

(3) For the purpose of this section “ numbered account ” means an account opened with a licensed commercial bank authorized by the Monetary Board under repealed section 34A, that is identified only by a number, code, word or such other means as was determined by the Monetary Board.

(4) Notwithstanding the repeal of Part IVA by the Banking (Amendment) Act, No. 33 of 1995, the holder of a numbered account shall, within a period of two years commencing from such date as may be determined by the Monetary Board by Notification published in the Gazette, close such account and until the close of the account be entitled to operate that account: Provided however no funds shall be credited to any such numbered account, save and except any sum that may be payable as interest on the moneys deposited in such account. Where the owner of a numbered account fails to close such account within the period specified, such account shall, from and after the date of expiry of that period, cease to enjoy the facilities granted to it by virtue of it being a numbered account.

PART V

ACCOUNTS, AUDIT, INFORMATION AND INSPECTION.

Preparation of
balance sheet
and profit and
loss account.

35. Every licensed commercial bank shall prepare at the expiration of each financial year—

- (a) balance sheet as at the last working day of such financial year;
- (b) a profit and loss account in respect of such year;

Balance sheet

36. (1) The balance sheet of a licensed commercial bank shall set out the state of affairs of such bank as at the end of the financial year to which such balance sheet relates.

(2) There shall be shown in the balance sheet or in any statement annexed thereto and shall present as a minimum of the following —

- (a) capitalized expenses not represented by tangible assets under separate headings, so far as they are not written off;
- (b) the market value of investments;
- (c) the method adopted to value fixed assets if there had been any valuation of such assets during the financial year;
- (d) the aggregate amounts of advances after the provisions for bad and doubtful debts;
- (e) any increase or decrease in the provision for depreciation, renewals or diminution in the value of fixed assets;
- (f) cash flow statement.

- (g) reserves, provisions and liabilities distinguishable from each other;
- (h) except in the case of the first balance sheet after the coming into force of this Part of this Act the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

Profit and loss
accounts

37. There shall be shown in the profit and loss account or in any statement annexed thereto

- (a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;
- (b) the amount charged to revenue for Sri Lanka income tax and other Sri Lanka taxation on profits and distinguishable from such accounts, the amounts, of material, set aside or proposed to be set aside for liabilities in respect of tax due in the current year of taxation or a succeeding year;
- (c) the aggregate amount of dividends paid or proposed to be paid;
- (d) the amount of remuneration of auditors;
- (e) the amount charged to revenue representing the aggregate amount of the emoluments of directors;
- (f) the amount set aside or proposed to be set aside to, or withdrawn from, reserves;
- (g) under separate headings, the profit or loss or the income and expenses arising from transactions such as are not usually carried on by banking companies and are carried on owing to circumstances of an exceptional or non-recurrent nature or by a change in the basis of accounting;
- (h) except in the case of the first profit and loss account after the coming into force of this Part of this Act, the corresponding amount at the end of the immediately preceding financial year for all items shown in the profit and loss account

Publications of
Balance sheets
& Profit and loss
accounts
[§20,33 of 199]
[§ 15, 2 of 2005]

38. (1) Every licensed commercial bank incorporated or established within Sri Lanka by or under any written law shall transmit within five months after the close of its financial year to the Director of Bank Supervision, and publish at least once within that period in a Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, its audited balance sheet as at the close of the financial year, and its profit and loss account for such financial year in respect of its business in and outside Sri Lanka including its off-shore banking business and exhibit them in a

conspicuous place at each of its places of business until the balance sheet and profit and loss account for the succeeding financial year are prepared and exhibited.

[§20,33 of 1995]
[§ 15, 2 of 2005]

(2) Every licensed commercial bank incorporated outside Sri Lanka shall transmit to the Director of Bank Supervision, within five months after the close of its financial year, its audited balance sheet as at the close of the financial year, and its profit and loss account for such financial year in respect of its business in Sri Lanka including its off-shore banking business and shall publish such Balance sheet and its profit and loss account at least once in a Sinhala, Tamil and English daily newspaper circulating in Sri Lanka within such time as may be required by the Director and shall exhibit them in a conspicuous place at each of its places of business until the balance sheet and profit and loss account for the succeeding financial year are prepared and exhibited.

(3) The Monetary Board may specify the form of the balance sheet and the profit and loss account referred to in this Part including any disclosure requirements to be made and where such form is specified, the balance sheet and the profit and loss account of every licensed commercial bank shall be prepared in such form as may be specified.

(4) Every licensed commercial bank shall within six months of the date of closure of its financial year, exhibit in a conspicuous place in each of its places of business the consolidated balance sheet as at the end of such financial year setting out the state of affairs of such commercial bank and of its subsidiary companies and associate companies until the consolidated balance sheet for the succeeding financial year is prepared and exhibited.

(5) The provisions of subsection (3) and subsection (4) of section 17 and the provisions of paragraph (c) of subsection (1) of section 46, as the case may be, shall apply in determining for the purpose of subsection (4) of this section, whether a company is a subsidiary company or an associate company of a licensed commercial bank.

Director of Bank
Supervision to issue
list of qualified
auditors.
[§21,33 of 1995]

38A. (1) The Monetary Board may having regard to the need to ensure that experienced and competent qualified auditors are engaged in auditing the accounts of licensed commercial banks, issue guidelines to the Director of Bank Supervision who shall select from time to time in accordance with such guidelines, such number of qualified auditors to audit the accounts of licensed commercial banks and transmit a list of such selected qualified auditors to all licensed commercial banks.

(2) It shall be the duty of all licensed commercial banks to select their auditors for purpose of auditing its accounts from and out of the list transmitted under subsection (1).

§ 22, 33 of 1995.

39. (1) Every licensed commercial bank shall appoint annually from and out of the list issued by the Director of Bank Supervision under section 38A, a qualified auditor to audit the accounts of such bank. The duties of such auditor shall be—

- (a) in the case of a licensed commercial bank incorporated or established within Sri Lanka by or under any written law, to prepare a report in respect of the accounts, balance sheet and profit and loss account examined by him, to be submitted to each of its shareholders; and
- (b) in the case of a licensed commercial bank incorporated outside Sri Lanka, to submit a report to its head office in respect of the balance sheet and profit and loss account examined by him.

(2) Every such report, which shall be completed within three months of the end of the financial year, shall contain a statement by the auditor as to whether in his opinion the balance sheet and profit and loss account contain a full and fair and properly drawn up statement and whether they represent a true and correct statement of the bank's affairs, and if the auditor has called for an explanation or any information from the officers or agents of such licensed commercial bank whether such explanation or information is satisfactory.

(3) The report of the auditor made in accordance with subsections (1) and (2) shall, in the case of a licensed commercial bank incorporated or established within Sri Lanka by or under any written law, be read together with the report of the Board of Directors of the licensed commercial bank at the annual general meeting of its share-holders, and, in the case of a licensed commercial bank incorporated outside Sri Lanka, be transmitted to the head office of such licensed commercial bank. A copy of such report shall be transmitted to the Director of Bank Supervision. Where the Director of Bank Supervision is not satisfied with the report of the auditor, he may make a request to the Monetary Board for the appointment of a new auditor to submit a fresh report.

(3A) Notwithstanding the provisions of subsection (3), the Director of Bank Supervision may, on receipt of the report referred to in that subsection, call upon the auditors to—

- (a) submit such additional information in relation to the audit, as the Director of Bank Supervision considers necessary;
- (b) enlarge or extend the scope of the audit of the business and affairs of the bank;
- (c) carry out such other examination required by him or recommend to the licensed commercial bank any procedure in respect of a particular matter; and
- (d) submit a report on any of the matters referred to in paragraphs (b) and (c).

(4) If a licensed commercial bank fails to appoint an auditor under subsection (1) or the Director of Bank Supervision has made a request to the Monetary Board in terms of subsection (3), the Monetary Board shall have the power to appoint an auditor for such licensed commercial bank.

(5) Every auditor appointed under subsection (1) or (4) shall have a right of access at all times to the books, accounts and vouchers and all documents and records belonging to the licensed commercial bank, which he considers necessary for the performance of his duties, and he shall be entitled to require from the officers of such bank such information and explanations as he thinks necessary for the performance and proper discharge of his duties and functions as auditor.

(6) The remuneration of the auditor, whether appointed by the licensed commercial bank or by the Monetary Board, shall be paid by the licensed commercial bank and, in the case of an auditor appointed by the Monetary Board under subsection (4), he shall be paid such amount as may be determined by the Monetary Board.

(7) No person having an interest in any licensed commercial bank or any director, officer, employee, agent of such licensed commercial bank shall be eligible for appointment as auditor for that licensed commercial bank. Any person appointed as auditor who shall after such appointment acquire any interest in or become a director, officer, employee or agent of such licensed commercial bank shall forthwith cease to act as such auditor.

(8) Nothing contained in this section shall apply to the audit of the accounts of any licensed commercial bank, which is a public corporation.

Consequences
of failure to
submit audit
report &c.

40. Where any licensed commercial bank has, due to circumstances beyond its control, failed to comply with the provisions of section 35, or where an auditor appointed by such licensed commercial bank has, due to reasons beyond his control, failed to complete the audit report as specified, the Monetary Board may, on an application made by such licensed commercial bank, grant a reasonable period of time for compliance with the preceding provisions of this Part.

The Director of
Bank Supervision to
cause an
examination of a
licensed
commercial bank or

41. (1) The Monetary Board shall, from time to time, cause an examination of any licensed commercial bank or any of its subsidiaries, to be made by an officer duly authorised by it, whenever it appears to the Board that such examination is necessary or expedient in order to examine whether such licensed commercial bank is in a sound financial condition and whether the carrying on of business by the licensed commercial bank has been in accordance with the provisions of this Act or any other written law.

(2) Every licensed commercial bank and any subsidiary of such licensed commercial bank referred to in subsection (1) shall permit the officer authorised by the Monetary Board, to inspect at any time as requested by such officer all books, minutes, accounts, cash securities, vouchers, other documents and records relating to its business and shall be required furnish such information concerning its business as may be requested by such officer.

(3) If any books, minutes, accounts, cash, securities, vouchers, other documents and records are not produced or information not furnished in accordance with the provisions of subsection (2) or if any information furnished or item produced is false in any material particular, the defaulting licensed

commercial bank or subsidiary or both, as the case may be, shall be guilty of an offence under this Act.

PART VI

DISQUALIFICATION FOR APPOINTMENT AS DIRECTOR, SECRETARY, & C. OF LICENSED COMMERCIAL BANKS

Disqualification
for being
appointed or
elected director.
[§23,33 of 1995]

42. (1) No person shall be appointed, elected or nominated as a director of a licensed commercial bank or continue as a director of such bank unless that person is a fit and proper person to hold office as a director of such bank and if he is not prevented from doing so by any provision of this Act or of any other written law.

[§16,2 of 2005]

(2) In determining whether a person would, for the purposes of subsection(1) be considered to be a fit and proper person, the following matters shall be taken into consideration:—

- (a) that such person possesses academic or professional qualifications or effective experience in banking, finance, business or administration or of any other relevant discipline;
- (b) that there is no finding of any regulatory or supervisory authority, professional association, any Commission of Inquiry, tribunal or other body established by law in Sri Lanka or abroad, to the effect that such person has committed or has been connected with the commission of, any act which involves fraud, deceit, dishonesty or any other improper conduct;
- (c) that such person is not subject to an investigation or inquiry consequent upon being served with notice of a charge involving fraud, deceit, dishonesty or other similar criminal activity, by any regulatory authority, supervisory authority, professional association, Commission of Inquiry, tribunal or other body established by law, in Sri Lanka or abroad;
- (d) that such person has not been convicted by any Court in Sri Lanka or abroad in respect of a crime committed in connection with financial management or of any offence involving moral turpitude;
- (e) that such person is not an undischarged insolvent nor has he been declared bankrupt in Sri Lanka or abroad;
- (f) that such person has not failed, to satisfy any judgement or order of any court whether in Sri Lanka or abroad, or to repay a debt;