



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

FINANCE ACT, No. 25 OF 2003

[Certified on 20th August, 2003]

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[Certified on 20th August, 2003]

L. D.—O. 21/2003.

AN ACT TO PROVIDE FOR THE IMPOSITION OF A LEVY ON THE ISSUE OF AIRLINE TICKETS AND TICKETS IN RESPECT OF A VOYAGE BY SHIP ; TO REPEAL THE EMBARKATION TAX ACT, NO. 19 OF 1961 AND TO AMEND THE AIR NAVIGATION ACT (CHAPTER 365) ; TO PROVIDE FOR A LEVY ON THE TURNOVER OF INSTITUTIONS LICENSED UNDER THE TOURIST DEVELOPMENT ACT, NO. 14 OF 1968 ; AND TO PROVIDE 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 Finance Act, No. 25 of 2003 and shall come into operation on September 1, 2003.

Short title.

PART I

EMBARKATION LEVY

2. (1) From and after the date of commencement of this Act, there shall be charged and levied a levy to be called the Embarkation Levy calculated in United States Dollars of such amount as the Minister may determine by Order published in the Gazette, in respect of —

Embarkation
Levy.

- (a) every airline ticket issued outside Sri Lanka to passengers who will embark on a flight leaving Sri Lanka or in respect of every airline ticket issued in Sri Lanka to persons leaving Sri Lanka, the equivalent thereof in Sri Lanka rupees, calculated at such rate of exchange as may be determined by the Competent Authority with the approval of the Secretary to the Treasury :

Provided however, no embarkation levy shall be charged and levied in respect of an airline ticket issued outside Sri Lanka to a transit passenger of that aircraft ; and

- (b) every ticket issued in respect of a passenger embarking a ship leaving Sri Lanka.

For the purposes of this subsection “transit passenger” means a passenger who departs from Sri Lanka on a connecting flight within twenty-four hours of arrival.

(2) The provisions of subsection (1) shall not apply in the case of—

- (a) children who are less than two years of age ;
- (b) officers and members of the crew of that aircraft or ship ;
- (c) such other persons as may be prescribed.

(3) An Order made by the Minister in terms of subsection (1) may be amended, altered or varied by a subsequent Order which shall be published in the Gazette.

Operator to collect
embarkation levy.

3. The operator of every aircraft or ship shall collect the embarkation levy and pay such levy to the Government of Sri Lanka in such manner as may be determined by the Competent Authority. It shall be the duty of every operator to comply with such determination.

Embarkation levy
to be paid to
Competent
Authority by the
operator.

4. (1) The embarkation levy collected in respect of a half-month period by the operator of an aircraft or ship from a person leaving Sri Lanka by that aircraft or ship as the case may be, shall be paid to the Competent Authority in the manner determined by the Competent Authority with the approval of the Deputy Secretary to the Treasury. Any dispute which may arise in respect of such payment as between the Competent Authority and the operator, shall be settled according to the applicable law.

(2) In case of a dispute between the Competent Authority and the operator on the number of passengers liable to pay the embarkation levy, the operator shall pay the embarkation levy in accordance with the figures forwarded by the Competent Authority, subject to his right to forward to the Competent Authority any other documentary evidence in his possession to substantiate his claim.

(3) Where the embarkation levy due for any half-month period is not paid to the Competent Authority by the operator of the aircraft in question in accordance with the preceding provisions of this section, it shall be deemed to be in default and an interest calculated on the average rated prime lending rate in any given month, plus two *per centum*, shall be added to that amount, so however, that for each month of default, interest at the above rate shall be charged and recovered on the total amount in default.

5. (1) The Competent Authority shall disburse the money collected under this Part in accordance with such instructions as may, be issued from time to time by the Deputy Secretary to the Treasury.

Competent
Authority to credit
the Consolidated
Fund.

(2) The Competent Authority shall furnish a monthly return of the amount collected as Embarkation Levy with all other relevant details to the Deputy Secretary to the Treasury. The Deputy Secretary to the Treasury may, where he considers it necessary, call for such other information or clarification in respect of any matter arising out of such return.

6. The operator of any aircraft or ship shall, when requested to do so by the Competent Authority, furnish to the Competent Authority such information as is within the knowledge of that operator in regard to the passengers transported from Sri Lanka by that aircraft or ship as the Competent Authority may require for the purposes of this Act.

Operator to
furnish required
information.

7. (1) An operator shall maintain proper records of passengers embarking on an aircraft or ship, as the case may be, under the control of an operator, and of the embarkation levy collected by the operator.

Records.

(2) Records relating to the payment and collection of the embarkation levy shall be maintained separately from any records relating to other payments made to the operator.

(3) The records required to be maintained under subsection (1), may be destroyed by the operator after a period of two years with the consent of the Competent Authority.

Returns.

8. (1) An operator shall furnish returns in the form specified by the Competent Authority, giving details of passengers of any aircraft or ship, under the control of the operator and departures of such aircraft or ship and such other information relating to the embarkation levy or the collection of the embarkation levy as the Competent Authority may require. Every such return shall be filled in triplicate and one copy thereof forwarded by the operator. to the Deputy Secretary to the Treasury.

(2) Nothing in subsection (1) shall derogate from or affect the obligation of an operator, under any other law for the time being in force to furnish information on aircraft operations or operations in relation to a ship designated under such law.

(3) Where an operator fails to provide proper returns as required by the Competent Authority, the Competent Authority may require the operator to pay as embarkation levy such amount as is calculated on the total number of passengers in the passenger manifest of the aircraft or ship.

(4) Where a flight or passage is totally omitted from the information provided, the embarkation levy will be computed and the operator shall be charged on the total seating capacity of such flight or voyage.

Verification of correctness of information by the Competent Authority

9. (1) For the purposes of verifying the correctness of any information furnished by an operator of an aircraft or ship in pursuance of this Act, or for the purpose of securing compliance with the provisions of this Act or of any regulation made thereunder, the Competent Authority may—

(a) enter any premises in Sri Lanka used by such operator for the purposes of his business as a carrier of passengers by aircraft or ship ; and

(b) inspect and take copies of any record of the—

(i) passengers transported from Sri Lanka by any aircraft or ship of that operator ; and

- (ii) embarkation levy collected by such operator as is kept by that operator (whether in pursuance of this Act or otherwise) in relation to his business.

(2) The Competent Authority or any person authorised by him in writing may, for the purpose of securing compliance with the provisions of this Act or of any regulations made thereunder, enter on board any aircraft or ship arriving in or departing from Sri Lanka and require the captain of that aircraft or ship to produce for inspection by the Competent Authority any document which contains information regarding the passengers to be transported by that aircraft or ship, as the case may be.

10. In this Part unless the context otherwise requires— Interpretation.

“Captain” in relation to an aircraft or ship means the person for the time being in charge, command or control of that aircraft or ship ;

“Competent Authority” with reference to all matters in relation to the charging of the embarkation levy from persons leaving Sri Lanka—

- (a) by aircraft, means the Director-General of the Civil Aviation Authority appointed under section 11 of the Civil Aviation Authority of Sri Lanka Act, No. 34 of 2002;
- (b) by ship means the Director of Merchant Shipping appointed under the Merchant Shipping Act, No. 52 of 1971 ;

“operator” in relation to —

- (a) an aircraft, means the owner, a person acting on behalf of the owner or Captain of that aircraft ; and

- (b) a ship, means the owner, a person acting on behalf of the owner and in possession of a license under the Licensing of Shipping Agents Act, No. 10 of 1972, or the Captain of that ship ;

“passenger manifest” means a list of passengers authenticated by the operator and carried on board an aircraft during flight or a ship during a voyage, from one destination to another.

PART II

TOURISM DEVELOPMENT LEVY

Imposition of levy
on institutions
licensed under the
Tourist
Development Act.

11. From and after the date of commencement of this Part of this Act, there shall be levied from every institution licensed under the Tourist Development Act, No. 14 of 1968, a levy of one *per centum* on the turnover of such institutions in any year, to be called the Tourism Development Levy.

Method of
payment of
Tourism
Development
Levy.

12. (1) The levy imposed under section 11 shall be paid in such manner as may be prescribed by the relevant Minister in consultation with the Minister in charge of the subject of Finance and collected by the Director-General of the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966.

(2) The Director-General of the Ceylon Tourist Board shall retain the entirety of the Levy collected under subsection (1). He shall also furnish such returns in such manner as may be prescribed in that behalf to the Deputy Secretary to the Treasury, within thirty days of the date on which such amount is collected.

- 13.** For the purposes of this Part, “turnover” in relation to—
- Definition of Turnover.
- (a) a tourist hotel, means the amount received or receivable from the total sales excluding the service charge upto ten per centum of such sales and the value added tax charged on such sales in terms of the Value Added Tax Act, No.14 of 2002;
 - (b) a travel agent, means the total receipts from services provided in relation to the tourist industry excluding payments made by him in respect of services provided to him by other local service providers and the value added tax charged on such services in terms of the Value Added Tax Act, No. 14 of 2002;
 - (c) a tourist shop, means the amount received or receivable from the total sales of products from any such shop excluding the value added tax charged on such sales in terms of the Value Added Tax Act, No. 14 of 2002.

PART III

REPEAL OF THE EMBARKATION TAX ACT, NO. 19 OF 1961 AND AMENDMENT OF AIR NAVIGATION ACT

- 14.** The Embarkation Tax Act, No. 19 of 1961 is hereby repealed.
- Repeal of Act, No. 19 of 1961
- 15.** (1) All persons in possession of airline tickets or tickets in relation to passage by ship, purchased prior to September 1, 2003, where the travel on such ticket takes place after September 1, 2003, and on which the embarkation levy specified under section 2 had not been collected shall be required to pay the amount due as embarkation levy under this Act, to an officer authorised in writing by the Competent Authority at the airport or port of departure as the case may be. An endorsement that the embarkation levy has been duly paid shall be made on the ticket by an officer authorised in writing by the Competent Authority.
- Transitional provisions.

(2) Any person who refuses to pay the embarkation levy when requested to do so in terms of subsection (1), shall not be permitted to board the aircraft or ship, as the case may be.

(3) An officer authorised in writing by the Competent Authority who fails to collect the embarkation levy in terms of subsection (1) shall be liable to a fine of rupees five hundred in respect of each ticket in relation to which the levy had not been collected.

(4) The amount collected as embarkation levy under this section, shall be paid to the Competent Authority daily, by the officer authorised in writing by the Competent Authority. The Competent Authority shall credit such amount to the Consolidated Fund. A return containing the information in relation to such levy shall be sent weekly to the Deputy Secretary to the Treasury.

Amendment of
section 23 of
Chapter 365.

16. Section 23 of the Air Navigation Act (Chapter 365), is hereby amended as follows :—

- (1) by the repeal of subsection (2A) of that section ;
and
- (2) in subsection (3) of that section by the omission of the words, “(including the embarkation taxes collected by him under section (2A) :”.

PART IV

GENERAL

Regulations.

17. (1) The Minister may make regulations in respect of all matters which are required to be prescribed or for which regulations are authorized to be made under this Act.

(2) Without prejudice to the generality of the foregoing, the Minister may by regulation provide for —

- (a) the mode and manner of the payment and collection of the embarkation levy by the operator ;

- (b) the amount of any deposit or bank guarantee for such duration not exceeding one year to be made or given to the Competent Authority by the operator ;
- (c) the procedure to be followed in the disbursement of the levies collected under this Act ;
- (d) the making of returns for the purposes of this Act and the form of such returns ;
- (e) the mode and manner of payment and collection of the Levy from institutions licensed under the Tourist Development Act, No. 14 of 1968.

18. 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.

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