

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

Part II of February 25, 2011

SUPPLEMENT

(Issued on 28. 02. 2011)



VALUE ADDED TAX (AMENDMENT)

A

BILL

to amend the Value Added Tax Act, No. 14 of 2002

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Value Added Tax (Amendment)

L.D.— O. 16/2011.

AN ACT TO AMEND THE VALUE ADDED TAX ACT, NO. 14 OF 2002

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

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. of 2011 and shall be deemed to have
5 come into operation on January 1, 2011 unless different dates of operation are specified in the relevant sections.

Short title
and date of
operation.

2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the "principal enactment") is hereby
amended as follows :-

Amendment
of section 2
of the Value
Added Tax
Act, No.14
of 2002.

10 (1) in subsection (1) of that section-

(a) by the repal of sub-paragraph (iv) (b) thereof
and the substitution therefor of the following :-

15 "(b) (i) for the period commencing on August 2,
2005 and ending on September 30, 2005,
at the rate of twenty *per centum* (Luxury
Rate) of which the tax fraction is 1/6;

20 (ii) for any taxable period commencing on
or after October 1, 2005 and ending on
November 23, 2010, in respect of goods
at the rate of twenty *per centum* (Luxury
Rate) of which the tax fraction is 1/6;

25 (iii) for any taxable period commencing on
or after October 1, 2005 and ending on
December 31, 2010, in respect of services
at the rate of twenty *per centum* (Luxury
Rate) which the tax fraction is 1/6;

30 on the value of such goods or services supplied
as referred to in the Fourth Schedule, other
than such goods chargeable with the tax at zero
per centum;

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(b) in sub-paragraph (v) of that subsection-

5 (i) in item (ii) thereof, by the substitution for the words and figures "commencing on or after January 1, 2009" of the words and figures "commencing on or after January 1, 2009 and ending on December 31, 2010"; and

(ii) by the addition, immediately after item (ii) thereof, the following new item :-

10 "(iii) for the period commencing on November 23, 2010 and ending on December 31, 2010, and for any taxable period commencing on or after January 1, 2011, at the rate of twelve
15 *per centum* (of which the tax fraction is 3/28) on the value of such goods or services supplied, or goods imported, other than goods or services chargeable with tax at *Zero per centum*."

20 (2) in subsection (2) of that section-

(a) in sub-paragraph (iv) of paragraph (c) thereof, by the substitution for all the words from "until such time as the activities" to the end of that sub-paragraph of the following :-

25 "until such time as the activities of such garment manufacture or service provider are carried out in the manner stipulated by the Commissioner-General in the guidelines issued for this purpose, on the submission of
30 the reconciliation relating to -

(a) the disposal of such goods, stating that such finished goods have in fact been exported by the recipient of the supplies; or

- (b) the supply of value added service, stating that such services have in fact been used for the manufacture of garments which have been exported:

5 Provided that, with effect from April 1, 2011, deferment of tax under this paragraph shall be administrated by the Commissioner-General.";

- 10 (b) in sub-paragraph (d) thereof, by the substitution for all the words from "until such time as the activities" to the end of that sub-paragraph, of the following :-

15 "until such time as the activities of such manufacture of goods or service provider are carried out in the manner stipulated by the Commissioner-General of Inland Revenue in the guidelines issued for this purpose, on the submission of the reconciliation relating to -

- 20 (a) the disposal of such goods, stating that such finished goods have in fact been exported by the recipient of the supplies; or

- 25 (b) the supply of value added service, stating that such services have in fact been used for the manufacture of goods which have been exported:

30 Provided that, with effect from April 1, 2011, deferment of tax under this paragraph shall be administrated by the Commissioner-General.";

- (c) by the addition immediately after sub paragraph (d) there of the following new paragraph :-

35 "(e) on the supply of goods or services other than goods or services referred to in

- sub-paragraphs (c) or (d), the Commissioner - General may after affording the applicant who is a registered person, an opportunity of being heard, and having regard to the nature of the business carried on or carried out by such applicant, defer the payment of tax, subject to the conditions stipulated by the Commissioner - General in the guidelines issued for this purpose, in respect of supplies made to :-
- (i) a registered person engaged in any specific project referred to in sub paragraph (ii) of paragraph (f) of PART II of the First Schedule;
- (ii) an exporter or to a manufacturer who supplies goods manufactured in Sri Lanka to an exporter;
- (iii) any supplier who provides value added services to an exporter which results in the improvement of the quality, character or value of any goods manufactured for export;
- (iv) any person registered under the provisions of subsection (7) of section 22 of the Act, during the project implementation period so far as such supplies are project related supplies.
- until such time as the activities of such suppliers of goods or providers of service are carried out as stipulated by the Commissioner-General in the guidelines issued by him for this purpose, and on the submission of the reconciliation relating thereto, stating that such goods or services

are in fact made to a registered person referred to in this sub-paragraph and such goods or services are utilized for the purposes of such specified activities."

- 5 **3.** Section 16 of the principal enactment is hereby amended by the addition immediately after subsection (2) thereof, the following new subsection :-

Amendment
of section 16
of the
principal
enactment.

- 10 "(2A) Where the Commissioner-General, cancels any registration under subsection (2), he shall cause a list of names and the registration numbers of such registered persons to be published in three daily newspapers in the Sinhala, Tamil and English languages, having a wide circulation".

- 15 **4.** Section 20 of the principal enactment is hereby emended in paragraph (b) of subsection (6) of that section by the substitution for words and figures "under paragraphs (a) or (c) of subsection (2) of section 2," of the words and figures "under paragraphs (a), (c), (d) or (e) of subsection (2) of section 2,".

Amendment
of section 20
of the
principal
enactment.

5. Section 22 of the principal enactment is hereby amended as follows:-

Amendment
of section 22
of the
principal
enactment.

- (1) in paragraph (e) of the proviso to subsection (5) of that section -
- 25 (a) in sub-paragraph (b) thereof, by the substitution for the words and figures "if the excess is in respect of the taxable period commencing on or after January 1, 2006" of the words and figures "if the excess is in respect of the taxable period commencing on or after January 1, 2006 and ending on March 31, 2011",
- 30
- (b) by the addition immediately after sub-paragraph (b), of the following new sub-paragraph :-
- 35

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5 "(c) if the excess is in respect of any taxable period commencing on or after April 1, 2011, such excess shall be refunded no later than forty-five days after the end of that taxable period or from the date of receipt of the return for the relevant taxable period whichever is latter.";

10 (2) in subsection (6) of that section, by the substitution in the proviso to paragraph (iv) thereof, for the words "to supply of goods or services to such projects." of the words "to supply of goods or services to such projects :

15 Provided further, notwithstanding the provisions of subsection (2), the tax paid by the employer as a registered person, on the payments borne by him on the outsourcing of the supply of meals and transport, in respect of a benefit referred to in the exemption specified in item (iv) of paragraph (b) of Part II of the First Schedule, may be
20 allowed as the input credit of a registered person.";

25 (3) in subsection (10) of that section, by the substitution for the words and figures from "The amount of input tax allowable under the preceding provisions of this section" to "subject however to the same restriction:" of the following:-

 "The amount of any input tax allowable for any taxable period, shall be subject to the following further restrictions :-

30 (a) for any taxable period commencing on or after January 1, 2007 but prior to December 31, 2010, including the excess input tax as at December 31, 2006, in the case of a registered person who imports goods for re-sale without processing referred to in the third proviso to subsection (5)
35 of this section, to the lesser amount of eighty-

5 five *per centum* of the output tax declared for
that taxable period or the input tax allowable
under the provisions of this Act. The residue, if
any, shall be deemed to be a part of the input
tax allowable in the subsequent taxable period
or periods, subject however to the same
restriction up to the taxable period ended as at
December 31, 2010. The unabsorbed residue,
if any, as at December 31, 2010 shall be carried
10 forward and may be claimed by a registered
person for any taxable period not exceeding a
sum equivalent to ten *per centum* of the
unabsorbed amount for each month, provided
that such sum does not exceed five *per centum*
15 of the net tax payable by such person ;

(b) for any taxable period commencing on or after
January 1, 2011, excluding the input tax
referred to in sub-paragraph (a) above claimed
up to December 31, 2010, to the lesser amount
20 of hundred *per centum* of the output tax declared
for that taxable period or the input tax
allowable under the provisions of this Act. The
residue, if any, shall be deemed to be a part of
the input tax allowable in the subsequent
25 taxable period or periods, subject however to
the same restriction:

Provided that in the case of a registered
person who has at December 31, 2010, an
unabsorbed input credit, but from and after
January 1, 2011, such person has no taxable
supplies liable to tax under the provisions of
this Act, then, the unabsorbed input credit
referred to in paragraph (a) may be set off after
ascertaining the amount of the unabsorbed
input credit, in the manner provided for in
30 either paragraph (i), paragraph (ii) of paragraph
(iii) as the case may be :-

(i) Where the registered person is an operator
of a telecommunication services licensed

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5 under section 17 of the Sri Lanka Telecommunication Act, No. 25 of 1991, the set off shall be made as against the sum payable by him as Telecommunication Levy payable under the Telecommunication Levy Act, No. of 2011 ;

10 (ii) in the case of a registered person who is liable to pay income tax, the set off shall be made as against the sum payable by such person as income tax after January 1, 2011

15 (iii) in a case of a person to whom the provisions of either paragraph (i) or (ii) above does not apply, the set off shall be made against the sum payable after January 1, 2011, by such person as tax under any written law for the time being in force, administered by the Commissioner - General.

20 The set off for each month in terms of this proviso, shall not exceed ten *per centum* of the unabsorbed input credit as at December 31, 2011 or five *per centum* of the relevant tax imposed referred to in items (i), (ii) or (iii) above for that particular month, whichever is less."

25 **6.** Section 25B of the principal enactment is hereby repealed and the following section substituted therefor :- Replacement of section 25B of the principal enactment.

 "Taxable 25B. (1) The taxable period of every registered specified institution or other perosn shall be :-

30 (a) one month for any taxable period prior to January 1, 2011; and

 (b) six months for any taxable period commencing on or after January 1, 2011.

35 (2) Every registered specified institution or other person shall furnish a return in the Form specified, in respect of

each taxable period before the end of the following month of the taxable period."

7. Section 25C of the principal enactment is hereby amended as follows :-

Amendment
of section
25C of the
principal
enactment.

5 (1) in subsection (1) of that section, by the substitution for all the words from "for avoidance of doubts it is here by declared" to the words "the tax payable under this Chapter" of the following :-

10 "for the purpose of this Chapter the value addition of such specified institution shall be computed :-

(i) for any taxable period commencing prior to January 1, 2011, based on the net profit or loss prior to the deduction of the tax payable under this Chapter; and

15 (ii) for any taxable period commencing on or after Januray 1, 2011, based on the net profit or loss after the deduction of the tax payable under this Chapter.";

20 (2) by the repeal of subsection (3) of that section and the substitution therfor of the following :-

"(3) The amount of tax payable for any taxable period :-

(a) commencing from January 1, 2003 but prior to January 1, 2004 shall be ten *per centum*;

25 (b) commencing from January 1, 2004, but prior to January 1, 2005, shall be fifteen *per centum*;

(c) commencing from January 1, 2005, but prior to January 1, 2011, shall be twenty *per centum*; and

30 (d) commencing from January 1, 2011 shall be twelve *per centum*;

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of the value addition specified in subsection (i)";

- (3) by the repeal of subsection (8) of that section and substitution therefor of the following :-

5 "(8) for the purpose of calculation of tax under this section, every specified institution or any other person shall follow the guidelines specified by the Commissioner it General having considered the uniform application of the calculation of such tax."

- 10 (4) by the addition immediately after subsection (8) of that section of the following new subsection :-

15 "(9) eight *per centum* of the value addition specified in subsection (1) of section 25C shall be invested in the fund established in the Central Bank of Sri Lanka as specified in the guidelines issued for this purposes with the concurrence of the Commissioner - General for the period of three years commencing from January 1, 2011 and the investment shall be made on a monthly basis on or
20 before the twentieth day of the subsequent month."

8. Section 25H of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words and figures "of this Chapter for every quarter commencing on or after January 1, 2007, at the rate of five
25 *per centum*" of the following :-

Amendment of section 25H of the principal enactment.

"of this Chapter :-

- (a) for every quarter commencing on January 1, 2007 and ending on December 1, 2010, and for every quarter commencing from the quarter in which the registration falls due, at the rate of five *per centum*; and
30

- (b) every quarter commencing on January 1, 2011, in the following manner :-

- (i) at the rate of two *per centum*, for every quarter falling within the three years
35

commencing from the beginning of the quarter in which registration falls due, but after the December 31, 2010;

5 (ii) at the rate of four *per centum*, for every quarter falling within the three years commencing immediately after the end of the three years referred to in item (i);

10 (iii) at the rate eight *per centum*, for every quarter falling within the three years commencing immediately after the end of three years referred to in item (ii); and

15 (iv) at the rate of twelve *per centum*, for every quarter falling within the three years commencing immediately after the end of three years referred to in item (iii);".

20 **9.** Section 25I of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for paragraph (b) thereof, the following :-

Amendment of section 25I of the principal enactment.

25 "(b) such registration shall be valid for a period of twelve years from the date of commencement of the quarter in which the registration is obtained by such person or partnership."

30 **10.** Section 26A of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "Every Government Agency which makes payments in pursuance of a contract" of the words and figures "Every Government Agency which makes payments prior to January 1, 2011, in pursuance of a contract."

Amendment of section 26A of the principal enactment.

35 **11.** Section 33 of the principal enactment is hereby amended in subsection (2) thereof by the substitution for the words "within a period of five years from the end of the taxable period to which the assessments relates." of the words "at any time".

Amendment of section 33 of the principal enactment.

- 12.** Sections 34 to 36 (both inclusive) appearing under the Heading "Chapter VI - appeals" of the principal enactment are hereby amended by the substitution for the words "Board of Review constituted under the Inland Revenue Act, No. 38 of 2000" and "Board of Review" respectively wherever such words appear in that Chapter, of the words "Board of Review or any Tribunal which may be constituted by any written law for the purpose of hearing appeals in terms of this Act."
- Amendment of section 34 to 36 of the principal enactment.
- 13.** Section 43 of the principal enactment is hereby amended in the proviso to subsection (1) thereof, by the substitution for the words "examine or decide the correctness of any statement in the statement of certificate of the Commissioner-General." of the words "examine or decide the correctness of any statement in the certificate of the Commissioner-General or to postpone or defer such proceeding for a period not exceeding thirty days, by reason only of the fact that an appeal is pending against the assessment in respect of which the tax in default is charged."
- Amendment of section 43 of the principal enactment.
- 14.** Section 55 of the principal enactment is hereby amended as follows :-
- Amendment of section 55 of the principal enactment.
- (1) by the re-numbering of that section as subsection (1) thereof ;
 - (2) by the addition immediately after the re-numbered subsection (1) of the following new subsection :-
- "(2) All the taxable supplies of a non-resident person shall be assessable either directly or in the name of his agent, in or derived from Sri Lanka, whether such agent has the receipt of such supplies or not, and the tax in terms of this Act so assessed whether directly or in the name of the agent shall be recoverable in the manner provided for in this Act, out of the assets of the non-resident person or from the agent. Where there are more agents than one, they may be assessed jointly or severally in respect

of the taxable supplies of the non-resident person and shall be jointly and severally liable for tax thereon, in terms of this Act."

5 **15.** Section 58 of the principal enactment is hereby amended as follows :-

Amendment
of section 58
of the
principal
enactment.

10 (1) in the second proviso to subsection (1) of that section, by the substitution for the words "Provided further, that any such amount" of the words and figures "Provided further, that any such amount prior to any taxable period commencing on April 1, 2011,"

(2) in subsection (3) of that section, by the addition immediately after paragraph (b) of that subsection of the following :-

15 "(c) (i) fails to furnish the fuller and further information relating to any claim of refunds within the period specified in the letter issued to such person;

20 (ii) fails to attend in person or make representation by an authorized representative at such place and on such date and at such time as may be specified in the letter issued to such person;

25 by any Assessor, the Commissioner-General may disregard the claim of refund made by such person:

30 Provided however, if the registered person within a reasonable period after the claim of refund being disregarded by the Commissioner-General prove to the satisfaction of the Commissioner-General that he or his authorized representative was prevented from submitting the required information as specified in the letter or due attendance at the interview, as the case may be, by reason of absence from Sri Lanka, or sickness or other unavoidable cause, the commissioner General may re-open the inquiry of the refund claim subject to any conditions specified by him.";

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(3) by the addition immediately after subsection (3) of that section, of the following :-

5 "(4) The Commissioner-General shall credit, the amount refundable under this section only to the bank account assigned to a registered person for such purpose."

16. Section 58A of the principal enactment is hereby repealed. Repeal of section 58A of the principal enactment.

10 **17.** Section 67 of the principal enactment is hereby amended in paragraph (f) of that section, by the substitution for the words and figures "return under section 21 or comply", of the words and figures "return under section 21, section 25B or subsection (4) of section 25H or comply." Amendment of section 67 of the principal enactment.

15 **18.** Section 83 of the principal enactment is hereby amended as follows:- Amendment of section 83 of the principal enactment.

(1) by the insertion immediately before the definition of the expression "Assessor" of the following definition:-

20 ' "agent" in relation to a non-resident person or to a partnership in which any partner is a non - resident person, includes-

(a) the agent, attorney, factor, receiver or manager in Sri Lanka of such person or partnership ; and

25 (b) any person in Sri Lanka through whom such person or partnership is in receipt of any profits or income, arising in or derived from Sri Lanka;"

30 (2) in the definition of the expression "educational services" by the substitution for the words "by any educational establishment" of the words "by any person or partnership."

- (3) in the definition of the expression "taxable period" by the repeal of item (i) of paragraph (a) and the re-numbering of items (ii), (iii), (iv), (v), and (vi) as items (i), (ii), (iii), (iv) and (v) respectively;

- 5 (4) by the addition immediately after the definition of "taxable supply" the following new definition:-

10 ' "telecommunication service" means the service provided by telecommunication operators licensed under section 17 of the Sri Lanka Telecommunication Act No. 25 of 1991 to other similar operators and to end subscribers.".

19. The First Schedule to the principal enactment is hereby amended in Part II thereof as follows:-

Amendment
of the First
Schedule to
the principal
enactment.

- 15 (1) in paragraph (a) of that Part by the addition immediately after item (xvii) the following:-

20 "(xviii) Petrol, Coal or Bitumen specified under Harmonized commodity Description and Coding System Numbers for Custom purposes with effect from November 26, 2010;

(xix) (a) machinery and equipment for manufacture of grain mixed bakery products with effect from November 29, 2010;

25 (b) machinery and equipment for the use of leather or footwear industry of bags, motor homes, taxi meters, agricultural machinery and parts, electronic equipments or articles use manufacture of fashion jewellery with effect from
30 January 1, 2011;

(c) light weight electrical and electronic items with effect from June 1, 2010;

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(d) fruit seeds with effect from August 16, 2010;

(e) telecommunication equipment with effect from January 1, 2011;

5 as specified under Harmonized Commodity Description and Coding System Numbers for Custom purposes;

(xx) any machinery or high-tech equipment for the telecom industry, having identified that such machinery or equipment is imported or purchased exclusively for use in the telecom industry and imported or purchased by any operator of telecommunication services, with

10

15 effect from January 1, 2011 ;

(xxi) spare parts and Accessories for exclusive use by Sri Lanka Transport Board and Department of Sri Lanka Railways (including imports made on or after 18.08.2010);";

20

(2) in paragraph (b) of that part :

(a) in sub-paragraph (a) of item (i), by the substitution for the words and figures "educational services by an educational establishment (effective from January 1, 2006); or" of the words and figures -

25

"(a) (1) educational services provided by an educational establishment (effective from 1.1.2006 and ending on 31.12.2010); and

30

(2) educational services provided by any person or partnership with effect from January 1, 2011) ; or" ;

- (b) in paragraph (b) of item (ii), by the repeal of subparagraph A of that item and the substitution therefor of the following -

5 "(A) (i) such motor coaches with a seating
capacity not less than twenty eight
passenger seats and used for such public
passenger transport services if such
lease agreement is entered into prior to
10 January 1, 2004 and ending on
December 31, 2010;

 (ii) lorries, tractors or motor coaches with
seating capacity not less than twenty
eight passenger seats and used for public
passenger transport services by the
15 holder of any passenger service permit
issued by the National Transport
Commission established by the
National Transport Commission Act,
No. 37 of 1991 or any Provincial Road
20 Passenger Transport Authority, in
respect of any rental falling due for
payments on or after January 1, 2011;"

- (3) by the addition immediately after item (xxx) the following :-

25 "(xxxi) Telecommunication services (with
effect from January 1, 2011);

 (xxxii) locally manufactured briquettes and
pallets using bio mass wastes (with
effect from January 1, 2011);

30 (xxxiii) locally developed software with effect
from January 1, 2011;

 (xxxiii) services being receipts from re-
insurance by any local insurance
company by way of commission or
35 compensation in an insurance business
(with effect from January 1, 2011);

- (xxxiv) services being the issue of licenses to local telecom operators by Telecommunication Regulatory Commission, established by the Sri Lanka Telecommunications Regulatory Authority Act, No. 25 of 1991 (with effect from January 1, 2011)";
- (4) in paragraph (c) of that Part is hereby amended by the addition immediately after item (xxviii) the following new items :-
- "(xxix) aircraft stimulators and parts specified under Harmonized Commodity Description and Coding System Numbers for Custom purposes with effect from January 1, 2011;
- (xxx) samples in relation to a business worth not more than rupees twenty five thousand subject to such terms and conditions as prescribed by the Director General of Customs";
- (5) in paragraph (f) of that Part, by the repeal of items (ii) and (iii) and the substitution therefor of the following items :-
- "(ii) (a) goods or services to any specified project identified by the Minister in charge of the subject of Finance, taking into consideration the economic benefit to the country, on which the tax is borne by the Government with effect from January 1, 2008); or
- (b) goods or services to any infrastructure development project funded through foreign loans or donations directly to the Government Ministries (with effect from January 1, 2011); and every such project shall be approved by the Minister of Finance, and Notification of such approval shall be published in the *Gazette* ;

- 5 (iii) any goods or services by any society registered under co-operative Societies Act No. 5 of 1972 or under the respective Statutes enacted by the Provincial Councils providing for such registration (with effect from January 1, 2008):
- (6) by the addition immediately after paragraph (g) of that Part the following new paragraph :-
- 10 "(h) goods or services by an institution set up by the Ministry of Defense for the rehabilitation of disable soldiers, so far as the activities are carried out by the participation of such soldiers. (with effect from January 1, 2011)".
- 15 **20.** Where any enterprise any person or partnership with an annual turnover of not more than rupees million has not paid for any year of assessment ending on or before December 31, 2010, tax under this Act, due to conflict environment and financial constraints of such person or partnership with a
 20 current annual turnover below rupees one hundred million, with an assurance of the compliance with the applicable tax laws thereafter. For these purposes, tax payers shall be required to obtain a Certificate from the Department of Inland Revenue for future compliance. Exemption from tax payable by certain small and medium enterprises.
- 25 **21.** Any person who collects the Value added Tax as provided for in this Act during the period commencing from December 31, 2010, and ending on the date of the coming into operation of this Act, shall be deemed to have acted with due Authority and such collection shall be deemed to
 30 be have been, and to be, validly made and such person is hereby indemnified against all actions civil or criminal, in respect of any such collections. Indemnity.
- 22.** In the event of any inconsistency between the Sinhala and Tami texts of this Act, the Sinhala text shall
 35 prevail. Sinhala text to prevail in case of inconsistency.

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180 (Foreign), Payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, DEPARTMENT OF GOVERNMENT INFORMATION, No. 163, KIRULAPONA MAWATHA, POLHENGODA, COLOMBO 05 before 15th December each year in respect of the year following.