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PART I : SECTION (I) — GENERAL Government Notifications

L.D.B. 1/2018

THE FINANCE BUSINESS ACT, No. 42 OF 2011

REGULATIONS made by the Minister of Finance under Section 33 of the Finance Business Act, No. 42 of 2011.

MANGALA SAMARAWEEA,
Minister of Finance.

Colombo,
31st May, 2019.

Regulations

1. These regulations may be cited as the Finance Business (Priority of Claims in a winding up of finance company) Regulations No. 01 of 2019.
2. These regulations shall be applicable to preferential claims in a winding up of a finance company.
3. (1) The liquidator shall pay out of the assets of the company the expenses, fees and claims according to its tenor, to the extent and in the order of priority set out in the Schedule hereto.
(2) The word “assets” in paragraph (1) shall not include assets subject to a charge, unless -



- (a) the charge is surrendered or taken to be surrendered or redeemed under Section 358 of the Companies Act, No. 7 of 2007 ; or
- (b) the charge was, a floating charge in respect of those assets when created.

4. After paying the preferential claims in accordance with regulation 3(1), the liquidator shall apply the assets of the company in satisfaction of all other claims in accordance with the provisions of the Companies Act, No. 7 of 2007.

5. The preferential claims set out in the Ninth Schedule of the Companies Act, No. 7 of 2007, shall not apply in winding up of a finance company after the coming into operation of these regulations.

[Regulation 3]

SCHEDULE

Preferential Claims

The claims set out in this Schedule shall have the priority as against the assets of the finance company in the order set out below. The claims as specified in Paragraph 3 of this Schedule shall rank equally among themselves and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions :-

1. The fees and expenses incurred by the liquidator in carrying out the duties and exercising powers as a liquidator and the remuneration of the liquidator.

2. Unpaid premium due to Sri Lanka Deposit Insurance and Liquidity Support Scheme (SLDILSS).

3. The following claims are to be settled thereafter :-

- (a) all provident fund dues, employees trust fund dues and gratuity payments due to any employee.
- (b) all rates and taxes due from the company at the date of commencement of the liquidation which became due and payable within the period of twelve months prior to that date.
- (c) all dues to the government as recurring payments, for any services given or rendered periodically.
- (d) industrial court awards and any other statutory dues payable to any employee ; and
- (e) wages or salaries of any employee whether or not earned wholly or in part by way of commission and payable in respect of the services rendered to the finance company during the three-month period immediately preceding the commencement of winding up proceedings.

Provided however, the sum payable to any employee shall not exceed the maximum amount determined by the liquidator at the commencement of the liquidation.

Provided however,

- (i) an employee ;
- (ii) the director or officer performing executive functions who are ;

- (a) being subject to an investigation or inquiry for an act involving fraud, deceit, dishonesty or other similar criminal activity, conducted by the police, any regulatory or supervisory authority, professional association, commission of inquiry, tribunal or other body established by law, in Sri Lanka or abroad ; or
- (b) found guilty for any act which involves fraud, deceit, dishonesty, improper conduct or non-compliances with provisions of any law or rules, regulations, directions, determinations made thereunder, by any court of law, regulatory or supervisory authority, professional association, commission of inquiry, tribunal or other body established by law, in Sri Lanka or abroad.

shall not be entitled to the claims of wages or salaries or other respective claims.

4. Depositors who are not covered under the Sri Lanka Deposit Insurance and Liquidity Support Scheme (SLDILSS) and depositors whose deposits are partly paid under the Sri Lanka Deposit Insurance and Liquidity Support Scheme (SLDILSS).

Provided however deposit liabilities of,

- (i) Directors of the finance company ;
- (ii) Officer performing executive functions of the finance company ;
- (iii) Subsidiaries of the finance company ;
- (iv) Associates of the finance company ;
- (v) A relative of a director or officer performing executive functions of the finance company and
- (vi) A shareholder who owns substantial interest of the finance company

shall not be included, if such party is ;

- (a) being subject to an investigation or inquiry for an act involving fraud, deceit, dishonesty or similar criminal activity, conducted by the police, any regulatory or supervisory authority, professional association, commission of inquiry, tribunal or other body established by law, in Sri Lanka or abroad ; or
- (b) found guilty for any act which involves fraud, deceit, dishonesty, improper conduct or non-compliances with provisions of any law or rules, regulations, directions, determinations made thereunder, by any court of law, regulatory or supervisory authority, professional association, commission of inquiry, tribunal or other body established by law, in Sri Lanka or abroad.

5. Compensation paid to the depositors of the company under liquidation by the Sri Lanka Deposit Insurance and Liquidity Support Scheme (SLDILSS).

6. Dues to the Central Bank of Sri Lanka other than those specified in paragraph 2 and 5 of the Schedule hereto.