

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

Part II of October 27, 2023

SUPPLEMENT

(Issued on 30.10.2023)



**MICROFINANCE AND CREDIT REGULATORY
AUTHORITY**

A

BILL

to provide for the establishment of the microfinance and credit regulatory authority of sri lanka; to regulate the moneylending business and the microfinance business; to provide protection for the customers of the moneylending business and the microfinance business; to repeal the microfinance act, No. 6 of 2016 and to provide for matters connected therewith or incidental thereto

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**Microfinance and Credit Regulatory
Authority**

L.D.-O 42/2019

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE MICROFINANCE AND CREDIT REGULATORY AUTHORITY OF SRI LANKA; TO REGULATE THE MONEYLENDING BUSINESS AND THE MICROFINANCE BUSINESS; TO PROVIDE PROTECTION FOR THE CUSTOMERS OF THE MONEYLENDING BUSINESS AND THE MICROFINANCE BUSINESS; TO REPEAL THE MICROFINANCE ACT, NO. 6 OF 2016 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. (1) This Act may be cited as the Microfinance and Credit Regulatory Authority Act, No. of 2023.

Short title
and date of
operation

5 (2) The provisions of this Act other than this section shall come into operation on such date as the Minister may appoint, by Order published in the *Gazette* (hereinafter referred to as the "appointed date").

 (3) The provisions of this section shall come into operation
10 on the date on which this Bill becomes an Act of Parliament.

PART I

**ESTABLISHMENT OF THE MICROFINANCE AND
CREDIT REGULATORY AUTHORITY**

2. (1) There shall be established an Authority which shall
15 be called the Microfinance and Credit Regulatory Authority of Sri Lanka (in this Act referred to as the "Authority").

Establishment
of the
Microfinance
and Credit
Regulatory
Authority

 (2) The Authority shall by the name assigned to it by subsection (1), be a body corporate, with perpetual succession and a common seal and may sue and be sued in
20 such name.

2 **Microfinance and Credit Regulatory
 Authority**

3. The objects of the Authority shall be to – Objects of
 the
 Authority

- (a) regulate and supervise licensed moneylenders;
- (b) regulate and supervise licensed microfinance institutions;
- 5 (c) coordinate with the Central Bank and the relevant regulatory authorities that regulate and supervise registered co-operative societies, Samurdhi Community Based Banks and Samurdhi Community Based Banking Societies and Farmers' Organisations; and
- 10 (d) protect the customers of licensed moneylenders and licensed microfinance institutions.

4. The powers, duties and functions of the Authority shall be to – Powers,
 duties and
 functions of
 the Authority

- 15 (a) licence and regulate persons engaged in the moneylending business and the business of microfinance;
- (b) supervise persons engaged in the moneylending business and microfinance business;
- 20 (c) determine policies on market conduct and supervise and regulate the licensees in line with market developments;
- (d) coordinate with the regulatory authorities including the Credit Information Bureau of Sri Lanka other than the Central Bank to implement a responsible lending culture among the licensed moneylenders and licensed microfinance institutions;
- 25 (e) liaise with and secure the co-operation of Government departments, State institutions, local authorities, public corporations, provincial
- 30

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authorities and other private or public bodies, governmental and non governmental organizations, or any other natural or legal person;

- 5 (f) conduct credit counseling and financial literacy programmes and awareness programmes on moneylending and microfinance, for the general public;
- 10 (g) establish a complaint handing mechanism to handle the complaints of the customers of licensed moneylending and licensed microfinance institutions and maintain a database of such complaints;
- (h) maintain a database of the licensed moneylenders and licensed microfinance institutions;
- 15 (i) conduct surveys and research on moneylending and microfinance activities;
- 20 (j) hold, take, give on lease, hire, sell, mortgage, grant, assign, exchange or otherwise dispose of the movable or immovable property belonging to the Authority;
- (k) receive grants, gifts or donations in cash or kind:

25 Provided that, the Authority shall obtain the prior written approval of the Director-General of external resources of the Ministry of the Minister to whom the subject of Finance has been assigned in respect of all foreign grants, donations and bequeaths;

- 30 (l) enter into and execute, whether directly or through any officer or agent authorized in that behalf by the Authority, all such contracts or agreements as may be necessary, for the discharge of the functions of the Authority;

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 Authority**

- (m) open and maintain any account with any bank as it may think appropriate, and such account shall be operated in accordance with prevailing applicable written laws;
- 5 (n) manage, control, administer and operate the Fund of the Authority;
- (o) make rules for the administration of the affairs of the Authority;
- 10 (p) subject to the provisions of section 15, outsource any of its functions as may be determined by the Authority;
- (q) formulate a procedure for the appointment, promotion, remuneration and disciplinary control of the employees and the grant of leave and other emoluments of such employees;
- 15 (r) make rules for the payment of money out of the Fund of the Authority;
- (s) to levy fees or charges for any service rendered by the Authority; and
- 20 (t) do all such other acts which may be incidental or conducive to the attainment of the objects of this Act or the exercise or discharge of powers and duties assigned to the Authority under this Act.

PART II

25 **ADMINISTRATION AND MANAGEMENT OF THE
 AFFAIRS OF THE AUTHORITY**

5. (1) The administration, management and control of the affairs of the Authority shall be vested in a Board of Directors (in this Act referred to as the "Board").

Constitution
of the Board
of Directors

Microfinance and Credit Regulatory Authority 5

(2) The Board shall, for the purpose of administering the affairs of the Authority, exercise, perform and discharge the powers, duties and functions conferred on, assigned to or imposed on the Authority by this Act.

5 (3) The Board shall consist of –

(a) the following *ex-officio* members, namely -

10 (i) Secretary to the Treasury or his representative who shall be a Deputy Secretary to the Treasury nominated by the Secretary to the Treasury;

15 (ii) the Deputy Governor of the Central Bank in charge of financial system stability nominated by the Central Bank or in his absence a Deputy Governor nominated for the time being by the Central Bank; and

(iii) the Registrar of Voluntary Social Service Organisations or his representative not below the rank of a Deputy Registrar of voluntary Social Service Organisations;

20 (b) the following four members appointed by the Minister (hereinafter referred to as "appointed members")-

25 (i) two members who shall possess academic or professional qualifications and have experience in the fields of banking, finance, microfinance, accounting, law, administration or any other relevant discipline; and

30 (ii) two other members nominated by the Governor of the Central Bank who shall possess academic or professional qualifications and have experience in the fields

6

Provided that, out of the four appointed members at least one member shall be a female member.

10 (2) Where the Chairperson is temporarily unable to perform the duties of his office due to ill health, other infirmity, absence from Sri Lanka or any other cause, the Minister may appoint any other *ex-officio* member to act as the Chairperson in addition to his normal duties as a member.

20 Council or of any local authority during the two
years immediately preceding the date of
appointment;

25 (c) is found or declared to be of unsound mind under any law in force in Sri Lanka or any other country;

30 (e) is serving or has served a sentence of imprisonment
or a suspended sentence imposed by any court in
Sri Lanka or in any other country;

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Authority**

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- (f) holds or enjoys directly or indirectly any right or benefit under any contract made by or on behalf of the Authority; or
- (g) has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority.

8. Every appointed member of the Board shall, unless he earlier vacates office by resignation, death or removal, hold office for a period of three years from the date of his appointment and such member other than a member who is removed shall be eligible for re-appointment for not more than three further terms, whether consecutive or otherwise.

Term of
office of
appointed
members of
the Board

9. (1) Any appointed member of the Board may at any time, resign from his office by a letter to that effect, addressed to the Minister and such resignation shall be effective from the date on which it is accepted by the Minister in writing.

Removal,
resignation
etc. of
appointed
members

(2) Where any appointed member by reason of illness, infirmity or absence from Sri Lanka is temporarily unable to discharge the functions of his office, the Minister may, having regard to the provisions of paragraph (b) of subsection (3) of section 5 appoint some other person to act in his place:

Provided that, no such appointment shall be made for a period exceeding three months. Upon the expiration of the said period of three months, if the illness, infirmity or absence from Sri Lanka still continues, such member shall cease to hold office from the date of expiration of such period.

(3) The Minister may remove an appointed member from office for reasons assigned. An appointed member who has been removed from office shall not be eligible for re-appointment as a member of the Board or to serve the Board in any other capacity.

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(4) Where an appointed member dies, resigns or is removed from office, the Minister may having regard to the provisions of paragraph (b) of subsection (3) of section 5 appoint another person in his place and the person so
5 appointed shall hold office for the unexpired period of the term of office of the member whom he succeeds.

10 **10.** (1) The meetings of the Board shall be held at least once in three months and the Chairperson may however call a special meeting if a need arises to discuss any matter of
importance. Quorum and
meetings of
the Board

(2) The quorum for a meeting of the Board shall be five members.

(3) The Chairperson and the Deputy Governor of the Central Bank shall be present at every meeting of the Board
15 and the Chairperson shall preside at every such meeting.

(4) A meeting of the Board may be held either –

- (a) by the number of members who constitute a quorum being assembled at a place, date and time appointed for the meeting; or
- 20 (b) by means of audio-visual communication by which all members participating and constituting a quorum can simultaneously see and hear each participating member for the duration of the meeting.

(5) The Board may invite any expert on a relevant subject
25 matter or an official to attend the meetings of the Board for the purpose of obtaining their views for the effective discharge of the functions of the Board, but such person or official shall not have the right to vote at such meeting.

(6) All questions for decision at any meeting of the Board
30 shall be decided by the vote of the majority of members present at such meeting. In the case of an equality of votes, the Chairperson shall, in addition to his vote have a casting vote.

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(7) Subject to the preceding provisions of this section, the Board may regulate the procedure in relation to the meetings of the Board and the transaction of business at such meetings.

- 5 **11.** Subject to the provisions of section 10, the Board may act notwithstanding any vacancy among its members and any act or proceeding of the Board shall not be or deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof. Acts or proceedings of the Board deemed not to be invalid by reason of any vacancy
- 10 **12.** The members of the Board, any expert or official shall be paid such allowance for each day on which he attends a meeting, in such manner and at such rates as may be determined by the Minister in accordance with the relevant Government circulars issued from time to time. Remuneration of the members of the Board, experts or officials
- 15 **13.** (1) The seal of the Authority shall be in the custody of such persons as the Board may decide from time to time. Seal of the Authority
- (2) The seal of the Authority may be altered in such manner as may be determined by the Board.
- 20 (3) The seal of the Authority shall not be affixed to any instrument or document except with the sanction of the members of the Board and in the presence of any two members of the Board or any member of the Board and the Director General, who shall sign the instrument or document in token of their presence.
- 25 (4) The Board shall maintain a register of the instruments and documents to which the seal of the Authority has been affixed.
- 30 **14.** The Authority may where the members of the Board consider it necessary to do so, establish its branches at any place within Sri Lanka. Branches of the Authority

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 Authority**

15 **15.** (1) The Authority may, whenever the Authority considers it necessary and expedient, delegate any of its powers **or** functions relevant to licencing, collection of any fees or charge levied under the Act and supervision of licensed moneylending and licensed microfinance institutions to a District Secretary or to a Divisional Secretary of any Divisional Secretary's Division as the case may be, so however, that the Authority shall remain and continue to remain responsible for any act or thing done or omitted to be done by such District Secretary or the Divisional Secretary of any Divisional Secretary's Division in the exercise and performance of such powers and functions delegated to him.

Delegation
of any power
or function
by the
Authority

15 (2) The Authority may give such directions as the Authority may deem necessary, to any District Secretary or to any Divisional Secretary of any Divisional Secretary's Division with regard to the effective implementation of the provisions of this Act and any rule made thereunder and every such officer to whom any such direction is given shall be required to comply with the same.

20 **16.** The Authority may enter into any agreement or memorandum of understanding with any Government institution or organization or any of its agency or any local or foreign regulatory or supervisory authority in relation to exchange of information on any matter which comes within the purview of this Act.

Agreements
with other
institutions

PART III

**DIRECTOR GENERAL AND THE STAFF OF THE
AUTHORITY**

30 **17.** (1) The Authority shall, with the concurrence of the Minister, appoint a Director-General of the Authority, who shall be the Chief Executive Officer and Secretary to the Authority.

Director
General of
the Authority

(2) The Director-General shall, subject to the general directions of the Authority on matters of policy and strategy,

be charged with the direction of the business of the Authority, the organization and execution of the powers, duties and functions of the Authority and the administrative control of the employees of the Authority.

5 (3) The Director-General may, with the approval in writing of the Authority, delegate in writing to any other employee of the Authority such of his powers, duties and functions as he may from time to time consider necessary and the Director-General shall remain and continue to remain to be responsible
10 for any act or thing done or omitted to be done by such employee in the exercise, performance and discharge of such powers, duties and functions of such power delegated to him and any employee to whom any such powers, duties or functions are so delegated shall exercise, perform and
15 discharge them subject to the general or special direction of the Director-General.

(4) A person shall be disqualified from being appointed or continuing as the Director General of the Authority, if he –

- 20 (a) is or becomes a Member of Parliament or of any Provincial Council or of any local authority or has been a Member of Parliament or of any Provincial Council or of any local authority during the two years immediately preceding the date of appointment;
- (b) is not or ceases to be a citizen of Sri Lanka;
- 25 (c) is found or declared to be of unsound mind under any law in force in Sri Lanka or any other country;
- (d) is a person who, having been declared insolvent or bankrupt under any law in force in Sri Lanka or in any other country and is an undischarged insolvent or bankrupt;
30 (e) is serving or has served a sentence of imprisonment or a suspended sentence imposed by any court in Sri Lanka or in any other country;

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Authority**

- (f) holds or enjoys directly or indirectly any right or benefit under any contract made by or on behalf of the Authority; or
- 5 (g) has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority.

(5) The Authority may with the concurrence of the Minister remove the Director - General from office if such person –

- 10 (a) becomes permanently incapable of performing his duties;
- (b) had done any act which in the opinion of the Authority is of a fraudulent or illegal character or is prejudicial to the interests of the Authority; or
- 15 (c) has failed to comply with any direction issued by the Authority.

(6) The Director - General shall be paid such remuneration as may be determined by the Authority.

18. (1) The Authority may, subject to the provisions of this Act, - Staff of the
Authority

- 20 (a) appoint, dismiss and exercise disciplinary control over such staff as may be deemed necessary by the Authority to carry out the functions of the Authority;
- 25 (b) determine the terms and conditions of service of the officers and employees of the Authority; and
- (c) fix the rates at which such officers and employees shall be remunerated in consultation with the Minister.

(2) Without prejudice to the provisions of subsection (1) of section 15, the Authority may in writing delegate to any officer of the Authority any of its powers under this Act, so however, that the Authority shall remain and continue to remain responsible for any act or thing done or omitted to be done by such officer in the exercise of such powers delegated to him.

(3) Rules may be made by the Authority in respect of all or any of the matters referred to in subsection (1).

10 (4) Subject to and in accordance with such rules, if any, as may be made by the Authority on that behalf, the Authority may in writing authorise any officer of the Authority to represent the Authority for any of the purposes of this Act, so however, that the Authority shall remain to be responsible
15 for any act or thing done or omitted to be done by such officer in representing the Authority under such authorisation.

(5) At the request of the Authority any officer in the public service may, with the consent of such officer and the Public Service Commission be temporarily appointed to the Authority
20 for such period as may be determined by the Authority or with like consent be permanently appointed to such staff.

(6) Where any officer in the public service is temporarily appointed to the staff of the Authority, the provisions of subsection (2) of section 14 of the National Transport
25 Commission Act, No. 37 of 1991, shall *mutatis mutandis* apply to and in relation to such officer.

(7) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport
30 Commission Act, No. 37 of 1991, shall *mutatis mutandis*, apply to and in relation to such officer.

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 Authority**

(8) Where the Authority employs any person who has agreed to serve the Government for a specified period, any period of service to the Authority by that person shall be regarded as service to the Government for the purpose of
5 discharging the obligations of such agreement.

(9) The Authority shall not appoint any person to the staff of the Authority where such person –

- (a) has been found guilty of serious misconduct;
- 10 (b) has been previously dismissed from office for malpractice; or
- (c) has committed a breach of the provisions of this Act or rules made thereunder.

19. (1) At the request of the Authority, any officer of the Central Bank may with the consent of such officer and the
15 Central Bank, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority or with like consent be permanently appointed to the staff of the Authority on such terms and conditions, including those relating to pension or provident fund rights
20 as may be agreed upon by the Authority and the Central Bank.

Secondment
of officers of
the Central
Bank to the
staff of the
Authority

(2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Authority, he shall be subject to the same disciplinary control as any
25 other officer or employee of the Authority.

PART IV

MONEYLENDERS

20. (1) A person shall not carry on a moneylending business except with a licence granted by the Authority.
30 (2) A person who contravenes subsection (1) commits an offence under this Act.

Licensed
persons to
carry out a
moneylending
business

Microfinance and Credit Regulatory Authority 15

(3) Without prejudice to subsection (1), the provisions of subsection (1) shall not apply to the following institutions: -

- (a) the Government of Sri Lanka, a Provincial Council or a local authority;
- 5 (b) the Central Bank;
- (c) a licensed commercial bank or a licensed specialised bank within the meaning of the Banking Act, No. 30 of 1988;
- 10 (d) a licensed finance company within the meaning of the Finance Business Act, No. 42 of 2011;
- (e) any registered leasing establishment registered under the Finance Leasing Act, No. 56 of 2000;
- 15 (f) a co-operative society registered under the Co-operative Societies Law, No. 5 of 1972 and a co-operative society registered under a statute of a Provincial Council;
- (g) a Samurdhi Community based bank or a Samurdhi Community based banking Society established under the Samurdhi Act, No. 1 of 2013;
- 20 (h) an entity formed in terms of the Agrarian Development Act, No. 46 of 2000;
- (i) any insurance company registered under the Regulation of Insurance Industry Act, No. 43 of 2000;
- 25 (j) any pawnbroker licensed under the Pawnbrokers Ordinance, (Chapter 90);
- (k) any body corporate incorporated by a special enactment empowered to lend money in accordance with such special enactment;

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Authority**

- (l) any company lending money to related companies;
- (m) any company which lends money to its directors, officers or employees as a benefit accorded to such persons;
- 5 (n) a foreign Government or any agency or institution acting on behalf of a foreign government;
- (o) the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation,
- 10 the Asian Development Bank, or any other multilateral lending institution;
- (p) any stock broker registered under the Securities and Exchange Commission of Sri Lanka; and
- (q) any person specified for the purposes of this subsection by the Minister by Order published in the *Gazette*.
- 15
- (4) The provisions of subsection (1) shall not apply to –
 - (a) a sum of money lent by a person to any other person only for a particular instance;
 - 20 (b) a sum of money paid as subscription to a debt instrument which may include bonds, debentures or hybrid debt instrument; and
 - (c) a class or a category of transaction which has been specified as exempted by the Minister from the application of the provisions of this Act, by an Order published in the *Gazette*.
 - 25

21. (1) A person shall not hold out as a licensed moneylender and shall not take or use or by inference adopt the name, title or description of a "licensed moneylender", or
 30 take or use or have attached to or exhibited at any place any name, title or description implying or tending to create the

Prohibition
against
holding out
as a licensed
moneylender

belief that such person is a licensed moneylender, without obtaining a licence under subsection (1) of section 20 of this Act.

(2) The Authority may determine whether a person is engaged in the moneylending business having regard to the frequency of transactions by such persons and the characteristics thereof.

(3) A person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction after summary trial by a Magistrate be liable to a fine not exceeding five million rupees or to imprisonment for either description not exceeding five years or to both such fine and imprisonment.

22. (1) An application for a licence to carry on the business of a moneylender shall be made in writing to the Director-General in such form, accompanied by such documents or information and a processing fee as may be set out in rules made in that behalf.

Application
for a licence

(2) Subject to subsection (2) of section 20, the following entities shall be eligible to apply for a licence under subsection (1):-

(a) a company incorporated under the Companies Act, No. 07 of 2007, and such company is not a company limited by guarantee, an offshore company or an overseas company within the meaning of the Companies Act, No. 07 of 2007:

Provided that, a non governmental organization registered under the Voluntary Social Service Organizations (Registration and Supervision) Act, No. 31 of 1980 and incorporated as a company limited by guarantee under the Companies Act, No. 07 of 2007 shall be eligible to apply for a licence under this Act;

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- (b) a partnership registered under the Partnership Ordinance (Chapter 83) or any statute of a Provincial Council;
- 5 (c) a society registered under the Societies Ordinance (Chapter 123) or incorporated under an Act of Parliament.

(3) The Director - General may on receipt of an application make such enquiries and call for such further information and documents to be produced within a specified period as he
10 considers necessary, and cause any place or places of business of the applicant to be examined.

(4) Where any additional documents or information required under subsection (3) by the Director-General is not provided by the applicant within the period specified therein,
15 the Authority may reject the relevant application, informing the person of the decision to reject such application.

(5) The Director - General after considering the information given in the application and as obtained upon an inquiry or examination made under subsection (3) shall recommend to
20 the Authority to either grant the licence or reject the application.

23. (1) The Authority having considered the recommendations made by the Director - General under subsection (5) of section 22, and any other matter in the
25 opinion of the Authority is relevant, may-

Issue of a
licence

- (a) issue a licence to the applicant to carry on the moneylending business subject to such terms and conditions as the Authority may think fit; or
- 30 (b) reject the application, subject to the provision of section 27.

(2) At any time during the duration of the licence, the Authority may, add to, revoke or vary any of the terms and conditions of the licence.

5 **24.** (1) (a) A licenced moneylender (hereinafter referred to as the "moneylender") who wishes to renew its licence shall be required to make an application for the same, not less than sixty days prior to the date of the expiry of the licence issued. Renewal of a licence

10 (b) The application for the renewal of a licence shall be made in writing to the Director - General in such form, accompanied by such documents or information and a processing fee as may be set out in rules made in that behalf. The provisions of subsection (3) of section 22 of this Act shall, *mutatis mutandis* apply to and in respect of the processing of such application.

15 (2) An application made after the time specified in subsection (1) of this section may be accepted by the Director - General up to thirty days before the date of expiry of the licence, subject to an administrative charge not exceeding rupees two million.

20 (3) Where a licensed moneylender fails to apply for a renewal of a licence under subsections (1) and (2) of this section, such moneylender shall be prohibited from applying for a new licence within a period of one year from the date of expiry of the licence issued to him.

25 **25.** A licence issued under section 23 or renewed under section 24 shall– Conditions of the licence

- (a) be subject to such conditions and requirements as specified in the licence;
- 30 (b) be subject to the payment of an annual licence fee as determined by the Authority;
- (c) be valid for a period of one year;

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 Authority**

- (d) specify the date of expiry; and
- (e) be non transferable.

5 **26.** A moneylender shall at all times display the original licence issued to him by the Authority, in a conspicuous place at the principal place of business and a copy of such licence at all other places of business.

Display of
licence at
places of
business

10 **27.** (1) Where an application is made for a licence under section 22 or for renewal of a licence under section 24 to carry on the moneylending business, the Authority may refuse the application on any of the following grounds: -

Refusal to
grant or
renew a
licence

- (a) the application was not made in accordance with this Part;
- (b) the applicant has failed to comply with any requirement of this Act or the rules made thereunder;
- 15 (c) any information or document that is furnished by the applicant to the Authority is false or misleading or from which there is a material omission;
- (d) the Authority is of the opinion that it would be contrary to the interests of its creditors or other
20 stakeholders to grant or renew the licence;
- (e) the Authority is of the opinion that it would be contrary to the financial sector and socio economic circumstances of the country;
- 25 (f) the moneylending business of the applicant is being wound up or otherwise dissolved or the applicant is declared undischarged insolvent or bankrupt by any court within or outside Sri Lanka;
- 30 (g) execution against the applicant in respect of a judgment debt has been returned unsatisfied in whole or part;

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Authority

- (h) a receiver, a receiver and manager or an equivalent person has been appointed within or outside Sri Lanka in respect of any property of the applicant;
- 5 (i) the applicant has, whether within or outside Sri Lanka entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;
- 10 (j) any of the key management personnel, where the applicant is a company, any office bearer, where the applicant is a society, or any partner, where the applicant is a partnership, is subject to any of the grounds set out in this section for the refusal of an application; or
- 15 (k) the Authority has reason to believe that the applicant or any of its key management personnel, office bearer or partner as the case may be, not be able to act in the best interest of its clients having regard to their reputation, character, financial integrity and reliability.

20 (2) Where the Director - General determines that a key management personnel is subject to any disqualification set out in section 40, the Director - General shall inform the applicant of such determination in writing within thirty days:

25 Provided that, the Director - General shall inform the applicant that if his application is to be processed, the key management personnel in question is required to be removed from such office and also to inform the Director - General of such removal in order to start the processing of his application.

30 (3) The Authority shall not refuse to grant or renew a licence without giving the applicant an opportunity of being heard.

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Authority**

28. (1) The licence issued by the Authority under this Part may at any time by a notification sent to the licensee in that behalf, be cancelled where- Cancellation
of a licence
issued

- 5 (a) there exists such ground as provided under subsection (1) of section 27 on which the Authority may refuse an application for a licence;
- (b) the moneylender has contravened any condition or restriction in respect of its licence;
- 10 (c) the moneylender has contravened any rule binding upon him as the case may be;
- (d) the moneylender has furnished false, misleading or inaccurate information or is concealing or failing to disclose material facts to the Authority or has been licensed upon a material misrepresentation;
- 15 (e) the moneylender has failed to pay the annual licence fee or any administrative charge imposed under this Act;
- (f) the moneylender has failed to commence business within nine months from the issue of the licence;
- 20 (g) the moneylending business is being liquidated or being wound up or otherwise dissolved;
- (h) the moneylender has ceased to carry on the business of moneylending;
- 25 (i) the moneylender is carrying on his business, in a manner detrimental to the interest of its creditors and any other stakeholder; or
- (j) the moneylending business has a –
- (i) key management personnel;
- (ii) any office bearer; or

(iii) any partner,

who is subject to any disqualification set out in section 40 of this Act.

(2) Before the cancellation of a licence granted to a moneylender in terms of subsection (1) of this section, the moneylender shall be given written notice of such fact.

(3) The moneylender may within fourteen days of the receipt of such notice, show sufficient cause to the Authority as to why his licence should not be cancelled.

(4) After the consideration of the reasons given by the moneylender under subsection (3), the Authority may within ninety days of the issuance of the notice-

(a) withdraw such notice; or

(b) cancel the licence issued to the moneylender.

(5) In the event of cancellation of a licence under subsection (4), the moneylender concerned shall be notified forthwith of such cancellation and the cancellation of the licence shall take effect on the date of such cancellation or on a later date the Authority may deem appropriate. The Authority shall publish a notice of such cancellation at least in one each of Sinhala, Tamil and English daily newspapers circulating in Sri Lanka.

29. (1) A moneylender may request from the Authority, at any time, to cancel the licence issued to him.

Voluntary
cancellation
of a licence

(2) The Authority shall consider such request and, if there is no reason to refuse the request of such moneylender, cancel such licence.

30. (1) Whenever, a licence has been cancelled by the Authority under subsection (1) of section 28 or subsection (2) of section 29, the moneylender shall forthwith surrender

Upon
cancellation,
moneylender
to surrender
the licence

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the licence to the Director - General, and moneylender shall remove any material in its places of business which advertises that such moneylender is a licensed moneylender.

5 (2) Refusal to renew a licence under subsections (1) and (2) of section 27 or cancellation of a licence under subsection (1) of section 28 shall not affect any moneylending agreement entered into, before such cancellation and shall not affect any such moneylender from recovering any loan granted during the tenure of the licence.

10 (3) The refusal to grant or renew a licence under section 27 or cancellation of a licence by the Authority under section 28 shall not affect or prejudice the institution or maintenance of any action against such moneylender under this Act or any other written law.

15 **31.** A moneylender may carry on such forms of business, subject to such conditions as may be imposed under this Act or any other written law or specified in the licence issued to such moneylender.

Forms of business that may be carried out by a moneylender

PART V

20 **MICROFINANCE BUSINESS**

25 **32.** (1) No person, other than a person licensed to carry on the microfinance business under this Act or a person exempted under paragraphs (c), (d), (e), (f) and (g) of subsection (2) of section 20 shall carry on the microfinance business.

Licensed persons to carry on the Microfinance business

(2) Any person who carries on or advertises or announces himself or holds himself out in any way as carrying on the microfinance business without a valid licence, commits an offence under this Act.

(3) A person shall not be eligible to be licensed as a microfinance institution unless such person is a licensed moneylender under this Act, and such person shall be either-

- 5 (a) a company registered under the Companies Act, No. 07 of 2007, and such company is not a company limited by guarantee, a private company, an offshore company or an overseas company within the meaning of the Companies Act, No. 07 of 2007; or
- 10 (b) a non- government a organization registered under the Voluntary Social Service Organizations (Registration and Supervision) Act, No. 31 of 1980 and registered as a company limited by guarantee under the Companies Act, No. 07 of 2007.

(4) A person as specified in subsection (3) may apply for a
15 licence to carry on a microfinance business, which shall be made in writing to the Director - General in such form, and accompanied by such documents or information as may be set out in rules made in that behalf.

(5) Subsections (3), (4), (5) of section 22 and subsection
20 (1) of section 27 shall *mutatis mutandis* apply to and in respect of processing the application made under subsection (4).

(6) The Authority may having considered the reasons set out by the Director - General on the past conduct of the applicant during the period of carrying on the moneylending
25 business, the matters set out in subsection (1) of section 27 of this Act and any such other matters which in its opinion merit inquiry may –

- 30 (a) issue a licence to the applicant to carry on a microfinance business, subject to such terms and conditions as the Authority may think fit; or
- (b) reject the application, subject to the provisions of section 27 as the Authority may think fit.

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(7) At any time during the duration of a licence, the Authority may, add to, revoke or vary any of the conditions of the licence.

5 (8) Upon a licence to carry on a microfinance business being issued to a moneylender, the licence granted to such moneylender to carry on a moneylending business under subsection (1) of section 23 shall be deemed cancelled and such moneylender shall –

10 (a) immediately surrender to the Authority the licence granted by the Authority to carry on a moneylending business, and shall not display such licence or a copy thereof at any of its places of business; and

15 (b) at all times display the licence issued under subsection (6), in a conspicuous place at the principal place of business and a copy of such licence at all other places of business.

(9) Provisions of sections 24, 25, 26, 27, 28, 29 and 30 shall *mutatis mutandis* apply to and in respect of a licensed microfinance institution referred to in subsection (3) 20 (hereinafter referred to as a "microfinance institution").

(10) A microfinance institution may carry on such forms of business as set out in the Schedule to this Act, subject to such conditions as may be imposed under this Act or under any other written law or specified in the licence issued to 25 such licensed microfinance institution.

(11) Provisions of the –

(a) Regulation of the Insurance Industry Act, No. 43 of 2000, only for the purpose of providing micro-credit insurance to borrowers; and

30 (b) Finance Leasing Act, No. 56 of 2000, only for the purpose of providing micro-leasing facilities to borrowers,

shall not apply to a microfinance institution, and a microfinance institution shall carry on such business, subject to such directions as may be issued by the Authority for the purpose.

- 5 **33.** (1) The Authority may, without prejudice to the provisions of subsection (1) of section 37, issue directions to microfinance institutions or to any single microfinance institution or to any group or category of microfinance institutions regarding – Specific directions for microfinance institutions
- 10 (a) the terms and conditions under which deposits may be accepted as collateral by such microfinance institution, the maximum rates of interest payable on such deposits, the maximum period for which deposits may be accepted and the maximum amount
- 15 that may be deposited with an institution by a customer.
- (b) the terms and conditions under which investments may be made and the maximum permissible maturities of such investments;
- 20 (c) the establishment of a reserve fund, minimum percentage of annual after tax profit that shall be transferred to such fund and other operational aspects of such fund;
- (d) the minimum capital requirement; and
- 25 (e) the minimum ratio of the outstanding accommodation granted to low – income persons and to micro enterprises by a microfinance institution shall bear to the outstanding accommodation granted by such microfinance institution.
- 30 (2) Any microfinance institution that fails to comply with any direction issued under subsection (1) may be required to pay an administrative charge as may be determined by the Authority not exceeding rupees two million.

PART VI

**REGULATION OF MONEYLENDERS AND
MICROFINANCE INSTITUTIONS**

5 **34.** (1) A person carrying on a moneylending business or Regulatory
microfinance business (hereinafter referred to as the approval
"licensee") shall not –

- (a) open any new place of business;
- (b) outsource its debt collection function, including
10 collection of debt through factoring or similar
arrangement;
- (c) in the case of a company –
 - (i) establish a subsidiary;
 - (ii) amend its Articles of Association;
 - (iii) appoint new members to the board of
15 directors; or
 - (iv) reduce its capital;
- (d) in the case of a society, change the office bearers;
or
- (e) in the case of a partnership, change a partner,

20 without the prior approval of the Director - General.

(2) Any licensee who fails to obtain the prior approval of
the Director - General as required under subsection (1), may
be required to pay a sum of money as an administrative charge,
as may be determined by the Authority not exceeding rupees
25 two million.

(3) The Director - General may issue directions to a licensee,
if considered necessary, when granting approval under
subsection (1).

35. All licensees shall forthwith inform in writing the Director - General of the following events: – Informing certain events to the Director - General

- (a) being unable to meet its obligations or is about to become insolvent;
- 5 (b) any action being filed in court for liquidation of the licensee, in case of a company;
- (c) any action filed for bankruptcy by a licensee in a court of law;
- (d) dissolution or winding up in the case of a society;
- 10 or
- (e) dissolution in the case of a partnership.

36. The board of directors, partners or office bearers of a company, partnership or society, as the case may be, shall continue to be subject to the provisions of any Order, rule, Act continue to apply in case of liquidation, dissolution or winding up

15 determination or direction made under this Act as the Authority may consider necessary, during the process of liquidation, dissolution or winding up.

37. (1) Notwithstanding the provisions of any other written law, and in addition to the powers vested in the Authority Directions to licensees

20 under section 33, the Authority shall issue directions as to the manner in which any aspect of the business and corporate affairs of such licensees are to be conducted and in particular-

- 25 (a) the maximum rates or amounts which may be charged by way of commissions, discounts, fees, penalties or other receipts or payments whatsoever;
- (b) method and manner of calculation of interest charged on loans or any other financial accommodations;
- (c) collection of debt, including collection of debt through factoring or any other similar arrangement;

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- (d) the nature and amount of the security that may be required or permitted for various types of loans or any other type of financial accommodation;
- 5 (e) the minimum amount of capital or net assets to be maintained;
- (f) internal controls, risk management or principles of corporate governance to be adopted;
- (g) implementation of a code of governance and a code of conduct;
- 10 (h) criteria to assess the fitness and propriety of-
 - (i) the directors, key management personnel and shareholders in the case of a company;
 - (ii) the office bearers, in case of a society; or
 - (iii) partners in the case of a partnership.
- 15 (i) restrictions on structural changes to corporate and business affairs;
- (j) the form and manner of maintaining books and accounts or other records or documents;
- 20 (k) the form and manner of disclosing information to customers;
- (l) the minimum requirements for educational and professional competence of employees of licensees engaged in credit, recovery, marketing, complaints handling, customer services and any other activity which involves interaction with the customers;
- 25 (m) the maximum ratio the total debt of a borrower should bear to the total income of such borrower;

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- (n) publication of any data, information, report including credit rating, financial statements, advertisements or any other marketing material in any print or electronic media;
- 5 (o) regulation of market conduct, including use of agents and representatives and loan recoveries;
- (p) establishing credit counseling centers, to provide counseling and advisory services;
- (q) handling of customer complaints; and
- 10 (r) regulation of moneylending and microfinance businesses carried out using any electronic means.

(2) Any licensee that fails to comply with any direction issued under subsection (1) may be required to pay a sum of money as an administrative charge as may be determined by
15 the Authority not exceeding rupees two million.

(3) The Authority may issue directions to a holding company, any subsidiary or an associate company of a licensee regarding the manner in which any aspect of the business of such company is to be conducted:

20 Provided that the provisions of this section shall not apply to a holding company, subsidiary or associate company which is subjected to the regulation of any financial sector regulatory authority.

(4) Any holding company, subsidiary or associate
25 company of a licensee that fails to comply with any direction issued under subsection (3) may be required to pay a sum of money as an administrative charge as may be determined by the Authority, not exceeding rupees two million.

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38. (1) The Authority may from time to time, make such rules as it may consider necessary in relation to any matter affecting or connected with or incidental to the exercise, performance and discharge of the powers, duties and
5 functions of the authority or any of its officers under this Act, including the following: -

Authority
may make
rules

- (a) administration of the affairs of the Authority;
- (b) procedure for the appointment, promotion, remuneration and disciplinary control of the
10 employees and the grant of leave and other emoluments of such employees;
- (c) terms and conditions of service of the officers and employees of the Authority;
- (d) payment of money out of the Fund of the Authority;
- 15 (e) levying fees or charges for any service rendered by the Authority;
- (f) criteria for licensing under this Act;
- (g) processing fee for an application for a licence;
- (h) annual licence fee payable to the Authority by a
20 licensee;
- (i) forms, documents or information to be used for the purposes of this Act;
- (j) procedure to be adopted in holding inquiries under section 51;
- 25 (k) giving effect to such guidelines issued by the Central Bank; and
- (l) any other matter connected with the affairs of the Authority.

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(2) Every rule made by the Authority under this Act shall be approved by the Minister and published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.

5 **39.** (1) Where the Authority is of the opinion that a licensee – Regulatory
actions

10 (a) is carrying on or is in the process of carrying on its business following unsound or improper financial practices which are detrimental to the interest of its creditors and other stakeholders; or

 (b) has contravened or failed to comply with any provision of this Act or any direction, rule, order or requirement made or imposed thereunder,

15 the Authority shall, take any one or more of the following actions: –

 (i) direct such licensee to cease such practice;

20 (ii) direct such licensee to, forthwith or within such period as may be specified by the Director - General, comply with the provisions of this Act, direction, rule, order or requirement made or imposed thereunder, which such licensee has failed to comply with;

25 (iii) direct such licensee to take necessary action to correct the negative conditions resulting from such practice or contravention;

30 (iv) restrain any director, manager, employee, partner, office bearer or controller of the licensee from carrying out any function in or in relation to the licensee;

 (v) remove any director, manager, partner, office bearer or employee of the licensee;

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- 5 (vi) impose an administrative charge not exceeding a sum of rupees two million on the licensee, any member of the board of directors, manager, employee, partner or office bearer, as the case may be;
- 10 (vii) review any agreement or contract entered into by a customer or any other person with the licensee and vary the terms of such agreement or contract, including the terms relating to repayment, interest rates and charges where it considers that such contract has been entered into without due regard to the interests of borrowers and any other stakeholders or prudent commercial practices; or
- 15 (viii) publish the name of the licensee as a moneylender or microfinance institution, as the case may be regarding which the Authority has serious supervisory concerns.

(2) Any person who fails to comply with an order or
20 direction issued or pay any penalty imposed under subsection (1) commits an offence under this Act.

(3) Any person aggrieved by any action taken under subsection (1), may before the expiry of fourteen days from the date of the taking of such action, appeal in writing to the
25 Authority and the Authority shall render its decision within ninety days of the receipt of such appeal.

40. A person shall be disqualified from being appointed or
elected as a key management personnel, partner or an office
bearer of a licensee as the case may be or from holding such
30 post, if such person –

Disqualification
for holding
office

- (a) is a person convicted of an offence or is being subject to any criminal prosecution involving fraud, deceit, dishonesty, or any other improper conduct;

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- (b) has been declared an undischarged insolvent or a bankrupt, by any court within or outside Sri Lanka;
- 5 (c) has been convicted by any court for an offence involving financial mismanagement or moral turpitude;
- 10 (d) has been convicted by any court for any offence under this Act, or the Banking Act, No. 30 of 1988, the Finance Business Act, No. 42 of 2011, the Finance Leasing Act, No. 56 of 2000, or the Companies Act, No. 07 of 2007;
- 15 (e) is being subject to any investigation or inquiry in respect of an act of fraud, deceit, dishonesty or other similar criminal activity, by any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law within or outside in Sri Lanka;
- 20 (f) has been found guilty in respect of an act of fraud, deceit, dishonesty or other similar criminal activity, by any regulatory or supervisory authority, professional association, commission of inquiry, tribunal, or any other body established by law, within or outside Sri Lanka, at any time prior to being so appointed or elected;
- 25 (g) has been removed or suspended by a regulatory or supervisory authority from serving as a director, chief executive officer or other officer in any bank, finance company or corporate body within or outside Sri Lanka;
- 30 (h) has been removed or suspended by any bank, finance company or corporate body within or outside Sri Lanka, on the grounds of fraud, deceit, dishonesty, or other similar criminal offence, from

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serving as a director, chief executive officer or other officer in any bank, finance company or corporate body within or outside Sri Lanka;

- 5 (i) has been declared by a court of competent jurisdiction to be of unsound mind;
- (j) has been a key management personnel of a licensed bank, a licensed finance company, any registered leasing establishment or any licensed insurance company, whose licence has been cancelled;
- 10 (k) has been a director, chief executive officer or held any other position of authority in any body corporate or in any unincorporated body which the Central Bank has determined as contravened the provisions of subsections (1) and (2) of section 2 of the Finance Business Act, No.42 of 2011, or similar determination under Finance Companies Act, No. 15 78 of 1988;
- (l) has been a key management personnel, an office bearer, partner of any licensee, of which the licence has been cancelled by the Authority; or
- 20 (m) has failed to satisfy any judgment or order of any court whether within or outside Sri Lanka, or to repay a debt.

PART VII

25 **EXAMINATION OF A LICENSEE**

41. (1) The Director - General may for ascertaining the manner in which business and corporate affairs of a licensee are being conducted or for any other specified purpose, require any licensee or person to submit documents or
30 information in such manner and form and at such intervals or
- Licensees to provide documents or information

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at such times as may be specified from time to time to the Director - General or any employee of the Authority designated for such purpose in the manner and within such time as may be specified by the Director - General.

- 5 (2) Any licensee or person who fails to submit information under subsection (1), may be required to pay a sum of money, as an administrative charge, as may be determined by the Authority not exceeding two million rupees.

- 10 (3) In this section "person" includes any officer of any department of the Government or any body of person, corporate or unincorporate, whether established or constituted under any law or otherwise.

- 15 **42.** (1) The Director - General or any officer of the Authority authorized by him, or any other person authorized by the Director - General with the approval of the Authority, may at any time examine the books of accounts and records of any licensee, and for that purpose may do one or more of the following: -

Examination
of Licensees

- 20 (a) require any licensee or a director, secretary, manager, employee, auditor, agent, contractor, partner, office bearer of a licensee to furnish him all such information as he may consider necessary, within such period in a manner or form as may be specified by the Director - General, and to produce for
- 25 inspection of books, records, files, registers and such other documents, maintained in print or electronic form, of such licensee and to provide authenticated copies in any form as required of such books, records, files, registers and such other
- 30 documents;
- (b) enter any premises or storage area or any property of such licensee, or any director, secretary, manager, employee, auditor, agent, contractor, partner, office bearer of such licensee, or any other place not

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- 5 specified above, and notwithstanding anything to the contrary in any other law, examine books, records, files, registers, and such other documents, maintained in print or electronic form, of such licensee and may obtain copies, authenticated or otherwise, in any form of such books, records, files, registers and such other documents;
- 10 (c) require any licensee or a director, manager, employee, agent, contractor, partner, office bearer or secretary of any licensee to submit the accounts of such licensee, furnish such information and produce such books, records, files, registers, and such other documents, maintained in print or electronic form, for audit by an auditor authorized by the Director -
- 15 General;
- 20 (d) call for information by written notice, question and record statements of or, if necessary, direct any director, shareholder, secretary, manager, employee, agent, auditor, partner, office bearer or contractor of any licensee or of any other person who may be acquainted with or is aware of or is in possession of, information regarding the business or corporate affairs of such licensee, to submit information or if necessary, administer oath or affirmation in
- 25 accordance with the Oaths and Affirmation Ordinance (Chapter 17);
- 30 (e) require any related party of a licensee to furnish information as the Director - General may consider necessary and to produce for inspection books, records, files, registers and such other documents maintained in print or electronic form, of such related party and to provide authenticated copies in any form as required of such books, records, files, registers and such other documents;

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For the purposes of this paragraph "related party" means –

- 5 (i) in the case of a company, any subsidiary or associate company of any licensee, or any subsidiary or associate company of the holding company of any licensee, or any director, key management personnel, secretary or their close relations;
- 10 (ii) in the case a partnership, a partner or close relations of such partner;
- (iii) in the case of a society, an office bearer, or close relations of such officer bearer; or
- 15 (iv) any other licensee or individual that in the view of the Director - General has a substantial financial interest or significant management interest in any licensee; or
- (f) take any other action which he may deem necessary to ascertain the true condition of the affairs of such licensee during such examination.

20 (2) The Authority may, if consider necessary, direct the Director- General to cause an examination on any licensee for the purpose of ascertaining the true condition of the affairs of such licensee.

25 (3) The Director - General shall upon conclusion of each examination conducted in terms of subsections (1) and (2), submit a report to the Authority on such examination.

30 (4) If the Director - General, through documents and information received under subsection (1) of section 41, or in any other manner whatsoever, ascertains that a licensee has failed to comply with any direction, rule, order or determination issued under this Act, he shall report such fact to the Authority.

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(5) Upon receipt of a report under subsection (3) or (4), the Authority may take any one or more of the regulatory actions specified in section 39.

43. It shall be the duty of every person to comply with any
5 requirement imposed on him under this Part and any person
who-

(a) fails to provide any information or produce for
inspection any book, record, file, register or such
other document, material or object required under
this Part;

(b) fails to attend in person when summoned for an
interview;

(c) provides false, incomplete or incorrect or misleading
information, book, record, file, register or such other
document, material or object; or

(d) obstructs the Director - General or any other person
authorized by the Director - General under subsection
(1) of section 42.

Duty to
comply with
any
requiremen
imposed
under this
Part

Commits an offence under this Act.

20

PART VIII

CUSTOMER PROTECTION

25 **44.** A licensee shall not issue, publish or demonstrate any advertisement, circular or any other material used for the purpose of marketing of its business, containing expressions which may imply or give an inference to the public that it carries on banking business, finance business or, microfinance business:

Provided that, the provisions of this section shall not apply to a microfinance institution licensed under this Act to issue, 30 publish or demonstrate any advertisement, circular or any

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other material used for the purpose of marketing of its microfinance business.

5 **45.** Every licensee shall formulate a policy on customer protection and market conduct, approved by the board of directors, the partners, or the office bearers, as the case may be, and such policy shall be communicated to all employees of the licensee.

Formulation
of a policy in
customer
protection

46. A Licensee shall-

Obligations
of a licensee

- 10 (a) enter into an agreement with all customers, which shall be in writing, before granting a loan;
- (b) ensure that the customers to whom loans are granted have the ability to repay such loans, in order to prevent over- indebtedness;
- 15 (c) specify at the time of entering into an agreement, the nominal interest rate and the annual effective interest rate charged;
- (d) provide a loan statement or status of account to any customer on his request, subject to a fee as may be specified by the Authority; and
- 20 (e) ensure treating its customers fairly and respectfully, without any harassment, threatening, intimidation or humiliation exerted on such customers in carrying out routine collection of loan installments and recovery of loans.

25 **47.** A licensee shall not enter into any agreement to provide a loan or any other financial service to a person who has not reached the age of majority.

No
agreement to
be entered
with a minor

30 **48.** (1) Any agreement to provide a loan or any other financial service entered into by a licensee with its customer shall-

The loan
agreement

- (a) be concise, easy to understand, and accurate;
- (b) be available in Sinhala, Tamil or English languages to the customer in his preferred language;

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- (c) not include any terms and conditions which are unfair, misrepresented, exclude or restricts the liability of such licensee, excludes or restricts any right of the customer or prevents the applicability of any provision of this Act or any direction or rule issued thereunder or any written law, for the time being in force;
- (d) include all terms and conditions subject to which money is lent or any other financial service is provided to the customer, and any amendment, modification made to such conditions shall not be enforceable before a court of law, unless the customer is notified in writing of such amendment or modification and such customer agrees in writing to the same; and
- (e) be explained to the customers by the licensee before entering into agreement, on its contents and financial implications, in his preferred language.

(2) Any loan agreement or any guarantee or security to
20 secure such loan, entered in contravention of the provisions
of this Act or any rule, direction, determination issued
thereunder shall be null and void and shall not be enforceable
before any court of law.

49. A licensee, shall not-

- 25 (a) obtain the consent or signature of any person to a
blank, incomplete or altered loan agreement, an
agreement to provide any other financial services or
any security document;
- 30 (b) recover the total amount as the interest, at any time
in excess of the principal amount lent;
- (c) make any false, misleading or deceptive statement
to any customer or conceal any material fact from a
customer;

Actions
prohibited by
a licensee

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- (d) fraudulently induce or attempt to induce any person to enter into a loan agreement or any other agreement to provide financial services or to agree to any term or condition;
- 5 (e) discriminate any segment of population based on religion, gender or any other material factor relating thereto;
- (f) exert undue influence in lending money to any person or when recovering any such money from such person; or
- 10 (g) harass the customers in any manner when recovering loans and providing any other financial services.

50. The Authority may establish credit counselling centers at any of its branches and at any other place the Authority
15 deems necessary. Credit Counseling Centers

51. (1) The Authority shall appoint an officer or officers (hereinafter referred to as "inquiring officers") to handle complaints received from customers aggrieved by a licensee.
Handling of customer complaints made to the Authority

(2) For the purpose of subsection (1), the Authority shall
20 have the power to-

- (a) inquire and request the licensee, the complainant and any other person to submit information as it may deem necessary;
- (b) conduct examinations under Part VII of this Act; or
- 25 (c) summon the licensee or the complainant or both such licensee and complainant for an inquiry or investigation.

(3) An attorney at law shall not be entitled or be permitted to make a representation on behalf of any party who is
30 summoned by the Authority, for the purposes of subsection (2).

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(4) The Authority may adopt an appropriate procedure as may be specified by rules for holding inquiries under subsection (2).

5 (5) The inquiring officer shall endeavor to bring the parties to an amicable settlement, and in the event of a failure to do so, the Director - General may, considering the representations made by such parties to the Authority and the recommendation of the inquiring officer and such other matters which in his opinion merit inquiry -

10 (a) take any one or more actions under subsection (1) of section 39;

(b) issue directions to the licensee or the customer or both such licensee and customer as the case may be; or

15 (c) take both actions under paragraphs (a) and (b) above.

(6) The Authority shall maintain a database of complaints received by customers or licensees, and analyse such complaints to identify current and emerging issues in the moneylending business and microfinance business, patterns of such issues, recurrence of same issues and such other similar concerns as the Authority may consider necessary.

25 **52.** (1) It shall be the duty of every licensee, to ensure all aspects of customer due diligence requirements as imposed by any other written law for the time being in force is complied with, in carrying out their business.

Customer due
diligence
requirements

(2) For the purpose of subsection (1), the provisions of the Financial Transactions Reporting Act, No. 6 of 2006, the Prevention of Money Laundering Act, No. 5 of 2006, and
30 Convention on the Suppression of Terrorist Financing Act,

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No. 25 of 2005 and any regulation, direction, rule, determination, guideline or circular issued thereunder shall apply to all such licensees.

53. A customer shall-

Responsibilities
of customers

- 5 (a) exercise reasonable due care in every transaction with a licensee;
- (b) report forgeries or unauthorized transactions effected to his account or facility, to the licensee, as soon as he becomes aware of them;
- 10 (c) take reasonable measures to identify the purpose of the loan and obtain a sum of money as a loan to serve such purpose, which can be serviced without any default;
- 15 (d) provide all information that are necessary for a licensee to grant any loan or accepting a security against such loan without undue delay;
- (e) inform the licensee of any financial difficulty that may hinder the due payment of any loan obtained as soon as possible; and
- 20 (f) inform the licensee, at all times, of any changes made to his contact details during the servicing of any loan.

PART IX

INVESTIGATION OF OFFENCES

- 25 **54.** The provisions of this Part shall be in addition to any powers vested in the Director - General under Part VII of this Act, and shall not be construed so as to restrict the powers of the Director - General under the said Part VII to examine any licensee.

Powers of
investigation
in addition to
powers of
examination

55. (1) Where the Authority receives any complaint or information regarding a person connected with the commission of an offence under subsection (3) of section 21 or subsection (2) of section 32, the Director - General shall
 5 submit a certified copy of any complaint or information received by him to an officer not below the rank of Assistant Superintendent of Police, and request such officer to conduct an investigation on such complaint or information. It shall be
 10 the duty of such police officer to conduct an investigation or cause an investigation on the commission of such offence as requested by the Director - General and may exercise all powers of investigation provided under this Act or any other law.

Investigation
of offences

(2) Notwithstanding the provisions of subsection (1) where
 15 a police officer has reasonable grounds to believe that any person is involved in any activity relating to an offence under this Act, such officer, may investigate or cause an investigation on such commission of offence and may exercise all powers of investigation provided for in this Act or in any other law.

20

56. Where any person fails to provide any information, book, record, file, register or such other document or material or object or provides false, incorrect or incomplete
 25 information, book, record, file, register or such other document or material or object when required by a police officer conducting an investigation under section 55, a police officer not below the rank of an Assistant Superintendent of Police may make an application to a Magistrate for the issuance of an order-

Court order
to obtain
information

30 (a) authorizing any person named in the application to inspect any book, record, file, register and such other documents maintained in print, electronic or any other form, material or object of the person who has failed to comply with the requirement made under subsection (1) of section 55; or

- 5 (b) requiring the person who has failed to comply with the requirement made in terms of subsection (1) of section 55, or a director, partner, member, secretary, manager, employee, agent, contractor or auditor of such person as may be named in the order, to produce any book, record, file, register and such other document maintained in print, electronic or any other form, material or object of such person, to a person and at a place specified in the order.

10 **57.** (1) A police officer not below the rank of an Assistant Superintendent of Police may at any time, make an application to a Magistrate to impound the passport of a person investigated in terms of subsection (1) of section 55. Impounding of Passports of persons investigated

15 (2) In an event where the person investigated in terms of subsection (1) of section 55, is a body of persons, it shall be lawful for a police officer not below the rank of an Assistant Superintendent of Police to make an application or applications, as may be necessary, to impound the passport-

- 20 (a) if that body of persons is a body corporate, of any shareholder, director, manager or officer of the body corporate;
- (b) if that body of persons is a partnership, of any partner of such partnership; or
- 25 (c) if that body of persons is an unincorporated body other than a partnership, of any member of such body, or any officer of that body responsible for its management and control.

58. (1) The Director - General may with the approval of the Authority and having regard to the circumstances in which an offence under this Act was committed, compound such offence for a sum of money not exceeding rupees five million. Compounding of offences

(2) Compounding of any offence under subsection (1) shall have the effect of an acquittal of the accused.

PART X

OFFENCES AND PENALTIES

59. Any person, who being a director, secretary, chief executive officer, manager, officer, employee, partner, office bearer or auditor of a licensee- Offences by employees

- (a) fails to take all reasonable steps to ensure that the licensee complies with the requirements of this Act;
- (b) fails to comply with any direction issued or rule made by the Authority under the provisions of this Act;
- 10 (c) fails to comply with any direction issued by the Director - General under the provisions of this Act;
- (d) fails to take all reasonable steps to secure the accuracy of any statement submitted or published by such licensee, under the provisions of this Act;
- 15 (e) makes a false entry in any book, record, file, register or such other document or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee or cause such entry to be made;
- 20 (f) omits to make an entry in any book, record, file, register or such other document or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee or causes such entry to be omitted;
- 25 (g) alters, abstracts, conceals, erases or destroys any entry in any book, record, file, register or such other document, or statement relating to the business affairs, transactions, conditions, assets or liabilities or accounts of such licensee, or causes any such entry to be altered, abstracted, concealed, erased or
30 destroyed; or

- (h) maintains multiple sets of books, records, files, registers, or such other documents for the purpose of concealing the true condition of such licensee, commits an offence under this Act.

5 **60.** (1) Any person who contravenes or fails to comply with any provision of this Act, any rule, direction, order or requirement issued or imposed, or fails to pay any administrative charge imposed thereunder commits an offence under this Act and where for which no other punishment is
10 expressly provided for in this Act, shall be liable on conviction after summary trial by a Magistrate to a fine not exceeding rupees five million or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

Penalty for
contravention
of the Act

15 (2) Where an offence under this Act is committed by a body of persons, then-

- (a) if that body of persons is a body corporate, every director, manager, officer or secretary of that body corporate;
- 20 (b) if that body of persons is a partnership, every partner of such partnership; or
- (c) if that body of persons is an unincorporated body other than a partnership, every member of such body, shall be deemed to be guilty of that offence:

25 Provided that, a director, manager, officer or secretary of such body corporate or a partner of such partnership or a officer of a unincorporated body, shall not be deemed to be guilty of such offence if he proves that such offence was committed
30 without his knowledge or that he exercised due diligence to prevent the commission of such offence.

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(3) Any person who abets, conspires or attempts to commit an offence under this Act commits an offence and shall be punishable in the same manner as punishable for the substantive offence under this Act.

5 (4) A director, manager or secretary of a body corporate or a partner of a partnership or a member of an unincorporated body ordered to pay a fine by a Magistrate under this Act, commits an offence if he applies any funds of such body corporate, partnership or unincorporated body, as the case
10 may be, for the payment of such fine or part thereof.

PART XI

FINANCE

61. (1) The Authority shall have its own Fund (hereinafter referred to as "the Fund"). Fund of the
Authority

15 (2) The Parliament shall allocate a sum of rupees one hundred million which shall be decided by the Minister from the Consolidated Fund as the initial capital of the Authority and such sum shall be credited to the Fund established under subsection (1) hereof.

20 (3) There shall be credited to the Fund –

- (a) all such sums of money as may be voted from time to time by Parliament, for the use of the Authority;
- (b) all such sums of money received by the Authority in the exercise, performance and discharge of its
25 powers, duties and functions under this Act; and
- (c) all such sums of money as may be received by the Authority by way of income, fees, charges, grants, gifts or donations from any source whatsoever within or outside Sri Lanka.

(4) There shall be paid out of the Fund –

- (a) all such sums of money as are required to defray any expenditure incurred by the Authority in the exercise, performance and discharge of its powers, duties and functions under this Act; or
- (b) all such sums of money as are required to be paid out of the Fund by or under this Act.

(5) The Authority shall make rules regarding the payment of money out of the Fund.

(6) The net profit of the Authority at the end of each financial year, after retaining with the approval of the Minister an amount required for increased capital requirement of the Authority for the next immediate financial year, shall be credited to the Consolidated Fund.

62. (1) The Financial year of the Authority shall be the calendar year.

Financial
year and
audit of
accounts

(2) The Authority shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of accounts of the Authority.

(4) The Authority shall submit the audited statement of accounts together with the Auditor-General's report to the Minister within five months of the end of the financial year to which such report relates. The Minister shall place such statement and the report before Parliament within two months of the receipt thereof.

63. The provisions of Part II of the Finance Act, No. 38 of 1971, shall, *mutatis mutandis*, apply to and in respect of the financial control and accounts of the Authority.

Application
of Part II of
the Finance
Act, No. 38
of 1971

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PART XII

GENERAL

5 **64.** (1) Every director, manager, officer, employee and agent of any licensee and of any person authorized in terms of subsection (1) of section 42 shall observe strict secrecy in respect of all transactions of such licensee, its customers and the state of accounts of any person and all matters relating thereto and shall not reveal any such matter except-

Secrecy on
transactions

- (a) when required to do so-
- 10 (i) by a court of law;
- (ii) by the person to whom such matter relates;
- (b) in the performance of the duties of such director, manager, officer, employee and agent; or
- 15 (c) in order to comply with any of the provisions of this Act or any other written law.

(2) Subject to subsection (1), a licensee shall collect, store, view and use customer data in a manner that effectively protects the privacy of its customers.

20 **65.** Except in the performance of his duties under this Act, every member, officer and employee of the Authority shall preserve and aid in preserving secrecy with regard to all matters and any information relating to the affairs of -

Secrecy of
Information

- (a) any applicant who has made an application for a licence under this Act;
- 25 (b) a licensee or any customer of such licensee; or
- (c) any Government institution,

that may have come to his knowledge in the performance of his duties under this Act or any other law for the time being in force and any such member, officer or employee who –

- 5 (i) communicates any such matter or information to any person other than to the Authority, the Director - General or an officer of the Authority authorized in that behalf by the Authority or the Director - General; or
- 10 (ii) suffers or permits any unauthorized person to have access to any books, papers or other records relating to any applicant for a licence under this Act, licensee, any customer of a licensee or any Government institution as the case may be,
- 15 commits an offence.

66. Where any notice is to be served on a licensee under this Act or where the Authority informs any regulatory action taken under the Act to a licensee, proof of posting such notice or information to the address of the principal place of business of a licensee, addressed to the principal officer, shall be sufficient to prove that such notice has been served on such licensee.

Posting deemed to be proper notice

67. (1) Notwithstanding anything to the contrary in this Act or any other written law, the Central Bank may in order to strengthen the stability of the financial system and to make qualitative improvements in the regulation and supervision of a licensee, issue guidelines to the Authority, and the Authority shall give effect to such guidelines issued by the Central Bank by making appropriate rules or issuing directions or by taking any other appropriate action.

Central Bank to issue guidelines to the Authority

(2) The Central Bank may call for information from the Authority, from time to time, and it shall be the duty of the Authority to submit such information in a timely manner.

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5 **68.** (1) The Authority shall maintain separate registers for licensees, where details of the licenses issued, conditions and requirements imposed on each licence and any other information the Authority may deem appropriate, shall be recorded.

Register of
licensed
moneylenders
and licensed
microfinance
institutions

(2) The Authority shall maintain a record of the basis of issuing and conditions and requirements imposed in issuing each licence and where a licence is refused, reasons for such refusal.

10 **69.** The Authority may, from time to time, publish a notice, in at least one Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, giving a list of licensees who have been issued with a licence under this Act.

List of
licensees to
be published

15 **70.** The provisions of the Pawnbrokers Ordinance (Chapter 90) shall not apply to any licensee and such licensee may carry on the business of a pawnbroker subject to such directions issued by the Authority for the purpose.

Pawnbrokers
Ordinance
not to apply
to a licensee

20 **71.** (1) No person other than a licensed moneylender, or an institution exempted under subsection (3) of section 20 shall use as part of its name or its description, any of the words, "credit", "microcredit", "lending", "lenders" "moneylenders" or "microfinance" or any of their derivatives, or transliterations, or their equivalent in any other language whether alone or in combination with any other word, without the prior written approval of the Authority.

Use of the
words
"credit",
"microcredit",
"lending",
"lenders"
"moneylenders"
and
"microfinance"
in business
names

30 (2) No person other than a licensed microfinance institution, or an entity exempted by subsection (1) of section 32 shall use as a part of its name or its description in its name, the word, "microfinance" or any of its derivatives or its transliteration or its equivalent in any other language whether alone or in combination with any other word, without the prior written approval of the Authority.

Microfinance and Credit Regulatory Authority 55

(3) A licensed microfinance institution shall have as part of its name the word "microfinance" and any such institution which does not have the word "microfinance" as part of its name on the appointed date shall forthwith take such steps
5 as are necessary to change its name to include the words "microfinance" within six months from the appointed date.

(4) Nothing in this section shall apply to-

- (a) any association of licensees formed for the protection of their interest;
- 10 (b) a trade union registered under the Trade Union Ordinance (Chapter 138), which is an association or combination of workers who are employees of the licensee; and
- 15 (c) an institution in respect of which such usage is established or recognized by law by international agreement.

72. (1) Subject to subsection (3) of section 20, it shall be the duty of any media institution to verify from any person who offers to lend money, whether he is licensed under this
20 Act, before publishing an advertisement or any business promotional publication relating to such activity.

Obligations
of media
institutions

(2) The Director - General may send a notice to any media institution requiring such institution to refrain from publishing advertisements on offering moneylending business or
25 microfinance business by a person not licensed under this Act or not exempted under subsection (3) of section 20 of this Act.

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- 73.** For the purpose of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990-
- (a) licensed microfinance institutions shall be deemed to be "lending institutions"; and
- 5 (b) licensed moneylenders shall be deemed to be "credit granting institutions".
- 74.** In any prosecution of any person for contravention of subsection (1) of section 20 and subsection (1) of section 32 of this Act, the burden of proving that such person has been
- 10 granted a licence to carry on the moneylending business or the microfinance business shall lie on such person.
- 75.** Any copy of a document maintained by the Authority under this Act, certified by the Director - General to be a true copy of such document, shall be admissible in any court of
- 15 law as evidence of the original of such document.
- 76.** Provisions of the Money Lending Ordinance (Chapter 80) shall not apply to any licensee.
- 77.** It shall be a defence in any criminal or civil proceeding for anything done or omitted to be done by a member, Director
- 20 - General or any employee of the Authority or any person authorized by the Authority or the Director - General under this Act, if he proves that he exercised due diligence and reasonable care and acted in good faith in the course of or in connection with the discharge or purported discharge of his
- 25 obligations under this Act or any rule, order or direction issued or made thereunder.
- 78.** Any expenses incurred by a member of the Authority, the Director - General or any employee of the Authority or any person authorized by the Authority or the Director -
- 30 General as the case may be in any suit or prosecution brought against such person before any court in respect of any act

Licensed microfinance institutions deemed to be "credit intuitions" for the purposes of the CRIB Act

Proof of grant of a licence

Certified copies to be accepted as evidence of originals

Licensees exempted under Money Lending Ordinance

Defence in criminal or civil proceedings

Expenses incurred to be paid out of the Fund

which is done or purported to be done or omitted to be done by him under this Act or any direction, rule, order or requirement made or imposed thereunder, as the case may be, shall, if the court holds that such act was done in good faith, be paid out of the Fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

79. The Authority shall be deemed to be a Scheduled Institution within the meaning of the Anti-Corruption Act, No. 9 of 2023 and the provisions of Chapter I of Part III under the Heading "Offences relating to Bribery and Corruption" of such Act, shall *mutatis mutandis* be deemed to be applicable to or in relation to the provisions of this Act.

Authority deemed to be a Scheduled Institution within the meaning of the Anti-Corruption Act

80. All members of the Authority, the Director - General and all officers and employees of the Authority shall be deemed to be public servants within the meaning and for the purposes of the Penal Code (Chapter 19).

Members, officers and employees of the Authority deemed to be public servants

PART XIII

TRANSITIONAL PROVISIONS

81. (1) Notwithstanding anything to the contrary in subsection (1) of section 20, any person carrying on a moneylending business on the day preceding the date of coming into operation of this Act-

Persons carrying on the business of moneylending to continue business for twenty four months

(a) may from the date of coming into operation of this Act, continue to carry on such business for a period of twenty- four months; and

(b) shall comply with the provisions of this Act and apply for a licence to continue his business as a licensed moneylender, after such date as may be specified by the Authority by notice published in the *Gazette*, calling for applications for licence under the Act.

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(2) the date specified by the Authority under paragraph (b) of subsection (a) shall not be later than six months from the date this Act comes into operation.

5 **82.** (1) The Microfinance Act, No. 6 of 2016 is hereby repealed.

Repealing of
the
Microfinance
Act

(2) Notwithstanding the repeal of the Microfinance Act, No. 6 of 2016, every regulation, notice, Order, rule, guideline or direction issued, requirement imposed, determination or delegation made thereunder and in force on the day preceding
10 the date this Act comes into operation shall in so far as such regulation, notice, Order, rule, guideline, direction, requirement, determination or delegation is not inconsistent with the provisions of this Act, be deemed to be a regulation,
15 notice, Order, rule, guideline, direction, requirement, determination or delegation issued, imposed or made, as the case may be, under the provisions of this Act.

(3) With effect from the appointed date, all examinations initiated, or supervisory measures taken under the repealed Act and pending on the day immediately preceding the
20 appointed date shall be deemed to be examinations conducted or being conducted or supervisory measures taken or being taken, as the case may be under this Act.

83. (1) (a) Any microfinance company licensed under the repealed Microfinance Act, No. 6 of 2016; or
25 (b) any microfinance non- governmental organization registered under the repealed Microfinance Act, No. 6 of 2016, and compliant with subsection (3) of section 32 of this Act,

Intuitions
licensed
under the
Microfinance
Act deemed
to be licensed
under this
Act

30 which is carrying on microfinance business on the day preceding the date this Act comes into operation shall, with effect from the date this Act comes into operation be deemed to be a licensed microfinance institution licensed under section 32 of this Act.

(2) Any microfinance non-governmental organization registered under the repealed Microfinance Act, No.6 of 2016 shall continue to carry on microfinance business in its existing legal form for a period not exceeding twelve months from the date this Act comes into operation and comply with subsection (4) of section 32 of this Act within that period.

(3) Any microfinance non-governmental organization registered under the repealed Microfinance Act, No. 6 of 2016 which fails to comply with subsection (2) shall be deemed to be a microfinance non-governmental organization of which registration has been cancelled.

(4) All actions, proceedings or matters instituted in terms of the repealed Microfinance Act, No. 6 of 2016 and pending in any court referred to therein on the day preceding the date this Act comes into operation shall from and after the date this Act comes into operation be heard and determined by the said court in terms of the provisions of the repealed Microfinance Act, No. 6 of 2016.

84. In this Act, unless the context otherwise requires – Interpretations

"age of majority" shall have the same meaning assigned to it under the Age of Majority Ordinance (Chapter 66);

"Asian Development Bank" means the Asian Development Bank established under section 2 of the Asian Development Bank Agreement (Ratification) Act, No. 21 of 1966;

"associate company" shall have the meaning assigned to it under the Sri Lanka Accounting Standard (SLAS) 28 on Investment in Associates and Joint Ventures or any other similar accounting standard applicable in Sri Lanka from time to time.

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"auditor" means –

5 (a) an individual who being a member of the
 Institute of Chartered Accountants of Sri
 Lanka or of any other Institute established by
 law, possesses a certificate to practice as an
 Accountant issued by the Council of such
 Institute; or

10 (b) a firm of Accountants each of the resident
 partners of which being a member of the
 Institute of Chartered Accountants of Sri
 Lanka or of any other Institute established by
 law possesses a certificate to practice as an
 Accountant issued by the Council of such
 Institute.

15 "borrower" means a person to whom money is lent by
 a licensee;

"Central Bank" means the Central Bank of Sri Lanka
established under the Central Bank of Sri Lanka Act,
No. 16 of 2023;

20 "close relations" means the spouse, domestic partner,
 children, parents and siblings by blood or adoption;

"collateral deposit" means a savings deposit obtained
as a collateral from a borrower against a lending
facility granted to such borrower;

25 "Credit Information Bureau of Sri Lanka" means the
 Credit Information Bureau of Sri Lanka established
 under section 2 of the Credit Information Bureau of
 Sri Lanka Act, No. 18 of 1990;

30 "deposit" shall have the meaning assigned to it under
 the Finance Business Act, No. 42 of 2011 as may be
 amended from time to time;

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5 "financial regulatory authority" means anybody corporate established by law to regulate and supervise a specific sector of the financial system of Sri Lanka, and includes the Central Bank of Sri Lanka, the Securities and Exchange Commission of Sri Lanka, and the Insurance Regulatory Commission of Sri Lanka;

10 "holding company" shall have the same meaning assigned to it under the Companies Act, No. 07 of 2007;

15 "International Bank for Reconstruction and Development" means the International Bank for Reconstruction and Development established in pursuance of agreements drawn up at the United Nations Monetary and Financial Conference held at Bretton Woods in New Hampshire in the United States of America in July 1944;

20 "International Development Association" means the International Development Association established under the Schedule of the International Development Association Agreement Act, No. 7 of 1961;

25 "International Finance Corporation" means the International Finance Corporation established under the Schedule as the International Finance Corporation Agreement Act, No. 28 of 1978;

 "key management personnel" means a person having authority and responsibility for planning, directing and controlling the activities of any licensee directly or indirectly including any director;

30 "market conduct" means the behaviour or conduct of participants of a market to carry out their business through sales, promotions, distributions, administration and similar kind of business activities;

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5 "microfinance business" means business of lending
 money at interest or in consideration of profit or
 loss arising from the proceeds of lending being
 shared between the lender and the borrower with or
 without a security and provision of other financial
 services in conformity with the Schedule to this Act,
 mainly to low income persons and micro enterprises
 with the primary objective of social empowerment
 while maintaining sustainability of the lender and
10 the borrower;

 "microfinance institution" means an institution licensed
 by the Authority under Part V of this Act to carry on
 the microfinance business;

15 "Minister" means the Minister to whom the
 Microfinance and Credit Regulatory Authority of
 Sri Lanka is assigned under Article 44 or 45 of the
 Constitution;

20 "microfinance non-governmental organization" means
 a non-governmental organization issued with a
 certificate of registration by the Registrar of Voluntary
 Social Service Organizations under subsection (3)
 of section 20 of the repealed Microfinance Act, No.
 6 of 2016 or a non-governmental organization issued
 with a licence under subsection (6) of section 32 of
25 this Act;

 "moneylender" means any person who carries on or
 advertises or announces himself or holds himself
 out in any way as carrying on a moneylending
 business whether or not he carries on any other
30 business;

 "moneylending agreement" means a written
 understanding between a licensee and a borrower
 which defines the terms and conditions applicable

for sum of money lent by such licensee to such borrower and includes any amendment, addendum and supplement thereto;

5 "moneylending business" means lending of money at interest with or without security by a moneylender to a borrower whether or not such moneylender carries on any business and shall include lending a sum of money in consideration of profit or loss arising from being shared between a moneylender and a borrower;

10

"office bearer" means the president, vice president, secretary or treasurer or any other person holding a similar office or position in a society;

15 "Registrar of Voluntary Social Services Organizations" means the Registrar of Voluntary Social Services Organisations appointed under section 2 of the Voluntary Social Services Organisations (Registration and Supervision) Act, No. 31 of 1980;

20 "related company" means a company which is related to another company if –

(i) that company is the subsidiary or holding company of the other company;

(ii) the holding company of that company is also a holding company of the other; or

25 (iii) that company is related to a company which is related to the other company:

30 "Securities and Exchange Commission of Sri Lanka" means the Securities and Exchange Commission of Sri Lanka established under section 4 of the Securities and Exchange Commission of Sri Lanka Act, No. 19 of 2021;

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5 "significant management interest" means the
 controlling power over the control and management
 of a microfinance institution irrespective of
 shareholding by a director or a member of a senior
 or executive management –

- (a) directly;
- (b) by general acceptance; or
- (c) through one or more of the following: -
 - (i) spouse;
 - 10 (ii) child or spouse of a child;
 - (iii) grandchild or spouse of a grandchild;
 - (iv) any parent; or
 - (v) brother or sister and their spouses;

15 "society" means a society registered under the
 Societies Ordinance (Chapter 123) or a society
 incorporated under an Act of Parliament;

"specified" means specified by the Authority by rules
made in that behalf;

20 "subsidiary company" shall have the same meaning
 assigned to the term in the Companies Act, No. 07 of
 2007;

"substantial financial interest" means –

- (a) in relation to a company, the holding of a
25 beneficial interest by another company or an
 individual or his close relations whether singly
 or taken together in the shares thereof the

5 paid up value of which exceeds ten *per centum* of the paid up capital of the company or the existence of a guarantee or indemnity for a sum not less than ten *per centum* of the paid up capital given by an individual or his close relations or by another company on behalf of such company; or

10 (b) in relation to a partnership, the beneficial interest held therein by an individual or his close relations whether singly or taken together which represents more than ten *per centum* of the total capital subscribed by all partners of the partnership or the existence of

15 a guarantee or indemnity for a sum not less than ten *per centum* of that capital given by an individual or the spouse, parent or child of the individual on behalf of such partnership;

86. 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

SCHEDULE

A licensed microfinance institution may engage in the following business activities: -

- (a) provide financial accommodation, with or without collateral security, in cash or in kind, subject to such terms and conditions that the Board may impose, for all types of economic activities including housing;
- (b) providing limited savings facilities to borrowers, open, maintain and manage savings accounts, subject to limitations set out in rules made by the Authority and excluding however, the carrying on of banking business as defined in the Banking Act, No. 30 of 1988;
- (c) accept, pledge, mortgage, hypothecate or assign to it of any kind of movable or immovable property for the purpose of securing loans and advances made by it;
- (d) provide credit to buy, sell and supply industrial and agricultural inputs, livestock, machinery and industrial raw materials and to act as an agent for any organization for the sale of such industrial and agricultural inputs, livestock, machinery and industrial raw materials;
- (e) invest its monies prudently;
- (f) provide storage and safe custody facilities;
- (g) provide professional advice to its customers regarding investments in small business, self-employment projects and cottage industries;
- (h) provide services and facilities to customers to hedge various risks relating to microfinance;
- (i) render managerial, marketing, technical and administrative advice to customers and assisting them in obtaining services in such fields;
- (j) provide technical assistance and training to customers;

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- (k) conduct finance leasing business, pawn brokering and insurance business after obtaining the necessary licence or approval from the relevant authority and on subject to such rules and regulations of such authority;
- (l) engage in hire purchase transactions under the Customer Credit Act, No. 29 of 1982 and on any condition imposed by the Authority;
- (m) any other business activity which the Authority may authorize licensed microfinance institutions to engage in.

