



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**BANKING (AMENDMENT)
ACT, No. 33 OF 1995**

[Certified on 19th December, 1995]

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[Certified on 19th December, 1995]

E.D.—O. 54/93.

AN ACT TO AMEND THE BANKING ACT, NO. 34 OF 1956

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

1. This Act may be cited as the Banking (Amendment) Act, No. 33 of 1995.

Short title.

2. The long title of the Banking Act, No. 34 of 1956 (hereinafter referred to as the "principal enactment") is hereby repealed and the following long title is substituted therefor:—

Replacement of the long title of Act No. 30 of 1998.

"**AN ACT TO PROVIDE FOR THE INTRODUCTION AND ESTABLISHMENT OF A PROCEDURE FOR THE LICENSING OF PERSONS CARRYING ON BANKING BUSINESS AND OR CARRYING ON THE BUSINESS OF ACCEPTING DEPOSITS AND INVESTING THE SAME; FOR THE REGULATION AND CONTROL OF BANKS RELATING TO SUCH BUSINESS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THEREON.**

3. Section 2 of the principal enactment is hereby amended as follows:—

Amendment of section 2 of the principal enactment.

- (1) by the repeal of the last paragraph to that section; and
- (2) by the addition at the end of that section, the following new subsection:—

'(5) For the purpose of this section, "group" shall have the same meaning as in section 4 of the Companies Act, No. 17 of 1982, and includes a company duly incorporated outside Sri Lanka, a body corporate formed in pursuance of any decree, any foreign country, Royal Charter or letters patent and a body corporate established by or under any written law and shall not include the Central Bank or a private company incorporated outside Sri Lanka except the banks specified in Schedule 1 to this Act.'

4. Section 3 of the principal enactment is hereby amended by subsection (2) of that section by the repeal of paragraph (e) of that subsection, and the substitution thereof by the following paragraph—

Amendment of section 3 of the principal enactment.

"(c) in the case of an application by a company or body corporate incorporated outside Sri Lanka, a written undertaking supported by a resolution of its Board of Directors, stating that such company or body corporate as the case may be shall on demand by the Central Bank, provide such funds as may be necessary to meet all obligations and liabilities incurred in the carrying on of its business of banking in Sri Lanka, and a report containing such information as may be determined by the Monetary Board from the monetary authority of the country in which such company or body corporate was incorporated or formed as the case may be ;".

3 Section 4 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words "any company incorporated outside Sri Lanka", and "such company" of the words "any company or body corporate incorporated outside Sri Lanka", and "such company or incorporated body" respectively ;
- (2) in subsection (3) of that section, by the substitution for the words "to all companies incorporated outside Sri Lanka", of the words "to all companies and bodies corporate incorporated outside Sri Lanka" ; and
- (3) in the marginal note to that section, by the substitution for the words "companies incorporated outside Sri Lanka", of the words "companies and bodies corporate incorporated outside Sri Lanka".

4 Section 5 of the principal enactment is hereby amended by subsection (1) of that section by the substitution for the words "and having satisfied itself that the terms and conditions of such licence will be observed by the applicant shall,", of the words "and being satisfied that the terms and conditions of such licence will be observed by the applicant and having regard to the interests of the national economy, may,".

7. Section 9 of the principal enactment is hereby amended by subsection (1) of that section by the insertion immediately after paragraph (d) of that subsection, the following new paragraph—

Amendment
of section 9
of the
principal
enactment.

"(e) where it is a licensed commercial bank incorporated outside Sri Lanka, had its licence or authority to operate, cancelled or withdrawn by the appropriate authority or regulatory body of the country in which such bank was incorporated;".

8. The following new section is hereby inserted immediately after section 11, and shall have effect as section 11A of the principal enactment:—

Insertion
of new
section 11A
in the
principal
enactment.

<sup>"Section 30
of the
Monetary
Law Act
to be
applicable</sup>

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

9. The following new section is hereby inserted immediately after section 13 and shall have effect as section 13A of the principal enactment:—

Insertion
of new
section 13A
in the
principal
enactment.

<sup>"Mobile
banking
units</sup>

13A. (1) Notwithstanding the provisions contained in paragraph (a) of subsection (1) of section 12, the Deputy Governor may on, guidelines issued by the Monetary Board for such purpose, grant approval for the establishment of mobile banking units, subject to such terms and conditions as he may determine, from time to time.

(2) The Deputy Governor may on a report of Director of Bank Supervision, by order made in writing withdraw the approval granted under subsection (1) or vary the terms and conditions of such approval, and notice of the decision shall be communicated to the relevant licensed commercial bank".

**Insertion
of new
section 14A
in the
principal
enactment.**

10. The following new section is hereby inserted immediately after section 14 and shall have effect as section 14A of the principal enactment:—

**"Memoran-
dum and
Articles
to be
altered
with
approval**

14A. A licensed commercial bank which is a company as defined in section 449 of the Companies Act, No. 17 of 1982, shall not alter its Memorandum of Association and the Articles of Association, without the prior written approval of the Monetary Board.”

**Amendment
of section 16
of the
principal
enactment**

11. Section 16 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section, by the substitution for the words “shall use as part of its name” of the words “shall; except with the prior written approval of the Monetary Board, use as part of its name”; and

(2) in subsection (2) of that section, by the substitution for the words “shall, for the purpose of carrying on any business, use as part of its or his name”, of the words “shall, except with the prior written approval of the Monetary Board, for the purpose of carrying on any business, use as part of its or his name”.

**Amendments
of section 17
of the
principal
enactment**

12. Section 17 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(1) by the substitution in the proviso to that subsection for the words “a subsidiary which—”, of the words “a subsidiary which carries on any one or more of the following businesses—”;

(2) by the substitution in paragraphs (a), (b), (c), (d) and (e) of the proviso to that subsection, for the words “sole business”, of the word “business”; and

(3) by the repeal of paragraph (g) of the proviso to that subsection, and the substitution therefor of the following paragraph:—

(g) carries on any form of business which in the opinion of the Monetary Board is not inconsistent with the business of banking and the provision of finance.”

38. The following new section is hereby inserted immediately after section 17, and shall have effect as section 17A of the principal enactment:—

**Purchase
of shares
fifty per-
cent or less
by a
licensed
commercial
bank.*

*Incorporation
of new
section 17A
in the
principal
enactment.*

17A. (1) subject to the provisions of subsection (2), a licensed commercial bank shall not acquire or hold shares in any company other than a listed public company, and—

- (a) any share holding acquired by such bank shall not be in excess of such percentage of its capital funds as the Monetary Board may determine from time to time; and
- (b) the aggregate amount invested in the shares of listed public companies (excluding companies which are subsidiaries of the bank) shall not exceed, such percentage of its capital funds as may be determined from time to time by the Monetary Board:

Provided however a licensed commercial bank may, without exceeding the limits specified above, acquire shares in a public company other than a listed company, if such acquisition becomes necessary for the purpose of rehabilitating such company to make it financially viable.

(2) The provisions of subsection (1), shall not apply to—

- (a) investment in a subsidiary company of such bank which is a licensed commercial bank;
- (b) investments in any other subsidiary company of the bank acquired with the approval of the Monetary Board;
- (c) any shareholding which the bank might acquire in the course of the satisfaction of any debt due to such bank, or as a consequence of the underwriting of a share issue:

Provided that where as a result of the acquisition of these shares the total investment of the bank exceeds the percentage of capital funds as determined by the Monetary Board under subsection (1), the Bank shall dispose of such excess shares within two years or such longer period as may be determined by the Monetary Board, of the date of such acquisition;

(d) any acquisition or holding of shares in any company which in the opinion of the Monetary Board is established for the advancement and promotion of human resources development and technological development in the banking and financial sectors.

(3) for the purpose of this section "listed public company" means any public company which has its securities listed or quoted in a stock exchange licensed under the Securities and Exchange Commission Act, No. 37 of 1987.".

**Amendment
of section 18
of the
principal
enactment.**

14. Section 19 of the principal enactment is hereby amended as follows:—

(1) by the repeal of subsections (1), (2) and (3) of that section, and the substitution therefor of the following subsections:—

"(1) Subject to the provisions of subsection (3), every licensed commercial bank—

(a) which has been issued with a licence prior to the date of commencement of this section, shall at all times maintain an equality capital in an amount not less than twenty-five million rupees;

(b) which has been issued with a licence after the date of commencement of this subsection, shall at all times maintain an equity capital in an amount not less

then one hundred million rupees or such other amount as the Monetary Board may, having regard to the viability and stability of the banking system and the interest of the national economy and with the concurrence of the Minister, determine from time to time.

(2) "equity capital" shall mean—

- (a) paid up capital if it is a licensed commercial bank incorporated or established in Sri Lanka by or under any written law;
- (b) the amount assigned to such bank by its head office, if it is a licensed commercial bank incorporated or established outside Sri Lanka.

(3) (a) The Monetary Board may, having regard to the deposit liabilities or to the total liabilities including contingent liabilities or to the total assets or to any specified category of assets of a bank, vary from time to time the amounts specified as the minimum amounts required to be maintained by a licensed commercial bank as equity capital under subsection (1) of this section.

(b) For the purpose of computing the minimum required equity capital, when such amount is prescribed in reference to liabilities or assets, both capital and liabilities or assets shall be of such kind and computed in such manner as the Monetary Board may from time to time determine having regard to the interest of national economy.

(c) The Monetary Board shall, in writing, communicate to all licensed commercial banks any variation made by it in respect of the equity capital required to be maintained by a licensed commercial bank.

(d) Where any licensed commercial bank is required by such variation to augment its equity capital, it shall upon application to the Monetary Board, be afforded a period of twelve months.

such longer period as may be granted by the Monetary Board, in which to comply with such requirement.”;

(2) by the repeal of subsection (5) of that section, and the substitution therefor of the following subsection :—

“(5) A licensed commercial bank shall not reduce its equity capital without the prior written approval of the Monetary Board.”;

(3) by the repeal of subsection (7) of that section and the substitution therefor of the following subsection :—

“(7) (a) Every licensed commercial bank shall at all times maintain a capital adequacy ratio as may be determined by the Monetary Board, which shall in determining such ratio to be maintained, as far as practicable adopt the guidelines for capital adequacy set out by Bank for International Settlements in Basle.

(b) Any variation in the capital adequacy ratio referred to in paragraph (a) shall be communicated to every licensed commercial bank by the Monetary Board in writing, provided that every licensed commercial bank which is required by such variation to augment its capital, shall be afforded a period of twelve months or such longer period as may be granted by the Monetary Board, in which to comply with such requirement.”;

(4) by the repeal of subsection (8) of that section; and

(5) by the substitution in subsection (9) of that section, for the words “the capital or capital funds”, of the words “the equity capital or capital funds”.

45. Section 24 of the principal enactment is hereby repealed and the following section is substituted therefor :—

^a Parts III, V, and VI not to apply to off-shore banking in certain circumstances

24. (1) All off-shore operation of a licensed commercial bank under this Part, shall be carried on by its off-shore unit, and subject to the provisions of subsection (2), Parts III, V and VI of this Act, shall not apply in respect of such off-shore banking business.

(2) The Monetary Board may by notice published in the Gazette declare, that all or any of the provisions contained in Parts III, V and VI of this Act shall apply in respect of all off-shore banking business of a licensed commercial bank in general or in respect of its off-shore banking business with residents only.”

16. Section 26 of the principal enactment is hereby amended by the substitution for the words and figures “specified under section 25,”, of the words and figures “specified under section 25 with a resident.”.

<sup>Amendment
of section 26
of the
principal
enactment</sup>

17. Section 29 of the principal enactment is hereby repealed and the following section is substituted therefor:—

^a Parts III, VI, VII of Chapter V of the Monetary Law Act not to apply in certain circumstances

29. (1) Subject to the provisions of subsection (2), the provisions of Parts III, VI and VII of Chapter V of the Monetary Law Act shall not apply in respect of off-shore banking business of a licensed commercial bank.

<sup>Repeal
of section
29 of the
principal
enactment</sup>

(2) The Monetary Board may, by notice published in the Gazette declare that all or any of the provisions of Parts III, VI, and VII of Chapter V of the Monetary Law Act (Chapter 422), shall apply in respect of the off-shore banking business of a licensed commercial bank in general or in respect of its off-shore banking business with residents only.”.

48. Part IVA of the principal enactment other than section 34A, is hereby repealed.

<sup>Repeal of
part IVA
other than
section 34A
of the
principal
enactment</sup>

**Amendment
of section
34A
of the
principal
enactment**

19. Section 34B of the principal enactment is hereby amended as follows:—

- (1) in subsection (2) of that section by the subsection for the words "Where a licenced commercial bank authorized by the Monetary Board under this Part opens a numbered account", of the words "Where a licensed commercial bank has opened a numbered account";
- (2) by the addition at the end of that section, the following new subsection—

(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.'

**Amendment
of section
38 of
the
principal
enactment**

20. Section 38 of the principal enactment is hereby amended as follows:—

- (1) in subsection (1) of that section, by the substitution for the words "after the close of the financial year its balance sheet", of the words "after the close of the financial year its audited balance sheet"; and
- (2) in subsection (2) of that section by the substitution for the words "close of each financial year its balance sheet", of the words "close of each financial year its audited balance sheet".

**Insertion of
new section
38A in the
principal
enactment.**

21. The following new section is hereby inserted immediately after section 38 and shall have effect as section 38A of the principal enactment:—

**"Director
of Bank
Supervision
to issue
list of
qualified
auditors."**

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. Section 39 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section, by the substitution for the words "appoint annually a qualified auditor to audit", of the words "appoint annually from and out of the list issued by the Director of Bank Supervision under section 38A, a qualified auditor to audit"; and

(2) by the insertion immediately after subsection (3) of that section, of the following new subsection:—

"(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 Monetary Board 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),

and the cost of such additional audit or such other work shall be met by the Central Bank.'

23. Section 42 of the principal enactment is hereby amended as follows:—

**Amendment
of section 39
of the
principal
enactment**

**Amendment
of section
42 of the
principal
enactment**

(1) by the repeal of subsection (1) of that section, and the substitution therefor of the following subsection :—

“(1) No person shall be appointed or elected as a director of a licensed commercial bank if he—
 (a) has been under any written law in force in Sri Lanka, found or declared to be of unsound mind ; or
 (b) is a person who, having been declared insolvent or bankrupt under any law in force in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt ; or
 (c) has been convicted of an offence involving moral turpitude and punishable with a term of imprisonment ; or
 (d) is an employee or a director of any other licensed commercial bank or an employee (other than the chief executive officer) of the bank ;” ; and

(2) by the repeal of paragraph (c) of subsection (2) of that section.

24. Section 43 of the principal enactment is hereby repealed and the following section substituted therefor :—

~~Repealment of section 43 of the principal enactment.~~

“Secretary of a licensed commercial bank.”

43. A licensed commercial bank shall appoint as its Secretary, a person who possesses such qualifications as may be prescribed for a secretary of a company, under subsection (1) of section 176 of the Companies Act, No 17 of 1982 and on being appointed the Secretary, shall unless such person is already an employee of such licensed commercial bank, become an employee of that bank and shall not become an employee of any other institution so long as such person continues to be employed as the Secretary of such licensed Commercial Bank.”

23. Section 46 of the principal enactment is hereby amended as follows:—

*Amendment
of section
46 of the
principal
enactment*

(i) by the repeal of paragraph (c) of subsection (1) of that section and the substitution therefor of the following paragraph:—

"(c) the maximum amount of accommodation which having regard to the equity capital, reserves and deposits of such licensed commercial bank and other relevant considerations, as may be made by such bank—

(i) to any one, company, public corporation, firm, association of persons or individual;

(ii) in the aggregate to—

(a) to an individual, his close relations or to a company or firm in which he has a substantial interest.";

(b) a company and one or more of the following:—

(aa) its subsidiaries;

(bb) its holding company;

(cc) its associate company;

(dd) a subsidiary of its holding company; or

(ee) a company in which such company or its subsidiary, or its holding company, or a subsidiary of its holding company has a substantial interest.";

(ii) by the insertion immediately after subsection (1) of that section of the following paragraph:—

"For the purpose of this subsection, a company is deemed to be an "associate company" of another company, where not less than twenty per centum and not more than fifty per centum of its shares are held by that other company."

Inser~~tion~~
of new
section 46A
in the
principal
enactment.

26. The following new section is hereby inserted immediately after section 46, and shall have effect as section 46A of the principal enactment:—

<sup>“ Imposition
of general
and specific
provisions
requirements
for bad
and doubtful
debts.”</sup> 46A. The Monetary Board shall have the power to require both general and specific provisions relating to bad and doubtful debts, to be made by licensed commercial banks and it shall be the duty of all licensed commercial banks to conform with the requirement so imposed.”

Amendmen~~t~~
of section 47
of the
principal
enactment.

27. Section 47 of the principal enactment is hereby amended as follows:—

(1) in subsection (6) of that section, by the substitution for the words “whichever is applicable.”, of the words—

“ whichever is applicable:

Provided that the provisions of this section shall not apply to a director who at the time of the grant of an accommodation, was an employee of the bank and the accommodation was granted under a scheme applicable to the employees of such bank”; and

(2) by the insertion immediately after subsection (11) of that section, the following new subsection:—

“(11A) Where any accommodation is granted by a licensed commercial bank to a director or to a close relation of such director or to any concern in which such director has a substantial interest during the course of any financial year such accommodation shall be disclosed in the accounts for that financial year.

The requirement imposed under this subsection shall be in addition to and not in derogation of any requirement imposed by the Companies Act, No. 17 of 1982 or any other written law.”.

28. The following new section is hereby inserted immediately after section 48, and shall have effect as section 48A of the principal enactment :—

**"Purchase
and acquisi-
tion of
immovable
property."**

48A. A licensed commercial bank shall not purchase or in any other way acquire any immovable property or any right therein exceeding in the aggregate such percentage of its capital funds as may be determined by the Monetary Board from time to time, except as are reasonably required for the purpose of conducting its banking business or of housing or providing amenities for its staff :

Provided this restriction shall not prevent the bank from accepting any immovable property as security for a debt and in the event of default in payment of the debt, from holding such immovable property until its sale at the earliest opportunity. ”.

29. The following new section is hereby inserted immediately after section 49 and shall have effect as section 49A of the principal enactment—

**"In case
of insolvency
to inform
Director
of Bank
Supervision."**

49A. Any licensed commercial bank which considers that it is, or is likely to be unable to meet its obligations or is about to become insolvent or is about to suspend payments due to depositors and other creditors, shall forthwith inform the Director of Bank Supervision of that fact. ”.

30. The following new Part is hereby inserted immediately after Part VII and shall have effect as Part VIIA of the principal enactment :—

**Insertion of
new section
48A in the
principal
enactment.**

**Insertion of
new section
49A in the
principal
enactment.**

**Insertion of
new Part
VIIA in the
principal
enactment.**

'PART VIIA

VESTING THE BANKING BUSINESS OF A LICENSED COMMERCIAL BANK

**Order
vesting
banking
business
of any
licensed
bank.**

49B. (1) Whereupon a report made by the Director of Bank Supervision, the Monetary Board is satisfied that any licensed commercial bank is unable to carry on banking business in Sri Lanka; or is unable to meet the demands of its depositors and other per-

sons who have had transactions with such licensed commercial bank (in this Part of this Act referred to as "the defaulting bank") and that its continuance in business is likely to involve serious economic loss to, and to adversely affect, the monetary and banking system and the national economy, the Monetary Board may, notwithstanding the provisions of any other law to the contrary, by Order published in the Gazette, vest the business carried on by a defaulting bank being a business which it is authorized to carry on by or under this Act or such part thereof as the Monetary Board may determine, in another licensed commercial bank (in this Part of this Act referred to as the "acquiring bank") which consents to sub vesting.

(2) For the purpose of subsection (1), the "business carried on by a defaulting bank" includes—

- (a) all immovable and movable property owned by the defaulting bank on the day preceding to relevant date (including cash balances, reserve funds, investments and deposits);
- (b) all rights, powers, privileges, authorities and interests arising in, or out of, any property, moveable or immovable, owned by the defaulting bank on the day preceding the relevant date;
- (c) all the liabilities of the defaulting bank and subsisting on the day preceding the relevant date; and
- (d) all books, accounts and documents relating or appertaining to such undertaking in Sri Lanka.

Order to
be made
after the
acquiring
bank
agrees to
comply
with terms
and
conditions.

49c. No Order under section 49B shall be made by the Monetary Board unless—

- (a) the Monetary Board is satisfied that the proposed acquiring bank, is capable of carrying on in a competent manner the business of the defaulting bank proposed to be vested, and of meeting liabilities of the defaulting bank to its depositors and creditors pertaining or relating to the business proposed to be vested;
- (b) the proposed acquiring bank agrees in writing to comply with such terms and conditions as may be specified by the Monetary Board relating to the manner in which—
 - (i) any existing assets of the defaulting bank pertaining or relating to the business proposed to be vested, are to be used and any existing liabilities of the defaulting bank pertaining or relating to the business proposed to be vested are to be met;
 - (ii) any payments due to a sovereign Government from the defaulting bank are to be made.

Effect
of an
Order.

49d. With effect from the date of publication of the Order under section 49B in the Gazette, (in this Part of this Act referred to as the "relevant date") vesting the business of the defaulting bank or part thereof in the acquiring bank—

- (a) the acquiring bank shall have control and possession of the vested business of the defaulting bank, and become the transferee of the vested business of such defaulting bank;

- (d) the licence issued under this Act to the defaulting bank to carry on the business vested in the acquiring bank shall be modified to the extent necessary to enable the defaulting bank to carry on such part of its business as has not been vested in the acquiring bank;
- (c) the acquiring bank shall comply with such terms and conditions as are agreed to by such bank under paragraph (b) of section 49c and such other directions as the Monetary Board may give to such bank under this Act; and
- (d) the licence issued under this Act to the defaulting bank to carry on banking business, shall where both domestic and off-shore banking business of such bank are vested in the acquiring bank, be deemed to be cancelled.

The extent of the liability of the acquiring bank in respect of foreign currency depositors.

49E. Notwithstanding anything to the contrary in this Act or any other written law, the liability of the acquiring bank to meet the demands of any foreign currency depositor of the defaulting bank, in case of the foreign currency deposits of the defaulting bank not being made available to the acquiring bank, shall be only in respect of such depositors as agree to accept the terms and conditions of any scheme for the grant of relief to such depositors, as may be formulated by the Monetary Board, upon a review of the business of the defaulting bank and only to the extent set out in such scheme:

Provided, however, that in the event of such foreign currency deposits being made available to the acquiring bank or the acquiring bank recovering such foreign currency deposits or other assets abroad of the defaulting bank, the Monetary Board shall have the power to give directions to the acquiring bank with regard to the payment to such foreign currency depositors, of the deposits

so made available or deposits and other assets so recovered, and the acquiring bank shall comply with such directions.

Audit of accounts and valuation of vested business.

49F. (1) For the purpose of ascertaining the value of the vested business of the defaulting bank on the day immediately preceding the relevant date, the Director of Bank Supervision shall cause an audit of such vested business to be conducted by a qualified auditor appointed by him with the approval of the Monetary Board.

(2) The auditor appointed under subsection (1) shall submit a report to the Director of Bank Supervision within three months from the date of his appointment and the Director of Bank Supervision shall forward such report to the Monetary Board and the Monetary Board shall consider the report and if necessary, require the Auditor to furnish any further information, or explanations as it may consider necessary.

(3) the auditor appointed under subsection (1) shall examine the accounts of the defaulting bank and ascertain the correctness of the balance sheet and furnish a report stating—

(a) whether he has or has not obtained all the information and explanations required by him;

(b) whether he has or has not obtained accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the defaulting banks affairs; and

(c) the value of the assets and liabilities of the vested business.

(4) the Monetary Board after considering the report of the auditor, shall direct the acquiring bank to pay in such manner and within such time as it may specify the value of the vested business to the defaulting bank or its liquidators or successors, as the case may be.

(5) The payment required to be made to the defaulting bank in pursuance of a direction under subsection (4) and all payments required to be made to the auditor appointed under subsection (1), shall be made by the acquiring bank in accordance with such terms and conditions as may be determined by the Monetary Board.

Saving provision.

49G. With effect from the relevant date—

(a) all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation, and other instruments of whatever nature pertaining, or relating to the vested business of the defaulting bank and subsisting, or having effect on the day immediately preceding the relevant date, and to which the defaulting bank is a party or which are in favour of the defaulting bank, shall be deemed with effect from the relevant date to be contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation or other instruments entered in to or granted, as the case may be, by the acquiring bank;

(b) all actions and proceeding of whatever nature instituted by or against the defaulting bank pertaining or relating to the vested business of the defaulting bank, and pending on the day immediately preceding the relevant date, shall be deemed with effect from the relevant date to be actions and proceedings instituted by or against the acquiring bank, and may be continued or prosecuted accordingly;

(c) all such officers and servants of the defaulting bank as are connected with such part of the business the defaulting bank as was vested

or all the officers and servants of the defaulting bank where the entirety of the business of the bank is vested, as the case may be, on the day immediately preceding the relevant date, who are not offered employment with the acquiring bank, shall be entitled to the payment of compensation.

Payment of compensation

49H. Where any officer or servant of the defaulting bank is entitled to be paid compensation, the acquiring bank shall determine the amount of compensation that shall be paid in consultation with the Commissioner of Labour and such determination shall be deemed not to affect the right such officer or servant may have under any other written law.

Offences

49J. Any person who contravenes or fails to comply with any provision of this part or term or condition imposed thereunder shall be guilty of an offence under this Act.

**Section 12(c)
not to apply in respect of defaulting bank**

49K. Nothing contained in the provisions of paragraph (c) of subsection (1) of section 12 shall apply in relation to the vesting of banking business of a defaulting bank or part thereof to an acquiring bank.

Interpretation

49L. In this Part of this Act unless the context otherwise requires—

“value of the vested business” means the value of the assets of the defaulting bank vested in the acquiring bank by virtue of an Order made under section 49B (excluding unrecoverable assets as determined by the auditor nominated under section 49F) less the value of the liabilities of the defaulting bank vested in the acquiring bank, by virtue of such Order;

“vested business” in relation to an acquiring bank or a defaulting bank, means the banking business of the defaulting bank or part thereof, which is vested in such acquiring bank by an Order under section 49B.”

31. The following new Part is hereby inserted immediately after Part IX and shall have effect as Part IXA of the principal enactment:—

Insertion of new part IXA in the principal enactment

PART IXA

Licensed Specialised Banks

**Licensing
of certain
institutions**

76A. (1) From and after such date as may be determined by the Minister by Order published in the Gazette, the business of accepting deposits of money and investing and lending such money shall not be carried on except by a company which has an equity capital in an amount not less than fifty million rupees and under the authority of a licence issued by the Monetary Board for such purpose under this Part of this Act:

Provided however, the requirement to obtain a licence shall not apply in respect of a company registered as a Finance Company under Finance Companies Act, No. 78 of 1988, a Co-operative Society registered under the Co-operative Societies Law, No. 5 of 1972, a building society incorporated under the National Housing Act (Chapter 401) and to a company licenced as a licensed commercial bank under the provisions of this Act and to any organization established or registered under any written law, not being an organization established primarily for the purpose of making profit, which accepts deposits only from its registered members and has obtained permission in writing from the Monetary Board to accept such deposits and to invest or lend the monies so accepted.

(2) Where such company is a company incorporated outside Sri Lanka, no licence shall be issued under this Part of this Act unless such company has complied with the provisions of Part XIII of the Companies Act, No. 17 of 1982.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section and of section 76B, all institutions specified in Schedule III of this Act, shall be issued a licence in accordance with the provisions of this Part of this Act on or after the date determined by the Minister under subsection (1).

(4) Any company carrying on business in contravention of subsection (1), shall be guilty of an offence under this Act.

(5) For the purposes of this section "company" shall have the same meaning as defined in section 449 of the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or a body corporate formed in pursuance of any statute of any foreign country, Royal Charter or letters patent and a body corporate established by or under any written law and shall not include a private company incorporated outside Sri Lanka; and

"equity capital" shall have the same meaning as in subsection (2) of section 19 of this Act.

Application for licence.

76B. (1) Every application for a licence under section 76A shall be made to the Monetary Board in the prescribed form, and shall contain a declaration by the applicant that the particulars stated in the application are to the knowledge and belief of the applicant true and accurate.

(2) Every application for a licence shall be accompanied by—

(a) a copy of the Memorandum and the Articles of Association of the Company or the constitution of the company or any other document associated with the same;

(b) in the case of an application by a company or body corporate incorporated outside Sri Lanka, a written undertaking supported by a resolution of its Board of Directors stating that such company or body corporate, as the case may be, shall on demand by the Central Bank provide such funds as may be necessary to cover all obligations and liabilities incurred in the carrying on of its business in Sri Lanka, and a report

containing such information as may be determined by the Monetary Board from the monetary authority of the country in which such company is incorporated.

(3) On receipt of an application under subsection (1) the Monetary Board may, where such Board considers it necessary, require the applicant to furnish such other documents or particulars as may be necessary, in order to determine whether a licence should be issued or not, to such company.

(4) Any applicant who submits an application and other documents under this section containing information which to his knowledge is false or misleading in any material particular shall be guilty of an offence under this Act.

**Issue of
licence.**

76c. (1) On receipt of an application under section 76b, the Monetary Board having considered the documents and particulars accompanying such application, and being satisfied—

- (a) that it is appropriate to permit the applicant to use the term "bank" or any of its derivatives or its transliterations;
- (b) that the terms and conditions of the licence will be observed by the applicant, and
- (c) that it is not detrimental to the interests of the national economy to issue such licence to the applicant.

may, with the approval of the Minister issued a licence to the applicant under this Part of this Act.

(2) The licence shall specify the place, places or area within which such company may carry on its business, and such company shall not carry on business in any other place except with the written approval of the Monetary Board.

(3) Any company which has been issued with a licence under this Part of this Act shall hereinafter be referred to as a "licensed specialised bank."

(4) A licensed specialised bank may carry on such forms of business as are specified in Schedule IV to this Act, subject to such restriction as may be expressly stipulated in the licence on the form of business that it may be permitted to carry on.

(5) A licensed specialised bank carrying on business under the authority of a licence issued under this Part of this Act shall be deemed not to act in contravention of section 2 of the Finance Companies Act No. 78 of 1988.

Use of the term "Bank".

76D. (1) A company which has been issued with a licence under this Part of this Act shall use as part of its name or its description any of the words "bank", "banker" or "banking" in any language:

Provided however, a company incorporated outside Sri Lanka or an institution specified in Schedule III to this Act, whose name does not contain the word "bank", "banker" or "banking" in any language may carry on its business notwithstanding the omission of these words from its name or description.

(2) Nothing in this section shall apply to a company which, within one week of its incorporation, applies for a licence under section 76B and until such time as the decision of the Monetary Board in respect of the application is conveyed to the company.

Register of specialised banks.

76E. The Monetary Board shall keep and maintain in the prescribed form a register of every institution licenced as a licensed specialised bank under this Part of this Act.

**Cancellation
of licence.**

76S. (1) Without prejudice to its powers under section 76M where the Monetary Board is satisfied that any licensed specialised bank has—

- (a) failed to commence business within nine months of the issue of the licence; or
- (b) failed to pay up any debts incurred by it, on such debts becoming due; or
- (c) where a petition or action for relief has been filed against it, had appointed in respect of it, under any bankruptcy law or any other law which provides for relief of debtors or which relates to debtors, a custodian or receiver; or
- (d) ceased to carry on business in respect of which the licence was issued; or
- (e) continuously violates or contravenes the provisions of this Part of this Act or any directions issued thereunder, or
- (f) had its licence or authority to operate cancelled or withdrawn by the appropriate authority or regulatory body of the country in which such bank is incorporated,

the Monetary Board may, give notice that it would cancel the licence issued to such licensed specialised bank and shall communicate such notice to such bank.

(2) A licensed specialised bank may tender objections in writing to the Monetary Board against the notice of cancellation given under subsection (1), within thirty days of the date of receipt of such notice, giving reasons why the licence issued to it should not be so cancelled.

(3) After the expiration of sixty days from the date of the notice of the cancellation and after considering the objections tendered to the Monetary Board under subsection (2), the Board may withdraw such notice or cancel the licence issued and shall notify such bank accordingly.

(4) A cancellation of a licence under subsection (3), shall take effect—

- (a) where no appeal is preferred under subsection (5), after the period for preferring such appeal has expired; or
- (b) where an appeal against the cancellation is preferred under subsection (5), after the cancellation is upheld by the Court of Appeal,

and notification of such cancellation shall be published in the Gazette.

(5) Any person aggrieved by a decision of the Monetary Board in respect of any cancellation under subsection (3), may appeal against such decision to the Court of Appeal within fourteen days of his being informed by the Board of such cancellation.

(6) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall apply to every appeal made under this section.

(7) The Court of Appeal may on an appeal made to it under subsection (5), confirm, revise, modify or set aside the decision against which the appeal is made and make any other order as the interests of justice may require.

(8) Where a licence is cancelled, the Monetary Board shall remove the name of such licensed specialised bank from the register maintained under section 76g and may issue such directions as it considers necessary, including directions for winding up of such licensed specialised bank.

(9) Where the licensed specialised bank fails to comply with a direction issued under subsection (8) for the winding up of the company within thirty days of the issue of such directions, the Monetary Board may require the Director of Bank Supervision to file action for the winding up of the licensed specialised bank, and the provisions of section 76M shall apply to such winding up.

**Capital to
be maintained
by a
licensed
specialised
bank.**

76G. (1) A licenced specialised bank shall, at all times maintain an equity capital of not less than fifty million rupees.

(2) A licenced specialised bank shall not reduce or impair its equity capital or statutory reserves without the prior written approval of the Monetary Board.

(3) For the purpose of this section —

(a) "equity capital" shall have the same meaning as in subsection (2) of section 19 of this Act; and

(b) "statutory reserves" means any reserve funds maintained by the licensed specialised bank in pursuance of a direction issued to it under this Part of this Act.

**Part V of
this Act
to
apply.**

76H. The Provisions of Part V of this Act shall apply in respect of licensed specialised banks as if the expression "licensed commercial bank" wherever that expression occurs in that Part was substituted with the expression "licensed specialised bank".

**Directions
of the
Monetary
Board.**

76J. (1) Notwithstanding the provisions of any other law the Monetary Board may give directions to licensed specialised banks or to any category of licensed specialised banks, regarding the manner in which any aspect of the business of such banks is to be conducted and in particular—

(a) the maintenance of capital adequacy ratios by the licensed specialised banks of such amounts as may be determined by the Monetary Board;

- (b) the maintenance of the reserve fund of a licensed specialised bank including its reduction or impairment;
- (c) the terms and conditions under which depositors may be accepted, the maximum rates of interest payable on such deposits, and the maximum periods for which deposits may be accepted and the maximum amount which may be deposited with a licensed specialized bank in the name of one person in one or more accounts;
- (d) the terms and conditions under which any loan, credit facility or any type of accommodation may be granted by such banks, the maximum rates of interest that may be charged on such loans, credit facilities or other types of accommodation, and the maximum priods for which any such loan, credit facility or other type of accommoda-
tion may be granted ;
- (e) the maximum rates which may be paid to, or charged by, such banks by way of commissions, discounts, fees or other receipts or payments whatsoever ;
- (f) the minimum initial payment a prospective hirer should make on any hire purchase agreement and specific different initial payments . for different classes of transactions ; such mininum initial payment may be expressed as a percentage of the value of the goods hired under such agreement ;
- (g) the terms and conditions under which investments may be made by such banks ;
- (h) the maximum permissible maturities for loans, credit facilities or other types of accommodation and investments made by such banks, and the nature and amount of the

security that may be required or permitted for various types of lending, credit and investment operations;

- (i) the form and manner in which books of accounts or other records or documents are to be maintained by such banks;
- (j) the exclusion from the income of licensed specialised banks in whole or in part, unpaid interest in respect of loans granted, if such loans have become overdue;
- (k) the minimum ratio which the liquid assets of such banks should bear to the total deposit liabilities of such banks;
- (l) the maintenance of cash balances by licensed specialised banks with the Central Bank if so required by the Monetary Board, and the minimum ratio such cash balances should bear to the deposit liabilities of licensed specialised banks;
- (m) conditions which should be applicable to withdrawal by depositors of deposits before maturity;
- (n) prohibiting such banks from increasing the amount of their loans, credit facilities, other types of accommodation or investments;
- (o) fixing limits to the rate at which the amount of any loans, investments or accommodation made or granted by them may be increased within specified periods;
- (p) requiring the decrease of the amount of their loans, investments or accommodation to specified limits within a specified period;

- (q) the maximum percentage of the share capital in a licensed specialised bank which may be held—
- (i) by a company, an incorporated body, or an individual ;
 - (ii) in the aggregate by—
 - (a) a company and one or more of the following :—
 - (aa) its subsidiary companies
 - (bb) its holding company ;
 - (cc) a subsidiary company of its holding company ;
 - (dd) a company in which such company or its subsidiary company, or its holding company, or a subsidiary company of its holding company has a substantial interest ; or
 - (b) an individual and one or more of the following :—
 - (aa) his close relation ;
 - (bb) a company in which he has a substantial interest or in which his close relation has a substantial interest ;
 - (cc) the subsidiary company of such company ;
 - (dd) a holding company of such company ;
 - (ee) a subsidiary company of such company's holding company ;

(ff) a company in which such company or its subsidiary company, or its holding company has a substantial interest; or

(gg) an incorporated body other than a company in which such individual or his close relation has a substantial interest:

Provided, however that a direction given under this paragraph shall not require the reduction of the shares of a person held in a licensed specialised bank on the date of commencement of this Part of this Act, otherwise than on a requirement imposed on such bank under the provisions of paragraph (d) of subsection (1) of section 76K or on a shareholder under the provisions of paragraph (d) of subsection (1) of section 76N;

(r) the margins to be maintained in respect of secured advances;

(s) the terms and conditions relating to leasing agreements between the licensed specialised bank and a lessee;

(t) restriction on the types of activities that may be carried on by licensed specialised banks.

(2) The maximum rates of interest fixed by any direction under paragraphs (c) and (d) of subsection (1) shall, if so determined by the Monetary Board, apply in respect of any deposit accepted or in respect of any loan, credit facility or any other financial accommodation granted, before the date of such direction:

Provided, however, that nothing in this section or in any direction shall—

(a) apply to any interest accrued before the date of such direction in respect of any such deposit or loan, credit facility or other financial accommodation arising from the period preceding the date of (a).

(b) require the reduction of the rate of interest payable on any deposit held by an individual, or loan, credit facility, or financial accommodation granted before the date of such direction, if such reduction would constitute a breach of the contract or agreement relating to such deposit, loan, credit facility or other financial accommodation, as the case may be.

(3) For the purposes of this Part of the Central Bank Act, the Monetary Board may give directions where necessary to any particular licensed bank or to a specialised bank in particular on such matters as are specified in subsection (1).

(4) The Monetary Board may at its discretion pay interest on any sum balance maintained by a licensed specialised bank if the Central Bank in pursuance of a direction issued to it under paragraph (1) of subsection (1) at such rate as may be determined by the Monetary Board.

(5) A licensed specialised bank which fails to act in compliance with a direction issued under this section or acts in contravention of such direction shall be guilty of an offence under this Act.

~~Proceedings relating to~~ 78K. (1) Where the Monetary Board or the Director of Bank Supervision is of the opinion that a licensed specialised bank—

(i) is following unusual or erratic financial practices, detrimental to the interest of its depositors; or

(ii) is likely to carry its business in a manner detrimental to the interest of its depositors; or

and has reasonable cause to do so;

(iii) has contravened or failed to comply with any provisions of this Part and of Part V of this Act, or any direction issued thereunder,

the Monetary Board may direct such bank—

(a) to cease following any such practice or desist from any such contravention ; or

(b) to comply with the provisions of this Part and Part V of this Act ; or

(c) to take necessary action to correct the conditions resulting from such practice or contravention ; or

(d) to secure the reduction of the number of shares held in the company by any person.

(2) Any licensed specialised bank dissatisfied with an order given under subsection (1) may, before the expiry of thirty days from the date of the issue of such order, appeal in writing to the Monetary Board and the Board shall render its decision within fifteen days of receipt of such appeal.

(3) In order to comply with a direction issued to it under paragraph (d) of subsection (1), a licensed specialised bank may direct a person holding shares in such bank to reduce the number of shares held by such person in such bank, whether such shares were acquired by such person before or after the date of commencement of this Part of this Act, within such period as may be specified in such direction ; and it shall be the duty of such person to comply with such direction.

(4) The licensed specialised bank or a shareholder who fails to comply with a direction given to it or him under subsection (1) or subsection (3), as the case may be, shall be guilty of an offence under this Act, and shall on conviction after summary trial by a Magistrate be liable to imprisonment for a term not exceeding eighteen months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

**Power of
Director
of Bank
Supervision
to examine
books and
accounts of
a licensed
specialised
bank.**

76L. (1) The Director of Bank Supervision may at any time, examine or authorize any officer of his department to examine, the books and accounts of any licensed specialised bank.

(2) The report on any such examination shall be furnished to the Governor of the Central Bank by the Director of Bank Supervision as soon as such examination is completed. The Director of Bank Supervision may recover the costs of such examination from the licensed specialised bank.

(3) It shall be lawful for the Director of Bank Supervision or any officer authorized by him—

(a) to administer, in accordance with the Oaths Ordinance, oaths or affirmations to any director, manager, secretary, employee or auditor of any licensed specialised bank;

(b) to require any director, manager, secretary, employee or auditor of any licensed specialised bank to furnish all such information relating to the affairs of the bank, as the Director of Bank Supervision or any officer authorized by him may consider necessary to ascertain, for the purpose of this Part of this Act.

(c) to require any director, manager, secretary, employee or auditor of any licensed specialised bank to produce for inspection any books, records or document relating to the affairs of the bank, in his possession or custody, which is likely to contain any such information;

(d) in any case where there is evidence of mismanagement by a licensed specialised bank, to require any director, manager or secretary of such bank to submit the accounts of the bank for audit by an auditor authorized by the Director of Bank Supervision and to require the bank to furnish such information, or produce

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the Director of Bank Supervision may require any officer or employee of such bank to pay such fees, as may be specified, or authorized by the Director of Bank Supervision to such officer.

(1) It shall be the duty of every director, manager, secretary, employee or any auditor of any licensed specialised bank to comply with any requirement imposed on him under this section and to afford to the Director of Bank Supervision or to any officer authorized by him or to any auditor authorized by him under paragraph (d) of subsection (3), access to all books and records of such licensed specialised bank including its cash balances, assets and liabilities whenever requested to do so by the Director of Bank Supervision.

(5) The Director of Bank Supervision may, where he considers it necessary to ascertain the true condition of the affairs of a licensed specialised bank and to ascertain whether such bank is carrying on business in a manner detrimental to its present or future depositors, by notice in writing require any person whom he considers to have information relating to the licensed specialised bank, to furnish such information to him or to any officer authorized by him or to any auditor authorized by him under paragraph (d) of subsection (3) or to attend the person before him or any officer authorized by him at such place and at such date and time as may be specified in such notice, so that the person may be examined on such matters as may be specified in such notice.

(6) For the purpose of ascertaining the true condition of the affairs of the licensed specialised bank, the Director of Bank Supervisor may if he thinks it necessary for the purpose of an examination under subsection (5), also examine the business of any company which is or has at any relevant time been—

(a) a holding company or subsidiary company of the licensed specialised bank under examination;

- (b) a subsidiary company of a holding company of the licensed specialised bank;
- (c) an associate company of that licensed specialised bank,

and may exercise in relation to any such company, any of the powers conferred on him by the preceding provisions of this section.

In this subsection "associate company" when used in relation to a licensed specialised bank, means a company in which the licensed specialised bank holds ordinary shares equivalent to twenty per centum or more but less than fifty per centum of the paid up share capital of the company.

(7) Any person who fails to comply with any requirement imposed on him by the Director of Bank Supervision under subsections (5) or (6) shall be guilty of an offence under his Act.

Winding up or dissolution

76M. (1) In any case where the Director of Bank Supervision is satisfied after examination by him self or by any officer authorised by him, of the affairs of a licensed specialised bank, or upon information received from the bank that it is insolvent or is likely to become unable to meet the demands of its depositors or that its continuance in business is likely to involve loss to its depositors or creditors, the Director of Bank Supervision shall make a report accordingly to the Governor of the Central Bank for submission to the Monetary Board; and if such Board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinbefore provided, the Monetary Board may make an order directing the bank forthwith to suspend business and direct the Director of Bank Supervision to take all measures as may be necessary to prevent the continuation of business by such bank. Any person who obstructs the Director of Bank Supervision from taking such measures to prevent the continuation of business by the company shall be guilty of an offence under this Act.

(2) Notwithstanding anything in any other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order made in good faith under subsection (1) or in respect of any loss or damage incurred, or likely to be incurred by reason of such order.

(3) An order made by the Monetary Board under subsection (1) in respect of a licensed specialised bank shall cease to have effect upon the expiration of a period of sixty days from the date on which it is made and it shall be the duty of the Monetary Board as soon as practicable and in any event before the expiration of such period—

(a) to make an order permitting the bank to resume business, either unconditionally or subject to such conditions as the Monetary Board may consider necessary in the public interest; or in the interest of the depositors and other creditors of the bank; or

(b) to cancel the licence issued to such licensed specialised bank, and—

(i) where the licensed specialised bank is a company within the meaning of section 449 of the Companies Act, No. 17 of 1984, direct the Board of Directors of such company to apply for the winding up of the company under the supervision of a court in accordance with the provisions of Part IX (other than section 347) of such Companies Act;

(ii) where the licensed specialised bank is a public corporation established by or under a written law, inform the Minister to whom such public corporation has been assigned to enable him to take all such necessary steps under the Finance Act No. 38 of 1971, for dissolving such corporation;

(iii) where the licensed specialised bank is a company or other body incorporated outside Sri Lanka, its business affairs shall be wound up in accordance with the provisions contained in section 70 of this Act and the provisions of that section shall apply, *mutatis mutandis*, in respect to such winding up.

(4) The provisions of section 66 of this Act shall apply in relation to the priority of claims in a winding up proceedings of a company referred to in sub-paragraph (ii) of paragraph (b) of subsection (3).

Power of Director of Bank Supervision to issue directions in respect of connected matters

76N. (1) Notwithstanding the provisions of this Act or of any other written law to the contrary or the Memorandum and Articles of Association of a licensed specialised bank, the Monetary Board may, where an order has been made by the Board under paragraph (a) of subsection (3) section 76M.—

(a) make such arrangements as it considers necessary for the amalgamation of the licensed specialised bank with another licensed specialised bank or any other institution, with the consent of such other licensed specialised bank or institution;

(b) re-organise such licensed specialised bank by increasing its capital and arranging for new shareholders and by reconstituting its board of directors; or

(c) re-construct the licensed specialised bank in any such manner as it considers to be in the interest of depositors, including the closing down of unviable sections of the business and re-organising the management;

~~49~~ and ~~50~~

direct any shareholder of any licensed specialised bank to divest or transfer the ownership of the shares owned by him, to a person nominated by the Monetary Board, on payment by such person of compensation determined as follows :—

~~49~~ and ~~50~~

(i) where such shares are quoted, at the market value thereof; or

(ii) where such shares are not quoted, at a price to be determined by a value nominated by the Monetary Board.

(iii) A shareholder who fails to comply with a direction given to him under paragraph (i)

of subsection (1) shall be guilty of an offence.

Section 77 of the principal enactment is hereby amended by the substitution, for the words "any licensed commercial bank shall", of the words "any licensed commercial bank or licensed specialised bank shall".

Section 78 of the principal enactment is hereby amended by the substitution for the words "any licensed commercial bank for", of the words "any licensed commercial bank or licensed specialised bank for".

The following new section is hereby inserted immediately after section 78, and shall have effect as section 79 of the principal enactment :—

~~79A~~ (1) The Director of Bank Supervision may with the approval of the Monetary Board and having regard to the circumstances in which an offence under this Act was committed, compound such offence for a sum of money not exceeding two thousand and fifty thousand rupees.

The proceeding of any offence under this section shall have the effect of an acquittal of the accused."

35. Section 83 of the principal enactment is hereby amended by the substitution, for the words "licensed commercial bank", wherever those words occur in that section, of the words "licensed commercial bank or licensed specialised bank as the case may be".

*Amendments
of section
83 of the
principal
enactment.*

36. The following new section is hereby inserted immediately after section 81, and shall have effect as section 81A of the principal enactment.—

*Insertion
of new
section
81A in the
principal
enactment.*

Schedules II and IV to be included in the principal enactment.

31A. Parliament shall have power by resolution passed in that behalf to amend Schedules II and IV to this Act".

37. The following new section is hereby inserted immediately after section 82, and shall have effect as section 82A of the principal enactment:—

*Insertion
of new
section
82A in the
principal
enactment.*

This Act to prevail over other laws.

82A. 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".

38. The following new sections are hereby inserted immediately after section 83, and shall have effect as sections 83A and 83B of the principal enactment:—

Repeal of sections 83A and 83B in the principal enactment.

Pawn Brokers Ordinance not to apply.

83A. The provisions of the Pawn Brokers Ordinance (Chapter 99) shall not apply to a licensed commercial bank, and such bank may carry on the business of pawn brokers subject to such conditions as may be determined by the Monetary Board.

Companies incorporated outside Sri Lanka to be an accepted company.

83B. A company incorporated outside Sri Lanka which has been issued a licence under section 8 of this Act as a licensed commercial bank, shall with effect from the date of issue of such license, be deemed to be an accepted company for the purposes of the Enterprises (Special Provisions) Law, No. 13 of 1974".

39. Section 84 of the principal enactment is hereby amended as follows:—

*Amendments
of section
84 of the
principal
enactment.*

(a) by the repeal of the definition of the expression "capital funds", and the substitution, of the following definition, for it; and (b) "capitalised funds" means the

(a) in the case of a licensed commercial bank the equity capital and the reserve fund as provided for in section 20 and includes reserves other than funds reserved for specified purposes;

(b) in the case of a licensed specialised bank, the equity capital and the reserves of such bank other than funds reserves for a specified purpose;" and

(2) by the insertion immediately after the definition of the expression "head office of a commercial bank", of the following new definition:—

"Finance Company" means a company registered under the provisions of the Finance Companies Act, No. 78 of 1988, as a Finance Company;".

**Amendment
of Schedule
II to the
principal
enactment.**

40. Schedule II to the principal enactment is hereby amended as follows:—

(1) by the substitution for item (c) of that Schedule of the following item:—

"(c) the carrying on of an agency function for and on behalf of the Government or local authorities or for or on behalf of any person in respect of any business related to the provision of financial services, or to act as the managing agent for any financial institution;"

(2) by the substitution for item (k) of that Schedule, of the following item:—

"(k) undertaking and executing trusts including functioning as a trustee of any Unit Trust;"

(3) by the substitution in item (m) of that Schedule for the words "any other company having objects similar to those of the company" of the words "any other company;"

(4) by the substitution for Item (s) of that Schedule the following Item:—

"(s) the provision of management consultancy services and other technical support services;"

- (S) by the substitution in item (u) of that Schedule for the word "factories," of the word "factoring,"; and
- (T) by the addition at the end of that Schedule of the following new items:—
 - "(w) the business of pawn broking;
 - (x) entering into arrangements for a joint venture with any person or company for conducting a financial services enterprise or conducting any enterprise providing support services for the conduct of its business;
 - (aa) any other business which the Monetary Board may authorize a licensed commercial bank to engage in."

41. The following new Schedules are hereby added immediately after Schedule II:—

SCHEDULE III [Section 76A (3)]

1. National Development Bank of Sri Lanka established by the National Development Bank of Sri Lanka Act, No. 2 of 1979.
2. Development Finance Corporation established by the Development Finance Corporations Act, No. 35 of 1955.
3. State Mortgage and Investment Bank established by State Mortgage and Investment Bank Act, No. 13 of 1975.
4. National Savings Bank established by the National Savings Bank Act, No. 30 of 1971.

Addition
of new
Schedules
to the
principal
enactment

SCHEDULE IV [(Section 76C(4))]

- (a) accepting time and savings deposits and opening, maintaining and managing deposit, savings and other similar accounts excluding however the carrying on of banking business as defined in this Act.
- (b) granting loans and advances, or participating with other financial institutions in granting loans or advances, or participating with other financial institutions in granting loans or advances to any enterprise engaged or about to engage in industry, agriculture or commerce, or to any other enterprise;
- (c) granting loans and advances by way of re-finance of any loans or advances granted by financial institutions to industrial, agricultural, commercial and other enterprises;
- (d) granting loans or advances—
 - (i) for the purchase or lease of any land for the construction of a dwelling house;
 - (ii) for the construction, repair, renovation and extension of a dwelling house;

34. ~~for the purchase or lease of a dwelling house;~~

~~(iv) for any purpose incidental, accessory or ancillary to any purpose mentioned in (i), (ii) and (iii) above;~~

35. to (v) for the liquidation of any debt already incurred for any purpose mentioned in (i), (ii), (iii) and (iv) above;

(e) providing short-term loans and advances to any individual, agricultural, commercial or other enterprise and financing or lending in the institutional money market;

36. arranging, guaranteeing, managing and syndicating loans either in rupees or foreign currency for any public or private company, corporation or association or for the Government or any local government authority whether from its own resources or from other banks and financial institutions;

37. participating in loans, equities, underwriting arrangements and guarantees with other financial institutions;

(d) undertaking wholesale lending to financial institutions;

38. promoting and assisting in the promotion, establishment, expansion and modernisation of any industrial, agricultural, commercial or other enterprise including participating in raising capital both internal and external for such enterprise;

39. guaranteeing loans raised or to be raised by industrial, agricultural, commercial and other enterprises from financial institutions or participating with other financial institutions in guaranteeing such loans;

40. guaranteeing deferred payments due from any industrial, agricultural, commercial and other enterprises;

41. guaranteeing obligations of financial institutions arising out of the underwriting of capital issues of industrial, agricultural, commercial and other enterprises;

42. participating in the equity of industrial, agricultural, commercial and other enterprises, and subscribing to, or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any such enterprises, and selling and dealing in such stocks, shares, bonds or debentures;

43. converting a part or whole of the bank's loans to industrial, agricultural, commercial and other enterprises, and the subscription to bonds or debentures issued by any such enterprises into equity capital;

44. mobilising and promoting savings and for that purpose issuing and dealing in savings certificates and other bonds, certificates and instruments;

45. accepting, discounting, rediscounting, buying, selling and dealing in bills of exchange, promissory notes, occupancy certificate, debentures, securities, cash and other financial assets and securities whether transferable or non-transferable or not, of industrial, agricultural, commercial and other enterprises;

- (2) promoting and introducing specialised financial products, services, packages and instruments;
- (3) providing money buying and margin trading facilities;
- (4) assisting in the development of capital and money markets;
- (5) undertaking trust functions including acting as managers of Unit Trust;
- (6) borrowing or accepting deposits from the Government or of agencies or institutions acting on behalf of the Government;
- (7) acting as agents for and administering the funds of any statutory body, corporation or other institution;
- (8) managing, supervising, controlling or participating in managing, supervising or controlling any industrial, agricultural, commercial or other undertaking of a customer for the purpose of protecting the interest of the bank in any loss granted by the bank;
- (9) buying existing debts of organisations on a commercial basis and providing, interest swap facilities and interest arbitrage facilities;
- (10) providing such services as technical, financial, management or administrative advice and assistance to industrial, agricultural, commercial and other enterprises;
- (11) assisting industrial, agricultural, commercial and other enterprises in financial restructuring, amalgamations, reconstructions, takeovers and mergers;
- (12) undertaking portfolio management;
- (13) undertaking development projects, including pilot projects, in industry, agriculture, commerce and other fields;
- (14) buying, selling and dealing in bullion and specie and engaging in operations in exchange;
- (15) granting and issuing letters of credit and circular notes;
- (16) receiving in consideration of the functions the bank may be performing, commissions, brokerage, interest, remuneration or fees;
- (17) undertaking rehabilitation of sick industries;
- (18) setting up or assisting the setting up of the necessary organisation for selling or marketing any product of any agricultural or industrial undertaking;
- (19) engaging in the construction of warehouses, godowns, stores and buildings required for agricultural, industrial and commercial activities;
- (20) acquiring or purchasing any movable or immovable property, or any industrial, agricultural, commercial or other enterprise, and managing or arranging for the management of such property or enterprise, and selling or otherwise disposing of such property or enterprise;
- (21) purchasing, leasing, letting or hire, selling outright, or selling on a hire-purchase basis warehouses, godowns, stores and buildings, machinery, equipment and other goods;

- (kk) investing monies of the bank;
- (ll) conducting surveys, studies and seminars in the field of economics, finance, development, management and other related fields;
- (mm) conducting lotteries and prize competitions;
- (nn) any other business which the Monetary Board of the Central Bank of Sri Lanka may authorise a specialised licensed Bank to engage in.”.

Sinhala text to prevail in case of inconsistency.

Saving clause.

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

43. (1) Notwithstanding a conflict between the provisions of the principal enactment as amended by this Act, and the provisions of any written law by or under which any authority which is required to obtain a licence under such principal enactment was established, all acts, decisions or things commenced under such written law and pending and incomplete on the date of the coming into operation of this Act (other than section 19) may be carried on and completed as if there had been no such amendment to the principal enactment.

(2) The qualifications required to be held by a secretary of a licensed commercial bank imposed by section 43 of the principal enactment as amended by section 25 of this Act shall not apply to any person holding office as secretary to any licensed commercial bank as on the date of commencement of this Act (other than section 19) provided such person is holding the office of Secretary as a full time employee of the bank.

Order vesting immovable property and leaseholds over immovable property of a licensed commercial bank.

44. (1) Where the business of any licensed commercial bank has been vested in another licenced commercial bank under any written law, prior to the coming into force of Part VIIA of the principal enactent the Minister may by Order published in the Gazette, vest in the second mentioned licensed commercial bank any immovable property owned by the first mentioned commercial bank and any leasehold rights over any immovable property enjoyed by such first mentioned licensed commercial bank on the day preceding the date on which such business, was vested, in the second mentioned licensed commercial bank.

(2) The second-mentioned licensed commercial bank shall pay to the first-mentioned licensed commercial bank, in respect of the vesting made by an Order made under subsection (1), compensation in such amount as is

determined by the Monetary Board taking into account the value of the assets and liabilities vested in the second-mentioned licensed commercial bank as on the date of the vesting of the business of such first-mentioned licensed commercial bank in the second-mentioned licensed commercial bank, and any other relevant matters relating to such vesting.

45. (1) Notwithstanding the repeal of Part IVA of the principal enactment by section 18 of this Act, 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:

Transitional provision relating to numbered accounts.

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.

(2) Where the owner of a numbered account fails in compliance with the provisions of subsection (1), to close such account within the period specified in that subsection, 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.

For the purpose of this section "numbered account" shall have the same meaning as in section 34B of the principal enactment.

Property acquired and all acts done prior to commencement of section 83B by a licensed commercial bank referred to in that section to be valid.

46. Notwithstanding anything to the contrary in written law, every interest in any property in Sri Lanka acquired by any licensed commercial bank referred to in section 83B of the principal enactment and all acts done by any such bank, on and after the date of issue of a licence under section 5 of the principal enactment in respect of that bank and prior to the date of commencement of section 83B of that enactment, shall be deemed for all purposes to have been validly acquired or validly done, as the case may be.

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