

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

Part II of October 03, 2014

SUPPLEMENT

(Issued on 03. 10. 2014)



**DFCC BANK (REPEAL AND CONSEQUENTIAL
PROVISIONS)**

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BILL

to make provisions for registration of the DFCC Bank as a public limited company with the name “DFCC Bank PLC” and to provide for the provisions consequential to such registration ; to repeal the DFCC Bank Act (Chapter 165) and for matters connected therewith or incidental thereto.

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DFCC Bank (Repeal and Consequential Provisions)

L.D.—O.25 / 2014.

AN ACT TO MAKE PROVISIONS FOR REGISTRATION OF THE DFCC BANK AS A PUBLIC LIMITED COMPANY WITH THE NAME “DFCC BANK PLC” AND TO PROVIDE FOR THE PROVISIONS CONSEQUENTIAL TO SUCH REGISTRATION ; TO REPEAL THE DFCC BANK ACT (CHAPTER 165) AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the DFCC Bank (Repeal and Consequential Provisions) Act, No. of 2014. Short title.

5 2. The DFCC Bank Act (Chapter 165) shall as from such date as may be specified by the Minister by Order published in the *Gazette* (hereinafter referred to as the “specified date”) be repealed. Such date shall be a date which is not later than six months from the date of commencement of this Act. Repeal of the DFCC Bank Act (Chapter 165).

10 3. (1) The Minister may, at any time after the date of commencement of this Act, forward to the Registrar of Companies Articles of Association duly approved by the Monetary Board together with a direction to such Registrar requiring him to register the DFCC Bank as a public limited company under the Companies Act, No. 07 of 2007, with the name “DFCC Bank PLC” with effect from the specified date. Registration of the DFCC Bank as a public limited company under the Companies Act, No. 07 of 2007.

15 (2) Notwithstanding anything contained in the Companies Act, No. 07 of 2007, the Registrar of Companies shall, on receipt of a direction under subsection (1)—

20 (a) issue a Certificate of Incorporation under subsection (1) of section 5 of the aforesaid Act, in the name “DFCC Bank PLC”; and

25 (b) publish an Order in the *Gazette* declaring that from the specified date a public limited company is incorporated in the name “DFCC Bank PLC”

2 *DFCC Bank (Repeal and Consequential
Provisions)*

(hereinafter referred to as “the Company”) to take over and carry on the business of the DFCC Bank as a going concern.

5 4. With effect from the specified date, the business of the DFCC Bank shall vest absolutely in the Company. Business of DFCC Bank to vest in the Company.

5. With effect from the specified date notwithstanding any provision in any other law— Transitional provisions.

10 (a) the shareholders capital and any amount lying to the credit of the share premium account, of the DFCC Bank shall be deemed to be the stated capital of the Company as at the specified date;

15 (b) all share of the DFCC Bank on the day immediately preceding the specified date shall be deemed to be the shareholders of the Company as at the specified date and the shares held by such shareholders in the Company shall be identical in number to that held by them in the DFCC Bank on the day immediately preceding the specified date and all share certificates issued by the DFCC Bank shall be read and construed as if such share certificates were share certificates issued by the Company;

20 (c) all securities of any kind issued by the DFCC Bank and outstanding on the day immediately preceding the specified date shall from the specified date be deemed to be securities issued by the Company;

25 (d) the Chairman, directors, officers, employees and servants of the DFCC Bank holding office on the day immediately preceding the specified date shall be deemed to be the Chairman, directors, officers, employees and servants of the Company with effect from the specified date and such Chairman, directors, officers, employees and servants shall continue to hold office in the Company on terms and conditions enjoyed by them under the DFCC Bank, immediately preceding the specified date;

DFCC Bank (Repeal and Consequential Provisions) 3

- 5 (e) all contracts, deeds, bonds, agreements, guarantees, powers of attorney, grants of legal representation and other instruments of whatever nature of the DFCC Bank subsisting and having effect on the day immediately preceding the specified date and to which the DFCC Bank is a party or which are in favour of the DFCC Bank shall be deemed with effect from the specified date to be contracts, deeds, bonds, agreements, guarantees, powers of attorney, grants of legal representation and other instruments entered into by or granted in favour of the Company ;
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- 15 (f) unless specifically revoked or substituted in the manner provided for in any other law ,all approvals or licences granted to the DFCC Bank by the Monetary Board, the Director of Bank Supervision, Controller of Exchange, Securities and Exchange Commission, Urban Development Authority, any other regulatory body or authority, Provincial Council, local authority subsisting or having effect on the day immediately preceding the specified date shall be deemed with effect from the specified date to be approvals or licences granted to the Company ;
- 20
- 25 (g) any account maintained between the DFCC Bank and any other person in or outside Sri Lanka including the Government of Sri Lanka, its departments and statutory bodies on the day immediately preceeding the specified date, whether it be an asset or liability of such Bank shall be deemed with effect from the specified date to be an account between the Company and that other person with the same rights and subject to the same obligations and incidents (including rights of set off) as would have been applicable thereto if the account between the DFCC Bank and that other person had continued and so that any instruction,
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4 *DFCC Bank (Repeal and Consequential
Provisions)*

5 order, direction, mandate or authority given by such
other person in relation to such account and
subsisting on the specified date shall, unless and
until revoked or cancelled, apply to and have effect
in relation to, the account between the Company
and that other person ;

10 (h) any mortgage, security or indemnity held by DFCC
Bank on the day immediately preceding the
specified date as security for the payment of debts
or liabilities (whether present or future actual or
contingent) of any person shall be deemed with
effect from the specified date to be a mortgage,
security or indemnity held by and be available to
the Company as security for the payment of such
debt and liabilities to the Company; and where the
moneys secured by such mortgage, security or
indemnity include future advances to or liabilities
of that person, the security for future advances to or
liabilities of that person to the Company shall be
deemed to the same extent to which future advances
by or liabilities to the DFCC Bank were secured
thereby immediately preceding the specified date;

25 (i) the custody of any document, goods or other
property held by the DFCC Bank on the day
immediately preceding the specified date as bailee
for any other person shall be deemed with effect
from the specified date to be a document, goods or
property in the custody of the Company as a bailee
for such other person and the rights and obligations
of the DFCC Bank under any contract of bailment
relating to such document, goods or property shall
be deemed to be the rights and obligations of the
Company;

35 (j) any listing of shares or securities of any kind
whatsoever issued by the DFCC Bank on a stock
exchange or securities exchange whether in

Sri Lanka or elsewhere on the day immediately preceding the specified date shall be deemed with effect from the specified date to be listing of such shares or securities of the Company ;

5 (k) all reserves maintained by the DFCC Bank for the purpose of the provision of any law, regulatory requirement or otherwise, on the day immediately preceding the specified date shall be deemed with effect from the specified date to be reserves of the
10 Company held for such purpose;

(l) (i) all property immovable and movable of the DFCC Bank (including cash balances, reserve funds, investments, trade marks, patents, licences and deposits);

15 (ii) all liabilities, including deposits and contingent liabilities, of the DFCC Bank;

(iii) all rights, powers, privileges, authorities, obligations, duties and interest arising in or out of the business, such property and such liabilities including the licence issued to the
20 DFCC Bank by the Monetary Board under subsection (3) of section 76A of the Banking Act;

(iv) all books, accounts and documents relating
25 or appertaining to the DFCC Bank or to any property of the Bank,

subsisting on the day immediately preceding the specified date, shall be deemed as from the specified date to be property, liabilities, rights,
30 powers, privileges, authorities, obligations, duties, interest, books, accounts and documents of the Company;

6 *DFCC Bank (Repeal and Consequential
Provisions)*

- 5 (m) all applications, actions, proceedings or appeals of
whatever nature instituted under the provision of
any law by or against the DFCC Bank and pending
on the day immediately preceding the specified
date shall be deemed as from the specified date, to
be applications, actions, proceedings or appeals
instituted by or against the Company and may be
continued accordingly;
- 10 (n) any pension fund, gratuity fund or unfunded
liability in respect of a pension, gratuity or other
liability relating to post employment benefit to any
employee or former employee of the DFCC Bank
and existing on the day immediately preceding the
specified date shall be deemed as from the specified
15 date, to be a pension fund, gratuity fund or such
liability as the case may be, of the Company in
respect of such employee or former employee;
- 20 (o) where the DFCC Bank on the day immediately
preceding the specified date was a contributor to
any provident fund approved by the Commissioner
of Labour for the benefit of its employees, the
Company shall be deemed as from the specified
date, to be the contributor to such provident fund
in respect of such employees;
- 25 (p) all tax credits, refunds, losses, concessions, reliefs,
benefits and liabilities of the DFCC Bank subsisting
on the day immediately preceding the specified
date shall be deemed as from the specified date, to
be tax credits, refunds, losses, concessions, reliefs,
30 benefits and liabilities of the Company;
- 35 (q) all judgments, decrees or orders entered in favour
of, or against the DFCC Bank by any Court in
any action or proceeding shall be deemed with
effect from the specified date to be judgments,
decrees or orders entered in favour of, or against the
Company;

- 5 (r) all rights to intellectual property including trademarks, patents, softwares subsisting in favour of the DFCC Bank on the day immediately preceding the specified date shall be deemed as from the specified date, to be such rights in favour of the Company.

10 6. Notwithstanding the repeal of the DFCC Bank Act (Chapter 165) by section 2 of this Act, the provisions of subsection (2) of section 10 and section 14 of the aforesaid repealed Act shall from and after the specified date, continue to be operative and of full force and avail in law as if such Act had never been repealed, until the loans so guaranteed by the Government of Sri Lanka in terms of such sections are repaid in full and no further. Every loan guaranteed as
15 aforesaid prior to the specified date and subsisting on the day immediately preceding the specified date, shall as from the specified date continue to subsist as if the loans so guaranteed were loans raised by the Company.

Limited applicability of section 10 and 14 of the DFCC Bank Act (Chapter 165).

20 7. (1) With effect from the specified date, every reference to the DFCC Bank in any Act, regulation, notification, contract, instrument, record, share certificate, document, deed, bond, agreement, guarantee, power of attorney, grant of legal representation and other instruments of whatever nature shall be deemed to be a reference to the Company to
25 give effect to the provisions of this Act.

Consequential amendments to written laws &c.

30 (2) For the provisions of section 5 and subsection (1) to take effect, it shall not be necessary to replace the name the DFCC Bank with the name of the Company in any register or record maintained by any department, court of law, tribunal or agency of the government, provincial council or local authority under any law or regulation provided however that where the Company makes an application to the person responsible for maintaining such register or record with a copy of the certificate of incorporation certified as
35 true copy by a notary public, such person shall substitute the name of the Company in such record or register.

8 *DFCC Bank (Repeal and Consequential Provisions)*

8. (1) The Minister may make regulations for the Regulations.
purposes of facilitating the vesting of the business of the
DFCC Bank in the Company in pursuance of the provisions
of section 4.

5 (2) Every regulation made by the Minister under
subsection (1) 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 under subsection (1) shall as
10 soon as convenient be placed before Parliament for approval.
Any regulation which is not so approved shall be deemed to
be rescinded as from the date of such disapproval, but without
prejudice to anything previously done thereunder.

(4) Notice of the date on which the regulation is
15 disapproved shall be published in the *Gazette*.

9. In the event the Company formed under the Merger and
provisions of this Act merges or amalgamates with any other amalgamation.
company under the provisions of Part VIII of the Companies
Act, No. 07 of 2007 to carry on business as a licensed
20 commercial bank licensed under the Monetary Board, section
6 of this Act shall *mutatis mutandis* continue to apply.

10. In the event of any inconsistency between the Sinhala text
Sinhala and Tamil texts of this Act, the Sinhala text shall to prevail in
prevail. case of
inconsistency.

25 **11.** For purposes of this Act, unless the context otherwise Interpretation.
requires—

“Banking Act” means the Banking Act, No. 30 of
1988 as amended from time to time;

30 “Business” includes the business carried on by the
DFCC Bank as a licensed specialized bank,
as at the specified date;

DFCC Bank (Repeal and Consequential Provisions) 9

“Company” means the company referred to in the paragraph (b) of subsection (2) of section 3;

5 “Controller of Exchange” means the head of the Department of Exchange Control of the Central Bank, established by the Monetary Board under the Exchange Control Act (Chapter 423);

10 “DFCC Bank” means the DFCC Bank established by the DFCC Bank Act as amended from time to time (Chapter 165);

“Director of Bank Supervision” means the head of the Department of the Bank Supervision of the Central Bank of Sri Lanka established by the Monetary Law Act (Chapter 422);

15 “Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 422);

20 “Provincial Council” means a Provincial Council established by Chapter XVIIA of the Constitution;

“Securities and Exchange Commission” means the Securities and Exchange Commission of Sri Lanka established by the Securities and Exchange Commission Act, No. 36 of 1987;

25 “Urban Development Authority” means the Urban Development Authority established by the Urban Development Authority Law, No. 41 of 1978;

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