

PART IV

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MAJOR LEGISLATIVE ENACTMENTS OF 2017 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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Foreign Exchange Act, No. 12 of 2017

[Certified on 28th July, 2017]

AN ACT TO PROVIDE FOR THE PROMOTION AND REGULATION OF FOREIGN EXCHANGE; TO VEST THE RESPONSIBILITY FOR PROMOTING AND REGULATING FOREIGN EXCHANGE IN THE CENTRAL BANK AS THE AGENT OF THE GOVERNMENT; TO PROVIDE FOR THE REPEAL OF THE EXCHANGE CONTROL ACT (CHAPTER 423); AND TO PROVIDE 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 Foreign Exchange Act, No. 12 of 2017 and shall come into operation on such date as the Minister may by Order published in the *Gazette* appoint (hereinafter referred to as "the appointed date").
2. (1) The Central Bank shall as the agent of the Government, be responsible for implementing the provisions of this Act in order to ensure proper promotion and regulation of foreign exchange in Sri Lanka, in accordance with such directions as may from time to time be issued in that behalf under this section.
 (2) The Minister assigned the subject of the Central Bank may, from time to time, issue such directions as may be necessary for the implementation of the provisions of this Act and it shall be the duty of the Monetary Board to cause such directions to be carried out.
3. Where under any provision of this Act any power, duty or function is authorized or required to be exercised, performed or discharged by the Central Bank, such power, duty or function may be exercised, performed or discharged by the officer designated as the head of the Department of Foreign Exchange or on his behalf any other officer designated as an assistant to him, subject to the direction and control of the Governor of the Central Bank.
4. (1) (a) Every licensed commercial bank shall, immediately upon such bank being issued a license to carry on banking business under the Banking Act, No. 30 of 1988, be authorized by the Central Bank to act, subject to the provisions of section 9 as an authorized dealer to deal in foreign exchange.
 (b) Every licensed commercial bank which is on the appointed date carrying on banking business, shall subject to the provisions of section 9, be deemed to have been authorized by the Central Bank, to act as an authorized dealer to deal in foreign exchange.
 (c) Every licensed specialised bank, immediately upon such bank being issued a license to carry on banking business under the Banking Act, No. 30 of 1988, may be authorized by the Central Bank subject to the provisions of section 9, to deal in foreign exchange for the purposes specified in such authorization.
 (d) Every licensed specialised bank which is on the appointed date carrying on banking business, shall subject to the provisions of section 9, be deemed to have been authorized by the Central Bank to deal in foreign exchange for the purposes specified in such authorization.
 (2) (a) The Central Bank may permit, subject to the provisions of section 9, any person, class or classes of persons (hereinafter referred to as a "restricted dealer") not being an authorized dealer, to deal in foreign exchange within Sri Lanka for the purposes specified in the permit, subject to such terms and conditions as may be imposed by the Central Bank in that behalf.
 (b) Every dealer in foreign exchange including money changers or any other person other than licensed commercial banks or specialised banks, which are on the appointed date permitted to deal in foreign exchange, shall subject to the provisions of section 9, be deemed to have been permitted by the Central Bank, to act as a restricted dealer to deal in foreign exchange for the purposes specified in such authorization.
 (c) The Central Bank may, subject to the provisions of section 9, grant special permission, to any person not being an authorized dealer or restricted dealer, to deal in foreign exchange within Sri Lanka for specific purposes as may be prescribed by the Minister by an Order published in the *Gazette* subject to such terms and conditions as may be specified in such Order.
 (3) Save as otherwise provided in this Act, no person in or resident in Sri Lanka shall deal in foreign exchange within or outside Sri Lanka, by any act which involves the conversion of Sri Lanka Rupees or assets within Sri Lanka to foreign exchange, otherwise than through an authorized dealer, or to the extent specified in the permit, through a restricted dealer.
5. Any person in, or resident in, Sri Lanka who—
 (a) holds foreign exchange in a bank account in Sri Lanka or outside Sri Lanka; or

- (b) owns any foreign asset,
- may utilize such foreign exchange or foreign asset for making of any payment for, or in respect of, any current or capital transaction of such person, within or outside Sri Lanka. Any such payment made from foreign exchange held by such person within Sri Lanka shall be made through an authorized dealer, or to the extent specified in the permit, through a restricted dealer.
6. (1) A person shall be entitled to deal in foreign exchange for a current transaction of such person, through an authorized dealer or to the extent specified in the permit, through a restricted dealer.
- (2) An authorized dealer or a restricted dealer may deal in foreign exchange for a current transaction as a principal or as an intermediary.
- (3) Prior to dealing in foreign currency for a current transaction under subsection (1), an authorized dealer or a restricted dealer shall request the person requiring foreign exchange for such transaction to provide such information or produce such documents or make such declaration as is reasonably necessary, in order to satisfy himself that the requirement is in relation to a current transaction and is in conformity with any other laws regulating such transactions.
- (4) An authorized dealer or a restricted dealer shall refuse to deal in foreign exchange for a current transaction under subsection (1) where the request for information, documents or declaration in terms of subsection (3) relating to such transaction is not complied with or where the dealer is satisfied that the requirement is not for a current transaction or is not in conformity with any other laws regulating such transactions.
- (5) An authorized dealer or a restricted dealer refusing to deal in foreign exchange for a current transaction under subsection (4) shall communicate his decision in writing together with the reasons therefor, if requested by the person requiring the foreign exchange subject to the provisions of section 9 of the Financial Transactions Reporting Act, No. 6 of 2006.
- (6) Any person aggrieved by the decision of an authorized dealer or a restricted dealer under subsection (4) may, within fourteen days after such decision is communicated to such person, appeal against such decision to the Central Bank and the Central Bank shall, after giving such person and the dealer a reasonable opportunity of being heard, affirm, vary or revoke such decision.
7. (1) The Minister shall in consultation with the Monetary Board and with the approval of the Cabinet of Ministers, authorize by regulations, the class or classes of capital transactions in foreign exchange for the purpose of this section.
- (2) In making regulations under subsection (1), the Minister shall have regard to –
- (a) transactions required to be regulated in conformity with any treaty or agreement relating to international financial transactions to which the Government of Sri Lanka is a signatory;
- (b) the impact of such authorization on the monetary policy of Sri Lanka and its stabilization.
- (3) The regulations published under subsection (1) may specify the limit up to which capital transactions may be authorized and the terms and conditions subject to which foreign exchange may be dealt with for the class or classes of capital transactions, so authorized.
- (4) Without prejudice to the provisions of section 5, a person shall be entitled to deal in foreign exchange in respect of a capital transaction of such person, through an authorized dealer or to the extent specified in the permit, through a restricted dealer, being capital transactions of a class or classes, which is or are authorized by regulations made under subsection (1).
- (5) An authorized dealer or a restricted dealer may deal in foreign exchange for a capital transaction as a principle or an intermediary, being a transaction authorized by regulations made under subsection (1).
- (6) Prior to dealing in foreign exchange in respect of a capital transaction under this section, the authorized dealer or the restricted dealer shall request the person requiring foreign exchange for such transaction, to provide such information or produce such documents or make such declaration as is reasonably necessary in order to satisfy himself that the requirement is in relation to a capital transaction authorized under subsection (1) and is in conformity with any other laws regulating such transactions.
- (7) An authorized dealer or a restricted dealer shall refuse to deal in foreign exchange for a capital transaction under this section where a request for information, documents or a declaration is not complied with or where the dealer is satisfied that the requirement is not for a capital transaction authorized under subsection (1) or is not in conformity with other laws regulating such transaction.

- (8) An authorized dealer or a restricted dealer refusing to deal in foreign exchange in respect of a capital transaction under this section shall communicate his decision in writing together with the reasons therefor, if requested by the person requiring the foreign exchange subject to the provisions of section 9 of the Financial Transactions Reporting Act, No. 6 of 2006.
 - (9) Any person aggrieved by the decision of an authorized dealer or a restricted dealer under subsection (7), may within fourteen days after such decision is communicated to such person, appeal against such decision to the Central Bank, and the Central Bank shall, after giving such person and the dealer a reasonable opportunity of being heard, affirm, vary or revoke such decision.
 - (10) An authorized dealer or a restricted dealer shall not deal in foreign exchange for a capital transaction that is not authorized by regulations made under subsection (1) unless the Monetary Board taking into consideration the existence of any exceptional circumstances has granted approval for such capital transaction in accordance with such directions as may be issued by the Minister in conformity with the approvals made under subsection (1).
8. (1) A person in, or resident in, Sri Lanka shall –
- (a) export from Sri Lanka or import into Sri Lanka, any foreign currency or Sri Lanka currency;
 - (b) hold foreign exchange in his possession or in a bank account in Sri Lanka,
- only for such purpose, up to such limits and subject to such terms and conditions, as may be prescribed by the Minister by an Order published in the *Gazette*.
- (2) A person in, or resident in, Sri Lanka shall acquire a foreign asset from foreign exchange derived from the conversion of Sri Lanka currency or the disposal or conversion of an asset within Sri Lanka or provision of any service in or from Sri Lanka only for such purposes, up to such limits and subject to such terms and conditions as may be prescribed by the Minister by regulations made in that behalf.
 - (3) Notwithstanding anything to the contrary in the provisions of any other written law, any Sri Lankan citizen resident in Sri Lanka who remits to Sri Lanka any foreign exchange which have not been declared to the Commissioner General of Inland Revenue or the Head of the Department of Foreign Exchange before the appointed date and which are not the property in respect of which proceedings are pending in a court of law or an order has been made by a court of law under the Prevention of Money Laundering Act, No. 5 of 2006, Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 or the Bribery Act (Chapter 26) shall be liable to pay only a remittance fee of one *per centum* to the Commissioner General of Inland Revenue and shall not be subject to the payment of any other fee, tax, surcharge, levy or penalty:
- Provided that any such person who remits to Sri Lanka foreign exchange not exceeding the value of one million United States dollars held outside Sri Lanka shall not be liable to pay the remittance fee or any other tax, surcharge, levy or penalty and any amount remitted exceeding such value shall be liable to pay the remittance fee specified in subsection (3):
- Provided further that any such person who remits to Sri Lanka an amount of foreign exchange exceeding the value of one million United States dollars held outside Sri Lanka and invests in a development bond issued by the Government of Sri Lanka shall not be liable to pay the remittance fee or any other tax, surcharge, levy or penalty.
- (4) Foreign Exchange held outside Sri Lanka and remitted to Sri Lanka after the appointed date under subsection (3) may be held in a foreign currency account or may be converted into Sri Lanka rupees.
 - (5) The property referred to in subsection (3) shall not be deemed to be the property obtained by the commission of an offence under the Prevention of Money Laundering Act, No. 5 of 2006 even if such foreign exchange had been held outside Sri Lanka without the permission of the Central Bank.
 - (6) There shall be no restriction on the repatriation of funds out of Sri Lanka remitted to Sri Lanka by any person in terms of subsection (3) of section 8.
9. (1) The Central Bank may from time to time, subject to informing the Minister issue guidelines and directions to authorized dealers and restricted dealers engaging in current transactions.
- (2) The Central Bank may from time to time subject to the approval of the Minister issue guidelines and directions to authorized dealers and restricted dealers engaging in capital transactions.
 - (3) The Central Bank may from time to time subject to the approval of the Minister issue guidelines and directions to authorized dealers and restricted dealers engaging in transactions other than those referred to in subsections (1) and (2) relating to foreign exchange.

- (4) The Central Bank may from time to time subject to the approval of the Minister issue guidelines and directions to any person, class or classes of persons not being an authorized dealer or restricted dealer, permitted to deal in foreign exchange within Sri Lanka under paragraph (c) of subsection (2) of section 4.
 - (5) The Central Bank may for statistical and monitoring purposes, request an authorized dealer or a restricted dealer to furnish within such time as may be specified in such request, such information or returns in such form and manner in relation to any foreign exchange transaction engaged in by such dealer for a period of six years immediately prior to the date on which such request is communicated to such dealer.
10. (1) The Central Bank may, at any time, cause an investigation to be made, of foreign exchange transactions or foreign assets of any authorized dealer or a restricted dealer or any other person, class or classes of persons as the case may be, by an officer of the Department of Foreign Exchange authorized in writing by the Central Bank (hereinafter referred to as an "authorized person") in that behalf.
- (2) It shall be the duty of every authorized dealer or a restricted dealer or any other person, class or classes of persons –
 - (a) to permit an authorized person entry into any premises for the purposes of such investigation;
 - (b) to produce any books or other documents as may be required for the investigation by such authorized person;
 - (c) to permit such authorized person to retain for such time as may be necessary such books and other documents or to take copies or extracts;
 - (d) to appear before the authorized person when required to do so by such authorized person;
 - (e) to furnish such statement or information in relation to the investigation within such time and in such manner as the said authorized person may require; or
 - (f) not to furnish information under this section, which to the knowledge of such dealer is false.
 - (3) Where an authorized person retains any book or document under subsection (2) the authorized person shall furnish to the person from whose custody or control such book or document was taken for detention, a copy of such book or document certified by such authorized person if a request for a copy is made by the person from whose custody or control such book or document was taken or the authorized person may without retaining original books or documents require the person to furnish true copies of such books or documents.
 - (4) An authorized dealer or a restricted dealer or other person required to appear before the authorized person may be examined orally and any statement made by such dealer or person shall be reduced to writing and shall be signed by the dealer or person making the same.
 - (5) For purposes of an investigation under subsection (1), the Central Bank or the authorized person may if the circumstances warrant, obtain the assistance of a police officer to prevent a breach of the peace, in the exercise of that right.
 - (6) Where the Central Bank apprehends any resistance in the course of an investigation under subsection (1), the Central Bank may, on application made to a Magistrate's Court by a person authorized in that behalf by the Monetary Board, within whose jurisdiction such investigation is made, obtain an Order directing the authorized dealer or the restricted dealer or other person as the case may be whose foreign exchange transaction or foreign assets is or are being, or is or are to be, investigated, to appear before the authorized person or to produce such books or documents in the custody or control of such dealer or person as the Central Bank or the authorized person making the investigation may reasonably require for such investigation.
 - (7) An application made under subsection (6) by a person authorized in that behalf by the Monetary Board shall contain—
 - (a) the name and address of the authorized dealer or a restricted dealer or other person as the case may be whose foreign exchange transaction is being or is to be investigated;
 - (b) the address of the premises in which the investigation is to be made;
 - (c) the name of the authorized person making the investigation; and
 - (d) a prayer for an Order -
 - (i) for the appearance of such dealer or person before the authorized person;
 - (ii) for the production of the books and documents to the Central Bank or the authorized person;
 - (iii) to refrain from obstructing the authorized person making an investigation under this section.

- (8) (a) Court may, after considering an application made under subsections (6) and (7) make an Order prayed for under paragraph (d) of subsection (7) and such dealer or person shall comply with the Order forthwith.
- (b) Any dealer or person who fails to comply with an Order of the court under paragraph (a) commits an offence and shall, on conviction be liable to a fine not exceeding rupees five hundred thousand.
- (c) Where the offence under paragraph (b) is a continuing offence, such dealer or person shall be liable to an additional fine of rupees hundred thousand for each day during which such offence continued.

11. (1) Where the Central Bank is satisfied that an authorized dealer or restricted dealer—

- (a) deals in foreign exchange in any current transaction or capital transaction contrary to the provisions of this Act;
- (b) deals in foreign exchange in relation to foreign assets contrary to the provisions of this Act;
- (c) fails to comply with any guideline or direction issued under subsections (1), (2) and (3) of section 9 or any requirement under subsection (4) of section 9; or
- (d) violates any provision of this Act or any regulation or Order made thereunder,

the Central Bank may, upon the Minister being informed, issue a notice directing any such authorized dealer or restricted dealer to comply with the provisions of this Act or any regulation, Order, guideline or direction issued or made thereunder, within the period specified therein.

- (2) Where any authorized dealer or restricted dealer fails to act in accordance with the notice issued under subsection (1), the Central Bank may, temporarily suspend the authorization granted under subsection (1) of section 4 or paragraph (b) of subsection (2) of section 4 or the permit granted under paragraph (a) of subsection (2) of section 4 to deal in foreign exchange.
- (3) The Central Bank may, where there is a temporary suspension under subsection (2), after an inquiry, giving the authorized dealer or restricted dealer a reasonable opportunity of being heard and with the approval of the Monetary Board, revoke the authorization or permit granted under section 4.
- (4) The Central Bank may in the circumstances referred to in subsection (1), without proceeding to revoke the authorization or the permit under subsection (3), after giving a reasonable opportunity of being heard and where it deems it appropriate taking into consideration all the relevant circumstances—
 - (a) require an authorized dealer or restricted dealer who engages in any dealing in relation to foreign assets contrary to the provisions of this Act as referred to in paragraph (b) of subsection (1), to pay to the Central Bank within such time as may be specified in such requirement an amount not exceeding the amount or value of such foreign asset or any part thereof in foreign exchange or Sri Lanka currency together with such expenses incurred by the Central Bank for the detection and investigation of such transaction; or
 - (b) impose a limitation on such authorized dealer or restricted dealer who has directly or indirectly been a party to the unauthorized transaction, from dealing in or engaging in current or capital transactions in relation to foreign exchange as the case may be, for a period not exceeding twelve months.
- (5) Where any other person, class or classes of persons, not being an authorized dealer or restricted dealer acts in violation of the provisions of paragraphs (a), (b), (c) or (d) of subsection (1), the Central Bank may, upon the Minister being informed, after giving such person a reasonable opportunity of being heard, require such person in writing, to pay as a penalty a sum not exceeding rupees one million or to pay a penalty of an amount not exceeding the amount or value of such current transaction or capital transaction or value of such foreign asset or any part thereof in foreign exchange or Sri Lanka currency together with such expenses incurred by the Central Bank for the detection and investigation of such transaction.
- (6) Where the Central Bank revokes an authorization or permit under subsection (3) or requires to pay the sum determined under paragraph (a) of subsection (4) or imposes a limitation under paragraph (b) of subsection (4), the Central Bank shall communicate its decision or determination in writing together with its reasons therefor to such authorized dealer or restricted dealer.
- (7) (a) Where any authorized dealer or restricted dealer—
 - (i) aggrieved by a revocation of the authorization or permit under subsection (3);
 - (ii) aggrieved by the requirement to pay the sum determined under paragraph (a) of subsection (4); or
 - (iii) aggrieved by any limitation imposed under paragraph (b) of subsection (4),

as the case may be, he may within thirty days after such decision or determination is communicated to such dealer, appeal against such revocation or determination to the Board of Inquiry which shall determine such appeal in accordance with the procedure set out in section 13.

- (b) Where any person not being an authorized dealer or a restricted dealer, aggrieved by a penalty imposed under subsection (5), he may within thirty days after the requirement to pay such penalty is communicated to such person, appeal against such requirement to pay such penalty to the Board of Inquiry which shall determine such appeal in accordance with the procedure set out in section 13.
- (8) Subject to any Order made on an appeal under subsection (7), the revocation of the authorization or the permit under subsection (3) or any limitation imposed under subsection (4) shall, notwithstanding such appeal, take effect from the date the Order of revocation or limitation is made or imposed on the authorized dealer or restricted dealer, as the case may be.
- (9) Any sum paid to the Central Bank under paragraph (a) of subsection (4) or any penalty paid under subsection (5) shall be credited to the Consolidated Fund.
- 12. Every investigation and inquiry under section 11 shall be concluded within a period of six months from the date of commencement of such investigation or inquiry unless an extension of time is obtained with the approval of the Minister.
- 13. (1) The Minister shall appoint a Board of Inquiry to inquire into appeals made under paragraphs (a) and (b) of subsection (7) of section 11.
- (2) The Board of Inquiry appointed under subsection (1) shall consist of the following persons appointed by the Minister:—
 - (a) a retired judge of the Supreme Court or of the Court of Appeal who shall be the Chairman of the Board; and
 - (b) two persons who are conversant in matters relating to international financial or exchange transactions and have had experience at a senior managerial level in the public or private sector and are of good standing and repute.
- (3) Every member of the Board of Inquiry shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and unless he has been removed from office, be eligible for re-appointment.
- (4) A member of the Board of Inquiry shall be remunerated in such manner and at such rates as may be determined by the Minister.
- (5) A person shall be disqualified from being appointed or continuing as a member of the Board of Inquiry if he—
 - (a) if he is, or becomes a member of Parliament or any Provincial Council or any local authority; or
 - (b) if he is not, or ceases to be a citizen of Sri Lanka; or
 - (c) if he is under any law in force in Sri Lanka or in any other country found or declared to suffer from unsoundness of mind; or
 - (d) if he is serving or has served a sentence of imprisonment imposed by any Court in Sri Lanka or any other country; or
 - (e) if he has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.
- (6) (a) Any member of the Board of Inquiry may, at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon such resignation being accepted by the Minister in writing.
- (b) The Minister may with the reasons assigned therefor remove any appointed member.
- (c) In the event of any post of an appointed member of the Board of Inquiry being vacated by death, resignation, removal or the operation of the provisions of subsection (5), the Minister may appoint another person, having regard to the provisions of subsections (2) and (3) to hold such office for the unexpired period of term of office of the member whom he succeeds.
- (d) If any appointed member of the Board of Inquiry is temporarily unable to perform the duties of his office during any period due to ill-health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place for unexpired period.
- (7) The Board of Inquiry shall within thirty days of the receipt of the appeal make its determination in respect of such matter.

- (8) Every Appellant shall appear before the Board of Inquiry in person or with an authorized representative.
 - (9) After the hearing of an appeal, the Board of Inquiry may confirm, vary or reverse the decision appealed against.
 - (10) The decision of the Board of Inquiry and the reasons therefor shall be in writing, be notified to the appellant and the Board of Inquiry shall forward a report thereon to the Minister.
14. Where any person who is required to pay any sum of money or penalty to the Central Bank under section 11 or 13 is a body corporate or unincorporated, every director, member or partner of such body shall also be personally liable jointly and severally to pay such amount or value and expenses:
- Provided that, such director, member or partner shall not be liable to pay such amount or value if such person proves that the act or omission incurring such liability was done or omitted to have been done without the knowledge of such person or that such person exercised due diligence to prevent such act or omission.
15. (1) (a) Where any person fails to pay any sum of money or penalty to the Central Bank under sections 11 or 13, the Governor of the Central Bank shall cause a certificate to be issued under his hand, setting out the sum of money required to be paid by such person.
- (b) The sum of money so certified shall be deemed to be a debt due from such person to the Government and may be recovered by the Central Bank by issuing a certificate to the District Court having jurisdiction in the district where the person resides.
- (c) Such certificate shall contain the particulars of the sum due and the name and place of residence as given in the authorization issued under section 4.
- (d) Court shall thereupon direct a writ of execution to be issued to the Fiscal authorizing and requiring him to seize and sell all the property movable and immovable of the defaulting person or such part thereof as the Court may deem necessary for recovery of the amount so due and the provisions of sections 226 to 297 of the Civil Procedure Code (Chapter 101) shall, *mutatis mutandis* apply to and in relation to such seizure and sale.
- (2) (a) Where the Central Bank is of the opinion that it is impracticable or inexpedient to recover the sum required to be paid under subsection (1) or where the full amount has not been recovered by the seizure and sale, then, the Central Bank may issue a certificate containing particulars of the sum so due and the name of the person and place of residence as given in the authorization issued under section 4 to the Magistrate having jurisdiction.
- (b) The Magistrate shall thereupon summon such person before him to show cause why further proceedings for the recovery of sum due under this Act should not been taken against him and in default of sufficient cause being shown, such sum shall be deemed to be a fine imposed by a sentence of the Magistrate on such person and the provisions of section 291 (except paragraphs (a), (d) and (i) of subsection (1) thereof of the Code of Criminal Procedure Act, No. 15 of 1979), relating to the default of payment of a fine imposed for such an offence shall thereupon apply and Magistrate may make any direction, by the provisions of that subsection, he could have made at the time of imposing such sentence.
- (3) (a) The correctness of any statement in a certificate issued by the Central Bank for the purpose of this section shall not be called in question or examined by the court in any proceedings under this section and accordingly nothing in this section shall authorize the court to consider or decide the correctness of any statement in such certificate and the Central Bank's certificate shall be sufficient evidence that the amount due under this Act from the defaulting person has been duly calculated and that such amount is in default.
- (b) The certificate shall be signed by the Governor of the Central Bank and shall be admissible in evidence in such action, without proof of signature and shall be *prima facie* proof of the matters stated therein.
- (4) Any sum recovered in an action under this section shall be paid into the Consolidated Fund.
16. Subject to the provisions of this Act, any permission, consent or authority granted under this Act may be –
- (a) general or special;
 - (b) absolute or conditional;
 - (c) limited so as to expire on a specified date, unless renewed; and
 - (d) varied or revoked.

17. In any inquiry under section 13, the burden of proving that any authorized dealer, restricted dealer or any other person, class or classes of persons not being an authorized dealer or restricted dealer had obtained the permission of the Central Bank for doing the act or making the omission which constitutes the violation of the provisions of the Act or any regulation, Order, guideline or direction issued or made thereunder shall be on such dealer, person or class or classes of persons.
18. In any inquiry under section 13 in relation to foreign currency, it shall be presumed, until the contrary is proved, that the currency in respect of which the dealing in foreign exchange in violation of the provisions of the Act or any regulation, Order, guideline or direction issued or made thereunder is alleged to have been committed is genuine.
19. In an Inquiry under section 13 or any proceeding under section 10, any of the following documents may be produced before the Board of Inquiry or Court and given in evidence against any authorised dealer, restricted dealer or any other person, class or classes of persons not being an authorized dealer or restricted dealer and shall be *prima facie* evidence of the matters, transactions and accounts therein contained –
 - (a) a certified copy of a banker's book or an extract thereof obtained from the manager or principal accountant of the bank;
 - (b) a certified copy of any book or other record required by law to be maintained by a company or a certified copy of any extract thereof, obtained from a director or secretary of the company; and
 - (c) a certified copy of any document or of an extract thereof in the proper custody of an officer of a foreign Government, and obtained from such officer.
20. No person shall be liable in any suit or other legal proceedings for any act done, or purporting to be done, in good faith in pursuance of the powers conferred by or under this Act, or for the purpose of carrying out the provisions of this Act.
21. (1) Except in the performance of his duties under this Act, every officer or servant of the Department of Foreign Exchange of the Central Bank shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in the performance of his duties under this Act, and any such officer or servant who communicates any such matter to any person other than –
 - (a) the person, class or classes of persons to whom that matter relates or an authorized representative of such person, class or classes of persons;
 - (b) the Monetary Board;
 - (c) the Governor of the Central Bank or an officer of the Department of Foreign Exchange of the Central Bank authorized by the Governor to obtain information regarding that matter;
 - (d) the Secretary of the Ministry of the Minister assigned the subject of Central Bank;
 - (e) a public officer authorized by the Minister to obtain information regarding that matter; or
 - (f) a person to whom it is necessary to communicate that matter for the purpose of securing compliance with, or detecting evasion of, any provision of this Act, or any other written Law,

or suffers or permits any unauthorized person to have access to any book, papers or records of the aforesaid Department or in the possession or custody, or under the control, of the head of that Department, commits an offence.
- (2) No officer or servant of the Department of Foreign Exchange shall, in any legal proceedings to which the Monetary Board is not a party be compellable except by Order of the Court to produce any book or document or to divulge or communicate any matter coming under his notice in the performance of his duties under this Act.
22. (1) Where the Monetary Board advises the Minister that in the opinion of the Board, remittances of foreign exchange into or out of Sri Lanka constitute a potential threat to the financial stability of Sri Lanka, the Minister may, with the approval of the Cabinet of Ministers and notwithstanding the provisions of sections 5, 6, 7 and 8 of this Act, by Order published in the *Gazette*, take such steps as may be necessary to restrict or regulate remittances of foreign exchange into or out of Sri Lanka, for such period not exceeding six months from the date of such Order.
- (2) An Order under subsection (1) shall be communicated forthwith to Parliament and unless Parliament determines otherwise, shall be valid for the period specified in such Order.
- (3) The Minister may with the approval of Parliament, by Order published in the *Gazette*, extend from time to time, the period of validity of an Order made under subsection (1) however that the period of such extensions shall not in the aggregate exceed twelve months.
23. (1) Any expenses incurred by the Central Bank in any suit or prosecution brought by or against it before any court, shall be paid out of the Consolidated Fund and any costs paid to or recovered by the Central Bank in any such suit or prosecution shall be credited to the Consolidated Fund.

- (2) Expenses incurred by the employees of the Central Bank in any suit or prosecution brought against such person before any court or tribunal in respect of any act which is done or purported to be done by such person under this Act or any other written law or on the direction of Central Bank shall, if that act was done in good faith, be paid out of the Consolidated Fund, unless such expenses are recoverable by such person in any suit or proceedings.
24. (1) It shall be an implied condition in any contract, entered into, by virtue of the provisions of this Act, the permission or consent of the Central Bank is at the time of the contract required for the performance of any term thereof, that terms should not be performed except insofar as the permission or consent is given or permission or consent is not required:
- Provided that, the preceding provisions of this subsection shall not apply to that term insofar as the application of those provisions to that term is inconsistent with the intention of the parties to that contract, whether by reason of their having contemplated the performance of that term despite the provisions of this Act, or for any other reason.
- (2) Notwithstanding anything in the Bills of Exchange Ordinance (Chapter 82), neither the provisions of this Act, nor any condition, whether express or implied having regard to those provisions, that any payment shall not be made without the permission of the Central Bank under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note under the said Ordinance.
25. Where the provisions of any other written law impose an obligation in respect of the doing of any act and the permission or consent of the Central Bank is, by virtue of that Act is required for the discharge of the obligation, it shall be an implied condition of the obligation that it shall not be discharged except in so far as the permission or consent is given or is not required.
26. (1) Any person who acts in contravention of the provisions of this Act or any regulation Order or direction issued or made thereunder for which no penalty is prescribed, may be required in writing by the Central Bank to pay as a penalty a sum not exceeding one million rupees, within such period as may be specified in the notification of such requirement.
- (2) Any person aggrieved by a penalty imposed under subsection (1) may, within thirty days after the requirement to pay such penalty is communicated to such person, appeal against such requirement to pay such penalty to the Board of Inquiry which shall determine such appeal in accordance with the procedure set out in section 13.
27. The Schedule to this Act may from time to time in the interest of the national economy be amended, altered or varied by Resolution of Parliament.
28. Where any regulation or Order made under this Act is required to be published in the *Gazette*, it shall be published once in three daily newspapers in the Sinhala, Tamil and English languages.
29. (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.
- (2) Every regulation made under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.
- (3) Every regulation made under subsection (1) shall, within three months from the date of its publication in the *Gazette* be placed before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done there under.
- (4) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.
30. (1) The Exchange Control Act (Chapter 423) is hereby repealed.
- (2) Notwithstanding the repeal of the aforesaid Act-
- (a) all suits, actions and proceedings instituted under the repealed Act and pending on the day immediately prior to the appointed date, shall, with effect from the appointed date, be deemed to be suits, actions and proceedings instituted under the repealed Act and be heard and concluded under that Act; and
- (b) all investigations and inquiries instituted under the repealed Act and pending on the day immediately prior to the appointed date, shall, with effect from the appointed date, be deemed to be investigations and inquiries instituted under the repealed Act and shall be concluded under that Act within a period of six months from the appointed date.
31. (1) For the purpose of this Act -
- (a) "currency" includes coins, currency notes, postal orders, money orders, cheques, drafts, travelers' cheques, letters of credit, bills of exchange, promissory notes, other electronic fund transfer cards and digital currency;

(b) “securities” means shares, stock, bonds, debentures, units under a unit trust scheme or of any mutual fund.

(2) The Central Bank may, by Notification published in the *Gazette*, specify any other instrument in relation to currency or securities which is not specified in this section.

(3) For the purpose of this Act, “a person resident in Sri Lanka” means such person as is determined by the Minister by Order published in the *Gazette*.

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

33. In this Act unless the context otherwise requires—

“asset” means any movable or immovable property of any class or description whatsoever;

“authorized dealer” means a bank licensed under the Banking Act, No. 30 of 1988 authorized under section 4 to act as authorized dealer;

“capital transaction” means a transaction which is not a current transaction within the meaning of this Act;

“Central Bank” means the Central Bank of Sri Lanka established by section 5 of the Monetary Law Act (Chapter 420);

“current transaction” means any international transaction necessitating a transfer of foreign exchange into or from Sri Lanka, and referred to in paragraph (d) of Article XXX of the Articles of the International Monetary Fund set out in the Schedule to this Act;

“Commissioner General of Inland Revenue” means the Commissioner General of Inland Revenue within the meaning of Inland Revenue Act, No. 10 of 2006;

“foreign asset” means any movable or immovable property outside Sri Lanka of any class or description whatsoever and without prejudice to the generality of the preceding provisions of this definition, includes foreign exchange, foreign currency, foreign securities and foreign bank accounts;

“foreign currency” means any currency other than Sri Lankan currency;

“Foreign Currency Account” means a foreign currency account in a licensed bank which is authorized to deal in foreign exchange;

“foreign exchange” means foreign currency and includes –

(a) deposits, credits and balances payable in foreign currency;

(b) drafts, travelers’ cheques, letters of credit and bills of exchange drawn in Sri Lanka and payable outside Sri Lanka in foreign currency;

(c) drafts, travelers’ cheques, letters of credit and bills of exchange drawn outside Sri Lanka but payable in Sri Lankan currency;

(d) any document or instrument of a type customarily employed for international transfers of funds;

“foreign exchange dealings” includes accepting, buying, selling, borrowing and lending of foreign exchange and exchange to any other foreign currency;

“foreign security” means a security denominated or expressed in foreign currency and issued outside Sri Lanka;

“licensed bank” means a licensed commercial bank or a licensed specialized bank;

“licensed commercial bank” means a bank licensed under subsection (4) of section 2 of the Banking Act, No. 30 of 1988;

“licensed specialized bank” means a bank licensed under subsection (3) of section 76A of the Banking Act, No. 30 of 1988;

“Minister” means the Minister assigned the subject of Central Bank;

“Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka;

“permit” means a permit granted to a restricted dealer under paragraph (a) of subsection (2) of section 4;

“person” means any natural or legal person including partnerships;

“person resident outside Sri Lanka” means a person who is not a resident in Sri Lanka; and

“Sri Lankan currency” means currency which is expressed or drawn in Sri Lanka rupees.

SCHEDULE

(sections 5, 6 and 33)

INTERNATIONAL MONETARY FUND

Articles on Agreement

ARTICLE XXX**EXPLANATION OF TERMS**

(d) Payments for current transactions means payments which are not for the purpose of transferring capital assets, and includes, without limitation—

- (1) all payments due in connection with foreign trade, other current business, including services, and normal short term banking and credit facilities;
- (2) payments due as interest on loans and as net income from other investments;
- (3) payments of moderate amount for amortization of loans or for depreciation of direct investments; and
- (4) moderate remittances for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

Sri Lanka Sustainable Development Act, No. 19 of 2017

[Certified on 03rd of October, 2017]

AN ACT TO PROVIDE FOR THE DEVELOPMENT AND IMPLEMENTATION OF A NATIONAL POLICY AND STRATEGY ON SUSTAINABLE DEVELOPMENT IN SRI LANKA; FOR THE ESTABLISHMENT OF A SUSTAINABLE DEVELOPMENT COUNCIL AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

WHEREAS the seventeen Sustainable Development Goals and one hundred and sixty nine associated targets were adopted by United Nation Member States in Two Thousand Fifteen:

AND WHEREAS Sri Lanka intends to design, develop and implement a National Policy and Strategy on Sustainable Development and facilitate all agencies responsible and to follow up and monitor the progress:

AND WHEREAS Sri Lanka would set its own national targets guided by the global level of ambition but taking into account national interest and circumstances and also incorporate such seventeen Sustainable Development Goals in national planning processes, policies and strategies in the relevant ongoing processes in the economic, social and environmental fields:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Sri Lanka Sustainable Development Act, No. 19 of 2017.
2. The objects of this Act shall be to—
 - (a) ensure that the National Policy and Strategy on Sustainable Development is prepared in accordance with section 11 of this Act and provide the legal framework for developing and implementing such National Policy and Strategy on Sustainable Development;
 - (b) ensure an ecologically efficient use of natural, social and economic resources;
 - (c) to promote the integration and maintain the equipoise of environmental, economic and social factors in the making of all decisions by government; and
 - (d) formulate strategies in accordance with paragraphs (a), (b) and (c) of this section.

PART I**ESTABLISHMENT OF SUSTAINABLE DEVELOPMENT COUNCIL**

3. (1) There shall be established for the purpose of this Act, a Council called the Sustainable Development Council (hereinafter referred to as the "Council").
- (2) The Council shall, by the name assigned to it by this section be a body Corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.
4. (1) The Council shall consist of the following members:—

- (a) the *ex-officio* members—
 - (i) the Secretary to the President;
 - (ii) the Secretary to the Ministry of the Minister assigned the subject of Sustainable Development;
 - (iii) the Secretary to the Ministry of the Minister assigned the subject of National Planning or his nominee;
 - (iv) the Secretary to the Ministry of the Minister assigned the subject of Environment or his nominee; and
- (b) eight other members (hereinafter referred to as the “appointed members”), appointed by the President—
 - (i) two members appointed by him on his own volition;
 - (ii) one member nominated by the Prime Minister;
 - (iii) two members nominated by the Minister assigned the subject of Sustainable Development; and
 - (iv) three members out of the nine persons nominated by the Provincial Councils; at the expiration of the term of office of such members appointed under this sub-paragraph, the balance number of persons nominated by the Provincial Councils shall be considered for second and third appointment in rotation:

Provided however, in the event a matter pertaining to any Provincial Council is taken up for discussion at any meeting of the Council, the member nominated by such Provincial Council shall have the power to participate at such meeting.

- (2) The Chairman of the Council shall be appointed by the President from among its members.
 - (3) Every appointed member shall possess academic or professional qualifications and wide experience in science, economics, environmental science or social science and possesses specific experience in relation to sustainable development.
 - (4) Every appointed member other than the appointed members under sub-paragraph (iv) of paragraph (b) of subsection (1) shall unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall unless he has been removed, be eligible for reappointment.
 - (5) Every appointed member under sub-paragraph (iv) of paragraph (b) of subsection (1) shall unless he vacates office earlier by death, resignation or removal, hold office for a term of one year from the date of his appointment and shall unless he has been removed, be eligible for reappointment.
 - (6) The President may, if he considers it expedient to do so, remove from office any appointed member after assigning reasons therefor.
 - (7) Any appointed member may, at any time resign his office by a letter to that effect, addressed to the President and sent by registered post.
 - (8) In the event of vacation of office by death, resignation or removal of any appointed member, the President may having regard to the provisions of paragraph (b) of subsection (1) appoint any other person to succeed such member. Any member so appointed shall hold office for the unexpired term of office of the member whom he succeeds.
 - (9) Where an appointed member, by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the President in writing of such inability. The President may, on receipt of such information, having regard to the provisions of paragraph (b) of subsection (1) appoint some other person to act in his place.
5. (1) The quorum for a meeting of the Council shall be five members.
- (2) The Chairman shall preside at every meeting of the Council. In the absence of the Chairman from any meeting of the Council, the Secretary to the Ministry of the Minister assigned the subject of Sustainable Development shall preside at such meeting.
 - (3) The Council shall hold its meetings once in every three months in every year.
 - (4) All questions for decision at any meeting of the Council shall be decided by the vote of the majority of members present at such meeting. In the case of an equality of votes, the Chairman shall, in addition to his vote have a casting vote.
 - (5) Subject to the preceding provisions of this section, the Council may regulate the procedure in relation to the meetings of the Council and the transaction of business at such meetings.

6. No act or proceeding of the Council shall be invalid by reason only of the existence of any vacancy in the Council or any defect in the appointment of a member of the Council.
7. The members of the Council shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister assigned the subject of Finance.
8. A person referred to in paragraph (b) of subsection (1) of section 4 shall be disqualified from being appointed or continuing as a member of the Council—
 - (a) if he is or becomes a member of, Parliament, any Provincial Council or any local authority;
 - (b) if he has been declared an insolvent or an un-discharged bankrupt under any law in Sri Lanka or any other country;
 - (c) if he is under any law in force in Sri Lanka or any other country found or declared to be of unsound mind;
 - (d) if he is convicted of an offence involving in moral turpitude and punishable with imprisonment for a term not less than six months;
 - (e) if he is serving or has served a sentence of imprisonment imposed by a Court of Sri Lanka or any other country; or
 - (f) if he has any financial or other interest as is likely, to affect prejudicially the discharge by him of his functions as a member of the Council.
9. (1) The seal of the Council shall be in the custody of such person as the Council may decide from time to time.
 (2) The seal of the Council may be altered in such manner as may be determined by the Council.
 (3) The seal of the Council shall not be affixed to any instrument or document except with the sanction of the Council and in the presence of two members of the Council who shall sign the instrument or document in token of their presence.
 (4) The Council shall maintain a register of the instruments and documents to which the seal of the Council has been affixed.
10. The Powers, functions and duties of the Council shall be—
 - (a) to facilitate the achievement of national, regional and international commitments relating to sustainable development;
 - (b) to formulate National Policy and Strategy on Sustainable Development in consultation and with the concurrence of all relevant parties and nine Provincial Councils and place before the Cabinet of Ministers for approval;
 - (c) to review and update the National Policy and Strategy on Sustainable Development periodically as and when the Cabinet of Ministers so decides;
 - (d) to issue guidelines relating to sustainable development to the ministries, provincial councils and project approving agencies in respect of new development projects;
 - (e) to facilitate and monitor the mechanisms and progress review processes of the implementation of such National Policy and Strategy on Sustainable Development;
 - (f) to appoint expert committees to study any specific matter;
 - (g) to identify sustainable development standards and ecological footprint indicators;
 - (h) to promote sustainable development including research and development, innovation, education awareness and eradication of poverty;
 - (i) to identify, introduce and follow up the mechanisms, audit mechanisms and all other matters relating to sustainable development;
 - (j) to acquire, hold, take or give on lease or hire, any immovable property;
 - (k) to open, maintain and close current and savings accounts in any State bank;
 - (l) to accept grants, gifts or donations from persons or bodies of persons, in or out side Sri Lanka:
 Provided that, the Council shall obtain the prior written approval of the Department of External Resources of the Ministry of the Minister assigned the subject of National Policies and Economic Affairs, in respect of all foreign grants, gifts or donations made to the Council. Such written approval shall not impose any obligation or condition;
 - (m) to co-ordinate with the project approving agencies to achieve the seventeen sustainable development goals;
 - (n) to enter into, or perform, all such contracts as may be necessary for the exercise of its powers or the discharge of its functions; and
 - (o) to borrow such sums of money as may be necessary for discharging of its functions.

PART II
NATIONAL POLICY AND STRATEGY ON SUSTAINABLE DEVELOPMENT

11. (1) The National Policy and Strategy on Sustainable Development shall be in conformity with the Sustainable Development goals and associated targets.
- (2) The National Policy and Strategy on Sustainable Development shall be in force until the end of year 2030.
- (3) The Council shall forward the National Policy and Strategy on Sustainable Development to the President and the Minister. The Minister shall, with the concurrence of the Cabinet of Ministers cause such National Policy and Strategy on Sustainable Development including any amendment thereto, to be published in the *Gazette*.
- (4) The Minister shall lay such National Policy and Strategy on Sustainable Development before the Parliament for approval.
- (5) The National Policy and Strategy on Sustainable Development which is not so approved shall be deemed to be rescinded as from the date of such disapproval.
- (6) Upon the approval granted by the Parliament under subsection (4), such National Policy and Strategy on Sustainable Development shall be the National Policy and Strategy on Sustainable Development.
- (7) It shall be the duty of every ministry, department, provincial council, provincial ministry and department and any local authority to comply with the National Policy and Strategy on Sustainable Development.
- (8) The Minister shall co-ordinate with other project approving agencies for the purpose of implementing the National Policy and Strategy on Sustainable Development.
12. (1) Every ministry, department, provincial council, provincial ministry and department and local authority shall prepare the Sustainable Development Strategy relevant to the scope of such ministry, department, provincial council, provincial ministry and department and local authority in accordance with the National Policy and Strategy on Sustainable Development within a period of one year from the date of approval under subsection (6) of section 11 by the Parliament.
- (2) Every ministry, department, provincial council, provincial ministry and department and local authority shall submit the progress report on the Sustainable Development Strategy prepared under subsection (1) within a period as may be required by the Minister.
13. Every ministry, department, provincial council, provincial ministry and department and local authority shall—
 - (a) cause an environmental, and social audit to be done on the new development projects; and
 - (b) ensure the environmental and social security on the new development projects.
14. The annual report of every ministry, department, provincial council, provincial ministry and department and local authority shall include a statement as to the compliance with the National Policy and Strategy on Sustainable Development.

PART III
STAFF OF THE COUNCIL

15. (1) There shall be appointed by the Cabinet of Ministers, a person to be the Director-General of the Council, who shall be its Chief Executive Officer.
- (2) The Director-General shall be entitled to be present at all meetings of the Council and to speak at such meetings, but shall not be entitled to vote at any such meetings.
- (3) The Council shall assess the requirement of the minimum staff required for efficient operation and appoint such other officers and servants as are necessary for the purpose of carrying out the objects of the Act.
- (4) The Director-General shall, subject to the general direction and control of the Council, be responsible for the conduct of all affairs of the Council, including the administrative control of the officers and servants of the Council.
- (5) The Director-General shall be paid such remuneration as may be determined by Cabinet of Ministers.
- (6) The Cabinet of Ministers may, for reasons assigned therefor remove from office the Director-General appointed under subsection (1).
16. Whenever the Director-General is by reason of illness or absence from Sri Lanka or for any other cause unable to discharge or perform any of his functions or duties, the Minister may with the concurrence of the Council, appoint any other senior officer of the Council to act in his place during such absence.

17. (1) At the request of the Council any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister assigned the subject of Public Administration, be temporarily appointed to the staff of the Council for such period as may be determined by the Council or with like consent, be permanently appointed to such staff.
- (2) Where any officer in the public service is temporarily appointed to the staff of the Council, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.
- (3) Where any officer in the public service is permanently appointed to the staff of the Council, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis* apply to and in relation to him.
- (4) Where the Council employs any person who has agreed to serve the Government for a specified period under any agreement, any period of service to the Council by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.
18. (1) At the request of the Council, any officer or servant of a public corporation may, with the consent of such officer or servant and the governing body of such public corporation, be temporarily appointed to the staff of the Council for such period as may be determined by the Council or with like consent, be permanently appointed to such staff on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Council and the governing body of the public corporation concerned.
- (2) At the request of the Council, any officer or servant of any higher educational institution may, with the consent of that officer or servant and the principal executive officer of that higher educational institution, be temporarily appointed to the staff of the Council for such period as may be determined by the Council or with like consent be permanently appointed to such staff, on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Council and such principal executive officer.
- (3) Where any person is temporarily appointed to the staff of the Council under subsection (1) or subsection (2), as the case may be, such person shall be subject to the same disciplinary control as any other member of the staff of the Council.

PART IV GENERAL

19. (1) The financial year of the Council shall be the calendar year.
- (2) The provisions of the Article 154 of the Constitution relating to the auditing of accounts shall apply in relation to the audit of accounts of the Council.
20. The provisions of Part II of the Finance Act, No. 38 of 1971, shall *mutatis mutandis*, apply to and in respect of the financial control and accounts of the Council.
21. (1) The Council may subject to such conditions as may be specified in writing, delegate to the Chairman or member of the Council or Director-General any of its powers, functions or duties under this Act, and the Chairman or such member or Director-General shall exercise, perform or discharge such power, function or duty subject to any special or general directions issued by the Council.
- (2) Notwithstanding any delegation made under subsection (1), the Council may exercise, perform or discharge any such power, function or duty so delegated.
22. The Minister may, from time to time issue such general or special directions to the Council relating to the exercise, performance and discharge of the powers, functions and duties under this Act and it shall be the duty of the Council to comply with such directions.
23. All members of the Council, officers, servants and agents of the Council shall be deemed to be public servants within the meaning and for the purpose of the Penal Code (Chapter 19).
24. The Council shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act (Chapter 26) and the provisions of that Act shall be construed accordingly.
25. (1) All expenses incurred by the Council in any suit or prosecution brought by or against it before any court, shall be paid out of the Consolidated Fund and only costs paid to or recovered by the Council in any such suit or prosecution, shall be credited to the Consolidated Fund .

- (2) Any expenses incurred by a member of the Council, Director-General or any officer or servant of the Council, in any suit or prosecution brought by or against such person before any court in respect of any act which is done or purported to be done by such person under this Act shall, if the court holds that such act was done in good faith, be paid out of the Consolidated Fund, unless such expenses are recovered by him in such suit or prosecution.
26. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, in particular in respect of all or any of the following matters:-
- (a) the issuance of guidelines to the Project Approving Agencies;
 - (b) the monitoring mechanisms and progress review processes on Sustainable Development Strategy implementation;
 - (c) the sustainability standards and ecological foot print indicators;
 - (d) the mechanisms for scoring or weighting projects;
 - (e) the criteria for carrying out appropriate social and environmental audits;
 - (f) the categories of development projects and complex projects; and
 - (g) the mechanisms for review of requests for approval of complex projects by Project Approving Agencies.
- (2) Every regulation made by the Minister under subsection (1), shall after obtaining the approval of the Cabinet of Ministers 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.
- (3) Every regulation made by the Minister under subsection (1) shall, within a period of three months from the date of its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which any regulation shall be deemed to be so rescinded, shall be published in the *Gazette*.
27. In this Act, unless the context otherwise requires—
- “Minister” means the Minister assigned the subject of Sustainable Development;
- “project approving agencies” includes ministries, departments, provincial councils, provincial ministries and departments and local authorities and all other Government and Provincial Council Agencies;
- “sustainability” means the capacity of a thing, action, activity or process to be maintained indefinitely; and
- “sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
28. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Regulation of Insurance Industry (Amendment) Act, No. 23 of 2017

[Certified on 19th of October, 2017]

AN ACT TO AMEND THE REGULATION OF INSURANCE INDUSTRY ACT, NO. 43 OF 2000

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

1. This Act may be cited as the Regulation of Insurance Industry (Amendment) Act, No. 23 of 2017.
2. The long title of the Regulation of Insurance Industry Act, No. 43 of 2000 (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “ESTABLISHMENT OF AN INSURANCE BOARD”, of the words “ESTABLISHMENT OF AN INSURANCE REGULATORY COMMISSION OF SRI LANKA”.
3. (1) In the principal enactment and in any other written law, there shall be substituted for the words “Insurance Board of Sri Lanka” and “Board” (denoting the Insurance Board of Sri Lanka), of the words “Insurance Regulatory Commission of Sri Lanka” and “Commission” respectively.
- (2) From and after the date of commencement of this Act, every reference to the “Insurance Board of Sri Lanka” in any notice, notification, contract, communication, form or other document shall be read and construed as a reference to the “Insurance Regulatory Commission of Sri Lanka”.
4. Section 13 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words

“either one or both classes of insurance business”, of the words “general insurance business or long term insurance business”.

5. The following new sections are hereby inserted immediately after section 15A of the principal enactment and shall have effect as sections 15B, 15C and 15D of that enactment:—

“15B. Notwithstanding the provisions of section 15A, the Commission shall, upon being satisfied—

- (a) that at least eighty five *per centum* of shares of the local subsidiary insurance company are held by a foreign holding company listed on a stock exchange outside Sri Lanka and which stock exchange is a member of the World Federation of Exchanges or such other organization recognized by the Commission;
- (b) the accounts of such local subsidiary insurance company are included in the Group Consolidated Accounts of the foreign holding company; and
- (c) such foreign holding company is legally required by the foreign stock exchange on which it is listed to ensure group level compliance with all regulatory requirements of the foreign stock exchange including the requirement pertaining to the accounts of the local subsidiary insurance company,

exempt such local subsidiary insurance company from being listed on a stock exchange licensed under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987.

15C. (1) The National Insurance Trust Fund established under the provisions of the National Insurance Trust Fund Act, No. 28 of 2006 shall be exempted from being listed on a stock exchange licensed under the provisions of the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987.

- (2) The Commission shall, upon being satisfied that a local subsidiary insurance company is held by a company that is listed on a stock exchange licensed under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 shall exempt such local subsidiary insurance company from being listed on a stock exchange licensed under the provisions of above-said Act.

(3) (a) The Sri Lanka Insurance Corporation Limited or any insurance companies formed upon the segregation of the Sri Lanka Insurance Corporation Limited into two separate companies, whatever the names assigned to such companies on the date on which such segregation takes place shall be exempted from being listed on a stock exchanges, licensed under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987.

- (b) No such exemption shall be valid, unless the Sri Lanka Insurance Corporation Limited or any insurance companies formed upon the segregation of the Sri Lanka Insurance Corporation Limited into two separate companies is or are owned by the Government of Sri Lanka.

15D. It shall be the duty of—

- (a) any local subsidiary insurance company of any foreign holding company;
- (b) the National Insurance Trust Fund established under the provisions of National Insurance Trust Fund Act, No 28 of 2006; and
- (c) the entities referred to in subsections (2) and (3) of section 15C of this Act,

to comply with any terms and conditions as may be determined by the Commission from time to time.”.

6. Section 78 of the principal enactment is hereby amended by the repeal of subsection (5) of that section and the substitution therefor, of the following:-

“(5) (a) No person shall be eligible to be appointed as an insurance agent of a broker, if such person is already registered as an insurance agent of another broker or an insurer.

- (b) No person shall be eligible to be appointed as an insurance agent of an insurer, if such person is already registered as an insurance agent of a broker.

(c) No person shall be eligible to be appointed as an insurance agent of an insurer for a particular class of insurance business, if such person is already registered as an insurance agent of another insurer for the same class of insurance business.”.

7. Section 114 of the principal enactment is hereby amended as follows:-

(1) by the insertion, immediately after the definition of the expression “classes of insurance business”, of the following new definitions:—

““class of insurance business” means general insurance business or long term insurance business;

“foreign holding company” means any company or body corporate which is incorporated or established outside Sri Lanka and which is a holding company of local subsidiary insurance company;”; and

(2) by the insertion, immediately after the definition of the expression “local authority security”, of the following new definition:—

““local subsidiary insurance company” means a person registered to carry on insurance business in Sri Lanka under the provisions of this Act, and includes a company deemed to be registered under section 113(2) of this Act;”.

8. (1) All contracts, agreements and other instruments of the Insurance Board of Sri Lanka subsisting on the day immediately prior to the date of commencement of this Act, shall be deemed with effect from the date of commencement of this Act to be contracts, agreements or other instruments entered into by the Insurance Regulatory Commission of Sri Lanka.
- (2) All suits, actions and other legal proceedings instituted by or against the Insurance Board of Sri Lanka and pending on the day, immediately prior to the date of commencement of this Act, shall be deemed with effect from the date of commencement of this Act to be suits, actions and other legal proceedings instituted by or against the Insurance Regulatory Commission of Sri Lanka.
- (3) All the rights, liabilities and obligations of the Insurance Board of Sri Lanka on the day immediately prior to the date of commencement of this Act, shall be deemed with effect from the date of commencement of this Act to be the rights, liabilities and obligations of the Insurance Regulatory Commission of Sri Lanka.
- (4) All movable and immovable property vested in the Insurance Board of Sri Lanka on the date immediately prior to the date of commencement of this Act shall, with effect from the date of commencement of this Act, vest in the Insurance Regulatory Commission of Sri Lanka.
- (5) Every decree, order or judgment entered in favour of or against the Insurance Board of Sri Lanka by any court in any action or proceeding, shall with effect from the date of commencement of this Act, be deemed to be a decree, order or judgment entered in favour of or against the Insurance Regulatory Commission of Sri Lanka and may be enforced accordingly.
9. For the avoidance of doubt, it is hereby declared that the “Insurance Regulatory Commission of Sri Lanka”, shall for all purposes be deemed to be the successor to the “Insurance Board of Sri Lanka” established under section 2 of the principal enactment.
10. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
11. The provisions of section 5 of this Act shall apply to any local subsidiary insurance company of any foreign holding company which holds a valid licence issued on or before February 7, 2011 under section 15 of the principal enactment after having fulfilled where so required the segregation requirements specified in section 53 of Regulation of Insurance Industry (Amendment) Act, No. 3 of 2011.

**OTHER RELATED LEGISLATIVE ENACTMENTS OF 2017
RELATING TO THE FUNCTIONS AND OPERATIONS OF
THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA**

1. Divineguma (Amendment) Act, No. 2 of 2017
2. Economic Service Charge (Amendment) Act, No. 7 of 2017
3. Nation Building Tax (Amendment) Act, No. 13 of 2017
4. Inland Revenue Act, No. 24 of 2017
5. Appropriation Act, No. 30 of 2017
6. Appropriation (Amendment) Act, No. 32 of 2017

