



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

STAMP DUTY
ACT, No. 43 OF 1982

[Certified on 14th December, 1982]

Printed on the Orders of Government

Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of December, 1982

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA.

TO BE PURCHASED AT THE GOVT. PUBLICATIONS BUREAU, COLOMBO

Price : Rs. 2.85

Postage : Rs. 1.75 cents

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Stamp Duty Act, No. 43 of 1982

[Certified on 14th December, 1982]

L.D.—O. 104/80

AN ACT TO PROVIDE FOR THE IMPOSITION OF STAMP DUTY ON INSTRUMENTS AND DOCUMENTS AND 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 Stamp Duty Act, No. 43 of 1982, and shall come into operation on such date as the Minister may, by Order published in the *Gazette* appoint (in this Act referred to as the "appointed date").

Short title and date of operation.

CHAPTER I

IMPOSITION OF STAMP DUTY

2. There shall be charged on—

- (a) every instrument which is executed, drawn or presented in Sri Lanka;
- (b) every document presented or filed, in civil proceedings instituted in the Supreme Court or the Court of Appeal or a District Court or in admiralty proceedings instituted in the High Court;
- (c) every bill of exchange, cheque or promissory note drawn outside Sri Lanka and accepted or paid or presented for acceptance or payment or endorsed, transferred or otherwise negotiated in Sri Lanka;
- (d) every instrument (not being a bill of exchange, cheque or promissory note) executed outside Sri Lanka and received in Sri Lanka, being an instrument which relates to any property situated, or any matter or thing done, or to be done, in Sri Lanka.

Instruments chargeable with duty.

a stamp duty at the prescribed rate. Different rates may be prescribed in respect of different classes or categories of instruments.

3. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duty that would have been chargeable had each of such matters been dealt with by a separate instrument.

Instruments relating to several distinct matters.

4. Nothing in this Act shall affect or be deemed to affect any provision of law providing for the stamping of any instrument or the exemption of any instrument from stamp duty.

Other enactments saved.

CHAPTER II

EXEMPTIONS

Exemptions.

5. The following instruments and documents shall be exempt from the payment of stamp duty :—

- (1) affidavit or affirmation made on the request of any public officer or in compliance with any requirement imposed by any written law ;
- (2) agreement or covenant secured by a mortgage contained in the same instrument therewith, such instrument being duly stamped as a mortgage ;
- (3) agreement to marry, not containing any settlement or transfer of property ;
- (4) bail bond in criminal proceedings ;
- (5) bond or mortgage made in pursuance of covenants or other agreements in that behalf, contained in some other instrument, and without additional money consideration, if such other instrument has been stamped with an *ad valorem* stamp duty on the amount of the consideration for such bond or mortgage ;
- (6) bond of indemnity given to a public officer in the execution of his duty ;
- (7) bond or mortgage given by any public officer or his sureties for the due execution of his office ;
- (8) cheque drawn by any person in the service of the State in the execution of his duties ;
- (9) conveyance or transfer by the Government or by any person, for or on behalf of the Government ;
- (10) debenture issued by a company or other corporate body in terms of a mortgage deed, duly stamped in respect of the full amount of debenture to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to the trustee for the benefit of the debenture holder : *provided always that in respect of any debenture so issued, the amount of stamp duty payable on the debenture shall be the same as would have been payable on the corresponding mortgage deed ;*
- (11) deed of partition of any land held in common ;

- (12) instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;
- (13) instrument executed by, or on behalf of, or in favour of, the Government of any country, being a country in respect of which an Order under section 67(3) is in force;
- (14) the following documents filed in legal proceedings—
 - (a) all documents filed in Magistrates' Courts and Primary Courts and all documents filed for the purposes of criminal proceedings in any other court;
 - (b) documents filed in any court, by public officers suing, or being sued or intervening, *virtute officii*, in any proceedings in such court;
 - (c) documents filed in any court, by a person duly admitted to sue, defend or intervene, as a pauper in any proceedings instituted in such court;
 - (d) documents filed in any court, by a person applying to be declared as insolvent by such court;
 - (e) all documents filed in any court for the purposes of an application for an order in the nature of a writ of habeas corpus;
 - (f) motions filed in any court;
 - (g) warrants issued by any court, whether on application or on its own motion;
- (15) letter of credit, whether in sets or not, sent by any person in Sri Lanka to any person outside Sri Lanka authorizing drafts on Sri Lanka;
- (16) mortgage of food crops;
- (17) receipts given for money or securities for money deposited in a bank;
- (18) receipt or discharge given for any money or other property amounting to less than one hundred rupees;

- (19) share certificate issued upon a subdivision or consolidation of existing shares in any company;
- (20) share certificate issued in lieu of share certificate lost or destroyed, or new share certificate for a greater or less number of shares in lieu of existing share certificates but not exceeding the value of the existing share certificates;
- (21) will, testament or codicil, whether notarial or otherwise.

CHAPTER III

TIME AND MODE OF STAMPING

Time and mode of paying stamp duty.

6. (1) The stamp duty with which any instrument is chargeable shall be paid before or at the time of execution of the instrument and such payment shall be indicated on such instrument by means of adhesive stamps or impressed stamps except as otherwise permitted in this Act.

(2) The following instruments shall be deemed to have been stamped before or at the time of execution of the instrument :—

- (a) share transfers executed in Sri Lanka which are stamped within one month of execution;
- (b) any instrument, not being a bill of exchange, cheque or promissory note, executed out of Sri Lanka which is stamped within one month after it has been first received in Sri Lanka;
- (c) any bill of exchange, cheque or promissory note drawn or made out of Sri Lanka which is stamped before the first holder of such instrument presents it in Sri Lanka for acceptance or payment or otherwise negotiates it.

(3) Where it is not practicable to use adhesive or impressed stamps to indicate the payment of the stamp duty with which such instrument is chargeable, the Commissioner-General may, on payment to him of an amount equal to the stamp duty with which such instrument is chargeable, endorse on the instrument the amount paid and date of payment of such duty. An instrument so endorsed shall be deemed to be duly stamped.

7. (1) Where the payment of stamp duty with which an instrument is chargeable is indicated by means of an adhesive stamp, the person executing such instrument, or in the case of a notarially executed instrument, the notary, shall cancel the stamp by writing his name across it in ink so as not to admit of it being used again.

Cancellation
of adhesive
stamps.

(2) Where an instrument bears an adhesive stamp of the value of fifty rupees or more, such stamp shall, in addition to the writing referred to in subsection (1), be cancelled by cutting it with a prick, punch, cutter or nipper.

(3) Any instrument bearing an adhesive stamp which has not been cancelled in the manner set out in subsections (1) and (2) shall be deemed to be unstamped to the extent of the value of that stamp.

CHAPTER IV

HOW CERTAIN INSTRUMENTS ARE TO BE STAMPED

8. No second instrument chargeable with stamp duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Only one
instrument
to be on
a piece of
stamped
paper.

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with stamp duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby or for extending the time for payment of a bill of exchange or promissory note.

9. Where there are several instruments of conveyance or transfer for effecting an exchange of property, the instrument first executed shall be stamped with the stamp duty, if any, with which such exchange is chargeable, and all the other instruments shall be stamped with a stamp duty of five rupees:

How
instruments
effecting
exchange
are to be
stamped.

Provided, however, that the preceding provisions of this section shall not apply to any such subsequent instrument executed after a period of three months from the date on which the first instrument was executed.

Contracts effected by correspondence.

10. Where a contract of agreement of any kind is effected by correspondence consisting of two or more letters, and any one of the letters bears a stamp of the proper value the contract or agreement shall be deemed to be duly stamped.

Documents in legal proceedings.

11. Every document filed in any legal proceedings and chargeable with stamp duty shall be treated as duly stamped if the proper duty payable on every such document is affixed to the list of such documents and cancelled in the manner provided for in this Act.

Stamping of duplicate of certain instruments.

12. Where any instrument chargeable with stamp duty (not being a draft, order, or promissory note for the payment of money or a receipt or discharge for or upon the payment of money) is executed or acknowledged before a notary public or fiscal in the execution of his office, the stamp duty chargeable on such instrument shall be chargeable on the duplicate or counterpart thereof, instead of on the original instrument and the original instrument shall bear a stamp of one rupee.

CHAPTER V

COMPOSITION OF STAMP DUTY

Composition of stamp duty payable on certain instruments.

13. (1) The Commissioner-General may authorize—
 (a) any person issuing insurance policies,
 (b) any company issuing shares, whether such issue is original or increased or creating debenture stock,
 (c) any bank doing business in Sri Lanka,
 (d) any employer making payments to employees who are liable to give stamped receipts in respect of such payments,
 (e) an officer of the Supreme Court, Court of Appeal, the High Court or a District Court,
 (f) any other person issuing instruments of a category, having regard to the fact that it is impracticable or inexpedient to stamp instruments of that category at the time, or in the manner, prescribed by this Act,

to compound for the payment of the stamp duty payable, as the case may be, on the insurance policies issued by such person or on the shares or debenture stock issued by such company or on cheques drawn and issued on forms supplied

by such bank or on the receipts given by employees to such employer or on the documents presented or filed in any civil or admiralty proceedings instituted in any such court or on the instruments issued by such other person, on all or any of the following conditions:—

- (i) that such person, company, bank, employer, officer or other person, as the case may be, enters into a bond with the Commissioner-General substantially in the prescribed form;
- (ii) that such person, company, bank, employer, officer or other person, as the case may be, maintains a record as the case may be, of the insurance policies issued by such person or the shares or debenture stock issued by such company or the cheques drawn or issued on forms supplied by such bank or the receipts given by such employees or the documents presented or filed in civil or admiralty proceedings instituted in such court or the instruments issued by such other person;
- (iii) that such person, company, bank, employer, officer or other person, as the case may be, remits to the Commissioner-General, at the end of such periods as may be specified by the Commissioner-General, the aggregate stamp duty payable, as the case may be, on—
 - (a) the insurance policies issued by such person;
 - (b) the shares or debenture stock issued by such company;
 - (c) the cheques drawn or issued on the forms supplied by such banks;
 - (d) the receipts given by such employees;
 - (e) the documents presented or filed in civil or admiralty proceedings instituted in the court to which such officer is appointed; or
 - (f) instruments issued by such other person, during that period.

(2) Notwithstanding the preceding provisions of this section—

- (i) any person making payments to one hundred employees or more in respect of their employment shall collect stamp duty payable on the receipt for such payment;

(ii) every bank or approved credit agency shall collect the stamp duty payable in respect of every bill of exchange other than a cheque, promissory note, trust receipt, letter of trust or declaration of trust taken by it, every pledge in respect of corporeal movables made to it and every application made to it for a letter of credit,

and shall, in either case, unless otherwise directed, remit to the Commissioner-General quarterly, within fifteen days of the end of each quarter ending on March 31, June 30, September 30 and December 31 of every year the sums payable as stamp duty during each preceding quarter, together with a certified statement of collections.

(3) Where the payment of the stamp duty with which an instrument or document is chargeable has been compounded in accordance with this section such instrument or document shall be deemed to be duly stamped.

(4) Where the payment of the stamp duty with which every bill of exchange, (other than a cheque) promissory note, trust receipt, letter of trust, declaration of trust, pledge in respect of corporeal movables or application made for letter of credit is chargeable with stamp duty has been compounded in accordance with this section, the company or the bank or approved credit agency, as the case may be, shall certify on such bill of exchange, (other than a cheque) promissory note, trust receipt, letter of trust, declaration of trust, pledge in respect of corporeal movables or application made for a letter of credit that the stamp duty on it has been compounded. Such certificate shall be substantially in the following form:—

“It is hereby certified that the stamp duty payable in respect of this instrument, namely Rs.— has been compounded in terms of section 13 of the Stamp Duty Act.”

(5) Where the payment of the stamp duty payable on a document presented or filed in civil or admiralty proceedings instituted in the Supreme Court, the Court of Appeal, the High Court or a District Court has been compounded in accordance with this section, the officer of such court authorized under subsection (1) shall endorse on such document the amount of stamp duty payable on such document and that the payment of such stamp duty has been compounded in accordance with this section.

(6) Notwithstanding that the payment of stamp duty with which an instrument or document is chargeable has been compounded as aforesaid, the Commissioner-General may adjudicate on the proper duty payable in respect of such instrument or document.

CHAPTER VI**SPECIAL PROVISIONS RELATING TO DOCUMENTS FILED IN LEGAL PROCEEDINGS**

14. (1) For the purposes of determining the stamp duty payable on documents presented or filed in—

(a) any civil proceedings instituted in the Supreme Court or the Court of Appeal or a District Court;

or

(b) any admiralty proceedings instituted in the High Court,

the value of such proceedings shall, unless otherwise provided in this or any other enactment,—

(i) be the amount of the debt, demand or damages claimed in the proceedings;

(ii) where the proceedings relate to the right, title or interest in land, be the value of such land;

(iii) in any other case, be five thousand rupees.

(2) The total stamp duty chargeable in respect of the documents filed in any proceedings in any court shall not exceed the aggregate of the stamp duty chargeable on the first ten documents filed by each party to the proceedings.

CHAPTER VII**VALUATION FOR STAMP DUTY**

15. (1) Where any property is conveyed by an instrument, the stamp duty with which such instrument is chargeable shall be calculated on the value of the property conveyed.

Valuation
for
stamp
duty.

(2) Where any property transferred for a consideration is subject to any mortgage, encumbrance or reservation of interest, stamp duty with which the instrument of transfer is chargeable shall be calculated on the value of the property transferred, without any deduction for the mortgage, encumbrance or reservation.

(3) Where any property is gifted subject to any reservation in favour of the donor or any other person, stamp duty with which the instrument of gift is chargeable shall be calculated on the value of the property gifted as if that property had been gifted to the donee without that reservation.

How certain bonds or mortgages are to be charged.

Instrument reserving interest.

How consideration consisting of periodical payments to be charged.

Stamp duty where value of subject-matter is indeterminate.

16. A bond or mortgage for the payment or repayment of money to be lent, advanced, or paid shall be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same stamp duty as on a bond or mortgage for the amount so limited. Where the total amount recoverable is unlimited, the bond or mortgage shall be available for the recovery of such an amount only as is covered by the stamp duty paid on the instrument.

17. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with stamp duty higher than that with which it would have been chargeable had no mention of interest been made therein.

18. (1) A conveyance, the consideration or any part of the consideration for which consists of money payable periodically or any instrument for the creation or sale of any annuity or other right to a periodical payment not before in existence, shall be chargeable with the same stamp duty as on a conveyance of property for the consideration set out in such instrument. Where no consideration is so set out, the consideration shall be deemed to be an amount ascertained in accordance with subsection (2).

(2) Where the periodical payment is—

- (a) for a definite period which can be previously ascertained, the total amount payable in that period;
- (b) for an indefinite period not terminable with life, the total amount as can be ascertained as payable during the period of twenty years calculated from the date on which the first payment becomes due;
- (c) for a period terminable with any life or lives, the total amount as can be ascertained as payable during the period of fifteen years calculated from the date on which the first payment becomes due.

19. Where the amount or value of the subject-matter of any instrument chargeable with stamp duty cannot be ascertained, then, subject to the provisions of section 18, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would at the date of such execution, have been sufficient:

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent, or part of the rent, such royalty or the value of such share

shall, for the purposes of stamp duty, be estimated at two hundred thousand rupees a year or at such lower amount as may be estimated by the Commissioner-General, having regard to the probable extent and value of the produce of such mine.

20. Where any immovable property, or any part thereof, is conveyed or transferred to the same person in lots by several instruments, and it appears to the Assessor that several instruments were executed with the intention of avoiding the stamp duty which would be chargeable had the total area conveyed or transferred by such instruments been conveyed or transferred by a single instrument, he may call upon the parties to such instruments to prove to his satisfaction that such instruments were not executed with such intention and if no such proof is furnished or the proof furnished is inadequate, each such instrument shall be charged with stamp duty in proportion, to the value of the property conveyed by the instrument of such an amount as would make the aggregate stamp duty chargeable on all such instruments equal to one and a half times the stamp duty that would have been chargeable had a single instrument been executed to convey and transfer the total area transferred by such instruments.

Drawing
several
instruments
to avoid duty

21. (1) Any agreement or contract for the conveyance or transfer—

- (a) of any business or share in any business ; or
- (b) of any other property except—
 - (i) immovable property ; or
 - (ii) property situated outside Sri Lanka ; or
 - (iii) goods, wares or merchandise ; or
 - (iv) stock, shares, or marketable securities,

Certain
agreements
to be
chargeable
with same
ad valorem
duty.

shall be charged with the same *ad valorem* stamp duty, to be paid by the grantee or transferee, as if such agreement and contract were an actual conveyance or transfer of the business, or share in the business or such other property, as the case may be.

(2) Where stamp duty has been duly paid in conformity with subsection (1) on an agreement or contract, the conveyance or transfer made in pursuance thereof shall be chargeable with a stamp duty of ten rupees and the Commissioner-General on application made in that behalf shall by endorsement denote the payment of the *ad valorem* duty on the conveyance or transfer upon production of the agreement or contract duly stamped.

CHAPTER VIII

DUTIES OF NOTARIES PUBLIC AND OTHER PERSONS

Conditions affecting instruments of conveyance.

22. (1) Every person drawing, making, executing or attesting any instrument chargeable with stamp duty shall set out therein, the full names and addresses of the parties to such instrument, the consideration, the date and manner of payment and all other facts and circumstances affecting the chargeability of such instrument with stamp duty and the amount of the stamp duty with which it is chargeable.

(2) Every notary public who attests an instrument of conveyance shall before doing so take all reasonable steps to satisfy himself that the value on which the stamp duty is paid represents the value of the property conveyed.

(3) Every notary public who attests any instrument for which adhesive stamps are used shall affix stamps of the correct description and value to such instrument and cancel them in the manner directed by this Act and state in his attestation, the number and value of the stamps affixed to such instrument.

Obligation to give receipts in certain cases.

23. Any person—

- (a) receiving, otherwise than as payment for any goods sold or services provided, immediately upon such sale or such provision, any money amounting to one hundred rupees or over ; or
 - (b) receiving any bill of exchange, cheque or promissory note for one hundred rupees or over ; or
 - (c) receiving in satisfaction or part satisfaction of a debt, any movable property amounting to one hundred rupees or over in value,
- shall give a duly stamped receipt for the same.

CHAPTER IX

PERSONS LIABLE TO PAY STAMP DUTY

Duty by whom payable.

24. Except where there is an agreement to the contrary, stamp duty shall be payable—

- (a) in the case of a policy of insurance, by the person effecting the insurance ;
- (b) in the case of a conveyance or agreement to convey, by the grantee, or intended grantee ;

- (c) in the case of a lease or agreement to lease, by the lessee or intended lessee;
- (d) in the case of an instrument of exchange, by the parties in equal shares;
- (e) in the case of a transfer of shares in an incorporated company or other body corporate, by the transferee;
- (f) in the case of any other instrument, by the person drawing, making, or executing such instrument.

25. (1) If any instrument chargeable with stamp duty, is executed in Sri Lanka and is not duly stamped, then, every person executing such instrument shall be liable to pay to the Commissioner-General the amount of such duty and any penalty attached to the non-payment of such duty.

**Liability of
other
parties
for stamp
duty.**

(2) If any instrument chargeable with stamp duty is executed out of Sri Lanka, then every person in Sri Lanka who has been a party to the instrument and every person in Sri Lanka using the instrument in any way shall be liable to pay to the Commissioner-General the stamp duty and any penalty attaching to the non-payment of such duty.

(3) When the stamp duty and penalty, if any, payable in respect of any instrument have been recovered by the Commissioner-General under subsection (1) from any person other than the person, who by agreement or otherwise or under section 24 was liable to pay stamp duty on such instrument, such first-mentioned person shall be entitled to recover from such second-mentioned person the amount of the duty and penalty, if any, so recovered.

(4) The provisions of subsections (1) and (2) of this section shall have effect notwithstanding anything to the contrary in section 24.

(5) An executor of the estate of a deceased person shall be liable to do all such acts, matters and things as such deceased person would be liable to do under this Act if he were alive, and shall be chargeable with stamp duty with which such deceased person would have been chargeable, if he were alive, in respect of all instruments to which such deceased person was a party:

Provided that—

- (i) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person,

(ii) the liability of an executor under this subsection shall be limited to the sum of—

- (a) the deceased person's estate in his possession or control at the date when notice is given to him that liability to stamp duty will arise under this subsection; and
- (b) any part of the estate which may have passed to a beneficiary.

Liability when company is wound up.

26. (1) Notwithstanding anything in the Companies Act, No. 17 of 1982, where any private company is wound up and any amount, which that company is liable to pay as stamp duty, whether such liability arose before, or in the course of, or after, its liquidation, cannot be recovered, then, every person who was a director of the company at any time during the period in which the liability of the company to pay such duty arose shall be jointly and severally liable for the payment of such amount, unless he proves that the default in payment of the amount cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) In this section, the expression "private company" has the same meaning as in the Companies Act, No. 17 of 1982.

CHAPTER X

IMPOUNDING OF INSTRUMENTS

Power of certain officers to impound and examine instruments.

27. (1) Every person having by law or consent of parties authority to receive evidence, and every officer in a public office (other than a police officer) and every officer of a public corporation or bank, or approved credit agency before whom any instrument, chargeable in his opinion with stamp duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound such instrument:

Provided that, nothing in this section shall be deemed to require any Magistrate or Judge of a criminal court to impound or examine, if he does not think fit to do so, any instrument coming before him in the course of any proceedings in that court.

(2) The Commissioner-General may require any officer in a public office or corporation or bank, or approved credit agency before whom any instrument chargeable with duty is produced or comes in the performance of his functions—

- (a) to examine such instrument in order to ascertain whether it is duly stamped;
- (b) to impound such instrument.

(3) Where any person is required under subsection (2) to examine or impound any instrument, it shall be the duty of such person to impound or examine such instrument, as the case may be, and take such further steps as may be required by the Commissioner-General.

(4) The Commissioner-General or any officer authorized in writing by him may, after giving due notice to any person in charge of a public office, corporation, or bank or approved credit agency, examine any instrument in such office, corporation or bank or agency in order to ascertain whether such instrument is duly stamped and shall impound such instrument if it is not so stamped.

28. (1) Where any person who has, by law or consent of parties, authority to receive evidence or the Registrar-General admits in evidence, or acts upon, any instrument in accordance with the provisions of the proviso to section 33, he shall send the Commissioner-General an authenticated copy of such instrument, supplied at the expense of the person tendering it, together with a certificate in writing stating the amount of the stamp duty and penalty levied in respect thereof, and shall send such amount to the Commissioner-General.

Impounded instruments to be transmitted to the Commissioner-General.

(2) In every other case the person so impounding an instrument shall send it in the original to the Commissioner-General.

29. If any instrument chargeable with stamp duty and not duly stamped, not being an instrument chargeable with stamp duty not exceeding fifty cents or a bill of exchange, cheque, or promissory note, is produced by any person of his own motion before an Assessor within one year from the date of its execution and such person brings to the notice of the Assessor the fact that such instrument is not duly stamped and offers to pay to the Assessor the amount of the proper duty or the amount required to make up the same and the Assessor is satisfied that the omission to stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may instead of impounding the instrument receive such amount and shall by endorsement thereon state that the proper amount of stamp duty with which such instrument is chargeable has been paid.

Instruments not duly stamped by accident produced voluntarily.

30. (1) Where the Commissioner-General impounds any instrument under section 27 or receives any instrument under section 28 (2) not being an instrument chargeable with a duty of fifty cents or less or a bill of exchange, cheque or promissory note, he shall refer it to an Assessor who shall adopt the following procedure in respect thereof—

The Commissioner-General to deal with impounded instruments.

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with stamp duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;

(b) if he is of opinion that such instrument is chargeable with stamp duty and is not duly stamped, he shall, by notice in writing, require the person liable to pay the stamp duty to pay the proper duty or the amount required to make up the same, together with a penalty not exceeding three times the amount of the proper duty.

(2) Where the proper amount of stamp duty has been paid on any such instrument and it has been impounded on account of any irregularity in the mode of execution of such instrument or because it has not been stamped at the time as required by law, the Assessor, if he is satisfied that the irregularity was due to accident, mistake or urgent necessity, may, on payment of a penalty not exceeding five hundred rupees, certify by endorsement thereon that the instrument has been duly stamped, and every instrument so endorsed shall be deemed to have been duly stamped from the date of its execution.

**Endorsement
of
instrument
on which
duty has
been paid.**

31. (1) Where the stamp duty and penalty, if any, required to be paid in respect of any instrument under section 29 or by a notice under section 30 (1) (b) or under section 33 have been paid or recovered, the Assessor or the person admitting such instrument in evidence or acting upon such instrument shall certify by endorsement thereon—

- (i) that the proper stamp duty and penalty, have been paid in respect of the instrument;
- (ii) the name and address of the person paying them; and
- (iii) the date of payment.

Such certificate shall be conclusive evidence of the matters stated therein for the purposes of this Act.

(2) Every instrument endorsed in accordance with subsection (1) shall be deemed to be duly stamped and shall be admissible in evidence, and be registered and acted upon, and authenticated as if it is so stamped, and shall be returned, on his application, to the person from whose possession it came into the hands of the officer impounding it.

32. (1) If any instrument sent to the Commissioner-General under section 28 is lost, destroyed or damaged during transmission the person sending the same shall not be liable for such loss, destruction, or damage.

Non-liability
for loss of
instruments
sent.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

CHAPTER XI

ADMISSIBILITY OF INSTRUMENTS

33. (1) No instrument chargeable with stamp duty shall be received or admitted in evidence by any person having by law or consent of parties authority to receive evidence or registered or authenticated or acted upon by any person or by any officer in a public office or corporation or bank or approved credit agency unless such instrument is duly stamped:

Admissibility
of
instruments.

Provided that any such instrument may—

- (a) be admitted in evidence by any person having by law or consent of parties authority to receive evidence; or
- (b) if the stamp duty chargeable on such instrument is one thousand five hundred rupees or less, be acted upon by the Registrar-General,

upon payment of the proper duty with which it is chargeable or the amount required to make up the same and a penalty not exceeding three times the proper duty.

In this proviso "instrument" does not include an instrument chargeable with stamp duty of fifty cents or less, a promissory note, cheque or bill of exchange (other than a bill of exchange referred to in section 34):

Provided further that where any receipt which is not duly stamped is tendered to, or produced before, any officer in the course of the audit of any public accounts, such officer shall, instead of impounding such receipt under this Act, require a duly-stamped receipt to be substituted therefor.

(2) Where any instrument has been admitted in evidence under the proviso to subsection (1), such admission shall not be called in question at any stage of the same suit or proceeding on the ground that such instrument has not been duly stamped.

Effect of non-compliance with this Act in case of certain bills of exchange.

34. A bill of exchange which is presented for acceptance, or accepted, or payable, outside Sri Lanka shall not be invalid by reason only that it is not stamped in accordance with the provisions of this Act, and any such bill of exchange which is not duly stamped shall be admitted in evidence on payment of the stamp duty with which that bill of exchange is chargeable or in the case of any such bill of exchange which is insufficiently stamped, of the amount required to make up the proper duty, together with a penalty, not exceeding three times the amount of the proper duty.

One bill only of a set need be stamped.

35. When a bill of exchange is drawn in a set and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from the stamped bill, be exempt from stamp duty ; and upon proof of the loss or destruction of a duly stamped bill forming one of a set, any other bill of the set which has not been issued or in any manner negotiated apart from the lost or destroyed bill shall, notwithstanding anything in section 33, be admitted in evidence to prove the contents of the lost or destroyed bill.

Admissibility of receipts in certain cases.

36. Where any person required to give a stamped receipt has given an unstamped receipt and such receipt if stamped would be admissible in evidence against him, then such receipt shall, notwithstanding anything in section 33, be admitted in evidence against him on payment of a penalty of five rupees by the person tendering it.

Power of payer to stamp bills, promissory notes, cheques received by him unstamped.

37. Notwithstanding anything in section 33, where any bill of exchange, cheque or promissory note chargeable with stamp duty of one rupee or less is presented for payment unstamped, the person to whom it is presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in accordance with the provisions of this Act, may pay the sum payable upon such bill, cheque or note and charge the stamp duty against the person who ought to have paid the same or deduct it from the sum payable as aforesaid and thereupon, such bill, note or cheque shall be deemed to be duly stamped :

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, cheque or note.

CHAPTER XII

ADJUDICATION OF STAMP DUTY

38. (1) Where any instrument, whether executed or not and whether previously stamped or not, is brought to an Assessor together with a copy thereof, and the person bringing it applies to have the opinion of the Assessor as to the stamp duty, if any, with which it is chargeable, and pays a fee of fifty rupees, the Assessor shall determine the stamp duty, if any with which in his opinion the instrument is chargeable, and shall notify his determination to such person in writing.

Adjudication
as to proper
stamp duty.

(2) For the purpose of giving his opinion the Assessor may require the person bringing the instrument to produce any such document or other evidence as is necessary to prove the facts relating to the chargeability of the instrument with stamp duty or the amount of the stamp duty with which it is chargeable:

Provided that every person by whom any such evidence is furnished shall, on payment of the full stamp duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act otherwise than by reason of his omitting, to state truly in such instrument any of the facts or circumstances aforesaid.

39. (1) The Assessor shall certify by endorsement on any instrument brought to him under section 38 that any stamp duty with which such instrument is chargeable has been paid or that such instrument is not chargeable with stamp duty.

Endorsement
by Assessor.

(2) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with stamp duty, as the case may be, and if chargeable with stamp duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorize the Assessor to endorse—

(a) any instrument executed or first executed in Sri Lanka and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be; or

- (b) any instrument executed or first executed out of Sri Lanka and brought to him after the expiration of one month after it has been first received in Sri Lanka; or
- (c) any instrument chargeable with a stamp duty of fifty cents or less or any bill of exchange, cheque or promissory note, when brought to him after the drawing or execution thereof, on paper not duly stamped.

CHAPTER XIII

APPEALS

**Appeals
to the
Commissioner-
General.**

40. (1) Any person who is aggrieved by an opinion given under section 38 or any requirement imposed by a notice issued under section 30(1) (b) may, within a period of thirty days after the date of the opinion or notice, appeal to the Commissioner-General against such opinion or notice:

Provided that the Commissioner-General, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner-General and shall set out the grounds of such appeal.

(3) Every petition of appeal which does not conform to the provisions of subsections (1) and (2) shall not be valid.

(4) On receipt of a valid petition of appeal, the Commissioner-General may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the amount specified in the opinion or the notice shall be amended accordingly.

(5) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (4), the Commissioner-General shall fix a time and place for the hearing of the appeal.

(6) Every appellant shall attend before the Commissioner-General at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner-General may, from time to time, adjourn the hearing of an appeal for some time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner-General may adjourn the hearing of the appeal, and may if he considers that the personal attendance of the appellant is necessary for the determination of the appeal require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner-General, the Commissioner-General may dismiss the appeal:

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal, satisfy the Commissioner-General that he or his authorized representative was prevented from the attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause, the Commissioner-General shall vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(7) The Commissioner-General shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner-General any reasonable expenses necessarily incurred by such person in so attending.

(8) Before making his determination on any appeal, the Commissioner-General may, if he considers it necessary so to do, by notice given in writing to any person, require that person to produce for examination, or to transmit to the Commissioner-General within the period specified in such notice, any such deeds, plans, registers, instruments, books, accounts, stock-lists, cheques, auditor's or valuer's reports or other documents in his possession as may be specified in such notice.

(9) Where the Commissioner-General hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained, a record of such evidence.

(10) In determining an appeal under this section the Commissioner-General may confirm or amend the opinion appealed against or confirm, reduce, increase or annul the amount specified in the notice appealed against and shall give notice in writing to the appellant of his determination on the appeal.

APPEAL TO THE BOARD OF REVIEW

**Appeal
to the
Board of
Review**

- 41. Any person aggrieved by the determination of the Commissioner-General upon any appeal made to him under section 40 may appeal from that determination to the Board of Review constituted under the Inland Revenue Act, No. 28 of 1979, and the provisions of that Act relating to appeals to such Board of Review from a determination of the Commissioner-General under that Act shall, *mutatis mutandis*, apply to the making, hearing and determination of an appeal under this section.

**Amount
when
final**

42. Where no valid appeal has been lodged within the time specified in this Act against an opinion given under section 38 or a notice issued under section 30(1)(b), the amount as specified in such opinion or notice, or where agreement is reached under section 40(4) as to any such amount or where any such amount has been determined on appeal, the amount as required to be paid under such agreement or as reduced or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount to be paid:

Provided that nothing in this Act shall prevent the Commissioner-General from requiring the payment of any other amount which does not involve re-opening any matter which has been determined on appeal.

APPEALS TO THE COURT OF APPEAL AND TO THE SUPREME COURT

**Appeal on a
question of
law to the
Court of
Appeal and
to the
Supreme
Court.**

43. (1) The decision of the Board shall be final:

Provided that either the appellant or the Commissioner-General may make an application requiring the Board to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the Clerk to the Board, together with a fee of fifty rupees, within one month of the date on which the decision of the Board was notified in writing, to the Commissioner-General or the applicant, as the case may be.

(2) The case stated by the Board shall set out the facts, the decision of the Board, and the amount of the stamp duty or penalty in dispute where such amount exceeds five thousand rupees, and the party requiring the Board to state such case shall transmit the case, when stated and signed, to the Court of Appeal, within fourteen days after receiving the same.

(3) (a) All proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees, or of such greater amount as is set out by the Board in the stated case as the amount of the stamp duty and penalty in dispute.

(b) Every such case stated shall, together with all books, documents and papers annexed thereto by the Board, be deemed to be a single exhibit in civil proceedings before the Court of Appeal.

(c) The Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtute officii*.

(4) At or before the time when he transmits the stated case to the Court of Appeal the party requiring it shall send to the other party, notice in writing, informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Board for amendment, and the Board shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may, in accordance with the decision of the Court upon such question, confirm, reverse, correct or modify the decision of the board or order a new or further hearing on such terms so as the Court thinks fit or remit the case to the Board with the opinion of the Court thereon. When a case is so remitted by the Court, the Board shall revise its decision as the case may require, in accordance with the opinion of the Court.

(7) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(8) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6) and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal—

(a) an order made by the Court of Appeal under subsection (6) shall, together with any order of the Court under subsection (7), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party;

(b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees:

Provided that where the Board has, in the stated case set out an amount higher than five thousand rupees as the amount of the stamp duty or penalty in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and

(c) the Commissioner-General shall not be required, in respect of any such appeal, to deposit or pay any fee or furnish any security prescribed by such written law.

CHAPTER XIV

RECOVERY OF DUTY

Duty to include penalties, fines &c.

Provisions regarding payments of stamp duty &c.

44. In this Chapter "duty" includes stamp duty and any sum added to any such duty and any fines, penalties, fees or costs, whatsoever, incurred under this Act.

45. (1) The duty required to be paid by any notice issued under section 30(1)(b) shall be paid on or before the date specified in such notice, and, subject to the provisions of subsection (2), any duty not so paid shall be deemed to be in default and the person by whom such duty is payable shall be deemed to be a defaulter for the purposes of this Act.

(2) Where duty payable every quarter under section 13 is not paid on or before the date specified therein, such duty together with a penalty equal to ten *per centum* of the duty for every month of non-payment shall be deemed to be in default and the person liable to pay the duty shall be deemed to be a defaulter:

Provided that the total amount payable as penalty shall not exceed fifty *per centum* of the duty in default.

(3) Duty shall be paid, notwithstanding any appeal unless the Commissioner-General orders that payment of the duty or any part thereof be held over, pending the determination of such appeal, and upon such order, the amount held over shall be deemed not to be in default.

(4) Where the Commissioner-General is of opinion either that the duty or any part thereof held over under subsection (3) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection and make such fresh order as the case may appear to him to require and the amount of any duty not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(5) Where upon the final determination of an appeal under Chapter XIII or upon any order made by the Commissioner-General, any duty which has been held over under subsection (3) becomes payable or the duty payable under a notice is increased, the Commissioner-General shall give to the appellant a notice in writing fixing a date on or before which any duty or balance duty shall be paid. Any duty not paid before such date shall be deemed to be in default.

46. Any duty in default shall be a first charge upon all the assets of the defaulter:

Provided that—

Duty to be a first charge.

(i) such charge shall not extend to, or affect, any assets sold by the defaulter to a bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of section 48; and

(ii) as regards immovable property, the amount in default shall not rank in priority to any lease or encumbrance created bona fide for value and registered prior to the date of such seizure.

Notice to defaulter.

47. (1) Where any duty is in default, the Commissioner-General shall, before proceeding to recover such duty in any manner hereinafter provided, issue a notice in writing to the defaulter stating—

- (a) the particulars of such duty; and
- (b) that action is being contemplated to recover the duty.

(2) If such defaulter has not appealed within the proper time against any notice under section 30 (1) (b) he may, within thirty days of the date of the notice issued under subsection (1) of this section, make any objection to the duty so charged and the Commissioner-General shall, notwithstanding the provisions of section 42, consider such objections and give his decision thereon which shall be final.

(3) Notwithstanding anything in this section, where there is an appeal against a notice under section 30(1) (b) and the payment of any duty specified in such notice is held over on the order of the Commissioner-General and the appellant agrees, during the course of the hearing of that appeal, that a certain sum is due or is likely to be due as duty in respect of that notice, the Commissioner-General may, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice. Any sum not paid before such date shall be deemed to be in default.

(4) Where upon the final determination of an appeal under Chapter XIII any stamp duty in default is reduced, the penalty payable in respect of such stamp duty shall be proportionately reduced.

Recovery of duty by seizure and sale.

48. (1) There shall be appointed stamp duty collectors for the purposes of this Act.

(2) (a) Where any duty is in default, the Commissioner-General may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or stamp duty collector containing particulars of such duty and the name of the defaulter, and the officer to whom such certificate is issued is hereby empowered and required to cause the duty to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(b) A seizure of movable property shall be effected in such manner as such officer shall deem most expedient in that behalf, and as soon as any movable property is seized by such officer a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner-General.

(c) Where the property so seized is—

(i) cash in Sri Lanka currency, such cash shall be applied in satisfaction of the duty in default ;

(ii) cash in foreign currency, such cash shall be deposited in the Central Bank and the proceeds therefrom applied in satisfaction of the duty in default ;

(iii) property other than cash, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the duty in default together with the costs and charges within the five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal, or stamp duty collector shall cause such property to be sold by public auction or where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day.

(d) The sum realized by the sale referred to in subparagraph (iii) shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping and selling the property ; and

(ii) secondly, in satisfaction of the duty in default, and any balance shall be paid to the owner of the property seized.

(3) Where any duty is in default and the Commissioner-General is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property, movable or immovable, owned by the defaulter is situate, containing particulars of such duty and the name or names of the person or persons by whom the duty is payable, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property, movable or immovable, of the defaulter, or such part thereof as he may deem necessary for recovery of the duty, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Whenever the Commissioner-General issues a certificate under this section, he shall forthwith issue to the defaulter, whether resident or non-resident, a notification thereof by personal service, or registered letter sent through the post, or telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

**Proceedings
for
recovery
before a
Magistrate.**

49. (1) Where the Commissioner-General is of the opinion in any case that recovery of duty in default by seizure and sale is impracticable or inexpedient or where full duty has not been recovered by seizure and sale, he may issue a certificate containing particulars of such duty and the name and last known place of residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate.

The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of duty should not be taken against him, and in default of sufficient cause being shown, the duty in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with a fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner-General for the purposes of subsection (1) shall not be called in question or examined by the Magistrate in any proceedings under this section and accordingly, nothing in that subsection shall be read and construed as authorizing the Magistrate to consider, or decide the correctness of any statement in such certificate or to postpone or defer such proceedings for a period exceeding thirty days by reason only of the fact that an appeal is pending against any notice requiring the payment of the duty in default.

(3) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(4) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in instalments.

(5) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (4) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(6) Where a Magistrate directs under subsection (4) that a payment be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) In any proceedings under subsection (1), the certificate of the Commissioner-General shall be sufficient evidence that the duty has been duly required to be paid and is in default, and any plea that the amount is excessive, incorrect, or under appeal shall not be entertained.

50. (1) Where duty payable by any person is in default and it appears to the Commissioner-General to be probable that any person—

Recovery
of duty
out of
debts &c.

- (a) owes or is about to pay money to the defaulter or his agent ; or
- (b) holds money for or on account of the defaulter or his agent ; or
- (c) holds money on account of some other person for payment to the defaulter or his agent ; or
- (d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner-General may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the duty in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract, or agreement.

(3) Any person to whom a notice has been given under subsection (1) who is unable to comply therewith owing to the fact that the moneys referred to in that subsection do not come into his hands or that no such moneys become due from him within the period referred to in that subsection shall within fourteen days of the expiration thereof give notice in writing to the Commissioner-General apprising him of the facts.

(4) Where any person to whom a notice has been given under subsection (1) is unable to comply therewith and has failed to give notice to the Commissioner-General as provided in subsection (3), or where such person has paid or could have paid the duty to which the notice relates or any part thereof and has not paid over such duty or part thereof as required by the notice given by the Commissioner-General, within fourteen days after the expiration of the period referred to in subsection (1), such person shall, if he is an individual, or where such person is a company or body of persons, whether corporate or unincorporate, the secretary, manager or other principal officer of such company or body, be personally liable, for the whole of the duty which such person has been required to pay, and such duty may be recovered from such individual, secretary, manager or other principal officer, as the case may be, by all the means provided in this Act.

(5) For the purposes of this section, the expression "defaulter" shall be deemed to include the agent of a person who is in default and the provisions of this section shall apply in any case where the duty which would have been payable by any person if he were alive is in default; and for the purposes of the application of those provisions in any such case, the expression "defaulter" in subsection (1) means—

- (a) the executor or administrator of a deceased person; or
- (b) any person who takes possession of, or intermeddles with, the property of a deceased person; or

(c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of a probate or letters of administration in respect of the estate of a deceased person.

51. (1) Where the Commissioner-General is of opinion that any person is about to or likely to leave Sri Lanka without paying the amount of duty required to be paid by such person, he may issue a certificate containing particulars of such amount and the name of such person to a Magistrate, who shall, on receipt thereof, direct the Inspector-General of Police to prevent such person from leaving Sri Lanka without paying the amount or furnishing security to the satisfaction of the Commissioner General for payment thereof.

Recovery
of amount
from
persons
leaving
Sri Lanka.

(2) At the time of issue of his certificate to the Magistrate the Commissioner-General shall issue to such person a notification thereof by personal service or registered letter sent through the post, or telegraph; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) Production of a certificate signed by the Commissioner-General stating that the amount has been paid or that security has been furnished or that the amount has been paid to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any police officer to whom the amount of any duty has been paid shall forthwith pay such amount to the Commissioner-General.

52. Where the Commissioner-General is of opinion that application of any of the provisions of this Chapter has failed or is likely to fail to secure the payment of the whole or any part of the duty due under this Act from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter, notwithstanding that an order has been made by a Magistrate under section 49 and carried into effect.

Use of more
than one
means of
recovery.

53. The Commissioner-General may, by notice in writing to any person, require that person to furnish, within the period specified in such notice, such information as the Commissioner-General may require for the purposes of recovery of any duty due from such person or any other person.

Power to
obtain
information
for the
recovery of
duty.

CHAPTER XV

ALLOWANCES FOR STAMPS AND REFUND OF STAMP DUTY

Allowances
for unused
and spoiled
stamps.

54. (1) The Commissioner-General may, on a written application made to him within the period specified in subsection (2) and upon being satisfied as to the facts, make an allowance for unused or spoiled stamps in the following instances :—

- (a) where a stamp has been inadvertently or undesignedly spoiled and rendered unfit for the purpose for which it was intended to be used ;
- (b) where a stamp has been affixed to an instrument which is incomplete or which is not executed or is void or has by reason of a mistake been found unfit for the purpose intended ; or
- (c) where a stamp of the wrong description or value has been inadvertently or undesignedly affixed to an instrument subsequently replaced by a duly stamped instrument ; or
- (d) where a stamp has been used for a bill of exchange, cheque or promissory note which has not been made use of in any manner whatsoever.

(2) The application for an allowance under subsection (1) shall be made within one year of the date of purchase of the unused or spoiled stamps.

(3) The Commissioner-General may on an application for an allowance under subsection (1) either give to the applicant other stamps of the same description and value or the value of the stamps in money, and where he does the latter, he shall deduct five cents for each rupee or fraction of a rupee.

Stamp
duty or
penalty
paid
inadvertently.

55. If it is proved to the satisfaction of the Commissioner-General by claim duly made in writing within one year of the date of the payment of any stamp duty or penalty, by composition or otherwise, that any person has paid any stamp duty or penalty in excess of the amount properly payable by him, such person shall be entitled to have refunded the amount so paid in excess :

Provided that nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any matter which has become final and conclusive.

CHAPTER XVI

OFFENCES AND PENALTIES

56. Any person—

- (1) who draws, makes, issues, endorses, transfers or signs, otherwise than as a witness, or presents for acceptance or repayment, or accepts, pays, or receives payment of, or in any manner negotiates, any bill of exchange, cheque or promissory note, without the same being duly stamped ; or
- (2) who executes, otherwise than as a witness, any instrument chargeable with duty without the same being duly stamped ; or
- (3) who fails to cancel an adhesive stamp in the manner prescribed by section 7 ; or
- (4) who fails or neglects to give a receipt, in contravention of the provisions of section 23 ; or
- (5) who votes or attempts to vote under any proxy not duly stamped,

Penalty for executing, &c., instruments not duly stamped.

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees.

- 57. Where a company issues a share certificate or warrant without the same being duly stamped, the company and every person who, at the time when such share certificate or warrant was issued, was the managing director or secretary or other principal officer of the company, shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees or with imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penalty for issue of share certificate or warrant not duly stamped.

**Notary
public
failing to
act in
accordance
with provi-
sions
of this Act.**

58. Any notary public who knowingly fails to comply with any requirement imposed on him by section 22 shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding the stamp duty payable on the instrument in respect of which the offence is committed and five thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**Penalty for
defrauding
State.**

59. Any person—

- (a) with intent to defraud the State, draws, attests or executes any instrument in which all the facts and circumstances required by section 22(1) to be set out in such instrument are not fully set out;
- (b) having received any sum of money for payment of stamp duty on any instrument executed, authenticated or attested by him, does not apply the money to the payment of the stamp duty and improperly withholds or detains the same or any part thereof; or
- (c) in executing, authenticating or attesting any instrument, affixes or cancels any stamp which is not genuine or has been previously used; or
- (d) does any other act calculated to deprive the State of any duty or penalty under this Act; or
- (e) fails to comply with any requirement imposed on him by the Commissioner-General under section 27(2);
- (f) resists or obstructs the Commissioner-General in the exercise by the Commissioner-General, of the powers conferred on him by section 27 (4),

shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate—

- (i) in the case of an offence under subsection (b), to a fine consisting of a sum equal to the amount of the stamp duty withheld or detained by such person and an amount not exceeding five thousand rupees;
- (ii) in the case of an offence under subsection (c), to a fine consisting of a sum equal to ten times the amount of the stamp affixed or cancelled by such person and an amount not exceeding five thousand rupees;

(iii) in the case of an offence under subsection (a) or (d) or (e) or (f), to a fine not exceeding five thousand rupees,

or in every case, to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

60. The institution of a prosecution against any person in respect of an offence under this Chapter or the imposition of a penalty, fine or term of imprisonment on any person in respect of any such offence shall not relieve such person from any liability to the payment of any stamp duty or penalty which he has incurred or may incur under this Act.

61. No prosecution in respect of any offence under this Act shall be instituted without the sanction of the Commissioner-General.

62. The Commissioner-General may, having regard to the circumstances in which the offence was committed, compound any offence under this Act and may, before judgement, stay or compound any proceedings thereunder.

Amount of stamp duty or penalty to be payable notwithstanding any proceeding for penalties &c.

Institution of prosecutions.

Power of the Commissioner-General to compound offences.

CHAPTER XVII

ADMINISTRATION

63. (1) The Commissioner-General shall be in charge of the administration of this Act.

Officers.

(2) The Commissioner-General may authorize an Assessor to exercise, perform or discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General by this Act.

(3) An Assessor exercising, performing or discharging any power, duty or function conferred or imposed on, or assigned to, the Commissioner-General by any provision of this Act shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function, until the contrary is proved.

(4) A Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue, may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by this Act.

CHAPTER XVIII

GENERAL

**Signature,
service
and
validity
of notice.**

64. (1) Every notice to be given by the Commissioner-General or an Assessor under this Act shall bear the name of the Commissioner-General or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner-General or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Act may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is or was carrying on business.

(3) Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post.

(4) In proving service by post, it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate, given or issued for the purposes of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

(6) No notice, certificate or other proceeding purporting to be in accordance with the provisions of this Act shall be quashed, or deemed to be void, or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Act, and if the person to whom such notice or certificate is given or intended to be given or affected thereby is designated therein according to common intent and understanding.

(7) Without prejudice to the generality of subsection (6) a notice shall not be impeached or affected by reason of a mistake therein as to the name or surname of the person chargeable with the amount, if the notice is duly served on the person intended to be charged.

65. Where any discretion is conferred on the Commissioner-General or an Assessor as to the amount of any penalty to be imposed on any person under this Act, such discretion shall be exercised by the Commissioner-General or Assessor, as the case may be, after having regard to all the circumstances in which that penalty was incurred.

Exercise of
discretions
in regard to
penalties.

66. (1) When any stamp duty or penalty has been paid by any person in respect of an instrument and, by agreement or under the provisions of this Act or any other enactment, some other person was liable to pay stamp duty in respect of such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

Persons
paying duty
or penalty
may recover
same in
certain
instances.

(2) For the purpose of such recovery, a certificate under the hand of the Commissioner-General, to the effect that stamp duty has been paid in respect of the instrument by the person specified in the certificate shall be conclusive evidence of the matters specified therein.

67. (1) The Minister may, by Order published in the *Gazette*, require that stamps of the description specified in the Order be used for the stamping of the instruments specified in the Order and it shall not be lawful for any person to use stamps other than the stamps of that description for the payment of duty on such instruments.

Orders.

(2) Every rule made under section 6 of the Stamp Ordinance and in force on the date of commencement of this Act shall be deemed to be an Order made under subsection (1).

(3) The Minister on being satisfied, in respect of any country, that no stamp duty is chargeable in that country in the case of any instrument executed by, or on behalf of, or in favour of, the Government of Sri Lanka may declare, by Order published in the *Gazette* that the exemption granted by paragraph 13 of section 5 shall apply to a similar instrument executed by or on behalf of, or in favour of, the Government of that country.

68. The Stamp Ordinance (Chapter 247) shall not apply to any instruments executed on or after the appointed date.

Stamp
Ordinance
(Chapter 247)
not to
apply to
instruments
executed on
or after the
appointed
date.

Regulations.

69. (1) The Minister may make regulations in respect of all or any of the following matters:—
- (a) any matter which is required or authorized by this Act to be prescribed;
 - (b) the instruments in respect of which stamp duty may be payable by means of impressed stamps.
- (2) Every regulation made under this section shall come into operation on the date of its publication in the *Gazette* or on such later date as may be specified in the regulation.
- (3) Every regulation made under this section shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

**Amendments
to certain
enactments.**

70. (1) Section 39 of the Co-operative Wholesale Establishment Act (Chapter 126) is hereby amended by the repeal of paragraph (a) of that section.
- (2) Section 35 of the Co-operative Societies Law, No. 5 of 1972, is hereby amended as follows:—
- (a) by the repeal of paragraph (a) of subsection (1) of that section; and
 - (b) by the repeal of subsection (2) of that section.
- (3) Section 41 of the Peoples' Bank Act, No. 29 of 1961, is hereby repealed.

**Interpreta-
tion.**

71. In this Act, unless the context otherwise requires—
- “adhesive stamp” means a stamp which can be pasted and in respect of which an order under section 67(1) is in force;
- “approved credit agency” means an approved credit agency as defined in section 3 of the Mortgage Act;
- “Assessor” means an Assessor of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979, and includes a Senior Assessor of Inland Revenue appointed for the purposes of that Act;

"authorized representative" means any individual—

- (1) who is authorized in writing by a person to act on his behalf for the purposes of this Act and who is—
 - (a) in any case—
 - (i) a member of the Institute of Chartered Accountants of Sri Lanka;
 - (ii) an Accountant approved by the Commissioner-General;
 - (iii) an Attorney-at-Law; or
 - (iv) an employee regularly employed by that person; or
 - (b) in the case of an individual, a relative;
 - (c) in the case of a company, a director or the secretary of that company;
 - (d) in the case of a partnership, a partner in that partnership;
 - (e) in the case of a body of persons, a member of that body; or
- (2) who is authorized in writing from time to time, by a person to act on his behalf for the purposes of this Act in respect of such matters as are specified in the authorization and who, being an individual registered as an auditor under the Companies (Auditors) Regulations, is approved by the Commissioner-General;

"bank" includes a banking institution;

"banking institution" has the same meaning as in the Monetary Law Act;

"bill of exchange" means a bill of exchange as defined by the Bills of Exchange Ordinance, or any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money;

"bill of exchange payable on demand" includes—

- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may

or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(b) an order for the payment of any sum of money weekly, monthly, or at any other stated periods;

"bill of lading" includes a "through bill of lading" but does not include a mate's receipt;

"broker's note" means the note sent by a broker or agent to his principal (except where such principal is acting as broker or agent for a principal) advising him of the sale or purchase on account of such principal, of any goods, stock, share, debenture or marketable security;

"chargeable" in relation to an instrument executed or first executed after the date of commencement of this Act, means chargeable with stamp duty under this Act;

"cheque" means a bill of exchange drawn on a specified bank and not expressed to be payable otherwise than on demand;

"Commissioner-General" means the Commissioner-General of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 28 of 1979, and includes a Commissioner of Inland Revenue or a Deputy Commissioner of Inland Revenue appointed for the purposes of that Act, and who is authorized either generally or for some specific purpose, by the Commissioner-General to act on his behalf;

"company" means any company incorporated or registered under any law in force in Sri Lanka or elsewhere and includes a public corporation;

"conveyance" includes conveyance on sale and every instrument by which property, whether movable or immovable, or any interest in any property, is transferred;

"die" includes any plate, type, tool, or implement or a part thereof used under the direction of the Commissioner-General, for expressing or denoting the fact that any stamp duty or penalty has been paid in respect of an instrument, or that an instrument is duly stamped or is not chargeable with any stamp duty;

"document" in relation to legal proceedings in any court includes an appointment of attorney, plaint, answer, replication or other pleading, petition, application, affidavit, appointment, summons, judgment, decree, order of any description, award, writ, warrant, inventory, account, mandate, bond or recognizance;

"duly stamped" in relation to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and where such stamp is an adhesive stamp, that such stamp has been affixed and cancelled according to the provisions of this Act;

"executed" and "execution", used in relation to an instrument means "signed" and "signature", respectively;

"gift" means a transfer by one person to another of any movable or immovable property made voluntarily and without consideration in money or money's worth;

"impressed stamp" means a stamp impressed by means of a die and in relation to any instrument chargeable with a stamp duty not exceeding ten rupees, includes stamps impressed by means of a postal franking machine, which is used under a permit issued by the Postmaster-General;

"instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished, or recorded;

"marketable security" means a security which is capable of being sold in any recognized stock market;

"money" includes all sums, whether expressed in Sri Lanka or foreign currency;

"policy of insurance" includes—

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event;

(b) a life policy, and any policy insuring any person against accident or sickness, and any other personal insurance; and

(c) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire insurance in respect of which, and of the previous renewal thereof, if any, there has not already been paid the stamp duty which would have been chargeable if the policy had originally been granted for a longer term than six months;

“power of attorney” includes any instrument empowering a specified person to act for, and in the name of, the person executing it;

“promissory note” means a promissory note as defined by the Bills of Exchange Ordinance; and includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

“property” means movable as well as immovable property; and includes a right to or any interest in property;

“public corporation” means any corporation, board or other body which was or is established by, or under, any written law other than the Companies Ordinance or the Companies Act, No. 17 of 1982, with funds or capital wholly or partly provided by the Government, by way of grant, loan or otherwise;

“receipt” includes any note, memorandum or writing—

(a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received; or

(b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt; or

(c) whereby any debt or demand, or any part of a debt or demand is acknowledged to have been satisfied or discharged; or

(d) which signifies or imports any such acknowledgement, whether the same is or is not signed with the name of any person;

“share certificate” means a certificate or other document evidencing the right or title of the holder thereof or any other person either to any shares, scrip, stock, or debenture stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip, stock, or debenture stock in, or of, any such company or body;

“value” with reference—

- (a) to any property (other than immovable property which is gifted) and to any date, means the price which in the opinion of the Assessor, that property would have fetched in the open market on that date;
- (b) to any immovable property which is gifted, being immovable property which was acquired by the donor on or before March 31, 1977 means—
 - (i) the price which in the opinion of the Assessor that property would have fetched if sold in the open market on March 31, 1977 increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after March 31, 1977 and prior to the date of the instrument by which such property is gifted; or
 - (ii) the price which, in the opinion of the Assessor, that property would have fetched if sold in the open market on the date of the instrument by which such property is gifted,
 whichever price is the lower;
- (c) any immovable property which is gifted, being immovable property which was acquired by the donor after March 31, 1977 means—
 - (i) the price which, in the opinion of the Assessor, such property would have fetched if sold in the open market on the date on which such property was acquired by the donor, increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after the date on which the property was

acquired by the donor, and prior to the date of the instrument by which such property is gifted ; or

(ii) the price which, in the opinion of the Assessor, that property would have fetched, if sold in the open market on the date of the instrument by which such property was gifted,

whichever price is the lower ;

“ write ” with its grammatical variations and cognate expressions includes every mode in which words or figures can be expressed upon material.