

- (a) such bank to forthwith suspend its business within Sri Lanka, and, in the case of a bank incorporated or established in Sri Lanka, its business within and outside Sri Lanka; and
- (b) the Director of Bank Supervision to take action to take charge of its business and of its books, records, and assets, and it shall be lawful for the Director of Bank Supervision to take such steps as are necessary for him to comply with the directive of the Monetary Board.

(3) Where the Director of Bank Supervision takes charge of all books, records and assets under subsection (2) and the Monetary Board withdraws the cancellation unconditionally, the Monetary Board shall direct the Director of Bank Supervision to deliver forthwith to such bank the books, records and assets taken into his custody.

(4) Notwithstanding anything in any written law for the time being in force, no action or proceedings may be instituted by any licensed commercial bank in any court in respect of any directions given *bona fide* under this section, and any loss or damage incurred or likely to be incurred or alleged to be incurred by reason of any such direction.

Commercial bank to
suspend
business

11 (1) Where a licence of a licensed commercial bank is cancelled, the Monetary Board shall direct the licensed commercial bank forthwith to suspend its business in Sri Lanka and, in the case of a licensed commercial bank incorporated or established within Sri Lanka, the business both within and outside Sri Lanka, and shall also direct the Director of Bank Supervision to take charge of its business and its books, records and assets and to take such steps as may be necessary to prevent the continuance of the business of banking by such bank. It shall be lawful for the Director of Bank Supervision to take such action, as he may deem necessary to comply with the directive of the Monetary Board.

[§ 6, 2 of 2005.]

(2) Where the cancellation of a licence of a licensed commercial bank incorporated or established within Sri Lanka by or under any written law for the time being in force, has taken effect under paragraph (a) of subsection (8) of section 9, proceedings for the compulsory winding-up of the licensed commercial bank shall commence in accordance with the provisions of Part VIII of this Act.

[§ 6, 2 of 2005.]

(3) Where the cancellation of a licence of a licensed commercial bank incorporated outside Sri Lanka has taken effect under paragraph (a) or paragraph (b) of subsection (8) of section 9, the Director of Bank Supervision shall forthwith inform the head office of such bank to honour the written undertaking submitted under paragraph (a) of subsection (2) of section 3 and take such steps as may be necessary to enforce such undertaking and to close down the business of the bank in and with respect to Sri Lanka, in accordance with the provisions of Part VIII of this Act.

(4) Notwithstanding the provisions of section 9 or any other written law for the time being in force, the Monetary Board may, in any of the circumstances referred to in paragraphs (a) to (g) of subsection (1) of section 9 without proceeding to

cancel the licence issued to a licensed commercial bank in terms of section 9, make order which may include any one or more of the following: —

- (a) directing the licensed commercial bank to suspend its business in Sri Lanka, and in the case of a licensed commercial bank incorporated or established within Sri Lanka, to immediately suspend its business outside Sri Lanka for such period as is specified in such order subject to such conditions as the Monetary Board may stipulate:

Provided that prior to such suspension, written notice shall be served on the licensed commercial bank, of the decision of the Monetary Board along with its reasons therefor, to suspend the business of such bank. The bank shall also be afforded an opportunity of being heard on such matter either orally or in writing, within a period of time which shall not be less than three working days as shall be specified in such notice;

- (b) requiring the licensed commercial bank which has been required to suspend business under paragraph (a) to hand over all books, records and assets of that licensed commercial bank to the Director of Bank Supervision;
- (c) requiring the licensed commercial bank to forthwith take or refrain from taking any action or to do or refrain from doing any act or thing as the Board may consider necessary in relation to the business of such bank;
- (d) appointing a fit and proper person to advise such bank with regard to the proper conduct of the business of such bank;
- (e) restraining any director, manager or controller of the licensed commercial bank from carrying out any function in or in relation to the bank and appointing a fit and proper person to carry out such functions, in or in relation to, such bank;
- (f) for the assumption of control of, and for the carrying on of the business of such bank by the Monetary Board or for delegating the control so assumed to another person in order to carry on the business of the bank;
- (g) for the re-organization of such bank, by arranging for the increase of its capital or reconstituting its board of directors or both such measures;
- (h) providing for such arrangements as are necessary for the amalgamation of such bank with any other licensed commercial bank that consents to such amalgamation; and
- (i) vesting the business of the licensed commercial bank in another licensed commercial bank which consents to such vesting and for the provisions of Part VIIA to apply to such vesting, as if the licensed commercial bank whose business is vested is a defaulting bank and the licensed commercial bank in which the business is vested, is an acquiring bank:

Provided, however that any measures taken under this section shall not preclude the Monetary Board from subsequently proceeding under section 9 where the Monetary Board is of the opinion that it is in the interest of the banking system to do so.

(5) Notice in writing of any measures taken under subsection (4) shall be given to the licensed commercial bank and to any director, manager or controller referred to in paragraph (e) of subsection (4) and such measures shall become effective from the date of the receipt of such notification or such other date as may be specified in the notice.

Section 30 of the Monetary Law Act to be applicable. (§ 8, 33 of 1995)

11A. Nothing contained in sections 9, 10 and 11 of this Act, shall in any way affect the powers conferred on the Monetary Board by section 30 of the Monetary Law Act.

12 (1) The written approval of the Monetary Board given with the concurrence of the Minister, shall be required—

- (a) for a licensed commercial bank to open or close a branch, agency or office of such bank, in any part of Sri Lanka or to effect a change in the location of any existing place of business;
- (b) for a licensed commercial bank incorporated or established within Sri Lanka by or under any written law to open or close a branch, agency, or office in any place outside Sri Lanka;
- (c) for a licensed commercial bank to acquire the business or part of the business of another licensed commercial bank or a licensed specialised bank or of any branch, of another licensed commercial bank or a licensed specialised bank;
- (d) for banks incorporated or established outside Sri Lanka to open a representative office or such other place of business within Sri Lanka.
- (e) for the merger or consolidation of a licensed commercial bank or a branch thereof with any other licensed commercial bank or a licensed specialised bank or a branch thereof.

(1A) An application for approval of an acquisition under paragraph (c) of subsection (1) or a merger or consolidation under paragraph (e) of subsection (1) shall include—

- (a) a statement of the nature of the acquisition or merger or consolidation, as the case may be;

Approval of the Monetary Board necessary prior to carrying on certain transactions &c.