

## PART IV

### MAJOR LEGISLATIVE ENACTMENTS OF 1990 RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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- \* Following statutes were also enacted as part of Debt Recovery Legislation package, as necessary and consequential amendments, to improve the debt recovery environment.
1. Registration of Documents (Amendment) Act, No. 5 of 1990.
  2. Civil Procedure Code (Amendment) Act, No. 6 of 1990.
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  4. Public Servants (Liabilities)(Amendment) Act, No. 11 of 1990.
  5. Code of Criminal Procedure (Amendment) Act. No. 12 of 1990.

## **DEBT RECOVERY (SPECIAL PROVISIONS) ACT, NO.2 OF 1990\***

(Certified on 6th March, 1990)

**AN ACT TO PROVIDE FOR THE REGULATION OF THE PROCEDURE RELATING TO DEBT RECOVERY BY LENDING INSTITUTIONS AND FOR MATTERS CONNECTED THEREWITHE OR INCIDENTAL THERETO.**

1. This Act may be cited as the Debt Recovery (Special Provisions) Act, No.2 of 1990.

### **PART I**

#### **INSTITUTION OF ACTION**

2. (1) A lending institution (hereinafter referred to as the "institution") may, subject to the provisions of sub-section (2) recover debt due to it by an action instituted in terms of the procedure laid down by this Act, in the District Court within the local limits of whose jurisdiction —
  - (a) a party defendant resides; or
  - (b) the cause of action arises; or
  - (c) the contract sought to be enforced was made.  
(2) No action shall be instituted by an institution in terms of the procedure laid down by this Act, for the recovery of any loan, where the principal amount lent or advanced was less than one hundred and fifty thousand rupces.
3. An action under this Act shall be instituted by presenting a plaint in the form specified in the Civil Procedure Code (Chapter 101).
4. (1) The institution suing shall on presenting the plaint file an affidavit to the effect that the sum claimed is justly due to the institution from the defendant and shall in addition produce to the court the instrument, agreement or document sued upon or relied on by the institution.  
  
(2) If any instrument, agreement or document is produced to court and the same appears to the court to be properly stamped (where such instrument, agreement or document is required by law to be stamped) and not to be open to suspicion by reason of any alteration or erasure or other matter on the face of it, and not to be barred by prescription, the court being satisfied of the contents contained in the affidavit referred to in subsection (4), shall enter a decree *nisi* in the form set out in the First Schedule to this Act in a sum not exceeding the sum mentioned in the plaint together with interest upto the date of payment and such costs as the court may allow at the time of making the decree *nisi* together with such other relief prayed for by the institution as to the court may seem meet and the decree *nisi* shall be served on the defendant in the manner hereinafter specified.  
  
(3) The day to be inserted in the decree *nisi* as the day for the defendant's appearance and showing cause, if any, against it shall be as early a day as can conveniently be named, regard being had to the distance from the defendant's residence to the court.

- (4) The affidavit to be filed by the institution under sub-section (1) shall be made by any director or a principal officer of such institution or by an attorney-at-law duly authorised to bring and conduct the action on behalf of the institution and which affidavit shall be made by such person having personal knowledge of the facts of the cause of action and such person shall in his affidavit swear or affirm that he disposes from his own personal knowledge to the matters therein contained and shall be liable to be examined as to the subject matter thereof at the discretion of the judge.
- (5) The institution shall tender with the plaint -
- the affidavit and instrument, agreement or document referred to in subsection (1) of this section;
  - draft decree *nisi*; and
  - the requisite stamps for the decree *nisi* and service thereof
5. Where a decree *nisi* is entered under section 4 the provisions of section 705A and 705B of the Civil Procedure Code (Chapter 101) shall, *mutatis mutandis*, apply to the service of such decree *nisi* on the defendant.
6. (1) In an action instituted under this Act the defendant shall not appear or show cause against the decree *nisi* unless he obtains leave from the court to appear and show cause.
- (2) The court shall upon the application of the defendant give leave to appear and show cause against the decree *nisi* either, -
- upon the defendant paying into court the sum mentioned in the decree *nisi*; or
  - upon the defendant furnishing such security as to the court may appear reasonable and sufficient for satisfying the sum mentioned in the decree *nisi* in the event of it being made absolute; or
  - upon affidavits satisfactory to the court that there is an issue or a question in dispute which ought to be tried. The affidavit of the defendant shall deal specifically with the plaintiffs claim and state clearly and concisely what the defence is and what facts are relied on as supporting it.
- (3) In default of the defendant obtaining such leave for appearance and showing cause the court shall make the decree *nisi* absolute, and the provisions of section 389 of the Civil Procedure Code (Chapter 101) shall, *mutatis mutandis*, apply to such order. For this purpose, the Judge shall endorse the words "Decree *nisi* made absolute" (or words to the like effect) upon the decree *nisi* and shall date and sign such endorsement.
7. If the defendant appears and leave to appear and show cause is given the provisions of sections 384, 385, 386, 387, 388, 390 and 391 of the Civil Procedure Code (Chapter 101) shall, *mutatis mutandis*, apply to the trial of the action.

8. In any proceeding under this Act the court may order the instrument, agreement or other documents which are produced to the court with the plaint or on which the action is founded to be forthwith deposited with an officer of the court, and may further order that all proceedings shall be stayed until the institution gives security for the costs thereof.
9. Where the institution is the holder of a dishonoured bill of exchange or promissory note it shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise by reason of such dishonour as such institution has under this Act for the recovery of the amount of such bill or note.
10. In the court where cases may be instituted under this Act a Special Inquiry Roll shall be kept of such cases in which leave to appear and show cause against the decree *nisi* has been granted, and it shall be competent for the Judge of such court to order such cases to be set down for hearing on such days as may facilitate their early disposal, any rule or practise of such court to the contrary notwithstanding, and after giving the parties, reasonable notice of the date of inquiry.
11. If it appears to the court that the decree *nisi* was obtained on insufficient grounds, or if after the entering of a decree *nisi* the action is dismissed and the decree *nisi* is discharged by default or otherwise, and it appears to the court that there was no reasonable ground for entering the decree *nisi*, the court may, in the same action on the application of the party against whom the decree *nisi* was entered, award against the institution obtaining the same, such sum as it deems reasonable compensation for the expense or injury caused to such party by the entering of the decree *nisi* and an award under this section shall bar any action for compensation in respect of the entering of the decree *nisi*.
12. Where the defendant appears in court in response to the decree *nisi* and does not contest the decree *nisi* but admits liability and prays to liquidate the debt in instalments, the court shall minute this fact on the record and obtain the defendant's signature thereto. The court shall thereafter make the decree absolute and shall enter terms of settlement as to instalments for the liquidation of the debt sued for in term of section 408 of the Civil Procedure Code (Chapter 101). Such settlement shall operate as a stay of execution proceeding unless the defendant acts in breach of any of the terms of settlement in which event the institution shall be entitled to execute the decree.

## PART II

### OF SPECIAL PROVISIONS RELATING TO EXECUTION

13. Subject to orders of court, where a decree *nisi* entered in an action instituted under this Act is made absolute it shall be deemed to be a Writ or Execution duly issued to the Fiscal in terms of section 225 (3) of the Civil procedure Code (Chapter 101) and it shall be the duty of the Fiscal to execute the same in the manner prescribed in the Civil Procedure Code for the execution of Writs.

14. (1) If the Fiscal be resisted by any person while executing a writ referred to in section 13 the Fiscal shall report such resistance to the court and the court shall thereupon issue a notice against the person resisting requiring him to show cause as to why he should not be dealt with for contempt of court occasioned by such resistance.
- (2) Any person resisting the Fiscal while executing a writ under this Act shall be deemed to be guilty of contempt of Court and shall be liable to the penalties prescribed for contempt of court by the Judicature Act, No.2 of 1978 and the Civil Procedure Code (Chapter 101) unless he proves that the property sought to be seized belonged to a person other than the judgment debtor.
- (3) If the person resisting the Fiscal appears in court and claims that the property sought to be seized by the Fiscal is being held by him on account of any person other than the judgment debtor or person holding under such judgment debtor such person shall be called upon to furnish security for the satisfaction of the decreed sum or such part thereof as the court deem fit in all the circumstances of the case, in the event of his claim failing or in the discretion of court such person may be allowed to give an undertaking that the property sought to be seized would remain in constructive Fiscal custody until the claim inquiry is concluded.
15. (1) Whenever an action is instituted under this Act the same shall be entered in a special register maintained by court substantially in the form set out in the Second Schedule to this Act.
- (2) Where the defendant or his representative in interest alienates any movable or immovable property or otherwise disposes of same in any manner whatsoever after the decree *nisi* such alienation shall be null and void and of no force or effect in law and shall be open to seizure in whosoever's hands such property, may be:
- Provided that such alienation shall be valid if the action is dismissed or the decree *nisi* is discharged : and
- Provided further that such alienation shall also be valid, if the decree absolute is satisfied, but only in respect of such of the property alienated as has not been seized and applied in satisfaction of the decree absolute : and
- Provided further that such alienation shall also be valid property in the hands of an alienee who has come by such property in good faith for consideration without having notice of the decree *nisi* either at the time the purchase money was paid, or when the conveyance was executed not to an alienee from such an alienee, the burden of proof of which facts shall be on such alienee.
- (3) The Registrar of the court shall in addition to the register to be maintained under this section maintain also an index of the names of the defendants against whom actions have been filed under this Act and such index shall be in alphabetical order.

- (4) Such register and index shall be open to public inspection and entries therein shall constitute prima facie notice to the public.
- (5) All claims to property seized by whomsoever made shall be disposed of in the same action and a decision on such claim shall be a bar to the institution of any other action for the recovery of any property seized or to establish any right to such property or to have the same declared liable to be sold in execution of the decree in favour of the institution.
- (6) Nothing in subsection (2) applies to money or currency notes in the hands of a *bona fide* holder to whom they have passed in circulation, or to negotiable instruments in the hands of *bona fide* holder for value of shall be deemed to effect section 22 and 23 of the Sale of Goods Ordinance, or the rights of any holder in good faith for consideration of any document of title which by law passes the ownership of goods to which it relates by endorsement or delivery, or the liability of a person to whom a debt or charge is transferred, or the right of a person who holds property under a title declared indefeasible by statute or of his successor in title.

### PART III

#### OF APPEALS

**16.** Subsection (7) of section 756 of the Civil Procedure Code is hereby amended by the addition of the following proviso at the end thereof :-

"Provided however that in an application for leave to Appeal in respect of any order made in the course of any action instituted under the Debt Recovery (Special Provisions) Act No. 2 of 1990 proceedings in the original court shall not be stayed when Leave to Appeal is granted unless the Court of Appeal otherwise directs and the Court of Appeal shall where it decides to grant Leave to Appeal call upon the appellant to give security in cash or by a guarantee from a banker for the satisfaction of the entire claim of that plaintiff or such part thereof as the court deem fit in all the circumstances of the case, in the event of the appeal being dismissed."

**17.** Section 763 of the Civil Procedure Code is hereby amended by the addition immediately after paragraph (b) of subsection (2) of that section, of the following :-

"Provided that in the case of decrees entered under the provisions of the Debt Recovery (Special Provisions) Act No. 2 of 1990 the security to be given by the judgment debtor shall be the full amount of the decreed sum or such part thereof as the court deems fit in all the circumstances of the case."

**18.** Section 23 of the Judicature Act No. 2 of 1978, as amended by section 2 of Act No. 37 of 1979 is further amended by the addition at the end of that section of the following proviso :-

"Provided that in the case of decrees entered under the Debt Recovery (Special Provi-

sions) Act No. 2 of 1990 the amount of the Bond to be entered into shall be the decreed sum or such part thereof as the court deems fit in all the circumstances of the case".

#### PART IV

##### OF SPECIAL PROVISIONS

19. In any matter or question of procedure not provided for in this Act the procedure laid down in the Civil Procedure Code (Chapter 101) in a like matter or question shall be followed by the court if such procedure is not inconsistent with the provisions of this Act.
20. Where no form to be used for the purpose of this Act has been prescribed in any particular case or for any particular purpose such form as the court may approve may be used in that case or for that purpose.
21. No action by a lending institution for the recovery of a loan -
  - (a) not exceeding two hundred fifty thousand rupees or such other sum as the Minister may, by Order published in the Gazette, fix; or
  - (b) recoverable over a period of not less than five years,due to such lending institution, in terms of the procedure laid down by this Act, shall be entertained by any court if the amount claimed as interest on such loan exceeds the sum due as principal.
22. No sum of money which constitutes a penalty for default in payment, or delay in payment, of a debt shall be recoverable in an action instituted for the recovery of such debt, in terms of the procedure laid down by this Act.
23. In an action instituted under this Act the court shall, in the decree *nisi*, order interest agreed upon between the parties up to the date of decree *nisi*, and interest at the same rate on the aggregate sum of the decree *nisi* from the date of decree *nisi* until the date of payment in full. In the event of the parties not having agreed upon the rate of interest, the court shall in the decree *nisi* order interest at the market rate from the date of institution of action up to the date of decree *nisi* and thereafter on the aggregate sum of the decree *nisi* from the date of decree *nisi* until the date of payment in full.

#### PART V

##### MISCELLANEOUS

24. Nothing in the Debt Conciliation Ordinance (Chapter 81) and the Money Lending Ordinance (Chapter 80) shall apply to, or in relation to, an institution.
25. (1) Any person who -
  - (a) draws a cheque knowing that there are no funds or not sufficient funds in the bank to honour such a cheque; or
  - (b) makes an order to a banker to pay a sum of money which payment is

not made by reason of there being no obligation on such banker to make payment or by reason of the payment having been countermanded; or

- (c) gives an authority to an institution to pay a sum of money to itself, in payment of a debt or loan or any part thereof owed to such institution from and out of an account maintained or funds deposited, by such person with such institution and such institution is unable to make such payment to itself by reason of such person not placing adequate funds in such account or by reason of the funds deposited having been withdrawn by reason of such person countermanding the authority given or by reason of any one or more of such reasons; or
  - (d) having accepted an inland bill dishonours it by non-payment, shall be guilty of an offence under this Act and shall, on conviction by a Magistrate after summary trial be liable to punishment with imprisonment of either description for a term which may extend to one year or with fine of ten thousand rupees or ten per centum of the full value of the cheque, order, authority or inland bill in respect of which the offence is committed, whichever is higher, or with both such fine and imprisonment.
- (2) The expressions "cheque", "dishonoured", "banker", "Inland Bill" and "Bill" shall have the respective meanings assigned to them in the Bills of Exchange Ordinance (Chapter 82), and the term "dishonest" shall have the same meaning as in section 22 of the Penal Code (Chapter 19).

26. Notwithstanding anything to the contrary in the Prescription Ordinance where an institution has instituted action for the recovery of any debt due to it and such action is pending on the date of commencement of this Act, such institution shall be entitled to institute action under this Act for the recovery of that debt :

Provided that this section shall not apply to any pending action where the cause of action on the debt was prescribed as at the date of the institution of such first mentioned action.

27. (1) Where any debtor of an institution dies before the institution of an action under this Act in respect of any debt owed to the institution or any debtor of an institution or any person who is or becomes a party to an action instituted under this Act dies after the institution of the action, and grant of probate of the will or issue of letters of administration to the estate of the deceased has not been made, the court in which the action is to be or has been instituted may in its discretion, after the service of notice on such persons, if any, and after such inquiry as the court may consider necessary, make order appointing a person to represent the estate of the deceased for the purposes of the action and such person may be made or added as a party to the action.
27. In making any appointment under subsection (1) the court shall appoint as representative a person who, after summary inquiry, appears to the court to be the person to whom probate of the will or letters of administration to the estate of the deceased would ordinarily be issued :

Provided, however, that in the event of a dispute between persons claiming to be entitled to be so appointed, the court shall make such an appointment (whether of one of those persons or of any other person) as appropriate in the opinion of the court, in the interests of the estate of the deceased.

28. Where any appointment is made under section 27 and the person so appointed is a party to the action, every order, decree *nisi*, decree absolute and sale or thing done in the action instituted under this Act (including the seizure and sale in execution of the property of the deceased debtor or of the deceased party) shall have the like effect as though the executor or administrator of the deceased were a party to the action.
  29. Where any debtor of an institution dies or is adjudged an insolvent or a person of unsound mind at any time after the entry of decree absolute in an action instituted under this Act and before the execution of the decree, no proceedings for the execution or endorsement of the decree absolute shall be taken or if taken shall be of any effect, unless the duly appointed executor of the will or administrator of the estate of the deceased or a representative appointed under section 27 or as the case may be, the assignee or manager of the estate of the insolvent or person of unsound mind, is made a party to the action.
  30. In this Act, unless the context otherwise requires -  
“debt” means a sum of money which is ascertained or capable of being ascertained at the time of the institution of the action, and which is in default, whether the same be secured or not, or owed jointly or severally, and alleged by a lending institution to have arisen from a transaction in the course of banking, lending, financial or other allied business activity of that institution, but does not include a promise or agreement which is not in writing;
- “lending institution” means -
- (a) a licensed Commercial Bank within the meaning of the Banking Act, No. 30 of 1988;
  - (b) the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Act, No. 13 of 1975;
  - (c) the National Development Bank established by the National Development Bank of Sri Lanka Act, No. 2 of 1979;
  - (d) the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971;
  - (e) the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act (Chapter 165); and
  - (f) a company registered under the Finance Companies Act, No. 78 of 1988, to carry on finance business;
- “market rate” means the rate per centum per annum determined by the Monetary Board of the Central Bank by Notification published in the Gazette, having regard to current rates of bank interest;
- “principal officer” in relation to an institution, means, a director, secretary or other officer not below the rank of a manager of such institution and shall include any other officer of such institution specially authorized by such director, secretary or other officer not below the rank of a manager.
31. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

**FIRST SCHEDULE**

[Section 4(2)]

**Form of Decree *Nisi* .....**

(Title)

This action coming on for disposal before (name and office of Judge) on the ..... day of ..... 19..... and after reading the plaint and documents and being satisfied of the averments contained in the affidavit filed ..... it is ordered and decreed that the defendant do pay to the plaintiff a sum of Rs ..... together with interest at ..... per centum from ..... (date ..... to ..... and thereafter interest at the same rate from date here of till payment in full together with costs of action and (where the Decree is for delivery of immovable property, describe the property) (if relief of something other than money or immovable property, set out the relief.)

These are therefore to command the Fiscal ..... Province to levy and make of the houses, lands, goods, debts and credits of the abovenamed ..... by seizure and if necessary by sale thereof, the sum of Rs. ..... which the plaintiff has recovered against the said ..... by this Decree of Court and have that money before this Court within thirty days of this Decree *nisi* being made absolute or within such extended time as this court shall allow and inform this court what sum or sums and to what person or persons the Fiscal of the ..... Province have sold the property respectively and this Decree *Nisi* when made absolute shall serve as a Mandate for such purpose.

It is further ordered and these are to command you, the aforesaid ..... defendant to appear before this court on the ..... day of ..... 19... at (time) ..... and show cause, if any, why this Decree *Nisi* should not be made absolute.

(Signed) ..... (name and office of Judge) the ..... day of ..... 19.....

**SECOND SCHEDULE**

[Section 17(1)]

(Form of Register)

No. of action	Name of Plain- tiff	Name of Defen- dant	Claim	Decree <i>nisi</i> (whether made absolute or discharged)	Result	Date of satis- faction	Any other matters
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## **MORTGAGE (AMENDMENT) ACT, NO. 3 OF 1990**

[Certified on 6th March, 1990]

### **AN ACT TO AMEND THE MORTGAGE ACT**

1. This Act may be cited as the Mortgage (Amendment) Act, No. 3 of 1990.
2. Section 46 of the Mortgage Act (hereinafter referred to as the "principal enactment") is hereby repealed and the following section substituted therefor :-
46. No decree in any hypothecary action upon any mortgage of land which is created after the coming into force of this section, and no decreee in any action for the recovery of any moneys due upon any such mortgage, shall order any property, whatsoever, other than the mortgaged property to be sold for the recovery of any money found to be due under the mortgage, and no property whatsoever, other than the mortgaged property, shall be sold or be liable to be sold in execution of any such decree.

In this section "action for the recovery of moneys due upon a mortgage" includes any action for the recovery of any debt secured by a mortgage whether the cause of action sued upon arises by reason of the mortgage or otherwise.'

3. The following new section is inserted immediately after section 47 and shall have effect as section 47A of the principal enactment :-

47A. (1) Where at the time of the execution of a mortgage bond in favour of a lending institution for the payment of a loan, the principal of which exceeds one hundred and fifty thousand rupees the mortgagor executes a separate instrument, attested by the notary attesting the bond and by the witnesses to the bond containing -

- (a) a special declaration on the part of the mortgagor that he renounces the benefit of section 46 and that the effect of such renunciation has been explained to him by the notary; and
- (b) an endorsement signed by the notary to the effect that he has explained to the mortgagor the effect of such renunciation,

then, in addition to the mortgaged property, any other property belonging to the mortgagor shall, subject to the provisions of subsection (2), be liable to be ordered to be sold and to be sold under the decree in an action upon the mortgage, and the provisions of section 218 of the Civil procedure Code (Chapter 101) shall, *mutatis mutandis*, apply to the seizure and sale of such other property.

- (2) In any case referred to in subsection (1), no process shall issue for the seizure and sale of any property of the mortgagor, other than the mortgaged property, until the mortgaged property is sold and the proceeds thereof applied in satisfaction of the decree.
- (3) Where the separate instrument referred to in subsection (1) is to be ex-

ecuted by any mortgagor, it shall be the duty of the notary to explain to the mortgagor, that the instrument provides for the renunciation of the benefit of section 46 and that the effect of such renunciation is that, in addition to the mortgaged property, other property of the mortgagor is liable to be sold in execution of a decree in an action upon the mortgage.

(4) No stamp duty shall be payable upon the further instrument referred to in this section.

(5) Where the mortgage is created by an instrument referred to in section 69 which is attested by an officer of a lending institution, then for the purpose of the application of the provisions of subsection (1) and sub-section (3) of this section, any reference in those provisions to the notary attesting the mortgage bond shall be deemed to be a reference to such officer.

(6) Nothing in this section shall apply to any action upon a mortgage created before the coming into force of this section.

(7) For the purpose of this section "lending institution" means -

(a) a licensed Commercial Bank within the meaning of the Banking Act, No. 30 of 1988;

(b) the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Act, No. 13 of 1975 ;

(c) the National Development Bank established by the National Development Bank of Sri Lanka Act, No. 2 of 1979 ;

(d) the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971 ; and

(e) the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act (Chapter 165).'

4. The following new Part is inserted immediately after section 62 and shall have effect as Part IIA of the principal enactment :-

## "PART IIA

### SPECIAL PROVISIONS FOR RECOVERY WHERE PARATE EXECUTION OF IMMOVABLE PROPERTY IS EMPOWERED

62A. The provisions of this Part shall be in addition to and not in derogation of the provisions of any laws which empower certain banks and other institutions to exercise the powers of parate execution for the purpose of recovery of loans granted by them on the security of immovable property, in the event of default.

62B. (1) Where bank or an institution is empowered to authorise any person to enter into possession of or to maintain and to manage the property mortgaged and such person is unable or apprehends that he will be unable to take possession of that land because of any obstruction or resistance which has been or is likely to be offered, such officer shall, on his making an applica-

tion in that behalf to the Magistrate's Court having jurisdiction over the place where that land is situated, be entitled to an order of that court directing the Fiscal to deliver possession of the land to him.

- (2) Where an order under subsection (1) is issued to the Fiscal by a Magistrate's Court he shall forthwith execute such order and shall in writing report to that Court the manner in which the order was executed.
  - (3) For the purpose of executing an order issued by a Magistrate's Court under sub-section (1), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the land to which that order relates and to eject any person in occupation of that land and to deliver possession of that land to the officer who is authorized to take possession of that land, for or on behalf of the bank or institution.
- 62c. Where after sale by public auction and the delivery of a certificate of sale to the purchaser of the property mortgaged, the purchaser is unable to take effective possession of it, he shall on application to the District Court of Colombo or the District Court having jurisdiction over the place where the property is situate, and on production of the certificate of sale be entitled to an order for the delivery of possession of the property.
- 62d. Every application under section 62C shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code; and on all documents filed for the purpose of each such application and on all proceedings held thereon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on application for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of any immovable property of the same value as the property to which such application relates.
- 62e. Where any immovable property sold in pursuance of the law empowering the mortgagee to sell, is in the possession or occupation of a person under a possession or dent of the debtor or under a title created by the debtor prior to the mortgage by an instrument duly executed and duly registered prior to the mortgage, the right of such person shall have priority over the rights of the purchaser, and the purchaser shall not be entitled to an order for delivery of possession of such immovable property.
- 62f. Where any immovable property sold in pursuance of the preceding provisions is in the occupancy of the debtor or of some person on his behalf or of some person claiming under a title created by the debtor subsequent to the mortgage of the property to the bank or institution the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf in possession of the property.
- 62g. (1) Where any immovable property sold in pursuance of the law empowering

the mortgagee to sell, is in the occupancy of a tenant or other person entitled to occupy the same by virtue of an agreement entered into before the date of execution of the mortgage, but which transaction has not been duly registered, the following provisions shall apply :-

- (a) (i) if the mortgagee has given the tenant or person in occupation notice of the execution of the mortgage in his favour with full particulars such as the name of the land and the volume and folio in which the bond is registered within a month of its execution, and the tenant or other person in occupation fails within one month of the receipt of such notice to register a document substantially in the Form No. 6 set out in the First Schedule to this Act in the same volume and folio as in the notice, then the court shall order delivery of possession to be made by putting in possession the purchaser or any person whom he may appoint to receive possession on his behalf;
- (ii) where as a consequence of a purchaser or other person being put into possession under sub-paragraph (i), a tenant or person in occupation is dispossessed, he shall be entitled to such compensation as the court may think reasonable, regard being had to the period of tenancy or occupancy and the compensation so ordered shall be paid by the purchaser to the tenant or person in occupation only after the purchaser has received possession;
- (b) (i) if the mortgagee has given the tenant or person in occupation notice of the execution of the mortgage in his favour with full particulars such as the name of the land and the volume and the folio in which the bond is registered within a month of its execution and the tenant or other person in occupation duly registered within one month of the receipt of notice by him a document substantially in the Form No. 6 set out in the First Schedule to this Act in the same volume and folio as in the notice referred to, and forthwith notifies the mortgagee of this fact in writing, the District Court shall order delivery of possession to be made by fixing a notice that the sale has taken place in the Sinhala, Tamil and English languages in some conspicuous place on the land and proclaiming to the tenant or person in occupation in such manner as the court may direct, at some convenient place, that the interests of the debtor have been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall be prepaid by the purchaser;
- (ii) if the tenant or person entitled to occupy consents to accept a sum of money as compensation in lieu of his tenancy rights or right to occupy, then the Court shall order delivery of possession to be made by putting the purchaser or any person whom he may appoint to receive possession on his behalf only after such compensation has been deposited in court by the purchaser;
- (iii) the quantum of compensation, where the property is business or

residential premises shall be the equivalent of five years rent, and in the case of other property, the compensation shall be such amount as the court deems reasonable, in all the circumstances of the case.

- 62H. Every order under section 62F shall be deemed to be an order for delivery of possession under section 287 of the Civil Procedure Code, and every order made under section 62G shall be deemed to be an order for delivery of possession under section 288 of the same Code and may be enforced in a like manner as an order so made.”
5. The First Schedule to the principal enactment is hereby amended by the addition at the end thereof, of the following :-

#### “FORM 6

##### APPLICATION FOR REGISTRATION OF AN INSTRUMENT RELATING TO A RIGHT TO OCCUPY LAND

To the Registrar of Lands.....

I ..... (name in full and address) apply under section ..... of the Mortgage Act ..... for the registration in or incontinuation of the folios specified at 'A' below of my right to occupy the land, by virtue of an agreement, particulars of which are given at B' below :

A. Volume :

Folio :

Volume :

Folio :

B. My right to occupy is by virtue of deed/instrument dated ..... executed by ..... the owner thereof or by virtue of an oral tenancy agreement with the owner.

The registration fee of Rs. .... is enclosed in stamps.

**Signature of Applicant or \*Agent**

\*Agent means an Agent authorised in writing by the Applicant.”

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

## **RECOVERY OF LOANS BY BANKS (SPECIAL PROVISIONS)**

### **ACT, NO. 4 OF 1990**

[Certified on 6th March, 1990]

**AN ACT TO PROVIDE FOR THE RECOVERY OF LOANS GRANTED BY BANKS FOR THE ECONOMIC DEVELOPMENT OF SRI LANKA; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO**

**1.** This Act may be cited as the Recovery of Loans by Banks (Special Provisions) Act, No. 4 of 1990.

**2.** (1) Every person -

(a) to whom any loan is granted by a bank on the mortgage of property, or

(b) who has obtained probate of the will or letters of administration to the estate of a person to whom any loan has been granted by a bank on the mortgage of property, or who, upon application made in that behalf by the Board, has been appointed by court to represent such estate, or

(c) to whom any right, title or interest whatsoever in any property mortgaged to a bank as security for any loan, has passed, whether by voluntary conveyance or by operation of law,

shall register with a bank an address to which all notices to him may be addressed.

(2) Any notice which is required to be served on any person to whom subsection (1) applies, shall be deemed to have been duly served on that person if it is sent by post in a registered letter directed to that person at the address registered by him under that subsection, and service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post :

Provided that, where any such person fails to register his address under subsection (1), the bank shall publish in the *Gazette* and in at least three daily newspapers in the Sinhala, Tamil and English languages, a notice addressed to him and such notice shall be deemed to be duly given to him on the day on which such notice is last published.

**3.** Whenever default is made in the payment of any sum due on any loan, whether on account of principal or of interest or of both, default shall be deemed to have been made in respect of the whole of the unpaid portion of the loan and the interest due thereon up to date; and the Board may in its direction, take action as specified either in section 5 or in section 4;

Provided, however, that where the Board has in any case taken action, or commenced to take action, in accordance with section 5, nothing shall be deemed to prevent the Board at any time from subsequently taking action in that case by resolution under section 4 if the Board deems it advisable or necessary to do so.

**4.** Subject to the provisions of section 7 the Board may by resolution to be recorded

in writing authorize any person specified in the resolution to sell by public auction any property mortgaged to the bank as security for any loan in respect of which default has been made in order to recover the whole of the unpaid portion of such loan, and the interest due thereon upto the date of the sale, together with the moneys and costs recoverable under section 13.

5. (1) Subject to the provisions of section 7 the Board may by resolution to be recorded in writing authorize any person specified in the resolution to enter upon any immovable property mortgaged to the bank as security for any loan in respect of which default has been made or where the terms of any loans agreement are contravened in respect of such property to take possession of, and to manage and maintain such property, and to exercise the same powers in the control and management of such property as might have been exercised by the mortgagor if he had not made default, or contravened the terms of such agreement.
  - (2) Whenever any sum of money due on any loan granted for any agricultural or industrial undertaking on the security of any plant, machinery or other movable property to the bank is in default or where the terms of any loan agreement are contravened in respect of such property, the Board may authorize any person specified in writing to enter and take possession of such agricultural or industrial undertaking in which such plant, machinery or other movable property is situate, and exercise the same power in the control and management of such undertaking as might have been exercised if such property had been pledged or mortgaged.
6. (1) Any person authorized by resolution of the Board under section 5 in respect of any property shall be entitled generally to take action in terms of the resolution and in particular -
  - (a) to sell the produce of such property ;
  - (b) to sell the goods manufactured wholly or partly from any plant or machinery, on the security of which any loan was granted, if default has been made in respect of such loan;
  - (c) to receive the rents, profits or other income from such property ;
  - (d) to pay the expenses incurred in the control and management of such property out of the income from such property;
  - (e) to appropriate to himself out of such income such sum (if any) as the Board may deem fit to fix as remuneration for his services;
  - (f) to remain in possession of such property until all moneys due to the bank under the mortgage on such property have been fully paid or until he is directed by the Board to yield possession of such property under subsection (2).
- (2) Every person authorized by resolution of the Board under section 5 in respect of any property shall -
  - (a) pay monthly, out of the income of such property such sum (if any) as

- the Board may in its discretion fix, to the mortgagor for his maintenance ;
- (b) pay quarterly or as otherwise directed by the Board, to such person or persons, and in such manner, as the Board may direct, the balance of the income from such property remaining after the payments herein before authorized have been made ;
  - (c) keep and render to the Board, at such intervals as the Board may determine, clear and accurate records of all sums received or paid out by him in respect of such property ;
  - (d) yield possession of such property to the mortgagor or some other person as directed by the board and pay to the Board, any balance of the income from such property remaining in his hands after the payments hereinbefore authorized have been made.
- (3) The Board shall when all sums due to the bank under the mortgage have been fully paid surrender possession of the mortgaged property to the mortgagor and return to him any balance remaining of the income from such property.
7. (1) Save as otherwise provided in subsection (2) the, provisions of section 4 shall apply in the case of any default notwithstanding that the borrower may have died or that any right, title or interest whatsoever in the property mortgaged to the bank as security for the loan may have passed by the voluntary conveyance or operation of law to any other person.
- (2) Where a borrower is dead and probate of his will or letters of administration to his estate have not been issued to any person, the District Court of Colombo or the District Court of the district in which the property, mortgaged to the Bank by the borrower, is situate, may upon application made in that behalf by a bank and after service of notice of the application on such persons, if any, as the court may order, and if satisfied that the grant of probate or the issue of letters of administration is likely to be unduly delayed, appoint a person to represent the estate of the borrower for the purposes of this section; and the provisions of section 4 shall not apply in the case of any default made by such borrower unless and until a person is appointed under this subsection to represent the estate of such borrower.
8. Notice of every resolution under section 4 authorizing the sale of any property shall be published in the *Gazette* and in at least three daily newspapers, in the Sinhala, Tamil and English languages and copies of such notice shall be despatched to the borrower, if he is alive, and to every person who has, in respect of that property, registered his address as required by section 2 and if that property consists of the interest of a lessee under a lease from the State, to the Land Commissioner.
9. Notice of the date, time and place of every sale authorized by a resolution under section 4 shall, not less than fourteen days before the date fixed for the sale be published in the *Gazette* and copies of such notice shall be -

- (a) dispatched to the borrower, if he is alive, and to every person to whom notice of any resolution is required to be dispatched under section 2,
  - (b) posted on or near the property which is to be sold.
10. (1) If the amount of the whole of the unpaid portion of the loan, together with interest payable and of the moneys and costs, if any, recoverable by the Board under section 13 is tendered to the Board at any time before the date fixed for the sale, the property shall not be sold, and no further steps shall be taken in pursuance of the resolution under section 4 for the sale of that property.
- (2) If the amount of the instalment in respect of which default has been made, and of the moneys and costs, if any, recoverable by the Board under section 13 is tendered to the Board at any time before the date fixed for the sale, the Board may in its discretion direct that the property shall not be sold and that no further steps shall be taken in pursuance of the resolution under section 4 for the sale of that property.
11. The Board may fix an upset price below which the property shall not be sold to any person other than the bank to which the property is mortgaged.
12. (1) In any case where two or more loans have been granted by a bank on the security of the same property and, default made in the payment of any sum due upon any one or more of such loans, the foregoing provisions of this Act shall apply notwithstanding that default may not have been made in respect of the other loan or any of the other loans and the Board may, in any such case, by resolution under section 4 authorize the sale of the property for the recovery of the total amount due to the Bank in respect of both or all of the loans, as the case may be, and these provisions shall apply accordingly.
- (2) Nothings in section 3 to 15 (both sections inclusive) shall be read or construed as prohibiting a bank from recovering the amount due on a mortgage bond in accordance with the provisions of any other written law.
13. In addition to the amount due on any loan, the Board may recover from the borrower, or any person acting on his behalf-
- (a) all moneys expended by a bank, in accordance with the covenants contained in the mortgage bond executed by the person to whom the loan was granted, in the payment of premia and other charges in respect of any policy of insurance effected on the property mortgaged to such bank, and in the payment of all other costs and charges authorized to be incurred by the bank, under the covenants contained in such mortgage bond and executed by the borrower;
  - (b) the costs of advertising the sale and of selling of the mortgaged property:

Provided that the costs incurred under paragraph (b) shall not exceed such percentage of the loan as may be prescribed.

14. If the mortgaged property is sold, the bank shall, after deducting from the proceeds of the sale the amount due on the mortgage and the moneys and costs recoverable under section 13, pay the balance remaining, if any, either to the borrower or any person legally entitled to accept the payment due to the borrowers or where the Board is in doubt as to whom the money should be paid into the District Court of the district in which the mortgaged property is situate.
  15. (1) If the mortgaged property is sold, the Board shall issue a certificate of sale and thereupon all the right, title, and interest of the borrower to, and in, the property shall vest in the purchaser; and thereafter it shall not be competent for any person claiming through or under any disposition whatsoever of the right, title or interest of the borrower to, and in, the property made or registered subsequent to the date of the mortgage of the property to the bank, in any court to move or invalidate the sale for any cause whatsoever, or to maintain right title or interest to, or in, the property as against the purchaser.  
(2) A certificate signed by the Board under subsection (1) shall be conclusive proof with respect to the sale of any property, that all the provisions of this Act relating to the sale of that property have been complied with.  
(3) If the purchaser is some person other than the bank, the certificate shall be substantially in the prescribed form and, if the purchaser is the bank, the certificate shall be substantially in such other form as may be prescribed.  
(4) Every certificate of sale shall be liable to stamp duty and charges as if it were a conveyance of property and to any registration and other charges authorized by law, all of which shall be payable by the purchaser.  
(5) Where the property sold consists of the interest of a lessee under a lease from the State, then, if the purchaser of the property is some person other than the bank, the certificate of sale shall not be signed by the Board unless the Land Commissioner, in the exercise of his discretion, has approved the purchaser.  
(6) Whenever the Land Commissioner refuses, under sub-section (5), to approve any purchaser of the interest of a lessee under a lease from the State -
    - (a) all sums paid to the bank by the purchaser in respect of the sale shall be repaid to him by the Board ;
    - (b) the costs of advertising and holding such sale shall be deemed to be costs recoverable by the Board under section 13 ; and
    - (c) the property shall be resold in accordance with the provisions of this Act.
16. (1) The purchaser of any immovable property sold in pursuance of the preceding provisions of this Act shall, upon application made to the District Court of Colombo or the District Court having jurisdiction over the place where

that property is situate, and upon production of the certificate of sale issued in respect of that property under section 15, be entitled to obtain an order for delivery of possession of that property.

- (2) Every application under subsection (1) shall be made and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code ; and on all documents filed for the purpose of each such application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective, rates payable under any written law for the time being in force on applications for, and proceedings connected with, or incidental to, the execution of a decree of a District Court for the delivery of possession of any immovable property of the same value as the property to which such application relates.
  - (3) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of the borrower or some person on this behalf or of some person claiming under a title created by the borrower subsequently to the mortgage of the property to the bank the District Court shall order delivery to be made by putting the purchaser or any person whom he may appoint to receive possession on his behalf, in possession of the property.
  - (4) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of a tenant or other person entitled to occupy the same, the District Court, shall order delivery to be made by affixing a notice that the sale has been taken place, in the Sinhala, Tamil and English languages, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom or any other customary mode or in such manner as the court may direct, at some convenient place, that the interest of the borrower has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser.
  - (5) Every order under subsection (3) or subsection (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or section 288 of the Civil Procedure Code, and may be enforced in like manner as an order so made, the borrower and the purchaser being deemed, for the purpose of the application of any provisions of that Code, to be the judgement-debtor and judgement-creditor, respectively.
17. Where the property sold has been purchased on behalf of the bank, the Board may at any time before it resells that property, cancel the sale by an endorsement to that effect on a certified copy of the certificate of sale, upon the borrower or any person on his behalf paying the amount due in respect of the loan for which the property was sold (including the cost of seizure and sale) and interest on the aggregate sum at a rate not exceeding the prescribed rate per annum. Such an endorsement shall, upon registration in the office of the Registrar of Lands, revest the said property in the borrower as though the sale under this Act has never been made.
18. If the property so sold has been purchased on behalf of the bank and the sale is

not cancelled under section 17, the Board may at any time, re-sell the property and transfer to the purchaser by endorsement on a certified copy of the certificate referred to in subsection (3) of section 16, all the right, title and interest which would have been acquired by the purchaser at the original sale. the endorsement shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale and shall, when it is registered in the office of the Registrar of Lands, vest such right, title and interest as aforesaid in the purchaser.

19. If any sale in pursuance of the preceding provisions of this Act, a bank has purchased any property sold for default in the payment of a loan, the bank shall not hold such property for a long period than it is necessary to enable the bank to re-sell the property for such a sum as will cover the total amount due to the bank on account of the loan, interest, expenses and costs.
20. Any person who without reasonable cause, resists, obstructs or prevents a person authorized by the Board by a resolution under section 4 to sell any property mortgaged to the bank from carrying out such sale shall be guilty of an offence and shall on conviction after trial by a Magistrate, be liable to imprisonment not exceeding six years, or to a fine not exceeding five thousand rupees, or to both such imprisonment and fine.
21. (1) The Minister may make regulations for or in respect of all matters required by this Act to be prescribed.
  - (2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.
  - (3) Every regulation made by the Minister shall, as soon as is convenient after its publication in the *Gazette*, be brought before Parliament for approval.
  - (4) Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.
22. In this Act, unless the context otherwise requires -  
“bank” means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988, other than -
  - (a) the Bank of Ceylon established by the Bank of Ceylon Ordinance (Chapter 397);
  - (b) the People’s Bank established by the People’s Bank Act, No. 29 of 1961;
  - (c) any bank established under the provision of the Regional Rural Development Bank Act, No. 15 of 1985.

and shall be deemed to include the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act, (Chapter 165);

**"Board"** in relation to a bank means the Board of Directors of the bank or any body of persons by whatever name or designation called for the time being charged with the management or administration of such bank ;

**"loan"** means a loan of money and includes any overdraft or advance or any other monetary accommodation by whatever name or designation called ;

**"property"** means any movable or immovable property and includes the right, title and interest of the lease, in any case where a loan is secured by a mortgage of the interest of a lessee under a lease from the State.

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

## **CONSUMER CREDIT (AMENDMENT) ACT NO. 7 OF 1990**

[Certified on 6th march, 1990]

### **AN ACT TO AMEND THE CONSUMER CREDIT ACT, NO. 29 OF 1982**

1. This Act may be cited as the Consumer Credit (Amendment) Act, No. 7 of 1990.
2. Section 15 of the Consumer Credit Act, No. 29 of 1982 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (2) of that section by the substitution for the words "shall on conviction be liable", of the words "shall, on conviction after summary trial before a Magistrate, be liable".
3. Section 17 of the principal enactment is hereby amended by the substitution, for the words "shall be liable", of the words, "shall, on conviction after summary trial by a Magistrate, be liable".
4. Section 24 of the principal enactment is hereby amended in subsection (3) of that section by the substitution for the words from "the owner shall be punishable", to the end of that subsection, of the words "the owner shall be guilty of an offence and shall on conviction after summary trial before a magistrate be liable to a fine not exceeding two hundred rupees.".
5. The following new section is hereby inserted immediately after section 29 and shall have effect as section 29A of the principal enactment :-  
29A. 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 or Secretary of that body corporate;
  - (b) if that body of persons is a firm, every partner of the firm; and
  - (c) if that body of persons is an unincorporated body, every individual who is a member of such body,

shall be guilty of that offence :  
Provided that a director or manager or secretary of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he excercised all due diligence to prevent the commission of such offence."
6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## **AGRARIAN SERVICES (AMENDMENT) ACT, NO. 9 OF 1990**

[Certified on 6th March, 1990]

### **AN ACT TO AMEND THE AGRARIAN SERVICES ACT, NO. 58 OF 1979**

1. This Act may be cited as the Agrarian Services (Amendment) Act, No. 9 of 1990.
2. Section 27 of the Agrarian Services Act, No. 58 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended by the addition, at the end thereof, of the following paragraph :-

"For the purpose of this subsection, "interest" includes the "ande" rights of a tenant cultivator, the rights of a leasee of such land and the rights of the majority of the co-owners of land held in "thatumaru".

3. Section 29 of the principal enactment is hereby repealed and the following section substituted therefor :-

29. (1) Where under the provisions of this Part default is made or deemed to be made in respect of any loan granted on a mortgage or charge on any agricultural land and the interest due thereon, the prescribed bank may notify the Magistrate's Court, that the owner cultivator or occupier of such agricultural land is in default of the sum of money specified in such notice.

(2) The notice referred to in subsection (1) shall be filed of record in the Magistrate's Court having jurisdiction over the place where such extent of agricultural land is situate and such sum, if any, as is found to be due shall be recovered in like manner as a fine imposed by such court notwithstanding that such sum may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

(3) For the purpose of subsection (2) a certificate under the hand of an officer authorized in that behalf by the prescribed bank to the effect that the sum specified therein is due to such bank from the defaulter named in the certificate shall be *prima facie* proof that such sum is due to such bank from such defaulter.

(4) Where the defaulter is a tenant cultivator and the prescribed bank reports to the Commissioner that it is impracticable or inexpedient to recover the said sum in default in the manner provided for in subsection (2) the Commissioner on being satisfied that such sum cannot be recovered in the manner provided for, may suspend the tenancy rights of such defaulter until such money is paid to the prescribed bank.

(5) All proceedings instituted in any court under subsection (2) shall have priority over all the other businesses of that court and shall in any event be disposed of within six months of the institution of the proceedings by the prescribed bank.".

**4. Section 30 of the principal enactment is hereby amended as follows :-**

- (1) by the renumbering of that section as subsection (1) of that section ;
- (2) by the insertion, immediately after the renumbered subsection (1), of the following new subsections :-
  - " (2) any debt due or payable to a prescribed bank by any owner or occupier of agricultural land shall be a first charge upon -
    - (a) crops or other agricultural produce; and
    - (b) cattle, fodder for cattle or agricultural implements,

where the loan granted by the prescribed bank has been utilized in whose or in part by the owner or occupier of the agricultural land for the raising of such crops or agricultural produce or for the purchase of such cattle, fodder for cattle, or agricultural implements, as the case may be.

- (3) The first charge referred to in subsection (2) may be enforced by the prescribed bank by seizure and sale of the property which forms the subject of the first charge.”.

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

**NATIONAL DEVELOPMENT BANK (AMENDMENT) ACT, NO.10 OF 1990**

[Certified on 6th March, 1990]

**AN ACT TO AMEND THE NATIONAL DEVELOPMENT BANK OF SRI LANKA ACT, NO. 2 OF 1979**

1. This Act may be cited as the National Development Bank of Sri Lanka (Amendment) Act, No. 10 of 1990.
2. Section 41 of the National Development Bank of Sri Lanka Act, No. 2 of 1979, is hereby amended by the substitution for the words "immovable property", of the words "movable or immovable property".
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## **TRUST RECEIPTS (AMENDMENT) ACT, NO. 13 OF 1990**

[Certified on 6th March, 1990]

### **AN ACT TO AMEND THE TRUST RECEIPTS ORDINANCE**

1. This Act may be cited as the Trust Receipts (Amendment) Act, No. 13 of 1990.
2. Section 2 of the Trust Receipts Ordinance (hereinafter referred to as the "principal enactment") is hereby amended in subsection (2) of that section, as follows :-
  - (1) by the substitution in paragraph (v) of that subsection, for the words "as may be in the premises.", of the words "as may be in the premises"; and
  - (2) by the addition at the end of that subsection of the following new paragraph : -

“(vi) an undertaking to insure those goods against all insurable risks to their full insurable value on a reinstatement basis in the name of the agency and in the case of loss, to pay the insurance moneys to the agency in the same manner as the proceeds of sale".
3. Section 3 of the principal enactment is hereby amended in subsection (2) of that section, as follows :-
  - (1) by the substitution in paragraph (v) of that subsection, for the words "as may be in the premises.", of the words "as may be in the premises; and";
  - (2) by the addition at the end of that subsection of the following new paragraph : -

“(vi) an undertaking to insure those goods until the exportation thereof, against all insurable risks to their full insurable value on a reinstatement basis in the name of the agency and in the case of loss, to pay the insurance moneys to the agency in the same manner as the proceeds of sale.".
4. Section 4 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of paragraph (iv) of that subsection, and the substitution therefor, of the following paragraph : -

“(iv) The person by whom the trust receipt was executed shall, if he commits a breach or fails to comply with any undertaking referred to in subsection (2) or subsection (3) of section 2, or in subsection (2) of section 3, as the case may be, being an undertaking contained in the trust receipt, be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding three years or to a fine not less than the amount of the money stated in the trust receipt to be due or to become payable thereunder to the agency and not exceeding three times that amount. ”.

5. The following new section is hereby inserted immediately after section 4, and shall have effect as section 4A of the principal enactment :-

4A. 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 or Secretary of that body corporate;
- (b) if that body of persons is a firm, every partner of the firm; and
- (c) if that body of persons is an unincorporated body, every individual who is a member of such body,

shall be deemed to be guilty of that offence :

Provided that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.”.

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

5. (1) In this Ordinance “approved credit agency” means -

- (a) a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988;
- (b) the National Development Bank of Sri Lanka established by the National Development Bank of Sri Lanka Act No. 2 of 1979;
- (c) the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Law, No. 13 of 1975;
- (d) the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act (Chapter 165);
- (e) any company, or any co-operative society in respect of whom an Order has been made under section 6.

(2) Nothing in this Ordinance shall be deemed or construed to authorize any institution mentioned in paragraphs (b), (c) and (d) of subsection (1) to make loans or afford any credit facilities in consideration of the execution of trust receipts, if the power to make such loans or to afford such facilities is not conferred on such institution by the Ordinance providing for the establishment, powers and functions of such institution.’.

7. The following new section is hereby added immediately after section 5 of the principal enactment :-

6. The Director of Commerce may, where he considers it appropriate to do so in the interest of national economy, by Order published in the *Gazette* declare that the provisions of this Act shall apply to any company registered under

the Companies Act, No. 17 of 1982 or any co-operative society registered under the Co-operative Societies Law, No. 5 of 1972 which in his opinion is of sufficient financial stability and standing for the purpose of this Act, and not referred to in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of subsection (i) of section 5.”.

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

## **INLAND TRUST RECEIPTS ACT, NO. 14 OF 1990**

[Certified on 6th March, 1990]

**AN ACT PROVIDE FOR THE EXECUTION OF INLAND TRUST RECEIPTS IN CONFORMITY WITH SPECIFIED REQUIREMENTS; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

1. This Act may be cited as the Inland Trust Receipts Act, No. 14 of 1990.
2. (1) Where upon a statement made to any approved credit agency by any person, that he proposes to purchase goods for the purpose of transportation and sale within the territory of Sri Lanka, such person, for the purpose of making payment for the goods and of meeting expenditure in connection with the transportation and sale and preparation for transportation and sale thereof, obtains from such agency, advances by way of loan, overdraft or otherwise, upon the execution in favour of such agency of a document which complies with the provisions of subsection (2) (which document is hereinafter referred to as "an inland trust receipt"), the provisions of section 3 shall be applicable in relation to that trust receipt and the goods to which it relates.  
(2) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1), shall contain the following undertakings on the part of that person in respect of the goods to which the documents relates -
  - (a) an undertaking to hold the goods in trust for the agency in favour of which it is executed, to mark the goods or the packages or cases containing them in a specified manner, and to keep the goods in specified premises until the transportation and sale thereof ;
  - (b) an undertaking to hold in trust and to pay to the agency from time to time as received, the proceeds of the sale of those goods or a specified proportion of such proceeds ;
  - (c) an undertaking to insure the goods against all insurable risks to their full insurable value on a reinstatement basis in the name of the agency and in the case of loss, to pay the insurance moneys to the agency in the same manner as the proceeds of the sale ;
  - (d) an undertaking not to sell those goods or any of those goods except for cash ;
  - (e) an undertaking to deliver such of those goods as may for the time being be untransported or, unsold, to or to the order of, the agency upon demand made in writing in that behalf;
  - (f) an undertaking to permit the agency without prior notice, from time to time, to enter and inspect the premises in which those goods are kept and to take stock of such of those goods as may be in the premises ;

- (g) an undertaking upon the transportation and sale of those goods to deliver to the agency the documents of title and other transportation documents relating to such goods, if called upon to do so by the agency ;
- (h) an undertaking to store those goods in a specified premises, or warehouse in the name of the agency ;  
and
- (i) an undertaking to keep the transportation documents, goods and proceeds relating to the inland trust receipt separate and distinct from any and all other transportation, documents, goods and proceeds of the person by whom the inland trust receipt is executed.
- (3) Nothing contained in subsection (2) shall be deemed to prevent the inclusion in the document of any undertaking conditions or stipulations in addition to the undertakings specified in that subsection.
3. (1) Where an inland trust receipt has been executed by any person in conformity with the provisions of section 2 and the inland trust receipt is registered under the Registration of Documents Ordinance as a bill of sale affecting the goods to which it relates, the following provisions shall apply during such time as any money stated in the inland trust receipt to be due or to become payable thereunder to the agency remain due and unpaid -
- (a) the agency shall, in the event of the seizure of the goods by any other person in execution of any decree of any court, be entitled, upon application made to that court in the action in the course of which the seizure was effected, to an order directing that the goods shall be sold, either by public auction by an auctioneer, selected by the agency and approved by the court, or in such manner as the court may direct, and in accordance with such direction as may be issued by the court. Upon the sale of such goods the agency shall be entitled to retain out of the proceeds of sale the amount due under the inland trust receipt, and the balance, if any, of the proceeds of sale shall be paid into court and be deemed to be proceed of the sale of the goods in execution of the decree under which they were seized ;
- (b) the agency shall, in the event of the insolvency of the person by whom the inland trust receipt is executed, be entitled to obtain from the court in which the proceedings upon such insolvency are pending, an order directing that the goods to which the inland trust receipt relates shall be delivered to the agency and shall be sold either by public auction by an auctioneer selected by the agency and approved by the court, or in such other manner as the court may direct, and in accordance with such directions as may be issued by the court. Upon the sale of such goods, the agency shall be entitled to retain out of the proceeds of sale the amount due under the inland trust receipt and the balance if any, of the proceeds of sale shall be paid into court to the credit of the assigner of the estate of the insolvent ;

- (c) where any goods are delivered to the agency in compliance with any undertaking referred to in paragraph (e) of subsection (2) of section 2, the agency may sell the goods so delivered, whether after removal thereof, or at the premises in which the goods are kept if the person executing the inland trust receipt consents to a sale at such premises. The agency shall be entitled to retain, out of the proceeds of sale of the goods, the amount due to it under the inland trust receipt, and the balance, if any, shall be paid to the person by whom the inland trust receipt was executed; and
  - (d) the person by whom the inland trust receipt was executed shall, if he commits a breach or fails to comply with any undertaking referred to in sub-section (2) of section 2, being an undertaking contained in the inland trust receipt, be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to imprisonment of either description for a term not exceeding three years or to a fine of an amount not less than the amount of the money stated in the inland trust receipt to be due or to become payable thereunder to the agency, and not exceeding three times that amount.
- (2) The provisions of this act relating to the payment to, or the recovery by, an approved credit agency, of the amount due under an inland trust receipt shall be in addition, to, and not in substitution or derogation of, the provisions of any written or other law under which any right or remedy is available to the agency for the purpose of the recovery of that amount, or where any part of that amount has already been paid or recovered, of the balance remaining due.
4. 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 and manager or secretary of that body corporate;
  - (b) if that body of persons is a firm, every partner of that firm, and
  - (c) if that body of persons is an unincorporate body, every individual who is a member of such body,
- shall be deemed to be guilty of that offence :

Provided that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

5. (1) In this Act "approved credit agency" means -
- (a) a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988 ;
  - (b) the National Development Bank of Sri Lanka established by the National Development Bank of Sri Lanka Act, No. 2 of 1979 ;
  - (c) the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Law, No. 13 of 1975 ;

- (d) the Development Finance Corporation of Ceylon established by the Development Finance Corporation of Ceylon Act (Chapter 165);
- (e) and company, or any Co-operative Society in respect of whom an Order has been made under section 6.
- (2) Nothing in this Act shall be deemed or construed to authorise any institution mentioned in paragraphs (b), (c), and (d) of subsection (1) to make loans or afford any credit facilities in consideration of the execution of inland trust receipts, if the power to make such loans or to afford such facilities is not conferred on such institution by the Act providing for the establishment, powers and functions of such institution.
6. The Director of Commerce may, where he considers it appropriate to do so in the interest of national economy, by Order published in the *Gazette*, declare that the provisions of this Act shall apply to any company registered under the companies Act, No. 17 of 1982, or any co-operative society registered under the Co-operative Societies Law, No. 5 of 1972, which in his opinion is of sufficient financial stability and standing for the purpose of this Act, and not referred to in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of subsection (i) of section 5.

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

## **CREDIT INFORMATION BUREAU OF SRI LANKA ACT, NO. 18 OF 1990**

[Certified on 18th May, 1990]

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CREDIT INFORMATION BUREAU OF SRI LANKA FOR THE COLLECTION OF CREDIT INFORMATION RELATING TO BORROWERS FROM LENDING INSTITUTIONS AND FOR THE PROVISION OF SUCH INFORMATION TO THE SHAREHOLDERS OF THE BUREAU, WITH A VIEW TO FACILITATING THE DISTRIBUTION OF CREDIT TO ALL SECTORS OF THE ECONOMY AND TO THE INFORMAL SECTOR, IN PARTICULAR; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

1. This Act may be cited as the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

### **PART I**

#### **ESTABLISHMENT OF THE CREDIT INFORMATION BUREAU OF SRI LANKA**

2. There shall be established a Bureau which shall be called the "Credit Information Bureau of Sri Lanka" (hereinafter referred to as the "Bureau") consisting of the persons who are shareholders thereof of the Bureau.
3. The Bureau shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.
4. The Head Office of the Bureau shall be located in Colombo. Such branch offices and agents of the Bureau as the Board of Directors may consider necessary may be established in places in Sri Lanka, other than in Colombo.
5. (1) The administration and management of the affairs of the Bureau shall be vested in the Board of Directors (hereinafter referred to as the "Board") consisting of -
  - (i) a Deputy Governor of the Central Bank nominated by the Monetary Board who shall be the Chairman of the Board;
  - (ii) a senior officer of the Central Bank nominated by the Monetary Board;
  - (iii) a senior officer of the Bank of Ceylon nominated by the Board of Directors of the Bank of Ceylon;
  - (iv) a senior officer of the People's Bank nominated by the Board of Directors of the People's Bank;
  - (v) two persons elected by the shareholding licensed commercial banks, other than the Bank of Ceylon, and the People's Bank;
  - (vi) a person elected by the shareholding finance companies;
  - (vii) a person nominated by the Minister in charge of the subject of Finance from the Boards of Directors of the National Development

- Bank, National Savings Bank, Development Finance Corporation of Ceylon and the State Mortgage and Investment Bank ;
- (viii) the person holding the office of the General Manager of the Bureau.
- (2) The provisions of the Schedule to this Act shall have effect in relation to the term of office of the Directors of the Bureau, and the remuneration payable to such Directors, meetings and the seal of the Bureau.
- (3) The Board shall exercise, perform, and discharge all powers, duties and functions conferred or imposed on, or assigned to, the Bureau by this Act.
6. The functions of the Bureau shall be to collect and collate, trade, credit and financial information on borrowers and prospective borrowers of lending institutions and to provide credit information, on request, to shareholders of the Bureau which are lending institutions, with a view to facilitating the distribution of credit to all sectors of the economy and to the informal sector, in particular.
7. In discharging its functions, the Bureau may exercise and perform all or any of the following powers and duties :-
- (a) to maintain a data bank on borrowers from lending institutions ;
  - (b) to collect and collate trade, credit and financial information on borrowers or prospective borrowers of lending institutions ;
  - (c) to store the information so collected ;
  - (d) to furnish credit information, on request and in confidence, to shareholders of the Bureau and to prescribe the forms in which such information is to be furnished ;
  - (e) to levy such fees as it may deem necessary for furnishing credit information ;
  - (f) to acquire and to hold, any movable or immovable property, and to lease, mortgage, sell or otherwise dispose of, such property ;
  - (g) to open and close current and deposit accounts in any commercial bank ;
  - (h) to appoint a General Manager who shall be the Chief Executive Officer of the Bureau ;
  - (i) to appoint such other officers and servants as may be necessary for carrying out the work of the Bureau ;
  - (j) to establish pension and provident fund and provide welfare and recreational facilities, houses, hostels and other like accommodation, to persons employed by the Bureau ;
  - (k) to determine the remuneration payable to the officers and servants so appointed ;
  - (l) to pay such remuneration out of the Fund of the Bureau;

- (m) to enter into and perform, all such contracts, whether in or outside Sri Lanka, as may be necessary for the exercise of the powers and the performance of the duties of the Bureau ;
  - (n) to make rules in respect of the administration of the affairs of the Bureau ;
  - (o) generally to do all such other things as are necessary to facilitate the proper carrying on of the affairs of the Bureau.
8. The Board of Directors may appoint agents of the Bureau in any place in Sri Lanka.
- PART II**
- FINANCE**
9. (1) The authorised capital of the Bureau shall be hundred million rupees divided into one million shares of one hundred rupees each.
- (2) The issued capital of the Bureau shall be such amount as may be determined, from time to time, by the Board.
10. (1) No person other than the Monetary Board or a lending institution shall be entitled to purchase shares in the Bureau.
- (2) The Monetary Board shall invite and receive applications for the initial issue of shares to the Bureau and shall on receipt of such applications, allot shares to the Monetary Board and lending institutions in the following proportions :-
- Monetary Board - Fifty-one *per centum* of such issued share capital ;
- Licensed Commercial Banks - Thirty *per centum* of such issued share capital ; and
- Other lending institutions - Nineteen *per centum* of such issued share capital.
- (3) No allotment or transfer of shares of the Bureau, after the initial issue of shares, shall be made except with the written approval of the Monetary Board.
- (4) In granting approval for an allotment or transfer of shares under subsection (3), the Monetary Board shall endeavour to ensure that the proportions referred to in subsection (2) are maintained in the shareholding of the Bureau.
11. The liability of any shareholder shall be limited to the amount, if any, unpaid on his shares.
12. (1) The Bureau may, from time to time borrow sums of money from the Central Bank for periods not exceeding six months, subject to such terms

and conditions as to the interest thereon and the repayment thereof as may be determined by the Monetary Board.

- (2) The aggregate borrowings by the Bureau under subsection (1) shall at no time exceed a sum equivalent to the paid-up capital of the Bureau.
13. The Board may establish such departments as may be necessary for the efficient discharge of the functions of the Bureau, including a department to deal with matters connected with informal sector of the economy.
14. (1) The Bureau shall have its own fund (hereinafter referred to "the Fund").
  - (2) There shall be paid into the Fund -
    - (a) all sums received by the Bureau as subscriptions to its capital ;
    - (b) all sums received by the Bureau as profits on investments made by it ;
    - (c) all sums received by the Bureau for services provided by it; and
    - (d) all sums received by the Bureau in the exercise, performance and discharge of its powers, duties and functions.
  - (3) There shall be paid out of the Fund, all such sums as are required to defray the expenses incurred by the Bureau in the exercise, performance and discharge of its powers, duties and functions under this Act or under any other written law and all such sums as are required to be paid out of the Fund, by this Act.
15. Any moneys belonging to the Bureau may be invested by the Board in such manner as the Board may determine.
16. (1) The Board shall establish a general reserve fund for staff welfare to which shall be transferred such sums, from the net profits of the Bureau, as may be determined by the Board.
  - (2) The reserve fund for staff welfare shall be applied in such manner as the Board may determine for the provision of training, housing and welfare facilities to officers and servants of the Bureau.
  - (3) The Board shall establish reserve funds, for such other purposes as may be determined by the Board.
17. The financial year of the Bureau shall be the calendar year.
18. (1) The Auditor-General shall audit the accounts of the Bureau at such intervals notwithstanding a period of 12 months as the Board of Directors may determine.
  - (2) The Auditor-General shall appoint a qualified auditor or auditors to audit the accounts of the Bureau and shall inform such auditor or auditors that he proposes to utilise his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Bureau and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.
  - (3) Every qualified auditor appointed under the provisions of subsection (2) shall submit a report to the Auditor-General.

- (4) The Auditor shall examine the accounts of the Bureau and ascertain the correctness of the balance sheet and report to the Board of Directors -
    - (a) whether or not he has obtained all the information and explanations he has required; and
    - (b) whether in his opinion the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the Bureau's affairs according to the best of his information and explanations given to him as shown by the books of the Bureau.
  - (5) For the purpose of ascertaining the correctness of the balance sheet the Auditor-General may, with the sanction of the Board of Directors accept in respect of any branch of the Bureau, any copies or abstracts from the books of accounts of such branch which have been transmitted to the Head Office of the Bureau and which have been certified to be correct by the officer of the Bureau authorized in that behalf by the Board of Directors.
  - (6) In this section qualified auditor means -
    - (a) an individual who being a member of the Institute of Chartered Accountants of Sri Lanka or of any other institute established by law and possesses a certificate to practice as an accountant issued by the Council of such institute; or
    - (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.
19. (1) The Board of Directors shall on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister and all the share holders :-
- (a) the Auditor-General's report ;
  - (b) Balance Sheet ;
  - (c) Profit and Loss Account ; and
  - (d) report of the Chairman of such Board giving an account of the work of the Bureau.
- (2) The Minister shall lay copies of the documents transmitted to him under subsection (1) before Parliament.

### PART III

#### GENERAL

20. (1) The Board may delegate any of its powers, duties and functions under this Act to any officer of the Bureau.

- (2) Any officer to whom any power duty or function is delegated under subsection (1) shall exercise, perform and discharge, such power duty or function, subject to such directions as may be given to him by the Board.
- (3) The Board shall notwithstanding any delegation made under subsection (1) have the power to exercise, perform and discharge the powers, duties and functions so delegated.
21. (1) The Bureau or any person authorized in that behalf by the Bureau may, by notice in writing, require any lending institution to furnish to the Bureau or to any person authorised by the Bureau, within such period as shall be specified in the notice, all such returns and information relating to the borrowers from such lending institution as shall be specified in such notice.
- (2) It shall be the duty of any lending institution required to furnish any return or information by a notice under subsection (1) to comply with the requirements of such notice within the time specified in such notice, notwithstanding any thing to the contrary, in any law establishing such lending institution or other law or in any agreement entered into between such lending institution and borrower.
- (3) No information contained in a return furnished under subsection (1) in compliance with the requirements of a notice issued under this section shall be published or communicated by the Bureau to any other person except to a lending institution which is a shareholder of the Bureau at the report of such shareholder or in the course of the discharge of the functions of the Bureau.
22. (1) No Director or other officer or servant of the Bureau, shall, except for the purposes of this Act or when required to do so by any law, disclose any information furnished to the Bureau under this Act or produce before any Court or other institution, any return or other information furnished to the Bureau under this Act.
- (2) No director, officer or servant employed in the business of any lending institution which is a shareholder of the Bureau shall, except for the purposes of this Act or when required to do so by any law, disclose any information furnished to the Bureau under this Act or produce before any Court or other institution any return or other information furnished to the Bureau under this Act.
23. (1) Every Director of the Bureau and all officers and servants of the Bureau, shall before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all matters connected with the affairs of the Bureau, and shall by such declaration pledge himself not to reveal any matters which may come to his knowledge in the performance or discharge of his duties and functions except -
- (a) when required to do so by a court of law or by any person or body of persons to whom such matters relate ; and
- (b) in order to comply with any of the provisions of this Act.

- (2) Every director, officer or servant employed in the business of any lending institution which is a shareholder of the Bureau shall sign a declaration pledging himself to observe strict secrecy in respect of credit or financial information obtained by such lending institution from the Bureau and all matters relating thereto, and shall by such declaration pledge himself not to reveal any such information or matter except -
- (a) when required to do so -
- (i) by a court of law ;
- (ii) by the person to whom such information relates ;
- (b) in order to comply with any provisions of this Act or any other law.
24. (1) No suit or prosecution shall lie -
- (a) against the Bureau, for any act which in good faith is done or purported to be done by the Board under this Act ; or
- (b) against any Director, officer, servant or agent of the Bureau for any act which in good faith is done or purported to be done by him under this Act, or on the Direction of the Board.
- (2) Any expenses incurred by the Bureau in any suit or prosecution brought by or against the Bureau before any court shall be paid out of the Fund and any costs paid to, or recovered by the Bureau in any such suit or prosecution shall be credited to the Fund.
- (3) Any expenses incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the Fund, to such person, unless such expense is recovered by him in such suit or prosecution.
25. No writ against person or property shall be issued against any Director of the Board in any action brought against the Bureau.
26. (1) The Board may make rules which are not inconsistent with the provisions of this Act, in respect of all or any of the matters in respect of which rules are authorised or required by this Act to be made.
- (2) No rule made by the Board under subsection (1) shall have effect until it has been approved by the Minister, and notification of such approval is published in the *Gazette*.
27. (1) Every person who -
- (a) knowingly makes any false or incorrect statement in any return or information furnished by him in compliance with the requirements of a notice sent to him under section 21 ;
- (b) fails or refuses without reasonable cause to comply with the requirement of any notice sent to him under section 21 ;

- (c) contravenes the provisions of this Act or any rule made thereunder;
- (d) being a Director, officer or servant of the Bureau, discloses any information obtained by him in or in connection with the exercise of his powers or the performance of his duties under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act ;
- (e) being a director, officer or servant of any lending institution which is a shareholder of the Bureau discloses any credit or financial information obtained by such lending institution from the Bureau to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act.

shall be guilty of an offence under this Act.

- (2) Every person who commits an offence under this Act shall on conviction after trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a period not exceeding five years or to both such fine and imprisonment
- (3) Where an offence under this Act is committed by a body or persons, then -
  - (a) if that body of persons is a body corporate, every director or officer of that body corporate ;
  - (b) if that body of persons is a firm, every partner of that firm,shall be deemed to be guilty of that offence :

Provided however that a Director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all such diligence to prevent the commission of such offence.

- (4) The Board may, having regard to the circumstances in which an offence under section 28(1) (a) or (b) was committed, compound such offence for a sum not exceeding fifty thousand rupees. All sums received by the Board in composition for an offence under this section shall be credited to the Fund.

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

29. In this Act, unless the context otherwise requires -

“Bank of Ceylon” means the Bank of Ceylon established by the Bank of Ceylon Ordinance (Chapter 397) ;

“Central Bank” means the Central bank of Sri Lanka established by the Monetary Law Act (Chapter 422) ;

“Development Finance Corporation of Ceylon” means the Development Finance Corporation established by the Development Finance Corporation Act (Chapter 165) ;

**"finance company"** means a Company registered under the Finance Companies Act No. 78 of 1988 to carry on finance business ;

**"licensed commercial bank"** means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988 ;

**"lending institution"** means -

- (a) a licensed commercial bank ;
- (b) a finance company ;
- (c) the National Savings Bank ;
- (d) the national Development Bank of Sri Lanka ;
- (e) State Mortgage and Investment Bank ;
- (f) Development Finance Corporation of Ceylon ;

**"Monetary Board"** means the Monetary Board of the Central Bank constituted under section 8 of the Monetary Law Act ;

**"National Development Bank of Sri Lanka"** means the National Development Bank established by the National Development Bank Act, No. 2 of 1979 ;

**"National Savings Bank"** means the National Savings Bank established by the National Savings Bank Act, No. 3 of 1971;

**"People's Bank"** means the People's Bank established by the People's Bank Act, No. 29 of 1961 ;

**"State Mortgage and Investment Bank"** means the State Mortgage and Investment Bank established by the State Mortgage and Investment Bank Act, No. 13 of 1975.

## SCHEDULE

(Section 5)

### Provisions Relating to the Board of Directors

1. Every Director except the Chairman and the Director referred to in Section 5(1) (viii) shall, unless he vacates office earlier by death, resignation or removal hold office for a term of three years and shall be eligible for re-nomination or re-election, as the case may be :

Provided that a Director nominated or elected in place of a Director who had vacated office by death, resignation or removal, shall hold office for the unexpired term of office of the Director whom he succeeds.

2. If any Director is temporarily unable to perform his duties of his office during any period due to ill-health, or absence from Sri Lanka or for any other cause, another person may be nominated or elected to act in his place.
3. A Director may be removed from office by the person or persons nominating or electing him, without assigning any reason therefor.

4. A Director (other than the Chairman and the Director referred to in Section 5(1)(viii) may resign his office by letter addressed to the Chairman and such resignation shall take effect upon it being accepted by the Chairman.
5. The Director may be paid such remuneration and other payments out of the Fund as may be determined by the Board.
6. (1) The Chairman of the Board shall if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the Directors present shall elect a Chairman from amongst themselves.  
(2) The Board shall meet at least once a month and also as frequently as is necessary for the purpose of discharging its functions under the Act.  
(3) The quorum for any meeting shall be four Directors and the Board may subject to the requirement as to quorum and the provisions of this Schedule, regulate by rule, the procedure in regard to the meetings of the Board and the transaction of business at such meeting.  
(4) All questions for decision at any meeting of the Board shall be decided by the vote of the majority of the Directors present. In the case of an equality of votes the Director presiding shall have a casting vote.
7. No act or decision or proceeding of the Board shall be invalidated by reason only of the existence of a vacancy among the Directors or of any defect in the appointment of any such Director.
8. (1) The seal of the Bureau shall be determined and devised by the Board, and may be altered in such manner as may be determined by the Board.  
(2) The seal of the Bureau shall be in the custody of the Chairman.  
(3) The seal of the Bureau shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of the Chairman and two Directors who shall sign the instrument or document in token of their presence.  
(4) The Bureau shall maintain a register of the instruments and documents to which the seal of the Bureau has been affixed.
9. (a) The Chairman may resign his office by a letter addressed to the Monetary Board and such resignation shall take effect on it being accepted by the Monetary board.  
(b) The Monetary Board may at any time remove the Chairman from office.
10. A Director who is directly or indirectly interested in any contract proposed to be made by the Bureau shall disclose the nature of such interest at a meeting of the Board and such Director shall not take part in any deliberation or decision on such contract, and shall withdraw from such meeting while such deliberation is in progress or such contract is being made.

## **INLAND REVENUE (AMENDMENT) ACT, NO. 22 OF 1990**

[Certified on 12th June, 1990]

### **AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 28 OF 1979**

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 22 of 1990.
2. Section 8 of the Inland Revenue Act, No. 28 of 1979, (hereinafter referred to as the "principal enactment") is hereby amended, in paragraph (a) of that section as follows :-
  - (1) by the substitution, in sub-paragraph (liv) of that paragraph, for the words and figures, "Sri Lanka Institute of Development Administration Act, No. 9 of 1982; and", of the words and figures, "Sri Lanka Institute of Development Administration Act, No. 9 of 1982;"
  - (2) by the substitution, in item (iii) of sub-paragraph (iv) of that paragraph, for the words and figures, "on or after May 26, 1986," of the words and figures, "on or after May 26, 1986 ; and"; and
  - (3) by the addition, at the end of that paragraph, of the following new sub-paragraph :-

"(lvi) the Agricultural Insurance Board established by the Agricultural Insurance Law, No. 27 of 1973.".
3. Section 14 of the principal enactment is hereby amended in sub-paragraph (xvi) of paragraph (a) of that section, by the substitution for the words "twenty-five years after its acquisition", of the words "twenty-five years after the date of acquisition of such property".
4. Section 15 of the principal enactment is hereby amended as follows :-
  - (1) by the insertion, immediately after paragraph (ccc) of that section, of the following new paragraph :-

"(cccc) the profits and income earned in any year of assessment commencing on or after April 1, 1990 in foreign currency by any National Association of Sports registered under the Sports Law, No. 25 of 1973, in respect of services rendered by such Association, or in the course of taking part in any sport within the meaning of the Sports Law, in that year of assessment outside Sri Lanka, if such profits and income (less such amount as the Commissioner-General considers to be reasonable expenses incurred outside Sri Lanka) are remitted by such Association to Sri Lanka;";
  - (2) by the substitution, in paragraph (t) of that section, for the words and figures, "President's Fund Act, No. 7 of 1978 ; and ;", of the words and figures, "President's Fund Act, No. 7 of 1978;"
  - (3) by the substitution, in paragraph (u) of that section, for the words and figures, "National Defence Fund Act, No. 9 of 1985.", of the words and figures "National Defence Fund Act, No. 9 of 1985; and"; and

(4) by the addition, immediately after paragraph (u) of that section, of the following new paragraph :-

"(v) such part of any sum as does not exceed two thousand rupees paid in any year of assessment commencing on or after April 1, 1990 by the Sri Lanka Bureau of Foreign Employment, established by the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985, to any person or partnership licensed by such Bureau, to carry on the business of a foreign employment agency, in respect of any Sri Lankan for whom employment outside Sri Lanka has been provided or secured by such person or partnership".

5. Section 20A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words and figures, "period commencing on April 1, 1984 and ending on March 31, 1990, ", of the words and figures, "period commencing on April 1, 1984 and ending on March 31, 1991.".

6. The following section is hereby inserted immediately after section 22DD and shall have effect as section 22DDD of the principal enactment :-

22DDD (1) The profits and income within the meaning of section 3(a) (other than profits and income from the sale of capital assets) of any company referred to in subsection (2), from any undertaking referred to in subsection (2), shall be exempt from income tax for a period of ten years from the commencement of the year of assessment in which such company commenced to carry on business.

(2) The provisions of subsection (1), shall apply to any company approved for the purposes of this section by the Minister by notice published in the *Gazette* and which is engaged solely in carrying on an undertaking of providing venture capital to any undertaking engaged in the manufacture or export of goods.".

7. Section 23 of the principal enactment is hereby amended, in subsection (1) of that section, as follows :-

(1) by the substitution, in paragraph (ee) of that subsection, for the words and figures "acquired by such person on or after April 1, 1981 and, ", of the words and figures, "acquired by such person on or after April 1, 1981, but prior to April 1, 1987 and, ";

(2) in paragraph (eee) of that subsection -

(a) by the substitution in sub-paragraph (iii) of that paragraph,

(i) for the words "any qualified building", of the words, "any qualified building constructed by such person and"; and

(ii) for the words, "in its cost of construction.", of the words, "on its cost of construction";

(b) by the insertion, immediately after sub-paragraph (iii) of that paragraph, of the following sub-paragraph :-

“(iv) any unit of non-residential accommodation comprised in a registered Condominium Property, within the meaning of the Apartment Ownership Law, No. 11 of 1973, acquired by such person on or after April 1, 1987, and arising out of its use in any trade, business, profession or vocation carried on or exercised by him, at the rate of ten per centum per annum on its cost of acquisition;”; and

- (c) by the substitution, in the proviso to that paragraph, for the words and figures “or sub-paragraph (iii) of this paragraph.”, of the words and figures “or sub-paragraph (iii) or sub-paragraph (iv) of this paragraph.”; and

- (3) by the addition, immediately after the proviso to paragraph (h) of that subsection, of the following further proviso :-

“Provided further that any sum deductible, under this paragraph, by the Development Finance Corporation of Ceylon or the National Development Bank referred to in paragraph (hh), in respect of bad or doubtful debts shall be deducted to the extent that it can be deducted from the respective general reserves (referred to in paragraph (hh)) of such corporation or such bank as the case may be, and the excess if any, of such sum over the amount in such general reserve, shall be deducted under this paragraph.”

8. Section 24 of the principal enactment is hereby amended, in subsection (1) of that section, as follows :-

- (1) by the re-lettering of paragraph (pp) as paragraph (q) of that subsection ; and  
(2) by the addition, immediately after such re-lettered paragraph (q) of that subsection, of the following paragraph :-

“(r) any sum transferred to any reserve or provision (other than any annual payment referred to in section 23 (1) (r)) for the payment of any sum referred to in section 32 (2) ;”.

9. Section 30 of the principal enactment is hereby amended, in the proviso to subsection (1) of that section, by the substitution for the words, “referred to in paragraph (a)”, of the words, “referred to in paragraph (a) or paragraph (aa) or paragraph (aaa) or paragraph (aaaa)”.

10. Chapter VIII of the principal enactment is hereby amended, in the heading of that Chapter, by the substitution for the words, “OTHER THAN COMPANIES”. of the words, “OTHER THAN COMPANIES AND TAX CREDITS”.

11. Section 32 of the principal enactment is hereby amended as follows :-

- (1) in subsection (2) of that section, by the repeal of paragraph (iii), paragraph (iv), and paragraph (v) thereof, and the substitution therefor, of the following paragraphs :-

- “(iii) PART IIA of the First Schedule to this Act in respect of the year of assessment commencing on April 1, 1984; or
- (iv) PART IIB of the First Schedule to this Act in respect of the year of assessment commencing on or after April 1, 1985; or
- (v) PART IIC of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1986, but prior to April 1, 1988; or
- (vi) PART IID of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1988.”; and
- (2) by the repeal of subsection (3C) of that section, and the substitution therefor, of the following subsection :-
- “(3c) Where the taxable income of any person includes any capital gain arising from the change of ownership of any immovable property acquired by that person by way of gift or inheritance from any other person, the date of acquisition of such property by the first mentioned person shall, for the purposes of subsection (3A) or subsection (3B) of this section or of sub-paragraph (XVI) of paragraph (a) of section 14, be deemed to be the date of acquisition of such property by the second mentioned person.
12. The following section is hereby inserted immediately after section 32D of the principal enactment and shall have effect as section 32E of that enactment :-
- 32E. There shall be deducted from the income tax payable for any year of assessment commencing on or after April 1, 1990, by any individual not being an individual to whom the provisions of subsection (7) of section 67 apply, whose assessable income for that year of assessment includes profits from any employment (other than such part of such profits as consists of any sum referred to in section 32(2).), an amount equal to nine hundred rupees or the amount of income tax which is attributable to such profits from employment whichever is less.
- For the purposes of this section the amount of income tax which is attributable to the profits from employment of any individual for any year of assessment commencing on or after April 1, 1990, shall be the sum which bears to the income tax payable by that individual for that year of assessment the same proportion as the proportion which the profits from employment of that individual for that year of assessment bear to the assessable income of that individual for that year of assessment.”.
13. Section 33 of the principal enactment is hereby amended as follows :-
- (1) in subsection (1) of that section,-
- (a) by the substitution in sub-paragraph (i) of paragraph (b) of that subsection, for the words and figures, “commencing on April 1,

- (a) in relation to a company for any year of assessment commencing on or after April 1, 1985, shall not include tax payable by that company, under paragraph (b) or paragraph (c) of subsection (1) of section 33, for that year of assessment; and
- (b) in relation to any person, for any year of assessment commencing on or after April 1, 1990, means, the income tax which would have been payable by such person for the year preceding that year of assessment (hereinafter referred to as the preceding year) had any profits and income (other than the net annual value of a residence and any subsidy exempt from income tax under this Act) which were exempt from income tax, under this Act, or any other law and in respect of which such exemption ceased in such preceding year, been taken into account in computing the assessable income of that person for that year of assessment.'
21. Section 129 of the principal enactment is hereby amended in subsection (2) of that section by the insertion, immediately after paragraph (d), of the following paragraph :-
- "(dd) It shall be lawful for any officer to recover, from any defaulter, reasonable expenses incurred by him in proceeding against such defaulter under this section, notwithstanding that no seizure of property was effected."
22. Section 163 of the principal enactment is hereby amended as follows :-
- (1) by the insertion, immediately after the definition of "owner", of the following definition :-
- "partnership" shall not include any disposition, trust, grant, covenant, agreement, assignment, settlement or other arrangement by which the share of the divisible profits or the divisible loss, of a partner of any partnership is shared with any other person or partnership;".
23. The First Schedule to the principal enactment is hereby amended in Part IV of that Schedule, as follows :-
- (1) by the substitution, in paragraph (b) of that Part, for the words and figures "on or after April 1, 1985—" of the words and figures "on or after April 1, 1985 but prior to April 1, 1990—"; and
- (2) by the addition, at the end of that Part, of the following paragraph :-
- "(c) for any year of assessment commencing on or after April 1, 1990-
- |                             |                        |
|-----------------------------|------------------------|
| On the first Rs. 200,000 .. | Nil                    |
| On the next Rs. 50,000 ..   | <i>'Sper centum</i>    |
| On the next Rs. 50,000 ..   | <i>10 per centum</i>   |
| On the balance ..           | <i>15 per centum</i> " |
24. (1) Amendment to section 23(1) of the principal enactment made by section 7

**APPROPRIATION (AMENDMENT) ACT, NO. 31 OF 1990**

[Certified on 24th August, 1990]

**AN ACT TO AMEND THE APPROPRIATION ACT, No. 18 OF 1989**

1. This Act may be cited as the Appropriation (Amendment) Act, No. 31 of 1990.
2. Section 2 of the Appropriation Act, No. 18 of 1989, is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution for the words "rupees forty-two thousand one hundred and ninety-eight million.", of the words "rupees fifty-three thousand one hundred and ninety-eight million".
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

## **BANKING (AMENDMENT) ACT, NO. 39 OF 1990**

[Certified on 12th November, 1990]

### **AN ACT TO AMEND THE BANKING ACT, NO. 30 OF 1988**

1. This Act may be cited as the Banking (Amendment) Act, No. 39 of 1990.
2. The following new Part is hereby inserted immediately after Part IV, and shall have effect as part IVA of the Banking Act, No.30 of 1988 (hereinafter referred to as the "principal enactment") :-

#### **PART IVA**

##### **NUMBERED ACCOUNTS**

- 34A. (1) The Monetary board may, by order made with the approval of the Minister, authorize a licensed commercial bank to operate numbered banking accounts on behalf of customers who are non-residents or foreign citizens.
- (2) Numbered accounts facilities offered by a licensed commercial bank authorized by the Monetary Board under this Part to customers, who are foreign citizens or non-residents may extend to current accounts, deposit accounts and savings accounts but shall not extend to credit facilities.
- (3) All moneys accepted by a licensed commercial bank authorized by the Monetary Board under this Part for deposit in a numbered account shall be in such foreign currencies as are specified by the Monetary Board.
- (4) The owner of a numbered account opened in a licensed commercial bank authorized by the Monetary Board under this Part shall be known only to such senior officers of such bank as may be determined by the Board of Directors of such bank.
- 34B. (1) Every officer of a licensed commercial bank operating a numbered account on behalf of a customer and every person, who by reason of his capacity or office, has any access to the records, registers, correspondence or any other material of such bank relating to such numbered account shall keep absolute secrecy with regard to the contents thereof, in the interests of the customer to whom the account relates.
- (2) Where a licensed commercial bank authorized by the Monetary Board under this Part opens a numbered account on behalf of a customer, the identity of the owner of the numbered account shall be absolutely inviolate and every officer of such licensed commercial bank and every other person referred to in subsection (1) shall not give, divulge or reveal any information whatsoever regarding the name

or identity of the owner of such numbered account to any individual, corporation, bank, court, institution, entity, department, official, agent, representative of the Government of Sri Lanka or to any other government or to any other legal or natural person, judicial or military authority, unless -

- (a) the owner of such numbered account gives his permission to do so; or
- (b) legal proceedings are instituted by, or against such licensed commercial bank by, or against, the owner of such numbered account relating to a banking transaction arising from such numbered account; or
- (c) he is required to do so -
  - (i) by any provision of any law giving effect to an international convention on narcotics or hijacking, in any criminal proceedings instituted under that law, in any court;
  - (ii) by an order of the Supreme Court, made on application therefor, on the ground that moneys in such account have been, or are being, used in furtherance of an act which constitutes an offence under the Prevention of Terrorism Act, No. 48 of 1979.

34C. (1) The Minister may make regulations regarding the maintenance of numbered accounts, the restrictions that may be placed on such accounts, including the inclusion or the exclusion of the moneys lying in such accounts for the computation of the deposit liabilities of a licensed commercial bank for the purposes of section 20 or section 21.

34D. For the purposes of this Part, the expression -

- (i) "foreign citizen" means a person who is not a citizen of Sri Lanka or is a citizen of Sri Lanka and of any other country;
- (ii) "non-resident" shall have the same meaning as in the Inland Revenue Act, No.28 of 1979;
- (iii) "numbered account" means an account opened with a licensed commercial bank authorized by the Monetary board under this Part that is identified only by a number, code word or such other means as may be determined by the Monetary Board.'

3. Section 79 of the principal enactment is hereby amended as follows :-

- (1) by the insertion immediately after subsection (1) of that section of the following new subsection :-
  - (1A) Any person who contravenes the provisions of section 34B shall be guilty of an offence under this Act and shall on conviction, after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding three years or to a fine not exceeding one million rupees or to both such imprisonment and fine, and where such offence is committed knowingly or wilfully

or with reason to believe that it will cause damage or harm to any other person, to rigorous imprisonment for a term of not less than five years and not exceeding ten years and to a fine of one million rupees or twice the amount, in Sri Lanka currency, of the amount revealed or divulged to be in such account, whichever is higher.”; and

- (2) in subsection (2) of that section, by the substitution, for the words “under subsection (1) shall”, of the words “under subsection (1) or subsection (1A) shall”.
4. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

**INLAND REVENUE (AMENDMENT) ACT, NO. 42 OF 1990**

[Certified on 29th November, 1990]

**AN ACT TO AMEND THE INLAND REVENUE ACT, NO 28 OF 1979**

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 42 of 1990.
2. Section 8 of the Inland Revenue Act, No.28 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended in paragraph (a) of that section as follows :-
  - (1) by the substitution, in item (iii) of sub-paragraph (LV) of that paragraph, for the words and figures "on or after May 26, 1986; and ", of the words and figures "on or after May 26, 1986;";
  - (2) by the substitution in sub-paragraph (LVI) of that paragraph, for the words and figures, "established by the Agricultural Insurance Law, No. 27 of 1973.", of the words and figures, "established by the Agricultural Insurance Law, No. 27 of 1973; and "; and
  - (3) by the addition, at the end of that paragraph, of the following sub-paragraphs :-

"(LVii) the Superior Courts Complex Board of Management established by the Superior Courts Complex Board of Management Act, No. 50 of 1987;

(LViii) the International Committee of the Red Cross; and

(Lix) the Institute of Policy Studies of Sri Lanka established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988.".
3. Section 9 of the principal enactment is hereby amended in subsection (1) of that section as follows :-
  - (1) in paragraph (b) of that subsection -
    - (a) by the insertion, immediately after sub-paragraph (viii), of the following sub-paragraph :-

"(ix) an employee of the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988 ;"; and
    - (b) by the substitution for the words and figures "referred to in items (i), (ii), (iii), (iv), (v), (vi) or (vii);", of the words and figures "referred to in items (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix);"; and
  - (2) in paragraph (h) of that subsection, by the substitution for the words "the International Irrigation Management Institute or the Colombo Plan Bureau or the Asian Development Bank;", of the words "the International Irrigation Management Institute, the Colombo Plan Bureau, the Asian Development Bank, the World Bank or the International Committee of the Red Cross;".

4. Section 11 of the principal enactment is hereby amended, in paragraph (b) of that section, by the substitution for the words and figures :“17, 17A, 18, 19, 20, 20A, 20B, 20C, 21, 22, 22A, 22B, 22C, or 22D of this Act”, of the words and figures “17, 17A, 17C, 17D, 17, 19, 20, 20A, 10B, 20C, 21, 22, 22A, 22B, 22C, 22D, 22DDD or 22DDDD of this Act”.
5. Section 14 of the principal enactment is hereby amended in paragraph (a) of that section as follows :-
  - (1) by the substitution in sub-paragraph (xvi) of that paragraph for the words “partnership were shared; and”, of the words “partnership were shared;”;
  - (2) by the substitution in sub-paragraph (xvi) of that paragraph, for the words “to whom such gain arises.”, of the words “to whom such gain arises; and”;
  - (3) by the insertion immediately after sub-paragraph (xvi) of the following Sub-paragraphs :-

‘(xvii) the sale, on or after January 1, 1990, of any property held by any individual (other than any property which immediately prior to such sale formed part of the assets of any business), if the full sale proceeds are invested, within one year from the date of such sale but on or before April 1, 1992, in the purchase, of any ordinary share, other than any existing share, in any company -
    - (a) referred to in section 17C or in section 22DDD or in section 22DDDD, or
    - (b) carrying on an undertaking referred to in section 17E, if the sum so invested is certified by such company as being solely for the purpose of expanding the productive capacity of such undertaking :

Provided that the provisions of this sub-paragraph shall not apply if an allowance in respect of such investment is deducted under section 31, from the assessable income of that individual for any year of assessment :

Provided further that where any change of ownership of any share so purchased occurs, otherwise than by the death of that individual, within five years after the date of such purchase, an additional assessment consisting of the difference between -

- (i) the income tax to which such individual would have been liable for the year of assessment in which such capital gain arose had the exemption from income tax granted under this sub-paragraph not been granted in respect of such part of such capital gain as is attributable to the sum invested in the purchase of the share in respect of which such change of ownership occurs; and
- (ii) the income tax charge for the year of assessment in which such capital gain arose,

shall, notwithstanding anything in this Act, be made for the year of assessment in which such sale was made in respect of that individual and accordingly, the provisions

of this Act relating to notice of assessment, appeal and other proceedings shall apply to such additional assessment.

For the purposes of this sub-paragraph the expression "such part of such capital gain as is attributable to the sum invested in the purchase of the share in respect of which such change of ownership occurs" means the sum which bears to the sum invested in the purchase of the share in respect of which the change of ownership occurs the same proportion as the proportion which the entirety of such capital gain bears to the full proceeds of the sale of the property referred to in this paragraph;

- (xviii) the sale, by any venture capital company referred to in section 22DDD of any share or stock, held by it in any other company;
- (xix) the sale, by any unit trust or any mutual fund referred to in section 22DDD, of any share or stock held by such unit trust or mutual fund in any other company;
- (xx) the sale, by any person of any unit held by such person in any unit trust or any mutual fund after one year from the date of acquisition by such person, of such unit;
- (xxi) the change of ownership of any share in a quoted public company after one year from the date of acquisition by any person of such share.

6. The following new sections are hereby inserted immediately after section 17A of the principal enactment and shall have effect as sections 17B, 17C, 17D, 17E, 17F and 17G of that enactment :-

17B. (1) The profits and income within the meaning of paragraph (a) of section (3) (other than any profits and income from the sale of capital assets), of any undertaking referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such undertaking commenced to carry on business.

(2) The provisions of subsection (1) shall apply to any undertaking which-

- (a) commenced to carry on business on or after January 1, 1990;
- (b) is, on the recommendation of the Minister in charge of the subject of Policy Planning and Implementation, approved by the Minister, to be an undertaking to which this section applies, by notice published in the *Gazette* on or before April 1, 1992;
- (c) is engaged in purchasing for resale, of any agricultural or export oriented commodity, other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, dessicated coconut, copra, fresh coconuts, coconuts, coconut fibre or such other commodity as may be specified by the Minister by notice published in the *Gazette* having regard to the economic progress of Sri Lanka; and
- (d) is not formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence.

- (3) For the purposes of subsection (2) of this section, the expression "any agricultural or export oriented commodity" means any -
- (i) agricultural produce; or
  - (ii) commodity manufactured from any agricultural produce; or
  - (iii) manufactured article intended to be supplied to any exporter for export.

17C. (1) The Profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets), of any company referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.

- (2) The provisions of subsection (1) shall apply to any company which -
- (a) commenced to carry on business on or after January 1, 1990;
  - (b) is, on the recommendation of the Minister in charge of the subject of Industries, approved by the Minister by notice published in the Gazette on or before April 1, 1992, as a company to which this section applies; and
  - (c) is engaged only in carrying on -
    - (i) an industrial undertaking of a pioneering nature in regard to industrial products or industrial processes; or
    - (ii) an undertaking for the provision of training in manufacturing processes, or computer software and computer related development, or industrial design;

Provided that such undertaking is not an undertaking formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence.

- 17D. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.
- (2) The provisions of subsection (1) shall apply to any company which -
- (a) commenced to carry on business on or after January 1, 1990;
  - (b) is, on the recommendation of the Minister in charge of the subject of Industries, approved by the Minister by notice published in the Gazette on or before April 1, 1992, as a company to which this section applies ;
  - (c) is engaged only in carrying on any undertaking which provides in any location, infra-structure facilities including floor space of not less than two thousand square feet each for the exclusive use of each of

not less than twenty enterprises for the production or manufacture, in that location, of goods or commodities:

Provided that such undertaking is not an undertaking formed by the splitting up, reconstruction or acquisition of any business which was previously in existence.

17E. (1) The profits and income within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of capital assets), of any off-shore company registered under Part VIII of the Companies Act, No. 17 of 1982, from any undertaking referred to in subsection (2), shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company is so registered, if such profits and income (less any amount as the Commissioner-General considers reasonable expense) are remitted to Sri Lanka.

(2) The provisions of subsection (1) shall apply to any undertaking which -

- (a) is approved by the Minister by notice published in the Gazette on or before April 1, 1992, as an undertaking to which this section applies; and
- (b) is engaged on-shore, in off-shore transactions relating to the provision of services in insurance or aviation or underwriting of loans or syndication of loans or international consultancy or in any combination of two or more of such services.

17F. (1) The profits and income attributable to the expansion of any undertaking for the production or manufacture of goods or commodities and referred to in subsection (2), shall be exempt from income tax for a period of five years reckoned from the relevant date.

(2) The provisions of subsection (1) shall apply to any undertaking -

- (a) which has incurred, within a period of twelve months from the relevant date, new capital expenditure of not less than five million rupees in amount in expanding its productive capacity; and
- (b) which is, on the recommendation of the Minister in charge of the subject of Industries approved by the Minister by notice published in the *Gazette* on or before April 1, 1992 to be an undertaking to which this section applies; and
- (c) in respect of which the Commissioner-General is satisfied that the number of employees employed, on the last day of the year commencing on the relevant date, in such undertaking and in respect of each of whom regular contributions to any provident fund approved by the Commissioner-General are being made, exceeds the maximum number of employees, who were employed in that undertaking for an unbroken period of not less than twelve months immediately preceding the relevant date, by not less than twenty five:

Provided that where at any time during any year of assessment within the five years referred to in subsection (1), the number of employees employed in such undertaking

and in respect of every one of whom regular contributions to any provident fund approved by the Commissioner-General are being made, does not exceed such maximum by twenty-five or more, such profits and income of that undertaking for that year of assessment as are referred to in subsection (1), shall not be exempt from income tax.

(3) For the purposes of this section and in relation to any industrial undertaking -

- (a) the expression "profits and income attributable to the expansion" in relation to any year of assessment means the excess of -
  - (i) the profits of income, within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of any capital asset), of that undertaking for that year of assessment, reduced by ten per-centum or such other percentage of such profits and income, as may be specified by the Minister having regard to the rate of inflation which prevailed in Sri Lanka in or about that year of assessment by notice published in the *Gazette*, over
  - (ii) the annual average of such profits and income of that undertaking, such average being computed for a period of three years immediately preceding the relevant date where the undertaking has been carrying on business for a period of three years or more prior to the relevant date or for the entire period during which it has been carrying on business, where the undertaking has been carrying on business for a period of less than three years prior to the relevant date;
- (b) the expression "relevant date", means the first day of any calendar month not earlier than April 1990, and not later than March 1992, and selected by the person carrying on that undertaking or where the undertaking is carried on by a partnership, by the precedent partners of that partnership, and notified to the Commissioner-General in writing not later than thirty days from the last date of that month :

Provided that where the relevant date is not so notified to the Commissioner-General the relevant date shall be deemed to be April 1, 1990 :

- (c) the expression, "new capital expenditure" means expenditure incurred by the person who, or the partnership which carries on that undertaking in the purchase of new productive equipment, (other than any land or any building) which is intended to increase its productive capacity :

Provided that expenditure incurred in the purchase of productive equipment which is not new shall be deemed not to be new capital expenditure unless it is proved to the satisfaction of the Commissioner-General that -

- (i) the purchase of that productive equipment is economically justifiable; and

(ii) the purchase price represents the fair market value of such productive equipment:

Provided further that any expenditure incurred for the replacement after the relevant date of any equipment which formed part of the assets of that undertaking on or before the relevant date, shall be deemed not to be new capital expenditure.

17G. (1) The profits and income within the meaning of paragraph (a) of section 3, of any undertaking for the transport of passengers, from the operation of any omnibus referred to in subsection (2), shall be exempt from income tax for a period of three years from the date of the first registration of that bus by the Registrar of Motor Vehicles.

(2) The provisions of subsection (1) shall apply to any omnibus which -

- (a) is new;
- (b) is first registered by the Registrar of Motor Vehicles on or after January 1, 1990 but prior to April 1, 1992; and
- (c) has a seating capacity for not less than thirty persons excluding the driver.

(3) For the purposes of this section the expression "the profits and income from any omnibus" in relation to any year of assessment and to any undertaking for the transport of passengers, means the sum which bears to the gross receipts from the transport of passengers by that omnibus the same proportion as the profits and income of that undertaking from the transport of passenger bears to the aggregate gross receipts of that undertaking from the transport of passengers by all the omnibuses operated by that undertaking.

7. Section 20B of the principal enactment is hereby amended by the substitution for the words "foreign exchange value of the exports related to such supply.", of the words "foreign exchange value of the exports related to such supply :

Provided that where it is proved to the satisfaction of the Commissioner-General that it is inexpedient or impracticable to cover such supply by a letter of credit in the aforesaid manner, he shall direct that notwithstanding that such supply is not so covered, the exemption granted under this section shall apply if -

- (a) such supply is covered by a letter of credit opened in a bank in Sri Lanka or such other documentary evidence as is required to satisfy himself that the exports relating to such supply were in fact made, is adduced; and
- (b) the receipt of the foreign exchange value of the exports relating to such supply is certified by the bank to which the foreign exchange value of such exports is remitted."

8. The following section is hereby inserted immediately after section 22DDDD in the principal enactment, and shall have effect as section 22DDDD of the enactment -

- 22DDDD. (1) The profits and income (other than profits and income from the sale of any capital asset in respect of which an allowance for depreciation within the meaning of section 23, has been granted) of any unit trust or, mutual fund referred to in subsection (2), shall be exempt from income tax for a period of five years reckoned from the commencement of the year of assessment in which such unit trust or, mutual fund commenced to carry on business.
- (2) The provisions of subsection (1) shall apply to any unit trust or, mutual fund approved by the Minister by notice published in the Gazette on or before April 1, 1992, as a unit trust or, mutual fund to which this section applies.”.
9. Section 23 of the principal enactment is hereby amended in subsection (1) of that section, by the insertion immediately after paragraph (eee), of the following paragraph :-

“(eeee) a sum equal to one-tenth of any payment made, on or after April 1, 1990 by such person as consideration for the licensing, in his favour, or any manufacturing process used by him in any trade or business carried on by him :

Provided that no deduction under the provisions of this paragraph shall be allowed to any person in respect of any such payment if the total of the sums deducted in the preceding years of assessment is equal to the amount of such payment.”.

10. The following new sections are hereby inserted immediately after section 23 of the principal enactment and shall have effect respectively as sections 23A and 23B of that enactment :-

23A. (1) Subject to the provisions of subsection (2), there shall be allowed, for the purpose of ascertaining the profits or income of any resident person from any undertaking engaged in the export of any commodity (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, coconut oil, desiccated coconut, copra, fresh coconuts, coconut fibre or such other commodity as may be specified by the Minister by notice published in the Gazette having regard to the economic progress of Sri Lanka), manufactured in Sri Lanka, a deduction in respect of any sum expended by such person for the purpose of any approved export market development activity, of an amount equal to twice the sum so expended.

- (2) No deduction under the provisions of subsection (1) shall be allowed in respect of any sum expended -
- (a) by way of remuneration paid to -
- (i) more than two employees participating in any trade fair or trade exhibition;
- (ii) more than three employees employed in any trade office;

or

(iii) any employee, if such remuneration exceeds the amount approved by the Controller of Exchange.

For the purposes of this paragraph -

(i) "employee" in relation to a trade fair, trade exhibition or trade office, means any employee who has been in the employment of any resident person referred to in subsection (1) for an unbroken period of not less than twelve months immediately preceding, the commencement of the period within which such trade fair or trade exhibition is held or the date on which such trade office is opened, and in respect of whom regular contribution to any provident fund approved by the Commissioner-General have been made by such resident person throughout such period of employment; and

(ii) "remuneration paid" in relation to any employee means the expenditure relating to travelling, accommodation, subsistence or any other expenses of such employee incurred in connection with his participation in such trade fair or trade exhibition or his employment in such trade office;

- (b) for the purpose of maintaining such trade office if such undertaking has a permanent establishment subject to any tax on income in the country in which such office is located;
- (c) if a deduction in respect of such sum is allowed under section 23; or
- (d) prior to April 1, 1990 or on or after April 1, 1995.

(3) For the purposes of subsection (1) the expression -

(a) "export market development activity" means -

(i) participation in any trade fair, or trade exhibition held outside Sri Lanka;

(ii) maintaining any trade office in any location outside Sri Lanka;

(iii) inserting any advertisement in any publication published outside Sri Lanka;

(iv) preparing, printing and publishing of any catalogue, brochure, or other promotional literature;

or

(v) any other activity, which is exclusively for the purpose of promoting the export of any commodity referred to in subsection (1);

(b) "approved" means approved, on the recommendation of the Export Development Board, by the Commissioner-General subject to such conditions as may be specified by him;

(c) "manufactured in Sri Lanka" in relation to any commodity means any commodity exported from Sri Lanka in respect of which -

- (i) the value added to that commodity in Sri Lanka is certified by the Export Development Board to be not less than forty *per centum* of the export price (before charging freight and insurance) of such commodity; or
- (ii) the labour component of the value added to that commodity in Sri Lanka is certified by the Export Development Board to be not less than sixty *per centum* of the total value added to that commodity in Sri Lanka.

- 23B. (1) Subject to the provisions of subsection (2), there shall be allowed, for the purpose of ascertaining the profits or income of any person from any undertaking for the manufacture of any commodity, a deduction of an amount equal to twice the amount of any expenditure incurred by such person in carrying on any scientific, industrial or agricultural research or in the training in Sri Lanka, of any employee employed in that undertaking, such research or training being directly related to upgrading the manufacturing process or the quality of such commodity.
- (2) No deduction under the provisions of subsection (1) shall be allowed in respect of any expenditure incurred -
- (a) prior to April 1, 1990 or on or after April 1, 1995;
  - (b) if a deduction in respect of such expenditure is -
    - (i) allowed under the provisions of section 23; or
    - (ii) not allowable under the provisions of section 24.'.

11. Section 31 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section -
- (a) by the substitution, for the words and figures "subsection (5B) and subsection (5C)", of the words and figures "subsection (5B) subsection (5C) and subsection 5(D)";
  - (b) by the substitution, for the words, "made by him in that year of assessment of an allowance equal to the amount of such qualifying payment.", of the words and figures "made by him or deemed to have been made by him in that year of assessment, of an allowance equal to the amount of such qualifying payment :

Provided that where a qualifying payment made by any person on or after April 1, 1990, but prior to October 1, 1990, in the purchase of any ordinary share, other than any existing share in any company referred to in section 17C or section 22DDD or section 22DDDD or carrying on an undertaking referred to in section 17F shall, if such person by communication in writing addressed to the Commissioner-General on or before November 30, 1990 so elects, be deemed, for the purposes of this subsection, to have been made in the year of assessment commencing on April 1, 1989.";

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

(i) by the addition, immediately after sub-paragraph (vi) of paragraph (b) of that subsection, of the following sub-paragraph :-

"(vii) the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979;";

(ii) by the substitution, in paragraph (d) of that sub-section, for the words, "in an approved undertaking," of the words "in approved undertaking, other than an approved undertaking referred to in paragraph (q);";

(iii) by the addition, immediately after sub-paragraph (ix) of paragraph (k) of that subsection of the following sub-paragraph :-

"(x) the Institute of Policy Studies of Sri Lanka, established by the Institute of Policy Studies of Sri Lanka Act, No. 53 of 1988;";

and

(iv) by the insertion, immediately after paragraph (p) of that subsection, of that following paragraph :-

"(q) any sum invested by any person in the purchase of ordinary shares, other than existing shares, in any approved undertaking being a company -

(i) referred to in section 17C or section 22DDD or section 22DDDD;

or

(ii) carrying on an undertaking referred to in section 17F, if the sum so invested is certified by such company as being solely for the purpose of expanding the productive capacity of such undertaking :

Provided that where the sum so invested is out of the full proceeds of any sale referred to in subparagraph (xvii) of paragraph (a) of section 14, no allowance shall be deductible under this section, if an exemption from income tax in respect of the capital gains arising from such sale has been granted under section 14,";

(3) in subsection (5C) of that section, by the substitution for the words and figures "commencing on or after April 1, 1988", of the words and figures "commencing on or after April 1, 1988, but prior to April 1, 1990";

(4) by the insertion, immediately after subsection (5C) of that section, of the following subsection :-

"(SD) The deduction from the assessable income of any person, other than a company, for any year of assessment commencing on or after April 1, 1990,

(i) in respect of all qualifying payments other than those referred to in paragraphs (b), (c), (m), (n) and (q) of subsection (2), made by him or deemed to have been made by him, shall not exceed one-third of such assessable income or fifty thousand rupees, whichever is less;

- (ii) in respect of all qualifying payments, referred to in paragraphs (c), (m) and (n) of subsection (2), made by him, or deemed to have been made by him, shall not exceed fifty thousand rupees;
  - (iii) in respect of any qualifying payment referred to in paragraph (q) of subsection (2), made by him or deemed to have been made by him, shall not exceed one-third of such assessable income;
    - and
  - (iv) in respect of the aggregate of all qualifying payments referred to in paragraph (i) and (ii) of this subsection, shall not exceed fifty thousand rupees.”;
- (5) in subsection (6) of that section, by the substitution for the words “referred to in paragraphs (b), (c), (m), (n) of”, the words “referred to in paragraphs (b), (c), (m), (n) or (q) of”;
- (6) by the insertion, immediately after subsection (7A) of that section, of the following subsection :-
- “(7B) Where an allowance has been deducted from the assessable income of any person under subsection (1) in respect of any qualifying payment made for the purchase of any share referred to in paragraph (q) of subsection (2) and where, within a period of five years after the date of such purchase there is a change in the ownership of such share otherwise than by the death of the individual who purchased such share then, in respect of the year of assessment in which such allowance was granted an additional assessment consisting of the difference between the income tax to which the person who has been granted the allowance would have been liable if such allowance had not been granted and the amount of tax charged for that year of assessment shall, notwithstanding anything in this Act, be made in respect of that person and the provisions of this Act relating to notice of assessment, appeal and other proceedings shall apply accordingly.”; and
- (7) in subsection (8) of that section, by the substitution, for the words “in paragraphs (d) and (m) of”, of the words “in paragraphs (d), (m) or (q) of”
12. Section 32 of the principal enactment is hereby amended as follows :-
- (1) in subsection (3A) of that section, by the substitution for the words “from the change of ownership of any property within such period”, of the words, “from the change of ownership of any property, not being any share in any quoted public company more than two years”;
- (2) in subsection (3B) of that section, by the substitution for the words “from the change of ownership of any property within such period”, of the words, “from the change of ownership of any property, not being any share in any quoted public company within such period”; and
- (3) by the insertion, immediately after subsection (3B) of that section, of the following subsections -

(3BB) Where the taxable income of a person includes any capital gain arising from the change of ownership of any share in any quoted public company, within a period of one year after the date of acquisition of such share by such person, and the rate of income tax payable on a part of such income (hereinafter in this subsection referred to as the "relevant part of the income") exceeds twenty *per centum*, then in regard to the relevant part of the income the tax shall be computed as follows :-

- (a) if the relevant part of the income exceeds the amount of such capital gain -
  - (i) the tax payable on such part of the income as is equal to the amount of such capital gain shall be at the rate of twenty *per centum*; and
  - (ii) the tax payable on the balance of the relevant part of income shall be computed according to such of the rates above ten *per centum* as are applicable thereto under this Act; and
- (b) if the relevant part of the income does not exceed the amount of such capital gain, the tax payable on the entirety of the relevant part of the income shall be at twenty per centum notwithstanding anything to the contrary in this Act.

13. Section 33 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section -
  - (a) by the substitution, for the proviso to paragraph (b) of that subsection, of the following proviso :-

"Provided that a quoted public company shall not be liable to pay tax under paragraph (b) -

    - (i) for the year of assessment commencing on April 1, 1980 and for each of the three years of assessment immediately succeeding that year of assessment; and
    - (ii) for any year of assessment commencing on or after April 1, 1991; and"; and
  - (b) by the insertion, immediately after paragraph (b) of that subsection of the following paragraph :-

"(bb) an amount equal to fifteen *per centum* of the aggregate amount of the gross dividends distributed to any non-resident person by a quoted public company in any year of assessment commencing on or after April 1, 1991 out of the profits on which the taxable income of such company is computed for any year of assessment"; and
- (2) in sub-paragraph (ii) of paragraph (c) of subsection (2) of that section,
  - (i) by the substitution; in item (a) of that sub-paragraph, for the words

and figures "on or before March 31, 1980; or", of the words and figures "on or before March 31, 1980;";

(ii) by the substitution, in item (b) of that sub-paragraph, for the words and figures "on or after April 1, 1980.", of the words and figures, "on or after April 1, 1980 but prior to April 1, 1990; or"; and

(iii) by the addition, immediately after item (b) of that sub-paragraph, of the following item :-

"(c) seventeen and eleven-seventeenth per centum if the dividend is payable on or after April 1, 1990."

14. Section 35 of the principal enactment is hereby amended by the insertion, immediately after paragraph (d) of that section of the following paragraph :-

"(e) that dividend is a dividend declared by a quoted public company on or after April 1, 1991, ".

15. The following section is hereby inserted immediately after section 37 of the principal enactment and shall have effect as section 37A of that enactment :-

37A. Every resident company shall deduct from the amount of any dividend (hereinafter in this section referred to as the "relevant dividend") which becomes payable on or after April 1, 1991, to any non-resident person if the relevant dividend consists of the whole or any Part of the amount of a dividend not being the whole or any part of a dividend which is exempt from income tax under this Act, distributed by any quoted public company and received, either directly or through one or more intermediary companies, by such resident company, income tax equivalent to fifteen per centum of such relevant dividend and the amount of the income tax which a resident company is under this section, required to deduct shall be a debt due from such resident company to the State and shall be recoverable forthwith as such or may be assessed and charged upon such resident company in addition to any income tax otherwise payable by it :

Provided that in determining, for the purposes of this section, the amount of the relevant dividend, no account shall be taken of such part of such dividend as is distributed out of the profits or income on which the taxable income of such resident company is computed for any year of assessment.'

16. Section 38 of the principal enactment is hereby amended as follows :-

(i) in subsection (1) of that section by the substitution in the proviso to that subsection, for the words and figures "but prior to April 1, 1984", of the words and figures "but prior to April 1, 1984, or to any dividend declared by a quoted public company on or after April 1, 1991, to any resident person."; and

(2) in subsection (3) of that section,

- (a) by the substitution in paragraph (c) of that subsection, for the words "three-seventeenth *per centum* of the words "seventeen and eleven-seventeenth *per centum*"; and
- (b) in the proviso to that subsection -
  - (i) by the substitution, in paragraph (c) of that proviso, for the words, "from a quoted public company.", of the words "from a quoted public company; or "; and
  - (ii) by the addition, immediately after paragraph (c) of that proviso, of the following paragraph -
    - "(d) the amount of any dividend received on or after April 1, 1991 from a quoted public company.".

17. Section 44 of the principal enactment is hereby amended in subsection (1) of that section by the substitution, in the proviso to that subsection, for the words, "approved by the Commissioner-General.", of the words, 'approved by the Commissioner-General :

Provided further that for the purposes of this subsection -

- (i) "trust" shall not include any unit trust ;
- (ii) "trustee" shall not include the trustee of any unit trust.'.

18. Section 60 of the principal enactment is hereby amended by the addition immediately after subsection (4) of that section, of the following subsection -

(5) For the purposes of this section, the term "trust" shall not include any unit trust, and the term "trustee" shall not include the trustee of any unit trust.

19. Section 64 of the principal enactment is hereby amended, by the substitution, for the words "in the capacity of trustees of a trust", of the words "in the capacity of trustees of a trust, not being any unit trust".

20. The following new heading and new section are hereby inserted immediately after section 64 of the principal enactment and shall have effect as heading "BB Unit Trusts" and section 64A respectively of the principal enactment -

#### BB - UNIT TRUST

64A. (1) For the purposes of this Act, every unit trust and every mutual fund shall be deemed to be a company resident in Sri Lanka and accordingly the provisions of this Act relating to companies resident in Sri Lanka shall, *mutatis mutandis*, apply to every unit trust and every mutual fund.

(2) Without prejudice to the generality of the provisions of subsection (1) -

- (a) a "unit" in any unit trust or a mutual fund shall be deemed to be a "share" in that company;

- (b) a unit holder in any unit trust or mutual fund shall be deemed to be a shareholder in that company;
  - (c) the profits and income derived by, or arose or accrued to the benefit of, the trustee of any unit trust or the custodian of any mutual fund from any property subject to that unit trust or mutual fund or from any trade or business carried on by such trustee or such custodian for, or on behalf of, that unit trust or mutual fund shall be deemed to be the profits and income of that company;
  - (d) any distribution, in any manner whatsoever, of the profits or income of any unit trust, or mutual fund to its unit holders shall be deemed to be a dividend distributed to the shareholders of that company; and
  - (e) the paid up value of any unit in any unit trust or mutual fund shall be deemed to be the paid up value of any share in that company.
- (3) Any sum appropriated or paid by way of remuneration to the manager or the trustee of any unit trust or to the manager or custodian of any mutual fund out of the funds of that unit trust or mutual fund shall, for the purposes of section 23 be deemed to be outgoings and expenses incurred by that company in the production of its income.'
21. Section 97 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for the words and figures, "commencing on or after April 1, 1985, shall be paid", of the words and figures, "commencing on or after April 1, 1985 and under section 37A in respect of dividends distributed by such company in any year of assessment commencing on or after April 1, 1991, shall be paid".
22. Section 135 of the principal enactment is hereby amended by the substitution, for the words, "beneficiary to a trust is chargeable", of the words "beneficiary to a trust, not being any unit trust, is chargeable".
23. Section 163 of the principal enactment is hereby amended as follows :-
- (1) by the insertion, immediately after the definition of "market value", of the following definition :

"mutual fund" means any mutual fund licensed as a mutual fund by the Securities Council;';
  - (2) by the substitution, for the definition of "quoted public company,", of the following definition :

"quoted public company" means any company which is resident in Sri Lanka and in respect of which, the Assessor is satisfied that in relation to any year of assessment, commencing on or after April 1, 1990, it is a company the shares of which are quoted throughout that year of assessment, or where such company is incorporated during that year of assessment, from the date of incorporation to the end of that year of assessment, in any official list published by any stock exchange licensed by the Securities Council;';

(3) by the insertion, immediately after the definition of "resident" or "resident in Sri Lanka", of the following definition :-

"Securities Council" means the Securities Council established by the Securities Council Act, No. 36 of 1987; ;

(4) by the substitution, in the definition of "trustee", for the words, "on behalf of any person, but does not include an executor;", of the words, "on behalf of any person, and in relation to any unit trust, the person appointed as the trustee of that unit trust by the instrument creating such unit trust, but does not include an executor;"; and

(5) by the insertion, immediately after the definition of "trustee", of the following definition :-

"unit trust" means any unit trust licensed as a unit trust by the Securities Council;'

24. the Second Schedule to the principal enactment is hereby amended as follows :-

(1) by the substitution, in Part V of that Schedule, for the words and figures "commencing on or after April 1, 1980", of the words and figures "commencing on or after April 1, 1980 but prior to April 1, 1990";

(2) by the insertion, immediately after Part V, of that Schedule, of the following new Parts :-

#### PART VA

Any company which is a quoted public company in relation to the year of assessment commencing on April 1, 1991 and in respect of which the Assessor is satisfied that as on March 31, 1992, -

- (i) the number of persons registered in the share register of such company as shareholders, exceeds two hundred; and
- (ii) no five persons together hold directly or through any nominee more than sixty *per centum* of the total issued share capital as at that date, of that company.

On the taxable income of that company for the year of assessment commencing respectively on April 1, 1990 and on April 1, 1991 - 40 *per centum* ;

Provided that where such company is a company formed by the conversion, under the provisions of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, of any public corporation or any government owned business undertaking into a company, the provisions of this Part, in relation to such company shall apply, as if for the reference, in item (ii), to the words, "sixty *per centum*", there were substituted a reference to the words "sixty-five *per centum*".

For the purposes of this Part where any person referred to in item (i) or item (ii) is -

- (a) an individual, any share of that company held by that individual, his or her spouse or children (other than any son or daughter who is not a child as at that date) whether directly or through any nominee shall, be deemed to be held by that individual;
- (b) a subsidiary company of any holding company, any share of that company held by such subsidiary company, shall be deemed to be held by such holding company.

The expressions "holding company" and "subsidiary company" referred to in paragraph (b) shall have the same respective meanings assigned to them in section 150 of the Companies Act, No. 17 of 1982.

#### PART Vb

Any company which is a quoted public company in relation to any year of assessment commencing on or after April 1, 1992 and in respect of which the Assessor is satisfied that on the last day of that year of assessment,-

- (i) the number of persons registered in the share register of such company, as shareholder, exceeds two hundred; and
- (ii) no five persons together hold directly or through any nominee more than sixty *per centum* of the total issued share capital, as at that date, of that company

On the taxable income of that company for that

year of assessment .. .. 40 *per centum*:

Provided that where such company is a company formed by the conversion under the provisions of the Conversion of Public Corporations or Government owned Business Undertakings into Public Companies Act, No. 23 of 1987, of any public corporation or any Government owned business undertaking into a company the provisions of this Part in relation to such company, shall apply, as if for the reference in item (ii), to the words, "sixty *per centum*" there were substituted a reference to the words, "sixty-five *per centum*".

For the purposes of this Part where any person referred to in item (i) or item (ii) is -

- (a) an individual, any share of that company held by such individual, his or her spouse or children (other than any son or daughter who is not a child as at that date) where directly or through any nominee, shall be deemed to be held by that individual;
- (b) a subsidiary company of any holding company, any share of that company held by such subsidiary company, shall be deemed to be held by such holding company.

The expressions "holding company" and "subsidiary company" referred to in paragraph (b) shall have the same respective meanings assigned to them in section 150 of the Companies Act, No.17 of 1982.;

- (3) by the substitution for the words and figures "PART VIIIIA Public Corporations", of the words and figures "PART IX" Public Corporations';
- (4) by the addition, at the end of that Schedule, of the following Part :-

**"PART.X"**

**Unit trust or Mutual fund.**

The rate of income tax for every year of assessment commencing on or after April 1, 1990.

On the taxable income of the unit trust or the mutual fund                    **50 per centum**

25. The Seventh Schedule to the principal enactment is hereby amended, by the substitution in item (iii) of that Schedule, for the words "made by a company other than a small company, or a quoted public company or a people's company" of the words "made by a unit trust or mutual fund, or a company other than a small company, or a quoted public company or a people's company".
26. (1) The amendment to section 8 of the principal enactment made by section 2(3) of this Act, shall be deemed for all purposes, to have come into force on April 1, 1990;
- (2) The amendment to section 9(1) of the principal enactment made by section 3 of this Act, shall be deemed for all purposes, to have come into force on April 1, 1990.
- (3) The amendment to section 31(2)(b) of the principal enactment made by section 11(2) (i) of this Act, shall be deemed for all purposes to have come into force on April 1, 1980.
- (4) The amendment to section 33(2) of that principal enactment made by section 13(2) of this Act, shall be deemed for all purposes to have come into force on June 12, 1990.
- (5) The amendment to section 38(3) of the principal enactment made by section 16(2) (a) of this Act, shall be deemed for all purposes to have come into force on June 12, 1990.

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

## **TURNOVER TAX (AMENDMENT) ACT, NO. 43 OF 1990**

[Certified on 29th November, 1990]

### **AN ACT TO AMEND THE TURNOVER TAX ACT, NO. 69 OF 1981**

1. This Act may be cited as the Turnover Tax (Amendment) Act, No. 43 of 1990.
2. Section 5 of the Turnover Tax Act, No. 69 of 1981 (hereinafter referred to as the "principal enactment"), is hereby amended as follows :
  - (1) in subsection (1) of that section -
    - (a) by the substitution, in paragraph (c) of that subsection, for the words, "the total amount excluding premia received or receivable in respect of life insurance; ", of the words, "the total amount excluding premia received or receivable in respect of -
      - (i) life insurance; and
      - (ii) insurance against damage or destruction by strike, riot, civil commotion or acts of terrorism and paid into the Government Fund for Strike, Riot and Civil Commotion and Terrorism; ; and
    - (b) by the substitution, in paragraph (f) of that subsection, for the words, "but shall not include receipts attributable to the operation of the foreign currency banking unit of such bank; ", of the words and figures "but shall not include receipts attributable to-
      - (i) the operation of the foreign currency banking unit of such bank; and
      - (ii) any transaction which such bank enters into, on or after April 1, 1989, with any other bank; ; and
  - (2) by the addition, immediately after subsection (4) of that section, of the following subsection :

"(5) In ascertaining the turnover, for any quarter, of any business of manufacture of articles there shall be deducted an amount equal to any excise duty under the Excise (Special Provisions) Act, No. 13 of 1989, paid in respect of such article by the person who carries on such business:

Provided that where the amount so deductible for any quarter, exceeds the amount received or receivable, for that quarter, from the sale of any article in the course of carrying on such business of manufacture, the excess shall be carried forward to the quarter immediately succeeding that quarter and shall be deductible in ascertaining the turnover of that business for that succeeding quarter and so on.".

3. Section 47 of the principal enactment is hereby repealed and the following section substituted therefor :-

47. Where any registered manufacturer has paid to another registered

manufacturer in respect of any transaction entered into during any quarter, any sum which includes turnover tax in respect of articles used by the first-mentioned registered manufacturer in his business of manufacture of articles, the turnover tax so included shall be deducted from any turnover tax payable for that quarter by the first-mentioned registered manufacturer in respect of the turnover arising from the sale of articles manufactured by the first-mentioned registered manufacturer:

**Provided that -**

- (a) no deduction shall be made for turnover tax included in any sum so paid -
  - (i) in respect of any plant, machinery, fixtures, vehicle, building, or other capital asset used in that business;
  - (ii) for any quarter commencing prior to April 1, 1989, in respect of any article used in any business of manufacture of excepted articles;
  - (iii) in respect of any article used in any business which is exempt from turnover tax under section 4;
  - (iv) unless the first-mentioned registered manufacturer has obtained from the second-mentioned registered manufacturer to whom such sum is paid, a voucher as required by subsection (2) of section 46;
- (b) any turnover tax included in any sum so paid by any person prior to his registration as a registered manufacturer, shall be allowed as a deduction from the turnover tax, in respect of the turnover arising from the sale of articles manufactured by him, payable for the quarter in which such registered manufacturer becomes chargeable to turnover tax; and
- (c) (i) where the amount of the deduction for any quarter ending on or before March 31, 1989, exceeds the amount of the turnover tax payable, by the first-mentioned registered manufacturer for that quarter in respect of such turnover, such excess shall not be refunded but shall be deducted, to the extent it can be so deducted from the turnover tax, in respect of such turnover, payable by him for the quarter immediately succeeding that quarter and any balance of such excess, from the turnover tax, in respect of such turnover, payable by him for the next succeeding quarter and so on; and
  - (ii) where the amount of the deduction for any quarter commencing on or after April 1, 1989, exceeds the amount of the turnover tax payable by the first-mentioned registered manufacturer for that quarter in respect of such turnover, such excess shall be deducted, to the extent it can be so deducted, from the turnover tax, in respect of such turnover, payable by him for the quarter immediately succeeding that quarter and any balance of such excess, from the turnover tax, in respect of such turnover, payable by him for the

next succeeding quarter and so on. Any residue of such excess which cannot be deducted from the turnover tax, in respect of such turnover, payable by him for the fourth quarter reckoned from the quarter in which such excess arose shall, subject to the provisions of section 49, be refunded.”.

4. Section 48 of the principal enactment is hereby repealed, and the following section substituted therefor :-

48. Where any registered manufacturer has paid to the Director-General of Customs, under section 12 during any quarter any turnover tax in respect of articles used by such manufacturer in his business of manufacture of articles, such turnover tax shall be deducted from any turnover tax payable by him, for that quarter in respect of the turnover arising from the sale of articles manufactured by him :

Provided that -

- (a) no deduction shall be made for any turnover tax so paid -
  - (i) in respect of any plant, machinery, fixture, vehicle, building or other capital asset used in that business;
  - (ii) in any quarter commencing prior to April 1, 1989, in respect of any article used in any business of manufacture of excepted articles;
  - (iii) in respect of any article used in any business which is exempt from turnover tax under section 4;
  - (iv) unless such registered manufacturer has obtained from the Director-General of Customs, a voucher in respect of turnover tax so paid; and
- (b) (i) where the amount of the deduction for any quarter ending on or before March 31, 1989, exceeds the amount of the turnover tax payable for that quarter in respect of such turnover, such excess shall not be refunded but shall be deducted to the extent it can be so deducted from the turnover tax, in respect of such turnover, payable for the quarter immediately succeeding that quarter and any balance of such excess from the turnover, payable for the next succeeding quarter and so on; and
  - (ii) where the amount of the deduction for any quarter commencing on or after April 1, 1989, exceeds the amount of the turnover tax, payable for that quarter in respect of such turnover, such excess shall be deducted, to the extent it can be so deducted from the turnover tax in respect of such turnover, payable for the quarter immediately succeeding that quarter, and any balance of such excess from the turnover tax, in respect of such turnover, payable for the next succeeding quarter and so on. Any residue of such excess which cannot be deducted from the turnover tax, in respect of such turnover, payable for the fourth quarter reckoned from the quarter

in which such excess arose, shall subject to the provisions of section 49 be refunded.”.

**5. Section 49 of the principal enactment is hereby amended in subsection (4A) of that section as follows :-**

- (1) by the substitution, for the words, “shall be paid to such supplier by the Commissioner-General”, of the words, “shall be paid to such supplier by the Commissioner-General :”; and
- (2) by the addition, at the end of that subsection, of the following proviso :-

“Provided that where it is proved to the satisfaction of the Commissioner-General that it is inexpedient or impracticable to cover such supply by a letter of credit in the aforesaid manner, such amount of the turnover tax paid by the supplier as is attributable to the raw materials used in the manufacture or production of such articles shall be paid to such supplier by the Commissioner-General if-

- (a) such supply is covered by a letter of credit opened in a bank in Sri Lanka or such other documentary evidence, as is required by the Commissioner-General to satisfy himself that the exports relating to such supply were in fact made, is adduced; and
- (b) the receipt of payment in foreign exchange for the value of the exports relating to such supply is certified by the bank to which such foreign exchange was remitted.”.

**6. Section 50 of the principal enactment is hereby amended in subsection (1) of that section as follows :-**

- (1) by the substitution, in paragraph (iii), for the words and figures, “in paragraph (i) or (ii); or”, of the words and figures “in paragraph (i) or (ii);”;
  - (2) by the substitution, in paragraph (iv), for the words, “contract of employment”, of the words “contract of employment; or “; and
  - (3) by the addition immediately after paragraph (iv), of the following new paragraph :-
- “(v) any contract for the supply of cinematograph films by a producer.”.

**7. Section 59 of the principal enactment is hereby amended by the insertion, immediately after the definition of “authorized representative”, of the following definition :-**

“bank” means a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988;’.

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

**SPECIFIED CERTIFICATES OF DEPOSITS (TAX AND OTHER CONCESSIONS) ACT, NO. 45 OF 1990**

[Certified on 6th December, 1990]

**AN ACT TO PROVIDE FOR TAX CONCESSIONS TO ANY PERSON WHO HAS IN HIS POSSESSION ANY SPECIFIED CERTIFICATE OF DEPOSIT; TO ENABLE THE DEPOSIT IN SPECIAL ACCOUNTS IN THE NATIONAL SAVINGS BANK OF MONEYS REPRESENTING HIS RELEVANT PROFITS OR INCOME, OUT OF WHICH SUCH CERTIFICATES WERE PURCHASED, TO IMPOSE AND LEVY A TAX ON THE MONEYS DEPOSITED IN SUCH SPECIAL ACCOUNTS; TO INDEMNIFY PERSONS WHO DEPOSIT MONEYS IN SUCH SPECIAL ACCOUNTS AGAINST PROSECUTIONS FOR OFFENCES IN RELATION TO SUCH PROFITS OR INCOME; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

1. This Act may be cited as the Specified Certificates of Deposits (Tax and other Concessions) Act, No. 45 of 1990.
2. (1) This Act shall apply to any person who has in his possession, any specified certificate of deposit and -
  - (a) is detected by the Commissioner-General or any other officer of the department of Inland Revenue as having purchased such certificate of deposit from and out of moneys representing the whole or any part of his relevant profit or income; or
  - (b) has, before any investigation in relation to him has commenced by the Commissioner-General or any other officer of the department of Inland Revenue for any alleged or suspected evasion of any tax payable under the provisions of the law for the time being applicable to the imposition of income tax or surcharge on income tax, or any business turnover tax payable under the Finance Act, No. 11 of 1963, or any turnover tax payable under the Turnover Tax Act, No. 69 of 1981, in respect of profits or income or turnover which arose or accrued to him on or before March 31, 1989, voluntarily disclosed to the Commissioner-General or any officer of the department of Inland Revenue that he has purchased such certificates of deposit from and out of moneys representing the whole or any part of his relevant profits and income.
- (2) Every person referred to in subsection (1) shall, hereinafter in this Act, be referred to as a "person to whom this Act applies", and every specified certificate of deposit referred to in that subsection, shall, hereinafter in this Act, be referred to as a "specified certificate of deposit, to which this Act applies".
3. (1) Any person to whom this Act applies may sell to the Bank any specified certificate of deposit to which this Act applies and deposit the full proceeds of such sale to his credit in any such special account as may be opened by him for that purpose in the Bank.
- (2) It shall be the duty of the Bank to purchase, any specified certificate of deposit to which this Act applies, offered for sale to the Bank by any

person to whom this Act applies at such price as may be determined by the Bank, if the Commissioner-General certifies to the Bank, that such certificate of deposit is a certificate of deposit to which this Act applies.

4. (1) Every person who makes any deposit in accordance with the provisions of section 3 shall-

(a) make a declaration to the Bank in the form set out in the Schedule to this Act; and

(b) be liable to pay to the Commissioner-General a tax of an amount equal to ten per centum of the face value of the specified certificate of deposit to which this Act applies, sold to the Bank in accordance with the provisions of section 3; and

(c) be entitled to deduct, from the tax payable under paragraph (b), the amount of any stamp-duty paid by him under the provisions of the Stamp Duty Act, No. 43 of 1982, in relation to that specified certificate of deposit.

(2) The tax payable by any person under subsection (1) less any amount deductible under paragraph (c) of that subsection, shall notwithstanding anything in any other written law, be paid to the Commissioner-General by the Bank within fourteen days from the date on which the special account referred to in section 3 is opened by such person, from the moneys lying to his credit in that account.

(3) The payment by the Bank, of the tax to the Commissioner-General, under subsection (2) from the moneys lying to the credit of any person in any such special account as is referred to in section 3 shall be deemed to be authorised by such person, and such tax shall be deemed to have been paid by such person to the Commissioner-General.

5. Notwithstanding anything in any other written law the bank shall not permit any person who has deposited any moneys in any such special account as is referred to in section 3, to withdraw, before the expiry of a period of two years reckoned from the date on which such special account is opened by such person, the whole or any part of the balance amount lying to his credit in such special account, after payment of the tax referred to in section 4:

Provided that such person -  
(a) shall, subject to such conditions as may be prescribed by the bank, be permitted to withdraw the whole or any part of the interest which accrues on such balance amount, before the expiry of the aforesaid period of two years;

(b) may, by communication addressed in writing to the Bank, request the Bank to remit the whole or any part of such balance to the Commissioner-General in satisfaction of any tax administered by the Commissioner-General and any penalty thereon, for any period ending on or before March 31, 1989.

6. The Bank shall pay interest on the balance amount after the payment of the tax referred to in section 4, lying to the credit of any person in any such special account as is referred to in section 3 at the current rate of interest payable by the Bank on moneys lying to the credit of savings accounts.
7. Notwithstanding anything to the contrary in any other written law, the interest on moneys deposited in any such special account as is referred to in section 3 and which accrues during the period of two years referred to in section 5, shall be exempt from income tax.
8. Any person to whom this Act applies and who is deemed to have paid the tax referred to in section 4 shall not be liable -
  - (a) to pay -
    - (i) for any year of assessment ending on or before March 31, 1989, any income tax or surcharge on income tax under the law for the time being applicable to the imposition of income tax or surcharge on income tax, in respect of such part of his relevant profits or income as is represented by the proceeds of sale of specified certificates of deposit, deposited by him in any such special account as is referred to in section 3; or
    - (ii) for any year of assessment ending on or before March 31, 1989, any wealth tax or surcharge on wealth tax under the law for the time being applicable to the imposition of wealth tax or surcharge on wealth tax, in respect of such part of his net wealth for the acquisition of which such part of his relevant profits or income as is represented by the proceeds of sale of specified certificates of deposit, deposited by him in any such special account as is referred to in section 3, had been utilized; or
    - (iii) for any quarter ending on or before march 31, 1989, any business turnover tax under the Finance Act, No. 11 of 1963 or, any turnover tax under the Turnover Tax Act, No. 69 of 1981, in respect of such part of the turnover from which such part of his relevant profits or income as is represented by the proceeds of sale of specified certificates of deposit, deposited by him in any such special account as is referred to in section 3, arose or, was derived; or
  - (b) to a prosecution or to a penalty for any offence under-
    - (i) the law for the time being applicable to the imposition of income tax or surcharge on income tax, or wealth tax or surcharge on wealth tax in relation to any year of assessment ending on or before march 31, 1989 in respect of, or in connection with such part of his relevant profits and income referred in paragraph (a) (1) of such part of his net wealth referred to in paragraph (a) (ii); or
    - (ii) the Finance Act, No. 11 of 1963 or the Turnover Tax Act, No. 69 of 1981 in relation to any quarter ending on or before march 31, 1989, in respect of such part of the turnover referred to in paragraph (a) (iii).

9. Nothing in the preceding provisions of this Act, shall be read or construed as authorising the revision of -

- (a) any assessment made under the provisions of -
  - (i) the law for the time being relating to the imposition of income tax or surcharge on income tax or wealth tax or surcharge on wealth tax; or
  - (ii) the Finance Act, No. 11 of 1963, or the Turnover Tax Act, No. 69 of 1981; or
- (b) any other matter,

which has become final and conclusive under the provisions of any such law.

10. (1) Every officer or employee of the Department of Inland Revenue or of the Bank shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in the implementation of this Act :

Provided however, that an officer or employee of the bank may communicate to the Commissioner-General or to any officer of the department of Inland Revenue or to a court of law for the purpose of complying with the provisions of this Act, the following particulars relating to any such special account as is referred to in section 3,-

- (a) the name of the holder of the account and income tax file number ;
  - (b) the name of business, if any, and income tax file number;
  - (c) the date of deposit or withdrawal;
  - (d) the amount deposited or withdrawn;
  - (e) such other particulars as are referred to in any declaration made under section 4 (1) (a) in relation to such special account.
- (2) Any officer or employee of the department of Inland Revenue or of the Bank who acts in contravention of the provisions of subsection (1) shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees.

11. In this Act, unless the context otherwise requires -

“Bank” means the national Savings bank established by the National Savings Bank established by the National Savings Bank Act, No. 30 of 1971;

the expressions “Commissioner-General”, “profits”, “income”, “wealth”, and “year of assessment” shall have the same meanings respectively, as in the Inland Revenue Act, No. 28 of 1979;

“person” includes a company, and a body of persons;

“relevant profits or income” in relation to any person means any profit or income -

- (a) which was derived by him or which arose or accrued to his benefit on or before march 31, 1989; and
  - (b) in respect of which no return has been furnished by him, or which has not been disclosed in any return furnished by him, under the law for the time being applicable to the imposition of income tax; and
  - (c) which, under the law for the time being applicable to the imposition of income tax or surcharge on income tax was chargeable with income tax or surcharge on income tax;
- “specified certificate of deposit” means any certificate of deposit issued -
- (a) under the Treasury Certificates of Deposit Act, No. 9 of 1989; and
  - (b) on or after June 20, 1990, but prior to January 1, 1991;
- ‘the law for the time being applicable to the imposition of income tax or the surcharge on income tax” means the Inland Revenue Act, No. 28 of 1979, the Surcharge on Income Tax Act, No. 26 of 1982, the Surcharge on Income Tax Act, No. 12 of 1984 and the Surcharge on Income Tax Act, No. 7 of 1989; “the law for the time being applicable to the imposition of wealth tax or surcharge on wealth tax” means the Inland Revenue Act, No. 28 of 1979 the Surcharge on Wealth Tax Act, No. 25 of 1982 and the Surcharge on Wealth Tax Act, No. 8 of 1989.

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

**SCHEDULE** [Section 4 (1) (a)]

**SPECIFIED CERTIFICATES OF DEPOSIT (TAX AND OTHER CONCESSIONS)**

**ACT, NO. OF 1990**

**Declaration under Section 4 (1) (a)**

**Income Tax File No. if any :** .....

**Special Account No.** .....

**Name of business if any** .....

**Date** .....

**I, Mr./Mrs./Miss/We** .....

(full name)

.....of

(address)

..... do hereby :

**(1) request you -**

- (a) to accept in terms of the provision of section 3 a sum of Rupees .. .  
..... (Rs. ....) to be placed in a special account in the name of  
..... of .....
- (b) to remit direct to the Commissioner-General of Inland Revenue the  
tax due, on this amount, amounting to Rupees .. .  
(Rs. ....)
- (c) to hold the balance in that account viz

Amount tendered ..... Rs. .....

Less 10 per cent tax deductible ..... Rs. .....

Less Stamp duty paid ..... Rs. .....

Balance to be held in special account

by the National Savings Bank ..... Rs. .....

- (2) undertake not to withdraw any part of this balance amount before the expiry of two years from this date;**

- (3) agree to my/our Special Pass Book being kept in the safe custody of your Bank;
- (4) further agree to be bound by the rules pertaining to savings deposits in your Bank for the time being, and which may come into effect from time to time;
- (5) hereby authorise you to remit to the Commissioner-General the whole or any part of this balance upon a request to that effect is made to you by me/us in writing.

**Signature of Depositor.**

**Signed in my presence.**

**Signature of Branch Manager.**

## **INDUSTRIAL PROMOTION ACT, NO. 46 OF 1990**

[Certified on 6th December, 1990]

**AN ACT TO ESTABLISH AN INDUSTRIALISATION COMMISSION, TO SET UP AN ADVISORY COUNCIL OF INDUSTRY, TO SET UP REGIONAL INDUSTRY SERVICE COMMITTEES, WITH A VIEW TO PROVIDING INCENTIVES, INFRASTRUCTURES AND THE CREATION OF A SUITABLE ENVIRONMENT, FOR THE PROMOTION AND DEVELOPMENT OF INDUSTRIES IN GENERAL, AND EXPORT INDUSTRIES IN PARTICULAR; AND PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

1. This Act may be cited as the Industrial Promotion Act, No. 46 of 1990, and the provisions of this Act other than section 24 shall come into operation on such date (hereinafter referred to as the "appointed date") as may be appointed by the Minister by Order published in the *Gazette*, and section 24 shall come into operation on July 1, 1991.

### **PART I**

#### **REGISTRATION OF INDUSTRIAL UNDERTAKINGS**

2. (1) Every person carrying on an industrial undertaking commenced on or before the appointed date shall register the site or location at which such industrial undertaking is carried on, with the Registrar, within six months of the appointed date.  
(2) Every person carrying on an industrial undertaking commenced after the appointed date shall register the site or location at which such industrial undertaking is carried on, with the Registrar, within three months of the commencement of such industrial undertaking.  
(3) Nothing in this section shall apply to an area enterprise or a licensed enterprise within the meaning of the Greater Colombo Economic Commission Law, No. 4 of 1978.
3. (1) Every application for registration under section 2 shall be made to the Registrar in the prescribed form and shall contain the prescribed particulars, including -
  - (a) the name and address of the owners of the industrial undertaking;
  - (b) the site or location at which the industrial undertaking is being carried on;
  - (c) the industrial products manufactured at such industrial undertaking;
  - (d) the number of employees employed in such industrial undertaking; and
  - (e) the specifications of the land, buildings and structures utilised for the purpose of such industrial undertaking.  
(2) In the case of an industry specified in the Second Schedule to this Act an

application for the registration of the site or location at which such industrial undertaking is carried on, shall be accompanied by the licence issued in respect of that industrial undertaking under section 26.

4. (1) The Registrar shall on receipt of an application made under section 3 and on being satisfied that an industrial undertaking is being carried on at the site or location referred to in such application, issue a certificate of registration to the applicant in the prescribed form.  
(2) Where a certificate is issued under subsection (1) in respect of an industrial undertaking the owner of such industrial undertaking shall furnish to the Registrar an annual return containing the particulars specified in paragraphs (a) to (e) of subsection (1) of section 3 as well as the turnover and the total production of that industrial undertaking for that year, before March thirty-first of the succeeding year.
5. (1) Where a person carries on an industrial undertaking in contravention of the provisions of section 2, the Registrar may make an application to the High Court established under Article 154P of the Constitution for the province within which such industrial undertaking is carried on for an order requiring the person carrying on such industrial undertaking to register the site or location at which such industrial undertaking is carried on in compliance with section 2.  
(2) Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined in accordance with the procedure laid down in Chapter XXIV of the Civil Procedure Code.
6. A Certificate under the hand of the Registrar to the effect that an industrial undertaking is being carried on at the site or location specified in such certificate and that such site or location has not been registered under this Part of this Act shall be admissible in evidence in any proceedings instituted under section 5 and shall be *prima facie* evidence of the facts stated therein.

## PART II

### THE INDUSTRIALIZATION COMMISSION

7. There shall be established a Commission to be called the Industrialization Commission (hereinafter referred to as "the Commission").
8. (1) The Commission shall consist of:
  - (a) the Secretary to the Ministry of the Minister;
  - (b) the Secretary to the Ministry of the Minister in charge of the subject of Finance;
  - (c) the Secretary to the Ministry of the Minister in charge of the subject of Policy Planning and Implementation;
  - (d) the Secretary to the Ministry of the Minister in charge of the subject of Trade and Commerce;

- (e) the Secretary to the Ministry of the Minister in charge of the subject of Textile Industries;
  - (f) the Secretary to the Ministry of the Minister in charge of the subject of Small Industries;
  - (g) the Secretary to the Ministry of the Minister in charge of the subject of Agriculture and Dairy Development;
  - (h) the Governor of the Central Bank of Sri Lanka;
  - (i) the Director-General of the Greater Colombo Economic Commission, established by the Greater Colombo Economic Commission Law, No. 4 of 1978;
  - (j) the Chairman of the Export Development Board, established by the Export Development Board Act, No. 40 of 1979; and
  - (k) not less than five and not more than seven persons appointed by the President in consultation with the Minister, from among persons who appear to the Minister to have wide experience and have shown capacity in the field of industry.
- (2) A person shall be disqualified from being appointed or continuing as a member of the Commission if he is a Member of Parliament or member of a Provincial Council or a member of any local authority.
- (3) A member of the Commission appointed under paragraph (k) of subsection (1) may resign from the Commission by letter addressed to the President.
- (4) The President may without assigning a reason remove any member of the Commission appointed under paragraph (k) of subsection (1).
- (5) Subject to the provisions of subsections (3) and (4), the term of office of a member of the Commission appointed under paragraph (k) of subsection (1) shall be three years.
- (6) Where any vacancy arises in the Commission, by reason of death, resignation or removal of any member of the Commission appointed under paragraph (k) of subsection (1) the President shall fill such vacancy, having regard to the provisions of that paragraph.
- (7) Any person appointed to fill a vacancy arising from the death, resignation or removal of any such member shall hold office for the unexpired period of the term of office of his predecessor.
- (8) The Secretary to the Ministry of the Minister in charge of the subject of Finance shall be the Chairman of the Commission and shall preside at all meetings of the Commission. In the absence of the Chairman from any meeting of the Commission, the Secretary to the Ministry of the Minister shall preside at such meeting. In the absence of both the Chairman and such Secretary from any meeting of the Commission, the Members of the Commission present at such meeting shall, subject to subsection (15), elect from among themselves a member to preside at such meeting.

- (9) The quorum for any meeting of the Commission shall be six.
  - (10) The Chairman or the person presiding at any meeting of the Commission shall in addition to his own vote have a casting vote.
  - (11) The Commission shall meet at least once every month and it may regulate the procedure in regard to its meetings and the transaction of business at such meetings.
  - (12) The Commission may act notwithstanding any vacancy among its members and no act or proceeding of the Commission shall be invalid by reason only of the existence of any vacancy in the Commission or any defect in the appointment of a member of the Commission.
  - (13) The members of the Commission may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.
  - (14) A member referred to in subsection (1)(b) or subsection (1) (c) or subsection (1) (g) or subsection (1) (h) may designate a senior official of his Ministry to attend meetings of the Commission in his place as his alternate, and shall inform the Chairman of the Commission in writing of such designation.
  - (15) An alternate member designated under subsection (14) shall have the right to attend meetings of the Commission and vote thereat but shall not be eligible to be elected under subsection (8) to preside at meetings of the Commission.
  - (16) Where a member of the Commission holds more than one office by virtue of which he is entitled to be represented on the Commission, such member may in writing addressed to the Chairman of the Commission indicate the office which he will represent on the Commission and shall nominate another officer to represent the other office which he holds.
  - (17) The Secretary to the Ministry of the Minister shall be responsible for implementing the decisions of the Commission. The Commission may delegate to such Secretary any power or function conferred on, or assigned to, it by this Act.
9. There shall be appointed a Secretary to the Commission, and such other staff as may be necessary for the proper discharge of the functions of the Commission.
  10. (1) The functions of the Commission shall be -
    - (a) to advise the Government on policy measures, plans and programmes for the encouragement and promotion of industry, including appropriate macro-economic policies for industrialization;
    - (b) to advise the Government on policy measures, plans, industrialization and the promotion of industry;
    - (c) to ensure the provision of institutional mechanisms for industrialization;
    - (d) to prepare plans for the provision of industrial infrastructure and services;

- (e) to provide a comprehensive products and markets information infrastructure for industries; and
  - (f) to hold inquiries and make reports to the Minister in respect of such matters relating to industry as are referred to it by the Minister.
- (2) The Commission shall have the power to do all such acts as may be necessary for the proper discharge of its functions.
- (3) In the discharge of the functions assigned to it by this Act, the Commission shall have regard to the need -
- (a) to encourage the development and growth of industries that are efficient and internationally competitive;
  - (b) to facilitate adjustment to structural changes in the economy;
  - (c) to reduce to a minimum, in so far as national policy permits, the regulation of industry.
- (4) In referring any matter for inquiry to the Commission under section 10(1) (f) the Minister may specify the respective periods within which, the Commission shall submit its interim and final reports to the Minister.
- (5) The Minister may require the Commission, under paragraph (f) of subsection (1), to inquire and report on -
- (a) the provision of financial or other assistance by the Government to any industry;
  - (b) the need for the Government to provide financial assistance to any industry or the need to withdraw, increase or reduce any financial assistance granted by the Government to any industry;
  - (c) the need to prohibit or restrict the importation of any goods into Sri Lanka; or
  - (d) the need to impose, remove, increase or reduce the duties on any goods imported into Sri Lanka.
11. The Commission may with the approval of the Minister appoint such Committees as may be necessary for the proper discharge of the functions of the Commission and consisting of members with the prescribed qualifications, and may delegate to such Committees, any powers conferred on, or any functions assigned to, it by this Act.
12. The Commission shall at the end of each calendar year submit a report of the work done by the Commission during that year to the Minister, who shall cause such report to be laid before Parliament.
- ### PART III
- #### THE ADVISORY COUNCIL FOR INDUSTRY
13. (1) There shall be a Council to be called "The Advisory Council for Industry" (hereinafter referred to as the "Council").

- (2) The Council shall consist of -
- (a) the members of the Industrialization Commission;
  - (b) two members nominated by such Chambers, Federations or Associations as are recognised by the Minister, having regard to their contribution to the development of industry;
  - (c) a prescribed number of persons to represent industry, appointed by the Minister;
  - (d) not more than fifteen persons appointed by the Minister from among persons who appear to the Minister to have wide experience and have shown capacity in the field of industry.

14. The functions of the Council shall be -

- (a) to provide a forum for the representatives of industry in Sri Lanka to discuss, issues relating to industry and joint industry programmes with the Government for the development of industry; and
- (b) to advise the Minister on the effectiveness of measures taken for the promotion of industry.

15. (1) The Council shall have such powers as are necessary or incidental to the proper discharge of its functions.
- (2) The quorum for the meetings of the Council, the procedure for the transaction of business at such meetings, the term of office of the members referred to in paragraphs (b), (c) and (d) of section 13(2), the election of the Chairman of the Council, the guidelines for the recognition of the Chambers, Federations and Associations referred to in section 13(2)(b), and the manner of selecting persons to represent industry, shall be as prescribed.
- (3) The Council shall cause a report to be prepared, at the end of each year, of its activities during that year and shall submit a copy of such report to the Minister.

#### PART IV

##### REGIONAL INDUSTRY SERVICE COMMITTEES

16. (1) The Minister shall in consultation with the Chief Minister of each Province determine regions within such province for the purpose of facilitating industrial development in that Province.
- (2) There shall be appointed for each region determined under subsection (1) a Committee which shall be called the Regional Industry Service Committee. Such Committee shall be appointed by the Minister in consultation with the Chief Minister of the Province in which such region is situated.
17. The functions of a Regional Industry Service Committee shall be-
- (a) to advise the Minister, the Chief Minister of the Province within which the region for which such Committee is appointed falls and the Commission, on the development of industry in such region;

- (b) to prepare plans and programmes for the development of industry in such region;
- (c) to promote and facilitate industrial development in such region in accordance with national policy;
- (d) to co-ordinate the provision of services and facilities necessary for the development of industries in the region, in accordance with plans approved by the Commission;
- (e) to assist any investor to implement any investment decision in regard to any industry in that region; and
- (f) to establish a Regional Industrial Service Centre for that region.

18. The composition of a Regional Industry Service Committee and the transaction of business by such Committee, shall be as prescribed.

19. The establishment and administration of industrial estates, industrial parks and science parks and other specified industrial infrastructure including -

- (a) the manner in which applications for the establishment of industrial estates, industrial parks, science parks and specified industrial infrastructure shall be made to the Regional Industrial Committee appointed for the region within which such estate, park or infrastructure is established, or proposed to be established or where there is no such Committee, to the Registrar;
- (b) the manner in which applications for registration of existing industrial estates, industrial parks, science parks and specified industrial infrastructure shall be made to the Regional Industrial Committee appointed for the region within which such estate, park or infrastructure is established, or where there is no such Committee, to the Registrar;
- (c) the manner in which applications for the grant of approval for the erection, alteration, and demolition of buildings and other structures within such estates or parks shall be made to the Regional Industrial Committee appointed for the region within which such estate or park is established; or where there is no such Committee, to the Registrar; and
- (d) the management of such estates, parks or specified industrial infrastructure, and the demolition of buildings and other structures, shall be prescribed.

20. (1) Where any industrial estate, industrial park, science park or specified industrial infrastructure is established without the approval, or is managed contrary to the manner, required by regulations made under section 19, or any building is erected in any such estate, or park without the approval required under section 19, the Registrar may apply to the Court of Appeal for an Order directing the demolition of such estate or park or prescribed industrial infrastructure or building or for an Order requiring the management

of such estate or park or prescribed industrial infrastructure in compliance with such regulations.

- (2) A certificate issued under the hand of the Registrar to the effect that a structure specified in such certificate is an industrial estate, industrial park, science park or a specified industrial infrastructure, as the case may be, and has been established without the approval required by regulations made under section 19, or that such estate or park is being managed contrary to such regulations, or that a building specified in such certificate has been erected in an industrial estate, industrial park or science park and that such erection has been without the approval required under section 19, shall be admissible in evidence in any proceedings instituted under this section and shall be *prima facie* evidence of the facts stated therein.
  - (3) The provisions of this section shall not apply to and in relation to an area enterprise or a licensed enterprise within the meaning of the Greater Colombo Economic Commission Law, No. 4 of 1978.
21. (1) The Minister may, in consultation with the Chief Minister of a province declare, by Order published in the *Gazette*, any area within the province as an "Industrial Area":

Provided however that where such area falls within an Urban Development Area declared under the Urban Development Authority Law, No. 41 of 1978, no declaration shall be made under this subsection by the Minister except with the concurrence of the Minister to whom the subject of Urban Development is assigned.

- (2) The Regional Industry Service Committee appointed under section 16 for the region within which such Industrial Area falls, shall submit to the Commission plans and schemes for the provision of infrastructure for industries within such Industrial Area and the co-ordination of services and facilities within such industrial area.
- (3) The Minister may on the advice of the Commission, by Order published in the *Gazette*, approve any such plans and schemes as are submitted to the Commission under subsection (2).
- (4) Where a plan or scheme is approved under subsection (3) in respect of an Industrial Area, the Regional Industry Service Committee appointed for the region within which such Industrial Area falls shall be responsible for the implementation of such scheme or plan.
- (5) The Commission shall in consultation with the Urban Development Authority established under the Urban Development Authority Law, No. 41 of 1978, specify the standards in accordance with which any buildings or structures necessary for any such plan or scheme shall be erected or altered.
- (6) The authority empowered by any written law to grant approval for the erection or alteration of buildings in the area within which such plan or scheme is to be implemented shall grant approval for such erection or alteration if it is in accordance with the standards prescribed under subsection (5), notwithstanding anything to the contrary in any written law, and

such approval shall be granted within eight weeks from the date on which the application for approval is made.

(7) Where an application is made for the erection or alteration of any building for the purposes of any such plan or scheme, in an Industrial Area to the authority empowered by written law to grant such approval and such authority fails to grant such approval within eight weeks of such application, it shall be lawful for the Regional Industry Service Committee appointed for the region within which such Industrial Area falls to grant such approval in like manner as though references in such written law to the authority, officer or person empowered to grant such approval, were a reference to such committee.

22.(1) During the period commencing on the appointed date and ending on the 31st of December, 1994 no building shall be erected or used for the purposes of an industrial undertaking unless it conforms to the standards prescribed in consultation with the Urban Development Authority.

(2) The authority empowered by written law to approve such erection or use shall notwithstanding anything in any other law approve such erection or use if it conforms to the prescribed standards.

(3) Nothing in this section shall apply to buildings erected or used -

(a) by any area enterprise or licensed enterprise within the meaning of the Greater Colombo Economic Commission Law, No. 4 of 1978;

(b) in any other area specified by the President by Notification published in the Gazette to be an area to which the provisions of subsection (1) shall not apply;

(c) in any industrial estate, industrial park, science park or any industrial infrastructure established under section 19; and

(d) in any Industrial Area declared under section 21.

23. The Fair Trading Commission established by the Fair Trading Commission Act, No. 1 of 1987 (hereinafter referred to as the Fair Trading Commission) may review the price of any article and hold an inquiry for such purpose. If the Fair Trading Commission determines after any such inquiry that the price of such article is unreasonable and it is necessary to encourage competition by allowing imports of such article, the Fair Trading Commission shall submit a Report to the Minister in charge of the subject of Trade. The report shall also recommend the rate of custom tariff, if any, that shall be levied on the importation of such articles.

24. All products other than such products as are specified by the Minister in charge of the subject of Trade and Commerce by Order published in the Gazette, shall be deemed to be exempt from the provisions of section 4 (1) of the Imports and Exports (Control) Act, No. 1 of 1969, with effect from July 1, 1991.

PART V  
GENERAL

25. (1) The control of the industries specified in the First Schedule to this Act by the Government of Sri Lanka is hereby declared to be expedient in the public interest.  
(2) Parliament may by resolution amend the First Schedule to this Act.
26. (1) No person shall carry on an industry specified in the Second Schedule being an industry specified in the First Schedule except under the authority of and otherwise than in accordance with the conditions of a licence issued in that behalf by the Secretary to the Ministry of the Minister.  
(2) The manner of application for a licence under subsection (1), and appeals against refusal to issue such licence, shall be as prescribed.  
(3) Every licence issued under this section shall be subject to the terms and conditions set out in the Third Schedule to this Act.  
(4) Where a person carries on an industry referred to in subsection (1) without a licence issued in that behalf under that subsection, the Registrar shall make an application to the Court of Appeal for an Order prohibiting such person from carrying on such industry.  
(5) A certificate under the hand of the Registrar to the effect that the industry specified in such certificate is an industry for the carrying on for which a licence is required under subsection (1) and that no licence has been issued in respect thereof under subsection, shall be admissible in evidence in any proceedings instituted under subsection (4) and shall be *prima facie* evidence of the facts stated therein.
27. (1) There may be appointed by name or by office for the purpose of this Act a Registrar of Industries and such number of Deputy Registrars of Industries and Assistant Registrars of Industries as may be necessary for the implementation of the provisions of this Act.  
(2) The act of appointment of every Deputy Registrar of Industries and Assistant Registrar of Industries shall specify the area for which he is appointed. The area so specified shall hereinafter be referred as the "area of his appointment".  
(3) Every Deputy Registrar of Industries and every Assistant Registrar of Industries may, subject to the general direction and control of the Registrar, exercise, perform or discharge within the area of his appointment all or any of the powers, duties or functions conferred, or imposed on, or assigned to, the Registrar by or under this Act.
28. The Registrar, Deputy Registrar, Assistant Registrar and any other officer discharging any functions under this Act shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy regarding all matters relating to an industrial undertaking which may come to his knowledge in the discharge of his functions and by such declaration pledge

himself not to reveal any such matters except when required to do so by a court of law.

**29. Every person who -**

- (a) fails to furnish the annual return which he is required to furnish under section 4;
- (b) knowingly makes any false or incorrect statement in any annual return furnished by him under section 4; or
- (c) contravenes the provisions of section 28,

shall be guilty of an offence under this Act and on conviction after trial before a magistrate be liable to a fine not exceeding ten thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

**30. The Minister may give the Commission such general directions in writing as to the discharge of the functions of the Commission and the Commission shall give effect to such directions.**

**31. (1) The President may in consultation with the Minister and any relevant Minister issue directions to the Commission for the purpose of, eliminating administrative and other barriers which impede the execution of industrial policy, or for ensuring the effective implementation of schemes and programmes approved by the Commission for the promotion of a competitive industrial environment and generally, for the improvement of institutional and other capabilities for the promotion of industry.**

- (2) Where the Commission issues any directives to any Government institution in order to implement any direction issued to it under subsection (1) it shall be the duty of the person in charge of that Institution to comply with such directives.**
- (3) The Commission shall report to the President on the measures taken by the Commission to implement any direction issued to it by the President under subsection (1) and shall transmit a copy of such report to the Minister.**

**32. Sections 18 to 26 of the Fair Trading Commission Act, No. 1 of 1987, are hereby repealed and the following section substituted therefor :-**

- 18. (i) In this section, "specified article" means any article of food or any pharmaceutical product.**
- (2) If it appears to the Controller of Prices that there is, or there is likely to arise, any unreasonable increase in the price of any specified article or that the price at which it is being sold is excessive, he may request the Commission either -**
  - (a) to fix the maximum retail price above which such article shall not be sold or set out the price structure according to which such maximum price structure shall be fixed; or**
  - (b) in case of a specified article in respect of which there is an Order**

under the provisions of this section for the time being in force fixing the maximum price above which such article shall not be sold or setting out the price structure according to which such maximum price may be fixed, to vary the maximum prices fixed or the price structure set out by such Order.

- (3) A relevant agency may in respect of a specified article in respect of which there is an Order under subsection (4) for the time being in force request the Commission to vary the prices fixed or the price structure set out by such Order.
- (4) If after examination of a request made under subsection (2) or subsection (3) the Commission is satisfied that such request is reasonable it shall-
  - (a) in the case of a request made under paragraph (a) of subsection (2) by Order published in the *Gazette* fix the maximum retail prices above which the specified articles referred to in such request, shall not be sold or set out the price structure according to which such maximum prices shall be fixed; or
  - (b) in the case of a request made under paragraph (b) of subsection (2) or subsection (3) vary the Order fixing the maximum retail prices above which the specified articles referred to in such request, shall not be sold or setting out the price structure according to which such maximum prices shall be fixed.

Every Order made under this subsection shall come into operation on the date on which such Order is published in the *Gazette*.

- (5) The Minister may rescind or vary any Order made by the Commission under subsection (4).
  - (6) Where an order is rescinded or varied by the Minister under subsection (5), notification of such rescission or variation shall be published in the *Gazette* and the Order made under subsection (4) shall be deemed to be rescinded or varied, as the case may be, with effect from the date of such publication but without prejudice to anything done or suffered thereunder or any right, obligation or liability acquired, accrued or incurred thereunder."
33. (1) No suit or prosecution shall lie against any member of the Commission, or a member of the Council, or a member of Regional Industry Service Committee or the Registrar, Deputy Registrar or Assistant Registrar or any other officer discharging any function under this Act, which in good faith is done or purported to be done by such member, Registrar, Deputy Registrar, Assistant Registrar or other officer under this Act.
- (2) No suit or prosecution or other proceeding, civil or criminal, shall be instituted in any court or tribunal against any person referred to in subsection (1) in respect of any report made by him under this Act.
34. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

- (2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.
- (3) Every regulation made by the Minister, shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.
- (4) The notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

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

#### FIRST SCHEDULE

[Section 25]

#### FIRST SCHEDULE

1. Any industry with foreign investment.
2. Any industry employing high technology.
3. Any industry producing goods for export from Sri Lanka.
4. Any industry exploring, extracting or processing minerals or non-renewable natural resources.
5. Any industry manufacturing arms and ammunition, explosives, military vehicles and equipment, aircraft and any other military hardware.
6. Any industry manufacturing poisons, narcotics, alcohol, dangerous drugs, and toxic, hazardous and carcinogenic materials.
7. Any industry producing currency, coins and security documents.
8. Any industry where -
  - (a) the value of capital investment in plant and equipment exceeds four million rupees; and
  - (b) the number of permanent employees employed in such industry exceeds fifty.
9. Any industry which is owned by the Government or by a company in which the Government holds a majority of the shares.

[Section 26]

### SECOND SCHEDULE

1. Any industry manufacturing arms and ammunition, explosives, military vehicles and equipment, aircraft and any other military hardware.
2. Any industry manufacturing poisons, narcotics, alcohol, dangerous drugs and toxic, hazardous and carcinogenic materials.
3. Any industry producing currency, coins and security documents.

[Section 26]

### THIRD SCHEDULE

1. The standards of safety to be maintained in any such industry.
2. The security measures to be taken by any such industry including the storing of inputs, use of the inputs and the disposals of unused inputs, waste material and rejects.
3. The manner in which the products of the industry are to be delivered to customers.
4. The standards of hygiene to be maintained.
5. The inputs to be used by any such industry.

## **APPROPRIATION ACT NO. 48 OF 1990**

[Certified on 28th December, 1990]

**AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR, 1991, TO AUTHORIZE THE RAISING OF LOANS IN OR OUTSIDE SRI LANKA, FOR THE PURPOSE OF SUCH SERVICE, TO MAKE FINANCIAL PROVISION IN RESPECT OF CERTAIN ACTIVITIES OF THE GOVERNMENT DURING THAT FINANCIAL YEAR, TO ENABLE THE PAYMENT, BY WAY OF ADVANCES OUT OF THE CONSOLIDATED FUND OR ANY OTHER FUND OR MONEYS OF, OR AT THE DISPOSAL OF, THE GOVERNMENT, OF MONEYS REQUIRED DURING THAT FINANCIAL YEAR FOR EXPENDITURE ON SUCH ACTIVITIES; TO PROVIDE FOR THE REFUND OF SUCH MONEYS TO THE CONSOLIDATED FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED WITH, OR INCIDENTAL TO, THE AFORESAID MATTERS.**

This Act may be cited as the Appropriation Act, No. 48 of 1990.

2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government, which it is estimated will be rupees ninety-two thousand nine hundred and forty-two million one hundred and ninety-three thousand for the service of the period beginning on January 1, 1991, and ending on December 31, 1991, in this Act referred to as the "financial year 1991"; shall be met

(a) from payments which are hereby authorised to be made out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government; and

(b) from the proceeds of loans which are hereby authorised to be raised, whether in or outside Sri Lanka, for and on behalf of the Government, so however, that the aggregate of such proceeds does not exceed rupees sixty-seven thousand million.

The sum of rupees ninety-two thousand nine hundred and forty-two million one hundred and ninety-three thousand hereinbefore referred to may be expended as specified in the First Schedule to this Act.

(2) The provisions of subsection (1) of this section shall have effect without prejudice to the provisions of any other written law authorizing the raising of loans for and on behalf of the Government.

3. (1) The receipts of the Government during the financial year, 1991, from each activity specified in column I of the Second Schedule to this Act shall be credited to the account of such activity, and the aggregate of receipts so credited shall be not less than the minimum limit specified in the corresponding entry in column III of that Schedule. The net surplus, if any, of such activity, shall be paid to the Consolidated Fund before the expiry of six months after the close of the financial year, 1991.

(2) For the purpose of determining the net surplus under subsection (1), the following charges shall be set off against the revenue of each activity :-

(a) the working, establishment and other expenses of the activity whether

paid or accrued properly chargeable to the revenue of the activity; and

- (b) provision to cover the depreciation of the movable and immovable property of the activity.
- (3) The expenditure incurred by the Government, during the financial year, 1991, on each activity specified in column I of the Second Schedule to this Act shall be paid out of the receipts of the Government from such activity during that financial year, but such expenditure shall not exceed the maximum limit specified in the corresponding entry in column II of that Schedule.
- (4) The debit balance, outstanding at the end of the financial year, 1991, of any activity specified in column I of the Second Schedule to this Act shall not exceed the maximum limit specified in the corresponding entry in column IV of that Schedule, and the total liabilities of that activity at the end of that financial year shall not exceed the maximum limit specified in the corresponding entry in column V of that Schedule.
4. Whenever, at any time during the financial year, 1991, the receipts of the Government from any activity specified in column I of the Second Schedule to this Act are insufficient to meet the expenditure incurred by the Government on such activity, the Minister may, from time to time, by Order direct that such sums as he may deem necessary to meet such expenditure shall be payable, by way of advances, out of the Consolidated Fund or any other fund or moneys of, or at the disposal of, the Government, so however, that the aggregate of the sums so advanced does not exceed the maximum limit of expenditure specified in the corresponding entry in column II of that Schedule. Any sums so advanced in respect of such activity shall be refunded to the Consolidated Fund in such manner as the Minister may by Order direct.
5. (1) Any moneys which, by virtue of the provisions of the First Schedule to this Act, have been allocated to Recurrent Expenditure under any Programme appearing under any head specified in that Schedule, but have not been expended or are not likely to be expended, maybe transferred to the allocation of Capital Expenditure within that Programme, or to the allocation of Recurrent Expenditure or Capital Expenditure under any other Programme within that Head by order of the Secretary to the Treasury or any other officer authorised by him.  
(2) No moneys allocated to Capital Expenditure under any Programme appearing under any Head specified in the First Schedule to this Act shall be transferred out of that allocation.
6. Where the Minister is satisfied -
  - (1) that receipts from taxes and other sources will be less than the amounts anticipated to finance authorised expenditure; or
  - (2) that amounts originally appropriated for a particular purpose or purposes are no longer required.

he may, with the approval of the Government, withdraw in whole, or in part, any amounts previously released for expenditure under the authority of a warrant issued by him from the Consolidated Fund or from any other fund or moneys of, or at the disposal of, the Government.

7. The Minister with the approval of the Government, may on or before May 31, 1992, by Order, vary or alter -

- (a) any of the maximum limits specified in column II, column IV and column V of the Second Schedule to this Act;
- (b) the minimum limits specified in column III of the Second Schedule to this Act.

No Order made under this section shall have effect unless it has been approved by Parliament, by resolution.

Any such Order shall, if so expressed therein, be deemed to have had effect from such date prior to the date of making such Order as may be specified therein.

8. Parliament may, by resolution, amend the Second Schedule to this Act, by adding to the appropriate columns of that Schedule, any activity and -

- (a) all or any of the maximum limits relating to such activity;
- (b) the minimum limit relating to such activity.

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