

PART IV

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MAJOR LEGISLATIVE ENACTMENTS OF 2018 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA^(a)

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(a) In the event of any inconsistency between the text published in the Central Bank Annual Report and the text printed by the Department of Government Printing, the text of the latter shall prevail.

Active Liability Management Act, No. 08 of 2018

[Certified on 28th of March, 2018]

AN ACT TO AUTHORISE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA FOR THE PURPOSE OF ACTIVE LIABILITY MANAGEMENT TO IMPROVE PUBLIC DEBT MANAGEMENT IN SRI LANKA AND TO MAKE PROVISIONS FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Active Liability Management Act, No. 8 of 2018 and shall come in to operation on such date as the Minister may appoint by Order published in the *Gazette*.
2. The objective of this Act shall be to manage public debt to ensure the financing needs and payment obligations of the Government are met at the lowest possible cost over the medium to long term consistent with a prudent degree of risk.
3. The Parliament may, during a particular financial year from time to time, by resolution, approve to raise sums of money, the total of which shall not exceed *ten per centum* of the total outstanding debt as at the end of the preceding financial year, as a loan whether in or outside Sri Lanka, in terms of the relevant laws for moneys to be raised including the provisions of the Monetary Law Act (Chapter 422), the Local Treasury Bills Ordinance (Chapter 417), Registered Stocks and Securities Ordinance (Chapter 420), or the Foreign Loans Act, No. 29 of 1957, for and on behalf of the Government for the purposes of refinancing and pre-financing of public debts of the Government.
4. (1) The Minister shall with approval of the Cabinet of Ministers and subject to the provisions of section 3 of this Act and section 114 of the Monetary Law Act (Chapter 422), decide on matters pertaining to and incidental to the refinancing and pre-financing of public debts including—
 - (a) the sum of money to be raised by a loan;
 - (b) the mode of raising such loan; and
 - (c) the manner in which such payment obligations of the Government are settled as he may deem fit including the buying-back of existing debt and switching existing debt with new debt.
- (2) The decision made by the Minister under subsection (1) shall be communicated in writing to the Registrar through the Minister assigned the subject of Central Bank of Sri Lanka.
- (3) The Registrar may, subject to the terms of such communication and to any directions as the Minister may issue in that behalf—
 - (a) make all such arrangements as may be necessary to raise such loan; and
 - (b) effect such arrangements to settle obligations of the Government upon the most favourable terms that may be obtained in the interest of the Government.
5. Any loan raised for and on behalf of the Government for the purposes of refinancing and pre-financing of public debts of the Government shall be exempted from the application of the provisions of section 2 (1) (b) of the Appropriation Act, No. 30 of 2017 and also from the application of the provisions of any annual Appropriation Act which is enacted after the date of commencement of the Appropriation Act, No. 30 of 2017.
6. (1) Any loan raised under this Act where—
 - (a) the monetary unit is Sri Lanka rupees shall be retained in one or more accounts maintained by the Deputy Secretary to the Treasury as may be nominated by the Secretary to the Treasury, in writing, on that behalf, at the Central Bank of Sri Lanka or at a licensed commercial bank subject to the provisions of section 107 of the Monetary Law Act (Chapter 422);
 - (b) the monetary unit is foreign currency shall be retained in one or more accounts maintained by the Deputy Secretary to the Treasury as may be nominated by the Secretary to the Treasury, in writing, on that behalf, at the Central Bank of Sri Lanka.
- (2) The principal money and the interest, if any, which is in any account maintained at the Central Bank of Sri Lanka or at a licensed commercial bank shall be part of the Consolidated Fund as assets of Sri Lanka but as a ring-fenced account.
- (3) The Moneys retained under subsection (1) shall only be used for the purposes of refinancing and pre-financing of public debts in achieving the objective of this Act.

7. Details of all loans raised, money retained in the accounts maintained at the Central Bank of Sri Lanka or at a licensed commercial bank and the settlement of obligations of the Government made under the provisions of this Act shall be incorporated in the reports relating to the Government's fiscal performance, which are required to be tabled in Parliament under the Fiscal Management (Responsibility) Act, No. 3 of 2003.
8. Notwithstanding anything to the contrary in any other written law, all documents or instruments made or used under the provisions of this Act shall be free from stamp duty.
9. (1) No member of the Monetary Board or officer or servant of the Central Bank of Sri Lanka shall be liable for any damage or loss suffered by the Central Bank of Sri Lanka unless such damage or loss was caused by his misconduct or willful default.
- (2) Every member of the Monetary Board and every officer or servant of the Central Bank of Sri Lanka shall be indemnified by the Central Bank of Sri Lanka from all losses and expenses incurred by him in or about the discharge of his duties, other than such losses and expenses as the Monetary Board may deem to have been occasioned by his misconduct or willful default.
10. (1) The Minister may make regulations on the advice of the Monetary Board, in respect of all matters required by this Act to be prescribed or in respect of which regulations are authorised by this Act to be made.
- (2) In particular and 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 matters:-
 - (a) the conditions subject to which debt may be refinanced and pre-financed;
 - (b) the manner and the procedures applicable to the refinancing and pre-financing of debt; and
 - (c) any other matters as may be necessary for the purpose of achieving the objective of this Act.
- (3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication, or on such later date as may be specified in the regulation.
- (4) Every regulation made by the Minister shall, within three months after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.
- (5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.
11. The Minister may, by Order published in the *Gazette* delegate to the Secretary to the Treasury any power conferred on the Minister by this Act except under sections 4 and 10 subject to such conditions, reservations and restrictions as may be specified in the Order.
12. Any person who contravenes any provision of this Act commits an offence under this Act and shall be liable on conviction after summary trial by a Magistrate, to imprisonment for a term not exceeding five years or to a fine not less than three million rupees and not exceeding ten million rupees or where the offence has resulted in monetary loss or a loss which is quantifiable in monetary terms to the Government, to a fine equivalent to twice the value of such loss or to both such imprisonment and fine.
13. In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail.
14. In this Act, unless the context otherwise requires—

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

"financial year" means a period of twelve months commencing on First of January and ending on Thirty First of December;

"licensed commercial bank" means a bank licensed under the provisions of the Banking Act, No. 30 of 1988 to carry out commercial banking activities;

"Minister" means the Minister assigned the subject of Finance;

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

"pre-financing" includes financial arrangements made in advance to restructure an existing outstanding debt in order to change the conditions and terms of such debt;

“public debt” means all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the Government and includes interest on that debt, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of the loans on the security of revenues of the Government and on the service and redemption of the debt thereby created;

“refinancing” includes the substitution of an existing outstanding debt or debts with another debt or debts; and

“Registrar” means the Registrar appointed under the provisions of the Registered Stocks and Securities Ordinance (Chapter 420).

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

