

62. (1) The Financial Sector Crisis Management Committee shall hold meetings as and when necessary, but at least once a month when it operates in crisis times and at least once every quarter in non-crisis times.

Meetings of the
Financial Sector
Crisis
Management
Committee

(2) The Chairperson of the Financial Sector Crisis Management Committee may call extraordinary meetings depending on the circumstances and needs.

(3) The *quorum* for any meeting of the Financial Sector Crisis Management Committee shall be constituted by the presence of the Chairperson or the person acting as Chairperson and the simple majority of the remaining members.

(4) In the absence of the Chairperson from any meeting, the Deputy Chairperson shall preside at such meetings. In the absence of both the Chairperson and the Deputy Chairperson from any meeting, any other member shall be elected to preside at such meeting from among the members present at such meeting.

63. The Chairpersons of the Financial Sector Crisis Management Committee and the Technical Committee on Financial Sector Crisis Management may, as and when necessary, invite such relevant stakeholders from the public and private sectors as such Committees may determine, to attend the meetings of such Committees as observers to discuss relevant issues depending on the circumstances and needs.

Committees may
invite public and
private sector
stakeholders to
meetings

64. Each member of the Financial Sector Crisis Management Committee and the Technical Committee on Financial Sector Crisis Management and the officers and other employees of the Secretariat shall maintain strict

Confidentiality
of the
information of
Committees

confidentiality with regard to the information received and collected by such Committees, including the views expressed by the members of such Committees in the performance and discharge of the duties and functions of such Committees and shall use them solely for the purpose of the activities of the respective Committees.

PART V

WINDING UP OF LICENSED BANK

Provisions of this Part of this Act to prevail over any other law

65. Unless otherwise provided for in this Part of this Act, in the event of any conflict or inconsistency between the provisions of this Part of this Act and the provisions of the Banking Act, the Monetary Law Act, the Finance Business Act, the Companies Act, or any other written law relating to insolvency of companies for the time being in force, the provisions of this Part of this Act shall prevail.

Winding up of a licensed bank

66. (1) A licensed bank may be wound up by the Central Bank, in any of the following circumstances: -

- (a) where the Central Bank is satisfied that the resolution measures referred to in Part II of this Act are not likely to achieve one or more of the objectives set out in section 8;
- (b) the Administrator recommends that the licensed bank be wound up, under section 21;
- (c) where the assets and liabilities of a licensed bank are partially transferred to a transferee, including a bridge bank under the provisions of Part II of this Act; or
- (d) the Central Bank, in the process of resolution, concludes that the prospect of a successful resolution is unlikely under the provisions of Part II of this Act.

(2) Where the Central Bank determines that a licensed bank shall be wound up due to any of the grounds specified in subsection (1), the Central Bank shall grant such licensed bank, an opportunity of being heard and take steps to cancel the licence issued to such licensed bank and commence proceedings for its winding up in accordance with the provisions of this Part of this Act.

(3) Upon cancellation of the licence by the Central Bank under subsection (2), the licensed bank shall forthwith cease carrying out of its business within and outside Sri Lanka.

67. (1) Where the licence issued to a licensed bank is cancelled by the Central Bank under subsection (2) of section 66, the Head of the Department established under section 4 may make an application to the court to commence winding up proceedings against such licensed bank.

Application to
court for a
winding up
order

(2) An application to the court under subsection (1) shall be by way of a petition made in accordance with the provisions of this Part of this Act. Such petition shall be supported by documentary evidence to prove the grounds for the winding up.

(3) The court shall, after considering the application made under subsection (1), fix a date to support the winding up petition, which shall not exceed two months from the date of the winding up petition filed under subsection (2).

(4) The Head of the Department established under section 4 shall publish in the *Gazette*, the date fixed to support the winding up petition under subsection (3), within a period of fourteen working days from the date called to fix the date to support, requiring creditors or any other interested party of the licensed bank subject to winding up, to notify him in such form and within such period as may be specified in that

publication, whether they intervene into the winding up application filed under subsection (1), as parties (in this Act referred to as the "intervening parties"). The period of notification given to intervening parties shall not exceed fourteen days from the date of such *Gazette*. Details of the intervening parties notified under this section shall be submitted to the court on the date fixed to support the winding up petition.

(5) No person specified in subsection (4) shall intervene in the winding up proceedings before the date on which such petition is supported.

(6) The court may, after considering the application made under subsection (1), and submissions of the intervening parties, make an order (in this Act referred to as the "winding up order") to commence the winding up proceedings against such licensed bank.

(7) The winding up order shall come into effect from the date specified in such order.

(8) If the court is of the opinion, after considering the submissions of the Head of the Department established under section 4 and the intervening parties that the licensed bank is not insolvent, it may make order permitting the licensed bank to resume business, either unconditionally or subject to such conditions as the court may consider necessary in the public interest or in the interests of the depositors and other creditors of the licensed bank.

(9) Upon coming into effect of the winding up order, the right of any depositor, creditor, or any contracting counterparty to access or execute their rights, titles and interests recorded in the books or records of the licensed bank shall be forthwith suspended.

(10) For the purposes of this Part of this Act, the value of the assets and liabilities of a licensed bank which is subject to winding up shall be determined in accordance with the applicable Sri Lanka Accounting Standards.

(11) Every order made by the court under this section shall be subject to an appeal to the Supreme Court and the provisions of the High Court of the Provinces (Special Provisions) Act, No.10 of 1996 relating to an appeal shall, *mutatis mutandis*, apply to and in respect of any such appeal.

68. (1) In pursuance to the winding up order, the court shall appoint a person nominated by the Central Bank as the liquidator to act on its behalf for the purposes of winding up of the operations of the licensed bank.

Appointment of
a liquidator

(2) The Central Bank shall, immediately after the appointment of the liquidator under subsection (1), give notice of the winding up order and the appointment of liquidator under subsection (1), to the licensed bank, and shall publish such notice in the *Gazette* and at least in three Sinhala, Tamil and English daily newspapers circulating in Sri Lanka.

69. (1) The liquidator appointed under section 68 shall be the sole legal representative of the licensed bank subject to winding up, and shall succeed to all rights and powers of the shareholders, the Board of Directors, key management personnel and such other officers of the licensed bank, including all the powers necessary or expedient to manage, control, operate, and wind up the licensed bank:

Powers, duties
and functions of
the liquidator

Provided however, the liquidator may request the court to vest all or part of the assets and liabilities of the licensed bank subject to winding up in another licensed bank, with the concurrence of the Central Bank.

(2) The liquidator shall exercise, perform and discharge the powers, duties and functions relating to winding up under the direction and supervision of the court and the Central Bank:

Provided however, the Central Bank shall ensure that any direction given to the liquidator does not contravene the directions, orders, judgements and instructions given by the court during the winding up process.

(3) The liquidator shall, subject to the direction and supervision of the Central Bank, take charge of the offices, books, records and other information and assets of the licensed bank subject to winding up.

(4) A liquidator may, for the purpose of exercising, performing and discharging the powers, duties and functions relating to the winding up of the licensed bank, at the expense of the licensed bank, obtain services of independent attorneys, accountants, auditors, consultants, valuers, or such other persons, on such terms and conditions, as may be agreed with such persons in writing.

(5) The liquidator shall be entitled to an indemnity out of the property of the licensed bank subject to winding up in respect of his personal liabilities under this Part of this Act.

Remuneration of
the liquidator

70. (1) The liquidator shall be paid such remuneration as may be specified by the court as a percentage of the value of the assets of the licensed bank subject to winding up or as the court may otherwise specify.

(2) The remuneration specified by the court under subsection (1) and such reasonable and incidental expenses incurred by the liquidator in the process of winding up of the licensed bank shall be paid from the existing assets of such licensed bank.

71. (1) The court shall remove the liquidator, upon an application made in that behalf by the Head of the Department established under section 4, where the liquidator-

Removal of the liquidator

- (a) has died or been incapacitated to act as the liquidator;
- (b) has submitted a letter of resignation;
- (c) in the opinion of the Central Bank, has failed to exercise, perform or discharge any power, duty, or function of such liquidator or to comply with the terms and conditions imposed on such liquidator under this Part of this Act; or
- (d) becomes ineligible to serve in that capacity in any other manner.

(2) The court shall, upon removal of the liquidator under the provisions of subsection (1), appoint another person nominated by the Central Bank as the liquidator.

(3) The Central Bank shall, immediately after the appointment of the liquidator under subsection (2), give notice of appointment of the new liquidator to the licensed bank, and shall publish such notice in the *Gazette* and at least in three Sinhala, Tamil and English daily newspapers circulating in Sri Lanka.

(4) The provisions of sections 69 and 70 shall, *mutatis mutandis*, apply to the liquidator appointed under subsection (2).

Liquidator to
prepare a
winding up plan

72. (1) Within a period of three months from the date of winding up order made under section 67, the liquidator shall prepare and submit to the Central Bank for its approval, a detailed winding up plan for the licensed bank subject to winding up.

(2) The winding up plan referred to in subsection (1) shall include –

- (a) a current *pro forma* statement of financial position showing the assets and liabilities of the licensed bank;
- (b) quarterly statements of income and expenditure of the preceding period of two years and projected income and expenditure for the succeeding period of two years of the licensed bank;
- (c) a progress report on the sale and plans for the sale of major assets or groups of assets of the licensed bank;
- (d) a report on the judicial or extra-judicial pursuit of claims of the licensed bank, including any action to obtain an annulment or a declaration of invalidity of fraudulent conveyances, and the transfers made and rights created by them;
- (e) a report on offences and other illegal activities of directors or officers of the licensed bank and actions to obtain compensation for the licensed bank from such directors or officers;
- (f) a report on the continuation or termination of ongoing contracts, such as insurance, employment and service contracts of the licensed bank, including a detailed analysis of financial provisions for its employees;

- (g) a report on the liabilities of the licensed bank and a schedule of expected payments to creditors of the licensed bank during the succeeding period of three months; and
- (h) a report on actual, past and estimated future costs for the preceding and succeeding period of two years, respectively, and expenses of the winding up.

(3) The Central Bank shall, if it is satisfied with the content of the winding up plan submitted under subsection (1), approve such plan and inform the liquidator in writing of such approval.

(4) The liquidator shall, after the winding up plan is approved by the Central Bank under subsection (3), submit such winding up plan, together with the approval given by the Central Bank, to the court for approval.

(5) The liquidator shall, after receiving the approval of the court for the winding up plan, publish, once a week for three consecutive weeks, a notice at least in three Sinhala, Tamil, and English daily newspapers circulating in Sri Lanka, which shall contain information of the date when, and the place where, the winding up plan and updates of such plan will be available for inspection by the claimants of the licensed bank subject to winding up who have registered their claims under section 79.

(6) The winding up plan approved by the court shall be updated quarterly by the liquidator.

(7) The liquidator shall maintain proper books and records including a cost-benefit analysis of the implementation of the winding up plan and shall submit the same for the

inspection of the Head of the Department established under section 4 or any officer authorized in that behalf by the Central Bank.

Prohibition in
regard to court
proceedings
against licensed
bank subject to
winding up

73. (1) Where the winding up proceedings on a licensed bank are initiated pursuant to a winding up order, any court proceeding against such licensed bank shall not be commenced, and all court proceedings pending against such licensed bank shall be stayed forthwith, with the leave of the court and subject to such terms as the court may impose.

(2) In pursuance of the winding up order, any creditor other than a secured creditor shall not have the right to execute any of his personal right, title or interest against the licensed bank subject to winding up or impose any other restraints on the assets thereof.

(3) All attachments placed, and acts of execution performed on the assets of the licensed bank subject to winding up after the date of coming into effect of the winding up order, shall be void, except for realization of assets encumbered by a mortgage or lien, to the extent of the debt secured by such assets.

(4) Any interest or other charge shall not accrue on liabilities of a licensed bank on or after the date of coming into effect of the winding up order.

Liquidator to
apply to court
for an order to
nullify certain
acts

74. (1) The liquidator shall, in consultation with the Central Bank, and after giving notice to the licensed bank subject to winding up, make an application to the court requesting that any act, including but not limited to, any act of such licensed bank that has been carried out within the period of ninety days before the date of coming into effect of the winding up order, be declared null and void.

(2) The court may upon receipt of an application under subsection (1), and on being heard the parties named in such application, if satisfied, that such licensed bank and such parties involved in such act have had the knowledge or should have known at the time of carrying out of such act that it is likely to damage the interests of depositors or other creditors of such licensed bank, declare that any act, including but not limited to, any transaction of the licensed bank subject to winding up that has been carried out within the period of ninety days before the date of coming into effect of the winding up order, to be null and void.

(3) The knowledge referred to in subsection (2) shall be presumed whenever such act consists of –

- (a) a gift or other transfer to any person without consideration;
- (b) a payment of money, or transfer of assets or any other interest of the licensed bank, a shareholder, director, an Administrator, a key management personnel or an employee of the licensed bank, unless such licensed bank, shareholder, director, Administrator, key management personnel or the employee proves to the satisfaction of the court, taking into account the views of the Central Bank, that-
 - (i) such person engaged in the payment of money or transfer of assets or interests of the licensed bank as a *bona fide* counterparty;
 - (ii) such person had reasonable grounds to believe that the payment of money or transfer of assets or interests of the licensed bank as the case may be, is genuine based on the representations made by the licensed bank in that respect; and

- (iii) such person was not aware that the payment of money or the transfer of assets or interests of the licensed bank would have damaged the interests of the depositors and creditors of such licensed bank;
- (c) a payment or transfer made prior to its due date, or the transfer of collateral for a debt prior to the date on which such debt becomes payable;
- (d) the conclusion or performance of a contract imposing obligations on the licensed bank that are significantly more onerous than the obligations imposed on the other party or parties to the contract;
- (e) an arrangement between the licensed bank and one or more other persons, other than a financial contract, permitting setting off rights and obligations of the licensed bank, prior to the issuance of the winding up order;
- (f) an inter-bank transfer between a bank incorporated outside Sri Lanka, which has been issued a licence under the Banking Act and the head office of that bank, its branches or subsidiaries which have been established outside Sri Lanka; or
- (g) a transfer between the licensed bank and its related parties.

Termination of
fiduciary
functions

75. The liquidator shall, as soon as practicable, take steps to –

- (a) cease and terminate all functions discharged by the licensed bank in a fiduciary capacity;

- (b) return all funds and other property held by the licensed bank in a fiduciary capacity, or under bailment, or as bailor of a safe deposit box, to the persons or their legal heirs or representatives who are legally entitled to the ownership of such funds or property, as the case may be; and
- (c) settle the fiduciary accounts of the licensed bank.

76. (1) Within a period of six months from the date of the winding up order, the liquidator may, with the approval of the court and subject to the issuance of a ninety days' prior written notice, and the provisions of any other law for the time being in force, terminate -

Termination of
existing
contracts

- (a) any contract of employment entered into with the licensed bank;
- (b) any contract for services to which the licensed bank is a party; or
- (c) any obligations of the licensed bank including, but without limiting to, its obligations, if any-
 - (i) under any credit facility provided by the licensed bank;
 - (ii) as a lessee;
 - (iii) to deliver or to take delivery of securities, payment instruments or foreign currency;
 - (iv) under letters of credit; or
 - (v) under guarantees, options and other contingent liabilities.

(2) A lessor who has received a ninety days' prior notice of the termination of a lease under paragraph (c) of subsection (1), shall have no claim for rent other than the rent accrued on the date of termination of the lease, nor for damages by reason of such termination.

(3) Any person aggrieved by the decision of the court to grant approval under subsection (1) may appeal to the Supreme Court against such decision, within forty-five days from the date of the notice issued under that subsection and the provisions of the High Court of the Provinces (Special Provisions) Act, No.10 of 1996 shall, *mutatis mutandis*, apply to and in respect of such appeal.

Finality in
payment,
clearing and
settlement
systems

77. (1) Notwithstanding anything to the contrary contained in the provisions of this Act or any other written law for the time being in force-

- (a) any irrevocable money or securities transfer order that has been entered by a licensed bank into a payment or securities settlement system recognized as such by the Central Bank shall be legally enforceable and binding on third parties, despite the issuing of a winding up order against the licensed bank, provided that such transfer order has become irrevocable before the winding up order takes effect; or
- (b) where a licensed bank enters any irrevocable money or securities transfer order into a payment or securities settlement system after the winding up order issued against the licensed bank takes effect, and such transfer order is carried out on the day of coming into effect of the winding up order, such transfer order shall be legally enforceable and binding on any third party.

(2) Any written law for the time being in force on the setting aside of contracts and transactions entered into or made before the coming into effect of the winding up order, shall not have effect on unwinding of a netting by a payment or settlement system recognized by the Central Bank.

(3) For the purposes of this section –

- (a) a transfer order entered into a payments or securities settlement system becomes irrevocable at the time defined by the laws, regulations or rules applicable to that system; and
- (b) "netting" means the conversion into one net claim or one net obligation of all claims or obligations resulting from transfer orders, which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

78. (1) Within one month from the date of taking charge of the assets, books, records and other information in any form under subsection (3) of section 69, the liquidator shall submit to the Central Bank an interim report containing all assets, claims, contracts, and major transactions of the licensed bank subject to winding up.

Reports to be
submitted by
liquidator

(2) It shall be lawful for any officer authorized by the Central Bank to submit to the liquidator such information on the assets and liabilities of the licensed bank subject to winding up, available in the custody of such authorized officer, which may be required to recognize assets and liabilities of such licensed bank.

(3) Within two months from the date of the interim report referred to in subsection (1), the liquidator shall submit to the Central Bank a final report of –

- (a) all the assets of the licensed bank, including claims of the licensed bank on account of unpaid subscriptions of share capital of the licensed bank, loan and guarantee agreements and agreements of purchase or sale, together with the book values and estimated liquidation values of such assets;
- (b) major transactions entered into by the licensed bank during the period of ninety days immediately preceding the date of the winding up order;
- (c) the contracts pursuant to which any property of the licensed bank is or will be held by other parties, including sales, rent, lease and such other collateral agreements; and
- (d) the contracts pursuant to which the licensed bank receives services from third parties.

(4) Within fourteen days from the submission of the final report under subsection (3), the Central Bank may grant approval to, or further develop the same, in consultation with the liquidator.

(5) The liquidator shall tender to the court a certified copy of the final report approved by the Central bank under subsection (4).

(6) The liquidator shall update the report tendered to the court under subsection (5) periodically as may be required by the Central Bank and submit the same to the Central Bank. The provisions of subsections (4) and (5) shall *mutatis mutandis* apply to such updated report.

Registration of
claims

79. (1) Any claim on a licensed Bank subject to winding up shall be made to the liquidator in writing, within four months from the date of winding up order.

(2) Any claim under subsection (1) shall accompany the documentary evidence in relation to such claim, including the following information at a minimum: -

- (a) the name and address of the creditor;
- (b) nature of the claim, including the amounts of interest and other charges, penalties and taxes included in the principal amount of the claim; and
- (c) details concerning any mortgage, lien or guarantee securing the claim, including the name and address of any guarantor.

(3) Subject to the provisions of subsection (5) of section 80, the liquidator shall register each such claim made to him under subsection (1) and issue a receipt in such form as may be specified by the Central Bank in proof of such registration.

(4) The receipt referred to in subsection (3), shall be *prima facie* evidence of the registration of a claim.

(5) Anything contained in this section shall not apply to any claim submitted by a depositor in respect of a deposit recorded in the books or records of a licensed bank subject to winding up, and such claim shall be admitted for the amount so recorded, for the purpose of giving effect to the winding up order.

80. (1) Subject to the provisions of subsections (4) and (5), only the claims that are registered with the liquidator shall be considered by the liquidator for the purpose of giving effect to winding up proceedings of a licensed bank, without further evidence to that effect.

Admission or
rejection of
claims

(2) Any creditor of the licensed bank whose claim is secured by a mortgage or lien, may register such claim for an amount exceeding the expected value of the underlying asset which may be sold at a public auction or the market value as may be determined by an independent professional valuer possessing such qualifications and experience referred to in subsection (1) of section 16.

(3) Any claim registered under the provisions of subsection (2), shall only be admitted by the liquidator after the public auction has taken place.

(4) Any claim of which the value is uncertain, may be admitted by the liquidator for a value as determined by the liquidator in consultation with an independent professional valuer possessing such qualifications and experience referred to in subsection (1) of section 16.

(5) The liquidator shall, after examining each claim registered under subsection (3) of section 79, classify such claims as-

(a) claims admitted by the liquidator; and

(b) claims rejected by the liquidator.

(6) The liquidator shall, for the purpose of recording the claims classified under subsection (5), maintain two separate lists. In the case of claims classified as claims rejected under paragraph (b) of subsection (5), the liquidator shall record in such list the reasons for classifying such claims as rejected claims.

(7) In both of the lists referred to in subsection (6)-

(a) the name and address, the amount of the claim, and whether the claim is secured by collateral shall be specified in respect of each claimant; and

- (b) claims of equal ranking shall be listed together, in the order of their priority of payment.

(8) Both of the lists referred to in subsection (6) shall be completed and submitted to the court, within a period of thirty working days from the deadline specified for the registration of claims.

(9) The liquidator shall, after submitting the first set of lists as referred to in subsection (6), update such reports periodically and submit the updated lists to the court at such times as may be specified by the court.

(10) The liquidator shall notify every claimant whose claim has been classified as rejected under subsection (5) the fact of such rejection in writing, within a period of one month from the date of issuance of the receipt under subsection (3) of section 79.

81. (1) Any claimant who is aggrieved by the rejection of a claim under the provisions of section 80 may, within a period of one month from the date of receipt of the notification under subsection (10) of section 80, apply to the court for an order for the admission of such claim.

Appeals against
rejected claims

(2) The court may, after considering the application made under subsection (1), make order admitting or rejecting such claim.

(3) Any claim admitted by the court under subsection (2), shall be removed from the list of rejected claims referred to in subsection (6) of section 80, and be recorded in a separate list of admitted claims to be maintained jointly by the court and the liquidator.

(4) Any payment shall not be made by the liquidator on account of claims that are rejected by the court.

(5) Any claimant whose claim has been rejected by the court, may appeal to the Supreme Court against such decision within forty-five days from the date of such decision and the provisions of the High Court of the Provinces (Special Provisions) Act, No.10 of 1996 relating to appeals shall, *mutatis mutandis*, apply to and in respect of such appeal.

Disposal of
assets, liabilities,
or shares, &c in
a winding up

82. Subject to the provisions of section 84, the liquidator may, with the concurrence of the Central Bank and with the approval of the court, dispose of all or part of any assets, liabilities, legal rights and obligations or any property of the licensed bank after the commencement of winding up under this Part of this Act.

Setting off and
netting

83. (1) Anything contained in the provisions of this Act and any decision taken thereunder shall not prevent or prohibit the setting off, by operation of the law, of obligations between a licensed bank subject to winding up and its contractual counterparties.

(2) In determining the rights and obligations between a licensed bank subject to winding up and its contractual counterparties, close-out netting and set off provisions contained in financial contracts between such licensed bank and the respective contractual counterparties shall be taken into consideration.

(3) The net termination value determined in accordance with a financial contract between the licensed bank subject to winding up and the respective contractual counterparty, shall be a claim of such licensed bank on the counterparty, or shall be admitted after its registration as a claim of the counterparty on the licensed bank under the provisions of section 79.

(4) For the purposes of this section, "net termination value" means the net amount obtained after setting off the mutual obligations between the parties to a financial contract in accordance with the terms and conditions thereof.

(5) The Central Bank shall specify the matters pertaining to setting off and netting including financial contracts, by issuing directions, from time to time.

84. (1) All assets of a licensed bank subject to winding up, other than assets securing approved claims of secured creditors against such licensed bank, and all assets securing claims of such licensed bank shall be sold by the liquidator in a commercially reasonable manner.

Sale of assets in
winding up

(2) The assets including collaterals, shall be deemed to have been sold in a commercially reasonable manner as referred to in subsection (1), when such assets are disposed of as follows: -

- (a) when securities, foreign currencies and other assets that can be readily sold are sold at market price in the markets where they are traded; and
- (b) when such assets are sold at public auction:

Provided however, if the liquidator determines that a reasonable price cannot be obtained for the assets in a public auction, the liquidator shall seek the approval of the court to sell the assets privately.

(3) The assets of a licensed bank subject to winding up other than the assets referred to in paragraph (a) of subsection (2), shall be placed at the disposal of the liquidator, promptly upon a request of the liquidator.

(4) Any dispute between the liquidator and a secured creditor as to the value of an asset securing a claim shall be resolved by the Central Bank, unless the asset is sold at market value as may be determined by an independent professional valuer possessing such qualifications and experience referred to in subsection (1) of section 16, or at public auction, as the case may be, in which event the sale price at market value or at public auction shall be conclusive as to the value of the asset.

Priority of
claims for the
distribution of
assets in winding
up

85. (1) The liquidator shall distribute the assets of a licensed bank subject to winding up in accordance with the priority of claims specified in subsection (2).

(2) The assets of a licensed bank subject to winding up shall be distributed in the following order of priority: -

- (a) all reasonable costs and expenses incurred by the liquidator on account of the administration of the insolvency;
- (b) unpaid premium due to the Deposit Insurance Fund;
- (c) insured deposits and claims of the Deposit Insurance Fund arising from subrogation of the rights of insured depositors under section 45 as a result of compensation or resolution financing provided under subsection (3) of section 51;
- (d) deposits over the insured limit determined by the Central Bank under section 44;
- (e) salaries and wages of officers and other employees of the licensed bank, as accrued to the date of the winding up order made under subsection (6) of section 67;

- (f) sums owed to the Government for the financing of resolution under this Act;
- (g) taxes, rates, and deposits owed to the Government and local authorities by the licensed bank which were due over a period of not more than one year preceding the date of the winding up order made under subsection (6) of section 67;
- (h) industrial court awards and any other statutory dues payable to, or on account of, any officer or other employee of the licensed bank;
- (i) liabilities of the licensed bank on account of resolution and any other liabilities due and owing to the Central Bank and the Deposit Insurance Fund;
- (j) claims of unsecured creditors other than depositors;
- (k) any other claim not paid under paragraphs (a) to (j) of this subsection.

86. (1) The payment of claims to depositors or other creditors of a licensed bank subject to winding up, shall be made only for amounts listed in a distribution schedule approved by the Central Bank.

Distribution
schedule of
payments in
winding up

(2) For the purpose of subsection (1), the liquidator shall prepare a distribution schedule of payments to be made to depositors and other creditors of the licensed bank subject to winding up, consisting of claims admitted under sections 80 and 81, and submit the same for approval of the Central Bank.

(3) Each distribution schedule of payments shall rank and combine the payments to be made on approved claims according to their priority of payment as specified in the provisions of section 85, only if-

- (a) all payments due on approved claims of a higher priority ranking than the claims to be included, have been made in full under an earlier distribution schedule of payments, or can be made in full under this distribution schedule of payments; and
- (b) sufficient funds have been reserved to pay in full of all claims that have a higher priority ranking than the claims to be included and that are not yet approved and to ensure equal treatment of the claims that have a priority ranking equal to the ranking of the claims to be included and that are not yet approved.

(4) If the funds available are insufficient to settle all claims of a certain priority ranking in full, the funds shall be distributed *prorata* among payments on those claims, and any funds shall not be allocated to payments on claims of a lower priority ranking unless such payment can be made in full on the first mentioned claims.

(5) Immediately after the approval by the Central Bank, of a distribution schedule of payments submitted under subsection (2), the liquidator shall publish once a week for three consecutive weeks, a notice, at least in three Sinhala, Tamil, and English daily newspapers circulating in Sri Lanka, containing information of the date when, and place where, the persons entitled to approved claims can receive the payments, or any such other manner in which the entitled persons can receive the payments listed in that distribution schedule.

(6) Any amount included in the distribution schedule which is not paid owing to the inability to identify or contact the relevant depositors and creditors shall be deposited in a special account maintained for that purpose in the Central Bank.