

PARLIAMENT OF CEYLON

4th Session 1963-64



Finance Act, No. 11 of 1963

Date of Assent : December 21, 1963

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**AN ACT TO ENACT THE PROVISIONS OF LAW NECESSARY
TO GIVE LEGAL FORCE TO CERTAIN PROPOSALS,
FINANCIAL AND OTHERWISE, FOR THE FINANCIAL
YEAR COMMENCING ON OCTOBER 1, 1963.**

[Date of Assent: December 21, 1963]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Finance Act, Short title.
No. 11 of 1963.

PART I

**National Lotteries Board and
National Lotteries**

2. This Part of this Act shall come into operation on the appointed date. Date of operation of this Part of this Act.

3. (1) A Board to be called the National Lotteries Board, hereinafter in this Part of this Act referred to as "the Board", shall be established for the purposes of this Part of this Act. National Lotteries Board to be established.

- (2) The Board shall be a body corporate with perpetual succession and a common seal and may by its name sue and be sued.

4. (1) The Board shall consist of not more than five members appointed by the Minister. Constitution of the Board.

- (2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

- (3) The Minister may, if he thinks it expedient to do so, remove, by Order published in the *Gazette*, any member of the Board from office without reason stated.

(4) A member of the Board in respect of whom an Order under sub-section (3) of this section is made by the Minister shall vacate his office on the date of the publication of such Order in the *Gazette*.

(5) A member of the Board may at any time resign his office by letter addressed to the Minister.

(6) If the Chairman or any other member of the Board is temporarily unable to discharge the duties of his office on account of ill-health or absence from Ceylon or any other cause, the Minister may appoint some other person to act in his place as the Chairman, or as a member, of the Board, as the case may be.

(7) Every member of the Board shall, unless he earlier vacates office by resignation or removal, hold office for a period of five years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

(8) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members.

**Remuneration
of members of
the Board.**

5. The members of the Board may be remunerated in such manner and at such rates as may be determined by the Minister. The remuneration, if any, shall be paid out of the Fund of the Board.

**Appointment
of officers
and servants.**

6. (1) The staff necessary for the discharge of the Board's duties under this Part of this Act shall be determined by the Board, and every appointment to such staff shall be made by the Board.

(2) The officers and servants of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service

as may be determined by rules made under this Part of this Act. Such remuneration shall be paid out of the Fund of the Board.

(3) The Board may, in accordance with rules made under this Part of this Act, establish and maintain a provident fund for the benefit of its officers and servants, make contributions out of its Fund to such provident fund, regulate the management and investment thereof, and fix the contributions to be made thereto by, and the payments to be made therefrom to, or in respect of, such officers and servants.

7. (1) The Board may acquire, hold and dispose of any movable or immovable property, and enter into contracts and otherwise do all such acts as may be necessary for the purpose of carrying out the provisions of this Part of this Act.

Property,
contracts and
expenditure
of the Board.

(2) All sums payable by the Board under any contract entered into by the Board or in respect of any movable or immovable property acquired or held by the Board shall be paid out of the Fund of the Board. All sums received by the Board under any such contract or in respect of any such property shall be paid to the Fund of the Board.

(3) All sums payable by the Board for the purpose of defraying any expenditure incurred in the management of the affairs or the transaction of the business of the Board, or the exercise of the powers or the performance of the duties of the Board under this Part of this Act, shall be paid out of the Fund of the Board.

8. In the exercise of its powers and the discharge of its duties under this Part of this Act, the Board shall be subject to the general or special directions of the Minister.

Board to be
subject to
directions
of Minister.

9. (1) The Board shall have its own Fund.

Fund of
the Board.

(2) There shall be paid to the Fund of the Board all sums required by this Part of this Act to be so paid.

(3) There shall be paid out of the Fund of the Board all sums required by this Part of this Act to be so paid.

(4) All cheques for the payment of moneys out of the Fund of the Board shall be signed by a member of the Board and by any such officer employed by the Board as may be authorized in that behalf by the Board.

Power of
Minister to
grant a loan
to the Board.

10. (1) The Minister may grant out of the Consolidated Fund to the Board, free of interest, a loan not exceeding rupees one million for the purpose of enabling the Board to meet the initial expenses incurred by the Board in the discharge of its duties under this Part of this Act.

(2) Any sum granted to the Board by way of loan under sub-section (1) of this section—

(a) shall be paid to the Fund of the Board ; and

(b) shall be repaid by the Board to the Consolidated Fund out of the Fund of the Board in such manner as the Minister may from time to time direct.

Accounts of
the Fund of
the Board.

11. The accounts of the Fund of the Board shall—

(a) be kept in the prescribed manner ;

(b) be audited annually by, or under the direction of, the Auditor-General ; and

(c) in respect of each financial year, be laid, together with the report of the Auditor-General thereon, before the Senate and

the House of Representatives within eight months of the conclusion of each financial year.

Notwithstanding anything in this section, the accounts of the Fund may be ratified by a resolution of the Senate and the House of Representatives.

12. Rules may be made under this Part of this Act in respect of all or any of the following matters relating to the Board :—

- (a) the custody and use of its seal ;
- (b) the appointment, promotion, dismissal and disciplinary control of its officers and servants ;
- (c) the meetings of the Board and the quorum for, and the procedure to be followed at, such meetings ; and
- (d) the establishment and maintenance of a provident fund for its officers and servants, and the payment of contributions to that fund by the Board and such officers and servants.

Power to make rules.

13. (1) No suit or prosecution shall lie—

- (a) against the Board for any act which in good faith is done or purported to be done by the Board under this Part of this Act ; or
- (b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Part of this Act or on the direction of the Board.

Protection for action taken under this Part of this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the Fund of the Board, and any costs paid to, or recovered by, the Board in any such suit shall be credited to such Fund.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of sub-section (1) in any suit or prosecution brought against him before any court in respect of any act done or purported to be done by him under this Part of this Act or on the direction of the Board shall, if the court holds that such act was so done or purported to be done in good faith, be paid out of the Fund of the Board, unless that expense is recovered by him in such suit or prosecution.

**The Board
to conduct
national
lotteries.**

14. (1) The Board shall conduct lotteries for the purposes of this Part of this Act. Every such lottery is in this Part of this Act referred to as a "national lottery".

(2) There shall be such number of national lotteries in each year as may be prescribed. Every national lottery shall be conducted by the Board in such manner as may be prescribed, subject however to the provisions of this Part of this Act.

**National
lotteries not to
be in connection
with horse-
races.**

15. No national lottery shall be conducted in connection with any horse-race or any other form of racing.

**Prizes in
national
lotteries.**

16. (1) The number of the prizes to be awarded in each national lottery and the value of each of such prizes shall be as prescribed.

(2) Every prize awarded in a national lottery shall consist of a sum of money and every such prize shall be exempt from the operation of section 3 (1)(i) of the Inland Revenue Act, No. 4 of 1963, and shall not be included in the assessment of profits as income for the payment of tax by such prize winner under the provisions of that Act.

(3) The prize winners in every national lottery shall be determined by the drawing of lots in public in the prescribed manner.

(4) After the expiration of a period of six months reckoned from the date of the drawing of lots for the prizes in any national lottery, any prize in such lottery which has not been granted to the person entitled thereto by reason of the fact that such person is not to be found shall be forfeited and paid to the Fund of the Board :

Provided, however, that where any action or proceeding arising out of any claim made in respect of such prize is pending before any court at the expiration of the period aforesaid, such forfeiture shall not be made, and if in the final determination of that action or proceeding any person is declared to be entitled to such prize, the Board shall grant such prize to that person, and if no person is so declared, such prize shall be forfeited and paid to the Fund of the Board.

17. (1) The proceeds of every national lottery shall be paid in the first instance to the Fund of the Board.

Proceeds
of national
lotteries.

(2) The Board shall pay to the Consolidated Fund through the Deputy Secretary to the Treasury the balance of the proceeds of every national lottery after the deduction from such proceeds of an amount approved by the Permanent Secretary as the amount necessary for the purpose of—

- (a) defraying, or reimbursing the Fund of the Board for the payment of, the expenses of conducting such lottery including the value of the prizes awarded in such lottery ;
- (b) paying the whole or a part of the remuneration, if any, of the members of the Board and the remuneration of the staff of the Board ;
- (c) paying the whole or a part of any contributions payable by the Board to any such provident fund as is referred to in sub-section (3) of section 6 ;
- (d) repaying the whole or a part of any loan granted to the Board under section 10 ; and
- (e) meeting other liabilities of the Board.

18. The Board shall be exempt from the payment of any tax on the income or profits from any national lottery.

Exemption
from tax on
income or
profits from
national
lotteries.

19. The Lotteries Ordinance shall not apply to or in relation to any national lottery.

Lotteries
Ordinance
not to apply
to national
lotteries.

Rules.

20. (1) The Board may make rules in respect of all matters stated or authorized by this Part of this Act to be prescribed, or in respect of which rules are authorized to be so made by this Part of this Act.

(2) Without prejudice to the provisions of sub-section (1) of this section, rules made under this section may make provision in respect of all or any of the following matters :—

- (a) the price at which tickets in every national lottery are to be sold ;
- (b) the particulars to be stated on every such ticket ;
- (c) the manner in which tickets in every such lottery are to be sold or offered for sale ;
- (d) the employment of agents for the sale of such tickets and the remuneration payable to such agents ;
- (e) the publication of the number of each winning ticket in every such lottery and of the name and address of the person entitled to such ticket ; and
- (f) all other matters relating to national lotteries.

(3) No rule made by the Board under this section shall have effect until it has been approved by the Minister. Every rule so made and approved, other than any rule relating to any of the matters referred to in section 12, shall be published in the *Gazette* as soon as it may be convenient.

Offences.

21. (1) Every person who—

- (a) sells or offers for sale any ticket for the purposes of any national lottery at a price exceeding the price specified for such ticket by rule made under this Part of this Act ; or
- (b) forges any ticket for the purposes of any such lottery ; or
- (c) sells or offers for sale any ticket for the purposes of any such lottery knowing it to be forged,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) All sums paid or recovered as fines imposed for offences under this section shall be paid to the Fund of the Board.

22. All offences under this Part of this Act shall be cognizable offences within the meaning and for the purposes of the Criminal Procedure Code.

23. In this Part of this Act, unless the context otherwise requires, —

Offences to
be cognizable
offences.

Interpretation.

“ financial year ” means the period commencing on October 1 in any year and ending on September 30 in the next succeeding year ;

“ General Treasury ” means the Department of Government known as the General Treasury ;

“ Hospitals Lotteries Board ” means the Hospitals Lotteries Board established under the repealed Hospitals Lotteries Act ;

“ Minister ” means the Minister to whom the subject or function of finance is assigned by the Prime Minister under section 46 of the Ceylon (Constitution) Order in Council, 1946 ;

“ prescribed ” means prescribed by rule made under this Part of this Act.

24. The Hospitals Lotteries Act is hereby repealed.

Repeal of
Chapter 427.

25. On the appointed date —

Transitory
provisions.

(a) all the movable and immovable properties of the Hospitals Lotteries Board on the day immediately prior to the appointed date (including moneys in the Fund of that Board) shall be deemed to vest in, and to be the properties of, the National Lotteries Board ;

(b) all the contracts of the Hospitals Lotteries Board subsisting on that day shall be deemed to be the contracts of the National Lotteries Board, and all subsisting rights and obligations of the Hospitals Lotteries Board under such

contracts shall be deemed to be the rights and obligations of the National Lotteries Board ;

(c) the liabilities of the Hospitals Lotteries Board on that day shall be deemed to be the liabilities of the National Lotteries Board ;

(d) the Hospitals Fund maintained at the General Treasury under the repealed Hospitals Lotteries Act shall cease to be so maintained, and all sums of money lying to the credit of such Hospitals Fund shall be transferred to the Consolidated Fund by the Deputy Secretary to the Treasury ; and

(e) the provident fund established and maintained by the Hospitals Lotteries Board for its officers and servants under the repealed Hospitals Lotteries Act shall be deemed to be a provident fund established and maintained by the National Lotteries Board for its officers and servants under this Part of this Act.

**Transfer of
officers and
servants.**

26. On the appointed date, all officers and servants of the Hospitals Lotteries Board on the day immediately prior to that date shall be deemed to be transferred to the service, and to be officers and servants, of the National Lotteries Board.

PART II

Imposition, Levy and Recovery of the Exchange Tax

**Date of
operation of
this Part of this
Act.**

Certain sales of
foreign
currency to be
liable to
exchange tax.

Imposition and
levy of the
exchange tax.

27. This Part of this Act shall come into operation on the appointed date.

28. On or after the appointed date, every sale of foreign currency in Ceylon by a competent authority to any person for any taxable purpose shall be liable to the imposition, levy and payment of the exchange tax.

29. (1) The Minister may, from time to time, by Order impose and levy a tax (in this Part of this Act referred to as the "exchange tax") on every sale of foreign currency in Ceylon by a competent authority to any person for any such

taxable purpose as shall be specified in the Order. The Minister may, from time to time, by a like Order increase or reduce the rate of such tax on any such sale.

(2) The rate of the exchange tax on any sale referred to in section 28 may be determined by reference to the taxable purpose of such sale, and accordingly such tax may be imposed and levied at different rates in respect of such sales for different taxable purposes.

(3) Any Order made by the Minister under the preceding provisions of this section is in this Part of this Act referred to as an "exchange tax Order".

(4) An exchange tax Order shall come into force on such date as may be specified in the Order or, if no date is so specified, on the date on which it is made by the Minister.

(5) A sale referred to in section 28 in respect of which there is an exchange tax Order for the time being in force is in this Part of this Act referred to as a "foreign currency sale subject to tax".

(6) An exchange tax Order in respect of any foreign currency sale subject to tax shall remain in force until it is revoked by an Order of revocation, or is deemed to be revoked by virtue of the operation of the provisions of sub-section (9), and applicable to such sale. Such exchange tax Order shall so remain in force subject to the provisions of any subsequent exchange tax Order in respect of such sale made by the Minister increasing or reducing the rate of the exchange tax specified in such first-mentioned exchange tax Order.

(7) Every exchange tax Order shall be published in the *Gazette*.

(8) Every exchange tax Order shall be brought before the House of Representatives, within a period of two months from the date of the publication of such Order in the *Gazette*, by a motion that such Order shall be approved. There shall be set out in a schedule to such motion the text of such Order.

(9) Any exchange tax Order which the House of Representatives refuses to approve shall, with effect from the date of such refusal, be deemed to

be revoked, but without prejudice to the validity of anything previously done thereunder. Notification of the date on which such Order is deemed to be revoked shall be published in the *Gazette*.

(10) The effect of the revocation of an exchange tax Order by virtue of the operation of the provisions of sub-section (9) shall,—

(a) in so far as such Order purported to impose and levy exchange tax on any sale of foreign currency which was not a foreign currency sale subject to tax on the day immediately prior to the date on which such Order came into force, be to abolish, with effect from the date of such revocation, such tax on such sale ; or

(b) in so far as such Order purported to increase or reduce the rate of exchange tax on any foreign currency sale subject to tax on the day referred to in paragraph (a) of this sub-section, be to revive, with effect from the date of such revocation, the exchange tax at that rate on such sale, and accordingly for the purpose of such revival the exchange tax Order which was the subject matter of the exchange tax Order so revoked shall be deemed, with effect from that date, to continue in force, subject however to the other provisions of this Part of this Act.

(11) For the purpose of the computation of the period of two months referred to in sub-section (8), no account shall be taken of days on which the House of Representatives is not in session.

Revocation of
exchange tax
orders.

30. (1) The Minister may, from time to time, by Order revoke an exchange tax Order for the time being in force (in this Part of this Act referred to as an "Order of revocation") in respect of any foreign currency sale subject to tax. Such Order of revocation shall come into force on such date as may be specified in such Order or, if no date is so specified, on the date on which it is made by the Minister. Every such Order of revocation shall be published in the *Gazette*. The effect of such Order of revocation shall be, subject to the other provisions of this section, to abolish the exchange tax on such sale imposed by that exchange tax Order.

(2) Every Order of revocation shall be brought before the House of Representatives, within a period of one month from the date of the publication of such Order in the *Gazette*, by a motion that such Order shall be approved. There shall be set out in a schedule to such motion the text of such Order.

(3) Any Order of revocation which the House of Representatives refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked, but without prejudice to anything previously done thereunder. Notification of such date shall be published in the *Gazette*.

(4) Where any Order of revocation in respect of any exchange tax Order is itself revoked by virtue of the operation of the provisions of sub-section (3), that exchange tax Order shall, with effect from the date of such revocation under the said sub-section (3), be deemed to continue in force subject to the other provisions of this Part of this Act, and accordingly the exchange tax imposed and levied under that exchange tax Order on the day immediately prior to the date on which such Order of revocation came into force shall, so long as that exchange tax Order remains in force, continue to be imposed and levied with effect from the date of such revocation under the said sub-section (3).

(5) For the purpose of the computation of the period of one month referred to in sub-section (2), no account shall be taken of days on which the House of Representatives is not in session.

31. The exchange tax on any foreign currency sale subject to tax shall be payable by the person to whom such sale is effected, and shall be so payable by such person before such sale to the competent authority by whom such sale is to be so effected.

Payment of the
exchange tax
on any
foreign
currency sale
subject to tax.

32. (1) Before any foreign currency sale subject to tax is effected by a competent authority to any person, the exchange tax on such sale shall be collected from such person by that authority in the prescribed manner for and on behalf of the Central Bank.

Collection of the
exchange tax on
any foreign
currency sale
subject to tax.

(2) Any exchange tax collected by a competent authority shall be retained by that authority for

and on behalf of the Central Bank pending its payment to that Bank under this Part of this Act.

(3) Where the exchange tax due from any person on any foreign currency sale subject to tax is not collected by the competent authority by whom such sale was effected, such tax may be recovered from that authority in like manner as a debt due to the Crown.

Payment of the exchange tax collected by a competent authority.

33. (1) Any exchange tax collected by any competent authority under this Part of this Act shall, within the prescribed period after the date of such collection, be paid in the prescribed manner to the Central Bank.

(2) Where any person who has paid the exchange tax on any foreign currency sold to him, returns the whole or any portion of such currency to the Central Bank or any competent authority, such person shall be entitled to a refund from the Consolidated Fund of the whole amount, or a proportionate amount, as the case may be, of the tax so paid by him.

Power to impose a surcharge if exchange tax is not duly paid.

34. Where the exchange tax on any foreign currency sale subject to tax which is due from any person is not paid to the Central Bank, in accordance with the provisions of this Part of this Act, by the competent authority whose duty it was to collect such tax, the Central Bank may, in its discretion, order that a sum not exceeding ten *per centum* of the amount of such tax shall be added to such tax and recovered therewith. Any sum so added to such tax shall be deemed to constitute a part of such tax.

Presumption as to the sale of foreign currency.

35. Any foreign currency sold in Ceylon by any competent authority to any person shall, for the purposes of this Part of this Act, be presumed until the contrary is proved to have been so sold for any taxable purpose.

Disposal of exchange tax paid to, or recovered by, the Central Bank.

Furnishing of information and returns.

36. The amount of all exchange tax paid to, or recovered by, the Central Bank under this Part of this Act shall be credited to the Consolidated Fund.

37. The Central Bank may, from time to time, direct any competent authority to furnish to that Bank, within such period as shall be specified in such direction, all such information or returns relating to his dealings in foreign currency as

that Bank may require for the purposes of this Part of this Act, and it shall be the duty of such authority to comply with that direction within that period.

38. For the purpose of verifying the correctness of any information or return furnished by any competent authority in pursuance of the provisions of this Part of this Act, or for the purpose of securing compliance with such provisions or any directions issued by the Central Bank under such provisions, any officer of that Bank authorized in that behalf by the Bank may—

- (a) enter any premises used by such authority for the purposes of his business ; and
- (b) inspect and take copies of any such documents or records as are kept by such authority in relation to his dealings in foreign currency.

39. Any person—

- (a) who contravenes or fails to comply with any of the provisions of this Part of this Act or any directions issued by the Central Bank thereunder ; or
- (b) who furnishes any false information or false return to, or obstructs, the Central Bank or any person exercising, performing or discharging any power, duty or function of that Bank ; or
- (c) to or by whom any foreign currency sale subject to tax is effected before the prior payment of the exchange tax on such sale in contravention of the provisions of this Part of this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

40. No prosecution for an offence under this Part of this Act shall be instituted except by, or with the written sanction of, the Central Bank.

41. The powers, duties and functions of the Central Bank under this Part of this Act shall vest in the Monetary Board, and accordingly any such power, duty or function may be exercised, performed and discharged by the Monetary Board.

Powers of entry and inspection.

Offences.

Prosecutions by, or with the sanction of, the Central Bank.

Powers, etc., of Central Bank, vested in the Monetary Board.

Powers, etc., of
Monetary
Board by
whom
exercisable.

42. Any power, duty or function of the Central Bank under this Part of this Act which is vested in the Monetary Board by section 41, other than the power to sanction a prosecution under section 40, and to compound an offence under section 44, may be exercised, performed or discharged on its behalf by any officer of that Bank acting under the general or special directions of the Governor of the Central Bank.

Directions by
Central Bank.

43. (1) The Central Bank may issue directions for the purpose of carrying out or giving effect to the principles and provisions of this Part of this Act.

(2) In particular but without prejudice to the generality of the powers conferred by sub-section (1) of this section, the Central Bank may issue directions for or in respect of all or any of the following matters :—

(a) any matter stated or required by this Part of this Act to be prescribed or for which directions are authorized by this Part of this Act to be issued ;

(b) any matter relating to the mode of the levy, payment and recovery of the exchange tax in respect of which the provisions of this Part of this Act need to be supplemented ; and

(c) any matter connected with or incidental to any of the aforesaid matters.

Powers to
compound.

44. The Central Bank may accept from any person who is reasonably suspected of having committed an offence under this Part of this Act, by way of composition for the offence which may have been committed, either such sum of money, not exceeding one thousand rupees, as may be specified in the notice sent by post or otherwise delivered to such person by that Bank if the sum so specified is tendered by such person before the expiry of fourteen days after the date of such notice, or the sum so specified and such additional amount, not exceeding ten *per centum* of the sum so specified, as may be determined by that Bank, if the sum so specified and the additional amount so determined are tendered by such person before the expiry of twenty-eight days after the date of such notice. Any sum so accepted by the Central

Bank by way of composition of such offence shall be credited by that Bank to the account referred to in section 36.

45. In this Part of this Act, unless the context otherwise requires,—

Interpretation.

“Central Bank” means the Central Bank of Ceylon established under the Monetary Law Act;

“competent authority” means any authorized dealer within the meaning of the Exchange Control Act, or any other person, for the time being, authorized by or under that Act to sell foreign currency;

“foreign currency” has the same meaning as in the Exchange Control Act;

“Minister” means the Minister to whom the subject or function of finance is assigned by the Prime Minister under section 46 of the Ceylon (Constitution) Order in Council, 1946;

“Monetary Board” means the Monetary Board of the Central Bank established under the Monetary Law Act;

“sale”, in relation to foreign currency, means to sell such currency, and includes the sale or issue to any person of any ticket for travel abroad by air, sea, or railway, whether or not such person pays or is to pay for such ticket, and the expression “foreign currency sale subject to tax” shall be construed accordingly; and

“taxable purpose”, in relation to the sale of foreign currency, means any purpose, other than the importation of goods.

46. The provisions of this Part of this Act shall be in addition to and not in derogation of the provisions of the Exchange Control Act, and accordingly nothing in the provisions of this Part of this Act shall be deemed or construed to authorize any competent authority to sell any foreign currency for any purpose unless such authority is authorized to do so by or under the Exchange Control Act.

This Part of this
Act to be in
addition to and
not in deroga-
tion of the
Exchange
Control Act.

PART III

**Amendments to the Pawnbrokers Ordinance, Money
Lending Ordinance, Marriage Registration
Ordinance, Insurance Corporation Act,
No. 2 of 1961, and Registration of
Documents Ordinance**

**Amendments
to the
Pawnbrokers
Ordinance.
(Chapter 90).**

47. (1) The Pawnbrokers Ordinance is hereby amended as follows :—

(a) by the insertion in Part II of that Ordinance, immediately before section 3 of that Ordinance, of the following new section which shall have effect as section 2A of that Ordinance :—

“Certain persons prohibited from carrying on the business of a pawnbroker.”

2A. On or after the first day of January, 1964, no person shall carry on the business of a pawnbroker if such person—

(i) is an individual who is not a citizen of Ceylon ; or

(ii) is a foreign company ; or

(iii) is a foreign firm,

and accordingly any licence to carry on such business which was issued to any such individual, foreign company or foreign firm and was in force on the day immediately prior to the said first day of January shall, on and after the said first day of January, be deemed, for all purposes, to be null and void.” ;

(b) by the repeal of section 7 of that Ordinance (replaced by Act No. 55 of 1956) and the substitution therefor of the following new section :—

“Issue of licences to certain persons prohibited.”

7. On or after the first day of January, 1964, no licence for carrying on the business of a pawnbroker shall be issued to any person who is prohibited from carrying on such business by virtue of the operation of the provisions of section 2A, and accordingly any such licence issued to any such person, whether by inadvertence or otherwise, shall be deemed, for all purposes, to be null and void.” ;

(c) by the insertion, immediately after section 46B of that Ordinance (inserted by Act No. 55 of 1956), of the following new section :—

"Burden of proof."

46C. For the purposes of the issue to any person of any licence for carrying on the business of a pawnbroker, or of any prosecution instituted against any person for any offence under this Ordinance, the burden of proving that such person is a citizen of Ceylon, or is not a foreign company or foreign firm, shall lie on such person." ; and

(d) in section 47 of that Ordinance by the insertion, immediately after the definition of,—

(i) "appointed date", of the new definition :—

" "citizen of Ceylon" means any individual who is a citizen of Ceylon under any law for the time being in force relating to such citizenship ;' ; and

(ii) "district", of the following new definitions :—

" "foreign company" means a company to which Part XI of the Companies Ordinance applies ;

" "foreign firm" means a firm—

(a) consisting of two partners one of whom is not a citizen of Ceylon, or both of whom are not such citizens ; or

(b) consisting of more than two partners at least one of whom is not a citizen of Ceylon ;'.

(2) Where any person was, on the thirty-first day of December, 1963, carrying on business as a pawnbroker under the authority of a licence issued

to him under the Pawnbrokers Ordinance but is prohibited from carrying on such business after that day by virtue of the operation of that Ordinance as amended by sub-section (1) of this section, then, notwithstanding anything in that Ordinance as so amended, any right, liability, action, proceeding or thing, acquired or incurred or pending by or against such person on or before that day in his capacity as such pawnbroker may, after that day, be enforced or carried on or completed as though such person was not so prohibited from carrying on such business.

**Amendments to
the Money
Lending
Ordinance.
(Chapter 80).**

48. (1) The Money Lending Ordinance is hereby amended as follows :—

- (a) in the long title of that Ordinance, by the substitution, for the expression “Money-Lending Transactions.”, of the expression “Money-Lending Transactions, and the Prohibition of the carrying on of the Business of Money-Lending by Certain Persons.”;
- (b) by the insertion, immediately after section 1 of that Ordinance, of the following new sections which shall have effect as section 1A and section 1B of that Ordinance :—

1A. (1) On or after the first day of January, 1964, no person shall carry on the business of money lending if such person—

- (a) is an individual who is not a citizen of Ceylon ; or
- (b) is a foreign company ; or
- (c) is a foreign firm :

Provided, however, that the preceding provisions of this sub-section shall not apply to any foreign firm or foreign company approved for the purpose of this sub-section by the Minister of Finance by Order published in the *Gazette*.

- (2) Any person who contravenes the provisions of sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a

fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(3) In any prosecution of any person for an offence under this section, the burden of proving that such person is a citizen of Ceylon, or is not a foreign company or foreign firm, shall lie on such person.

(4) In this section,—

(a) "citizen of Ceylon" means any individual who is a citizen of Ceylon under any law for the time being in force relating to such citizenship;

(b) "foreign company" means a company to which Part XI of the Companies Ordinance applies, other than any commercial bank within the meaning of the Monetary Law Act or any life insurance company; and

(c) "foreign firm" means a firm—

(i) consisting of two partners one of whom is not a citizen of Ceylon, or both of whom are not such citizens; or

(ii) consisting of more than two partners at least one of whom is not a citizen of Ceylon.

Prohibition
of suit or
other
proceedings in
respect of
money lent in
certain cir-
cumstances.

1B. No suit or other proceedings shall be instituted or maintained in any court in respect of any money lent if such money was lent on or after the first day of January, 1964, by any person carrying on the business of money lending in contravention of the provisions of subsection (1) of section 1A.'

(2) Where any person was, on the thirty-first day of December, 1963, carrying on the business of money lending but is prohibited from carrying on such business after that day by virtue of the operation of the Money Lending Ordinance as amended by sub-section (1) of this section, then, notwithstanding anything in that Ordinance as so amended, any right, liability, action, proceeding or thing, acquired or incurred or pending by or against such person on or before that day in his capacity as such money lender may, after that day, be enforced or carried on or completed as though such person was not so prohibited from carrying on such business.

**Amendments to
the Marriage
Registration
Ordinance.
(Chapter 112).**

49. (1) The Marriage Registration Ordinance is hereby amended as follows :—

(a) in section 34 of that Ordinance,—

(i) by the substitution in sub-section (5) of that section, for the expression “was solemnized.”, of the expression “was solemnized together with stamps of a value equal to the amount of the fee payable to such Registrar for the registration of such marriage.”,

(ii) by the substitution in sub-section (6) of that section, for the expression “duplicate statement.”, of the expression “duplicate statement together with stamps equal in value to the amount of the fee payable to such Registrar for the registration of the marriage.”, and

(iii) by the insertion, at the end of that section, of the following new sub-section :—

“(8) A Minister shall refuse to solemnize a marriage until the parties thereto have paid to him, for transmission to the District Registrar, the fee payable to such Registrar for the registration of the marriage.”;

(b) in section 62 of that Ordinance, by the substitution in sub-section (1) of that section, for the expression "The fees enumerated", of the expression "Subject to the provisions of section 34, the fees enumerated"; and

(c) in the Second Schedule to that Ordinance, by the insertion, at the end of that Schedule, of the following new item the particulars of which shall be so inserted in the appropriate columns of that Schedule :—

"Do Registration of
marriage solemnized
in a registered
place of public
worship do 1.50."

(2) The amendments made in the Marriage Registration Ordinance by sub-section (1) of this section shall come into operation on the first day of January, 1964.

50. (1) The Insurance Corporation Act, No. 2 of 1961, is hereby amended as follows :—

Amendments to
Act No. 2 of
1961.

(a) in section 7 of that Act, by the substitution, in sub-section (3) of that section, for the words "any new business of life", of the words "any business of" ;

(b) by the repeal of section 10 of that Act and the substitution therefor of the following new section :—

"Corporation
to be the sole
insurer
authorized to
transact
insurance
business in
Ceylon on or
after January 1,
1964.

10. (1) On or after the first day of January, 1964, notwithstanding anything in any other law—

(a) the Corporation shall be the sole insurer authorized to transact new business of any class of insurance whatsoever and to issue policies of insurance, in Ceylon ; and

(b) no other insurer shall transact any new business of insurance whatsoever, or issue any new policy of insurance, or renew any policy of general insurance, in Ceylon.

(2) Every policy of insurance issued or every policy of general insurance renewed on or after the first day of January, 1964, by any insurer other than the Corporation shall be deemed to be invalid and accordingly shall be of no force or effect in law.

(3) No policy of general insurance entered into by or with any insurer other than the Corporation shall be valid or effective beyond such date in the year 1964 as is the expiry date of such policy, or, where the expiry date of such policy is a date beyond December 31, 1964, after December 31, 1964.

(4) No insurer shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, by reason of the fact that he is unable to transact any new business of insurance, or to issue any new policy of general insurance, by virtue of paragraph (b) of sub-section (1).";

(c) by the repeal of section 15 of that Act;

(d) in section 17 of that Act, by the substitution in sub-section (1) of that section, for the word "ten", of the word "twenty";

(e) in section 20 of that Act, by the substitution, for the words "and the reinsurance business," of the words "and any other class of insurance business,";

(f) in section 26 of that Act by the omission of the words "and its reinsurance business"; and

(g) by the insertion, immediately after section 33 of that Act, of the following new sections which shall have effect as section 33A and section 33B of that Act :—

"Liabilities of the Corporation, including bonuses declared in the case of life insurance policies, guaranteed by the Government.

33A. All liabilities of the Corporation arising out of policies of insurance issued by or taken over by the Corporation, including in the case of life insurance policies the bonuses declared and payable by the Corporation, shall be guaranteed by the Government of Ceylon.

Employment of certain persons in the Corporation.

33B. The Minister shall take steps to offer employment in the Corporation to persons who have been employed under insurers in Ceylon on July 31, 1963, and who have lost their employment due to retrenchment effected by such insurers by reason of such insurers not being able to transact any new business of general insurance on and after January 1, 1964.”.

(2) The amendments made in the Insurance Corporation Act, No. 2 of 1961, by sub-section (1) of this section shall come into operation on the first day of January, 1964.

51. The First Schedule to the Registration of Documents Ordinance is hereby amended, in Part III of that Schedule, as follows :—

- (a) in item 1, by the substitution, in paragraph (a) of that item, for the figures “1. 0”, of the figures “2. 0”; and
(b) in item 3, by the substitution, for the figures “0. 50”, of the figures “1. 0”.

Amendment of the First Schedule to Chapter 117.

Amendments to the Estate Duty Ordinance

52. The provisions of this Part of this Act shall come into operation on the appointed date.

Date of operation of this Part of this Act.

53. Section 5 of the Estate Duty Ordinance (hereinafter in this Part of this Act referred to as the “principal enactment”), as amended by Act No. 15 of 1959, is hereby further amended in sub-section (1) of that section as follows :—

Amendment of section 5 of Chapter 241.

- (1) by the substitution, in paragraph (v) of that sub-section, for the words “or any subsequent date,”, of the words and figures “and not later than the thirty-first day of July, 1963,”; and

(2) by the addition, immediately after paragraph (v) of that sub-section, of the following paragraph :—

“(vi) where the date of his death is the first day of August, 1963, or any subsequent date, be computed in accordance with the provisions of this Ordinance—

(a) if the value of his total estate does not exceed the value of his Ceylon estate, at the rates shown in column II of Part VI of the Schedule, each such rate being applicable to such portion of the value of the estate as is shown in the corresponding entry in column I of that Part, and

(b) if the value of his total estate exceeds the value of his Ceylon estate, at a rate equal to the percentage which the amount that would be estate duty on his total estate, if his total estate were entirely his Ceylon estate, bears to the value of his total estate.”.

Amendment of
the Schedule to
the principal
enactment.

54. The Schedule to the principal enactment, as last amended by Act No. 15 of 1959, is hereby amended by the addition, at the end of that Schedule, of the following new Part :—

“Part VI

I	II
	Rate per cent.
On the first Rs. 20,000 of the value of the estate	.. Nil
On the next Rs. 30,000 of the value of the estate	.. 5
On the next Rs. 30,000 of the value of the estate	.. 7½
On the next Rs. 30,000 of the value of the estate	.. 10
On the next Rs. 40,000 of the value of the estate	.. 13
On the next Rs. 50,000 of the value of the estate	.. 14
On the next Rs. 100,000 of the value of the estate	.. 16
On the next Rs. 100,000 of the value of the estate	.. 18
On the next Rs. 100,000 of the value of the estate	.. 24
On the next Rs. 100,000 of the value of the estate	.. 30
On the next Rs. 125,000 of the value of the estate	.. 32
On the next Rs. 125,000 of the value of the estate	.. 36
On the next Rs. 200,000 of the value of the estate	.. 42
On the next Rs. 350,000 of the value of the estate	.. 48
On the next Rs. 500,000 of the value of the estate	.. 55
On the next Rs. 600,000 of the value of the estate	.. 60
On the balance	.. 70

PART V

Amendments to the Inland Revenue Act, No. 4 of 1963

55. The provisions of this Part of this Act shall come into operation on the appointed date.

Date of
operation of
this Part of
this Act.

56. (1) Section 39 of the Inland Revenue Act, No. 4 of 1963, (hereinafter referred to as the "principal Act"), is hereby amended by the substitution, for sub-section (1) of that section, of the following sub-section :—

Amendment of
sections 39
and 42 of Act
No. 4 of 1963.

"(1) Subject to the other provisions of this Chapter, there shall be charged from every individual, other than an individual referred to in section 28, a tax which is hereinafter in this Act referred to as the "gifts tax" in respect of the taxable gifts made by such individual—

(a) at the rate or rates specified in the Fourth Schedule to this Act, for the year of assessment commencing on April 1, 1963 ;

(b) at the rate or rates specified in the Fifth Schedule to this Act, for the year of assessment commencing on April 1, 1964 ; and

(c) at the rate or rates specified in the Sixth Schedule to this Act, for every year of assessment commencing on or after April 1, 1965.”.

(2) Section 42 of the principal Act is hereby amended as follows :—

(a) in sub-section (2) of that section, by the substitution, for the words "shall be computed.", of the words "shall be computed by the application of the appropriate rates of gifts tax." ; and

(b) by the addition at the end of that section, of the following new sub-section :—

"(3) In the computation of the gifts tax payable by any individual for any year of assessment the rate or rates of gifts tax which shall be applicable in respect of the gifts made in the year preceding that year of assessment shall be the rate or rates which would have been applicable if those gifts

Addition of
new Schedules
to the
principal Act.

and the gifts made previously by that individual had been aggregated for that year of assessment.”.

57. The following new Schedules are hereby added immediately after the Fourth Schedule to the principal Act and shall have effect as the Fifth and Sixth Schedules to the principal Act :—

“ FIFTH SCHEDULE

Part I

For gifts made during the period commencing on April 1, 1963, and ending on July 31, 1963; the gifts tax shall be at the same rate or rates specified in the Fourth Schedule.

Part II

For gifts made during the period commencing on August 1, 1963, and ending on March 31, 1964—	Rates of gifts tax
On the first Rs. 50,000 of the value of all taxable gifts	.. 5 per centum
On the next Rs. 25,000 of the value of all taxable gifts	.. 10 per centum
On the next Rs. 25,000 of the value of all taxable gifts	.. 12 per centum
On the next Rs. 40,000 of the value of all taxable gifts	.. 15 per centum
On the next Rs. 40,000 of the value of all taxable gifts	.. 16 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 22 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 24 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 30 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 36 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 42 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 54 per centum
On the next Rs. 80,000 of the value of all taxable gifts	.. 60 per centum
On the next Rs. 250,000 of the value of all taxable gifts	.. 72 per centum
On the next Rs. 450,000 of the value of all taxable gifts	.. 96 per centum
On the balance of the value of all taxable gifts	.. 100 per centum

SIXTH SCHEDULE

For gifts made during the year preceding any year of assessment commencing on or after April 1, 1965, the gifts tax shall be at the same rate or rates specified in Part II of the Fifth Schedule.”.

PART VI

Imposition of tax on transfers of property under certain conditions

Charge of
the tax.

58. (1) Subject to the provisions of sub-section (4), where there is a transfer of ownership of any property in Ceylon to a person who is not a citizen

of Ceylon, there shall be charged from the transferee of such property a tax of such amount as is equivalent to the value of that property.

(2) The tax referred to in sub-section (1) is hereinafter referred to as "the tax".

(3) A person liable to the tax shall pay the tax—

(a) if the property consists of land, to the Registrar of Lands of the district, in which the land transferred is situated, before the instrument by which the transfer of that land was effected is presented for registration in accordance with the provisions of the Registration of Documents Ordinance, and

(b) if the property consists of any shares in any company, to the company before the transfer relating to the shares in respect of which the tax is payable is registered in the registers maintained by that company for the purposes of transfer of shares.

(4) The preceding provisions of this section shall not apply to—

(a) the transfer of any land or shares to any commercial bank (within the meaning of the Monetary Law Act) or body of persons carrying on the business of insurance which is not a citizen of Ceylon arising out of the sale of such land or shares to such bank or body of persons in execution of a decree of court to enforce the mortgage of such land or shares whether before or after the date of operation of this Part of this Act, as security for a loan or advance given by such bank or body of persons ;

(b) the sale of any land to any person who is not a citizen of Ceylon if it is proved to the satisfaction of the Registrar of Lands, who is responsible for the collection of the tax, that the negotiations for such sale had commenced before the date of operation of this Part of this

Act, and the instrument for the transfer of ownership of such land was effected in consequence of such negotiations ;

- (c) the transfer of any land, or shares in any company, to any commercial bank (within the meaning of the Monetary Law Act), or a company which is a nominee of such bank, in its capacity as trustee under any instrument whatsoever ;
- (d) the sale of any shares in any company held by a director of such company who has retired or is retiring from the office of director or is going on leave out of the Island, to any person, who is not a citizen of Ceylon and who is a director, or is succeeding him in office as director, of such company ;
- (e) the transfer of shares in a company arising by reason of the investment of the funds in a blocked account (within the meaning of the Exchange Control Act) or by reason of the investment of the funds of any company which is not a citizen of Ceylon and which is carrying on the business of life insurance ;
- (f) the transfer of shares in any company to any commercial bank (within the meaning of the Monetary Law Act) in satisfaction or part satisfaction of any loan, overdraft or other financial accommodation given by such bank on the security of a mortgage of such shares ; or
- (g) the transfer of property of any such class or description as is specified in any Order made by the Minister and published in the *Gazette*.

(5) The preceding provisions of this section shall be deemed to have come into operation on August 1, 1963.

Effect of the non-payment of the tax.

59. Where a person liable to the tax in respect of any property does not pay the tax as required under this Part of this Act the tax shall be deemed to be in default, and the Commissioner of Inland Revenue shall, upon notification of such default by the

Registrar of Lands or the company, as the case may be, take steps for the recovery of the tax deemed to be in default.

For the purposes of such recovery the provisions of the Inland Revenue Act, No. 4 of 1963, shall, *mutatis mutandis*, apply in like manner and to the same extent as such provisions apply for the recovery of any tax in default under that Act.

60. (1) An instrument effecting a transfer of ownership of any land to a person shall not be registered in accordance with the provisions of the Registration of Documents Ordinance unless the Registrar of Lands to whom the instrument is presented for registration is satisfied that—

- (a) such person is a citizen of Ceylon ; or
- (b) if such person is not a citizen of Ceylon, the tax in respect of that land has been paid.

(2) A transfer of shares in a company shall not be registered in the register maintained by that company for the purposes of the transfer of shares unless the company is satisfied that—

- (a) the person to whom such shares were transferred is a citizen of Ceylon ; or
- (b) if the person to whom such shares were transferred is not a citizen of Ceylon, the tax in respect of such shares has been paid.

(3) Where any question arises as to whether a person is or is not a citizen of Ceylon for the purposes of sub-section (1) or sub-section (2), a certificate under the hand of the Permanent Secretary to the Ministry of Defence and External Affairs that that person is a citizen of Ceylon shall be conclusive proof of the fact that he is a citizen of Ceylon for the purposes only of sub-section (1) or sub-section (2).

61. (1) Where a transfer of ownership of any property to a person who is not a citizen of Ceylon has been effected on any date during the period commencing on the first day of August, 1963, and ending on the date on which this Act becomes an Act of Parliament, and—

- (a) where the instrument by which such transfer was effected has, if such property consists of land, been registered in

Conditions
for the
registration
of instruments
relating to
transfers of
property.

Persons
transferring
property
between
August 1, 1963,
and the date of
enactment of
this Act to non-
Ceylonese
liable to the tax,

accordance with the provisions of the Registration of Documents Ordinance, or

(b) where such property consists of shares in a company, such transfer has been registered in the registers maintained by that company for the purposes of the transfer of shares,

before the expiration of such period, then the transferee of such property shall be liable to the tax.

(2) A person who is liable to the tax under sub-section (1) shall, upon being requested by notice in writing sent to him by the Registrar of Lands, or the company, as the case may be, by registered letter through the post, pay to such Registrar or company, within the period specified in such notice, the amount of the tax specified in the notice, such amount being an amount equivalent to the value of the property transferred to the person who is not a citizen of Ceylon.

Sums paid or recovered as the tax to be credited to the Consolidated Fund of Ceylon.

Proceedings for the recovery of tax due from persons liable under section 61.

62. All sums paid to or recovered by a Registrar of Lands or a company as tax under this Act shall be credited by such Registrar or company to the Consolidated Fund of Ceylon.

63. Where any person fails to pay the amount of the tax specified in a notice sent to him by a Registrar of Lands or a company under sub-section (2) of section 61, such amount shall be deemed to be in default, and such Registrar or company may issue a certificate containing particulars of such amount and the name and address of the defaulter to a Magistrate having jurisdiction in the division in which such defaulter resides. The Magistrate shall thereupon summon the defaulter before him to show cause why proceedings for the recovery of the tax in default should not be taken against such defaulter, and if sufficient cause is not shown, the amount of the tax in default shall by order of the Magistrate be recovered as if it were a fine imposed by the Magistrate on such defaulter.

64. (1) Where a company fails to comply with the provisions of sub-section (2) of section 60, every director, manager, secretary or other officer of that company shall be guilty of an offence under this Part of this Act, and shall, on conviction after summary trial before a Magistrate, be liable

Offences.

to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment :

Provided that a director, manager, secretary or other officer of such company shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Every person who is liable to the tax under sub-section (1) of section 61 shall notify in writing, within fifteen days after the date on which this Act becomes an Act of Parliament,—

(a) if the property consists of land, the Registrar of Lands of the district in which the land transferred by an instrument referred to in that sub-section is situated, of the fact of the execution of such instrument, or

(b) if the property consists of shares in a company, the company in the registers of which the transfer of such shares was registered, of the fact of the transfer of such shares.

(3) Any person who fails to comply with the provisions of sub-section (2) shall be guilty of an offence under this Part of this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

65. The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in any other written law.

This Part of
this Act to
prevail over
other written
law.

66. In this Part of this Act, unless the context otherwise requires,—

Interpretation.

“ citizen of Ceylon ”—

(a) in the case of a person who is an individual, means an individual who is a citizen of Ceylon under any law for the time being in force relating to such citizenship,

(b) in the case of a person which is a company, means a company to which Part XI of the Companies Ordinance does not apply, and

(c) in the case of a person which is a firm consisting of two partners, means a firm where both partners are citizens of Ceylon, and in the case of a firm consisting of more than two partners, means a firm where the majority of the partners are citizens of Ceylon ;

“company” means a company incorporated or registered under any law in force in Ceylon or elsewhere ;

“land” includes—

(a) any land covered with water ;

(b) any house or building or any part thereof ; and

(c) any undivided share of any land ;

“market value”, with reference to the transfer of any property otherwise than by sale, means the price which that property could have fetched on the date of the transfer in an open market ;

“property” means—

(a) any land, or

(b) any shares in a company ;

“transfer of ownership”, with reference to any property, means the transfer of ownership of that property by sale, gift or in any other manner whatsoever other than a transfer of ownership arising—

(a) upon intestacy ;

(b) by gift or testamentary disposition by any individual to his spouse, child, parent, brother or sister, and the issue of such child, brother or sister who is not a citizen of Ceylon ; or

(c) upon the succession of any person as trustee to a person appointed as trustee under a will or any instrument of trust or of any provident fund or any investment ;

"transferee" includes—

- (a) in the case of a transfer of ownership by a deed of gift, the donee ; and
- (b) in the case of a transfer of ownership by gift by a testamentary disposition, the person to whom it is so gifted ; and

"value" means—

- (a) in the case of any property of which the transfer of ownership took place by sale, the price realised by such sale ;
- (b) in the case of any property of which the transfer of ownership took place otherwise than by sale, the amount equal to the market value of such property on the date of such transfer.

PART VII

Amendments to the Monetary Law Act and the People's Bank Act, No. 29 of 1961

67. The following new Part is hereby inserted immediately after Part III, and shall have effect as Part IIIA, of Chapter V of the Monetary Law Act :—

Insertion of
new Part IIIA
in Chapter V of
the Monetary
Law Act.

Part IIIA

MEDIUM AND LONG TERM CREDIT OPERATIONS WITH CREDIT INSTITUTIONS

Loans or
advances to
credit
institutions.

88A. (1) With the object of granting financial accommodation to any credit institution in respect of lending operations carried out by such institution for any productive purpose, the Central Bank may, from time to time, grant, out of the Fund, any loan or advance to such institution against a promissory note given by such institution subject to and in accordance with the following conditions :—

- (a) that the loan or advance is repayable within such period not exceeding fifteen years as may be determined by the Bank ;

(b) that the repayment to the Central Bank of the loan or advance is secured by the assignment to the Bank by way of pledge—

(i) of debts owing to such institution by its borrowers in respect of such purpose or purposes, and

(ii) of mortgages given as security for the payment of such debts to such institution; and

(c) such other conditions including the rate of interest to be charged by the Bank on such loan or advance, as may be determined by the Monetary Board.

Such assignment is in this Part of this Act referred to as an "assignment by way of pledge".

(2) The Monetary Board may prescribe the conditions subject to which loans or advances will be available out of the Fund to credit institutions, including conditions relating to the rates of interest charged by such institutions, to the purposes for which their loans in general are destined, and to any other matters affecting or connected with the credit policy of such institutions.

(3) An assignment by way of pledge to the Central Bank under this Part of this Act shall be effected by an instrument which shall be substantially in the following Form :—

*Form of Assignment by way of
pledge to the Central Bank of
Ceylon under section 88A of the
Monetary Law Act.*

We, _____, in terms of section 88A of the Monetary Law Act, do hereby assign to the Central Bank

of Ceylon by way of pledge, the debts owing to us, particulars whereof are set forth in the Schedule hereto, and our rights as mortgagees under the mortgages mentioned in the Schedule hereto, as security or further security for the repayment to the Central Bank of Ceylon of a *loan/advance of Rs. _____ granted to us by the Bank repayable _____ with interest at _____ % per annum.

* Delete whichever is inapplicable.

SCHEDULE

<i>Amount of debt</i>	<i>Borrower's name and address</i>	<i>Mortgage bond No.</i>	<i>Date</i>	<i>Notary</i>
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(4) The Central Bank shall, on the execution of an assignment by way of pledge under this Part of this Act, have a first charge on the debts and rights assigned.

(5) The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in any other provisions of this Act.

Instrument of assignment by way of pledge to the Central Bank to be free of stamp duty.

88B. No duty shall be chargeable or payable under the Stamp Ordinance on or in respect of any instrument of assignment by way of pledge to the Central Bank under this Part of this Act, and accordingly, for the purposes of that Ordinance, such instrument shall be deemed to be exempt from such duty.

Instruments of assignment by way of pledge to the Central Bank need not be registered under the Registration of Documents Ordinance.

88C. No instrument of assignment by way of pledge to the Central Bank under this Part of this Act shall require registration under the Registration of Documents Ordinance, and accordingly any such instrument shall be deemed not to be void by reason only of its not being so registered.

**Notarial
execution not
required in the
case of
assignments by
way of pledge.**

88D. No assignment by way of pledge shall require execution before a licensed notary public and witnesses as provided by section 2 of the Prevention of Frauds Ordinance, and accordingly any such assignment shall be deemed not to be void by reason only of its not being so executed.

**Medium and
Long Term
Credit Fund.**

88E. (1) The Central Bank may establish, maintain, manage, and control, at the Bank, a Fund to be called the Medium and Long Term Credit Fund (in this Part of this Act referred to as the "Fund").

(2) The Monetary Board may, from time to time, transfer to the Fund, out of the reserves of the Bank, such sums of money as it may deem necessary to enable the Bank to discharge its functions under this Part of this Act.

(3) The Central Bank shall pay out of the Fund—

(a) the amounts of all loans and advances granted by the Bank to credit institutions under this Part of this Act;

(b) all sums of money representing other liabilities incurred by the Bank in the discharge of its functions under this Part of this Act; and

(c) all sums of money which the Bank may, from time to time, decide to retransfer from the Fund to the reserves of the Bank.

(4) The Central Bank shall, in addition to the sums of money referred to in sub-section (2), pay into the Fund—

(a) all sums of money paid to or recovered by the Bank in re-payment of the loans

or advances granted by the Bank to credit institutions under this Part of this Act ; and

- (b) all sums of money paid to or recovered by the Board as interest on such loans or advances.

Interpretation.

88F. In this Part of this Act,—

(a) “credit institution” means any banking institution as defined in sub-section (1) of section 127 of this Act and includes the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act ; and

(b) “productive purpose” means any such purpose connected with or relating to the promotion or development of agriculture, industry, trade, commerce or business, as may be determined, from time to time, by the Monetary Board.

This Part of this
Act to prevail
over other
written law.

88G. The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in the provisions of any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Part of this Act and the provisions of such other written law, the provisions of this Part of this Act shall prevail over the provisions of such other written law.’

**68. Section 31 of the People’s Bank Act,
No. 29 of 1961, is hereby repealed.**

Amendment to
Act No. 29 of
1961.

PART VIII

The Acquisition by the People's Bank of certain premises and the disposal of such premises

Date of operation of this Part of this Act.

Administration of this Part of this Act.

Acquisition of certain premises.

69. This Part of this Act shall come into operation on the appointed date.

70. The People's Bank established under the People's Bank Act, No. 29 of 1961, (and hereafter in this Part of this Act referred to as the "Bank") shall be responsible for and charged with the administration of this Part of this Act and shall, in the exercise, performance or discharge of any power, duty or function conferred or imposed upon or assigned to the Bank by or under this Part of this Act, be subject to the general direction and control of the Minister.

71. (1) Subject to the provisions of sub-section (2), the Bank is hereby authorized to acquire the whole or any part of any agricultural, residential or business premises, if the Bank is satisfied that those premises were, at any time before or after the appointed date but not earlier than the first day of January, 1956,—

(a) sold in execution of a mortgage decree entered by a court against the owner of such premises (hereafter in this Part of this Act referred to as the "original owner"); or

(b) transferred by the owner of those premises (hereafter in this Part of this Act referred to as the "original owner") or his heirs, executors or administrators to any other person or the heirs, executors or administrators of any other person in satisfaction of a debt which was due from the original owner or his predecessor in title to that other person and which was secured by a mortgage of those premises subsisting immediately prior to the transfer; or

(c) transferred by the owner of those premises (hereafter in this Part of this Act referred to as the "original owner")

or his heirs, executors or administrators to any other person, at the request of a mortgagee of those premises, in satisfaction or part satisfaction of a debt which was due from the original owner or his predecessor in title to that mortgagee and which was secured by a mortgage of those premises subsisting immediately prior to the transfer ; or

(d) transferred by the owner of such premises to any other person after receiving from such other person a sum of money as consideration for such transfer and upon the condition that, on the repayment by the transferor (hereafter in this Part of this Act referred to as the "original owner") of that sum together with interest thereon within a specified period such other person will re-transfer those premises to the original owner.

(2) No premises shall be acquired under subsection (1)—

(a) unless an application in that behalf has been made to the Bank by the original owner of such premises or, where such original owner is dead or is of unsound mind or otherwise incapable of acting, by the spouse or any descendant of such person ; or

(b) unless the Bank is satisfied that the average statutory income of the person making the application and of the other members of the family of which he is the head, computed under the provisions of the written law relating to the imposition of income tax, for the three years of assessment immediately preceding the date on which such application was made by him, does not exceed a sum of ten thousand rupees ; or

(c) if the Bank is satisfied—

(i) that the premises to which the application relates are reasonably required for occupation as

a residence for the owner of those premises or any member of the family of such owner or for the purposes of any trade, business, profession, vocation or employment of such owner or any member of his family and that such owner or member of his family has no other premises which could be used for the purpose for which the premises to which the application relates are being used, or

- (ii) that the premises to which the application relates were, prior to the date of registration of the notice referred to in paragraph (b) of sub-section (4), purchased *bona fide* for valuable consideration by the owner of such premises from the person to whom such premises were sold or transferred in any of the circumstances specified in sub-section (1) or from any other person to whom such premises were subsequently transferred by such person ; or
- (d) unless, in the case of an application relating to any agricultural premises, the Bank is satisfied that the applicant is not the owner of any other agricultural premises exceeding ten acres in extent.

For the purposes of sub-paragraph (i) of paragraph (c) of this sub-section, "member of the family", when used in relation to any person, means the spouse of that person or any son or daughter of that person over eighteen years of age, or any parent, brother or sister dependent on that person.

(3) The question whether any premises which the Bank is authorized to acquire under this Part of this Act should or should not be acquired shall be determined by the Bank and every such determination of the Bank shall be final and conclusive and shall not be called in question in any court.

(4) Where the Bank has determined that any premises shall be acquired for the purposes of this Part of this Act, the Bank shall—

- (a) notify such determination to the owner of such premises ; and
- (b) cause a notice to be delivered or transmitted to the proper Registrar of Lands for registration, setting out the prescribed particulars relating to those premises and stating that those premises are to be acquired under this Part of this Act.

Every notice under paragraph (b) shall be registered by the Registrar of Lands in the manner provided in the Registration of Documents Ordinance for the registration of an instrument affecting or relating to land and shall be deemed for such purposes to be an instrument affecting or relating to the premises the prescribed particulars of which are set out in such notice.

72. (1) Where the Bank has determined that any premises shall be acquired for the purposes of this Part of this Act, the Chairman of the Board of Directors of the Bank shall cause such determination to be notified to the Minister.

Acquisition procedure.

(2) Upon being notified of the determination of the Bank in respect of any premises, the Minister may, by Order (hereafter in this Part of this Act referred to as a "vesting Order") published in the *Gazette*, vest in the Bank, with effect from such date as shall be specified in the Order, the premises to which such determination relates.

(3) Where a vesting Order under sub-section (2) in regard to any premises is published in the *Gazette*, such premises shall, with effect from the date specified in the Order under that sub-section, vest absolutely in the Bank free from all encumbrances.

(4) Any person specially or generally authorized in that behalf by the Chairman of the Board of Directors of the Bank may take possession of any premises vested in the Bank by a vesting Order.

(5) The person who, under sub-section (4), is authorized to take possession of any premises vested in the Bank by a vesting Order shall, by notice given to the person in occupation or in

possession of such premises or exhibited in some conspicuous place in, or in the vicinity of, such premises,—

(a) inform that such authorized officer intends to take possession of such premises for and on behalf of the Bank on such date and at such time and place as shall be specified in the notice, and

(b) require any person interested or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authorized officer to take possession of such premises for and on behalf of the Bank.

(6) Any notice required to be given to any person under sub-section (5) shall be deemed to be given to him if such notice is sent to him by registered letter through the post.

(7) Every person—

(a) who contravenes any requirement of any notice given to him under sub-section (5), or

(b) who—

(i) prevents, obstructs or resists, or

(ii) directly or indirectly causes any one to prevent, obstruct or resist, any other person from or in taking possession under the preceding provisions of this section of any premises for and on behalf of the Bank,

shall be guilty of an offence under this Part of this Act, and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Notice to persons entitled to make claims to the compensation payable under this Part of this Act in respect of any premises vested in the Bank.

73. Where any premises are vested in the Bank, the Chairman of the Board of Directors of the Bank shall, by notice published in the *Gazette* and in such other manner as may be determined by him, direct every person who was interested in such premises immediately before the date on which such premises were so vested, to make, within a period of one month reckoned from the date specified in the notice a written claim

to the whole or any part of the compensation payable under this Part of this Act in respect of such premises, and to specify in the claim—

- (a) his name and address,
- (b) the nature of his interest in such premises,
- (c) the particulars of his claim, and
- (d) how much of such compensation is claimed by him.

74. Upon the receipt of any claim made under section 73 to the compensation payable under this Part of this Act in respect of any premises vested in the Bank, the Chairman of the Board of Directors of the Bank shall cause the following documents to be sent to the claimant by registered letter through the post—

- (a) a copy of any such report in regard to the condition of the aforesaid premises as has been made by or under the authority of the Bank under any regulation made under this Part of this Act, if a copy of that report has not already been served on the claimant ;
- (b) a copy of any such assessment of the compensation payable under this Part of this Act in respect of the aforesaid premises as has been made by or under the authority of the Bank ;
- (c) a notice requiring the claimant, within the time specified in the notice—
 - (i) to furnish to the Bank a written statement setting out whether or not he agrees with the report referred to in the preceding paragraph (a) and the assessment referred to in the preceding paragraph (b) and, if he does not so agree, any objections that he may have to such report and assessment, and the grounds of such objections, and
 - (ii) to produce to the Bank all documents, and in particular the documents in regard to the condition of the aforesaid premises, relied on by him in support of any such objection.

Provisions to be
complied with
by the Chair-
man of the Board
of Directors of
the Bank on
receipt of claims
to compensa-
tion.

Reference to the Compensation Tribunal for an award as to compensation in respect of any premises vested in the Bank under this Part of this Act.

Compensation in respect of premises vested in the Bank under this Part of this Act.

When compensation in respect of any vested premises accrues due.

Proportionate payment of compensation.

75. (1) The Chairman of the Board of Directors of the Bank shall refer to the Compensation Tribunal for determination the amount of the compensation payable in respect of any property vested in the Bank under this Part of this Act and shall transmit to the Tribunal all claims made to such compensation, together with all documents furnished by the claimants in support of their claims, and all documents, copies of which have been served on or transmitted to the claimants by the Bank.

(2) A reference made under sub-section (1) to the Compensation Tribunal is hereafter in this Part of this Act referred to as a "reference for an award as to compensation".

76. The amount of compensation to be paid under this Part of this Act in respect of any premises vested in the Bank shall be either the actual amount for which such premises were purchased by, or transferred to, the owner thereof and an additional sum which is equal to the reasonable value of any subsequent additions and improvements made to such premises by any person who was interested in such premises before the publication of the vesting Order in regard to such premises or the market value of such premises, whichever is less.

77. The compensation payable in respect of any premises vested in the Bank under this Part of this Act shall be considered as accruing due from the date on which those premises were so vested.

78. (1) The amount of compensation to be paid to any person in respect of any premises vested in the Bank under this Part of this Act shall be proportionate to the interest such person had in such premises on the date on which such premises were so vested.

(2) Where any premises are subject to a mortgage or lease at the time when those premises were vested in the Bank under this Part of this Act, the rights of the mortgagee or of the lessee, shall, notwithstanding the provisions of sub-section (3) of section 72, be limited to any sum paid under this Part of this Act as compensation in respect of those premises.

79. Any compensation payable under this Part of this Act shall, from the date on which such compensation accrues due up to the date of payment, carry interest at such rate as may be determined by the Bank with the concurrence of the Minister.

Interest on compensation.

80. No compensation in respect of any premises vested in the Bank under this Part of this Act shall be paid to any person under this Part of this Act unless such person is entitled to such compensation according to an award (hereafter in this Part of this Act referred to as an "award as to compensation") made by the Compensation Tribunal under this Part of this Act.

Right to compensation.

81. Where any compensation payable to any person under this Part of this Act in respect of premises vested in the Bank is not accepted by him when it is tendered to him or where such person is dead, cannot be found after diligent search, or is not known, it shall be paid to the District Court or Court of Requests having jurisdiction over the place where such premises are situated, according as the amount of that compensation exceeds or does not exceed three hundred rupees, to be drawn by the person or persons entitled thereto.

Provisions for cases where compensation is not accepted, etc.

82. (1) There shall be established, for the purposes of this Part of this Act, a Compensation Tribunal consisting of ten members appointed by the Governor-General of whom at least five shall be persons with judicial or legal experience.

Constitution of the Compensation Tribunal.

(2) A person shall be disqualified for appointment, or for continuing, as a member of the Compensation Tribunal if he is a Senator, a Member of Parliament, or a member of the Board of Directors of the Bank or an officer or an employee of the Bank.

(3) A member of the Compensation Tribunal with judicial or legal experience shall be appointed to be the Chairman, and another member with similar experience shall be appointed to be the Vice-Chairman, of the Tribunal by the Governor-General on the recommendation of the Minister.

(4) Every member of the Compensation Tribunal shall, unless he earlier vacates office or is removed therefrom by the Governor-General, hold office

for a period of three years. Any member of the Tribunal who vacates office by effluxion of time shall be eligible for reappointment.

(5) There shall be appointed a Secretary to the Compensation Tribunal (hereafter in this Part of this Act referred to as the "Secretary") and such other officers and servants as may be necessary for the performance of the work of the Tribunal.

(6) The members, officers and servants of the Compensation Tribunal shall be remunerated at such rates as may be determined by the Board of Directors of the Bank.

Meetings of the Compensation Tribunal.

83. (1) The Secretary shall, under the direction of the Chairman or in his absence the Vice-Chairman of the Compensation Tribunal, convene meetings of the Tribunal for the consideration and determination of references for awards as to compensation.

(2) The Chairman or Vice-Chairman and four other members of the Compensation Tribunal shall be summoned to a meeting of the Tribunal. Such other members shall be chosen by lot by the Secretary. The quorum for a meeting of the Tribunal shall be three members.

(3) Two separate meetings of the Compensation Tribunal may be convened and held at the same time to consider and determine different references for awards as to compensation.

(4) Where the Chairman or the Vice-Chairman is summoned to a meeting of the Compensation Tribunal, the Chairman or Vice-Chairman, as the case may be, shall preside at that meeting, and in the absence of the Chairman or the Vice-Chairman the members of the Tribunal summoned to and present at that meeting shall choose from themselves a chairman for the meeting.

(5) A member of the Compensation Tribunal who is interested in any matter which is the subject of a reference for an award as to compensation or who has been consulted as an advocate or proctor or in any other capacity in regard to that matter by or on behalf of any person interested therein shall not participate in any proceedings of a meeting of the Tribunal on such reference.

(6) A meeting of the Compensation Tribunal may from time to time be postponed or adjourned.

84. (1) Every reference for an award as to compensation shall be considered and determined at a meeting of the Compensation Tribunal.

Proceedings before Compensation Tribunal.

(2) The Secretary shall fix a date, time and place for the consideration and determination by the Compensation Tribunal of each reference for an award as to compensation.

(3) The Secretary shall, in respect of every reference for an award as to compensation, keep a record of all such proceedings before the Compensation Tribunal as relate to that reference.

85. (1) The Chairman or Vice-Chairman of the Compensation Tribunal and, if the Chairman or the Vice-Chairman is not presiding at any meeting of the Tribunal, the chairman of that meeting shall, for the purposes of the consideration and determination of any reference for an award as to compensation, have all the powers of a District Court—

- (a) to summon and compel the attendance of witnesses ;
- (b) to compel the production of documents ; and
- (c) to administer any oath or affirmation to witnesses.

Power to summon witnesses, etc.

(2) Every person giving evidence on any matter before a meeting of the Compensation Tribunal shall be bound to state the truth on such matter.

(3) Every person who attends a meeting of the Compensation Tribunal as a witness shall be paid as travelling and other expenses such sum as may be determined by the chairman of that meeting.

86. (1) The determination made at a meeting of the Compensation Tribunal on any matter considered at that meeting shall be deemed to be the determination of the Tribunal on that matter.

Determination of the Compensation Tribunal.

(2) Where the members of the Compensation Tribunal who consider any matter disagree with regard to the determination on that matter, the determination of the majority of them shall be the determination of the Tribunal on that matter, and, where the members are equally divided in their opinion, the determination supported by the chairman of the meeting by which that matter is considered shall be the determination of the Tribunal on that matter.

(3) Every determination of the Compensation Tribunal shall contain the reasons therefor.

Compensation Tribunal may regulate its procedure at meetings.

The Bank and claimants to compensation to be given an opportunity of being heard before the making of an award.

Provisions in regard to evidence.

87. Subject to the provisions contained in this Part of this Act in respect of procedure, the Compensation Tribunal may lay down the procedure to be observed at meetings of the Tribunal.

88. Where a reference for an award as to compensation is made to the Compensation Tribunal, the Tribunal shall, before making an award, give the Bank and every person who has made a claim to compensation an opportunity of being heard either in person or by an agent authorized in that behalf.

89. (1) Where a copy of any report made by or under the authority of the Bank in regard to the condition of any premises vested in the Bank under this Part of this Act is served on any claimant to compensation in respect of such premises, then, in so far as that claimant is concerned, that report shall, in any proceedings relating to the claim of the claimant before the Compensation Tribunal, be *prima facie* evidence of the facts stated therein until the contrary is proved.

(2) Where a copy of the Bank's assessment of compensation in respect of any premises is served on any claimant to such compensation, that assessment shall, in any proceedings relating to the claim of the claimant before the Compensation Tribunal, be *prima facie* evidence of the facts stated therein until the contrary is proved.

(3) Where a report in regard to the condition of any premises vested in the Bank, or the Bank's assessment of any compensation, is *prima facie* evidence of the facts stated therein under the preceding provisions of this section in any proceedings relating to a claim to compensation before the Compensation Tribunal, then, the claimant shall not be entitled to produce in those proceedings any document in support of any objection to such report or assessment unless that document had been produced to the Bank as required by or under this Part of this Act.

An award as to compensation by the Compensation Tribunal on a reference.

90. (1) Where a reference for an award as to compensation is made to the Compensation Tribunal in respect of any premises vested in the Bank, the Tribunal shall, after considering all such

matters and hearing all such witnesses as may be necessary for the purpose and after complying with the provisions of section 88 and section 89 make, save as otherwise provided in sub-section (2), an award determining—

- (a) whether or not each person who has made a claim to compensation is a person entitled to compensation, and if so, the capacity in which he is so entitled ;
- (b) the amount of the compensation payable in respect of such premises in accordance with the provisions of this Part of this Act ; and
- (c) the apportionment of the compensation among the persons entitled to compensation :

Provided that, where there is a dispute as to the persons entitled to such compensation or as to the apportionment of such compensation among the persons entitled to such compensation, the Tribunal shall defer the making of an award and shall refer the dispute for decision to the District Court within whose jurisdiction such premises are situated and shall, after such Court or, in the event of an appeal, the Supreme Court makes its decision on such dispute, make an award in accordance with such decision.

(2) Any person who is dissatisfied with the decision of the District Court on a reference made to such Court under the proviso to sub-section (1) may appeal against such decision to the Supreme Court within the time and in the manner provided in the Civil Procedure Code for appeals against decrees in civil suits. The decision of the Supreme Court on any appeal to such Court under this sub-section shall be final.

(3) Where no person makes a claim to compensation in respect of any premises vested in the Bank, it shall not be necessary to determine in the award under this section the matters specified in paragraphs (a) and (c) of sub-section (1) and to comply with the provisions of sub-section (4) relating to the giving of notice of the award to claimants to compensation.

(4) The Compensation Tribunal shall cause written notice of awards to be given to the Bank and the claimants to compensation.

(5) An award of the Compensation Tribunal shall be final and shall not be called in question in any court.

Disposal of premises acquired by the Bank under the preceding provisions of this Part of this Act.

91. Any premises vested in the Bank in consequence of an application made to the Bank for the acquisition of such premises by any person entitled to make such application under the preceding provisions of this Part of this Act may be let by the Bank to such person or where such person is dead, to the surviving spouse, if any, or any descendant of such person upon such terms as will enable the person to whom such premises are let to become the owner thereof after making a certain number of half-yearly payments as rent.

Powers of entry, survey, etc.

92. Where the Bank considers it necessary that an inspection, examination or survey should be made of any premises which the Bank is authorized under this Part of this Act to acquire, it shall be lawful for any person authorized in that behalf by the Chairman of the Board of Directors of the Bank, together with such persons, implements, materials, vehicles and animals as may be necessary, to enter upon and to take levels of such premises, and to do all such other acts as may be necessary for the purpose of such inspection, examination or survey :

Provided, however, that no person shall enter or do any act upon any premises in pursuance of the powers conferred on him by the preceding provisions of this section except with the consent of the owner or occupier of those premises, or after giving such owner or occupier, in the prescribed manner, not less than seven days' notice of his intention to enter those premises or to do such act thereon.

Power of Bank to call for returns.

93. (1) The Chairman of the Board of Directors of the Bank or any other person authorized in that behalf by such Chairman may, by notice in writing, direct any person to furnish before a specified date to the Bank or to such officer thereof as may be specified in the notice—

(a) a return in the prescribed form containing the prescribed particulars relating to any such premises as are referred to in section 71 of which that person is, or was at any time, the owner ; or

- (b) such information or explanation as the Bank may require in respect of any particulars stated in any return furnished by that person; or
- (c) such documentary or other evidence as the Bank may require for the purpose of verifying any particulars stated in any return or any information furnished by that person.

(2) Where any person has a plan of any premises referred to in section 71, the Chairman of the Board of Directors of the Bank or any other person authorized in that behalf by such Chairman may by written notice direct that person to produce the plan before a specified date to such officer of the Bank as is specified in the notice in order that the Bank may verify the boundaries and extent of those premises.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if such notice—

- (a) has been sent through the post by registered letter to his residence or place of business or to his agent ; or
- (b) has been affixed to a conspicuous part of such residence or place ; or
- (c) in a case where such person is on the date of issue of such notice the owner of the premises to which such notice relates, has been sent through the post by registered letter to the occupier of such premises or has been affixed in a conspicuous part of a building, or to a tree or post in a conspicuous place, on such premises.

(4) Any person—

- (a) who contravenes any requirement of any notice given to him under this section ; or
- (b) who, when required to furnish a return or any information or explanation, or evidence, knowingly furnishes a return containing any particulars which are false or any information, explanation or evidence which is false,

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

Prohibition of act which diminishes the value of any premises to be vested in the Bank under this Part of this Act

94. (1) Where any premises have been inspected by any person authorized in that behalf by the Chairman of the Board of Directors of the Bank for the purpose of assessing the value of such premises with a view to acquiring such premises under the provisions of this Part of this Act, such Chairman may by written notice given in the same manner as a notice under section 93, prohibit the owner or occupier of such premises from committing or permitting the commission of any damage to those premises or to any plantation, building or other structure on those premises, or any other act which will diminish the value of those premises.

(2) Where it is decided not to vest in the Bank by vesting Order made under the provisions of this Part of this Act any premises in respect of which a notice has been given to any person under sub-section (1), the Chairman of the Board of Directors of the Bank shall forthwith cancel that notice and give written information of the cancellation to that person.

(3) A person who contravenes a notice issued to him under sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

Informality or irregularity.

95. No informality or irregularity occurring in any matter or proceeding under this Part of this Act shall invalidate or affect the title to any land vested in the Bank under this Part of this Act.

Financial provisions.

96. All expenses incurred in the administration of this Part of this Act, including the remuneration to be paid to the members, officers and servants of the Compensation Tribunal and the sums to be paid as travelling and other expenses to persons attending a meeting of the Tribunal as witnesses shall, notwithstanding anything to the contrary in the People's Bank Act, No. 29 of 1961, be met by the Bank.

Regulations.

97. (1) The Minister may make regulations—

- (a) for the purpose of carrying out or giving effect to the principles and provisions of this Part of this Act ;
- (b) in respect of any matter regarding the assessment and payment of any compensation under this Part of this Act ;

(c) in respect of any matter stated or required by this Part of this Act to be prescribed.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as may be convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.

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

Interpretation.

“agricultural premises” means any property or premises which is used or capable of being used wholly or mainly for the purpose of agriculture or horticulture or for any purpose of husbandry including the keeping or breeding of live-stock, poultry, or bees and the cultivation of fruits, vegetables and the like ;

“business premises” means any premises other than agricultural premises or residential premises ;

“Compensation Tribunal” means the Compensation Tribunal established under this Part of this Act ;

“market value”, with reference to any premises vested in the Bank, means the price which those premises would have fetched in the open market on the date on which such premises were vested in the Bank ;

“Minister” means the Minister to whom the subject or function of the People’s Bank is assigned by the Prime Minister under section 46 of the Ceylon (Constitution) Order in Council, 1946 ;

“person who was interested”, in relation to any premises vested in the Bank, means a person who, immediately before the

date on which such premises were so vested, has an interest in such premises as owner, co-owner, mortgagee, lessee or otherwise, whether absolutely for himself or in trust for any other person ;

“ prescribed ” means prescribed by regulation made under this Part of this Act ;

“ regulation ” means a regulation made by the Minister under this Part of this Act ;

“ residential premises ” means any premises for the time being occupied wholly or mainly for the purposes of residence ;

“ spouse ”, when used with reference to any person, means the husband or wife, as the case may be, of that person and includes, in the case of a marriage by habit and repute or according to custom, any contracting party to such marriage;

“ year of assessment ” has the same meaning as in the Inland Revenue Act, No. 4 of 1963.

PART IX

Amendments to the Stamp Ordinance

Date of operation of this Part of this Act.

Insertion of new section 2A in Chapter 247.

99. The provisions of this Part of this Act shall come into operation on the appointed date.

100. The following new section is hereby inserted immediately after section 2 of the Stamp Ordinance (hereinafter referred to as the “ principal enactment ”) and shall have effect as section 2A of that enactment :—

“ Amendment or variation of Schedules to this Ordinance.

2A. (1) Any Schedule to this Ordinance may be amended or may be varied by an Order made by the Minister and published in the *Gazette*. Every such Order shall be brought before the House of Representatives within a period of two months from the date of publication of such Order in the *Gazette* by a motion that such Order shall be approved.

(2) Any Order which the House of Representatives refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything previously done thereunder. Notification of the date on which such Order is deemed to be revoked shall be published in the *Gazette*. ”.

101. Part I of Schedule A to the principal enactment is hereby amended as follows :—

(1) in item 4 of that Part, by the substitution, for the figures “ 0.50 ” appearing in the column headed “ Duty ”, of the figures “ 1. 0 ”;

(2) in item 8 of that Part—

(i) by the substitution, for the figures “ 0.25 ” appearing in the column headed “ Duty ”, of the figures “ 0.50 ”,

(ii) by the substitution, for the figures “ 0.50 ” appearing in the column headed “ Duty ”, of the figures “ 1. 0 ”,

(iii) by the substitution, for the figures “ 0.75 ” appearing in the column headed “ Duty ”, of the figures “ 1.50 ”,

(iv) by the substitution, for the figures “ 1. 0 ” appearing in the column headed “ Duty ”, of the figures “ 2. 0 ”,

(v) by the substitution, for the figures “ 1.25 ” wherever those figures collectively appear in the column headed “ Duty ”, of the figures “ 2.50 ”;

Amendment of
Part I of
Schedule A to
the principal
enactment.

(vi) by the substitution, for the figures "2.50" appearing in the column headed "Duty", of the figures "5.0", and

(vii) in the Proviso to that item, by the substitution, for the words "ten rupees.", of the words "fifteen rupees.";

(3) in item 15 of that Part, by the substitution, for the figures "0.25" appearing in the column headed "Duty", of the figures "1.0";

(4) in item 17 of that Part, by the substitution, for the figures "0.6" appearing in the column headed "Duty", of the figures "0.10";

(5) in item 31 of that Part, as amended by Act No. 16 of 1958, by the substitution, for the figures "0.10" appearing in the column headed "Duty", of the figures "0.50";

(6) in item 36 of that Part, by the substitution, for the figures "0.6" appearing in the column headed "Duty", of the figures "0.10";

(7) in item 37 of that Part—

(i) in paragraph (1) of that item by the substitution, for the figures "5.0" appearing in the column headed "Duty", of the figures "10.0", and

(ii) in paragraph (2) of that item by the substitution, for the figures "2.50" appearing in the column headed "Duty", of the figures "5.0";

(8) in item 42 of that Part, by the substitution, for the figures "10.0" appearing in the column headed "Duty", of the figures "50.0"; and

- (9) in item 52 of that Part, by the substitution, for the figures "0. 6" appearing in the column headed "Duty", of the figures "0.50".

102. Part II of Schedule A to the principal enactment is hereby amended as follows :—

Amendment of
Part II of
Schedule A to
the principal
enactment.

- (1) under the heading "IN THE SUPREME COURT"—

(i) in the column under the heading Class 7, by the substitution, for the figures "21. 0", of the figures "24. 0",

(ii) in the column under the heading Class 8, by the substitution, for the figures "24. 0", of the figures "28. 0", and

(iii) in the column under the heading Class 9, by the substitution, for the expression "Rs. 3.", of the expression "Rs. 5.";

- (2) under the heading "IN THE DISTRICT COURTS"—

(a) in the column under the heading Class 5—

(i) by the substitution, for the figures "1.50", of the figures "3. 0",

(ii) by the substitution, for the figures "3. 0", of the figures "5. 0", and

(iii) by the substitution, for the figures "0.30", of the figures "0.50"; and

(b) in the item "Claim to property seized, or objection,", by the substitution, for the expression "Re. 1.20.", of the expression "Rs. 2.";

- (3) under the heading "IN THE COURTS OF REQUESTS", by the substitution, for all the words and figures "in cases of Rs. 50, and upwards, Re. 1.", of the words and figures "in cases of Rs. 50 and up to Rs. 300, Re. 1, and in cases over Rs. 300, Rs. 2.";
- (4) in the item "Claim or objection to property seized", appearing under the heading "CLAIM PROCEEDINGS", by the substitution, for the figures "0.60" appearing under the heading "Duty", of the figures "1.0";
- (5) under the heading "EXHIBITS", by the substitution, for the words "twelve cents", of the words "twenty-five cents";
- (6) under the heading "MISCELLANEOUS"—
 - (i) by the substitution, for the words "six cents" occurring in each of the paragraphs (a) and (b), of the words "ten cents",
 - (ii) in paragraph (g), by the substitution, for the figures "12. 0" appearing under the heading "Duty", of the figures "15. 0",
 - (iii) in paragraph (i), by the substitution, for the figures "6. 0" appearing under the heading "Duty", of the figures "7.50",
 - (iv) in paragraph (j), by the substitution, for the figures "5,000.", of the figures "10,000.", and
 - (v) in paragraph (m), by the substitution, for the figures "5,000.", of the figures "10,000."; and
- (7) under the heading "IN THE MAGISTRATES' COURTS",—
 - (a) by the substitution, for the figures "0.30" appearing under the heading "Duty", of the figures "0.50", and
 - (b) by the substitution, for the figures "0.18" appearing under the heading "Duty", of the figures "0.25".

103. Part III of Schedule A to the principal enactment is hereby amended in paragraph 6, by the substitution, for the words "twelve cents", of the words "twenty-five cents".

Amendment of
Part III of
Schedule A to
the principal
enactment.

104. Part IV of Schedule A to the principal enactment is hereby amended as follows :—

- (a) by the substitution, for the figures "0.42" appearing under the heading "Duty", of the figures "0.50";
- (b) by the substitution, for the figures "0.60" appearing under the heading "Duty", of the figures "0.75";
- (c) by the substitution, for the figures "0.90" appearing under the heading "Duty", of the figures "1.20";
- (d) by the substitution, for the figures "1.20" appearing under the heading "Duty", of the figures "1.50";
- (e) by the substitution, for the figures "1.80" appearing under the heading "Duty", of the figures "2.0";
- (f) by the substitution, for the figures "2.40" appearing under the heading "Duty", of the figures "2.75"; and
- (g) in the second Proviso to that Part, by the substitution, for the words "ten cents", of the words "twenty-five cents".

Amendment of
Part IV of
Schedule A to
the principal
enactment.

105. Part V of Schedule A to the principal enactment is hereby amended as follows :—

Amendment of
Part V of
Schedule A to
the principal
enactment.

- (a) in item 2, by the substitution, for the figures "2.50" appearing under the heading "Duty", of the figures "5.0"; and
- (b) by the addition at the end of that Part of the following new item :—
"4. Search of court records—for each application 0.25".

PART X

Provisions relating to the sale of certain motor cars

106. The provisions of this Part of this Act shall be deemed to have come into operation on the second day of August, 1963.

Date of opera-
tion of this Part
of this Act.

Prohibition of the sale of motor cars to which this Part of this Act applies without the approval of the Registrar.

107. (1) Any motor car to which this Part of this Act applies shall not, during a period of seven years commencing from the date of the first registration of that motor car, or the date of the importation of that motor car if that motor car had not been registered, be sold by its owner except with the previous approval in writing of the Registrar :

Provided that such period may be reduced or extended in regard to all such motor cars or to any particular description of such motor cars as the House of Representatives may by resolution determine.

(2) A sale of any motor car to which this Part of this Act applies in contravention of the provisions of sub-section (1) shall be null and void and of no effect in law.

Applications for approval to sell motor cars to which this Part of this Act applies.

108. (1) Every application by the owner of a motor car to which this Part of this Act applies for approval to sell that motor car shall be made to the Registrar in such form as may be provided by the Registrar for the purpose and the application shall contain all such information as the Registrar may require for the disposal of the application.

(2) Upon receipt of an application under sub-section (1), the Registrar may—

(a) approve, subject to the condition specified in section 109, the application for the sale of the motor car to the person to whom the owner of that motor car intends to sell that car ; or

(b) direct such owner to sell that motor car either by auction sale or tender through the Registrar or any other organization as the Registrar may nominate, subject to the condition specified in section 109.

109. An application to the Registrar for approval to sell a motor car to which this Part of this Act applies shall be granted by the Registrar on the condition that, if the owner of that motor car makes a profit from the sale of that motor car, a sum, calculated in the manner specified in section 110, shall be retained—

Condition for
the grant of
approval.

- (a) by the person specified in the application as the intending purchaser of that motor car, or
- (b) where that motor car is directed by the Registrar to be sold by auction sale or tender, by the purchaser at the auction sale or the person who makes the highest offer by tender, as the case may be,

for payment to the Registrar.

110. The sum required to be retained under section 109 by the purchaser of a motor car to which this Part of this Act applies for the purposes of payment to the Registrar shall be calculated in the following manner :—

Manner of
computation of
the sum payable
to the Registrar
by a purchaser
of a motor car
to which this
Part of this Act
applies.

- (a) if that motor car was bought by the owner from a dealer of motor cars and was unused at the time he bought it, a sum equivalent to eighty *per centum* of the difference between—
 - (i) the price to be paid by the purchaser of that motor car, and
 - (ii) the aggregate of the price paid for that motor car by the owner to that dealer and the sum of rupees two hundred and fifty as expenses of the sale of that motor car ;
- (b) if that motor car was imported into Ceylon by the owner of that motor car, a sum equivalent to eighty *per centum* of the difference between—
 - (i) the price to be paid by the purchaser of that motor car, and

- (ii) the aggregate of the price paid by that owner for that motor car (inclusive of carriage, insurance, freight and customs duty), and a sum of rupees two hundred and fifty as expenses of the sale of that motor car to that purchaser ;
- (c) if that motor car was bought second-hand by the owner of that motor car, an amount equivalent to eighty *per centum* of the difference between—
 - (i) the price to be paid by the purchaser of that motor car, and
 - (ii) the aggregate of the amount determined by the Registrar as the price paid by the owner for that motor car at the time he bought it and a sum of rupees two hundred and fifty as expenses of the sale of that motor car to that purchaser.

Purchaser of a motor car to which this Part of this Act applies not entitled to be registered as new owner if he does not pay the sum required to be paid under section 109.

111. On a change of possession of a motor car to which this Part of this Act applies occurring by the sale of that motor car, the purchaser of that motor car shall not be entitled to be registered as the new owner of that motor car under the provisions of the Motor Traffic Act unless he satisfies the Registrar that he has paid the sum which he was required to retain under section 109 for the purposes of payment to the Registrar.

Sums paid to the Registrar under this Part of this Act to be credited to the Consolidated Fund of Ceylon.

112. All sums paid to the Registrar under this Part of this Act shall be credited by the Registrar to the Consolidated Fund of Ceylon.

Provisions of this Part of this Act to prevail.

113. The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in any other law.

114. Where a motor car to which this Part of this Act applies has, during the period commencing on the second day of August, 1963, and ending on the day preceding the day on which this Act becomes an Act of Parliament, been sold to any person, and where an application by that person for registration under the provisions of the Motor Traffic Act as the new owner of that motor car is pending on the day immediately preceding the day on which this Act becomes an Act of Parliament, such owner shall be deemed to have complied with the provisions of this Part of this Act if he pays to the Registrar the amount of the tax, if any, computed in accordance with section 110 in respect of that motor car.

A person who has applied to be registered as the new owner of a motor car to which this Part of this Act applies and which he has purchased after August 2, 1963, and before the day on which this Act becomes an Act of Parliament shall be deemed to have complied with the provisions of this Part of this Act if he pays a tax in respect of that motor car.

115. In this Part of this Act, unless the context otherwise requires,—

Interpretation.

“motor car” shall have the same meaning as in the Motor Traffic Act;

“motor car to which this Part of this Act applies” means—

(1) any motor car registered for the first time under the provisions of the Motor Traffic Act on or after January 26, 1961, and

(2) any motor car so registered prior to January 26, 1961, if such motor car had prior to that date been imported into Ceylon free of customs duty payable under the Customs Ordinance or on special concessions regarding import of motor cars, for the use of the person who makes an application to the Registrar to sell that motor car,

but does not include—

(a) any motor car (other than a motor car referred to in the aforementioned paragraph (2)) imported into Ceylon before January 26, 1961, and registered under the provisions of the Motor Traffic Act on or after that date; or

- (b) any motor car so registered on or after that date but which—
- (i) had been shipped to Ceylon before that date from abroad and had been landed in Ceylon after that date,
 - (ii) had been subject to the payment of customs duty normally payable in respect of such description of motor cars, and
 - (iii) had not been imported on any import licence or permit not available to persons desiring to import cars for their use;

“Registrar” means the Registrar of Motor Vehicles or any person authorized by him for the purposes of this Part of this Act.

PART XI

Issue of Treasury Bills

Additional power to borrow by the issue of Treasury Bills.

116. In addition to the sums heretofore borrowed or authorized to be borrowed by the issue in Ceylon of Ceylon Government Treasury Bills under the Local Treasury Bills Ordinance, the Minister of Finance may direct the Deputy Secretary to the Treasury to borrow, by the issue in Ceylon of Ceylon Government Treasury Bills, sums not exceeding one hundred million rupees in the aggregate; and the Deputy Secretary to the Treasury may also, with the prior approval of the Minister of Finance, borrow from time to time by the issue of such Treasury Bills, such sums as may be required to pay off at maturity, Treasury Bills already lawfully issued by him, and outstanding, under the provisions of this section.

Application of Local Treasury Bills Ordinance.

117. The provisions of sub-sections (2) and (3) of section 2, and sections 3 to 7 (both inclusive), of the Local Treasury Bills Ordinance shall, *mutatis mutandis*, apply to Ceylon Government Treasury Bills issued under section 116 of this Part of this Act in like manner and to the same extent as such provisions apply in the case of Ceylon Government Treasury Bills issued under that Ordinance.

PART XII

Business Turnover Tax

118. The provisions of this Part of this Act shall come into operation on the appointed date.

Operation of
this Part of
this Act.

119. (1) Subject to the other provisions of this Part of this Act, there shall be charged for every year of assessment commencing on or after October 1, 1963, from every person who carries on in any place in Ceylon the business of a manufacturer or any other business a tax (hereafter in this Part of this Act referred to as the "business turnover tax") in respect of the turnover made by that person from that business computed at such rate as the Minister may fix by Order published in the *Gazette*.

Charge of the
business turn-
over tax.

The rate of the business turnover tax in respect of any business may be determined by reference to the nature of such business and accordingly different rates of such tax may be determined in respect of different classes or descriptions of businesses.

(2) The rate of the business turnover tax in respect of any class or description of business may, from time to time, be varied by the Minister by Order published in the *Gazette*.

(3) Every Order under sub-section (1) or sub-section (2) shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in the Order and shall be brought before the House of Representatives within a period of three months from the date of the publication of such Order in the *Gazette*, or, if no meeting of the House of Representatives is held within such period, at the first meeting of the House of Representatives held after the expiry of such period, by a motion that such Order shall be approved. There shall be set out in a schedule to every such motion the text of the Order to which the motion refers.

(4) Any Order under sub-section (1) or sub-section (2) which the House of Representatives refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the *Gazette*.

(5) The maximum amount of the business turnover tax charged from any person for any year of assessment in respect of the business carried on by him shall in no case exceed eighty *per centum* of the profits or income of that person from that business as ascertained under the provisions of Chapter II of the Inland Revenue Act, No. 4 of 1963, before making the deduction allowable under section 157 of this Part of this Act or, where the Inland Revenue Act does not apply to such person, eighty *per centum* of the profits or income of such person from that business as ascertained under the provisions of Chapter II of the last-mentioned Act before making the deduction allowable under section 157 of this Part of this Act as though the Inland Revenue Act were applicable to him, and accordingly such person shall be entitled to a refund of the sum so paid by him as business turnover tax in excess of such maximum amount.

The circumstances in which a person becomes chargeable with business turnover tax.

120. (1) A person shall, in respect of any business carried on by him in Ceylon, be chargeable with business turnover tax for any year of assessment if, but only if—

(a) where such business has been carried on by him for a period of not less than one year prior to the date of commencement of that year of assessment, the turnover made by him from that business for the accounting period immediately preceding the year of assessment is not less than one hundred thousand rupees ; and

(b) where such business has been carried on by him for a period of less than one year prior to the date of commencement of that year of assessment, the turnover made by him from that business during such period is not less than a sum which bears to one hundred thousand rupees the same proportion as the number of days in that period bears to three hundred and sixty-five.

(2) For the purposes of this Part of this Act—

(a) where any business is carried on by a person in more than one place in Ceylon, the business carried on by him in each such place shall be deemed to be a separate business ; and

(b) different businesses carried on by the same person in one place shall be deemed to be one business.

(3) For the purposes of this Part of this Act, "business" includes any trade or vocation but does not include—

- (a) any profession ;
- (b) any agricultural undertaking ;
- (c) any undertaking for the export of any manufactured or processed article ;
- (d) the business of a banker, financier, money-lender, pawnbroker, commission agent or broker ;
- (e) any insurance business ;
- (f) the business of carrying on an educational establishment ; and
- (g) any other business the turnover from which may be exempted from the business turnover tax by Order made by the Minister, approved by the House of Representatives and published in the *Gazette*.

121. (1) The Minister may by Order published in the *Gazette* declare any article specified in such Order to be an excepted article for the purposes of this Part of this Act. Different articles may be declared to be excepted articles in respect of different classes or descriptions of businesses.

Excepted
articles.

(2) Where an article is, under sub-section (1), declared to be an excepted article in respect of any class or description of business, the sum realized from the sale of such article shall not be taken into account for the purpose of ascertaining the turnover from such class or description of business.

122. (1) Every person chargeable with business turnover tax shall, in respect of the business carried on by him, pay such tax for any year of assessment in four instalments, each such instalment being in respect of the turnover for each period of three months (hereafter in this Part of this Act referred to as a "quarter") in that year of assessment :

Payment of
business turn-
over tax.

Provided that no such tax shall be payable in respect of the quarter commencing on October 1, 1963, and ending on December 31, 1963.

(2) The business turnover tax in respect of any quarter in a year of assessment shall be paid not later than fifteen days after the expiry of that quarter. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or, where any tax is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership shall be deemed to be a defaulter for the purposes of this Part of this Act.

(3) Where any business turnover tax is in default, the defaulter shall become liable to pay, in addition to such tax,—

(a) a penalty of a sum equivalent to five *per centum* of such tax, and

(b) where such tax is not paid before the lapse of thirty days after such tax has begun to be in default, a penalty of a sum equivalent to one *per centum* of such tax in respect of each further period of thirty days or part thereof during which such tax is in default.

Returns:

123. Every person chargeable with business turnover tax shall, not later than fifteen days after the expiry of each quarter in a year of assessment, furnish to the Commissioner for the business in respect of which he is chargeable with such tax a return setting out the turnover from that business for that quarter. Every such return shall be in the prescribed form and shall contain all such particulars as may be required to be set out in such form.

**Power of
Assessor to
make assess-
ments.**

124. (1) Where any person chargeable with business turnover tax—

(a) fails to furnish, under section 123, a return for any quarter in a year of assessment and to pay the business turnover tax in respect of that quarter ; or

(b) furnishes, under section 123, a return in respect of any quarter in a year of assessment but fails to pay the business turnover tax in respect of that quarter,

an Assessor shall assess the amount of the business turnover tax which such person, in the judgment of the Assessor, ought to have paid for that quarter and shall, by notice in writing, require such person

to pay such amount immediately. The amount so assessed in respect of any person for a quarter shall, subject to the provisions of section 125, be deemed to be the amount of the business turnover tax payable by him for that quarter.

(2) An assessment made under sub-section (1) in respect of any person for any quarter in a year of assessment shall not affect the liability of such person to a penalty under section 122 as though the amount assessed were the amount of business turnover tax due from him for that quarter.

125. Where it appears to an Assessor that a person chargeable with business turnover tax has, for any quarter in a year of assessment, paid as tax an amount less than the proper amount of the tax payable by him for that quarter, or chargeable from him for that quarter, an Assessor may, at any time, assess such person at the additional amount at which, according to the judgment of the Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of assessment.

Additional assessments.

126. (1) An Assessor may, by notice in writing, direct any person who, in the judgment of that Assessor, is a person chargeable with business turnover tax to furnish within the time specified in such notice a return containing such particulars as the Assessor may require.

Returns and information to be furnished.

(2) An Assessor may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within the time specified in such notice—

- (a) fuller or further returns, or
- (b) fuller or further information relating to any matter as will in the opinion of the Assessor be necessary or relevant for the assessment of the business turnover tax payable by such person.

(3) For the purpose of obtaining full information in respect of the turnover from any business carried on by any person, an Assessor may give notice in writing to such person requiring him—

- (a) to produce for examination, or transmit to the Assessor, within the period specified in such notice, any such books, accounts, trade lists, stock lists, registers, cheques, paying in slips, auditors'

reports, or other documents in his possession as may be specified in such notice;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the turnover in respect of that business.

(4) For the purposes of this Part of this Act, an Assistant Commissioner may give notice in writing to any person requiring him—

(a) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter or matters as may be specified in the notice;

(b) to produce, or transmit to such Assistant Commissioner within the period specified in such notice any books, accounts, trade lists, stock lists, registers, cheques, paying in slips, auditors' reports, or other documents in his possession as may be specified in such notice.

(5) A person who attends in compliance with a notice given under sub-section (4) may be allowed by the Commissioner the expenses reasonably incurred by him in so attending.

(6) An Assistant Commissioner, or an Assessor with the approval of an Assistant Commissioner, may retain in his custody, as long as such retention is necessary for the purposes of this Part of this Act, any books, accounts, trade lists, stock lists, registers, cheques, paying in slips, auditors' reports, or other documents which are or have been produced before him or transmitted to him under sub-section (3) or sub-section (4) or which otherwise come or have come into his possession.

(7) A return, statement or form purporting to be furnished under this Part of this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters therein.

127. The Commissioner may give notice in writing to any officer in the employment of the Government or of any local authority or other public body requiring him to furnish within the period specified in such notice any such particulars which he may require for the purposes of this Part of this Act as may be in the possession of such officer :

Information to
be furnished by
officials.

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any express statutory obligation to observe secrecy.

128. Every person chargeable with business turnover tax shall, in respect of each transaction entered into by him in the pursuit of any business in relation to which such tax is payable, prepare or cause to be prepared a voucher setting out—

- (a) the date on which such transaction was entered into ;
- (b) the nature of such transaction ; and
- (c) the amount of money received in respect of such transaction.

Vouchers to be issued by persons chargeable with business turnover tax.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the year of assessment in which such voucher was prepared.

129. (1) Every person chargeable with business turnover tax shall keep and maintain in respect of each year of assessment a register of transactions.

Maintenance of registers.

(2) The register of transactions kept by any person in respect of any year of assessment shall be retained and preserved by him for a period of five years after the expiry of that year of assessment.

130. Any act or thing required by or under this Part of this Act to be done by any person shall, if such person is an incapacitated person, be deemed to be required to be done by the trustee of such incapacitated person.

Who may act for
incapacitated
person.

Precedent
partner to act
on behalf of
partnership.

131. Any act or thing required by or under this Part of this Act to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership :

Provided that any person to whom a notice has been given under the provisions of this Part of this Act as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Ceylon is the precedent partner thereof.

Principal
officer to act
on behalf of
a company or
body of
persons.

132. The provisions of section 90 of the Inland Revenue Act, No. 4 of 1963, shall apply as if such provisions were provisions of this Part of this Act and refer to this Part of this Act instead of the Inland Revenue Act.

Liability to pay
business turn-
over tax in the
case of
cessation of
business.

133. (1) Subject as hereinafter provided, where during the course of a year of assessment a person chargeable with business turnover tax ceases to carry on any business in respect of which he is chargeable with such tax, he shall, notwithstanding that he has ceased to carry on such business, be liable to pay such tax for the period during which he carried on that business in that year of assessment.

(2) Where any person carrying on a business transfers such business to any other person, any business turnover tax payable in respect of such business for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee and the provisions of this Part of this Act as to collection and recovery of the business turnover tax shall apply accordingly.

Liability of
executor to
pay business
turnover tax.

134. (1) Where any person chargeable with business turnover tax dies, the executor of such deceased person shall, in respect of all periods prior to the date of death of such person, be chargeable with the business turnover tax which such person would be chargeable if he were alive; and shall be liable to do all acts, matters and things which such person if he were alive would be liable to do under this Part of this Act :

Provided that—

(a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person ;

- (b) no assessment or additional assessment in respect of a period prior to the date of such person's death shall be made after the expiry of the third year of assessment subsequent to the year of assessment in which the death occurred ; and
- (c) the liability of the executor under this section shall be limited to the sum of—
 - (i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to the business turnover tax will arise under this section ; and
 - (ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on any business which is a part of such estate, such executor shall, in respect of such business, be chargeable with the business turnover tax with which such person would be chargeable if he were alive.

135. (1) Where any business in respect of which business turnover tax is payable is carried on by any person on behalf of any other person as the agent of such other person, the first-mentioned person shall be chargeable with business turnover tax in respect of that business in like manner and to the like amount as the latter-mentioned person would be chargeable under this Part of this Act.

Liability of certain persons to pay business turnover tax in respect of businesses not belonging to them.

(2) Where any business in respect of which business turnover tax is payable is subject to a trust, the trustee of that trust shall be liable to pay such tax in respect of such business.

136. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with the business turnover tax with which they are chargeable under this Part of this Act, and shall be jointly and severally liable for payment of such tax.

Joint agents, trustees and executors.

Persons liable to pay business turnover tax upon liquidation of a company or dissolution of a body of persons.

137. (1) Notwithstanding anything in the Companies Ordinance, where a company is wound up and where any business turnover tax to which that company is liable cannot be recovered, then, every person who was a director of the company at any time during the period in respect of which such tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company, and the provisions of this Part of this Act as to collection and recovery of business turnover tax shall apply accordingly.

(2) Where a body of persons is dissolved and where any business turnover tax to which such body of persons is liable cannot be recovered, then, every person who was a member of that body of persons during the period in respect of which the tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of that body, and the provisions of this Part of this Act as to collection and recovery of business turnover tax shall apply accordingly.

Appeals to the Commissioner.

138. (1) Any person may, if he is dissatisfied with any assessment or additional assessment made in respect of him by an Assessor, appeal against such assessment or additional assessment to the Commissioner within thirty days after the service of notice of such assessment or additional assessment. Such person shall, notwithstanding the appeal, pay the business turnover tax charged by such assessment or additional assessment.

(2) The Commissioner shall, before reaching his decision on any appeal made to him under sub-section (1), give the appellant an opportunity of placing his case before the Commissioner either in person or by his authorized representative.

(3) The Commissioner may, upon any appeal made to him under sub-section (1), confirm, reduce, increase or annul the assessment or additional assessment against which such appeal was made.

(4) Any person aggrieved by the decision of the Commissioner upon any appeal made to him under sub-section (1) may appeal from that decision to the

Board of Review constituted under the Inland Revenue Act, No. 4 of 1963, and the provisions of that Act relating to appeals to such Board of Review shall *mutatis mutandis* apply to an appeal under this sub-section.

139. Where no valid appeal has been lodged within the time specified in this Part of this Act against an assessment in respect of business turnover tax, or where the amount of such tax has been determined on appeal, the assessment as made, or reduced, or increased or confirmed on appeal, as the case may be, shall be final and conclusive for all purposes of this Part of this Act as regards the amount of such tax :

Provided that nothing in this Part of this Act shall prevent an Assessor from making an assessment or additional assessment for any quarter in a year of assessment if it does not involve re-opening any matter which has been determined on appeal for that quarter.

140. Where in an assessment made in respect of any person the amount of business turnover tax exceeds the amount already paid by him as the amount due from him in respect of the turnover specified in his return and the assessment is final and conclusive under section 139, the Commissioner may, unless that person proves to the satisfaction of the Commissioner that there is no fraud or wilful neglect involved in the disclosure of the turnover made by that person in his return, in writing order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the tax on the difference between the turnover on which the assessment was made and the turnover specified in his return.

141. For the purposes of section 142, section 143, section 144, section 145, section 146, section 147 and section 148, "business turnover tax" includes any penalty imposed or incurred under this Part of this Act.

142. Any business turnover tax in default shall be a first charge upon all the assets of the defaulter :

Provided that—

- (i) such charge shall not extend to or affect any assets sold by the defaulter to a

Assessments or
amended
assessments to
be final.

Penalty for
under payment
of business
turnover tax.

Meaning of
"business
turnover tax"
for the purposes
of sections
142 to 148.

Business
turnover
tax to be a
first charge.

bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of section 143 ;

- (ii) as regards immovable property, the business turnover tax shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of such seizure ; and
- (iii) as regards movable property, where business turnover tax for more than one year of assessment is in default, the tax for one year only, to be selected by the Commissioner, shall rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default.

Recovery of
business turn-
over tax by
seizure and
sale.

143. (1) The Commissioner may appoint persons to be tax collectors for the purposes of this Part of this Act.

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

(b) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or tax collector shall cause the said property to be sold by public auction.

(c) The sum realized by the sale 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 tax in default,

and any balance shall be paid to the owner of the property seized.

(3) Where any business turnover tax is in default, and the Commissioner is of opinion that recovery by the means provided in sub-section (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 tax and the name or names of the person or persons by whom the tax 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 and immovable of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, 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 issues a certificate under this section, he shall at the same time issue to the defaulter a notification thereof by personal service or by registered letter sent through the post or by telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

144. (1) Where the Commissioner is of opinion in any case that recovery of business turnover tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or 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 the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of sub-section (1) of section 312 (except paragraphs (a), (c) and (h) thereof) of the Criminal Procedure Code, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate

Proceedings for
recovery before
a Magistrate.

may make any direction which, by the provisions of that sub-section, he could have made at the time of imposing such sentence :

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Commissioner.

(2) Nothing in sub-sections (2) to (5) of section 312 of the Criminal Procedure Code shall apply in any case referred to in sub-section (1) of this section.

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

(4) The court may require bail to be given as a condition precedent to allowing time under sub-section (1) for showing cause as therein provided or under sub-section (3) for the payment of the fine ; and the provisions of Chapter XXXVI of the Criminal Procedure Code shall apply where the defaulter is so required to give bail.

(5) Where payment in instalments is directed under sub-section (3) and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(6) In any proceeding under sub-section (1), the Commissioner's certificate shall be sufficient evidence that the tax is in default, and any plea that the tax is excessive, incorrect, or under appeal shall not be entertained :

Provided that where any person proceeded against has not appealed within the proper time against the assessment in respect of which the tax is charged and alleges that the tax is in excess of the sum which would have been charged if he had so appealed, the court may adjourn the matter for a period not exceeding thirty days to enable such person to submit to the Commissioner his objection to the tax.

(7) The Commissioner shall, notwithstanding the provisions of section 139, consider any objection made under sub-section (6) and give his decision thereon, which shall be final, and shall be certified by him to the Magistrate, and proceedings under this section shall thereupon be resumed to enforce payment of the tax as reduced or confirmed under such decision. Where no objection has been made to the Commissioner within the period for which the matter was adjourned under that sub-section, the Commissioner shall issue a certificate to that effect and proceedings under this section shall be resumed to enforce payment of the tax.

145. (1) Where the business turnover tax payable by any person is in default and it appears to the Commissioner to be probable that any person—

Recovery of
business turn-
over tax out
of debts, etc.

- (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 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 tax 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 or about to be paid by 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 person by whom the tax was payable 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) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith owing to the fact that the moneys in question do not come into his hands or become due from him within the period referred to in sub-section (1), he shall within fourteen days of the expiration thereof give notice in writing to the Commissioner acquainting him with the facts.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to give notice to the Commissioner as provided in sub-section (3), or where such person has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as directed by the Commissioner the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in sub-section (1), such person shall, if he is an individual be liable, 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 shall be personally liable, for the whole of the tax which such person has been required to deduct, and such tax may be recovered from such individual, secretary, manager or other principal officer by all means provided in this Part of this Act.

(5) For the purposes of this section, the expression "defaulter" shall be deemed to include the agent or authorized representative of a person who is in default and the provisions of this section shall apply in any case where the tax 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 sub-section (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 probate or letters of administration in respect of the estate of a deceased person.

146. (1) Where the Commissioner is of opinion that any person is about to or likely to leave Ceylon without paying the business turnover tax due from him, the Commissioner may issue a certificate containing particulars of such tax and the name of such person to a Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Ceylon without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof.

Recovery of
business turn-
over tax from
persons leaving
Ceylon.

(2) At the time of issue of his certificate to the Magistrate, the Commissioner shall issue to such person a notification thereof by personal service, 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) The production of a certificate signed by the Commissioner or a Deputy Commissioner or an Assistant Commissioner stating that the tax has been paid or that security has been furnished, or the payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing such person to leave Ceylon.

147. Where the Commissioner is of opinion that application of any one of the means of recovery provided in this Part of this Act has failed or is likely to fail to secure payment of the whole of any business turnover tax due under this Part of this Act from any person, it shall be lawful for the Commissioner to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Part of this Act, notwithstanding that an order has been made by a Magistrate under section 144 and carried into effect.

Use of more
than one means
of recovery.

148. The Commissioner may, by notice given in writing to any person, require that person within the period specified in such notice to furnish any information which the Commissioner may require for the purpose of recovering any business turnover tax due from such person or some other person.

Power of
Commissioner
to obtain infor-
mation for the
recovery of
business turn-
over tax.

149. (1) Every notice to be given by the Commissioner, an Assistant Commissioner or an Assessor under this Part of this Act shall bear the name of

Signature and
service of
notices.

the Commissioner or Assistant Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner, Assistant Commissioner or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Part 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, during the period to which the notice relates carrying on business :

Provided that a notice of assessment under section 124 or section 125 shall be served personally or by being sent by post by registered letter to any such place as aforesaid.

(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 of 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 Part of this Act, which purports to be the name of the person authorized to give or issue the same, shall be judicially noticed.

Validity of assessments.

150. (1) No notice, assessment, certificate or other proceeding purporting to be in accordance with the provisions of this Part 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 Part of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of turnover or the amount of business turnover tax charged ; or

- (b) by reason of any variance between the assessment and the notice thereof,

if the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this sub-section.

151. (1) Any officer of the Department of Inland Revenue who is specially authorized by the Commissioner in that behalf may, accompanied by a peace officer, do all or any of the following acts :—

Power to search buildings or places.

- (a) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Part of this Act may be found and examine them, if found ;
- (b) seize any such books of account, registers, records or other documents or place marks of identification thereon or make extracts or copies therefrom ;
- (c) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceedings under this Part of this Act,

and the provisions of the Criminal Procedure Code relating to searches shall apply so far as may be to searches under this section.

In this sub-section " peace officer " shall have the same meaning as in the Criminal Procedure Code.

(2) Before authorizing any officer to exercise the powers under sub-section (1), the Commissioner shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) Where any officer authorized by the Commissioner under sub-section (1) seizes any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under sub-section (1) by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

(5) The Commissioner or any other officer of the Department of Inland Revenue who is specially authorized in that behalf by the Commissioner in writing may do all or any of the following acts :—

- (a) enter and inspect any place or building where any business is carried on by any person for the purpose of ascertaining whether the provisions of this Part of this Act are being complied with ;
- (b) take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;
- (c) require any person whom he finds in such place or building to give such information as is in his power to give with respect to matters under this Part of this Act ;
- (d) examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Part of this Act, every person whom he finds in such place or building.

Business
turnover tax
paid in excess to
be refunded.

152. If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years after the end of a quarter of a year of assessment that any person has paid any business turnover tax in excess of the amount with which he was properly chargeable for that quarter, 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 the time limit for appeal or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive.

153. (1) The Commissioner of Inland Revenue shall be in charge of the administration of this Part of this Act.

Administration
of this Part of
this Act.

(2) An Assistant Commissioner exercising or performing any power, duty or function of the Commissioner under this Part of this Act shall be deemed for all purposes to be authorized to exercise or perform that power, duty or function until the contrary is proved.

(3) An Assistant Commissioner may exercise any power conferred on an Assessor by this Part of this Act.

154. (1) Except in the performance of his duties under this Part of this Act, every person who is or has been employed in carrying out or in assisting any person to carry out the provisions of this Part of this Act, shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Part of this Act, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative or to the Minister or the Permanent Secretary to the Ministry of Finance nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner.

Official secrecy

(2) Every person employed in carrying out the provisions of this Part of this Act shall before acting under this Part of this Act, and the Minister and the Permanent Secretary to the Ministry of Finance may before acting under this Part of this Act, take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person employed in carrying out the provisions of this Part of this Act shall be required to produce in any court any return, document or assessment or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Part of this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Part of this Act or any other written law administered by the Commissioner.

(4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Part of this Act or under any other written law administered by the Commissioner to any other officer of that Department if the communication is necessary for the performance of any duty under this Part of this Act and the Commissioner may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any court, in any proceedings under this Part of this Act, a copy of any particulars contained in any return or document received by him or in his possession under this Part of this Act or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars :

Provided that the Commissioner may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further, that the Commissioner shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section, the Commissioner may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this sub-section shall be deemed to be a person employed in carrying out the provisions of this Part of this Act for the purposes of sub-section (2).

Offences.

155. (1) Every person who—

(a) fails to comply with the provisions of section 123 or section 128 or section 129 of this Part of this Act ;

- (b) fails to comply with the requirements of a notice issued to him under section 126 or section 127 of this Part of this Act ; or
- (c) having appeared before an officer in compliance with a notice issued to him under section 126 of this Part of this Act, fails without sufficient cause to answer any question lawfully put to him by such officer ; or
- (d) gives false answers whether orally or in writing to any question or information asked for in accordance with the provisions of this Part of this Act ; or
- (e) omits from any return made under this Part of this Act any particulars which he is required to include therein under this Part of this Act ; or
- (f) makes any false return or false entry in any return made under this Part of this Act ; or
- (g) gives any incorrect information relating to any matter or thing affecting his own liability to the business turnover tax or the liability of any other person ; or
- (h) wilfully obstructs or delays the Commissioner or any other officer in the exercise of his powers under section 151 ;
- (i) acts under this Part of this Act without taking an oath of secrecy as required by section 154 ; or
- (j) acts contrary to the provisions of section 154 or to an oath taken under that section ; or
- (k) aids, abets or incites any other person to act contrary to the provisions of this Part of this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or

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

(2) The Commissioner may compound any offence under sub-section (1) and may before judgment stay or compound any proceedings thereunder.

Prosecutions to be with the sanction of the Commissioner.

Amount of the business turnover tax paid by any person shall be a deduction for income tax purposes.

Regulations.

156. No prosecution in respect of an offence under section 155 shall be commenced except at the instance, or with the sanction, of the Commissioner.

157. Where any person liable to any income tax under the Inland Revenue Act, No. 4 of 1963, for any year of assessment within the meaning of that Act has paid any amount as business turnover tax under this Part of this Act, the amount so paid shall be allowed as a deduction for the purpose of ascertaining the profits or income of that person under section 10 of the Inland Revenue Act.

158. (1) The Minister may make regulations to give effect to the principles and provisions of this Part of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of—

- (a) the procedure to be followed in respect of applications for refunds ; and
- (b) any matter which is stated or required by this Part of this Act to be prescribed.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

159. (1) In this Part of this Act, unless the context otherwise requires—

Interpretation.

“accounting period”—

(a) in relation to any business in respect of which annual accounts are made up, means the period of twelve months for which such accounts are made up, and

(b) in relation to any business in respect of which no annual accounts are made up, means such period of twelve months as the Commissioner may determine;

“agent” includes any person having the direction, control or management of any business on behalf of any other person;

“agricultural undertaking” includes animal husbandry;

“article” includes any goods or material;

“Assessor” means an Assessor of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 4 of 1963, and includes a Senior Assessor of Inland Revenue;

“Assistant Commissioner” means an Assistant Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 4 of 1963;

“authorized representative” means any individual authorized in writing by a person to act on his behalf for the purposes of this Part of this Act, who is—

(a) in any case—

(i) an accountant approved by the Commissioner;

(ii) an advocate or proctor;

(iii) an employee regularly employed by the person concerned; or

(iv) any other person approved by the Commissioner;

- (b) in the case of an individual, a relative;
- (c) in the case of a company, a director or secretary;
- (d) in the case of a partnership, a partner;
- (e) in the case of a body of persons, a member of such body;

“body of persons” includes any body corporate or unincorporate, any fraternity, fellowship, association or society of persons, whether corporate or unincorporate, and any Hindu undivided family but does not include a company or a partnership;

“Commissioner” means the Commissioner of Inland Revenue appointed under the Inland Revenue Act, No. 4 of 1963, and includes a Deputy Commissioner, and an Assistant Commissioner specially authorized by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner;

“company” means any company incorporated or registered under any law in force in Ceylon or elsewhere;

“Deputy Commissioner” means a Deputy Commissioner of Inland Revenue appointed for the purposes of the Inland Revenue Act, No. 4 of 1963;

“excepted article” means any article declared to be an excepted article under section 121;

“executor” means an executor or administrator of a deceased person and includes—

- (a) any person who takes possession of or intermeddles with the profits of a deceased person;
- (b) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of administration in respect of the estate of a deceased person; or
- (c) a trustee acting under a trust created by the last will of the author of the trust;

“incapacitated person” means any minor, lunatic, idiot or person of unsound mind;

“local authority” means any Municipal Council, Urban Council, Town Council or Village Council and any other body constituted under any law of Ceylon for any purpose relating to Local Government;

“manufacturer” means any person who—

- (a) makes an article,
- (b) assembles or joins any article whether by chemical process or otherwise,
- (c) adapts for sale any article;

“Minister” means the Minister to whom the subject or function of finance is assigned by the Prime Minister under section 46 of the Ceylon (Constitution) Order in Council, 1946;

“person” includes a company or body of persons;

“precedent partner” means the partner who, of the active partners resident in Ceylon—

- (a) is first named in the agreement of partnership; or
- (b) if there is no agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership; or
- (c) is first named in the statement made under section 4 of the Business Names Ordinance;

“trustee” includes any trustee, guardian, curator, manager, agent or other person having the direction, control or management of any property on behalf of any person but does not include an executor;

“turnover”, in relation to any business, means the total amount received or receivable from transactions entered into in respect of that business but does not include any amount received or receivable by the sale of capital assets;

"year of assessment" means the period of twelve months commencing on the first day of October, nineteen hundred and sixty-three or any subsequent period of twelve months commencing on the first day of October.

(2) Where in respect of any quarter in a year of assessment business turnover tax has been paid in respect of any sum receivable during that quarter, no such tax in respect of that sum need be paid in respect of the quarter in which such sum is actually received.

PART XIII

General

Interpretation.

160. The expression "appointed date", in relation to any Part of this Act in which the expression occurs, means such date as may be appointed for the purposes of that Part by the Governor-General by Proclamation published in the *Gazette*. Different dates may be so appointed in respect of different Parts of this Act.

Retroactive operation.

161. The date appointed by the Governor-General for the purposes of any Part of this Act under section 160 may be a date prior or subsequent to the date on which this Act becomes an Act of Parliament; and where the date so appointed is prior to such last-mentioned date, sections 2, 27, 52, 55, 69, 99, and 118 of this Act in which the expression "shall come into operation" occurs shall have effect as though for that expression, there were substituted the expression "shall be deemed, for all purposes, to have come into operation".