



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

**NATIONAL DEVELOPMENT BANK OF
SRI LANKA (AMENDMENT)
ACT, No. 10 OF 1992**

[Certified on 6th March, 1992]

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National Development Bank of Sri Lanka
(Amendment) Act, No. 10 of 1992

[Certified on 6th March, 1992.]

L.D.—O. 99/90.

AN ACT TO AMEND THE NATIONAL DEVELOPMENT BANK OF SRI
LANKA ACT, NO. 2 OF 1979

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

1. This Act may be cited as the National Development Bank of Sri Lanka (Amendment) Act, No. 10 of 1992.

Short title.

2. Section 5 of the National Development Bank of Sri Lanka Act, No. 2 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (1) of that section by the substitution in paragraph (a) for the words "providing medium-term and long term credit", of the words "providing credit".

Amendment
of section 5
of Act No. 2
of 1979.

3. Section 6 of the principal enactment is hereby amended as follows:—

Amendment
of section 6
of the
principal
enactment.

(1) in paragraph (a) of that section, by the substitution for the words "grant loans and advances to any enterprises", of the words "grant loans and advances with or without security to any enterprises"; and

(2) by the insertion immediately after paragraph (k) of that section of the following new paragraph:—

(kk) to undertake and execute any trusts the undertaking whereof may seem desirable;"

4. Section 7 of the principal enactment is hereby amended in paragraph (c) of that section by the substitution for the words "establish a provident fund, and", of the words "establish a provident fund and a pensions fund or scheme for the benefit of its officers and servants, and to make contributions to such fund or scheme, and".

Amendment
of section 7
of the
principal
enactment.

5. Section 8 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement
of section 8
of the
principal
enactment.

"Board of
Directors.

8. (1) The Bank shall have a Board of Directors of not less than five and not more than ten members consisting of both nominated and elected directors nominated or elected, as the case may be, under section 8A or 8B.

2 *National Development Bank of Sri Lanka*
(Amendment) Act, No. 10 of 1992

(2) The General Manager shall be an *ex-officio* member of the Board of Directors without the right to vote at any meeting of such Board of Directors.”.

Insertion of
new sections
8A, 8B and 8C
in the
principal
enactment.

6. The following new sections are hereby inserted immediately after section 8, and shall have effect as sections 8A, 8B and 8C of the principal enactment:—

‘Nominated
Directors.

8A. (1) The Minister shall nominate as members of the Board of Directors—

(a) three persons, one of whom shall be a senior officer of the Central Bank where the Government of Sri Lanka or the Central Bank or both parties together holds or hold twenty five *per-centum* or more of the issued share capital of the Bank; or

(b) two persons, one of whom shall be a senior officer of the Central Bank where the Government of Sri Lanka or the Central Bank or both parties together holds or hold less than twenty-five *per centum* of the issued share capital of the Bank.

A person nominated as a director under this subsection is hereinafter referred to as a “nominated director”.

(2) A nominated director shall hold office for a term of four years:

Provided however, where the percentage of shares held by the Government of Sri Lanka or the Central Bank or both parties

together, is reduced after the nomination of such directors under subsection (1), to such an extent as would require an increase in the number of elected directors, the Minister shall request one or two, as the case may be, of nominated directors to resign from office and where such director or directors, as the case may be, fails or fail to resign from office, remove such director or directors from office.

(3) The Minister may without assigning any reason therefor remove a nominated director from office.

(4) A nominated director may resign his office by a letter in that behalf addressed to the Minister.

(5) Where a nominated director is temporarily unable to perform the duties of his office by reason of ill-health or other infirmity or absence from Sri Lanka, the Minister may nominate another person to act as his alternate at Board meetings and the person so nominated shall have a right to vote at such meetings.

(6) In the event of the vacation of office by death, resignation or removal of a nominated director, otherwise than by resignation or removal under the proviso to subsection (2) the Minister shall nominate another person to fill such vacancy. The person so nominated shall hold office for the unexpired period of office of the member whom he succeeds.

8B. (1) The elected Directors of the Board shall be elected by the shareholders of the Bank (other than the Government of Sri Lanka and the Central Bank) at every Annual General Meeting of the shareholders of the Bank, on the basis of one member for every such ten per centum of the total issued share capital of the Bank as is owned by persons other than the Government of Sri Lanka and the Central Bank so however, that the number of the directors so elected shall not exceed the difference between the maximum number of

Elected
directors.

directors of the Board of Directors specified under section 8 and the number of directors that may be nominated by the Minister under section 8A.

Example

If the percentage of the total issued share capital of the Bank owned by shareholders (other than Government and the Central Bank) is forty per centum, such shareholders shall be entitled to elect four members.

(2) The shareholders of the Bank (other than the Government of Sri Lanka and the Central Bank) may, at a meeting of such shareholders convened by the Chairman at the request of five or more of such shareholders remove an elected director from office and elect another director in his place.

(3) An elected director may resign his office by letter addressed to the Chairman in that behalf.

(4) Where an elected director is temporarily unable to perform the duties of his office by reason of ill-health or other infirmity or absence from Sri Lanka, such director with the concurrence of the Board of Directors may appoint another person to act as his alternate at Board meetings and the person so appointed shall have a right to vote at such meetings.

(5) In the event of the vacation of office by death or resignation of an elected director or in the event of the number of elected directors being increased as a result of an increase in the shareholdings of the shareholders (other than the Government of Sri Lanka and the Central Bank), the Board of Directors may appoint another person to fill such vacancy and the person so appointed shall hold office until the first Annual General Meeting of the Bank to be held after the occurrence of such vacancy at which meeting he shall be eligible for election as a director.

(6) At every Annual General Meeting of the shareholders of the Bank one-third of the elected directors or where the number of elected directors is not three or a multiple of three, then the number nearest to one-third of that number, shall retire from office and new members elected to fill such vacancy or vacancies, as the case may be, unless the shareholders (other than the Government of Sri Lanka and the Central Bank) expressly resolve not to fill such vacancy or vacancies or a resolution for the re-election of such retiring elected director or directors, as the case may be, shall have been put to such shareholders at such meeting and been lost or the shareholdings of the shareholders (other than the Government of Sri Lanka or the Central Bank) on the day preceding the date of such meeting does not justify the filling of such vacancy.

(7) The elected director or directors who shall retire under subsection (6) shall be the director or directors who have served longest in office as at the date of the Annual General Meeting referred to in that subsection but as between elected directors who have served for periods of equal length at that date, the director who shall retire shall be determined by lot drawn by the Chairman of the meeting.

(8) A retiring elected director shall be eligible for re-election.

8c. (1) At the first Annual General Meeting of shareholders of the Bank to be held after the date on which this section comes into force a Board of Directors (in this section referred to as the "First Board") shall be constituted in the manner specified in subsection (1) of section 8A and subsection (1) of section 8b.

The First
Board of
Directors.

(2) The elected members of first Board shall hold office until the date of the next Annual General Meeting of the shareholders

of the Bank immediately following the Annual General Meeting referred to in subsection (1).

(3) Subject to the provisions of subsection (2), the provisions of sections 8A and 8B relating to vacation office by death, resignation or removal and the temporary absence of a member of the Board, shall apply to and in respect of the members of the first Board.

Amendment
of section 10
of the
principal
enactment.

7. Section 10 of the principal enactment is hereby amended by the substitution for the words "as may be determination by the Minister.", of the words "as may from time to time be determined by the shareholders of the Bank at an Annual General Meeting of such shareholders."

Amendment
of section 15
of the
principal
enactment

8. Section 15 of the principal enactment is hereby amended as follows:—

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

"(1) The Board of Directors shall elect from among themselves a Chairman.";

(2) in subsection (2) of that section, by the substitution for the words "date of appointment.", of the words "date of election.";

(3) in subsection (3) of that section by the substitution for the words "shall be appointed in his place", of the words "shall be elected in his place";

(4) in subsection (4) of that section, by the substitution for the words "eligible for reappointment.", of the words "eligible for re-election."; and

(5) by the repeal of subsection (5) of that section.

Amendment
of section
16 of the
principal
enactment.

9. Section 16 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words "presence of the General Manager or the acting General Manager and two Directors all of whom", of the words "presence of the General Manager or the acting General Manager and one director both of whom".

10. Section 21 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement
of section
21 of the
principal
enactment.

“Capital of
the Bank.

21. (1) The authorized capital of the Bank shall be two thousand million rupees divided into two hundred million shares of ten rupees each.

(2) The Bank may offer such of the shares referred to in subsection (1) as have not been allotted under section 22, to the public for subscription at such time or times in such amount or amounts and in such manner as may be determined by the Board of Directors and upon payment being made for such shares shall, subject to the provisions of subsection (2B) of section 22, allot such shares to the respective purchasers.”.

11. Section 22 of the principal enactment is hereby amended as follows:—

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

Amendment
of section
22 of the
principal
enactment.

“(2) The shareholders referred to in subsection (1) shall have power to—

(a) sell all or any of their shares in the Bank;

(b) convert, with the approval of the Minister all or any of their shares in the Bank into bonds, debentures or preference shares issued by the Bank subject to such terms and conditions as may be approved by the Minister.”;

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

“(2A) The Board of Directors may, with the concurrence of the Minister cancel any promissory notes issued to the Bank by any of the shareholders referred to in paragraphs (b), (c) and (d) of subsection (1), and upon

such cancellation, the issued share capital of the Bank shall be deemed to be reduced to the extent of the value of the promissary notes cancelled.

(2B) The Bank shall not allot any shares under subsection (2) of section 21 or register any shares—

(a) in the name of any company, incorporated body or an individual, if such allotment or registration would result in such company, incorporated body or individual owning more than fifteen *per centum*, of the total issued share capital of the Bank;

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

(i) any of its subsidiaries;

(ii) its holding company;

(iii) a subsidiary of its holding company; or

(iv) a company in which such company or its subsidiary or its holding company or a subsidiary of its holding company has a substantial interest,

if such allotment or registration would result in such company and one or more of the person referred to in sub-paragraphs (i), (ii), (iii) and (iv) owning, in the aggregate, more than fifteen *per centum* of the total issued share capital of the Bank;

(c) in the name of an individual and of any one or more of the following:—

(i) his close relations;

(ii) a company in which he has a substantial interest or in which has close relation has a substantial interest;

- (iii) the subsidiary of a company referred to in sub-paragraph (ii) ;
- (iv) a holding company of a company referred to in sub-paragraph (ii) ;
- (v) a subsidiary of a holding company of a company referred to in sub-paragraph (ii) ;
- (vi) a company in which a company, referred to in sub-paragraph (ii) or its subsidiary or its holding company or a subsidiary of its holding company has a substantial interest ; or
- (vii) an incorporated body other than a company in which such individual or his close relation has substantial interest,

if such allotment or registration would result in such individual and one or more of the persons referred to in sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii) owning, in the aggregate, more than fifteen *per centum* of the total issued share capital of the Bank.

A company or individual shall be deemed to have a substantial interest in a company or incorporated body other than a company within the meaning of this subsection where such company or individual owns more than fifty-one *per centum* of shares in such company or incorporated body, as the case may be.”;

(3) in subsection (4) of that section, by the substitution for the words and figures “this section or section 57.”, of the words and figures “section 21 or this section.”; and

(4) by the addition immediately after subsection (4) of that section, of the following new subsection:—

‘ (5) For the purpose of subsection (2B)—

“close relation” in relation to a person means a parent, spouse, or child of that person or the spouse of a child of that person ;

"subsidiary" has the meaning assigned to it by subsection (1) of section 8 of the Banking Act, No. 30 of 1988.

Amendment
of section
26 of the
principal
enactment.

12. Section 26 of the principal enactment is hereby amended as follows:—

(1) by the addition, at the end of that section, of the following new subsection:—

" (3) Notwithstanding the provisions of subsections (1) and (2), the Bank may from time to time borrow sums of money from any licensed commercial bank on such terms and conditions as may be mutually agreed to between them." ;

(2) by the addition, immediately after this section, of the following paragraph:—

'For the purpose of this section "licensed commercial bank" means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988'; and

(3) by the substitution for the marginal note to that section of the following marginal note:—

"Temporary borrowings from the Central Bank and licensed commercial banks."

Repeal of
section 36
of the
principal
enactment.

13. Section 36 of the principal enactment is hereby repealed.

Repeal of
Part IV of
the
principal
enactment.

14. Part IV of the principal enactment is hereby repealed.

Insertion
of new
sections
66A and 66B
in the
principal
enactment.

15. The following new sections are hereby inserted immediately after section 66 and shall have effect as sections 66A and 66B of the principal enactment:—

"Bank
deemed
to be a bank
within the
meaning
of the
Evidence
Ordinance.

66A. The Bank shall be deemed to be a bank within the meaning of Chapter VI of the Evidence Ordinance notwithstanding the fact that it does not accept demand deposits and accordingly, the provisions of that Chapter shall apply to and in relation to the Bank.

Annual
General
Meeting.

66B. An Annual General Meeting of the shareholders of the Bank shall be held within nine months after the close of each financial year of the Bank at which the Annual Report and Accounts presented by the Board of Directors shall be considered and decisions as to the declaration of dividends taken. The manner of summoning the Annual General Meeting and the procedure for transaction of business at such meeting shall be as prescribed. At every Annual General Meeting, elected directors shall be elected to the Board of Directors in accordance with the shareholdings in the Bank on the day preceding the date of such meeting."

16. Section 79 of the principal enactment is hereby repealed.

Repeal of
section 79 of
the
principal
enactment.

17. The Schedule to the principal enactment is hereby amended as follows:—

Amendment
of the
Schedule
to the
principal
enactment.

(1) in 'FORM A' of that Schedule, by the omission of all the words from "Given under the Seal of the Bank", to "General Manager of the Bank."; and

(2) in "FORM B' of that Schedule, by the omission of all the words from "Given under the Seal of the Bank", to "General Manager of the Bank."

18. The members of the Board Directors holding office on the day immediately prior to the date of commencement of this Act shall notwithstanding anything in the principal enactment cease to hold office with effect from the date of the first Annual General Meeting of shareholders of the Bank to be held after the date of commencement of this Act.

Saving
clause.

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

Sinhala
text to
prevail in
case of
inconsistency.