



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

**FINANCE LEASING (AMENDMENT)
ACT, No. 24 OF 2005**

[Certified on 8th August, 2005]

Printed on the Order of Government

Published as a Supplement to Part II of the **Gazette of the Democratic
Socialist Republic of Sri Lanka** of August 12, 2005

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 1

Price : Rs. 9.50

Postage : Rs. 5.00

Finance Leasing (Amendment) Act, No. 24 of 2005

[Certified on 8th August, 2005]

L. D. — O. 31/2004.

AN ACT TO AMEND THE FINANCE LEASING ACT, NO. 56 OF 2000

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

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| <p>1. This Act may be cited as the Finance Leasing (Amendment) Act, No. 24 of 2005</p> | <p>Short title.</p> |
| <p>2. Section 4 of the Finance Leasing Act, No. 56 of 2000 (hereinafter referred to as the “principal enactment”) is hereby amended in paragraph (c) of subsection (1) of that section, by the substitution for the words “case of a public company—”, of the words and figures “case of a public company, other than those referred to in paragraph (a) and (b) of section 3 —”</p> | <p>Amendment of section 4 of Act, No. 56 of 2000.</p> |
| <p>3. Section 21 of the principal enactment is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution, for the words “twenty one days” of the words “seven days”.</p> | <p>Amendment of section 21 of the principal enactment.</p> |
| <p>4. Section 24 of the principal enactment is hereby repealed and the following section substituted therefor :—</p> | <p>Replacement of section 24 of the principal enactment.</p> |
- “Transfer or assignment of lessor’s right.

24. (1) A lessor may, with the written consent of the lessee obtained at the time of entering into the finance lease or thereafter, transfer or assign all or any of the lessor’s rights under the finance lease or in relation to any equipment provided under the lease or of both, to any registered establishment or to any special purpose vehicle :

Provided that in the case of a transfer or assignment to a special purpose vehicle, such transfer or assignment shall be made only for the purpose of securitisation and the structure for securitisation shall be as approved by the Central Bank.

(2) A registered establishment or a special purpose vehicle shall effect securitisation only in accordance with the structure approved granted by the Central Bank and in compliance with such directions and guidelines as may from time to time be issued by the Central Bank.

(3) A transfer or assignment under subsection (1) shall not relieve the transferor or assignor of his duties —

- (a) under the finance lease or alter the nature or legal effect of such lease; or
- (b) insofar as they relate to any equipment provided under the terms of the finance lease.

(4) Upon a transfer or assignment by the lessor as provided for in subsection (1) to a special purpose vehicle of his rights in a motor vehicle within the meaning of the Motor Traffic Act (Chapter 203),—

- (a) the transferee or the assignee shall, notwithstanding anything to the contrary in the Motor Traffic Act (Chapter 203), be deemed to be the absolute owner of the motor vehicle and the transferee or the assignee shall within seven days after the transfer or assignment, as the case may be, apply to the Commissioner to have the name of the transferee or assignee entered as the absolute owner of the vehicle in the appropriate register maintained in such form as may be provided by the Commissioner, for such purpose. The application shall be accompanied by the fee thereto prescribed under the aforesaid Act and a copy of the instrument of transfer or assignment as the case may be. Upon the Commissioner

being satisfied on the contents of the document forwarded to him with the application, that the transfer or assignment has been effected under a securitisation structure approved by the Central Bank, he shall cause the name of the transferee or assignee, as the case may, be to be entered as absolute owner of the vehicle in the appropriate register maintained by him ; and

- (b) the transferee or assignee may from the date of registration, exercise all rights under the aforesaid Act or the finance lease which the transferee or assignor may have exercised, prior to the transfer or assignment of his rights under subsection (1).

For the purposes of this section “Commissioner” means the Commissioner of Motor Traffic appointed under section 204 of the Motor Traffic Act (Chapter 203).”.

5. Section 38 of the principal enactment is hereby repealed and the following section substituted therefor :-

“A registered establishment and special purpose vehicle deemed to be a lending institution.

38. Every registered establishment and every special purpose vehicle shall be deemed to be a lending institution within the meaning, and for the purposes, of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990.”.

Replacement of section 38 of the principal enactment.

6. Section 39 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Offences.

39. Every person who-

- (a) carries on finance leasing business in contravention of the provisions of section 2 ;

Replacement of section 39 of the principal enactment.

- (b) fails to comply with the provisions of subsection (3) of section 5 ;
- (c) fails to pay the annual registration fee as required by section 6 ;
- (d) fails to provide the particulars required under section 7 ;
- (e) alters the particulars contained in the operating manual or the Memorandum or Articles of Association in contravention of the provisions of section 8 ; or
- (f) contravenes any regulation made under this Act or fails to comply with any direction or notice issued under this Act,

shall be guilty of an offence under this Act. ”.

Amendment
of section 43
of the
principal
enactment.

7. Section 43 of the principal enactment is hereby amended by the insertion, immediately after the definition of the expression “Monetary Board”, of the following new definitions :—

“securitization” means the issuance of securities by a special purpose vehicle which are backed by any assets consisting of any or all the rights in a finance lease or any equipment forming the subject matter of a finance lease or of both, transferred or assigned by a lessor in favour of such special purpose vehicle ;

“special purpose vehicle” means a body corporate or unincorporate, including a trust, established solely for the purpose of securitisation and for activities connected therewith or incidental thereto ;”.

Insertion of new
section 44A in
the principal
enactment.

8. The following new section is hereby inserted immediately after section 44 of the principal enactment and shall have effect as section 44A of the that enactment :—

“Registration of persons who failed to register under section 44 of the principal enactment.

44A. (1) Notwithstanding the provisions of subsection (1) of section 44 of the principal enactment, a person who was required to be registered under that subsection within the period of time stipulated therein and who has not obtained a registration on the date of the coming into operation of this Act —

- (a) shall not be deemed to have committed an offence under the provisions of the principal enactment and consequently any agreements entered into by such person shall be deemed to be valid ;
- (b) may continue to carry on the business of finance leasing for a period of two years from the date of the coming into operation of this Act ; and
- (c) shall, subject to the provisions of subsection (2) of this section, be required within the period referred to in paragraph (b) of this subsection, to apply for and obtain a Certificate of Registration under the principal enactment, to continue to carry on such finance leasing business.

(2) A person shall not be eligible to be registered under paragraph (c) of subsection (1) of this section, unless such person is a public company incorporated under the Companies Act, No. 17 of 1982 having a minimum issued and paid up capital of such amount as shall be prescribed, provided that the amount shall not exceed the amount prescribed as minimum issued and paid up capital under paragraph (c) of section 3 of this Act.

(3) Every application made for registration under this section, shall be accompanied by -

- (a) the documents referred to in section 4 of the principal enactment;
- (b) a copy of the audited balance sheet and the profit and loss account for the year preceding the date of submitting the application; and
- (c) the prescribed fee.

(4) The Director may in addition to the documents referred to in subsection (3), request an applicant to submit such further documents or information as he may consider necessary and it shall be the duty of the applicant to comply with any such request.

(5) The provisions of subsection (2) of section 44 shall apply in respect of a person referred to in subsection (1) of this section.

(6) The Director in concurrence with the Minister may by notice issued in that behalf, require a person registered under this section, to increase within the time specified therein, its minimum issued and paid up capital to such amount as specified in such notice. Provided that the minimum issued and paid up capital as increased shall not exceed the amount prescribed under paragraph (c) of section 3.

(7) Where any registered person fails to comply with any requirement under subsection (6), the Director shall have the authority to restrict or limit the finance leasing business or

any other transactions being carried on by such person, until the requirement contained in the aforesaid notice is complied with.”.

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

Sinhala text to prevail in case of inconsistency.

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