development Banks established in terms of Regional Development Banks Act, No. 6 of 1997 and have been vested with the Bank under section 42 of the Act shall form the Special Reserve Fund of the Bank and the Board shall credit to such Special Reserve Fund every year five *per-centum* of the annual profit, to provide for bad and doubtful debts of the Bank.
- (2) There shall be established in the separate account to be called and known as the "Welfare Account" into which shall be credited all moneys identified for the provision of welfare facilities to persons who were employees of any Development Bank prior to the coming into operation of this Act. The money lying to the credit of such account shall be utilized in such manner as shall be prescribed.
24. The Bank shall utilise for the purpose of payment of dividends to shareholders such percentage of its annual profits as may be determined by the Board.
25. Any loan granted by the Bank shall be on security and other terms and conditions as may be determined by the Board.

PART IV

STAFF

26. (1) The Board shall appoint as the General Manager a person who has ten years experience in banking at senior management level, —
- (a) who holds a degree from a recognized University with a post graduate qualification in a relevant field; or
- (b) who has professional qualification in banking or any other relevant field,
- on such terms and conditions of service as the Board shall determine.
- (2) The General Manager shall be the Chief Executive Officer of the Bank and shall conduct, manage and administer the affairs of the Bank subject to the general direction, supervision and control of the Board and assist the Bank in achieving the objects of the Bank.
- (3) The General Manager shall be a full time officer of the Bank.
- (4) The term of office of the General Manager shall be three years from the date of the first appointment, inclusive of the initial probation period of six months.
- (5) The term of office of the General Manager may be extended by the Board once in every three years where the performance and discharge of the duties and functions of the General Managers are found to be satisfactory.

- 27.** (1) The Board shall appoint four persons to be Deputy General Managers of the Bank, from those who have a minimum of eight years experience at Senior Management level in banking. Every Deputy General Manager shall —
- (a) hold a degree from a recognized University with a post graduate qualification or post graduate diploma in a relevant field; or
- (b) have full professional qualifications in Banking.
- (2) Every Deputy General Manager shall be a full time officer of the Bank.
- (3) The Deputy General Managers shall subject to the general direction, supervision and control of the Board assist the General Manager in the conduct, management and administration of the affairs of the Bank in such manner as is best designed to achieve the objectives of the Board.
- (4) The term of office of a Deputy General Manager shall be three years from the date of the first appointment inclusive of the initial probation period of six months.
- (5) The term of office of Deputy General Manager may be extended by the Board if his work is found to be of satisfactory nature.
- 28.** (1) The General Manager shall issue guidelines in respect of age of retirement, disciplinary control and any other matter as may be necessary for the proper administration of the affairs of the Bank.
- (2) The employees of the Bank shall comply with such directions.
- 29.** (1) The Board may also appoint such number of Regional General Managers to be in charge of each regional office, who have seven years experience in banking of senior management level or finance and who —
- (a) holds a degree from a recognized University in a field approved by the Board; or
- (b) is a fully qualified banking, on such terms and conditions of service as the Board shall determine.
- (2) All Regional General Managers shall report to the General Manager of the Bank.
- (3) All Regional General Managers shall be responsible to mobilize savings, to ensure commensurate lending and promote regionally focused development activities.
- 30.** (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions.
- (2) The officers and employees appointed under subsection (1) shall be remunerated in such manner and at such rate and shall be subject to such terms and conditions of service as may be determined by the Board.

PART V

AUDIT OF ACCOUNTS OF THE BANK

- 31.** The financial year of the Bank shall be the calendar year.
- 32.** The Board shall cause proper books of accounts to be kept of income and expenditure, the assets and liabilities and of all other financial transactions of the Bank.
- 33.** The accounts of the Bank shall be audited in terms of Article 154 of the Constitution.
- 34.** A Special Board Meeting of shareholders of the Bank shall be held not later than four months from the end of each financial year for the consideration of the following documents of the Bank :—
- (i) the balance sheet;
- (ii) the profit and loss account;
- (iii) the Auditor General's report;
- (iv) the Annual Report of the Bank, giving an account of the performance of the Bank during the financial year in respect of which accounts have been prepared; and
- (v) a review of the prospects of the Bank in the ensuing three years.

35. The Board shall at the conclusion of a Special Board Meeting of the Bank cause a copy of the annual report to be submitted to the Minister who shall cause the same to be placed before Parliament.
36. The provisions of the following written laws shall not apply to and in relation to the Bank :-
- (a) the Money Lending Ordinance (Chapter 80);
 - (b) the Debt Conciliation Ordinance (Chapter 81); and
 - (c) the Pawn Brokers Ordinance (Chapter 90).
37. Every director, officer or other employee of the Bank shall be indemnified by the Bank against all losses and expenses incurred by him or in relation to the discharge of his duties, except such as are caused by his willful act or default.
38. (1) Every director, auditor, officer, employee, agent or other person employed in the business of the Bank, shall before entering upon his duties sign a declaration pledging strict observance of secrecy, in respect of all transactions of the Bank, its customers, the state of accounts with any person or institution and all matters relating thereto and shall by such declaration be bound not to reveal any other matters which may come to his knowledge in the discharge of his duties except —
- (a) when required so to do —
 - (i) by the Board;
 - (ii) by a court of law;
 - (iii) by the person to whom such matters relate; or
 - (iv) by the Monetary Board;
 - (b) in the performance of his duties; or
 - (c) in order to comply with any of the provisions of this Act or any other law for the time being in force.
- (2) Every director, auditor, officer, employee, agent or other person employed in the business of the Bank shall decline to answer any question concerning the business of the Bank if he cannot answer the question without infringing his pledge of secrecy under subsection (1).
- (3) Every director, auditor, officer, employee, agent or other person employed in the business of the Bank who reveals any information in contravention of a declaration signed by him under subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees, notwithstanding that such fine exceeds the amount of fine a Magistrate may impose in the exercise of his ordinary jurisdiction.
39. (1) The Board may make rules in respect of all or any matter for which rules are required or authorized to be made under this Act or any other matter necessary to enable the Bank to effectively carry out and perform its powers and duties under this Act.
- (2) Every rule made by the Board shall be published in the *Gazette* and shall come into operation on the date of the publication or on such later date as may be specified in the rules.
40. The Bank shall be —
- (a) a “lending institution” within the meaning of and for the purposes of the Debt Recovery (Special Provisions) Act, No. 2 of 1990 and the Credit Information Bureau of Sri Lanka Act, No.18 of 1990;
 - (b) a “bank” within the meaning of and for the purposes of the Recovery of Loans by Banks (Special Provisions) Act, No. 4 of 1990;
 - (c) a “licensed specialised bank” within the meaning of and for the purposes of the Banking Act, No. 30 of 1988 and shall be issued with a licence in accordance with the provisions of that Act to carry on business and shall be subject to all such directions that may be issued by the Monetary Board under that Act in respect of licensed specialised banks;
 - (d) a “lending institution” within the meaning of section 47A of the Mortgage Act (Chapter 89);
 - (e) an “approved credit agency” within the meaning and for the purposes of the Mortgage Act, (Chapter 89) and the Inland Trust Receipts Act, No. 14 of 1990; and
 - (f) a “Banking Institution” within the meaning of and for the purposes of section 108A of the Monetary Law, (Chapter 433).

41. Any credit obtained by the Bank shall be protected by the credit guarantee cover provided by the Central Bank under the relevant programme implemented in that regard by the Central Bank.

PART VI

VESTING OF BUSINESS OF DEVELOPMENT BANKS

42. (1) Notwithstanding the provisions of any other law to the contrary within a reasonable time after the establishment of a Bank under section 2 of this Act, the Minister may by Order published in the *Gazette* (hereinafter referred to as “Vesting Order”) vest the business presently carried on by the Development Banks as is specified in the Schedule to this Act as “Vesting Bank or Banks” being business which such Development Banks were authorized to carry on under the Regional Development Banks Act, No. 6 of 1997, in the Bank established under section 2 (hereinafter referred to as the “acquiring bank”).
- (2) For the purpose of subsection (1), the business presently carried on by the Development Bank includes —
- (a) all immovable and movable property owned by the Vesting Bank or Banks on, the day immediately preceding the date of the Vesting Order (including cash balances, reserve funds, investments and deposits);
 - (b) all rights, powers, privileges, authorities and interests arising in or out of, any property, movable or immovable owned by the Vesting Bank or Banks and any leasehold rights in any immovable property enjoyed by such Vesting Bank or Banks on the day immediately preceding the date of the Vesting Order;
 - (c) all the liabilities of the Vesting Bank or Banks as are subsisting on the day immediately preceding the date of the Vesting Order; and
 - (d) all books, accounts and documents relating or appertaining, to the business of such Vesting Bank or Banks, which were being maintained by such Bank on the day immediately prior to the date of this Vesting Order.
43. With effect from the date of vesting the business of any or all Vesting Bank or Banks in the acquiring bank —
- (a) the acquiring bank shall have control and possession of the business of the Vesting Bank or Banks and become the transferee of the vested business of such Vesting Bank or Banks; or
 - (b) the Incorporation Orders of the Development Banks specified in the Schedule hereto, Incorporated under the Regional Development Banks Act, No. 6 of 1997 shall be deemed to have been revoked.
44. (1) For the purpose of ascertaining the net worth of the business of any Vesting Bank or Banks on the day immediately preceding the date of vesting, the Monetary Board shall cause an audit of such vested business to be conducted by a qualified auditor.
- (2) The auditor appointed under subsection (1) shall submit a report to the Monetary Board within such period as may be specified by that Board and the Monetary Board shall consider the report and if necessary before accepting such report, require the auditor to furnish any further information or explanations as it may consider necessary.
45. (1) With effect from the date of vesting of the Banks by an Order published in the *Gazette*, the Regional Development Banks Act, No. 6 of 1997 shall be repealed.
- (2) With effect from the date of vesting —
- (a) all contracts, deeds, bonds, agreements, powers of Attorney, grants of legal representation and other instruments of whatever nature pertaining or relating to the vested business of the Vesting Bank or Banks and subsisting or having effect on the day immediately preceding the date of vesting and to which the Vesting Bank or Banks is or are party or which is or are in favour of the Vesting Bank or Banks shall be deemed with effect from the date of Vesting to be contracts, deeds, bonds, agreements, powers of Attorney, grants of legal representation or other instruments entered in to or granted, as the case may be, by the acquiring bank;
 - (b) all actions and proceedings of whatever nature instituted by or against the Vesting Bank or Banks pertaining or relating to the vested business of such Bank or Banks and pending on the day immediately preceding the

date of vesting shall be deemed with effect from the date of vesting to be actions and proceedings instituted by or against the acquiring Bank and may be continued or prosecuted accordingly;

- (c) all monies of the Vesting Bank as on the day immediately preceding the date of Vesting be transferred to the Special Reserve Fund and form part of such Fund;
- (d) all such officers and servants of the Vesting Bank or Banks and were holding a permanent post in such Vesting Bank or Banks on the day immediately preceding the date of vesting shall with effect from the date of such vesting, be offered employment on terms and conditions not less favourable than the terms and conditions which were previously enjoyed by them with the acquiring bank, and —
 - (i) where such offer is accepted, such officers and employees shall be employed therein on such terms and conditions of employment as the acquiring bank considers reasonable having regards to the qualifications and experience of such officers and employees; and
 - (ii) where such offer is not accepted, such officers and employees shall be entitled to the payment of compensation as determined under section 46.

46. Where any officer or employee of the Vesting Bank or Banks referred to in sub-paragraph (ii) of paragraph (d) of section 45 is or are entitled to be paid compensation in terms of the aforesaid section, the acquiring bank shall determine in consultation with the Commissioner of Labour, the amount of compensation that shall be paid and such determination shall be deemed not to affect any rights such officer or employee may have under any other written law.

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

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

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

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

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

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

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

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

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

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

“micro, small and medium enterprises” in relation to a rural development project of which the value of the fixed assets is less than fifty million;

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

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

“Net worth of the Vested Bank or Banks” means the value of the assets of the Vesting Bank or Banks vested in the acquiring bank by virtue of an order made under section 42 (excluding unrecoverable assets as determined by the auditor nominated under section 44) less the value of the liabilities of the Vesting Bank or Banks vested in the acquiring bank, by virtue of such Order;

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

“Development Bank or Banks” means a bank or banks established under the Regional Development Banks Act, No. 6 of 1997;

“Vested business” in relation to a Vesting Bank or Banks means the business of the Bank or Banks which is or are vested in such acquiring bank by an Order under section 42.

SCHEDULE

1. Rajarata Development Bank established by Order published in *Gazette* Extraordinary No. 1049/12 of October 14, 1998.
2. Uva Development Bank established by Order published in *Gazette* Extraordinary No. 1053/10 of November 11, 1998.
3. Sabaragamuwa Development Bank established by Order published in *Gazette* Extraordinary No. 1053/10 of November 11, 1998.
4. Wayamba Development Bank established by Order published in *Gazette* Extraordinary No. 1053/10 of November 11, 1998.
5. Ruhuna Development Bank established by Order published in *Gazette* Extraordinary No. 1049/12 of October 14, 1998.
6. Kandurata Development Bank.

CREDIT INFORMATION BUREAU OF SRI LANKA (AMENDMENT) ACT, NO. 42 OF 2008

[Certified on 03rd December, 2008]

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

1. This Act may be cited as the Credit Information Bureau of Sri Lanka (Amendment) Act, No. 42 of 2008.
2. The Long Title to the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 (hereinafter referred to as “the principal enactment”) is hereby amended by the substitution for all the words “FROM LENDING INSTITUTIONS” to “WITH A VIEW TO FACILITATING THE” of the following:—

“FROM LENDING INSTITUTIONS, CONSUMERS OF CREDIT GRANTING INSTITUTIONS AND FOR THE PROVISION OF THAT INFORMATION ON REQUEST TO THE SHAREHOLDERS OF THE BUREAU AND AUTHORITIES AND INSTITUTIONS ENTITLED TO RECEIVE INFORMATION WITH A VIEW TO FACILITATING THE”.
3. Section 4 of the principal enactment is hereby amended by the substitution for the word “Colombo” wherever it appears in that section, of the word “the Western Province”.
4. Section 5 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of paragraphs (vii) and (viii) and the substitution therefore of the following paragraphs:—

“(vii) a person nominated by the Monetary Board from amongst persons who are Directors on the Board of Directors of licensed specialized banks ;

(viii) a person elected by the shareholding leasing establishments ; and

(ix) the person holding office as the General Manager of the Bureau;”.
5. Section 6 of the principal enactment is hereby repealed, and the following section substituted therefore :—

“Functions of the Bureau.

 6. The functions of the Bureau shall be —
 - (a) to collect, collate and synthesize credit and financial information from the categories of persons or bodies of persons specified in section 7A ;
 - (b) to provide credit and financial information, on request to the persons or bodies of persons specified in section 7B ;
 - (c) to undertake the function of credit rating and to sell such credit ratings to any foreign and local agencies, or to any person making a request for such ratings ;

- (d) to provide credit scoring of persons on request of lending institutions and credit granting institutions of the Bureau and other value added services in Sri Lanka ;
- (e) to undertake research and training projects for lending institutions who are shareholders of the Bureau, and participating credit granting institutions ; and
- (f) to operate a filing office of secured transactions to register the security interest of movables, if so directed by the government,

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

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

- (1) by the repeal of paragraphs (a) and (b) of that section and the substitution therefore of the following:—

“(a) to maintain a data bank, of the institutions specified in section 7A ;

(b) to collect, collate and synthesize, credit and financial information from any of the persons referred to in section 7A ;”;

- (2) by the repeal of paragraph (d) of that section and the substitution therefore of the following paragraphs :—

“(d) to furnish credit and financial information or any category of such information or to provide credit scoring or other value added services on request and in confidence, to the persons or body of persons specified on section 7B subject to such terms and conditions as may be determined by the Bureau ;

(dd) to undertake to collect information relating to cheque returns from commercial banks, for the purpose of providing additional services such as decision supporting systems to lending institutions and participating credit granting institutions of the Bureau ;”;

- (3) by the repeal of paragraph (e) of that section and the substitution therefore of the following paragraph :—

“(e) to levy such fees or other charges or require the payment of an identified subscription, for the credit and financial information being furnished or the services being provided ;”;

- (4) by the insertion immediately after paragraph (m) of the following new paragraph :—

“(mm) to enter into agreements for joint ventures for any alliance with any person or company for the effective discharge of the functions set out in section 6 and for carrying on any enterprise providing supporting services for the conduct of its business ;

(mmm) to operate a filing office of secured transactions in order to register the security interest of movables, if so directed by the government with such offer ;”.

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

“Persons or body of persons in respect of whom credit and financial information can be collected.

7A. The Bureau may, in the discharge of its functions under this Act, collect information in respect of,—

- (a) borrowers and prospective borrowers of lending institutions from such institutions ;
- (b) consumers and prospective consumers of credit granting institutions, from such institutions ;
- (c) holders and prospective holders of insurance policies from Insurance Companies and also information in respect of credit granted on the surrender value of such policies ;
- (d) persons from the Commissioner of Registration of Persons falling within the provisions of the Registration of Persons Act, No. 32 of 1968 ;
- (e) firms and partnerships from the Registrars of Business Registration ; and
- (f) companies from the Registrar of Companies, established under the Companies Act, No. 7 of 2007.

7B. (1) The Bureau may, in cases where a request is made to it, in the exercise of its powers, furnish credit and financial information available with it, to the following persons or body of persons :—

- (a) lending institutions who are shareholders of the Bureau for the purposes of evaluating or ascertaining of creditworthiness or credit standing of any person and reviewing and monitoring of existing borrowers and collection of outstanding credit of existing borrowers and opening and maintenance of current accounts by licensed commercial banks ;

- (b) the Central Bank for the purposes of ascertaining the suitability of any person to be appointed or elected or nominated to be a Director or a Chief Executive Officer of a lending institution and for purposes of regulation and supervision of lending institutions and to improve quality of credit analysis of such institutions ;
- (c) any government agency or institution declared by the Minister in charge of the subject of Finance to be entitled to receive such information to evaluate the creditworthiness of an applicant to be issued a license or provided with a concession in terms of the applicable law to issue a license or to grant such concessions;
- (d) participating credit granting institutions for the purpose of evaluating and ascertaining of credit worthiness and credit standing of any person and reviewing and monitoring of existing consumers and collection of outstanding credit of existing consumers ;
- (e) borrowers and prospective borrowers of lending institutions or consumers and prospective consumers of credit granting institutions and to any other person to whom such information relates ;
- (f) international Credit Bureaus subject to the consent of the person to whom such information relates ;
- (g) to any insurance company, with the consent of the person to whom the information relates, for the purpose of underwriting or ascertaining the credit worthiness and insurability of such person ; and
- (h) such other persons or bodies of persons whom the Minister may, on the recommendation of the Monetary Board, from time to time identify for the purposes of this section by Order published in the *Gazette*.
- (2) The Bureau may in furnishing such information, impose such terms and conditions as may from time to time be determined by the Board, including the identification of the purposes for which such information may be used.”.
8. Section 10 of the principal enactment is hereby amended by the repeal of subsections (3) and (4), and the substitution therefore of the following :—
- “(3) Notwithstanding the provisions of subsection (1) of this section the Board may —
- (a) allocate or transfer shares of the Bureau to lending institutions according to proportion of such issued share capital as may be determined by the Board with the written approval of the Monetary Board ;
- (b) allocate shares to any person engaged in the advancement of technology relating to the activities referred to in paragraphs (a), (b), (c) and (d) of section 6.
- (4) The allocation or transfer of shares of the Bureau, after the initial issue of shares shall be determined by the Bureau and made with the written approval of the Monetary Board.
- (5) The Monetary Board shall in granting approval for the allotment or transfer of shares of the Bureau under subsection (3) and (4), ensure that at all times —
- (a) the Monetary Board shall retain not less than fifteen *per centum* of the issued share capital of the Bureau ;
- (b) the aggregate shareholding held by the Monetary Board and any other lending institution which is a public corporation shall not be less than fifty one *per centum* of the issued capital of the Bureau ; and
- (c) any lending institution which is not a public corporation or any other person referred to in paragraph (b) of subsection (3) shall not hold more than ten *per centum* of the issued share capital of the Bureau.”.
9. Section 12 of the principal enactment is hereby repealed and the following section substituted therefore :—
- “Borrowings
by the
Board. 12. (1) The Bureau may from time to time borrow sums of money from any lending institution or from any other local or foreign institution on such terms and conditions as may be determined by the Board.

- (2) The Bureau may issue debentures or other securities for the purpose of carrying out the functions of the Bureau, in accordance with such terms as may be determined by the Board.
- (3) No borrowings by the Bureau under subsection (1) shall be made without the concurrence of the majority of shareholders if the aggregate borrowings of the Bureau were at any time to exceed a sum equivalent to twice the paid up capital of the Bureau.”.

10. The following new section is hereby inserted immediately after section 19 of the principal enactment and shall have effect as section 19A of that enactment :—

- “Annual General Meeting of the Board.
- 19A (1) The Board shall hold an Annual General Meeting of the shareholders of the Bureau within nine months after the closure of each financial year of the Bureau.
- (2) The annual report and accounts presented by the Bureau shall be considered at that meeting.
- (3) The manner of summoning of the Annual General Meeting and the procedure to be followed in the transaction of business at that meeting shall be determined by the Board and published as it may consider appropriate.”.

11. Sections 21 and 22 of the principal enactment are hereby repealed and the following sections substituted therefore:—

- “Bureau to call for information.
21. (1) The Bureau or any other person authorized by the Bureau in that behalf may, by notice in writing require any institution specified in section 7A to furnish information under this Act either to the Bureau or any other person authorized, within such period as shall be specified in the notice, all such information required by that notice.
- (2) Notwithstanding anything to the contrary in the respective laws establishing any institution specified in section 7A or any other law or in any agreement entered into between the consumers or borrowers and such institution, it shall be the duty of any such institution to furnish information under this Act, or required to furnish in response to a notice under subsection (1) any return or information, to comply with the requirements of such notice within such time as is specified therein.
- (3) The Bureau shall not publish or communicate to any person, otherwise than to the extent required for the discharge of its functions under the Act, any information contained in any return furnished in compliance with the requirements of a notice issued under subsection (1).
- Duty not to disclose information.
22. (1) No director, officer or servant of the Bureau, shall except for the purpose of this Act or when required to do so by any other written law, disclose any information furnished to the Bureau under this Act or produce before a Court or other Institution, any return or other information furnished to the Bureau under this Act.
- (2) No director, officer or servant employed in any institution authorized to receive credit information shall except for the purpose of this Act or when required to do so by any other written law, disclose any information furnished by the Bureau under this Act or produce before a Court or other Institution, any return or other information furnished by the Bureau under this Act.”.

12. Section 23 of the principal enactment is hereby amended in subsection (2), by the substitution for the words “lending institution” of the words “institution authorized to receive credit information”.

13. The following new sections are hereby inserted immediately after section 26 of the principal enactment and shall have effect as sections 26A, 26B and 26 C of that enactment :—

- 26A. (1) The Bureau may, if it is satisfied that there is adequate proof that a person being a director, officer or servant of any institution specified in section 7B entitled to receive credit or financial information or other value added services from the Bureau, has committed an offence under paragraphs (a), (b), (c) and (e) of subsection (1) of section 27, make an order to suspend the furnishing of any such information or the provision of any other services, to such institution.
- (2) The Bureau shall before making an order under subsection (1), give any institution, mentioned in subsection (1), an opportunity of being heard.
- (3) Where the Bureau has decided to withhold the release of credit and financial information or the provision of such other services under the provisions of paragraph (1) above the Bureau shall require such shareholder lending institution if it holds shares in the Bureau, to forthwith transfer

the shares held by such institution in the share capital of the Bureau, if any, to the Monetary Board at a consideration determined by the Board.

- 26B. The Financial Ombudsman shall have the sole and exclusive jurisdiction in the first instance to hear and determine any complaint relating to a dispute between the Bureau and any institution referred to in sections 7A and 7B and any person to whom such information relates, in respect of information contained in any credit and financial information issued by the Bureau.
- 26c. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following:—
- (a) specifying the Code of Conduct, to be observed by the institutions specified in section 7B;
 - (b) setting out the procedure to enable any person to whom the credit and financial information to be released relates to dispute the error records relating to data included in the credit and financial information report and to get those reports corrected if proved to be inaccurate;
 - (c) specifying the relevant particulars to be included in different types of reports to be issued by the Bureau relating to credit and financial information to be released, as the Board may consider necessary and such rules and regulations shall not be inconsistent with the provisions of this Act;
 - (d) specifying the forms and formats to be used by institutions and persons in furnishing information and returns to the Bureau in terms of this Act.

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

- (1) in subsection (1) thereof —
 - (a) by the repeal of paragraph (c) and the substitution therefore of the following :—
“(c) contravenes the provisions of this Act or any rule or regulation made thereunder;”;
 - (b) in paragraph (d), by the substitution for the words “Bureau, discloses any information” of the words “Bureau, or any Joint Venture or alliance discloses any information”;
 - (c) by the repeal of paragraph (e) and the substitution therefore of the following :—
“(e) being a director, officer or servant of any institution specified in section 7B entitled to receive information from the Bureau discloses any credit or financial information obtained by such institution from the Bureau to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act;”;
- (2) in subsection (2), by the substitution for the words “not exceeding one hundred thousand rupees” of the words “not exceeding one million rupees”.
- (3) in subsection (4), by the substitution for the words and figures “under section 27 (1) (a) or (b) was committed, compound such offence for a sum not exceeding fifty thousand rupees” of the words and figures “under subsection (1) was committed, compound that offence for a sum not exceeding one million rupees”.

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

- (1) by the insertion, immediately before the definition of the expression “ Bank of Ceylon”, of the following new definitions :—

“associate member” means any institution specified in Section 7B of this Act which has entered into subscription agreement with the Bureau on terms and conditions relating to payments of fees and other terms regarding the authority by the Bureau to release credit and financial information and the provision of other services;

“borrower” means any person to whom any credit limit has been granted by any Lending Institution, either availed of or not, and includes —

 - (a) in the case of a company or corporation, its subsidiaries and its Associate Companies;

- (b) in the case of a firm, owner or any partner thereof or any person who was a partner during the preceding two years; and
- (c) in the case of an individual, any firm in which such individual is a partner, proprietor or was a partner during the preceding two years.
- (2) by the insertion immediately after the definition of the expression “Central Bank”, of the following definition:—
- “credit information” means any information relating to —
- (i) details of credit facilities granted by a lending institution to any borrower or class of borrowers;
 - (ii) the nature of security taken by a lending institution from any borrower or class of borrowers as the case may be for credit facilities granted to any borrower or class of borrowers;
 - (iii) the guarantee or any other fund based facility furnished by a lending institution for any of its constituent or any class of its constituents;
 - (iv) any guarantees furnished by the borrowers and consumers on behalf of himself or any other person to a lending institution or a credit granting institution;
 - (v) details of credit facilities granted by a credit granting institution to a consumer;
 - (vi) the means, antecedents, history of credit transactions and the credit worthiness of any borrower or class of borrowers or consumers;
 - (vii) history of any credit facility for a limited or unlimited period depending on the nature of such credit facility or class of credit facilities as determined by the Board of Directors from time to time;
 - (viii) the particulars relating to cheque returns of any constituent of a commercial bank for bank for a period of two years from the date of return of such cheque;
 - (ix) any other information which the Bureau may consider to be relevant for the more orderly regulation of credit policy;
 - (x) details of concessions granted to any person by a government agency during a period of two years;
 - (xi) details of insurance policies payable in instalments provided by insurance companies;
 - (xii) details of requests made by any institution entitled to receive credit and financial information or the person to whom such information relates;
 - (xiii) a credit score,
- and includes persons name, date of birth or registration of birth, identity card number, past and current addresses, contact details, marital status, name of spouse, past and current employment/business, details and other related information relevant to persons’ identity;
- “credit granting institution” means any institution providing goods and services or utility services on credit and declared by the Minister in charge of the subject Finance on the recommendation of the Board having regard to the impact of the provision of such goods, services and utilities on credit, on the National Economy, by Order published in the *Gazette*;;”;
- (3) by the repeal of the definition of the expression “Development Finance Corporation of Ceylon”;
- (4) by the insertion, immediately after the definition of the expression “Finance Company”, of the following new definitions:—
- “finance leasing establishment” means a Finance Leasing Establishment within the meaning of Finance Leasing Act, No. 56 of 2000;
- “financial information” means data extracted from the balance sheet, the profit and loss account, statement of income and other accounts maintained by a company or other business registered under the Business Registration Ordinance (Chapter 149), which have been audited by a qualified auditor registered with the Institute of Chartered Accountants of Sri Lanka;

“Financial Ombudsman” means the person holding office under the corporate body by the name Financial Ombudsman of Sri Lanka (Guarantee) Ltd. incorporated under the Companies Act, No. 7 of 2007;

“Insurance Company” means a company registered under the Regulation of Insurance Industry Act, No. 43 of 2000;

“lending institution” means —

- (a) a licensed commercial bank;
- (b) a licensed specialized bank;
- (c) a finance company;
- (d) a finance leasing establishment;
- (e) a Special Purpose Vehicle in which any institution referred to in (a), (b), (c), or (d) above, owns ninety *per centum* (90%) of the share capital;
- (f) any other institution, engaged in providing credit, declared by the Minister in charge of the subject of Finance, on the recommendation of the Board having regard to the financial stability of that institution, by Order published in the *Gazette*, to be a lending institution for the purposes of this Act;”;

(5) by the repeal of the definition of the expression “lending institution”.

(6) by the insertion, immediately after the definition of the expression “licensed commercial bank” of the following:—
“licensed specialized bank” means a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988 ;

(7) by the repeal of the definition of the expressions “National Development Bank of Sri Lanka” and “National Savings Bank”;

(8) by the insertion, immediately after the definition of the expression “People’s Bank” of the following:—

“participating credit granting institution” means a credit granting institution which has entered into an agreement with the Bureau to be Associate Member of the Bureau;

“Special Purpose Vehicle” means a body corporate or unincorporate, including a trust, established solely for the purpose of securitization and activities connected therewith or incidental thereto;

“value added services” means the provision of additional information or statistic by using information collected from Institutions referred to in section 7A of this Act, or in terms of any other written law with a view to facilitating the use of credit and financial information for permissible purposes by the institutions eligible to receive such information or minimizing the possible frauds and defaults of credit and the provision of statistical or market trend analysis reports;”;

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