

PART IV

PART IV

MAJOR LEGISLATIVE ENACTMENTS OF 2003

RELATING TO THE FUNCTIONS AND OPERATIONS OF THE CENTRAL BANK AND BANKING INSTITUTIONS IN SRI LANKA

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CUSTOMS (AMENDMENT) ACT, NO. 2 OF 2003

[Certified on 6th January, 2003]

AN ACT TO AMEND THE CUSTOMS ORDINANCE

1. This Act may be cited as the Customs (Amendment) Act, No. 2 of 2003.
2. Section 51 of the Customs Ordinance (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “by declaration by the importer or his agent,”, of the words “by a declaration made by the importer or his agent on a form of such size and colour as may be specified by the Director-General by notification published in the *Gazette*,”.
3. The following new sections are hereby inserted immediately after section 51 of the principal enactment and shall have effect as sections 51A, 51B and 51C of that enactment :—

‘When officer
in doubt he
may call for
further
information.

- 51A. (1) (a) Whenever an officer of customs has reason to doubt the truth or accuracy of any particulars contained in a bill of entry or a declaration made under section 51 or the documents presented to him in support of a bill of entry under section 47, the officer of customs may require the importer or his agent or any other party connected with the importation of goods, to furnish such other information, including documentary or other evidence in proof of the fact that the declared customs value represents the total amount actually paid or is payable for the imported goods as adjusted in accordance with Article 8 of Schedule E.
- (b) After the receipt of further information or in the absence of any response, if the officer of customs still has reasonable doubt as to the truth or accuracy of the declared customs value, it shall be deemed that the customs value of the imported goods in question cannot be determined under the provisions of Article 1 of Schedule E and the importer, if so requests, shall be informed by the officer in writing of the grounds for such doubt and be afforded an opportunity to be heard.
- (c) The officer of customs may thereafter proceed to determine the customs value in accordance with the other provisions of Schedule E and amend the value as appropriate.
- (2) If an officer of customs is satisfied as a result of an examination or investigation, or an audit carried out under section 128A, at any time prior to or after the clearance of the goods that the value declared by the importer or his agent under an Article of Schedule E under which the value was initially accepted, is not appropriate the officer of customs may amend the value in accordance with the appropriate Article of Schedule E.
- (3) For the purpose of this Ordinance, the customs value shall be the amended value under subsection (1) or (2).
- (4) Upon a written request, an explanation shall be given in writing to the importer, on how the customs value of the importer’s goods was determined under subsection (2).
- (5) Subsection (2) shall apply to goods whether or not such goods have been released from the control of the customs or any duty assessed on them has been paid.
- (6) An importer who is dissatisfied with a decision of the officer, under this section may, within ten working days after the date on which notice of the decision is given, appeal to the Director-General against that decision. The right of appeal shall be available to an importer whether or not the imported goods have been released to him and whether or not any part of the custom duty has been paid. The decision of the Director-General on the appeal and the reasons for such a decision shall be in writing.

(7) Where the importer desires to clear the goods pending the determination of his appeal the Director-General may, except in case where fraud is suspected, allow the clearance of the goods upon furnishing security for the payment of the customs duties and other levies for which the goods may be liable.

Importer to keep records for three years. 51B. (1) Every Importer, agent or others concerned in the importation, movement and storage of imported goods shall keep or cause to be kept in Sri Lanka such records for a period of three years from the date of importation as may be prescribed.

(2) Every such person shall whenever required by an officer of customs —
 (a) make the records available to such officer ;
 (b) provide copies of the records as required ; and
 (c) answer any questions relating to matters arising under the Ordinance.

Confidentiality to be strictly maintained. 51C. All information which are confidential in nature or are provided in confidence for the purpose of customs valuation shall be so treated by the officer of customs and shall not be disclosed without the written permission of the persons or government providing such information, except to the extent that it may be required to be disclosed in the course of judicial proceedings.’.

4. Section 52 of the principal enactment is hereby amended by the substitution for the words “is not in accordance with Schedule E” of the words “according to section 51 is a false declaration”.

5. The following new section is hereby inserted immediately after section 52 and shall have effect as section 52A of the principal enactment :—

“Penalty for failing to keep, destroying or altering records &c. 52A. Every person who in contravention of the provisions of the Ordinance, fails to keep records which are required to be kept under section 51B or destroys, alters or conceals any book register, record or other document required to be kept under this Ordinance or sends or attempts to send out of Sri Lanka any such book, register, record or document commits an offence and shall be liable to a penalty not exceeding five hundred thousand rupees.”.

6. Section 101 of the principal enactment is hereby amended in subsection (1) thereof —

(a) by the substitution in paragraph (f), for the words “duties ; and”, of the words, “duties” ;
 (b) by the substitution in paragraph (g), for the words “defaced”, of the words “defaced ; and” ; and
 (c) by the addition, at the end of the paragraph (g) of that subsection, of the following :—

“ (h) for assessment of value for the customs purposes under section 51.”

7. The following new section is hereby inserted immediately after section 128 of the principal enactment and shall have effect as section 128A of the principal enactment :—

“Power to enter for the purpose of audit or examination of records. 128A.(1) The Director-General or any officer of customs authorized in that behalf in writing by the Director-General may —

(a) at all reasonable hours of the day or night enter any building or place where records are kept in accordance with section 51B and audit or examine such records on any matter pertaining to customs either in relation to specific transactions or to the adequacy and integrity of the manual or electronic systems by which such records are created and stored ;
 (b) open and examine any receptacle where any book of account, register, record or any other document may be found for the purposes of the preceding provisions of this Ordinance ;
 (c) examine and take copies of, or make extracts from or take possession of any book of account, register, record or other document found in such place or building ;
 (d) operate any computer found in any building and make copies or take printouts of the whole or part of any entries recorded or stored therein.

- (2) Where an officer authorized by the Director-General under subsection (1) of this section takes into his possession any book of account, register, record or other documents from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.
 - (3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer for the examination of such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.
 - (4) The Director-General or any authorized officer of customs may request any person in charge or occupation of any building or place to assist the Director-General or such officer to enter and search that building or place and if such person when so requested fails to assist the Director-General or such officer he shall be guilty of an offence.
 - (5) Any person who obstructs the Director-General or an officer of customs in exercising any of his powers under this section shall be guilty of an offence.
 - (6) A person who is guilty of an offence under subsection (4) or (5) shall be liable to a penalty not exceeding one hundred thousand rupees.”.
8. Section 167 of the principal enactment is hereby amended by the insertion immediately after the definition “customs house” of the following :—
- ‘ “document” includes any information contained in an electronic record, printed on a paper, stored, recorded or copied on optical or magnetic media and produced by whatever means ;’.
9. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
10. Schedule E to the principal enactment is hereby repealed and the following Schedule is substituted therefor :—
- Provided however, notwithstanding the repeal of the Schedule all actions and proceedings taken under the repealed Schedule and pending on the day preceding the date on which the new Schedule came into force—
- (a) shall be deemed to have been or to be, as the case may be, duly taken under the repealed Schedule ; and
 - (b) may be proceeded with or continued under the repealed Schedule as though that Schedule had not been repealed.

‘SCHEDULE “E”

[SECTION 51A]

CUSTOMS VALUATION RULES

Article 1

1. The customs value of any imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Sri Lanka as adjusted in accordance with the provisions of Article 8 :

Provided however—

- (a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions that—
 - (i) are imposed or required by law or by the public authorities in Sri Lanka ;
 - (ii) limit the geographical area in which the goods may be resold ; or
 - (iii) do not substantially affect the value of the goods.
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued ;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8 ; and
- (d) that the buyer and seller are not related, or where the buyer and the seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 9 shall not in itself be ground for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If in the light of information provided by the importer or otherwise, the Customs Administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.
- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time :—
 - (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to Sri Lanka ;
 - (ii) the customs value of identical or similar goods as determined under the provisions of Article 5 ;
 - (iii) the customs value of identical or similar goods as determined under the provisions of Article 6.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.
- (c) The tests set forth in paragraph 2 (b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2 (b).

Article 2

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Article 1, the customs value shall be the transaction value of identical goods sold for export to Sri Lanka and exported at or about the same time as the goods being valued.
- (b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and in different quantities or either of them, adjusted to take account of differences attributable to commercial level and to quantity or either of them, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.
2. Where the costs and charges referred to in paragraph 2 of Article 8 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.
3. If in applying this Article, more than one transaction value of identical goods is found, the lowest of such value shall be used in determining the customs value of the imported goods.

Article 3

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Articles 1 and 2, the customs value shall be the transaction value of similar goods sold for export to Sri Lanka and exported at or about the same time as the goods being valued.
- (b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and in different quantities, or either of them, adjusted to take account of differences attributable to commercial level and to quantity or either of them shall be used provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.
2. Where the costs and charges referred to in paragraph 2 of Article 8 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.
3. If in applying this Article, more than one transaction value of similar goods is found, the lowest of such values shall be used to determine the customs value of the imported goods.

Article 4

If the customs value of the imported goods cannot be determined under the provisions of Articles 1, 2 and 3, the customs value shall be determined under the provisions of Article 5 or, when the customs value cannot be determined under that Article, under the provisions of Article 6 except that, at the request of the importer, the order of application of Articles 5 and 6 shall be reversed.

Article 5

1. (a) If the imported goods or identical or similar imported goods are sold in Sri Lanka in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following :—

- (i) either the commission usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Sri Lanka of imported goods of the same class or kind ;
 - (ii) the usual costs or transport and insurance and associated costs incurred within Sri Lanka ;
 - (iii) where appropriate, the costs and charges referred to in paragraph 2 of Article 8 ; and
 - (iv) the customs duties and other national taxes payable in Sri Lanka by reason of the importation or sale of the goods.
- (b) If neither the imported goods nor identical nor similar goods are sold at or about the time of importation of the goods being valued, the customs value shall subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Sri Lanka in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.
2. If neither the imported goods nor identical nor similar goods are sold in Sri Lanka in the condition as imported, then if the importer so requests, the customs value shall be based on the unit price at which the imported goods after further processing are sold in the greatest aggregate quantity to persons in Sri Lanka who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1 (a).

Article 6

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of—
- (a) the cost of value of materials and fabrication or other processing employed in producing the imported goods ;
 - (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producer in the country of exportation for export to Sri Lanka ;
 - (c) the cost or value of all other expenses incurred as set out in paragraph 2 of Article 8.
2. The Director General of Customs may not require or compel any person not resident in Sri Lanka to produce for examination, or to allow access to any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in another country by the Director General of customs with the agreement of the producer and provided sufficient advance notice is given to the Government of the country in question and the latter does not object to the investigation.

Article 7

1. If the customs value of the imported goods cannot be determined under the provisions of Article 1 to 6 both inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of the agreement on implementation of Article vii of the General Agreement on Tariffs and Trade 1994 and on the basis of data available in Sri Lanka.
2. No customs value shall be determined under the provisions of this Article on the basis of —
- (a) the selling price in Sri Lanka of goods produced in Sri Lanka ;
 - (b) a systems which provides for the acceptance for customs purposes of the higher of two alternative values ;
 - (c) the price of goods on the domestic market of the country of exportation ;
 - (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6 ;
 - (e) the price of the goods for export to a country other than Sri Lanka ;
 - (f) minimum customs value ; or
 - (g) arbitrary or fictitious values.
3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Article 8

1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods—
- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods :—
 - (i) commissions and brokerage, except buying commissions ;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question ;
 - (iii) the cost of packing whether for labour or materials.
 - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable :—
 - (i) materials, components, parts and similar items incorporated in the imported goods ;

- (ii) tools, dies, moulds and similar items used in the production of the imported goods ;
 - (iii) materials consumed in the production of the imported goods ;
 - (iv) engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in Sri Lanka and necessary for the production of the imported goods.
- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued to the extent that such royalties and fees are not included in the price actually paid or payable.
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.
- (e) the following costs :—
- (i) The cost of transport of the imported goods to the port of Sri Lanka ;
 - (ii) Loading, unloading and handling charges associated with the transport of the imported goods to the port of Sri Lanka ; and
 - (iii) The cost of insurance.
2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.
3. No addition shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Article 9

In this Schedule unless the context otherwise require —

“Customs value of imported goods” means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods ;

“Sri Lanka” includes the customs territory of Sri Lanka ;

“Produced” includes grown, manufactured and mined ;

“Identical goods” means, goods which are the same in all respects, including physical characteristics, quality and reputation ; Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical ;

“Similar goods” means, goods which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar ;

“identical goods” and “similar goods” do not include, as the case may be, goods which incorporate or reflect engineering development, artwork, design work and plans and sketches for which no adjustment has been made under paragraph 1 (b) (iv) of Article 8 because such elements were undertaken in Sri Lanka ;

Goods shall not be regarded as “identical goods” or “similar goods” unless they were produced in the same country as the goods being valued ;

Goods produced by a different person shall be taken into account only when there are no identical goods or similar goods as the case may be, produced by the same person as the goods being valued ;

“goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

Persons shall be deemed to be related only if—

- (a) they are officers or directors of one another’s businesses ;
- (b) they are legally recognized partners in business ;
- (c) they are employer and employee ;
- (d) any person directly or indirectly owns, controls or holds 5 percent or more of the outstanding voting stock or shares or both of them ;
- (e) one of them directly or indirectly controls other ;
- (f) both of them are directly or indirectly controlled by a third person ;
- (g) together they directly or indirectly control a third person ; or
- (h) they are members of the same family.

Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however, described of the other shall be deemed to be related for the purposes of this Schedule if they fall within the above categories.

Article 10

Notwithstanding the provisions of this Schedule, the Minister may, with the approval of the Cabinet of Ministers, in the interest of national economy or for any other reason, by Order published in the *Gazette* fix, for such period as may be specified in that Order, minimum values for any goods, and the duties on those goods shall be charged on the basis of such minimum values.

FISCAL MANAGEMENT (RESPONSIBILITY) ACT, NO. 3 OF 2003

[Certified on 09th January, 2003]

AN ACT TO ENSURE THAT THE FINANCIAL STRATEGY OF THE GOVERNMENT IS BASED ON PRINCIPLES OF RESPONSIBLE FISCAL MANAGEMENT ; TO FACILITATE PUBLIC SCRUTINY OF FISCAL POLICY AND PERFORMANCE ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Fiscal Management (Responsibility) Act, No. 3 of 2003, and shall come into operation on such date as the Minister may appoint, by Order published in the *Gazette* (hereinafter referred to as the “appointed date”).
2. The fiscal strategy of the Government shall be based on the principles of responsible fiscal management hereinafter referred to.
3. The objectives underlying responsible fiscal management which need to be adhered to, by the Government in outlining the fiscal strategy of the government are as follows :—
 - (a) reduction of government debt to prudent levels, by ensuring that the budget deficit at the end of the year 2006, shall not exceed five *per centum* of the estimated gross domestic product and to ensure that such levels be maintained thereafter ;
 - (b) prudent management of the financial risks faced by the government, having regard to the changing economic circumstances ;
 - (c) adoption of policies relating to spending which do not increase government debt to excessive levels ;
 - (d) adoption of policies relating to spending and taxing, as are consistent with a reasonable degree of stability and predictability in the level of tax rates in the future ;
 - (e) ensuring that the sum which is calculated as the guarantee and given as a percentage of the gross domestic product for the current financial year along with the two preceding financial years, does not in the aggregate exceed 4.5 *per centum* ;
 - (f) ensuring that at the end of the financial year commencing on January 1, 2006, the total liabilities of the Government (including external debt at the current exchange rates) do not exceed eighty-five *per centum* of the estimated gross domestic product for that financial year ; and that at the end of the financial year commencing on January 1, 2013, the total liabilities of the Government (including external debt at the current exchange rates) do not exceed sixty *per centum* of the estimated gross domestic products for that financial year ; and
 - (g) ensuring that the policy decisions of the Government have regard to the financial impact of such decision on future generations.
4.
 - (1) The fiscal strategy of the Government shall be set out in a Fiscal Strategy Statement (hereinafter referred to as “the Statement”).
 - (2) The Minister in charge of the subject of Finance, shall in every year on the day fixed for the second reading of the Appropriation Bill in Parliament, cause the Statement of the Government to be released to the public and to also be laid before Parliament.
 - (3) The Government may, at any time for reasons to be stated by the Minister, revise its Statement.
 - (4) Where the Government revise its Statement, the Minister shall cause the revised Statement to be released to the public and tabled in Parliament, and the revised Statement shall be effective from the date of its release.
 - (5) The Minister shall—
 - (a) if Parliament is sitting on the date of the release of the revised Statement, cause a copy of such Statement to be tabled in Parliament within two weeks of the date of such release ; or
 - (b) if Parliament is not sitting on the date of the release of the revised Statement, cause a copy of such Statement to be tabled in Parliament within two weeks of the next sitting of Parliament.

5. The objectives of a Statement is to increase public awareness of the Government's fiscal policy and to establish standards for evaluating the Government's conduct of its Fiscal strategy.
6. A Statement shall —
 - (a) specify the Government's medium term fiscal policy, within which the Government's short term fiscal objectives will be formulated ;
 - (b) explain the broad strategic priorities on which the budget is, or will be based ;
 - (c) specify the key fiscal measures which the Government considers important in view of the strategy and the overall fiscal policy to be implemented ;
 - (d) specify in respect of the next financial year and the three succeeding financial years in conformity with the fiscal policy—
 - (i) the Government's fiscal objectives and targets, in relation to expenditure, revenue, debt and other fiscal indicators, with special reference being made to the Government's debt, if any, to the Employees Provident Fund and the Employees Trust Fund ;
 - (ii) the expected outcome of the key measures specified in paragraph (c) ;
 - (e) explain how the fiscal objectives and strategic priorities specified in paragraphs (a), (b) and (d) are consistent with the principles of responsible fiscal management ;
 - (f) explain, if such objectives and priorities depart substantially from the principles of responsible fiscal management—
 - (i) the reasons for the departure ;
 - (ii) the steps that the Government is taking to return to those principles ;
 - (iii) the period of time within which the Government intends to return to these principles ; and
 - (g) give reasons justifying the departure, where the Statement departs from the immediately preceding Statement.
7. The Minister shall on the day fixed for the second reading of the Appropriation Bill in Parliament, in each year, cause to be tabled in Parliament, a Budget Economic and Fiscal Position Report.
8. The objectives in making the Budget Economic and Fiscal Position Report available is to provide information which will provide a basis for the evaluation of the Government's fiscal performance as against its fiscal strategy as set out in its Statement.
9. (1) The Budget Economic and Fiscal Position Report shall contain, in relation to the next financial year and the two succeeding financial years, the following information :—
 - (a) estimates relating to the gross domestic product ;
 - (b) estimates relating to consumer prices ;
 - (c) estimates relating to employment and unemployment ;
 - (d) estimates relating to the current account position of the balance payments ;
 - (e) estimates relating to revenue expenditure ;
 - (f) estimates relating to government borrowing ;
 - (g) the basis, economic or otherwise which has been used in the preparation of the estimates specified in paragraphs (a) to (f) ;
 - (h) a statement relating to the sensitivity of the estimates specified above, to the changes which may occur in connection with the economic or other basis used in the preparation of such estimates ;
 - (i) a statement, quantified as far as practicable, of the risks that may have a material effect on the fiscal position, such as—
 - (i) contingent liabilities including guarantees and indemnities, granted by the Government under any written law ;

- (ii) public announcements relating to proposals of the Government in connection with Government spending not included in the estimates referred to in paragraph (e) ;
 - (iii) on going negotiations of the Government which have not been finalized ; and
 - (j) such other information which may be necessary to reflect fairly, the financial position of the Government, in respect of each such financial year.
 - (2) Subject to the provisions of subsection (3) the information contained in the Budget Economic and Fiscal Position Report shall take into account, as far as possible, all government decisions and all other circumstances that may have a material effect on the fiscal and economic position of the Government.
 - (3) Nothing contained in this section shall be read and construed as requiring the inclusion in the Budget Economic and Fiscal Position Report, a disclosure of any information which, in the written opinion of the Minister, will—
 - (a) be prejudicial to national security ;
 - (b) compromise Sri Lanka in a material way, in negotiation, litigation or commercial activity.
- 10.** (1) The Minister shall cause to be released to the public, in respect of every year, a Mid-Year Fiscal Position Report, by the last day of the month of June of the relevant year or the lapse of six months from the date of the passing of the Appropriation Act, whichever is later.
 - (2) The Minister shall—
 - (a) if Parliament is sitting on the date of the release of the Mid-Year Fiscal Position Report, cause a copy of such Report to be tabled in Parliament within two weeks of the date of such release ; or
 - (b) if Parliament is not sitting on the date of the release of the Mid-Year Fiscal Position Report, cause a copy of such Report to be tabled in Parliament within two weeks of the next sitting of Parliament.
- 11.** The objectives of the Mid-Year Fiscal Position Report is to provide updated information of the Government's fiscal performance and to thereby enable the public to evaluate the Government's fiscal performance as against the fiscal strategy as set out in it's current Statement.
- 12.** (1) The Mid-Year Fiscal Position Report in respect of a financial year shall contain—
 - (a) a statement of the estimated and actual expenditure for the first four months of that year ;
 - (b) a statement of the estimated and actual revenue for the first four months of that year ;
 - (c) a statement of the estimated and actual cash flows for the first four months of that year ;
 - (d) a statement of the estimated and actual borrowings for the first four months of that year ; and
 - (e) such other statements which may be necessary to reflect fairly, the financial position of the Government, in respect of the first four months of such financial year.
 - (2) Where there is a shortfall in the estimated revenue or cash flow, or an excess in the estimated expenditure or borrowings, the mid year fiscal position Report shall state the reasons for such shortfall.
 - (3) Subject to the provisions of subsection (4), the information contained in the Mid-Year Fiscal Position Report shall take into account, as far as possible, all government decisions and all other circumstances that may have a material effect on the fiscal position (including decisions taken and circumstance that exist, after the passing of the Appropriation Act for that year).
 - (4) Nothing contained in this section shall be read and construed as requiring the inclusion in the Mid-Year Fiscal Position Report, the disclosure of any information, which in the written opinion of the Minister, will—
 - (a) be prejudicial to national security ;
 - (b) compromise Sri Lanka in a material way, in negotiation, litigation or commercial activity.
 - (5) Where any information on any matter required to be included in a Mid-Year Fiscal Position Report remains unchanged from the information in relation to such matter as is included in the last Budget Economic and Fiscal Position Report, the Mid-Year Fiscal Position Report shall state that such information remains so unchanged.

- 13.** (1) The Minister shall cause to be released to the public, in respect of each financial year, a Final Budget Position Report, not later than five months from the end of the financial year.
- (2) The Minister shall—
- (a) if Parliament is sitting on the date of the release of the Final Budget Position Report, cause a copy of such Report to be tabled in Parliament within two weeks of the date of such release ; or
- (b) if Parliament is not sitting on the date of the release of the Final Budget Position Report, cause a copy of such Report to be tabled in Parliament within two weeks of the next sitting of Parliament.
- (3) The Final Budget Position Report for a financial year may be incorporated with the Budget Economic and Fiscal Position Report in respect of a financial year, which is introduced after the commencement of that financial year.
- 14.** The objectives of the Final Budget Position Report is to provide updated information of the Government's fiscal performance and to thereby enable the public to evaluate the Government's fiscal performance as against its fiscal strategy as set out in its current Statement.
- 15.** (1) The Final Budget Position Report in respect of a financial year shall contain—
- (a) a statement of the estimated and actual expenditure for that year ;
- (b) a statement of the estimated and actual revenue for that year ;
- (c) a statement of the estimated and actual cash flows for that year ; and
- (d) a statement of the estimated and actual borrowings for that year ; and
- (e) such other statements which may be necessary to reflect fairly, the financial position of the Government, at the end of such financial year.
- (2) Where there is a shortfall in the estimated revenue or cash flow or an excess in the estimated expenditure or borrowing, the Final Budget Position Report shall state the reasons for such shortfall or excess.
- 16.** (1) The Secretary to the Ministry of the Minister, shall within three weeks of the publication our Proclamation or Order requiring the holding of a general election for the election of members of Parliament, cause to be released to the public a Pre-election Budgetary Position Report containing information on the fiscal position of the country.
- (2) The Minister shall, within two weeks of the first sitting of the new Parliament, cause a copy of the Report specified in subsection (1) to be placed before Parliament.
- 17.** (1) Every Pre-election Budgetary Position Report shall contain the following information for the current financial year :—
- (a) estimates of revenue and expenditure ;
- (b) estimates of the Government borrowings ;
- (c) the economic and other assumptions that have been used in preparing such estimates ;
- (d) a statement of the risks, quantified where practicable, that may have material effect on the fiscal position, such as—
- (i) contingent liabilities including guarantees and indemnities given by the Government under any Act ;
- (ii) publicly announced proposals for spending by the Government that have not been included in the estimates referred to in paragraph (a) ; and
- (iii) Government negotiations in progress and not finalized ; and
- (e) such other information as may be necessary to reflect fairly the financial position of the Government as at the date of the said Report.
- (2) The information in the Pre-election Budgetary Position Report, shall, subject to the provisions of subsection (3) take into account to the fullest possible extent any decision of the Government having a material effect on the fiscal position.

- (3) Nothing in this section shall be read or construed as requiring the inclusion in a Pre-election Budgetary Position Report, of any information, the disclosure of which would, in the opinion of the Minister given in writing—
- (a) be prejudicial to national security ;
 - (b) compromise Sri Lanka in a material way in negotiation, litigation or commercial activity.
- (4) Where information on any matter required to be included in a Pre-election Budgetary Position Report remains unchanged from the information on that matter included in a previous Budget Economic and Fiscal Position Report or a Mid-Year Budget Fiscal Position Report, the Pre-election Budgetary Position Report shall state that such information remains unchanged from the information included in either or both of these previous reports.
- 18.** For the purpose of enabling the Secretary to prepare a Pre-Election Budgetary Position Report under section 16, the Minister shall, within one week of the publication of the Proclamation or Order requiring the holding of a General Election for the election of Members of Parliament, disclose to the Secretary, details of all Government decisions and other circumstances—
- (a) within the knowledge of the Minister ; and
 - (b) which have, or could have, material fiscal or economic implications.
- 19.** Every Pre-election Budgetary Position Report shall be accompanied by—
- (a) statement signed by the Minister to the effect that the Minister has complied with the requirements of section 18 ;
 - (b) a statement by the Secretary to the effect that the information in the report, to the fullest extent possible—
 - (i) reflects the best professional judgement of the officer's of the Ministry of the Minister ;
 - (ii) takes into account all economic and fiscal information available to the Ministry ;
 - (iii) incorporates the fiscal implications of the Government decisions and circumstances disclosed to him or her by the Minister under section 18.
- 20.** (1) Subject to the provisions of subsections (2) and (3), the Government shall not borrow from the Central bank.
- (2) The Government may borrow from the Central Bank, by way of advances, to meet a temporary excess of cash disbursements over cash receipts in a financial year :
- Provided that every such advance shall be repaid within six months of the date of such advance and the total of such advances, outstanding at any time in a financial year, shall not exceed ten *per centum* of the estimated revenues of the Government for that financial year.
- (3) Nothing contained in this section shall be deemed to prohibit the Central Bank from subscribing to primary issues of Government Treasury Bills.
- 21.** All Statements and Reports referred to in this Act shall be prepared in accordance with the best practice accounting methods relating to public sector accounts.
- 22.** (1) The Secretary to the Ministry of the Minister in charge of the subject of Finance, may in writing, request any Ministry, Department, Public Corporation or Company in which the Government owns shares, to furnish to him or her, such information as is necessary for the preparation of the Statement referred to in section 4 and the Reports referred to in sections 7, 10, 13 and 16.
- (2) A Ministry, Department, Public Corporation or Company to which a request is made in terms of subsection (1) shall forthwith comply with such request so as to enable the Secretary to take the information requested into account in the preparation of the Statement or Report, as the case may be.
- 23.** Upon the Statement referred to in section 4 and the Reports referred to in sections 7, 10, 13 and 16 being placed before Parliament, such Statement or Report shall stand referred to the relevant Standing Committee of Parliament.
- 24.** The Secretary to the Ministry of the Minister in charge of the subject of Finance, may by Notification published in the *Gazette*—

- (a) specify the place at which copies of the Statement referred to in section 4 and the Reports referred to in sections 7, 10, 13 and 16 are made available for inspection, free of charge ; and
- (b) specify the place at which copies of the Statement and the Reports are available for sale.
25. No civil or criminal proceeding shall be instituted against a public officer for anything done in good faith or omitted to be done by such public officer under this Act.
26. (1) The Government may in exceptional circumstances, with the approval of Parliament granted by way of a Resolution of Parliament and for such period as may be specified in such Resolution, depart from the requirements of this Act.
- (2) The Minister shall in every instance where a departure from the requirements of this Act is made, inform Parliament of—
- (a) the reasons for such departure ;
- (b) the steps that the Government will be taking to overcome the causes necessitating such departure ;
- (c) the period of time within which the Government expects such departure from the requirements, to come to an end.
- (3) The Minister shall in every instance where a departure is made—
- (a) if Parliament is sitting on the date when such departure is necessitated, inform Parliament within two weeks of the date of the departure of the matters specified in subsection (2) relating to such departure ; or
- (b) if Parliament is not sitting on the date of such departure, take steps to ensure that Parliament is informed within two weeks of the next sitting of Parliament of the matters specified in subsection (2) in relation to such departure.
27. In the event of any inconsistency between the Sinhala and Tamil texts of the Act the Sinhala text shall prevail.

FINANCE (AMENDMENT) ACT, NO. 4 OF 2003

[Certified on 27th February 2003]

AN ACT TO AMEND THE FINANCE ACT, NO. 16 OF 1995

1. This Act may be cited as the Finance (Amendment) Act, No. 4 of 2003.
2. Part I of Chapter I of the Finance Act, No. 16 of 1995, (section 2) as amended by Act, No. 24 of 1999 (hereinafter referred to as the “principal enactment”) is hereby repealed.
3. Section 6 of the principal enactment is hereby amended as follows :—
 - (1) by the substitution for the words “includes the diesel motor vehicle levy, luxury motor vehicle levy,” of the words “includes the luxury motor vehicle levy,”; and
 - (2) in the marginal note to that section, by the substitution for the words “include diesel motor vehicle levy, luxury motor vehicle levy,”, of the words “include luxury motor vehicle levy,”.
4. Section 17 of the principal enactment is hereby amended by the repeal of the definition of the expression “specified motor vehicle” and the substitution therefor of the following definition :—

“specified motor vehicle” means any luxury motor vehicle, any semi luxury motor vehicle or any semi luxury dual purpose motor vehicle;”.
5. The amendments made to the principal enactment by this Act, shall be deemed for all purposes to have come into force on October 12, 2001.
6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

DEBITS TAX (AMENDMENT) ACT, NO. 5 OF 2003

[Certified on 27th February, 2003]

AN ACT TO AMEND THE DEBITS TAX ACT, NO. 16 OF 2002

1. This Act may be cited as the Debits Tax (Amendment) Act, No. 5 of 2003.
2. Section 2 of the Debits Tax Act, No. 16 of 2002 (hereinafter referred to as the “principal enactment”) is hereby repealed and the following section substituted therefor :—

“Imposition of debits tax. 2. Subject to the provisions of section 13, there shall be charged and levied —

 - (a) on the total amount of the debits, made during each calendar month against each current account maintained at a commercial bank ;
 - (b) on the total amount of the debits, made during each calendar month against each savings account maintained at a commercial bank or a specialized bank; and
 - (c) on the amount realized on the encashment of a certificate of deposit or travelers cheque, a tax to be called the debits tax at the rate of one tenth of one *per centum* of the total debit or the amount encashed, as the case may be.”.
3. Section 3 of the principal enactment is hereby amended by the insertion immediately after paragraph (a) of that section of the following new paragraph :—

“(aa) in the case of a debit from a savings account maintained at a commercial bank or a specialised bank, be paid by the person or persons in whose name or names the account is maintained;”.
4. Section 4 of the principal enactment is hereby amended by the insertion immediately after paragraph (a) of that section of the following new paragraph :—

“(aa) in the case of a debit from a savings account maintained at a commercial bank or a specialised bank, commence at the end of the month in which the debit was made;”.
5. Section 5 of the principal enactment is hereby amended by the substitution for the words “current account transactions” of the words “current account and savings account transactions”.
6. Section 6 of the principal enactment is hereby amended as follows :—
 - (1) by the substitution for all the words from “Every commercial bank” to “last working day of each month” of the following :—

“(1) Every commercial bank or specialised bank shall, on the last working day of each month, withdraw from every current or savings account maintained at that bank, a sum equal to the amount payable as debits tax from that account in respect of that month, and shall remit such sum to the Commissioner-General on or before the last working day of each succeeding month.”;
 - (2) in the first proviso to subsection (1), by the substitution for the words “if the beginning of any month falls” of the words “if the last day of any month falls”;
 - (3) by the repeal of the second proviso to section (1) and the substitution therefor of the following proviso :—

Provided further that, debits tax should not be withdrawn from a current account or a savings account if the tax liability of such current account or savings account during a particular month is less than rupees twenty.”;
 - (4) in subsection (3) of that section, by the substitution for the words “name or names the current account is being maintained at the commercial bank” of the words “name or names the current account or savings account is being maintained at the commercial bank or specialised bank”;
 - (5) in subsection (4) of that section —

- (a) by the substitution for the words “Where owing to there being no funds in a current account or there being an insufficiency of funds in a current account, the commercial bank” of the words “Where owing to there being no funds in a current account or savings account or there being an insufficiency of funds in a current account or savings account, the commercial bank or specialised bank”; and
- (b) by the substitution for the words “in the preceding month” wherever those words appear in that subsection of the words “in respect of that month”;
- (6) in the proviso to subsection (4), by the substitution for the words “commercial bank may differ” of the words “commercial bank or specialised bank may defer”; and
- (7) in subsection (5) of that section—
- (a) by the substitution for the words “be deemed to authorize a commercial bank to refuse to pay out of the funds in any current account” of the words “be deemed to authorize a commercial bank or specialised bank to refuse to pay out of the funds in any current account or savings account”; and
- (b) by the substitution for all the words from “on the debits made from that account, has to be paid:” to the end of that subsection of the words “on the debits made from that account, has to be paid.”.
7. Section 7 of the principal enactment is hereby amended by the substitution for the words “Where the holder of a current account” of the words “Where the holder of a current account or savings account”.
8. Section 8 of the principal enactment is hereby amended by the substitution in paragraph (a) of subsection (2) of that section, for the words “from a current account” of the words “from a current account or savings account”.
9. Section 9 of the principal enactment is hereby amended as follows :—
- (1) in subsection (1) —
- (a) by the substitution for all the words from “A commercial bank shall,” to “current account setting out the following :—” of the words “A commercial bank or specialised bank shall, when remitting the sums referred to in subsection (1) of section 6, furnish a statement to the Commissioner-General in respect of any current account or savings account maintained on behalf of a customer, other than a special current account, setting out the following :”
- (b) by the substitution for paragraph (a) of that subsection of the following paragraph :—
- “ (a) the total amount of debits made from all current accounts and savings accounts maintained by that bank in respect of that month;”;
- (c) by the omission of paragraph (b) of that subsection ;
- (d) in the paragraph (c) of that subsection by the substitution for the words “from all current accounts” of the words “from all current accounts and savings accounts”;
- (e) in paragraph (e) of that subsection by the substitution for the words “in each current account” and “relevant current account” of the words “in each current account and savings account” and “relevant current account and savings account”, respectively ;
- (2) by the insertion immediately after subsection (1) of that section of the following new subsections :—
- “ (1A) A commercial bank shall, when remitting the sums referred to in subsection (1) of section 6, furnish a statement to the Commissioner-General in respect of any special current account setting out the total amount of debits from all special current accounts maintained by that bank in respect of that month.
- (1B) A commercial bank or specialised bank shall, at the end of each month, furnish a statement to the Commissioner-General setting out the following details in respect of its own transactions :—
- (a) the total value of the debits in respect of debits tax liable transactions in a particular month;
- (b) the sums withdrawn as debits tax for a particular month;
- (c) the total value of debits tax exempt transactions for a particular month.”.

10. Section 10 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution for the words “Where a commercial bank reports” and “from a current account maintained” of the words “Where a commercial bank or specialised bank reports” and “from a current account or savings account maintained”.
- (2) in subsection (2) of that section by the substitution for paragraph (a) of the following paragraph :—
 - “(a) the total amount of the debits made from a current account or a savings account maintained at that commercial bank or specialised bank, in any month; or”.

11. Section 13 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section —
 - (a) in paragraph (a) thereof, by the substitution for the words “any current account maintained” of the words “any current account or savings account maintained”;
 - (b) in paragraph (b) thereof, by the substitution for all the words from “debits made from any” to “is solely for the purpose of making—” of the words “debits made from any current account being a special account, opened by any person in a commercial bank for the purpose of making —”;
 - (c) in paragraph (c) thereof,—
 - (i) by the substitution for all the words from “debits made from any” to “is solely for the purpose of making—” of the words “debits made from any current account being a special account opened by any person specified hereunder in a commercial bank for the purpose of making—” ;
 - (ii) by the substitution for sub-paragraph (iii) of the following new sub-paragraphs :—
 - “(iii) payments in relation to the purchase of stock issued in terms of the Registered Stocks and Securities Ordinance (Chapter 420) made by any person or body of persons, at the issue of such registered stock ;
 - (iii a) payments in relation to the purchase of securities issued in terms of the Registered Stocks and Securities Ordinance (Chapter 420) and treasury bills issued in terms of the Local Treasury Bills Ordinance (Chapter 417), by any person or body of persons, at the issue of such securities or bills ;
 - (iii) in sub-paragraph (vii) thereof—
 - (i) by the substitution for the words “by another commercial bank” of the words “by such bank, another commercial bank”;
 - (ii) by the substitution for the words “or other financial intermediary” of the words “or any other entity engaged in financial intermediation activity”;
 - (iii) in sub-paragraph (vii) (c) thereof, by the substitution for the words “financial intermediaries” or “financial intermediary” wherever it appears, of the words “any other entity engaged in financial intermediation activity”;
 - (iv) by the addition immediately after sub-paragraph (viii) of paragraph (c) of that subsection of the following proviso :—

“Provided that the exempt transactions referred to in paragraphs (b) and (c) of subsection (1) shall be routed through a single special current account. A separate declaration shall be made for each exempt activity and a single undertaking shall be provided to the effect that such account shall be used only for debit tax exempt activities.”;
 - (d) in paragraph (d) thereof—
 - (i) by the substitution for the words “from any current account” of the words “from any current account or savings account”;
 - (ii) by the substitution for sub-paragraph (i) thereof of the following :—
 - “(i) debits made from such account kept in a commercial bank or specialised bank that represent transfer of funds in the name of the same account holder from one current

account to another, or from a current account to a savings account, or from a savings account to a current account, or from one savings account to another, within the same commercial bank or specialised bank or between different commercial banks or specialised banks”;

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

(a) by the substitution for the words “commercial bank” and “any current account” of the words “commercial bank or specialised bank” and “any current account or savings account”; and

(b) by the addition immediately after the first proviso to that subsection of the following :—

“Provided further, that in cases where banks are able to identify the exempt debits specified in sub-paragraphs (i), (ii) and (iii) of paragraph (d) of subsection (1), the bank may exempt the debit without a declaration from the account holder as is required above and refrain from collecting debits tax on the same. No bank shall be indemnified against any error made by the granting of any such exemption. Any bank who so makes an error in the granting of an exemption shall be liable to a penalty of rupees ten thousand in respect of each such exemption wrongfully granted.”.

(3) in subsection (5) of that section by the substitution for the words “current account” of the words “current account or savings account”.

12. The following new section is hereby inserted immediately after section 14 of the principal enactment and shall have effect as section 14A of that enactment :—

“Commissioner or Deputy Commissioner to exercise and perform powers &c.	14A. The Commissioner-General may authorize any Commissioner or any Deputy Commissioner appointed in terms of the provisions of the Inland Revenue Act, No. 38 of 2000, to exercise, perform and discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner-General, by or under the provisions of this Act.”.
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13. Section 15 of the principal enactment is hereby amended by the substitution for the marginal note to that section of the following :—

“Offences.”.

14. Section 19 of the principal enactment is hereby amended as follows :—

(1) by the substitution in the definition of the expression “debit” for the words “current account” wherever such words appear in that definition, of the words “current account or savings account” and for the words “commercial bank” of the words “commercial bank or specialised bank”; and

(2) by the substitution for the definition of the expression “savings account” of the following definition :—

““savings account” means any account (other than a foreign currency account or a fixed or term deposit account) which is maintained at a licensed commercial bank or a licensed specialised bank, and which qualifies for interest, irrespective of whether such interest is paid or not;”.

15. The amendments made to the principal enactment by the provisions of this Act shall be deemed for all purposes to have come into effect on January 1, 2003.

16. (1) Any licensed commercial bank or licensed specialised bank, which collects or remits debits tax from any savings account as provided for in section 6, during the period commencing on January 1, 2003 and the date of the coming into operation of this Act, shall be deemed to have acted with due authority and is hereby indemnified from any civil or criminal prosecution in respect of such collection.

(2) Any licensed commercial bank or licensed specialised bank, which collects from any person debits tax in excess of the amount he was liable to pay in respect of debits from a savings account maintained by him at any licensed commercial bank or licensed specialised bank, or which collects from any person debits tax on any such debits made from a savings account maintained by him in a bank as are exempt from debits tax by or under section 13, is hereby indemnified against civil or criminal prosecution in respect of such collection from and after the period commencing January 1, 2003 and the date on which a refund of such amount is made or the date on which such amount is remitted to the Commissioner-General, as the case may be.’.

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

FINANCE (AMENDMENT) ACT, NO. 6 OF 2003

[Certified on 27th February, 2003]

AN ACT TO AMEND THE FINANCE ACT, NO. 11 OF 2002

1. This Act may be cited as the Finance (Amendment) Act, No. 6 of 2003.
2. The Finance Act, No. 11 of 2002 (hereinafter referred to as the “principal enactment”) (as amended by Act, No. 30 of 2002) is hereby further amended in section 2 of Part I of that Act (Port and Airport Development Levy), by the repeal of the proviso to that section and the substitution therefor of the following proviso :—

“ Provided that in the case of an article imported into Sri Lanka, for the purpose of processing and re-export, the levy on the cost, insurance and freight value of that article shall be charged and levied at the rate of 0.5 *per centum*.”.
3. Where the Director-General of Customs, collects during the period commencing on January 1, 2003 and ending on the date of the commencement of this Act, from any person a levy in terms of section 2, on the cost, insurance and freight value of such article, such collection shall be deemed for all purposes to have been, and to be, validly made, and the Director-General of Customs is hereby indemnified against all actions, civil or criminal, in respect of such collection.”.
4. The amendment made to section 2 of the principal enactment, by section 2 of this Act, shall come into effect on January 1, 2003.
5. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

VALUE ADDED TAX (AMENDMENT) ACT, NO. 7 OF 2003

[Certified on 27th February, 2003]

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

1. This Act may be cited as the Value Added Tax (Amendment) Act, No. 7 of 2003.
2. Section 2 of the Value Added Tax Act, No. 14 of 2002 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (3) of that section as follows :—
 - (1) in the first proviso to that subsection—
 - (a) in paragraph (b) of that proviso by the substitution for the words “any fabric imported by any person, for the purpose of manufacture of garments for export”, of the words “any fabric imported by any person for the purpose of manufacture of garments for export” ;
 - (b) in paragraph (e) of that proviso by the substitution for the words “any ship;”, of the words “any ship imported on or before December 31, 2002 :” ;
 - (2) in the second proviso to that subsection—
 - (a) in sub-paragraph (ii) of paragraph (a) of that proviso by the substitution for the word and figure “subsection (6)”, of the word and figure “subsection (7) ” ;
 - (b) by the substitution for the words from “subject to the furnishing of a bank guarantee”, to the end of that proviso of the following :—

“ (c) any ship imported on or after January 1, 2003, for a period upto thirty six months, from the date of such import and such deferred amount shall be settled in quarterly installments before the expiration of such period of thirty six months.

The deferment of the payment of tax shall be subject to a furnishing of a bank guarantee or a corporate guarantee which covers the amount of tax due on the goods imported, received or purchased. In the case of such deferment under paragraph (b) no guarantee shall be required where such goods have been imported by a Government institution to be re-exported within one month from the date of importation.”.

3. Section 11 of the principal enactment is hereby amended in the proviso to subsection (1) of that section, by the substitution, for the words and figures “registered under subsection (2) of section 77”, of the words and figures “registered under subsection (2) of section 80”.
4. Section 14 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words and figures “registered under subsection (2) of section 77”, of the words and figures “registered under subsection (2) of section 80”.
5. Section 20 of the principal enactment is hereby amended as follows :—
 - (1) in subsection (2) of that section, by the substitution for the words and figures “Any valid tax invoice issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1, 2002”, of the words and figures “Any tax invoice not issued within the period specified in subsection (1) and which does not conform to the provisions of subsection (2) shall not be a valid tax invoice. Any valid tax invoice issued under the Goods and Services Tax Act, No. 34 of 1996 prior to August 1, 2002 or thereafter”;
 - (2) in subsection (3) of that section, by the substitution for the words “treated as a tax invoice.”, of the words “treated as a tax invoice under this Act.”;
 - (3) in subsection (6) of that section, by the substitution for the words “purposes of this Act.”, of the words —
“purposes of this Act :
Provided however a tax invoice shall be issued by such registered person who makes such taxable supply to any Government institution, Provincial Council, Local Government institution, or any public corporation, for any taxable supply made to such institution, Council or such corporation, as the case may be, whether or not such institution, Council or corporation is registered under this Act.”.
6. Section 21 of the principal enactment is hereby amended in subsection (12) of that section, by the substitution for the word and figure “subsection (9)”, of the word and figure “subsection (10)”.
7. Section 22 of the principal enactment is hereby amended as follows :—
 - (1) in the proviso to subsection (1) of that section, by the substitution for the words and figures “Law No. 4 of 1978”, of the words and figures “Law No. 4 of 1978 or by any other garment manufacturer who manufactures garments for export under the supervision of the Department of Customs”;
 - (2) by the insertion immediately after the proviso to subsection (1) of that section of the following :—
“Provided further that no other tax or levy including any duty under the Customs Ordinance shall be charged or collected on such sale of garments, where the amount specified in the preceding proviso has been paid on such sale.”;
 - (3) in subsection (5) of that section —
 - (a) in paragraph (b) of the first proviso to that subsection, by the substitution for the word and figure “subsection (6)”, of the word and figure “subsection (7)”;
 - (b) in the second proviso to that subsection, by the substitution for the words “shall not be refunded.”, of the words and figures “shall not be refunded but such input tax including any excess input tax as at July 31, 2002, under the Goods and Services Tax Act, No. 34 of 1996 shall be carried forward.”;
 - (4) in subsection (6) of that section —
 - (a) by the repeal of paragraphs (iii) and (iv) of that subsection and the substitution therefore of the following :—
“(iii) if the supply of goods or services received is not supported by —
(a) a valid tax invoice ; or

- (b) a customs goods declaration or other authenticated document issued by the Director-General of Customs under this Act or under the Goods and Services Tax Act, No. 34 of 1996,
and received within twelve months from the end of the relevant taxable period in respect of which such tax invoice was issued or from the date of importation of goods, as the case may be;
- (iv) if the input tax on such tax invoice or customs goods declaration, as the case may be, has not been deducted from the output tax for any taxable period ending before the lapse of six months from the last day of the taxable period in which such tax invoice or customs goods declaration was received :”;
- (b) by the insertion immediately after the first proviso to subsection (6) of that section of the following proviso :—
“Provided further, where input tax disallowed in respect of any motor vehicle referred to in paragraph (i) may be allowed up to a limit of fifty percent of such input tax for any taxable period commencing on or after January 1, 2003, subject to the provisions of subsection (3), where such vehicle is partly or wholly used in any taxable activity.”;
- (5) in subsection (7) of that section, by the substitution for the word and figure “subsection (5)”, of the word and figure “subsection (6)”;
- (6) in paragraph (b) of subsection (8) of that section, by the substitution for the word and figure “subsection (6)”, of the words and figures “subsection (7) or subsection (6) of section 22 of the Goods and Services Tax Act, No. 34 of 1996.”.
8. The following new Chapter is hereby inserted immediately after Chapter III and shall have effect as Chapter IIIA of the principal enactment :—

‘ CHAPTER IIIA

IMPOSITION OF VALUE ADDED TAX ON THE SUPPLY OF FINANCIAL SERVICES BY SPECIFIED INSTITUTIONS

- Charge of value added tax on the supply of financial services by specified institutions.
- 25A.(1) Notwithstanding the provisions of Chapter I, II, III and item (xi) of the First Schedule to this Act, a Value Added Tax (hereinafter in this Chapter referred to as “the tax”) shall be charged in accordance with the provisions of this Chapter with effect from January 1, 2003, on the supply of financial services in Sri Lanka, made by any specified institution which carries on a business of supplying such financial services.
- (2) Every specified institution, carrying on the business of supplying any financial service in Sri Lanka, shall be required to be registered where the value of such supply for a period of three months exceeds five hundred thousand rupees or for a period of twelve months one million eight hundred thousand rupees, as the case may be.
- (3) Every specified institution, required to be registered under subsection (2), shall make an application for registration in the specified form to the Commissioner-General not later than ten days from the date of commencement of this Act :
Provided however any institution registered under this Act and which is a specified institution within the meaning of this Chapter, shall be deemed for all purposes to be a registered specified institution.
- (4) The Commissioner-General shall upon such registration issue, to such registered specified institution —
(a) a tax registration number ; and
(b) a certificate of registration :
Provided however any institution deemed to be registered under this Chapter, shall not be issued with a tax registration number and a certificate of registration, under this Chapter.

Monthly taxable period. 25B. The taxable period of every registered specified institution shall be one month and a return in the form specified shall be furnished for each month before the end of the following month.

Calculation of tax. 25C.(1) Every registered specified institution under this Chapter shall be liable to tax for each taxable period on its total value addition of such institution which includes the net profits or loss, as the case may be, before payment of income tax on such profit computed in accordance with accepted accounting standards, subject to an adjustment for economic depreciation, determined by the Minister having regard to the interest of economy by order published in the *Gazette*, and the emoluments payable to all the employees of such institution :

Provided however where the amount of profits for each taxable period cannot be accurately ascertained, such amount may be estimated on the basis of available information. The estimated amounts shall be adjusted to reflect the actual amount on half yearly basis.

Emoluments paid to all the employees shall include—

(a) in the case of “specified employees” under Chapter XIV of the Inland Revenue Act, No. 38 of 2000, the gross remuneration payable to such employees and reflected in the pay sheet maintained under paragraph (a) of section 110 of the Inland Revenue Act, No. 38 of 2000; and

(b) in the case of an employee other than a “specified employee” the gross remuneration paid to such employee reflected in the pay sheet maintained under subsection (2).

(2) Every registered specified institution shall maintain a pay sheet in respect every employee, other than a specified employee, in the manner set out by the Commissioner-General under section 110 of the Inland Revenue Act, No. 38 of 2000.

(3) The amount of tax payable for each month shall be ten *per centum* of the value additions specified in subsection (1).

Tax credit. 25D. Where any registered specified institution has paid any tax under any other provision of this Act, other than this Chapter, a tax credit shall be allowed on an amount equal to such tax paid against the tax payable under this Chapter, where in the opinion of the Commissioner-General there is no material difference in the recognition of receipts of such institution for the calculation of profits for the purposes of this Chapter and for the purposes of the calculation of taxable supplies under any other provisions of this Act :

Provided however, only fifty *per centum* of any such tax paid under any other provision of this Act other than under this Chapter, in relation to tax calculated as provided in section 22 at the standard rate shall be deducted against the tax payable under this Chapter.

Chapters IV to XVI to be applicable to registered specified institutions under this Chapter. 25E. The provisions of Chapters IV to XVI shall, *mutatis mutandis*, be applicable in respect of the tax charged under this Chapter.

Interpretation. 25F. For the purposes of this Chapter —
supply of financial services means —

(a) the operation of any current, deposit or savings account;

(b) the exchange of currency ;

(c) the issue, payment, collection or transfer of ownership of any note, order for payment, cheque or letter of credit ;

(d) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of any debt, security, being any interest in or right to be paid money owing by any person ;

(e) the issue, allotment, transfer of ownership of any equity security or a participatory security ;

- (f) underwriting or sub-underwriting the issue of any equity security, debt security or participatory security ;
- (g) the provision of any loan, advance or credit ;
- (h) the provision —
 - (a) of the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made ;
 - (b) goods under any hire purchase agreement or conditional sale or hire purchase agreement while have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;

specified institution means —

- (a) a licenced commercial bank within the meaning of the Banking Act, No. 30 of 1988;
- (b) a finance company registered under the Finance Companies Act, No. 78 of 1988 ;
- (c) a licenced specialized bank within the meaning of the Banking Act, No. 30 of 1988. .

9. Section 26 of the principal enactment is hereby amended in subsection (2) of that section as follows :—

- (1) in paragraph (b) of that subsection by the substitution for the words “the assessment has been made has not been charged” of the words “the assessment has been made has not been charged”;
- (2) in the proviso to that subsection by the substitution for the words “default of” of the words “default from”.

10. Section 27 of the principal enactment is hereby amended by the addition immediately after subsection (2) of that section of the following subsection :—

- (3) Where any penalty payable under this section is outstanding on November 6, 2002—
 - (a) such penalty shall be waived in full where the tax payable in default has been fully paid on or before November 6, 2002;
 - (b) where a portion of the tax in default has been paid on or before November 6, 2002, such penalty referable to the amount of the tax in default paid shall be waived.

11. Section 28 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “that taxable period”, to the end of that section of the words “that taxable period”.

12. Section 33 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “at any time” of the words “within a period of five years from the end of the taxable period to which the assessment relates.

For the purposes of this Chapter any notice of assessment may refer to one or more taxable periods.”.

13. Section 34 of the principal enactment is hereby amended in the second proviso to subsection (8) of that section, by the substitution for the words “three years”, of the words “two years”.

14. Section 35 of the principal enactment is hereby amended as follows :—

- (1) by the renumbering of that section as subsection (1) of that section ; and
- (2) by the addition immediately after the renumbered subsection (1) of that section of the following subsection :—
 - “(2) Notwithstanding anything to the contrary in any other law, an appeal to the Board of Review under subsection (1) shall be determined by the Board within a period of two years from the date of commencement of the hearing of such appeal by the Board.”.

15. The following new section is hereby inserted immediately after section 48 of the principal enactment and shall have effect as section 48A of the enactment :—

“Time limit for the recovery of the tax in default. 48A. No proceedings shall be instituted or any action pending for the recovery of tax or any other action taken, for the recovery of tax shall be proceeded with, under this Chapter where a period of five years has lapsed after three months from the date of default of such tax.”.

16. Section 58 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “the taxable period”, of the words “a taxable period, within three years from the end of such taxable period”.

17. Section 67 of the principal enactment is hereby amended by the addition immediately after paragraph (a) of that section of the following paragraph :—

“(aa) fails to apply for registration as required under section 25A; or”.

18. The following new section is hereby inserted immediately after section 75 of the principal enactment and shall have effect as section 75A of that enactment :—

“Secretary to issue guide lines. 75A. The Secretary to the Ministry of the Minister may, from time to time, issue guide lines in respect of any matter, he considers appropriate for the proper implementation of the provisions of this Act.”.

19. Section 80 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of subparagraph (ii) of paragraph (c) of that subsection and the substitution thereof of the following :—

“(ii) under section 64 ; and”.

20. Section 83 of the principal enactment is hereby amended as follows :—

(1) in the definition of the expression “Deputy Commissioner” by the substitution for the words “Deputy Commissioner of Inland Revenue” of the words “Deputy Commissioner of Inland Revenue”;

(2) by the substitution for the definition of the expression of “goods” of the following :—

“goods” means all kinds of movable or immovable property but does not include —

(a) money;

(b) computer software made to customers special requirements either as unique programme or adaptation for standard programme, inter company information data and accounts, enhancement and update of existing specific programmes, enhancement and update of existing normalized programmes supplied under contractual obligation to customers who have bought the original programme or where the value of contents separately identifiable in a software such vale of contents ;”;

(3) in the definition of the expression “taxable period” by the repeal of subparagraph (iv) of paragraph (a) and the substitution therefor of the following :—

“(iv) where any person has commenced a business or started a project and undertakes to comply with the requirements of subsection (7) of section 22 under this Act or subsection (6) of section 22 of the Goods and Services Tax Act, No. 34 of 1996;”.

21. The First Schedule to the principal enactment is hereby amended as follows :—

(1) by the repeal of paragraph (h) of item (xi) of that Schedule and the substitution thereof of the following :—

“(h) the provision —

(a) of the facility of instalment credit finance in a hire purchase conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the person to whom the supply is made ;

(b) of goods under any hire purchase agreement or conditional sale agreement which have been used in Sri Lanka for a period not less than twelve months as at the date of such agreement ;”;

(2) in item (xiii) of that Schedule by the substitution for the words “The import and and supply” of the words “The import and supply”;

(3) in item (xiv) of that Schedule by the substitution for the words “The import and supply of unused postage” of the words “The import or supply of unused postage”;

(4) by the substitution for item (xvi) of that Schedule of the following :—

(xvi) The import of goods by any organisation approved by the Minister, where he is satisfied that such

goods are gifts from persons or organisations abroad or the supply of goods directly funded by any foreign organisation for the relief of sudden distress caused by natural or human disasters ;

(5) by the repeal of item (xxvi) of that Schedule.

22. The Second Schedule to the principal enactment is hereby amended as follows :—

- (1) in item (ix) of that Schedule by the substitution for the words “and lentils;”, of the words “and dhall”;
- (2) in item (xii) of that Schedule by the substitution for the words “supply or import of petrol, diesel, fuel liquefied petroleum gas” of the words “supply or import of petrol, diesel and liquefied petroleum gas;”;
- (3) by the repeal of item (xviii) of that Schedule and the substitution therefore of the following :—
 - (xviii) supply of finance leasing facilities by a person registered under the Finance leasing Act, No. 56 of 2000, other than any receipt of an advance payment on account of the asset to be given on lease or in relation to such leasing transaction or any payment for the early settlement of the amount payable under the lease agreement which exceeds ten *per centum* of the total agreement value;
- (4) by the addition immediately after item (xxi) of that Schedule of the following new items :—
 - “(xxii) the supply of services by professional conference organizers, registered with the Sri Lanka Convention Bureau in organizing seminars or other events ;
 - (xxiii) the supply or import of textiles and handloom products;
 - (xxiv) the supply or import of ships ;
 - (xxv) the supply or import of any jewellery ;
 - (xxvi) the supply or import of maize ;
 - (xxvii) the supply or import of machinery, medical and surgical instruments, apparatus or accessories including medical and dental equipment, ambulances for the provision of health services and surgical dressings.”.
 - (xxviii) the supply, lease or rent of residential accommodation other than supplies specified in the First Schedule ;
 - (xxix) the supply of all health care services provided by medical institutions other than supplies specified in the First Schedule ;
 - (xxx) the supply of land and improvements.”.

23. The –

- (1) amendment made to section 2, the insertion of a new Chapter IIIA, amendments made to sections 33, 34, 35 and the insertion of section 48A, the amendment made to section 58, the insertion of section 75A and the amendment to the Second Schedule to the principal enactment by section 2, 8, 12, 13, 14, 15, 16, 17, 22 (3) and 22 (4) of this Act, shall be deemed for all purposes to have come into force on January 1, 2003 ;
- (2) amendments made to sections 11, 14, 20, 21, 22, 26, 28, 80, 83 of the First Schedule and the Second Schedule to the principal enactment by sections 3, 4, 5, 6, 7, 9, 11, 19, 19 (1), 21, 22 (1), and 22 (2) of this Act shall be deemed for all purposes to have come into force on August, 1, 2002 ;
- (3) amendment made to section 27 of the principal enactment by section 10 of this Act shall be deemed for all purposes to have come into force on November 6, 2002.

24. Where any person who collects the tax as provided for in this Act, during the period commencing on January 1, 2003 upto the date of commencement of this Act, such person shall be deemed to have acted with due authority and such collection shall be deemed for all purposes to have been, and to be, validly made and is hereby indemnified against all actions, civil or criminal, in respect of such collection.

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

CONSUMER AFFAIRS AUTHORITY ACT, NO. 9 OF 2003

[Certified on 17th March, 2003]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CONSUMER AFFAIRS AUTHORITY ; FOR THE PROMOTION OF EFFECTIVE COMPETITION AND THE PROTECTION OF CONSUMERS ; FOR THE REGULATION OF INTERNAL TRADE ; FOR THE ESTABLISHMENT OF A CONSUMER AFFAIRS COUNCIL ; FOR THE REPEAL OF THE CONSUMER PROTECTION ACT, NO. 1 OF 1979, THE FAIR TRADING COMMISSION ACT, NO. 1 OF 1987 AND THE CONTROL OF PRICES ACT (CHAPTER 173) ; AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Consumer Affairs Authority Act, No. 9 of 2003.

PART I**ESTABLISHMENT OF THE CONSUMER AFFAIRS AUTHORITY**

2. (1) An authority called the Consumer Affairs Authority (hereinafter referred to as the “Authority”) is hereby established which shall consist of the persons who are for the time being members of the Authority under section 3.
(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.
3. (1) The Authority shall consist of a Chairman and not less than ten other members who shall be appointed by the Minister from among persons who possess recognized qualifications, have had wide experience and have distinguished themselves in the field of industry, law, economics, commerce, administration, accountancy, science or health.
(2) The Chairman and three of the members, selected by the Minister from among the members appointed under subsection (1), shall be full time members (hereinafter referred to as “full-time members of the Authority”).
(3) The members of the Authority other than the Chairman and the three full time members of the Authority shall be paid such remuneration as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.
(4) The provisions of the Schedule to this Act, shall have effect in relation to the term of office of the members of the Authority, the meetings and seal of the Authority.
4. The Chairman and the full time members of the Authority shall each hold office for a period of three years from the date of their respective appointments, and shall be paid for their services such remuneration as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.
5. The Director-General of the Authority appointed under section 52, shall act as the Secretary to the Authority.
6. The Authority may for the purpose of discharging its functions under this Act, delegate to any public officer by name or office such functions vested in, or imposed upon, or assigned to the Authority by or under this Act, on such terms and conditions as may be agreed upon between such officer and the Authority.
7. The objects of the Authority shall be—
 - (a) to protect consumers against the marketing of goods or the provision of services which are hazardous to life and property of consumers ;
 - (b) to protect consumers against unfair trade practices and guarantee that consumers interest shall be given due consideration ;
 - (c) to ensure that wherever possible consumers have adequate access to goods and services at competitive prices ; and
 - (d) to seek redress against unfair trade practices, restrictive trade practices or any other forms of exploitation of consumers by traders.

8. The functions of the Authority shall be to—

- (a) control or eliminate—
 - (i) restrictive trade agreements among enterprises ;
 - (ii) arrangements amongst enterprises with regard to prices ;
 - (iii) abuse of a dominant position with regard to domestic trade or economic development within the market or in a substantial part of the market ; or
 - (iv) any restraint of competition adversely affecting domestic or international trade or economic development ;
- (b) investigate or inquire into anti-competitive practices and abuse of a dominant position ;
- (c) maintain and promote effective competition between persons supplying goods and services ;
- (d) promote and protect the rights and interests of consumers, purchasers and other users of goods and services in respect of the price, availability and quality of such goods and services and the variety supplied ;
- (e) to keep consumers informed about the quality, quantity, potency, purity, standards and price of goods and services made available for purchase ;
- (f) carry out investigations and inquiries in relation to any matter specified in this Act ;
- (g) promote competitive prices in markets where competition is less than effective ;
- (h) undertake studies, publish reports and provide information to the public relating to market conditions and consumer affairs ;
- (i) undertake public sector and private sector efficiency studies ;
- (j) promote consumer education with regard to good health, safety and security of consumers ;
- (k) promote the exchange of information relating to market conditions and consumer affairs with other institutions ;
- (l) promote, assist and encourage the establishment of consumer organizations ;
- (m) charge such fees in respect of any services rendered by the Authority ;
- (n) appoint any such committee or committees as may be necessary to facilitate the discharge of the functions of the Authority ; and
- (o) do all such other acts as may be necessary for attainment of the objects of the Authority and for the effective discharge of the functions of such Authority.

PART II

REGULATION OF TRADE

9. The Authority may—

- (a) undertake such studies in respect of the sale or supply of any class of goods and services as would ensure the availability to the consumer of such goods and services of satisfactory quality at reasonable prices and in adequate quantities ;
- (b) promote, assist and encourage the State or other organisations including organisations of consumers, for the purposes described in paragraph (a) ; and
- (c) assist and encourage associations of traders to enter into agreements with the Authority for the purposes described in section 14.

10. (1) The Authority may, for the protection of the consumer—

- (a) issue general directions to manufacturers or traders in respect of labelling, price marking, packeting, sale or manufacture of any goods ; and
- (b) issue special directions to any class of manufacturers or traders, specifying—
 - (i) the times during which and the places at which, such goods may be sold ; and

- (ii) any other conditions as to the manufacturing, importing, marketing, storing, selling and stocking, of any goods.
 - (2) Every direction issued by the Authority under subsection (1) shall be published in the *Gazette* and in at least one Sinhala, one Tamil and one English newspaper.
 - (3) Any manufacturer or trader who fails to comply with any direction issued under subsection (1) shall be guilty of an offence under this Act.
 - (4) Any person who removes, alters, obliterates, erases or defaces any label, description or price mark on any goods in respect of which a direction under subsection (1) has been issued, or sells or offers for sale any such goods from or on which the label, description or price mark has been removed, altered, obliterated, erased or defaced, shall be guilty of an offence under this Act.
- 11.** Any person who sells or offers to sell any goods above the price marked on the goods in accordance with a direction issued under section 10, shall be guilty of an offence under this Act.
- 12.** (1) The Authority may for the purpose of protecting the consumer and ensuring the quality of goods sold or services provided, by Notification published in the *Gazette*, from time to time, determine such standards and specifications relating to the production, manufacture, supply, storage, transportation and sale of any goods, and to the supply of any services.
- (2) The Authority may by Notification published in the *Gazette* adopt such standards and specifications prescribed by the Sri Lanka Standards Institution established by the Sri Lanka Standards Institution Act, No. 6 of 1984, relating to the production, manufacture, supply, storage, transportation and sale of any goods, and to the supply of any services, as standards and specifications, to be determined under subsection (1).
- 13.** (1) The Authority may inquire into complaints regarding—
- (a) the production, manufacture, supply, storage, transportation or sale of any goods and to the supply of any services which does not conform to the standards and specifications determined under section 12 ; and
 - (b) the manufacture or sale of any goods which does not conform to the warranty or guarantee given by implication or otherwise, by the manufacturer or trader.
- (2) A complaint under subsection (1) which relates to the sale of any goods or to the provision of any service shall be made to the Authority in writing within three months of the sale of such goods or the provisions of such service, as the case may be.
- (3) At any inquiry held into a complaint under subsection (1), the Authority shall give the manufacturer or trader against whom such complaint is made an opportunity of being heard either in person or by an agent nominated in that behalf.
- (4) Where after an inquiry into a complaint, the Authority is of opinion that a manufacture or sale of any goods or the provision of any services has been made which does not conform to the standards or specifications determined or deemed to be determined by the Authority, or that a manufacture or sale has been made of any goods not conforming to any warranty or guarantee given by implication or otherwise by the manufacturer or trader, it shall order the manufacturer or trader to pay compensation to the aggrieved party or to replace such goods or to refund the amount paid for such goods or the provision of such service, as the case may be.
- (5) An order under subsection (4) shall be made in writing and be communicated to such manufacturer or trader by registered post.
- (6) Where any manufacturer or trader fails or refuses to comply with an order made under subsection (4) of this section, such manufacturer or trader shall be guilty of an offence under this Act, and the sum of money due on the order as compensation or refund may, on application being made in that behalf by the Authority to the Magistrate's Court having jurisdiction over the place of business or residence of such manufacturer or trader as the case may be, be recovered in like manner as a fine imposed by such court, notwithstanding that such sum may exceed the amount of a fine which that court may, in the exercise of its ordinary jurisdiction, impose.

- 14.** (1) The Authority may enter into such written agreements as it may deem necessary, with any manufacturer or trader or with any association of manufacturers or traders to provide for—
- (a) the maximum price above which any goods shall not be sold;
 - (b) the standards and specifications of any goods manufactured, sold or offered for sale ;
 - (c) any other conditions as to the manufacture, import, supply, storage, distribution, transportation, marketing, labelling or sale of any goods.
- (2) Every written agreement entered into under subsection (1) between the Authority and any manufacturer or trader or with any association of manufacturers or traders, shall be binding on every authorised distributor of such manufacturer or trader and every member of such association, as though he was a party to such agreement and whether or not he was a member at the time of entering into the agreement.
- (3) Every manufacturer or trader or any authorised distributor of such manufacturer or trader or any association of manufacturers or traders or any member thereof, who contravenes any provision of any agreement entered into with the Authority under subsection (1), shall be guilty of an offence under this Act.
- (4) Every agreement entered into with the Authority under subsection (1), shall be registered with the Authority and shall contain a schedule giving the name and description of each authorised distributor of such manufacturer or trader or members of such association, as the case may be.
- (5) Every agreement entered into with the Authority under subsection (1), shall come into force from the date of such agreement, unless such agreement provides that the agreement shall come into force on any subsequent date.
- (6) Where the Authority thinks fit, it may cause any agreement made under this section to be published in the *Gazette*. Where an agreement is published in the *Gazette*, the production of a copy of the *Gazette* in which such agreement is published shall, until the contrary is proved, be proof of the contents of such agreement.
- (7) For the purpose of any prosecution under this section, a certificate given by the Authority that any person is an authorised distributor of any manufacturer or trader or is a member of any association of traders or manufacturers shall be admissible and be *prima facie* proof in a court of law that such person is an authorised distributor of such manufacturer or trader or a member of such association.
- 15.** (1) No trader who has in his possession or custody or under his control any goods for purpose of trade within Sri Lanka, shall refuse to sell such goods.
- (2) In any prosecution of any trader for the contravention of the provisions of subsection (1), it shall be a sufficient defence for the accused to prove that —
- (a) on the occasion in question, he supplied a reasonable quantity of the goods, or had not a sufficient quantity in his possession to supply the quantity;
 - (b) he carried on business in the goods as a wholesale trader only, and that the sale of the quantity demanded by the buyer would have been contrary to the normal practice of a wholesale business ; or
 - (c) the sale of the goods on that occasion in question would have been contrary to any provisions of any written law or any general or special direction issued to him by the Authority under section 10.
- 16.** No trader who has in his possession or custody or under his control any goods for purpose of trade within Sri Lanka, shall —
- (a) deny the possession of such goods ; or
 - (b) offer such goods for sale subject to a condition requiring the purchase of any other goods or the making of any payment in respect of any service or to any other condition, other than the condition that the buyer shall pay the price of such goods forthwith.
- 17.** (1) No trader shall conceal in his place of business or in any other place, any goods in such quantity as is in excess of the normal trading requirements of such trader.
- (2) No trader shall have in his possession or custody or under his control in his place of business or in any other place, any goods in such quantity in excess of —

- (a) the quantity required for his personal consumption and of the members of his household ; or
 (b) the requirements of the normal trading activities of such trader.
- (3) No person other than a trader shall have in his possession or custody or under his control any goods in such quantity in excess of the normal personal requirements of such person.
- 18.** (1) Where the Minister is of opinion that any goods or any service is essential to the life of the community or part thereof, the Minister in consultation with the Authority may by Order published in the *Gazette* prescribe such goods or such service as specified goods or specified service as the case may be.
- (2) No manufacturer or trader shall increase the retail or wholesale price of any goods or any service specified under subsection (1), except with the prior written approval of the Authority.
- (3) A manufacturer or trader who seeks to obtain the approval of the Authority under subsection (2), shall make an application in that behalf to the Authority, and the Authority shall, after holding such inquiry as it may consider appropriate :—
- (a) approve such increase where it is satisfied that the increase is reasonable ; or
 (b) approve any other increase as the Authority may consider reasonable,
 and inform the manufacturer or trader of its decision within thirty days of the receipt of such application.
- (4) Where the Authority fails to give a decision within thirty days of the receipt of an application as required under subsection (3), the manufacturer or trader who made the application shall be entitled to, notwithstanding the provisions of subsection (1), increase the price :
- Provided however, where the delay in giving its decision within the stipulated period was due to the failure of the manufacturer or trader to give any assistance required by the Authority in carrying out its inquiry into the application, the Authority shall have the power to make an interim order preventing the said manufacturer or trader from increasing the price, until the Authority makes its decision on the application.
- 19.** (1) Where it appears to the Director-General that any goods are being sold or any services are being provided by a manufacturer or trader at an excessive price or any market manipulation or other market imperfection exists in respect of such goods or services provided by such manufacturer or trader, the Director-General may, in consultation with the Authority as he may deem necessary and having regard to whether —
- (a) the sale of such goods or the provision of such services is of general economic importance ; or
 (b) any category of consumers are significantly affected by such excessive price,
 refer such matter to the Council for investigation and report.
- (2) The Council shall conclude its investigation and submit its report to the Director-General within two months of such reference being made to it by the Director-General.
- 20.** (1) Where any reference is made to the Council by the Director-General under section 19, the Council shall cause such reference to be brought to the notice of such persons, who in the opinion of the Council would have an interest in the proposed investigation to be carried out by it on such reference, and shall further give such persons adequate notice of the date on which the investigation is scheduled to commence.
- (2) For the purpose of carrying out an investigation, the Council may by notice in writing require any person or any one authorized by such person, to produce such documents as may be specified in the notice, and at such time and place as mentioned therein, which are under the custody or control of such person and which relates to the matter under investigation.
- (3) At the conclusion of an investigation, the Council shall, subject to the provisions of section 21, cause its decision with its reasons to be published in such manner as it shall consider appropriate, and submit a report on such investigation to the Director-General as required under subsection (2) of section 19.
- (4) Where the Council concludes that the goods are being sold or the services are being provided at an excessive price, it shall recommend to the Authority in writing the maximum price above which such goods should not be sold or such services should not be provided or the price structure in accordance with which such maximum price shall be fixed.

- (5) On receipt of the recommendations of the Council under subsection (4), the Authority shall, by order published in the *Gazette*, fix the maximum price above which the goods shall not be sold or the services shall not be provided. Every order made under this subsection shall come into operation on the date of publication of such Order in the *Gazette*.
 - (6) Nothing in this section shall be construed as precluding the Council from proceeding with a subsequent investigation which relates wholly or partly to the same matter which was the subject matter of a previous investigation carried out under this section.
 - (7) Any person aggrieved by an order made by the Authority under subsection (5) may appeal against such decision to the Court of Appeal.
 - (8) Any document produced in compliance with a notice issued under subsection (2) shall be considered confidential, and nothing contained in such document shall be disclosed to any person by the Council, except where it is required to do so under any law.
- 21.** (1) At anytime before making a recommendation under subsection (4) of section 20, the Council may accept any undertaking offered by a manufacturer or trader in respect of whom the investigation is being carried out, regarding the price at which the goods shall be sold or services shall be provided as the case may be, by such manufacturer or trader.
- (2) Where an undertaking given under subsection (1) is accepted, it shall be the duty of the Council to —
 - (a) give adequate publicity to such undertaking in a manner it considers appropriate ;
 - (b) periodically review the implementation of such undertaking ;
 - (c) consider whether, by reason of any change in the circumstances —
 - (i) the undertaking has become no longer appropriate and as such the person should be released from his duty to implement the undertaking ;
 - (ii) whether any changes should be made to the undertaking ; or
 - (iii) whether the existing undertaking should be replaced by a fresh undertaking ; and
 - (d) give notice to the person giving such undertaking, of any failure or shortcoming of such person in implementing the undertaking.
 - (3) Where the Council is of the view that action should be taken under paragraph (c) of subsection (2), the Council shall issue a notice to the person who entered into the undertaking, informing such person—
 - (a) of the changes required to be made to the undertaking ;
 - (b) of the requirements of the fresh undertaking which should replace the existing undertaking ; or
 - (c) of his release from the duty of implementing the undertaking.
 - (4) The Council shall, after issue of a notice under subsection (3), make a fresh decision—
 - (a) agreeing to a fresh undertaking, or to the undertaking being changed, in accordance with the recommendations made by the Council ; or
 - (b) agreeing to a fresh undertaking or to the undertaking being changed as offered by the trader or manufacturer on his own initiative.
 - (5) Where an undertaking given by a manufacturer or trader is accepted by the Council under this section, any violation of such undertaking by that manufacture or trader, shall be an offence under this Act.
- 22.** (1) Where goods are being sold or services are being provided at an excessive price and any member of the public or any association of persons or any organisation wish the Council to investigate into the matter, such member of the public, association or organization, as the case may be, may request the Director-General to refer the matter to the Council for investigation.
- (2) On receipt of a request under subsection (1) the Director-General may, where he is of the opinion that it is a matter which, having regard to the provisions of section 19 should be investigated into by the Council, refer the matter to the Council for investigation and the provisions of sections 20 and 21 shall, *mutatis mutandis*, apply to and in relation to, such investigation.

- 23.** The Minister may, either of his own motion or on representations made to him by a person or body of persons, refer any question relating to the price of any goods or the charge for any service, to the Authority for examination and report, and accordingly, the Authority shall examine such question and send its report to the Minister within one month from the date of receipt of such reference.
- 24.** The Authority may, either of its own motion or on representations made to it by any person or body of persons, review any question relating to the price of any goods or the charge for any service and report thereon to the Minister.
- 25.** The Minister may cause to be published any report made to him under the provisions of this Act, or any recommendations made in such report, in such manner as he thinks fit.
- 26.** (1) Every trader shall exhibit conspicuously in his place of business, a notice specifying the maximum retail or wholesale price, as the case may be, of goods available for sale in his place of business other than the price of any goods, the price of which is marked on the goods itself or on the wrapper or pack containing it or marked in any other manner as may be required by any law.
- (2) A complete list of the price of goods available for sale shall be kept within the place of business at all times for inspection whenever required.
- 27.** Every trader shall, register with the Authority on payment of an annual fee of a sum not exceeding rupees one hundred thousand as may be determined by the Minister, in consultation with the Minister in charge of the subject of Finance.
- 28.** Every trader who sells any goods shall on demand, issue to the purchaser thereof, a receipt setting out—
- (a) the date of the sale;
- (b) the quantity of goods sold ;
- (c) the price paid for such quantity;
- (d) nature of the transaction, that is to say, whether the sale was wholesale or retail; and
- (e) any other requirements that may be imposed under any law relating to the issue of receipts by a trader.
- 29.** (1) Every trader shall keep in conspicuous place in his place of business, a notice board for the display of any notice, direction or warning issued by the Authority under this Act.
- (2) Every trader shall affix or cause to be affixed on such notice board any notice, direction or warning issued to such trader by the Authority under this Act.
- (3) Any person who removes, alters, obliterates, erases or defaces such notice, direction or warning other than a person acting under the direction or authority of the Authority, shall be guilty of an offence under this Act.
- 30.** No trader shall, in the course of a trade or business, engage in any type of conduct that is misleading or deceptive or is likely to mislead or deceive the consumer or any other trader.
- 31.** Any trader who, in the course of a trade or business, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services—
- (a) falsely represents that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model ;
- (b) falsely represents that goods are new ;
- (c) represents that goods or services have sponsorship, approval, performance, characteristics accessories, uses or benefits they do not have ;
- (d) represents that such trader has a sponsorship approval or affiliation he does not have ;
- (e) makes false or misleading statements concerning the existence of, or amounts of price reduction or price increase ;
- (f) makes false or misleading statements concerning the need for any goods, services, replacements or repairs ;
- or
- (g) makes false or misleading statements concerning the existence or effect of any warranty or guarantee,
- shall be guilty of an offence under this Act.

- 32.** (1) In every contract for the supply of goods or for the provision of services by any person in the course of a business of supply of such goods or provisions of such services to a consumer, there is an implied warranty that—
- (a) the services will be provided with due care and skill ;
 - (b) that any materials supplied in connection with provision of such services will be reasonably fit for the purpose for which they are supplied ;
 - (c) the goods supplied or services provided will be in conformity with the standards and specifications determined under section 12 of this Act ; and
 - (d) the goods supplied will be reasonably fit for the purpose for which they are supplied.
- (2) Where a trader or any person other than a trader supplies any goods or provides any service to a consumer in the course of a business and the consumer, expressly or by implication, makes known to the trader or other person of any particular purpose for which the goods or services are required or the result that he desire the service to achieve, there is an implied warranty that the services provided under the contract for the provision of such services and any materials supplied in connection with those services will be reasonably fit for that purpose or are of such a nature and quality that they might reasonably be expected to achieve that result, except where circumstances show the consumer does not rely, or that it is unreasonable for him to rely, on the trader's or such other person's skill or judgement.
- (3) A consumer aggrieved by the breach of an implied warranty as provided for in subsection (1) or (2) may make a complaint to the Authority in writing against such breach within one month of the supply of such goods or the provision of such services as the case may be, or the supply of materials supplied in connection with the provision of those services.
- (4) At any inquiry held into a complaint made under subsection (3), the Authority shall give the trader or other person against whom the complaint is made, an opportunity of being heard either in person or by an agent on his behalf.
- (5) Where after the inquiry the Authority is of opinion that a breach of an implied warranty has taken place, it shall order the trader or other person to pay compensation to the aggrieved party or refund the amount paid for the supply of such goods or provision of such services as the case may be, and for the supply of any materials in connection with the provision of those services, within such period as shall be specified in the order.
- (6) An order under subsection (5) shall be made in writing and communicated to such trader or other person by registered post.
- (7) Where a trader or any other person against whom an order is made under subsection (5) fails or refuses to pay such compensation or to refund the amount required to be paid as the case may be, within the period specified in the order, such sum may, on application being made in that behalf by the Authority to the Magistrate's Court having jurisdiction over the place of business or residence of the trader or such other person against whom the order was made, be recovered in like manner as a fine imposed by such court, notwithstanding that such sum may exceed the amount of a fine which that Court may, in the exercise of its ordinary jurisdiction impose.
- 33.** At the request of the Minister, the Authority shall carry out a public sector and private sector efficiency study and submit a report to the Minister. It shall be the duty of the Minister to place such report before Parliament.

PART III

PROMOTION OF COMPETITION AND CONSUMER INTEREST

- 34.** (1) The Authority may either of its own motion or on a complaint or request made to it by any person, any organization of consumers or an association of traders, carry out an investigation with respect to the prevalence of any anti-competitive practice.
- (2) It shall be the duty of the Authority to complete an investigation under subsection (1), within one hundred days of its initiation.

35. For the purpose of section 34, an anti-competitive practice shall be deemed to prevail, where a person in the course of business, pursues a course of conduct which of itself or when taken together with a course of conduct pursued by persons associated with him, has or is intended to have or is likely to have the effect of restricting, distorting or preventing competition in connection with the production, supply or acquisition of goods in Sri Lanka or the supply or securing of services in Sri Lanka.
36. (1) The Authority may give to all persons including representatives of associations or organisations of consumers interested in a matter which forms the subject of an investigation under section 34, an opportunity of being heard and of producing such evidence, oral or documentary, as in the opinion of the Authority is relevant to such matter.
- (2) For the purpose of conducting an investigation under section 33, the Authority shall have all the powers of a District Court—
- (a) to issue notices and require the attendance of any witness ;
 - (b) to require the production of documents or records ; and
 - (c) to administer any oath or affirmation to any witness.
- (3) Where any person—
- (a) without sufficient reason publishes any statement or does anything during the progress or after the conclusion of any investigation, which may bring the Authority or any member thereof into disrepute ; or
 - (b) interferes with the lawful process of the Authority ; or
 - (c) in the course of an investigation—
 - (i) fails without cause, to appear before the Authority at the time and place specified in any notice issued by the Authority to such person ; or
 - (ii) refuses to be sworn or affirmed or having been duly sworn or affirmed refuses or fails without cause, to answer any questions put to him relating to the matter being investigated by the Authority ; or
 - (iii) refuses or fails without cause, to produce and show to the Authority any document or record which is in his possession or control, and which in the opinion of the Authority is relevant to the matter being investigated by the Authority,
- such person shall be guilty of an offence of contempt against or in disrespect of the Authority and shall be punishable for such offence by the Court of Appeal.
- (4) Where the Authority determines that a person had committed any offence of contempt against or in disrespect of its authority, the Authority may cause the Director-General to transmit to the Court of Appeal a certificate setting out its determination and every such certificate shall be signed by the Chairman of the Authority.
- (5) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognisance of as provided in subsection (3), any document purporting to be a certificate signed and transmitted to the Court of Appeal under subsection (4), shall be *prima facie* evidence of the facts stated in the determination set out therein, and be conclusive evidence that such determination was made by the Authority.
37. (1) Upon the conclusion of an investigation under section 34, the Authority may make an application to the Council for purpose of determining on such matter.
- (2) The application referred to in subsection (1), shall be made in writing and shall be in such form as may be prescribed for that purpose.
38. Where upon conclusion of an investigation by the Authority under section 34, the Authority decides not to make an application to the Council under section 37 in respect of such investigation, the person, any organisation of consumers or association of traders, as the case may be, on whose complaint or request such investigation was carried out, may by application in writing addressed to the Council, request the Council to—

- (a) call upon the Authority to submit to the Council its report on the investigation ; and
- (b) hear and determine such application, where the Council is of opinion that there is sufficient material in the report to warrant the Council to take up such application for determination.

PART IV

CONSUMER AFFAIRS COUNCIL

- 39.** (1) There shall be established for the purpose of this Act a Council to be known as the “Consumer Affairs Council”.
- (2) The Council shall consist of the following persons who shall be appointed by the Minister :—
- (a) one person who has had wide experience in the field of commercial law ;
 - (b) one person who has had wide experience in the management of business enterprises ; and
 - (c) an economist with wide experience in trade practices and consumer affairs.
- (3) The members of the Council shall hold office for a period of three years and the Minister shall nominate one of the members to be its Chairman.
- (4) The members of the Council shall be paid such remuneration as may be determined by the Minister, in consultation with the Minister in charge of the subject of Finance.
- (5) There shall be appointed a Secretary to the Council who shall be responsible for maintaining records of all proceedings of the Council, and for sending out any notices required to be sent by the Council under this Act.
- 40.** (1) The function of the Council shall be to hear and determine all applications and references made to it under this Act.
- (2) Where a decision of the Council is not unanimous, the decision of the majority of the members shall be deemed to be the decision of the Council.
- 41.** (1) Where an application is made to the Council under section 37 or section 38, as the case may be, the Council shall, on being satisfied that —
- (a) an anti-competitive practice exists but such anti-competitive practice does not operate or is not likely to operate against public interest, by order made in that behalf, authorise such anti-competitive practice ;
or
 - (b) an anti-competitive practice exists and that it operates against public interest, by order made in that behalf, provide for —
 - (i) the termination of such anti-competitive practice in such manner as may be specified in the order ;
and
 - (ii) such other action as the Council may consider necessary for the purpose of remedying or preventing the adverse effects of any anti-competitive practice.
- (2) In determining for the purposes of this section, whether any anti-competitive practice operates, or is likely to operate, against public interest, the Council shall take into account all matters which appear to the Council to be relevant to the matter under investigation and shall have special regard to the desirability of —
- (a) maintaining and promoting effective competition between persons supplying goods and providing services ;
 - (b) promoting the interests of consumers, purchasers and other users of goods and services in respect of the price and quality of such goods and services and the variety of goods supplied and services provided in Sri Lanka ; and
 - (c) promoting through competition the reduction of costs, the development and use of new techniques and products and facilitating the entry of new competitors into existing markets.
- (3) Where an application is made to the Council under section 37 or section 38, as the case may be, it shall be the duty of the Council to make its order on such application, within one month of its receipt.

42. The Authority may cause to be published any order made by the Council under section 41, in such manner as it thinks fit.
43. (1) The Council shall have the power to issue notices and examine witnesses at any inquiry or investigation conducted by the Council. Every notice shall be issued under the hand of the Secretary to the Council.
- (2) A notice may be issued by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.
- (3) Every person to whom a notice is issued shall attend before the Council at the time and place mentioned therein, and shall give evidence or produce such documents, records or other things as are required of him and are in his possession or power, according to the tenor of the notice.
44. (1) The Council shall for the purpose of any inquiry or investigation under this Act have power —
- (a) to procure and receive all such evidence written or oral, and to examine all such persons as witnesses, as it may think necessary or desirable to procure, receive or examine ; and
- (b) to require the evidence, whether written or oral of any witness to be given on oath or affirmation and such oath or affirmation to be that which would be required of that witness if he was giving evidence in a court, and to administer an oath or affirmation to every such witness.
- (2) In the conduct of proceedings under this Act, the Council shall not be bound by any of the provisions of the Evidence Ordinance.
45. If any person upon whom a notice is issued under section 43 —
- (a) fails without cause which in the opinion of the Council is reasonable, to appear before the Council at the time and place mentioned in the notice ;
- (b) refuses to be sworn-in or affirmed, or having been duly sworn-in or affirmed, refuses or fails without cause which in the opinion of the Council is reasonable, to answer any questions put to him relating to the matters being inquired or investigated into by the Council ; or
- (c) refuses or fails without cause, which in the opinion of the Council is reasonable, to produce to the Council any document or other thing which is in his possession or power and which is in the opinion of the Council necessary for arriving at the truth of the matters to be inquired or investigated into,
- such person shall be guilty of the offence of contempt against or in disrespect of, the Council.
46. (1) Any act or omission in contravention of the provisions of section 45 shall constitute an offence of contempt against, or in disrespect of the Council, if such act or omission would if done or omitted to be done in relation to the Court of Appeal, have constituted an offence of contempt against, or in disrespect of the authority of such Court.
- (2) Where the Council determines that a person has committed an offence of contempt against or in disrespect of its authority, the Council may cause its Chairman to transmit to the Court of Appeal a certificate setting out such determination. Every such certificate shall be signed by the Chairman of the Council.
- (3) In any proceedings for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognisance of as provided for in this section, any document purporting to be a certificate signed and transmitted to such Court under subsection (2), shall—
- (a) be received in evidence, and be deemed to be such a certificate without further proof unless, the contrary is proved; and
- (b) be evidence that the determination set out in the certificate was made by the Council on the facts stated in the determination.
- (4) In any proceeding taken as provided for in this section for the punishment of any alleged offence of contempt against or in disrespect of the Council, any member of the Council may be summoned or examined as a witness and any such proceeding shall be heard and disposed of within three months of the receipt of the certificate referred to in subsection (2).

47. Every person who gives evidence before the Council shall in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled to in respect of evidence given by him before such court.
48. The Council may determine the procedure to be followed in the conduct of any inquiry or investigation before such Council.

PART V

FUND OF THE AUTHORITY

49. (1) The Authority shall have its own Fund.
- (2) There shall be paid into the Fund of the Authority —
- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Authority ;
 - (b) all such sums of money as may be received by the Authority by way of fees or otherwise in the discharge of its functions ;
 - (c) the proceeds from the sale of any goods forfeited under this Act ;
 - (d) one-third of every fine imposed for the commission of any offence under this Act ;
 - (e) all such sums of money as may be made available to it by way of grant or donations ; and
 - (f) all such sums of money as are credited or transferred to the Fund under section 59 or section 73.
- (3) There shall be paid out of the Fund —
- (a) remuneration payable to the members of the Authority and of the Council ;
 - (b) such sums as the Authority may consider necessary for the promotion, assistance and encouragement of consumer organizations and the administration and development of such organizations ;
 - (c) such sums as the Authority may consider necessary for consumer education and the dissemination of information relating thereto, and for any purpose connected with or incidental to the furtherance of such education ; and
 - (d) such sums of money as may be required to defray the expenses incurred by the Authority and the Council in the exercise, discharge and performance of its powers, functions and duties under this Act.
50. (1) The Financial year of the Authority shall be the calendar year.
- (2) The Authority shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Authority.
- (3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to and in respect of the audit of the accounts of the Authority.
51. The provisions of Part II of the Finance Act, No. 38 of 1971, shall, *mutatis mutandis*, apply to the financial control and accounts of the Authority.

PART VI

STAFF OF THE AUTHORITY

52. (1) The Authority may with the approval in writing of the Minister, appoint a Director-General to the Authority (in this Act referred to as the “Director-General”).
- (2) The Director-General appointed under subsection (1) shall be the chief executive officer of the Authority, and shall at all times act under the directions of the Authority.
- (3) Director-General shall be paid such remuneration as may be determined by the Authority in consultation with the Minister.
- (4) Whenever the Director-General is by reason of illness or absence from Sri Lanka or for any other cause, unable to perform the duties of his office, the Authority may, with the approval in writing to the Minister, appoint some other person to act in his place, during such absence.

- 53.** The Authority may appoint such number of Directors, Deputy Directors, Assistant Directors and other officers, servants and advisers as are necessary for the performance of the work of the Authority and of the Council, who shall be remunerated at such rates as may be determined by the Authority in consultation with the Minister.
- 54.** (1) At the request of the Authority, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Authority for such period as may be determined by the Authority, with like consent, or with like consent be permanently appointed to such staff.
- (2) Where any officer in the public service is temporarily appointed to the staff of the Authority the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply and in relation to him.
- (3) Where any officer in the public service is permanently appointed to the staff of the Authority, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to him.
- (4) Where the Authority employs any person who has agreed to serve the Government for a specified period, service to the Authority by that person shall be regarded as service to the Government for the purpose of discharging the obligations under such agreement.

PART VII

GENERAL

- 55.** (1) Notwithstanding anything to the contrary in any provisions of this Act, the Authority may, if it is satisfied after such inquiry as it may deem necessary that any person has contravened any of the provisions of this Act or any direction given thereunder, in the case of the first contravention, send to such person a warning in writing.
- (2) A warning under subsection (1) shall be sent by the Authority by registered post.
- 56.** (1) The Authority may, for the proper discharge of its functions under this Act, require the manufacturers, importers, distributors and exporters of any goods or services—
- (a) to maintain records in respect of such matters as the Authority may consider necessary for the proper discharge of its functions under this Act and in such form as may be determined by the Authority; and
- (b) to furnish to the authority returns in respect of such matters as the Authority may consider necessary for the proper discharge of its functions under this Act, at such intervals and in such form as may be determined by the Authority.
- (2) It shall be the duty of all manufacturers, importers, distributors and exporters who are required under paragraph (a) of subsection (1) to maintain records, to preserve the records being so maintained, for a period not exceeding six years.
- 57.** (1) The Authority or any person authorised in that behalf by the Authority may, by notice in writing require any person within such period as shall be specified in the notice, to furnish any information or to produce any document as shall be specified in such notice, which the Authority may consider necessary for the proper discharge of its functions under this Act, and it shall be the duty of any person who receives such notice to comply with such requirement within the time specified in such notice, notwithstanding the provisions of any written law which may prohibit such person from disclosing such information or from producing such document :
- Provided however, that nothing in this subsection shall be read and construed as enabling the Authority or any person authorised in that behalf by the Authority, by notice to require any person to furnish any information or to produce any document, if the disclosure of such information or the production of such document is prohibited by any provision of any law providing for the imposition and recovery of any tax.
- (2) No information contained in a return furnished under section 56 and no information furnished or the contents of a document produced in compliance with the terms of a notice issued under this section, shall be published or communicated by the Authority to any other person except with the consent of the person furnishing such

return or information, or producing such document, as the case may be, or in the course of the discharge of its functions by the Authority.

- 58.** (1) The Authority or any other officer authorised in writing in that behalf by the Authority may, for the purpose of ascertaining whether the provisions of this Act or any regulation made thereunder are being complied with, have the power on reasonable grounds and on production, if so required, his credentials —
- (a) to enter, inspect and search at all reasonable hours of the day the premises in which any manufacturer or trader is carrying on his business or any other premises where any goods are being stored or exposed for sale ;
 - (b) to seize and detain any goods found in such premises in contravention of the provisions of section 16 or 17 ; and
 - (c) to inspect, take copies of or seize and detain any records or documents required to be kept by or under this Act or any other law in respect of such business.
- (2) Any goods seized and detained under paragraph (b) of subsection (1), shall be produced in court, and on conviction of such manufacturer or trader, be forfeited and disposed of in such manner as may be determined by court, and any money realised shall be credited to the Fund of the Authority.
- 59.** (1) Where any goods seized and detained under paragraph (b) of subsection (1) of section 58, is of such perishable nature, as in the opinion of the Authority render their immediate sale necessary or advisable, the Authority shall give not less than three days notice of the sale of such goods by an advertisement published in one Sinhala, Tamil and English newspaper each circulating in Sri Lanka and thereafter cause such goods to be sold.
- (2) The proceeds of a sale under subsection (1) of any goods, shall be credited to a special account to be maintained for that purpose by the Authority, and where the person from whom the goods were seized is acquitted or discharged subsequently by the court, the amount realised from the sale of such goods shall be given to such person.
- (3) Where the court convicts the person from whom the goods were seized, the money realised from the sale of such goods and lying to the credit of the special account referred to in subsection (2), shall be credited to the Fund of the Authority.
- 60.** (1) Any person who. —
- (a) fails or refuses to furnish .—
 - (i) a return when required by the Authority to do so under section 56 ; or
 - (ii) any information or to produce any document when required to do so by a notice sent under section 57;
 - (b) knowingly makes any false statement in any return furnished by him under this Act, or knowingly furnishes any false information when required by the Authority to furnish any information ; or
 - (c) obstructs any officer acting in the exercise of his powers under section 58,
- shall be guilty of an offence under this Act, and shall on conviction after trial before a Magistrate, be liable —
- (i) where such person is not a body corporate, to a fine not less than rupees one thousand and not exceeding rupees five thousand or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment in the case of a first offence, and to a fine not less than rupees two thousand and not exceeding rupees ten thousand or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment in the case of a subsequent offence ; or
 - (ii) where such person is a body corporate, to a fine not less than rupees five thousand and not exceeding rupees ten thousand in the case of a first offence, and to a fine not less than rupees ten thousand and not exceeding rupees twenty thousand in the case of a subsequent offence.

- (2) (a) Any person who fails or refuses to comply with an order made under paragraph (b) of subsection (1) of section 41 or acts in contravention of such order, shall be guilty of an offence under this Act, and shall on conviction after trial before a Magistrate be liable —
- (i) where such person is not a body corporate, to a fine not less than rupees five thousand and not exceeding rupees fifty thousand or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment in the case of a first offence, and to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to an imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment in the case of a subsequent offence ; or
 - (ii) where such person is a body corporate, to a fine not less than rupees fifty thousand and not exceeding rupees one million in the case of a first offence, and to a fine not less than rupees one hundred thousand and not exceeding rupees two million in the case of subsequent offence.
- (b) The court may in addition, order such persons to refrain from carrying on the activities in respect of which an order has been made under paragraph (b) of subsection (1) of section 41 for such period as may be determined by such court or until such person complies with the order made under that paragraph.
- (3) Any person guilty of an offence under this Act by reason of a contravention of the provisions of section 15 or section 16 or section 17 shall, on conviction after trial before a Magistrate, be liable —
- (a) where such person is not a body corporate, to a fine not less than rupees one thousand and not exceeding rupees ten thousand or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment in the case of a first offence, and to a fine not less than rupees two thousand and not exceeding rupees twenty thousand or to an imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment in the case of a subsequent offence ; or
 - (b) where such person is a body corporate, to a fine not less than rupees ten thousand and not exceeding rupees fifty thousand in the case of a first offence, and to a fine not less than rupees one hundred thousand and not exceeding rupees two hundred thousand in the case of a subsequent offence.
- (4) Any person guilty of an offence under this Act by reason of a contravention of the provisions of section 18 shall, on conviction after trial before a Magistrate, be liable —
- (a) where such person is not a body corporate, to a fine not less than rupees five thousand and not exceeding rupees fifty thousand or to an imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment in the case of a first offence, and to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to an imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment in the case of a subsequent offence ; or
 - (b) where such person is a body corporate, to a fine not less than rupees fifty thousand and not exceeding rupees one million in the case of a first offence, and to a fine not less than rupees one hundred thousand and not exceeding rupees two million in the case of a subsequent offence.
- (5) Every person who acts in contravention of any provision of this Act, (other than the provisions referred to in subsections (1), (2), (3) and (4) of this section) or any requirements imposed under any such provision, or any regulations made under section 72, shall be guilty of an offence under this Act and shall, on conviction after trial before a Magistrate, be liable —
- (a) where such person is not a body corporate, to a fine not less than rupees one thousand and not exceeding rupees ten thousand or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment in the case of a first offence, and to a fine not less than rupees two thousand and not exceeding rupees twenty thousand or to an imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment in the case of a subsequent offence ; or

- (b) where such person is a body corporate to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand in the case of a first offence, and to a fine not less than rupees twenty thousand and not exceeding rupees two hundred thousand in the case of a subsequent offence.
- (6) The Authority may publish or cause to be published in such manner as it shall deem fit, the names and addresses of all persons convicted under this Act.
- (7) Where any offence under this Act is committed by a body of persons, then —
- (a) if the body of persons is a body corporate, every director and officer of such body corporate ; and
- (b) if the body of persons is a firm, every partner of that firm,

shall be deemed guilty of that offence :

Provided that no such director, officer or partner shall be deemed guilty of that 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.

61. (1) The Authority may where it has reason to believe that any goods that are being sold do not conform to the standards and specifications laid down under section 12 of this Act—
- (a) authorize an officer in writing to obtain a sample of such goods —
- (i) from any premises in which a manufacturer or trader of such goods are carrying on his business ;
- (ii) from any premises where any such goods are being stored or exposed for sale ; or
- (iii) from any vehicle in which such goods are being transported ; and
- (b) issue a directive to the manufacturer or trader from whose possession such sample was obtained, to refrain from selling or exposing for sale the goods concerned for a period to be specified in the directive, so however such period shall not exceed a period of six weeks from the date of the issue of such directive.
- (2) It shall be the duty of the officer who obtained the sample to forthwith submit it to an approved analyst for purpose of determining whether such goods conforms to the standards and specifications laid down under section 12, and the said approved analyst may, except in exceptional circumstances, submit his report to the Authority within a period not exceeding one month of the receipt of the sample.
- (3) On receipt of the report of an approved analyst, the Authority shall —
- (a) where it discloses that the goods concerned conforms to the standards and specifications laid down under section 12, forthwith remove the restriction imposed by the directive issued under subsection (1) ; or
- (b) where it discloses that the goods do not conform to the standards and specifications laid down under section 12 of this Act and that such non conformity has resulted in the goods concerned being rendered unfit for any use or consumption, seize and detain such goods or consignment of goods as the case may be.
- (4) Where any goods or consignment of goods are seized and detained under paragraph (b) of subsection (3) from any manufacturer or trader as the case may be, such manufacturer or trader shall be guilty of an offence under this Act.
- (5) In a prosecution for an offence under this section, a certificate issued under the hand of an officer authorised by the Director-General in writing to analyse any goods for the purpose of this section, stating the ingredients or the composition of the goods in relation to which the offence is alleged to have been committed, shall be admissible in evidence and shall be *prima facie* proof of the statements made therein.
- (6) A prosecution for an offence under this section shall not be instituted except by or with the written sanction of the Director-General.
- (7) For the purpose of this section, an “approved analyst” means a person who is qualified to perform such function and approved by the Director-General.

- 62.** (1) Where in a conviction for an offence under subsection (4) of section 61 it is proved that the non-conformity with the standards and specifications has rendered the goods or consignment of goods unfit for any use or for consumption, then —
- (a) if no appeal has been preferred to the High Court of the relevant Province established by Article 154P of the Constitution, against the relevant conviction within the time allowed therefor ; or
 - (b) if an appeal has been preferred to the High Court of the relevant Province established by Article 154P of the Constitution, against the relevant conviction, and the conviction is affirmed,
- the court shall order that such goods or consignment of goods be forfeited to the State to be destroyed in such manner as the court may direct.
- (2) Where in an action for an offence referred to in subsection (1), the accused is acquitted for the reason that it was not proved to the satisfaction of the court that the non-conformity with the standards and specifications has rendered the goods or consignment of goods unfit for any use or consumption, then —
- (a) if no appeal has been preferred to the High Court of the relevant Province established by Article 154P of the Constitution, against the relevant acquittal within the time allowed therefor ; or
 - (b) if an appeal has been preferred to the High Court of the relevant Province established by Article 154P of the Constitution, against the relevant acquittal and the acquittal is affirmed by the Court of Appeal,
- the court shall order the release of goods or consignment of goods seized.
- 63.** Every court shall give priority to the disposal of any case filed under section 61 before such court, and to the hearing of any appeal from any conviction against any order imposed on such conviction.
- 64.** No civil or criminal proceedings shall be instituted—
- (a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Act ; or
 - (b) against any member, Director-General, Director, Deputy Director, Assistant Director, officer, servant or adviser of the Authority or any member of the Council, for any act which in good faith is done or purported to be done by him under this Act or on the directions of the Authority or the Council as the case may be.
- 65.** (1) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court, shall be paid out of the Fund of the Authority, and any costs paid to or recovered by the Authority in any such suit or prosecution, shall be credited to the Fund of the Authority.
- (2) Any expenses incurred by any member, Director-General, Director, Deputy Director, Assistant Director, officer, servant or adviser of the Authority or any member of the Council in any suit or prosecution brought by or against such person before any court, in respect of any act which is done or purported to be done by such person under this Act or on the directions of the Authority or Council shall, if the court holds that such act was done in good faith, be paid out of the Fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.
- 66.** All members of the Authority and the Council, Director-General, Directors, Deputy Directors, Assistant Directors, officers, servants and advisers of the Authority shall be deemed to be —
- (a) public servants within the meaning of, and for the purposes of the Penal Code ; and
 - (b) public servant within the meaning of section 136 of the Code of Criminal Procedure Act, No. 15 of 1979 for the purpose of instituting proceedings in respect of offences under this Act.
- 67.** The Authority and the Council shall be deemed to be Scheduled Institutions within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.
- 68.** Where any offence under this Act is committed by an agent or servant of any manufacturer or trader, such offence shall be deemed to have been committed by such manufacturer or trader, unless he proves that such offence was committed without his knowledge.
- 69.** Where any person is convicted of any offence under this Act or where any goods are seized and ordered to be forfeited under this Act, the Authority may pay —

- (a) to the person who provided the information leading to such conviction or the seizure and forfeiture of such goods ; and
 - (b) to any person who was concerned in the detection of such offence or effecting the seizure and forfeiture of such goods,
- such amount as it may deem reasonable, as a reward.

70. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979, every offence under this Act, shall be deemed to be a cognizable offence within the meaning and for the purposes of that Code.

71. The Director-General, Directors, Deputy Directors and Assistant Directors of the Authority shall be deemed to be peace officers within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979 for the purpose of exercising any of the powers conferred upon peace officers by that Code.

72. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorised by this Act to be made.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters :—

- (a) prescribing the manner in which meetings of the Authority shall be convened ;
- (b) prescribing the manner of conduct of meetings of the Authority ;
- (c) prescribing the persons by whom, and the manner in which, the expenses of witnesses notified to attend inquiries and investigations held by the Authority and the Council are to be paid.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Any 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.

(5) Notification of the date on which any regulation made by the Minister is deemed to be rescinded, shall be published in the *Gazette*.

73. (1) (a) The Consumer Protection Act, No. 1 of 1979 is hereby repealed.

(b) Notwithstanding the repeal of the aforesaid Act—

- (i) (aa) every scheme of distribution published under section 3 of the repealed Act ;
- (bb) every general direction issued by the Commissioner of Internal Trade under section 6 of the repealed Act ;
- (cc) every standard and specification determined by the Commissioner of Internal Trade under section 8 of the repealed Act ; and
- (dd) every written agreement entered into by the Commissioner of Internal Trade with any manufacturer, trader or any association of manufacturers or traders under section 10 of the repealed Act,

and in force on the day prior to the date of commencement of this Act, shall be deemed to be a scheme published, direction issued, standard and specification determined and written agreement entered into by the Authority ;

(ii) all moneys lying to the credit of the Consumer Protection Fund established under section 33A of the repealed Act on the day immediately prior to the date of commencement of this Act, shall stand transferred with effect from that date, to the Fund established under this Act ;

(iii) every regulations made by the Minister under section 34 of the repealed Act and in force on the date of commencement of this Act and which is not inconsistent with the provisions of this Act, shall be deemed to be regulations made under this Act, and may accordingly be amended, added to or rescinded, by regulations made under this Act ;

- (iv) all suits and prosecutions instituted under the repealed Act by or against the Attorney-General as representing the Department of Internal Trade in his official capacity, in any court or tribunal and pending on the day prior to the date of commencement of this Act, shall be deemed to be suits and prosecutions instituted by or against the Authority and may be continued accordingly ;
 - (v) all decrees and orders entered or made by any competent court in favour of or against the Attorney-General as representing the Department of Internal Trade in his official capacity and remaining unsatisfied on the date of commencement of this Act, shall be deemed to have been entered or made in favour of or against the Authority and may be enforced accordingly ; and
 - (vi) all debts, obligations, assets and liabilities incurred and all matters and things engaged to be done by with or on behalf of the Department of Internal Trade shall be deemed to have been incurred, and engaged to be done by, with or on behalf of the Authority.
- (2) (a) The Fair Trading Commission Act, No. 1 of 1987 is hereby repealed.
- (b) Notwithstanding the repeal of the aforesaid Act—
- (i) all moneys lying to the credit of the Fund established under section 30 of the repealed Act, on the day immediately prior to the date of commencement of this Act, shall be transferred to the Fund of the Authority established under this Act ;
 - (ii) all inquiries and investigations pending before the Fair Trading Commission on the day prior to the date of commencement of this Act, shall be deemed to be inquiries and investigations pending before the Authority under the provisions of this Act, and may accordingly be continued and concluded before such Authority under the provisions of this Act ;
 - (iii) all requests made under section 18 of the repealed Act and all questions referred to the Fair Trading Commission under the repealed Act and pending before such Commission, on the day prior to the date of commencement of this Act, shall be deemed to be requests made and questions referred to the Authority under this Act, and may accordingly be inquired into and examined by the Authority under the provisions of this Act ;
 - (iv) all orders made and reports submitted by the Fair Trading Commission under the provisions of the repealed Act, shall be deemed to be orders made, and reports submitted by the Authority under the provisions of this Act ;
 - (v) all suits and prosecutions instituted by or against the Fair Trading Commission in any court or tribunal and pending on the day prior to the date of commencement of this Act shall be deemed to be suits and prosecutions instituted by or against the Authority and may be continued accordingly ;
 - (vi) all decrees and orders entered or made by any competent court in favour of or against the Fair Trading Commission and remaining unsatisfied on the date of commencement of this Act, shall be deemed to have been entered or made in favour of or against the Authority as the case may be, and may be enforced accordingly ;
 - (vii) every regulation made by the Minister under the repealed Act and in force on the date of commencement of this Act and which is not inconsistent with the provisions of this Act, shall be deemed to be a regulation made under this Act and may accordingly be amended, added to, or rescinded by regulations made under this Act ;
 - (viii) all officers and servants of the Commission on the day immediately preceding the date of commencement of this Act—
 - (a) who are offered employment with the Authority and accepts such offer, shall be employed therein on such terms and conditions as are not less favourable than the terms and conditions of employment that were applicable to them on the day immediately preceding the date of commencement of this Act ; or
 - (b) who are not offered employment with the Authority or who are offered such employment and who do not accept such offer, shall be entitled to the payment of such compensation as may be determined by the Minister ; and

- (ix) all debts, obligations, assets and liabilities incurred and all contracts and agreements executed or entered into and all matters and things engaged to be done by, with or for the Fair Trading Commission shall be deemed to have been incurred, executed, entered into and engaged to be done by, with or for the Authority.

(3) The Control of Prices Act, (Chapter 173) is hereby repealed.

74. From and after the commencement of this Act, every reference to “Price Control Inspector” in any written law, shall be read and construed as a reference to the relevant officer of the Authority, assigned by the Authority to perform the functions relating to the regulation of the pricing of goods.

75. In this Act, unless the context otherwise requires—

“consumer” means any actual or potential user of any goods or services made available for a consideration by any trader or manufacturer ;

“Council” means the Consumer Affairs Council established by section 39 of this Act ;

“fuel” includes all petroleum products in liquid or gaseous form, oil, other gases, coal or lubricants ;

“goods” means any food, drink, pharmaceutical, fuel and all other merchandise ;

“local authority” means a Municipal Council, Urban Council, Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform and discharge, powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha ;

“price” means a charge of any description ;

“Provincial Council” means a Provincial Council established under Chapter XVIIA of the Constitution ;

“manufacturer” means any person who—

- (a) makes any article or any goods ;
- (b) assembles or joins any article or any goods whether by chemical process or otherwise ; or
- (c) adapts for sale any article or any goods ;

“service” means service of any description which is made available to actual or potential users, and includes—

- (a) banking, financing, insurance, shipping and entertainment ;
- (b) the construction, production, manufacture, supply, storage, maintenance, repair, treatment, cleaning, processing or alteration of goods ;
- (c) services in connection with the import, export or distribution of goods ;
- (d) the transportation of goods and passengers ;
- (e) the cleaning of buildings and building premises ;
- (f) the sale and supply of any utility services including electricity, water, gas and telecommunication ;
- (g) the provision of information technology and communications ;
- (h) professional services such as accounting, auditing, legal, medical and health, surveying, architecture and engineering.

“trader” means any person who—

- (a) sells or supplies goods wholesale to other persons ;
- (b) sells or supplies goods at retail rates to consumers ;
- (c) imports goods for the purpose of sale or supply ;
- (d) provides services for a consideration.

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

77. Notwithstanding anything to the contrary contained in the preceding provisions of this Act, the provisions of this Act relating to anti-competitive practices, shall not apply to the supply of goods or services by any person who is supplying such goods or services under an agreement entered into with the government and which is in force on the date of commencement of this Act, during the period of its validity as specified in that agreement as on such date of commencement.

SCHEDULE

Section 3(4)

1. A person shall be disqualified from being appointed or continuing as a member of the Authority—
 - (a) if he is, or becomes a Member of Parliament, any provincial council or any local authority ;
 - (b) if he is not, or ceases to be a citizen of Sri Lanka ;
 - (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind ;
 - (d) if he is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other country ; or
 - (e) if he had been removed from membership of the Authority for misconduct.
2. Every member of the Authority other than the chairman and the full-time members shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and unless he has been removed from office, be eligible for reappointment :

Provided that a member appointed in place of a member who had vacated office, by death, resignation or removal, shall hold office for the unexpired term of office of the member whom he succeeds.
3. (1) The Minister may, by Order published in the *Gazette*, remove from office any member of the Authority, other than the chairman or a full-time member for misconduct or for physical or mental incapacity. A member in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the *Gazette*.
- (2) The removal of any member under sub-paragraph (1) shall not be called in question in any court.
4. A member of the Authority other than the chairman or a full-time member may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.
5. In the event of the vacation of office, by death, resignation or removal, by any member of the Authority, the Minister may, having regard to the provisions of section 3 appoint another person to succeed such member.
6. Where a member of the Authority, other than the chairman or a full-time member is by reason of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may having regard to the provisions of section 3, appoint some other person to act in his place during such period.
7. (1) If the Chairman or any one of the full-time members are by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint another member of the Authority to act in his place.
- (2) The Minister may by Order published in the *Gazette* remove the Chairman or any one of the full-time members of the Authority from office for misconduct or for physical or mental incapacity. Such person in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the *Gazette*.
- (3) The Chairman or any one of the full-time members may at any time resign from the office of Chairman or full-time members as the case may be by letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.
8. (1) The Chairman of the Authority shall, if present preside at every meeting of the Authority. In the absence of the Chairman from any such meeting, one of the full-time members present shall preside, and in the absence of, the Chairman and all the full-time members from any meeting of the Authority, the members present at such meeting shall elect one of the members present, to preside at such meeting.
- (2) The quorum for any meeting of the Authority shall be four members.
- (3) The Chairman, or in his absence the member presiding at any meeting of the Authority shall have, in addition to his own vote, a casting vote.
- (4) Subject to the provisions of this paragraph and any regulation made under section 71 the Authority may regulate the procedure in regard to its meetings and the transaction of business at such meetings.
9. No act, decision or proceeding of the Authority shall be deemed invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any member thereof.
10. (1) The seal of the Authority shall be in the custody of the Chairman.
- (2) The application of the seal of the Authority shall be authenticated by the signature of the Chairman or some other member of the Authority authorised to authenticate the application of such seal.
11. A member of the Authority who is directly or indirectly interested in any matter which forms the subject matter of any proceeding of the Authority or of any decision proposed to be made by the Authority, shall disclose the nature of his interest at a meeting of the Authority and such member shall not take part in any proceeding or decision in respect of such matter.

INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 10 OF 2003

[Certified on 17th March, 2003]

AN ACT TO ENABLE PERSONS WHO HAVE NOT FURNISHED A RETURN OF INCOME AND ASSETS PRIOR TO MARCH 31, 2002 TO MAKE A DECLARATION IN RESPECT THEREOF: TO MAKE PROVISION FOR THE GRANT OF CERTAIN CONCESSIONS TO DECLARANTS AND NON-DECLARANTS: TO INDEMNIFY SUCH PERSONS AGAINST LIABILITY TO PAY CERTAIN TAXES AND AGAINST LIABILITY FROM INVESTIGATIONS, PROSECUTIONS AND PENALTIES UNDER SPECIFIED STATUTES, WITH A VIEW TO SECURING THE FUTURE COMPLIANCE OF SUCH PERSONS WITH THE PREVALENT TAX LAWS : TO PROVIDE FOR THE REPEAL OF THE INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 7 OF 2002; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Inland Revenue (Special Provisions) Act, No. 10 of 2003.
2. (1) Any person whether in Sri Lanka or abroad, who, though required under any law for the time being in force, which is specified in the Schedule hereto, relating to the imposition of tax, had not in relation to any period prior to March 31, 2002, declared to the Commissioner-General or to the relevant authority, as the case may be, all or any portion of his liability to such tax, or of the sources of his income and assets, may make a declaration of the sources of his income or assets as at April 1, 2002, to the Commissioner-General on or before June 30, 2003 :
 Provided however that any person who had made the required declarations to the Commissioner-General or to the relevant authority in respect of all relevant periods prior to March 31, 2002, may make a declaration under section 2 in order to ascertain the correctness of his position and the Commissioner-General or the other relevant authority shall extend the immunity referred to in section 3, to such person.
- (2) For the purposes of this section “sources of income” shall include any income received by way of cash or in any other form and “assets” shall include, immovable property, movable property, bank balances, treasury bills, fixed deposits, time deposits or any other form of deposit and money given by way of security or loans and cash in hand.
- (3) Cash in hand as at April 1, 2002, which has subsequently not been spent, should be invested or deposited into a bank, prior to the making of the declaration in terms of this section.
- (4) The Commissioner-General or an officer not below the rank of Commissioner, specially authorized by him in writing in that behalf, shall within thirty days of the receipt thereof, acknowledge in writing any declaration received in terms of subsection (1).
3. (1) Any person making a declaration in terms of section 2, shall enjoy full immunity from liability to pay tax under any law specified in the Schedule hereto, or from any investigation or prosecution for any offence under any law specified in the Schedule hereto, in relation to any period ending on or before March 31, 2002 in so far as such declaration relates to —
 - (a) non-payment of taxes ;
 - (b) the sources of income or assets declared ;
 - (c) the profits or income earned from which such assets were funded ;
 - (d) the manner in which such assets were funded ;
 - (e) any matter related to or incidental to any of the above.
- (2) The relevant authority, charged with the administration of the Acts specified in the Schedule hereto, shall ensure that full immunity as specified above, be granted to the person making the declaration in terms of section 2.
- (3) Any transaction taking place on or after March 31, 2002, in connection with any asset declared for the purposes of the Exchange Control Act (Chapter 423) under section 2 of this Act, shall be afforded the same immunity referred to in subsection (1), as if such transaction has taken place on or before March 31, 2002.

4. (1) Any investigation or prosecution which has commenced in relation to any period ending on or before March 31, 2002, against the person making the declaration in terms of section 2 or any penalty which has been imposed on such person, but which has not been paid, under any of the laws specified in the Schedule hereto shall notwithstanding anything to the contrary in any other law, be withdrawn.
 - (2) Where there is any tax in dispute under any of the laws specified in the Schedule hereto, pertaining to tax, in respect of any period ending on or before March 31, 2002, in relation to a person who has made a declaration in terms of section 2, then the tax specified by such person as being the amount of tax payable by him shall be accepted by the relevant authority, charged with the administration of the Acts specified in the Schedule hereto, as being correct and reflecting the final tax liability of that person in respect of such period :
Provided that no tax in dispute, which has been settled with the agreement of the person making the declaration in terms of section 2, shall be re-opened.
 - (3) Where there is any tax in dispute under any of the laws specified in the Schedule hereto, pertaining to tax, in respect of any period ending on or before March 31, 2000, in relation to a person who has not made a declaration in terms of section 2, then the tax specified by such person, as being the amount of tax payable by him shall be accepted by the relevant authority, charged with the administration of the laws specified in the Schedule hereto, as being correct and reflecting the final tax liability of that person in respect of such period :
Provided that no tax in dispute, which has been settled with the agreement of the person who has not made the declaration in terms of section 2, shall be re-opened.
 - (4) For the purposes of subsection (2) and subsection (3) above, "tax specified" shall include any specified tax paid in terms of Chapter XIII of the Inland Revenue Act, No. 38 of 2000, by any person for the year of Assessment 2001/2002, on or before September 30, 2002.
5. (1) Any person who is liable to pay income tax in respect of the Year of Assessment 2002/2003, and who has made a declaration in terms of section 2, and who does not have an income tax file opened in his name, in the Department of Inland Revenue, shall not be liable to any prosecution or penalty if such income tax for such year of assessment is paid in full on or before September 30, 2003.
 - (2) (a) Any person who is liable to pay income tax, in respect of the first quarterly installment for the Year of Assessment 2002/2003, and who has an income tax file in his name in the Department of Inland Revenue, has either not paid or under paid such tax, shall not be liable to any prosecution or penalty if such instalment of income tax for such year of assessment is paid in full or in such part as is unpaid on or before September 30, 2003.
 - (b) Such person as is referred to in paragraph (a) shall pay all other quarterly instalments and the final payment for the Year of Assessment 2002/2003 on the dates on which the same is due in terms of the Inland Revenue Act, No. 38 of 2000. Any default in these payments shall result in the enforcement of the penalties attached to the tax in default under such Act.
 - (3) Any person who has made a declaration under section 2 and is liable to pay any tax other than income tax under any of the laws specified in the Schedule hereto, for any period commencing on April 1, 2002, shall pay all such taxes as provided for in the aforesaid laws.
6. (1) Any authority empowered to administer the laws referred to in the Schedule hereto and all other officers engaged in the administration of the provisions of such laws shall at all times preserve and aid in preserving absolute secrecy in respect of the identity of the declarant and any matter or thing contained in any declaration made by any person in terms of section 2.
 - (2) Any oath of secrecy taken by any of the officers referred to in subsection (1) under any of the laws referred to in the Schedule hereto, shall be deemed to be an oath of secrecy taken under this Act and any person who acts in contravention of such oath shall be guilty of an offence under this Act and shall on summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.
 - (3) No Commission of Inquiry or Regulator, established or appointed under any written law for the time being in force shall be entitled to call upon a declarant or any person referred to in subsection (1) to divulge the identity of the declarant or any information contained in any declaration made under section 2.

- (4) No Court of Law shall call upon any person referred to in subsection (1) to divulge the identity of the declarant or any information contained in any declaration made under section 2, other than in the course of any proceedings instituted under the Commission to Investigate Allegations of Bribery and Corruption Act, No. 19 of 1994.
7. For the avoidance of doubts it is hereby declared that —
- (a) reference to a person holding money or having any investment shall include a reference to the person holding the money, or investment in his name or any other name or without any name;
 - (b) nothing in this law shall be read and construed as preventing any person from claiming or instituting proceedings for the recovery of a refund of tax due to him, or from seeking protection or a privilege under any of the laws referred to in the Schedule hereto.
8. (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act to give effect to the principles and provisions of 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 placed before Parliament for approval. 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.
 - (4) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.
9. Any person who intends to avail himself of the provisions of this Act, shall do so in accordance with the procedures and within the time period specified in this Act. Any person who so fails to take the necessary steps in terms of this Act, shall be liable to be dealt with in terms of the provisions of the Inland Revenue Act, No. 38 of 2000.
10. No proceedings shall be instituted for the recovery of any tax nor shall any pending action be proceeded with under any of the laws referred to in the Schedule hereto, after the expiration of a period of five years from the date on which the payment of tax is in default, in terms of the respective laws.
11. (1) The Inland Revenue (Special Provisions) Act, No. 7 of 2002 is hereby repealed.
- (2) Every declaration made in terms of section 2 of the Inland Revenue (Special Provisions) Act, No. 7 of 2002 prior to the repeal, shall notwithstanding such repeal be deemed to be a declaration made in terms of section 2 of this Act, and shall for the purpose of the granting of any immunity or exemption from liability in terms of this Act, be considered for all purposes as if it were a declaration made under section 2 :
- Provided that any person whose declaration is deemed to be accepted in terms of this section, may, if he so desires notify the Commissioner-General or the relevant authority as the case may be, in writing, within a period of three months from the date of the coming into operation of this Act, requesting any alteration, amendment or variation of such declaration in order to bring it into conformity with the provisions of this Act.
12. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
13. In this Act—
- “Authority” includes any Department charged with administering the laws referred to in the Schedule ;
- “company”, “body of persons” and “partnership” shall have the same meaning as in the Inland Revenue Act, No. 38 of 2000 ;
- “Commissioner-General” shall have the same meaning as in the Inland Revenue Act, No. 38 of 2000 ;
- “immovable property” includes any building in Sri Lanka or abroad, whether constructed or under construction ;
- “investigation” shall include inquiry, questioning, search or any other similar action under the laws referred to in

the Schedule ;

“money” includes all sums of money whether expressed in Sri Lanka rupees or in foreign currency ;

“movable property” includes all movable property in Sri Lanka or abroad but does not include money ;

“offence” includes any offence whatsoever in any of the laws referred to in the Schedule ;

“person” shall include a company or partnership or a body of persons ;

“tax” shall include any tax, levy, penalty (including any penalty in respect of any offence), forfeiture or fine, payable or levied under any of the laws referred to in the Schedule hereto ;

“tax in dispute” shall include any tax assessed under any of the laws referred to in the Schedule to this Act, which has not been accepted by the Commissioner-General, the relevant authority or the person concerned.

SCHEDULE

(Sections 2, 3, 4 and 6)

1. The Turnover Tax Act, No. 69 of 1981.
2. The National Security Levy Act, No. 52 of 1991.
3. The Goods and Services Tax Act, No. 34 of 1996.
4. The Stamp Duty Act, No. 43 of 1982.
5. The Finance Act, No. 11 of 1963.
6. The Save the Nation Contribution Act, No. 5 of 1996.
7. The Inland Revenue Act, No. 28 of 1979.
8. The Inland Revenue Act, No. 38 of 2000.
9. The Surcharge on Wealth Tax Act, No. 25 of 1982.
10. The Surcharge on Wealth Tax Act, No. 8 of 1989.
11. The Surcharge on Income Tax Act, No. 26 of 1982.
12. The Surcharge on Income Tax Act, No. 12 of 1984.
13. The Surcharge on Income Tax Act, No. 7 of 1989.
14. The Surcharge on Income Tax (Amendment) Act, No. 17 of 1991.
15. The Surcharge on Income Tax (Amendment) Act, No. 32 of 1992.
16. The Surcharge on Income Tax (Amendment) Act, No. 28 of 1993.
17. The Surcharge on Income Tax (Amendment) Act, No. 23 of 1994.
18. The Surcharge on Income Tax (Amendment) Act, No. 13 of 1995.
19. The Surcharge on Income Tax Act, No. 6 of 2001.
20. The Betting and Gaming Levy Act, No. 40 of 1988.
21. The Estate Duty Act, No. 13 of 1980.
22. The Exchange Control Act, (Chapter 423).
23. The Import and Export Control Act, No. 1 of 1969.
24. The Excise (Special Provisions) Act, No. 13 of 1989.
25. The Excise Ordinance (Chapter 52).
26. The Customs Ordinance (Chapter 235).

**HOUSING DEVELOPMENT FINANCE CORPORATION OF SRI LANKA (AMENDMENT) ACT,
NO. 15 OF 2003**

[Certified on 31st March, 2003]

AN ACT TO AMEND THE HOUSING DEVELOPMENT FINANCE CORPORATION OF SRI LANKA ACT, NO. 7 OF 1997

1. This Act may be cited as the Housing Development Finance Corporation of Sri Lanka (Amendment) Act, No. 15 of 2003.
2. Section 2 of the Housing Development Finance Corporation of Sri Lanka Act, No. 7 of 1997 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section by the substitution for the words “Housing Development Finance Corporation of Sri Lanka (hereinafter referred to as “the Corporation”)” of the words “Housing Development Finance Corporation Bank of Sri Lanka” (hereinafter referred to as the “HDFC Bank of Sri Lanka”).
3. (1) In the principal enactment (other than in the long title) and in any other written law, there shall be substituted for the words “Housing Development Finance Corporation of Sri Lanka” and “Corporation” (denoting the “Housing Development Finance Corporation”), of the words “Housing Development Finance Corporation Bank” and “HDFC Bank” respectively.
(2) Every reference to the “Housing Development Finance Corporation of Sri Lanka” in any notice, notification, contract, communication, from another document shall be read and construed as a reference to the Housing Development Finance Corporation Bank.
4. Section 3 of the principal enactment is hereby amended in paragraph (d) of subsection (1) of that section, by the substitution for the words “four directors”, of the words “five directors”.
5. Section 12 of the principal enactment is hereby amended by the repeal of paragraph (a) of that section and the substitution of the following paragraph :—
“ (a) to grant any loan, credit facility or any type of accommodation to any individual, company, partnership, any institute or to Housing Finance Corporation for housing purposes, for the redemption of residential property in accordance with the directions issued by the Monetary Board under section 76J of the Banking Act, No. 30 of 1988.
6. Section 13 of the principal enactment is hereby amended by the repeal of paragraphs (a) and (l) of that section and the substitution of the following paragraphs therefor :—
“ (a) to grant loans or financial assistance to any individual, company, partnership, any institute of the Housing Finance Corporation for housing purposes.
(l) to borrow and raise money on such terms and conditions as may be determined by the Monetary Board or on any direction given by the Monetary Board.”.
7. Section 14 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :—
“ (2) The General Manager shall be a full time officer of the HDFC Bank of Sri Lanka. He shall be the chief executive officer of the HDFC Bank of Sri Lanka and shall be accountable and answerable to the Chairman and the Board of Directors.”.
8. Section 15 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution of the following subsection therefor :—
“ (2) The Board may, from time to time fix and vary the salaries and allowances of such officers and servants of the Bank, taking into consideration the salaries and allowances payable to employees of state owned banking institutions engaged in similar objectives and operations.”.
9. Section 17 of the principal enactment is hereby amended by the repeal of subsections (5) and (6) of that section and the substitution of the following subsection therefor :—

“(5) The Bank shall allot any share or register any share in accordance with the directions of the Monetary Board of the Central Bank of Sri Lanka issued from time to time under section 76J of the Banking Act, No. 30 of 1988 as amended by Act, No. 33 of 1995.”.

10. Section 22 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words “stock, and the debentures and stocks so created and issued shall in this Act be referred to as Housing Development Finance Corporation Debentures and Housing Development Finance Corporation stock respectively” of the words “Securities, and the debentures and securities so created and issued shall in this Act be referred to as Housing Development Finance Corporation (Bank) Debentures and Housing Development Finance Corporation (Bank) Securities respectively.
- (2) in subsection (2) of that section by the substitution for the words “Housing Development Finance Corporation Debentures and Housing Development Finance Corporation Stock” of the words “Housing Development Finance Corporation (Bank) debentures and Housing Development Finance Corporation (Bank) Securities.

11. Section 23 of the principal enactment is hereby amended by the substitution for the words “and any Housing Development Finance Corporation Stock” of the words “and any Housing Development Finance Corporation (Bank) Securities”.

12. Section 33 of the principal enactment is hereby repealed.

13. The following section is hereby inserted immediately after section 38 and shall have effect as section 38A of the principal enactment :—

“Directions issued by the Monetary Board of the Central Bank of Sri Lanka.	38A. Directions issued from time to time by the Monetary Board under section 76J of the Banking Act, No. 30 of 1988 shall apply to the HDFC Bank of Sri Lanka in regard to any matter for which no provision has been made in this Act or any regulation made thereunder.”.
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14. Section 40 of the principal enactment is hereby amended by the insertion immediately after paragraph (b) of that section, of the following paragraph :—

“(c) Every action or proceeding instituted by Housing Development Finance Corporation of Sri Lanka Limited under Part IX, (Chapter 401) of the National Housing Act, No. 37 of 1954 and pending on the day preceeding the date on which the Housing Development Finance Corporation of Sri Lanka Limited is deemed to have been dissolved, shall, with effect from that day be deemed to be an action on proceeding instituted by the Corporation and every such action on proceeding may be proceeded with to completion and enforced according to the provisions of Recovery of Loans by Banks (Special Provision) Act, No. 4 of 1990.”.

15. Section 44 of the principal enactment is hereby amended as follows :—

- (a) by the insertion immediately before the definition of the expression “Chairman”, of the following definition :—

“accommodation” means any loan or overdraft or advance or any commitment to grant any loan or overdraft or advance, including a commitment to accept a contingent liability ;

- (b) by the insertion immediately after the definition of the expression “local authority”, of the following definition :—

“Monetary Board” means the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act, (Chapter 422).

16. (1) All contracts, agreements and other instruments of the Housing Development Finance Corporation of Sri Lanka, subsisting on the day immediately prior to the date of commencement of this Act, shall be deemed to be contracts, agreements or other instruments entered into by the HDFC Bank of Sri Lanka.

- (2) All suits, actions and other legal proceedings instituted by the Housing Development Finance Corporation of Sri Lanka and pending on that day, immediately prior to the date of commencement of this Act, shall be deemed to be suits, actions and other legal proceedings instituted by or against the HDFC Bank of Sri Lanka.

- (3) All the rights, liabilities and obligations of the Housing Development Finance Corporation of Sri Lanka on the day immediately prior to the date of commencement of this Act, shall be deemed to be the rights, liabilities and obligations of the HDFC Bank of Sri Lanka.
- (4) Every decree, order or judgement entered in favour of or against the Housing Development Finance Corporation of Sri Lanka by any court in any action or proceeding, shall with effect from the date of commencement of this Act, be deemed to be a decree, order or judgement entered in favour of or against the HDFC Bank of Sri Lanka.
17. Schedule III of the Banking Act, No. 30 of 1988 is hereby amended by the addition at the end of that Schedule of the following new item :—
- “ (5) Housing Development Finance Corporation (Bank) of Sri Lanka established by the Housing Development Finance Corporation of Sri Lanka Act, No. 7 of 1997.”.
18. Section 47A of the Mortgage Act, is hereby amended in subsection 7 of that section by the insertion immediately after paragraph (c) thereof of the following new paragraph:—
- “ (cc) the Housing Development Finance Corporation (Bank) of Sri Lanka established by the Housing Development Finance Corporation of Sri Lanka Act, No. 7 of 1997;”.
19. In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala text shall prevail.

**SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA (AMENDMENT) ACT,
NO. 18 OF 2003**

[Certified on 29th April, 2003]

AN ACT TO AMEND THE SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA ACT, NO. 36 OF 1987

1. This Act may be cited as the Securities and Exchange Commission of Sri Lanka (Amendment) Act, No. 18 of 2003.
2. The long title to the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 (hereinafter referred to as the “principal enactment”) as amended by Act, No. 26 of 1991, is hereby further amended by the substitution for the words “TO GRANT LICENCES TO STOCK EXCHANGES, UNIT TRUST, STOCK BROKERS AND STOCK DEALERS WHO ENGAGE IN THE BUSINESS OF TRADING IN SECURITIES;”, of the words “TO GRANT LICENCES TO STOCK EXCHANGES, MANAGING COMPANIES IN RESPECT OF EACH UNIT TRUST, STOCK BROKERS AND STOCK DEALERS WHO ENGAGE IN THE BUSINESS OF TRADING IN SECURITIES; TO REGISTER MARKET INTERMEDIARIES;”.
3. Section 12 of the principal enactment as amended by Act No. 26 of 1991 is hereby further amended in paragraph (c) thereof by the substitution for the words “from the failure of a licensed stock broker or licensed stock dealer to meet” of the words “as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting”.
4. Section 13 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—
 - (1) by the insertion, immediately after paragraph (bb) of that section, of the following new paragraph :—

“ (bbb) to grant a certificate of registration to any person to carry on business as a market intermediary and to ensure the proper conduct of such business ;”;
 - (2) by the repeal of paragraph (c) of that section and the substitution therefor of the following paragraph :—

- “(c) to give general or specific directions to a licensed stock exchange or a licensed stock broker or a licensed stock dealer or a licensed managing company or a trustee of a unit trust or a registered market intermediary, from time to time;”;
- (3) by the substitution in paragraph (d) of that section for the words “resulting from the failure of a licensed stock broker or a licensed stock dealer to meet” of the words, “arising as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting”;
- (4) by the insertion immediately after paragraph (f) of that section, of the following new paragraphs :—
 “(g) to regulate the listing and issue of securities in a licensed stock exchange;
 (gg) to direct a licensed stock exchange to reject any application made to it for listing;”;
- (5) by the substitution in paragraph (h) of that section, for the words “any given listed securities”, of the words “any listed securities”;
- (6) by the repeal of paragraph (i) of that section, and the substitution therefor of the following paragraph :—
 “(i) to inquire and conduct investigations into any activity of a licensed stock exchange, a licensed stock broker or licensed stock dealer, a licensed managing company or a trustee of a unit trust, a registered market intermediary or any listed public company;”;
- (7) by the repeal of paragraph (j) of that section and the substitution therefor of the following paragraph :—
 “(j) to publish findings of malfeasance by any licensed stock broker or licensed stock dealer or a licensed managing company or a trustee of a unit trust, or a registered market intermediary or any listed public company;”;
- (8) by the repeal of paragraph (n) of that section and the substitution therefor of the following paragraphs :—
 “(n) to regulate take-overs or mergers where such take-over or merger is between one or more listed companies or where at least one of the parties involved in such take-over or merger is a listed public company ;
 (o) to conduct investigations into any alleged violation or contravention of the provisions of this Act or any rule or regulation made thereunder by any person ; and
 (p) to do all such other acts as may be incidental or conducive to, the attainment of the objects of the Commission or the exercise of its powers under this Act.”.
5. Section 14 of the principal enactment as amended by Act No. 26 of 1991, is hereby further amended as follows :—
- (1) by the repeal of paragraph (a) of that section and the substitution therefor of the following paragraph :—
 “(a) carry out inspections of the activities of licensed stock exchanges, licensed stock brokers, licensed stock dealers, licensed managing companies or trustees of unit trusts or registered market intermediaries, in order to determine whether they are operating in conformity with the provisions of this Act or any regulations or rules made thereunder and to charge the costs incurred in carrying out such inspections from the licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company or trustee of a unit trust or registered market intermediary as the case may be, whose activities are being inspected ; ” ;
- (2) by the substitution in paragraph (b) of that section for the words “licensed stock exchanges, stock brokers, stock dealers and the managing companies of licensed unit trust”, of the words “licensed stock exchanges, licensed stock brokers, licensed stock dealers, licensed managing companies of unit trusts and registered market intermediaries ” ; and
- (3) by the substitution in paragraph (c), of that section for the words “the managing company of a licensed unit trust” and “the prescribed particulars.”, respectively, of the words “the licensed managing company of a unit trust” and “such particulars as may from time to time be determined by the Commission .”.
6. The following new sections are hereby inserted immediately after section 14 and shall have effect as sections 14A and 14B of the principal enactment :—

“Levy of cess. 14A. (1) There shall be charged, levied and paid a cess at such rates as may be specified by the Minister by Order published in the *Gazette* on every purchase and sale of securities recorded in a licensed stock exchange or notified to it under its rules by both the purchaser and the seller. Different rates may be specified in respect of different classes of securities.

(2) The cess imposed under this section shall be in addition to any other tax or cess levied under any other written law.

Cess Fund. 14B. (1) There shall be established a fund called the Cess Fund to which shall be credited the proceeds of the cess imposed under section 14A.

(2) There shall be paid out of the Cess Fund such sums as may be authorised by the Commission for the purpose of —

(a) developing the securities market ;

(b) enhancing monies lying to the credit of the Compensation Fund established under section 38 ; and

(c) exercising, performing and discharging the powers, duties and functions of the Commission for the purpose of achieving its objects.

(3) The money lying to the credit of the Cess Fund may be invested by the Commission in such manner as may be determined by the Commission. ”.

7. The heading appearing in Part III immediately before section 15 of the principal enactment is hereby repealed and the following heading substituted therefor :—

“ GRANT OF LICENCE TO A STOCK EXCHANGE, A STOCK BROKER OR A STOCK DEALER AND
THE REGISTRATION OF MARKET INTERMEDIARIES”

8. Section 15 of the principal enactment is hereby amended by the repeal of all the words from “shall make an application ”, to the end of that section, and the substitution of the following therefor :—

“ shall make an application to the Commission for the grant of a licence as a stock exchange, stock broker or a stock dealer, as the case may be, in such form, together with such documents and such fee as may be specified by the Commission from time to time in that behalf. ”.

9. The following new section is hereby inserted immediately after section 19 and shall have effect as section 19A of the principal enactment :—

“Registration of market intermediaries. 19A. (1) Any person who is carrying on or who intends to carry on business as a market intermediary shall register with the Commission for such purpose.

(2) An application for the purpose of registration under subsection (1) shall be made to the Commission in such form, together with such documents and such fee as may be prescribed by the Commission from time to time in that behalf.

(3) On receipt of an application for registration, the Commission having considered the particulars stated therein and where it appears necessary having given the applicant an opportunity of being heard, shall by written notice inform the applicant whether he is being registered as a market intermediary or not, and where he is registered as a market intermediary, issue him with a certificate of registration valid for a period of one year effective from the date of issue of such certificate. Every person issued with a certificate of registration is referred to in this Act as a “registered market intermediary”.

(4) No person shall be registered as a market intermediary unless he complies with the terms and conditions set out in Part V of the Schedule hereto. ”.

10. Section 20 of the principal enactment as amended by Act No. 26 of 1991 is hereby further amended as follows :—

- (1) in subsection (1) of that section by the substitution for the words “within six months prior to the expiry”, of the words “six months prior to the expiry” ;
- (2) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :—

“(2) A licensed stock broker, a licensed stock dealer or a registered market intermediary may three months prior to the expiry of the licence or the registration as the case may be, make an application to the Commission in the prescribed form, together with the prescribed fee for a renewal of his licence or the registration as the case may be.”; and

(3) in subsection (3) of that section, by the repeal of all the words from “a renewal of a licence,” to “as the case may be,” and the substitution of the following therefor :—

“ a renewal of a licence or registration, the Commission shall satisfy itself that the licensed stock exchange, the licensed stock broker, the licensed stock dealer or the registered market intermediary, as the case may be,”.

11. Section 21 of the principal enactment as amended by Act No. 26 of 1991 is hereby further amended in subsections (4) and (5) of that section by the substitution for the words “licensed stock broker or stock dealer”, wherever those words occur in those subsections, of the words “licensed stock broker or licensed stock dealer”.

12. The following new section is hereby inserted immediately after section 21 and shall have effect as section 21A of the principal enactment :—

“Suspension and cancellation of registration. 21A. (1) The Commission shall have the power to suspend or cancel the certificate of registration granted to a market intermediary under section 19A of this Act.
(2) The provisions of section 21 of this Act shall, *mutatis mutandis*, apply to, and in relation to, any suspension or cancellation as the case may be, of a certificate of registration under subsection (1).”.

13. Section 22 of the principal enactment as amended by Act No. 26 of 1991 is hereby repealed and the following section is substituted therefor :—

“Appeal to the Court of Appeal. 22. (1) Any person aggrieved by the decision of the Commission —
(a) suspending or cancelling a licence under section 18A ;
(b) refusing to grant a licence under section 19 or a registration under section 19A ;
(c) refusing to grant a renewal of a licence or registration as the case may be under section 20; or
(d) cancelling or suspending a licence or a registration as the case may be, under sections 21 or 21A ;
may appeal against such decision to the Court of Appeal, within fourteen days from the date on which the decision was communicated to such person.
(2) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall apply to every appeal made under subsection (1) of this section.
(3) The Court of Appeal may, on an appeal made to it under subsection (1), reverse, modify or set-aside the decision made by the Commission or make such order as the interests of justice may require.”.

14. Section 25 of the principal enactment as amended by Act No. 26 of 1991 is hereby further amended as follows :—

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection :—

“(1) Where a licensed stock exchange, a licensed stock broker or a licensed stock dealer, as the case may be, proposes to alter any material particulars already furnished or undergoes or intends to undergo a change from the state specified in the application for a licence or the renewal of a licence, as the case may be, as a stock exchange, stock broker or stock dealer, it shall be the duty of such licensed stock exchange, licensed stock broker or licensed stock dealer, as the case may be, to inform the Commission and obtain its prior consent before such alteration or change is effected.”; and

(2) by the insertion immediately after subsection (1) of that section of the following new subsection :—

“(1A) Where a registered market intermediary proposes to alter any particulars already furnished or undergoes or intends to undergo a change from the state specified in the application for registration

or renewal of a registration as a market intermediary, it shall be the duty of such registered market intermediary to forthwith inform the Commission of such alteration or change. ”.

15. Section 28 of the principal enactment as amended by Act No. 26 of 1991 is hereby further amended as follows :—

- (1) in subsection (1) of that section—
 - (a) by the substitution for the words “shares” or “share” wherever those words appear in that subsection, of the words “securities” or “security” respectively ;
 - (b) by the repeal of paragraph (b) of that subsection ; and
- (2) in subsection (2) of that section, by the substitution for the words “stock broker or stock dealer shall ”, of the words “licensed stock broker, licensed stock dealer, the licensed managing company of a unit trust or a registered market intermediary shall”.

16. The following new section is hereby inserted immediately after section 28 and shall have effect as section 28A of the principal enactment :—

“Prohibition against the listing of shares in certain cases. 28A. Where shares in any public company are allotted to any person prior to its listing in a licensed stock exchange, no shares or any security convertible to shares in any such company shall be listed on a licensed stock exchange within a period of one year from the date of the last allotment, unless the written approval of the Commission is obtained for that purpose prior to such listing. ”.

17. The following new section is hereby inserted immediately after section 29 and shall have effect as section 29A of the principal enactment :—

“Issue of securities. 29A. (1) No listed public company or any public company which has applied to obtain a listing in a licensed stock exchange, shall make any issue of securities unless the issue has been approved by the Commission or any person authorized in that behalf by the Commission.

(2) For the purposes of this section, “issue of securities ” means —

- (a) in relation to a public company which has applied to obtain a listing, an introduction, an offer for subscription, an offer for sale or any placement of securities on a licensed stock exchange ;
- (b) in relation to a listed public company —
 - (i) new issues or offer for sale of securities to the public, whether such issues or offers for sale are by way of public issues or otherwise or any placements of securities ;
 - (ii) rights issues of securities ;
 - (iii) bonus issues of securities;
 - (iv) schemes of arrangements, schemes of reconstruction, take over schemes, share option schemes and acquisition of assets by way of issues of securities.”.

18. Section 31 of the principal enactment is hereby repealed.

19. The heading appearing in Part IIIA immediately before section 31A of the principal enactment is hereby repealed and the following heading substituted therefor :—

“GRANT OF A LICENCE TO OPERATE A UNIT TRUST”

20. Section 31A of the principal enactment is hereby amended by the renumbering of that section as section 31 of that enactment.

21. Section 31B of the principal enactment is hereby repealed and the following section substituted therefor :—

- “Require- 31A. (1) No licence shall be granted under this Part for the operation of a unit trust, unless—
ments to be
complied
with for the
purpose of
granting a
licence to
operate a
unit trust.
- (a) the trustee has been approved by the Commission ; and
(b) the managing company complies with the terms and conditions set out in Part IV of the Schedule hereto.
- (2) Notwithstanding the provisions of paragraph (a) of subsection (1), where the trustee approved by the Commission is replaced by the appointment of a new trustee after the issue of a licence, such licence shall be deemed to be valid and continue in force until the new trustee is approved by the Commission.”.

22. The following new section is hereby inserted immediately after section 31A and shall have effect as section 31B of the principal enactment :—

- “Withdrawal 31B.(1) The Commission shall withdraw the approval of a trustee of a unit trust where the
of approval
of a trustee.
- Commission is satisfied that the trustee of that unit trust—
(a) has acted in breach of any provision of this Act or any rules or regulations made thereunder ;
(b) has ceased to be of good financial standing ; or
(c) is guilty of malpractice or irregularity in the management of its affairs.
- (2) Upon withdrawal of any approval under subsection (1), the trustee shall be deemed to have retired but such retirement shall not take effect until a new trustee duly approved by the Commission has been appointed. ”.

23. Section 31C of the principal enactment is hereby amended by the substitution for the words “under section 31A the Commission,”, of the words “under section 31, the Commission,”.

24. Section 31D of the principal enactment is hereby amended as follows :—

- (1) by the repeal of subsections (1), (2), (3) and (4) of that section, and the substitution therefor of the following subsections :—
- “ (1) The Commission shall cancel or suspend the licence granted to a managing company in respect of a particular unit trust, where the Commission is satisfied that —
(a) the managing company of such unit trust has acted in breach of any provision of this Act or any rules or regulations made thereunder ;
(b) the managing company of such unit trust has ceased to be of good financial standing ;
(c) the managing company of such unit trust is guilty of malpractice or irregularity in the management of its affairs ;
(d) the managing company of such unit trust has been dismissed by the trustee of a unit trust ; or
(e) the approval granted to the trustee of such unit trust has been withdrawn by the Commission under section 31B and a new trustee has not been approved by the Commission.
- (2) Before the cancellation of a licence granted to a managing company in respect of a particular unit trust in terms of the preceding subsection, such managing company shall be given an opportunity to show cause as to why such licence should not be cancelled.
- (3) Where the licence granted to a managing company in respect of a particular unit trust is cancelled, it shall be the duty of such managing company to forthwith surrender its licence to the Commission.
- (4) Where the Commission is satisfied that the managing company in respect of a particular unit trust has contravened the provisions of paragraph (a), (b) or (c) of subsection (1) and that such contravention is not considered by the Commission as being of a serious nature, it may, in lieu of acting under subsection (1), direct such managing company to take whatever action the Commission may consider appropriate to —

- (a) rectify or set right the condition resulting from such contravention ; or
- (b) to comply with the provisions of this Act or any rule or regulation made under this Act or to desist from continuing such contravention.”.

(2) in subsection (5) of that section by the substitution for the words “trustee or managing company” wherever those words occur in that subsection, of the words “managing company” ;

(3) by the substitution for the marginal note to that section, of the following marginal note :—
“Cancellation of a licence granted to a managing company”.

25. Section 31E of the principal enactment is hereby amended as follows :—

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection :—

“ (1) Any person aggrieved by a decision of the Commission —

(a) refusing to grant a licence under section 31C ; or

(b) cancelling or suspending a licence under section 31D,

may appeal against such decision to the Court of Appeal, within fourteen days from the date on which the decision was communicated to such person.”;

(2) by the repeal of subsections (2) and (3) of that section ;

(3) by the re-numbering of subsections (4) and (5) of that section, as subsections (2) and (3) thereof ; and

(4) in the re-numbered subsection (3) of that section by the substitution for the words “the decision of the Secretary to the Ministry of the Minister”, of the words “the decision of the Commission”.

26. Section 31F of the principal enactment is hereby amended as follows :—

(1) in subsection (1) of that section by the substitution for the words “of a licensed unit trust”, of the words “relating to a unit trust” ; and

(2) in subsection (2) of that section by the substitution for the words “a licensed unit trust”, of the words “a unit trust”.

27. Section 31G of the principal enactment is hereby amended by the substitution for the words “his” and “person” wherever they appear in that section of the words “its” and “managing company”, respectively.

28. Section 31H of the principal enactment is hereby repealed and the following section substituted therefor :—

“Restriction on the use of the words ‘unit trust’.” 31H. No person shall use the words “unit trust” unless he has been licensed to operate such unit trust under section 31C.”.

29. Section 31I of the principal enactment is hereby repealed and the following section is substituted therefor :—

“Restriction on issue of advertisement inviting investment in unit trust.”

31I. No person shall issue or publish or cause to be issued or published an explanatory memorandum or advertisement inviting the public to invest in units of a unit trust, unless such person has been licensed as a managing company of such unit trust and has obtained prior approval of the Commission for the contents of such explanatory memorandum or advertisement and for its issue or publication.”.

30. Section 31J of the principal enactment is hereby amended by the substitution for the words “a licensed unit trust” wherever they appear in that section, of the words “a unit trust”.

31. The following new section is hereby inserted immediately after section 33 and shall have effect as section 33A of that enactment :—

“Offences under this Part.”

33A. Any person who contravenes any provision of this Part of this Act shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one million rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment.”.

- 32.** Section 34 of the principal enactment is hereby amended in subsection (1) thereof as follows :—
- (1) by the substitution in paragraph (b) of that subsection for the words “performance of his functions.”, of the words “performance of his function ; or”; and
 - (2) by the insertion immediately after paragraph (b) of that subsection of the following new paragraph :—
 - “(c) he has access to information in relation to listed securities, which he knows, is unpublished price sensitive information and which it would be reasonable to expect him not to disclose except in the course of performing his duties.”.
- 33.** Section 35 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended in subsection (2) of that section by the substitution in paragraph (b) of that subsection for the words and figures “section 15, section 20 and section 31A”, of the words and figures “section 15, section 19A, section 20 and section 31;”.
- 34.** Section 38 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—
- (1) in subsection (1) of that section, by the substitution for the words “resulting from the failure of a licensed stock broker or licensed stock dealer to meet his contractual obligations.”, of the words “as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting his contractual obligations.”; and
 - (2) in subsection (2) of that section —
 - (a) by the substitution in paragraph (b) of that subsection for the words “under section 51A.”, of the words “under section 51A;” and
 - (b) by the addition immediately after paragraph (b) thereof, of the following new paragraph :—
 - “(c) such sums of money as may be credited from the Cess Fund under section 14B.”.
- 35.** Section 40 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “due to the failure of a licensed stock broker or a licensed stock dealer to meet”, of the words “as a result of any licensed stock broker or a licensed stock dealer being found incapable of meeting”.
- 36.** Section 45 of the principal enactment is hereby repealed and the following section substituted therefor :—
- “Production of documents and disclosure of information.
45. (1) The Commission or a person authorized in that behalf by the Commission may by notice in writing require any person within such period as shall be specified in the notice, to furnish any information or produce any document (other than any information or document which is prohibited from being disclosed or produced under any law which provides for the imposition and recovery of any tax) as shall be specified in such notice and as the Commission may consider necessary for the proper exercise of its powers or the discharge of its functions under this Act.
 - (2) It shall be the duty of any person who receives a notice under subsection (1) notwithstanding anything to the contrary in any written law, comply with the requirements of such notice within the period specified therein and where in compliance with such notice such person discloses any information or produces any document which he is prohibited from doing under any written law, such disclosure or production shall, notwithstanding anything to the contrary in such written law, not be deemed to be a contravention of the provisions of such written law.
 - (3) No information furnished or the contents of a document produced, in compliance with a notice issued under this section, shall be published or communicated by the Commission to any other person, except with the consent of the person furnishing such information, or producing such document, as the case may be or in the course of the discharge of the functions of the Commission.”.
- 37.** Section 46 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—
- (1) by the repeal of subsections (1), (2) and (3) of that section and the substitution therefor of the following subsections :—

- “ (1) The Commission may establish a Committee consisting of three members of the Commission to hear and determine—
- (a) complaints by any person relating to the professional conduct or activities of a licensed stock exchange, any licensed stock broker or licensed stock dealer of such stock exchange or of any listed public company or the licensed managing company or trustee of any unit trust or a registered market intermediary ;
 - (b) complaints by any licensed stock broker or licensed stock dealer relating to the professional conduct or activities of the licensed stock exchange of which such stock broker or stock dealer is a member ;
 - (c) any matter referred to it for hearing and determination, by the Commission.
- (2) The Committee may on receipt of any written complaint made by any person, or a licensed stock broker or a licensed stock dealer, examine the documents and other evidence produced, if any, in support of such complaint and determine whether such licensed stock exchange, licensed stock broker or licensed stock dealer, or the listed public company or the licensed managing company or trustee of such unit trust or the registered market intermediary as the case may be, has contravened the provisions of this Act or any regulation or rule made under this Act or contravened any rule of such licensed stock exchange. No such determination shall be made without affording such licensed stock exchange, licensed stock broker, licensed stock dealer, the listed public company, such managing company or trustee or such market intermediary as the case may be, an opportunity of being heard.
- (3) Where the Committee determines that a licensed stock exchange, licensed stock broker, licensed stock dealer, a listed public company, licensed managing company or trustee of any unit trust or a registered market intermediary as the case may be, has contravened the provisions of this Act or any regulation or rule made under this Act or contravened any rule of such licensed stock exchange, the Committee shall recommend to the Commission the nature of the action to be taken against such licensed stock exchange, licensed stock broker, licensed stock dealer, the listed public company, managing company, trustee or the market intermediary, as the case may be. The Commission shall have the discretion either to take appropriate action to give effect to such recommendations or to refer the matter for further investigation to the appropriate authority.”;
- (2) by the insertion immediately after subsection (3) of that section, of the following new subsection :—
- “ (3A) Notwithstanding the preceding provisions of this section, the Committee shall also have the power to inquire into any matter referred to it by the Commission and upon the conclusion of such inquiry recommend to the Commission the nature of the action that may be taken in relation to such matter.”;
- and
- (3) in subsection (4) of that section by the substitution for the words and figures “under subsection (3),”, of the words and figures “under subsection (3) or subsection (3A), as the case may be,”.

38. The following new section is hereby inserted immediately after section 46 and shall have effect as section 46A of the principal enactment :—

- | | |
|--------------------------------|---|
| “Inquiries and investigations. | 46A.(1) The Commission or any person duly authorized in that behalf by the Commission, may carry out such investigations or hold such inquiries as it or he may consider necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the commission under this Act and for such purpose summon and call upon any person to appear before it or him to give evidence or to produce any books or documents in the possession or control of such person, as are required for the purpose of such investigation or inquiry. |
| | (2) For the purpose of carrying out an investigation or inquiry under subsection (1), the Commission may authorize in writing any officer to enter at all reasonable hours of the day any premises of a licensed stock exchange, any licensed stock broker, any licensed stock dealer, any listed public company, licensed managing company of any unit trust, a |

registered market intermediary, and inspect and take copies of any records required to be kept under this Act or under any regulation or rule made under this Act or any other law in respect of such business.

- (3) Any person summoned or called upon to appear before the Commission or any person duly authorized in that behalf under subsection (1), may be examined orally and any statement made by the person so examined may be reduced to writing. Every such statement reduced to writing shall be signed by the person so examined provided that prior to signing the same, such statement shall be shown or read to such person or if he does not understand the language in which it is written it shall be interpreted to him in a language he understands and he shall be at liberty to explain or add to the same.
- (4) Every person who fails to appear before the Commission or the person authorized, as the case may be, when required to do so under subsection (1), or who refuses to answer any question put to him by the Commission, or a person duly authorized by the Commission or who refuses to produce any book or document in his possession or control when required to do so, or knowingly gives any false answer to any question put to him by the Commission or a person duly authorized by the Commission, shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a term of imprisonment of either description not exceeding five years or to a fine not exceeding one million rupees or to both such imprisonment and fine.”

39. Section 47 of the principal enactment is hereby amended by the substitution for the words “for the purposes of the Penal Code.”, of the words “for the purposes of the Penal Code and of the Code of Criminal Procedure Act, No. 15 of 1979.”.

40. The following new section is hereby inserted immediately after section 50 and shall have effect as section 50A of the principal enactment :—

“Threatening, 50A. Any person or body of persons who —
intimidating,
defaming
members of the
Commission
&c.

- (a) threatens or intimidates; or
- (b) makes any derogatory remarks or publishes any statement with a view to bringing disrepute or defaming the reputation of,
any member of the Commission, the Director-General or any other officer or servant of the Commission in the course of discharging his, duties under the Act or under any regulation or rule made under this Act, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.”.

41. Section 51 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—

- (1) in subsection (1) of that section by the repeal of paragraph (b) of that subsection and the substitution thereof of the following paragraph :—
 - “(b) furnishes or produces, for the purposes of this Act or any requirement imposed under the provisions of this Act or of any regulation or any rule made thereunder, any information which is, or any return, document or statement, the contents of which are, to his knowledge, untrue, incorrect or misleading ; or”;
- (2) in subsection (2) of that section by the substitution for all the words from “shall be liable on conviction” to the end of that subsection, of the words “shall be liable on conviction after summary trial by a Magistrate to of imprisonment of either description for a period not exceeding five years or to a fine not less than fifty thousand rupees and not exceeding ten million rupees or to both such imprisonment and fine.”.
- (3) by the addition immediately after subsection (2) of that section, of the following new subsection :—
 - “(3) Where any offence under this Act is committed by a body corporate, any person who is at the time of the commission of the offence, a director, manager, secretary or other similar officer of the body

corporate shall be deemed to be guilty of that offence unless he proves that such offence was committed without his knowledge or connivance or that he exercised all due diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and all the circumstances of the case.”.

42. Section 53 of the principal enactment as amended by Act, No. 26 of 1991, is hereby further amended, in subsection (1) of that section as follows :—

- (1) by the repeal of paragraph (a) of that subsection and the substitution therefor of the following paragraph :—
 - “ (a) listing and trading of securities in a licensed stock exchange and the subsequent issue of any additional securities by way of rights or bonus or otherwise, by listed public companies ; ” ;
- (2) in paragraph (b) of that subsection, by the substitution for the words “by licensed stock brokers and stock dealers about share transactions and transactions relating to units in a licensed unit trust by”, of the words “by licensed stock brokers and licensed stock dealers about security transactions and transactions relating to units in a unit trust by” ;
- (3) by the repeal of paragraph (c) of that subsection and the substitution therefor of the following paragraph :—
 - “ (c) proper maintenance of books, records, accounts and audits by a licensed stock exchange, licensed stock broker, licensed stock dealer, the licensed managing company of a unit trust or a registered market intermediary and regular reporting by such licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company or registered market intermediary to the Commission of their affairs ; ” ;
- (4) in paragraph (d) of that subsection by the substitution for the words “licensed stock broker and stock dealer and the managing company of a licensed unit trust;”, of the words “licensed stock broker, licensed stock dealer, the licensed managing company of a unit trust and a registered market intermediary ;”;
- (5) by the repeal of paragraph (f) of that subsection and the substitution therefor of the following paragraph :—
 - “ (f) a code of conduct to be observed by the trustee and the licensed managing company of a unit trust ; ” ;
- (6) in paragraph (g) of that subsection, by the substitution for the words “to be made”, of the words “to be made;”;
- (7) by the addition immediately after paragraph (g) of that subsection, of the following new paragraphs :—
 - “ (h) the capital requirements, staff qualifications, record keeping and other documentation systems to be followed by licensed stock brokers, licensed stock dealers, licensed managing companies of a unit trust and registered market intermediaries ;
 - (i) the form and contents of advertisements proposed to be issued by a licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company of a unit trust, a registered market intermediary, a listed public company or a public company which has applied for listing and information to be contained in such advertisements ;
 - (j) the operation of securities in a margin account by a licensed stock broker, licensed stock dealer or by a registered market intermediary ;
 - (k) the business affairs and activities of registered market intermediaries in relation to listed securities ;
 - (l) disclosure and reporting and the provision of information by listed public companies ;
 - (m) rejection of applications for listing made to a licensed stock exchange and the suspension and cancellation of listing by a licensed stock exchange ; and
 - (n) the regulation of the activities of stock lenders and stock borrowers. ”.

43. Section 55 of the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—

- (1) by the insertion immediately before the definition of the expression “connected person” of the following new definitions :—
 - ‘ “advertisement” includes advertising done in any publication or by way of display of notices, signs or labels or by means of circulars, catalogues, price lists or other documents or by an exhibition of pictures

or photographic or cinematographic films or by way of sound broadcasting or television or by the distribution of recordings or in any other similar manner ;

“bonus issue” means the offer of any security or of securities to be issued in the future of a listed public company to existing security holders of such company, howsoever such offer is described or referred to, without consideration and in proportion to the securities held by them in such company on the date of such offer ; ’;

- (2) in the definition of the expression “connected person” :—
- (a) by the substitution for the words “or managing company of a unit trust,” of the words “or the licensed managing company of a unit trust”;
- (b) by the substitution in paragraph (a) thereof, for the words “or managing company”, and “or managing company;”, of the words “or the licensed managing company”, and “or the licensed managing company;” respectively;
- (c) by the substitution for paragraph (b) thereof, of the following paragraph :—
- “ (b) a company, a prescribed *per centum* or more of whose ordinary capital is owned, directly or indirectly, together by the trust company and the licensed managing company or a prescribed *per centum* or more of the total votes are exercised directly or indirectly by the trust company and the licensed managing company;”; and
- (d) by the substitution for paragraph (c) thereof, of the following paragraph :—
- “ (c) a director or officer of the trustee, or the licensed managing company of a unit trust or a company referred to in paragraph (b); ”;
- (3) by the insertion immediately after the definition of the expression “connected person” of the following new definitions :—
- ‘ “credit rating agency” means a person engaged in the business of assessing and evaluating the credit-worthiness of any issue of listed securities or securities to be listed with particular regard to the issuers ability to perform any obligations imposed on the issuer thereon;
- “investment manager” means a person who for a fee or commission engages in the business of managing a portfolio of listed securities on behalf of an investor or advises any person on the merits of investing, purchasing or selling listed securities, but shall not include the licensed managing company of a unit trust ; ’;
- (4) by the repeal of the definition of the expression “listed public company” and the definition of the expression “listed securities” and the substitution of the following definitions therefor :—
- ‘ “listed public company” means any public company which has its securities listed or quoted on a licensed stock exchange, and includes –
- (a) any public corporation which has its securities listed on a licensed stock exchange ; and
- (b) any private company which has its securities (other than shares) listed on a licensed stock exchange ;
- “listed securities” means any securities listed on a licensed stock exchange;’;
- (5) in the definition of the expression “managing company”, by the substitution for the words “in relation to a licensed unit trust means”, of the words “in relation to a unit trust means ”;
- (6) by the insertion immediately after the definition of the expression “managing company” of the following new definitions :—
- ‘ “margin account” means a brokerage account that allows an investor to buy or sell securities generally serving as collateral for the broker’s loan;
- “margin provider ” means a person who is in the business of providing credit to investors to purchase securities of a listed public company ;

“market intermediary” means an underwriter, a margin provider, a credit rating agency, or an investment manager and includes a person who performs the functions of a clearing house which shall be responsible for handling all securities deposited with it and which permits or facilitates the settlement of securities transactions of a licensed stock exchange ;

“offer” or “offering” includes any attempt to sell or dispose of any listed securities or interest in such security for value by means of a prospectus or otherwise but does not include a *bona fide* invitation to any person to enter into an underwriting agreement with respect to any such listed securities ;

“public company” means any company other than a “private company” as defined in section 30 of the Companies Act, No. 17 of 1982 ;

“rights issue” means the offer of any shares or of shares to be issued in the future, of a listed public company to existing shareholders of such company, howsoever such offer is described or referred to, for consideration, and in proportion to the securities held by them in such company on the date of such offer, prior to their issue to the public;’;

(7) by the insertion immediately after the definition of the expression “stock exchange”, of the following new definition :—

‘ “stock borrower” means a person who is engaged in the business of borrowing listed securities;’.

(8) in the definition of the expression “stock dealer”, by the substitution for the words, “retailing securities.”, of the words “retailing of securities but shall not include an underwriter who is a registered market intermediary ;”;

(9) by the insertion immediately after the definition of the expression “stock dealer” of the following new definition :—

“stock lender” means a person who engages in the business of loaning listed securities ;

(10) in the definition of the expression “trustee”, by the substitution for the words “in relation to a licensed unit trust, means”, of the words “in relation to a unit trust, means”.

(11) by the insertion immediately after the definition of the expression “trustee” of the following new definition :—

‘ “underwriter” means any person who in connection with a public issue of securities of a listed public company or a company which has applied for a listing guarantees to purchase unsubscribed securities of such company for a fee or commission or who negotiates with such company to purchase such securities in the event of the offer being not fully subscribed and includes any person who purchases such issue from the company specifically with a view to offering such securities to the public;’.

44. The Schedule to the principal enactment as amended by Act, No. 26 of 1991 is hereby further amended as follows :—

(1) in Part I of that Schedule by the substitution for the words “a licence as a stock exchange to a body corporate”, of the words “a licence as a stock exchange to a body corporate and a renewal of such licence,”.

(2) in Part II of that Schedule —

(a) by the substitution for the words “a licence as a stock broker or stock dealer to a body corporate are —”, of the words “a licence as a stock broker or stock dealer to a body corporate and the renewal of such licence, are —”.

(b) by the substitution for item (d) of that Part of the following item :—

“ (d) that all executive directors and employees who will be dealing with clients on behalf of the applicant company, have been trained and certified by the licenced stock exchange in accordance with the requirements laid down by the licensed stock exchange and by the Commission from time to time;” and

(3) in Part III of that Schedule —

(a) by the substitution for the words “a licence as a stock broker or a stock dealer to an individual” of the words “a licence as a stock broker or a stock dealer to an individual and the renewal of such licence”;

(b) by the insertion immediately after item (b) of that Part of the following new item :—

“(bb) has been trained and certified by the licensed stock exchange in accordance with the requirements laid down by the licensed stock exchange and by the Commission from time to time ;”.

(4) by the repeal of Part IV of that Schedule and the substitution therefor of the following Part :—

“PART IV

Terms and conditions to be complied with for the purposes of the grant of a licence to a managing company to operate a unit trust and a renewal of such licence, are :—

- (a) that the trustee and the managing company of the unit trust are separate persons ;
- (b) that the trustee is not a connected person of the managing company ;
- (c) that the managing company is a company formed and registered under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter, Letters Patent ;
- (d) that the managing company has the necessary professional experience and is financially sound ;
- (e) that the Directors of the managing company are fit and proper persons ;
- (f) that an explanatory memorandum has been prepared by the managing company and approved by the Commission ;
- (g) that the trustee has been approved by the Commission ;
- (h) that the trust deed between the managing company and trustee creating the trust has been approved by the Commission ;
- (i) that the trust deed —
 - (i) sets out the restrictions on the investment of trust property ;
 - (ii) sets out the responsibilities of the trustee ;
 - (iii) provides that unit holders shall not be required to make any further payment or assume any further liability, except in circumstances, if any, set out in such trust deed ;
 - (iv) sets out the method of calculating the offer and redemption prices of units ;
 - (v) sets out the circumstances in which the redemption of units can be suspended ;
 - (vi) provides for the maintenance of a register of unit holders ;
 - (vii) contains provisions requiring the trustee, the managing company and their connected persons to disclose their interest, whenever any business in which they have a material interest is being discussed at any meeting of the trust ;
 - (viii) provides for the appointment as auditors of the unit trust of persons having the qualifications specified by rules of the Commission and empowers the Commission to require the retirement of such auditors when they cease to possess such qualifications ;
 - (ix) prohibits the trustee from retiring until a new trustee is appointed ;
 - (x) prohibits the managing company from entering into any underwriting or sub-underwriting contract on behalf of the trust, except with the approval of the trustee and the Commission ;
 - (xi) prohibits the making or granting of loans out of the trust property, except with the consent of the trustee ;
 - (xii) provides for the approval in writing of the trustee, for any transaction between the managing company or any connected person of the managing company and the trust ;
 - (xiii) provides that the consideration paid in respect of any duly created units (less any charges that the managing company is entitled to retain) shall become subject to the trust immediately on receipt of such consideration by the trustee ;
 - (xiv) provides that a certificate in respect of units shall be delivered to a third party only on the trustee being satisfied that the consideration paid for such units (less any charges that may be retained by the managing company) has been, or will be, vested in the trustee ;
 - (xv) specifies the minimum initial investment in units permitted, which amount shall be subject to the approval of the Commission ;

- (xvi) specifies the maximum initial charge which can be levied on the purchase of units, which charge shall be subject to the approval of the Commission ;
 - (xvii) provides for a deposit of security by the trustee, guaranteeing against loss due to his misconduct or negligence, where required by the Commission ; and
 - (xviii) contains such other information as the Commission may, from time to time, determine by rules made for that purpose.”.
- (5) by the insertion immediately after Part IV of that Schedule of the following new Part :—

“PART V

- A. Terms and conditions to be complied with for the purpose of granting registration as a market intermediary to an investment manager, margin provider or underwriter, which is a body corporate and the renewal of such registration are :—
- (i) that the applicant is a company formed and registered under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter or Letters Patent and a body corporate established by or under any written law ;
 - (ii) that the Directors of the applicant —
 - (a) have never been declared bankrupt ;
 - (b) have never been persons, or been Directors of a company, whose registration as a market intermediary or license as a stock broker, stock dealer or managing company of a unit trust has been cancelled or suspended by the Commission ;
 - (iii) that all Directors and employees who will be dealing with clients on behalf of the applicant possess such adequate qualifications and training as may be determined by the Commission from time to time ;
 - (iv) that the applicant is in good financial standing ; and
 - (v) that the applicant meets any other criteria that may be imposed by the Commission from time to time.
- B. Terms and conditions to be complied with for the purpose of registration as a market intermediary to an investment manager who is an individual and the renewal of such registration are, that the applicant—
- (i) is a citizen of Sri Lanka ;
 - (ii) is a fit and proper person, and has not been declared bankrupt at any time ;
 - (iii) possesses such qualifications and training as may be determined by the Commission from time to time ; and
 - (iv) meets any other criteria that may be imposed by the Commission from time to time.
- C. Terms and conditions to be complied with for the purpose of registration as a market intermediary of a body corporate which performs the functions of a clearing house and the renewal of such registration are —
- (i) that the applicant is a company incorporated under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter or Letters Patent and a body corporate established by or under any written law ;
 - (ii) that the Directors of the applicant —
 - (a) have never been declared bankrupt ;
 - (b) have never been persons or been Directors of a company whose registration as a market intermediary or licence as a stock broker, stock dealer or managing company to a unit trust has been cancelled or suspended by the Commission ;

- (iii) that the applicant is of good financial standing ;
- (iv) that a licensed stock exchange is a shareholder of the applicant ;
- (v) that the rules of the applicant make satisfactory provision —
 - (a) with respect to the conditions under which securities may be deposited, withheld, withdrawn or transferred ;
 - (b) for the holding of deposited securities ;
 - (c) for the processing of dealings in deposited securities ;
 - (d) for facilitating the settlement of deposited securities ;
 - (e) for the protection of the interests of depositors and the protection and control of information on deposited securities and dealings therein ;
 - (f) for the monitoring of compliance with, and for the enforcement of the rules of the applicant company ;
 - (g) with respect to the maintenance of a policy or policies of insurance, the obtaining of guarantees from participants and the establishment and maintenance of compensation funds, for the purpose of settling claims by depositors against the applicant ; and
 - (h) generally for the carrying on of the business of the applicant with due regard to the interests of the public ;
- (vi) that the applicant meets any other criteria that may be imposed by the Commission from time to time.

D. Terms and conditions to be complied with, for the purpose of granting registration as a market intermediary to a credit rating agency and the renewal of such registration are —

- (i) that the applicant is a company incorporated under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka or formed in pursuance of any statute of any foreign country, Royal Charter, Letters Patent and a body corporate established by or under any written law ;
- (ii) that the Directors of the applicant —
 - (a) have never been declared bankrupt ;
 - (b) have never been persons or been Directors of a company whose registration as a market intermediary or licence as a stock broker, stock dealer or managing company of a unit trust has been cancelled or suspended by the Commission ;
- (iii) that the applicant is of good financial standing ;
- (iv) that no Director, officer or employee of the applicant has been convicted of fraud or criminal breach of trust or cheating or criminal misappropriation or has been declared bankrupt or found guilty of contravening any provisions of this Act or any rules or regulations made thereunder ;
- (v) that the promoters of the applicant are, in the opinion of the Commission, persons of means and integrity and have special knowledge of matters which the company may have to deal with as a credit rating agency ;
- (vi) no Director of the applicant is a Director of a corporate entity or a business firm or a shareholder holding five *per centum* or more of any corporate entity or business firm or is in any other way interested in such an entity subject to rating by the applicant ; and
- (vii) an undertaking that no Director, officer or employee of the applicant shall communicate the information acquired by him for use of rating purposes, to any other person except when required under law to do so.”

45. The provisions of section 14A of this Act shall be deemed for all purposes to have come into operation on September 10, 1987, and accordingly any cess charged, levied and paid during the period commencing on that date and ending on the date of commencement of this Act, shall be deemed for all purposes to have been and to be validly charged, levied and paid.

46. 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. 19 OF 2003

[Certified on 9th May 2003]

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 38 OF 2000

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 19 of 2003.
2. Section 10 of the Inland Revenue Act, No. 38 of 2000 amended by Act, No. 10 of 2002 (hereinafter referred to as the “principal enactment”) is hereby further amended by the insertion, immediately after paragraph (*eee*) of that section of the following paragraph :—

“ (*eee*) the interest arising or accruing to any person, (other than a body corporate, or any other person or partnership to whom or to which such interest is arising or accruing as business income,) on any secondary market transaction in dealing with any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422) on or after April 1, 2002 :

For the purposes of this paragraph secondary market transaction includes a sale of a security, repurchase or reverse repurchase of a security after the original issue of such security ; ”.
3. Section 15 of the principal enactment as amended by Act, No. 8 of 2001 is hereby further amended by the repeal of sub-paragraph (*t*) of that section and the substitution therefor of the following sub-paragraph —

“ (*t*) the profits and income within the meaning of paragraph (*a*) of section 3 arising or accruing to any person or partnership on any secondary market transaction in dealing with any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill, issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act, (Chapter 422), on or after April 1, 2002. :

For the purposes of this paragraph secondary market transaction includes a sale of a security, repurchase or reverse repurchase of a security, after the original issue of such security ; ”.
4. Section 21A of the principal enactment (inserted by Act, No. 10 of 2002) is hereby amended as follows :—
 - (1) in subsection (1) of that section by the substitution for all the words from “for a period of three years reckoned from the commencement of the year” to the end of that subsection, of the following :—

“ for a period of five years reckoned from the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years reckoned from the date on which the undertakings, commences to carry on commercial operation which ever is earlier.”;
 - (2) in paragraph (*b*) of subsection (2) of that section by the substitution for the words “five hundred million” of the words “two hundred and fifty million” ; and
 - (3) by the repeal of sub-paragraph (*ii*) of subsection (2) of that section and the substitution therefor of the following :—

“ (*ii*) “export of non-traditional products” means the export of any goods, including deemed export of goods within the meaning of section 49, other than goods referred to in sub-paragraph (*ii*) of paragraph (*b*) of section 52, not less than eighty *per centum* of the total turnover of such undertaking for any year of assessment. ” .
5. Section 21B of the principal enactment (inserted by Act, No. 10 of 2002) is hereby amended in subsection (1) of that section by the substitution for all the words “not less than five years but not more than ten years”, to the end of that subsection of the following :—

“ not less than six years but not more than twelve years as may be determined by the Minister, by Order published in the *Gazette*, if the amount of the investment made by such company in such undertaking is not less than one thousand million rupees. Such period shall be reckoned, from the year of assessment in which the

undertaking commences to make profits or any year of assessment not later than two years reckoned from the date on which the undertaking commences to carry on of commercial operations, whichever is earlier.”.

6. The following new sections are hereby inserted immediately after section 21B of the principal enactment and shall have effect as sections 21C, 21D, 21E, 21F and 21G of that enactment :—

“Exemption from income tax of small scale infrastructure undertakings. 21C. (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 from any specified undertaking referred to in subsection (2), shall be exempt from income tax, for a period of five years, reckoned from the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years reckoned from the date of commencement of commercial operations, whichever is earlier.

(2) For the purposes of subsection (1) “specified undertaking” in relation to a company means an undertaking carried on by such company on or after April 1, 2002, and which is engaged in infrastructure development for the generation of power, tourism, recreation, ware housing and cold storage, garbage collection or disposal, construction of houses or construction of hospitals, and the total amount invested within one year from the commencement of the undertaking is not less than rupees ten million but not exceeding rupees fifty million.

Exemption from income tax of any company engaged in research and development. 21D. 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 which commences a new undertaking which is engaged in research and development with an investment of not less than rupees two million made within one year from the commencement of such undertaking, shall be exempt from income tax for a period of five years, reckoned from the year of assessment in which the undertaking commences to make profits or any year of assessment not later than two years, reckoned from the date on which the undertaking commences to carry on of commercial operations which ever is earlier.

For the purposes of this section “research and development” means any systematic or intensive study carried out in the field of science and technology with the object of using the results thereof for the production or improvement of materials, devices, products, produce or process (other than quality control of products or routine testing materials, devices, products or produce research in social sciences or humanities, routine data collection, efficiency surveys or management studies and market research or sales promotion).

Exemption from income tax of any company acquiring non-performing or under performing business enterprises. 21E. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits from the sale of capital assets) of a company which acquires a non-performing or under performing business enterprise engaged in a specific area of activity, to rehabilitate such enterprise subject to terms approved by the Minister and subject to adequate provision being made to meet the statutory liabilities outstanding at the time of acquisition of such enterprise, shall be exempt from income tax, for a period of three years, where the acquisition has been completed and commercial operations have commenced on or before March 31, 2004.

(2) The period of three years referred to in subsection (1), shall be reckoned from the year of assessment in which the acquired enterprise commences to make profits or any year of assessment, not later than two years reckoned from the date on which each enterprise commences commercial operations which ever is earlier.

For the purposes of this section—

“acquires” means acquiring ownership of enterprise by becoming the owner, partner or a joint venturer ;

“rehabilitation” means the recommencement of commercial operations of the enterprise on a sustainable basis ;

“specific area” means the manufacture of textiles, poultry, farming, fish rearing or any

other area as may be determined by the Minister by Order published in the *Gazette* ;

“non-performing” means the failure to carry out commercial operations ;

“under performing” means the incurring of operational losses for a period not less than two consecutive years of assessment.

Exemption from income tax of any company engaged in non-traditional products for exports which undertakes expansion. 21F. (1) The profits and income within the meaning of paragraph (a) of section 3, (other than any profits from the sale of capital assets) of any company which has an undertaking which is engaged in the manufacture and export of non-traditional products and undertakes expansion of its manufacturing undertaking of such products with an investment of not less than rupees ten million but not exceeding rupees one hundred million, shall be exempt from income tax for a period of two years where the full investment has been made on or before March 31, 2004, in respect of such expansion.

(2) The period of two years referred to in subsection (1), shall be reckoned where the undertaking, which engages in expansion—

(a) is qualified for an exemption from income tax on the export of non-traditional products, from the date on which such exemption period is due to expire ; or

(b) other than an undertaking referred to in paragraph (a) from the date on which each undertaking commences to carry on commercial operations.

For the purposes of this section “export of non-traditional products” means the export of any goods, including deemed export of any goods within the meaning of section 49, other than goods referred to in sub-paragraph (ii) of paragraph (b) of section 52, not less than eighty *per centum* of the total turnover of such undertaking for any year of assessment.

Exemption from income tax of profits and income from expansion of undertakings engaged in the manufacture or production of traditional exports or non-exportable goods. 21G. (1) The profits and income attributable to the expansion of any undertaking, of any company, which is engaged in the manufacture or production of traditional exports or non-exportable goods and which undertakes the expansion of any undertaking for the production or manufacture of such traditional export or non-exportable goods with an investment of not less than rupees ten million, shall be exempt from income tax for a period of two years where the full investment in relation to such expansion has been made on or before March 31, 2004.

(2) The period of two years referred to in subsection (1) shall be reckoned from the year of assessment in which the expansion of such undertaking commences to make profits or from April 1, 2006, whichever is earlier.

For the purposes of this section “profits and income attributable to the expansion of any undertaking” means the excess of profits and income within the meaning of paragraph (a) of section 3, (other than any profits and income from the sale of capital assets) from the production and manufacture of traditional exports or non-exportable goods during any year of assessment which is qualified for tax exemption over the annual average of the profits of such undertaking, such average, being computed taking into consideration the total profits for the period of three years immediately preceding the year of assessment in which such tax exemption period commenced .”.

7. Section 23 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended in subsection (1) of that section as follows :-

(1) in paragraph (b) of that subsection by the repeal of sub-paragraph (iii) thereof and the substitution therefor of the following sub-paragraph—

“ (iii) any motor coach acquired by such person and used in any trade, business, profession or vocation, in transporting employees of such trade, business, profession or vocation to, or from their place of work, at the rate of one hundred *per centum* of its cost of acquisition ; ” and

- (2) in paragraph (c) of that subsection by the repeal of sub-paragraph (ii) thereof and the substitution therefor of the following sub-paragraph—
- “ (ii) one-fourth of any payment made for any year of assessment on or after April 1, 2002 ; ”.
- 8.** Section 24 of the principal enactment, as last amended by Act, No. 10 of 2002 is hereby further amended in subsection (1) of that section, by the substitution in paragraph (j) of that subsection for the word and figure “section 96” of the word and figure “section 95”.
- 9.** Section 29 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended as follows :—
- (1) in subsection (1A) of that section –
- (a) substitution for the word and figure “section 122A”, wherever that word and figure appears in that section, of the words and figures “section 122A and section 122B” ;
- (b) in the proviso to that subsection by the substitution for the words “statutory income of such person.”, of the words “statutory income of such person : ” ;
- (c) by the insertion immediately after the proviso to that subsection of the following :—
- “ Provided further that the interest received or accruing to any primary dealer being a company or otherwise from which tax has been deducted under section 122A on any primary market transaction on any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), shall not be considered as receipts from any trade or business under section 3 for the purpose of computing the statutory income of such company.” ;
- (2) by the insertion immediately after subsection (1A) of that section of the following new subsection :—
- “ (1B) The assessable income of any primary dealer, on or after April 1, 2002, shall not include any interest income received or accruing where –
- (a) tax, on the total amount of such interest has been deducted under section 122A or section 122B, as the case may be ; and
- (b) such interest income has been accrued or arisen to such primary dealer in respect of a primary market transaction on any Security or Treasury Bonds issued under the Registered stock and Security Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), referred to in section 122A or any debt security issued by a company under section 122B, as the case may be.; and ;
- (3) in the proviso to subsection (2) of that section –
- (a) in sub-paragraph (c) of paragraph (iii) of that subsection by the substitution for the words “moneys worth.”, of the words “money’s worth ;”;
- (b) by the insertion immediately after paragraph (iii) of that proviso of the following paragraph :—
- “ (iv) no deduction shall be allowed in respect of any sum paid if the amount payable has already been allowed in any year of assessment commencing prior to April 1, 2002.”.
- 10.** Section 40B of the principal enactment (inserted by Act, No. 10 of 2002) is hereby amended as follows :—
- (1) in subsection (1) of that section by the substitution for the word and figure “21B” of the words and figures “section 21B or section 21D” ; and
- (2) in subsection (2) of that section by the substitution for the word and figure “section 21A”, of the words and figures “section 21A or section 21C”.
- 11.** Section 49 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “other than desiccated coconut” of the words “other than coconut oil and desiccated coconut”.

12. Section 52 of the principal enactment is hereby amended by the substitution for the words “other than desiccated coconut”, where ever such words appear in that section, of the words “other than coconut oil or desiccated coconut”.

13. Section 122 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended by the repeal of subsection (2) of that section and the substitution therefore of the following subsection :-

“ (2) Every bank or financial institution or any company which issues any debt security, which deducts income tax in accordance with the provisions of subsection (1), or subsection (1) of section 122A, or subsection (1) of section 122B respectively, from any interest paid or credited or deemed to be credited by it to any person or partnership, as the case may be, shall issue to such person or partnership a statement setting out the following particulars :-

- (a) the gross amount of the interest paid or credited or deemed to be credited ;
- (b) the rate of tax and the amount of tax deducted ;
- (c) the net amount of interest actually paid.”.

14. Section 122A of the principal enactment is hereby repealed and the following section substituted therefor :-

“Bank or financial institution to deduct income tax on interest paid. 122A.(1) Every bank or financial institution shall, subject to the provisions of this Chapter, deduct at the time the interest is paid or credited, on any sum of money deposited with it –

- (a) by any person or partnership in his or its own name or in the name of any other person or without the name of any person or partnership, other than in any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422) –
 - (i) Where the interest paid or credited on such deposit is not less than six thousand rupees per month or not less than seventy two thousand rupees for a period of twelve months on such deposit on or after April 1, 2002 but prior to January 1, 2003;
 - (ii) Where the interest paid or credited on such deposit which is not less than nine thousand rupees per month or not less than one hundred and eight thousand rupees for a period of twelve months, on such deposit, on or after January 1, 2003,

income tax at the rate of ten *per centum* on the total amount of interest paid or credited on such deposit :

Provided however the provisions of this paragraph shall not apply in respect of an institution certified by the Commissioner-General as a charitable institution, on any interest and discount which is not in excess of twelve thousand rupees a month or one hundred and forty four thousand rupees a year, paid or credited to such institution on all deposits or accounts held by such institution :

Provided further, that where a person or a partnership requests, to a bank or financial institution, in writing to deduct income tax at the rate of ten *per centum* from any interest paid or credited to such person or partnership on a sum of money deposited by such person or partnership with such bank or financial institution, then such bank or financial institution shall comply with such request, notwithstanding that the amount of interest paid or credited does not exceed the amounts specified in the preceeding provisions and such deduction of tax shall be a deduction under section 122A ;

- (b) by any person or partnership in his or its own name or without the name of any person or partnership in any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), and any discount is allowed and any interest is paid or is payable over the tenor of the period of such Security Bond or Bill,

income tax at the rate of ten *per centum* on the total amount of interest calculated at the yield to maturity over the tenor of such Security, Bond or Bill, as the case may be, at the time of the issue of such Security, Bond or Bill other than any Security, bond Bill issued prior to April 1, 2002.

For the purpose of this paragraph “the yield, to maturity of any security or treasury bond issued under the Registered stocks and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bonds Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), at the time of issue”, shall mean “the interest at the time of issue considering the issue price which may be at a premium or discount on the par value of such Security, Bond or Bill, the interest coupons, the frequency and timing of interest coupons, the maturity value and the term of maturity.”

- (2) Notwithstanding the provisions in paragraph (a) of subsection (1), in case of any savings certificate, certificate of deposit, or similar instruments or Government Rupee Loans or any deposit not in the name of any individual or jointly with any other individual to any charitable institution as certified by the Commissioner-General, income tax shall be deducted on the total amount of the discount allowed and interest paid irrespective of such amount of discount or interest.
- (3) For the purposes of a deduction of income tax under this section –
 - (a) “a sum of money deposited” means any interest bearing deposit, any form of savings certificate or certificate of deposit or any Security or Treasury Bond issued under the Registered Stocks and Securities Ordinance (Chapter 420), Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or the Central Bank Security issued under the Monetary Law Act (Chapter 422);
 - (b) “interest” in relation to a deposit of a sum of money includes interest, discount, any guaranteed income or fee assured, or any other payment accruing to the benefit of the person or partnership in whose name or on whose behalf the sum of money is deposited or to any other person on his or its behalf but does not include any interest exempt under section 10 or any interest credited or paid to any Ministry of a Minister of the Cabinet, or Department of the Government of Sri Lanka, or any Local Government Institution, or any Institution under a Provincial Council, or any foreign Government or any person exempt on such interest income under paragraph (a) of section 8 of this Act ;
 - (c) in the case of a discount allowed, interest which is equal to the amount of discount shall be deemed to have been paid at the time of such discount is allowed and in case of a bill or bond or security with interest payments over the tenor of such Bond or Bill, or security the interest shall be the yield to maturity which amounts shall be deemed to have been paid at the time of the issue of such, Bond or Bill or security.

For the avoidance of doubt it is hereby declared that “deduct at the time the interest is paid or credited” in subsection (1) shall include any amount of interest credited to any account of the depositor or any other person.”.

15. The following new section is hereby inserted immediately after section 122A of the principal enactment and shall have effect as section 122B of that enactment :—

“A company which issues corporate debt security to deduct income tax on interest. 122B.(1) Any company which issues corporate debt security shall, subject to the provisions of this Chapter, deduct at the time of payment the interest payable by such company where such payment takes place on or after November 1, 2002 on any sum of money subscribed by any person or partnership towards such debt security, whether such subscription has been made before or on or after November 1, 2002, income tax at the rate of ten *per centum* on the total amount of interest accrued and paid or credited on such debt security :

Provided however any corporate debt security issued at a discount exceeding fifty *per centum* of the par value of such security shall not be subject to the deduction of tax under

this section. Any interest or other income arising out of or in relation to such security shall be chargeable with tax, at the rate of ten *per centum*, including any secondary market transaction, involving such security notwithstanding any thing to the contrary in this Act.

- (2) Where any discount is allowed or any other guaranteed income is paid on such debt security on or after November 1, 2002 such discount or income shall be deemed to be interest paid and be liable to the deduction of income tax accordingly.

For the purposes of this section —

(a) “corporate debt security” means any debt security issued by any company —

(i) which is a limited liability company listed on the Stock Exchange ; or

(ii) where the security is listed on the Stock Exchange; or

(iii) where the paying agent for such company is a —

(A) licensed commercial bank or a financial services subsidiary thereof ; or

(B) licensed specialized bank or a financial services subsidiary thereof ; or

(C) a non-bank financial institution,

and such security shall be any interest bearing or discounted debt instrument which includes bonds, notes, mortgages and any other form of instrument or paper that obligates the company which issues such security to pay the holder of a specified sum of money on demand or during the tenor or maturity.

(b) debt security shall not include any loans, advances, over-draft or other similar facility or financial instrument issued by a bank or financial institution in the course of carrying on a business.

For the avoidance of doubt it is hereby declared that “deduct at the time of payment from interest payable”, in subsection (1) shall include any amount of interest credited to any account of the subscriber or any other person.”.

16. Section 123 of the principal enactment is hereby amended as follows :—

- (1) by the substitution for all the words “a payment referred to in section 122, then”, of the words “a payment of interest referred to in section 122, section 122A or section 122B, then ”;
- (2) in paragraph (a) of that section by the substitution for the word and figure “section 122”, of the words and figures “section 122, section 122A or section 122B”;
- (3) in paragraph (b) of that section —
 - (a) by the substitution for the word and figure “section 123”, of the words and figures “section 122, section 122A or section 122B”;
 - (b) by the substitution for the words “amount set out in such statement”, of the words “amount set out in such statement :.”; and
- (4) by the addition immediately after paragraph (b) of that section of the following :—

“ Provided however, where the total income on which tax has been deducted under section 122A or section 122B, accrues over more than one year of assessment and has not been included in full in computing the assessable income of such person for any year of assessment, then such deduction shall be restricted to the proportionate amount of tax so deducted which is attributable to the income included in the assessable income of such person in that year or any subsequent year of assessment.”.

17. The following new sections are hereby inserted immediately after section 123 of the principal enactment and shall have effect as sections 123A and 123B of that enactment :—

“A notional tax credit on secondary market transactions.	123A. Where any person is engaged in any secondary market transaction, involving any security or treasury bond issued under the Registered stock and Securities Ordinance (Chapter 420), or Treasury Bill issued under the Local Treasury Bills Ordinance (Chapter 417), or Central Bank Security issued under the Monetary Law Act (Chapter 422), referred to in section 122A
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on which the income tax has been deducted during any year of assessment at the rate of ten *per centum* at the time of issue of such Security, Bond or Bill or where such Security, Bond or Bill has been issued prior to April 1, 2002 such person is entitled to a notional tax credit at ten *per centum* of the grossed up amount of interest income from such secondary market transaction to an amount of one ninth of the same, if such interest income forms part of the assessable income of such person for that year of assessment.

For the purposes of this section “interest income from secondary market transaction” means interest income accrued or received on a outright or reverse purchase transaction on such Security, Bond or Bill from a date on or after the date of primary issue of such Security, Bond or Bill, less interest expenses on repurchase transaction with Securities, Treasury Bonds or Treasury Bills from which such interest income was earned which has been certified by an approved accountant referred to in section 99 of this Act.

Refund of income tax paid on interest liable to withholding tax. 123B. Where any person has proved to the satisfaction of the Commissioner-General that such person has already paid income tax on any interest liable to income tax at ten *per centum* under section 122A or 122B within twelve months from the date of commencement of this Act, such person shall be entitled to a refund of such income tax paid by him on such interest income other than income tax deducted under section 122A or 122B.”

18. The following new section is hereby inserted immediately after section 124 of the principal enactment and shall have effect as section 124A of that enactment :—

“Issue of directions where deductions are made under section 122A or 122B. 124A. (1) Any person or partnership from whose interest income the income tax is deductible by a bank or financial institution, or a company which issues any corporate debt security in accordance with the provisions of section 122A or 122B, as the case may be, and such interest income will form part of the assessable income of such person or divisible profit or income of the partnership, as the case may be, for any year of assessment, may, if the amount of income tax payable by him or the relevant partners for such year of assessment is less than the income tax deductible during that year of assessment under section 122A or 122B, make an application to the Commissioner-General in such form and containing such particulars as may be specified by the Commissioner-General requesting that a direction be issued to that bank or financial institution or any company which issues corporate debt security, to make the necessary adjustments in the deduction of income tax in that year of assessment.

(2) The provisions of subsection (2), subsection (3), and subsection (4) of section 124 shall *mutatis mutandis* apply to and in relation to any direction issued under subsection (1).

(3) The Commissioner-General shall not issue a direction as provided for in subsection (1) of this section unless, such excess deduction of the income tax arises as a result of losses incurred by such person or partnership which are deductible under section 29 and such amount of losses at the commencement of the relevant year of assessment exceeds the estimated total statutory income for that year on the basis of the preceding year excluding the relevant estimated interest income which is subject to the deduction of income tax under section 122A or 122B or such interest income which is subject to the income tax deduction is exempt from income tax.”

19. The following new section is hereby inserted immediately after section 125 of the principal enactment and shall have effect as section 125A of that enactment :—

“Penalty for tax avoidance. 125A. Where the Commissioner General is of the view, that any bank or financial institution which issues any debt security, or a company which issues corporate debt security not deducting tax in accordance with the provisions of section 5 122A or 122B, as the case may be, he shall after affording such bank, financial institution or any such company which issues corporate debt security an opportunity to show cause and where he is satisfied that there has been a contravention of the provisions of sections 122A or 122B, as the case may be, impose on such

bank or financial institution or the company which issues such debt security a penalty of a sum equivalent to five hundred *per centum* of the tax avoided by the contravention of the provisions of any such sections. ”.

20. Section 129 of the principal enactment is hereby amended as follows :—

- (1) by the renumbering of that section as subsection (1) ; and
- (2) by the addition immediately after the renumbered subsection (1) of that section of the following subsection :—
 - “ (2) Notwithstanding anything contained in subsection (1), where any penalty is payable under subsection (1), is outstanding on November 6, 2002—
 - (a) such penalty shall be waived in full where the tax in default has been fully paid on or before November 6, 2002 ;
 - (b) where a part of the tax in default has been paid on or before November 6, 2002, the penalty referable to the amount of the tax in default so paid, shall be waived.”.

21. The following new sections are hereby inserted immediately after section 130 of the principal enactment and shall have effect as section 130A and 130B of that enactment :—

“Person or Partnership chargeable with income tax. 130A. Where any tax has been deducted from any person or partnership in accordance with the provisions of sections 122A or 122B, such person or partnership, as the case may be, shall be a person or partnership chargeable with income tax.

Registered co-operative societies deemed to be companies. 130B. For the purposes of this Chapter, any Co-operative society registered under the Co-operative Societies Law, No. 5 of 1972, shall be deemed to be a company.”.

22. Section 186 of the principal enactment as last amended by Act, No. 10 of 2002 is hereby further amended as follows :—

- (1) in the definition of the expression of “authorized representative”—
 - (a) in sub item (iii) in item 1 (a) of that definition by the substitution for the words “Attorney-at-Law ; or” the words “Attorney-at-Law ;”;
 - (b) in sub item (iv) in item 1 (a) of the definition by the substitution for the words “employed by that person”, of the words “employed by that person ; or”;
 - (c) by the insertion immediately after sub item (iv) in item 1 (a) of the following :—
 - “ (v) a member of the Sri Lanka Institute of Taxation established under the Sri Lanka Institute of Taxation Act, No. 21 of 2000 ; ” ;
- (2) by the insertion immediately after the definition of the expression “prescribed” of the following :—

“primary dealer” means any financier or bank, appointed, by the Monetary Board of Sri Lanka, under the Local Treasury Bills Ordinance (Chapter 417) or the Registered Stocks and Securities Ordinance (Chapter 420), and functioning as a primary dealer in Treasury Bills, Treasury Bonds Registered Stock or other Security ; ”.

23. The Third Schedule to the principal enactment is hereby amended in item (12) of that Schedule by the substitution for the word, figure and letter “section (1) (r)” of the word, figures and letter “section 23(1) (q)”.

- 24.** (1) The amendments made to sections 10, 15, 21A, 21B, 23, 29, 40B, 122, 122A 123 and 186 of the principal enactment by sections 2, 3, 4, 5, 9(1) (b), (c), 9(2), 9(3), 10, 13, 14, 16 and 22 of this Act, shall for all purposes be deemed ; to have come into force on April 1, 2002.
- (2) The inserted new sections 21D, 21E and 21G inserted in the principal enactment by section 6 of this Act, shall for all purposes be deemed to have come into force on April 1, 2003.

- (3) The amendments made to sections 23, 24 and the Third Schedule to the principal enactment by sections 7(2), 8 and section 23 of this Act, shall for all purposes be deemed to have come into force on April 1, 2000.
- (4) (a) The amendment made to section 29 of the principal enactment by section 9(1) (a) of this Act, and
(b) The new section 122B inserted in the principal enactment by section 15 of this Act,
shall for all purposes be deemed to have come into force on November 1, 2002.
- (5) The amendment made to section 49 and 50 of the principal enactment by sections 11 and 12 of this Act, shall for all purposes be deemed to have come into force on January 1, 2003.
- (6) The amendment made to section 129 of the principal enactment by section 20 of this Act, shall for all purposes be deemed to have come into force on November 6, 2002.
- (7) (a) section 21F, inserted in the principal enactment by section 6, of this Act shall be deemed for all purposes to have come into force on October 1, 2002;
(b) sections 21C, 123A, 123B, 124A, 125A, 130A and 130B inserted in the principal enactment by sections 6, 17, 18, 19 and 21 respectively of this Act
shall for all purposes be deemed to have come into force on April 1, 2002.
- 25.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

FINANCE ACT, NO. 25 OF 2003

[Certified on 20th August, 2003]

AN ACT TO PROVIDE FOR THE IMPOSITION OF A LEVY ON THE ISSUE OF AIRLINE TICKETS AND TICKETS IN RESPECT OF A VOYAGE BY SHIP ; TO REPEAL THE EMBARKATION TAX ACT, NO. 19 OF 1961 AND TO AMEND THE AIR NAVIGATION ACT (CHAPTER 365) ; TO PROVIDE FOR A LEVY ON THE TURNOVER OF INSTITUTIONS LICENSED UNDER THE TOURIST DEVELOPMENT ACT, NO. 14 OF 1968 ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

- 1.** This Act may be cited as the Finance Act, No. 25 of 2003 and shall come into operation on September 1, 2003.

PART I

EMBARKATION LEVY

- 2.** (1) From and after the date of commencement of this Act, there shall be charged and levied a levy to be called the Embarkation Levy calculated in United States Dollars of such amount as the Minister may determine by Order published in the *Gazette*, in respect of —
- (a) every airline ticket issued outside Sri Lanka to passengers who will embark on a flight leaving Sri Lanka or in respect of every airline ticket issued in Sri Lanka to persons leaving Sri Lanka, the equivalent thereof in Sri Lanka rupees, calculated at such rate of exchange as may be determined by the Competent Authority with the approval of the Secretary to the Treasury :
Provided however, no embarkation levy shall be charged and levied in respect of an airline ticket issued outside Sri Lanka to a transit passenger of that aircraft ; and
- (b) every ticket issued in respect of a passenger embarking a ship leaving Sri Lanka.
- For the purposes of this subsection “transit passenger” means a passenger who departs from Sri Lanka on a connecting flight within twenty-four hours of arrival.

- (2) The provisions of subsection (1) shall not apply in the case of—
 - (a) children who are less than two years of age ;
 - (b) officers and members of the crew of that aircraft or ship ;
 - (c) such other persons as may be prescribed.
 - (3) An Order made by the Minister in terms of subsection (1) may be amended, altered or varied by a subsequent Order which shall be published in the *Gazette*.
3. The operator of every aircraft or ship shall collect the embarkation levy and pay such levy to the Government of Sri Lanka in such manner as may be determined by the Competent Authority. It shall be the duty of every operator to comply with such determination.
4.
 - (1) The embarkation levy collected in respect of a half-month period by the operator of an aircraft or ship from a person leaving Sri Lanka by that aircraft or ship as the case may be, shall be paid to the Competent Authority in the manner determined by the Competent Authority with the approval of the Deputy Secretary to the Treasury. Any dispute which may arise in respect of such payment as between the Competent Authority and the operator, shall be settled according to the applicable law.
 - (2) In case of a dispute between the Competent Authority and the operator on the number of passengers liable to pay the embarkation levy, the operator shall pay the embarkation levy in accordance with the figures forwarded by the Competent Authority, subject to his right to forward to the Competent Authority any other documentary evidence in his possession to substantiate his claim.
 - (3) Where the embarkation levy due for any half-month period is not paid to the Competent Authority by the operator of the aircraft in question in accordance with the preceding provisions of this section, it shall be deemed to be in default and an interest calculated on the average rated prime lending rate in any given month, plus two *per centum*, shall be added to that amount, so however, that for each month of default, interest at the above rate shall be charged and recovered on the total amount in default.
5.
 - (1) The Competent Authority shall disburse the money collected under this Part in accordance with such instructions as may, be issued from time to time by the Deputy Secretary to the Treasury.
 - (2) The Competent Authority shall furnish a monthly return of the amount collected as Embarkation Levy with all other relevant details to the Deputy Secretary to the Treasury. The Deputy Secretary to the Treasury may, where he considers it necessary, call for such other information or clarification in respect of any matter arising out of such return.
6. The operator of any aircraft or ship shall, when requested to do so by the Competent Authority, furnish to the Competent Authority such information as is within the knowledge of that operator in regard to the passengers transported from Sri Lanka by that aircraft or ship as the Competent Authority may require for the purposes of this Act.
7.
 - (1) An operator shall maintain proper records of passengers embarking on an aircraft or ship, as the case may be, under the control of an operator, and of the embarkation levy collected by the operator.
 - (2) Records relating to the payment and collection of the embarkation levy shall be maintained separately from any records relating to other payments made to the operator.
 - (3) The records required to be maintained under subsection (1), may be destroyed by the operator after a period of two years with the consent of the Competent Authority.
8.
 - (1) An operator shall furnish returns in the form specified by the Competent Authority, giving details of passengers of any aircraft or ship, under the control of the operator and departures of such aircraft or ship and such other information relating to the embarkation levy or the collection of the embarkation levy as the Competent Authority may require. Every such return shall be filled in triplicate and one copy thereof forwarded by the operator to the Deputy Secretary to the Treasury.
 - (2) Nothing in subsection (1) shall derogate from or affect the obligation of an operator, under any other law for the time being in force to furnish information on aircraft operations or operations in relation to a ship designated under such law.

- (3) Where an operator fails to provide proper returns as required by the Competent Authority, the Competent Authority may require the operator to pay as embarkation levy such amount as is calculated on the total number of passengers in the passenger manifest of the aircraft or ship.
- (4) Where a flight or passage is totally omitted from the information provided, the embarkation levy will be computed and the operator shall be charged on the total seating capacity of such flight or voyage.
9. (1) For the purposes of verifying the correctness of any information furnished by an operator of an aircraft or ship in pursuance of this Act, or for the purpose of securing compliance with the provisions of this Act or of any regulation made thereunder, the Competent Authority may—
- (a) enter any premises in Sri Lanka used by such operator for the purposes of his business as a carrier of passengers by aircraft or ship ; and
- (b) inspect and take copies of any record of the—
- (i) passengers transported from Sri Lanka by any aircraft or ship of that operator ; and
- (ii) embarkation levy collected by such operator as is kept by that operator (whether in pursuance of this Act or otherwise) in relation to his business.
- (2) The Competent Authority or any person authorised by him in writing may, for the purpose of securing compliance with the provisions of this Act or of any regulations made thereunder, enter on board any aircraft or ship arriving in or departing from Sri Lanka and require the captain of that aircraft or ship to produce for inspection by the Competent Authority any document which contains information regarding the passengers to be transported by that aircraft or ship, as the case may be.

10. In this Part unless the context otherwise requires—

“Captain” in relation to an aircraft or ship means the person for the time being in charge, command or control of that aircraft or ship ;

“Competent Authority” with reference to all matters in relation to the charging of the embarkation levy from persons leaving Sri Lanka—

- (a) by aircraft, means the Director-General of the Civil Aviation Authority appointed under section 11 of the Civil Aviation Authority of Sri Lanka Act, No. 34 of 2002;
- (b) by ship means the Director of Merchant Shipping appointed under the Merchant Shipping Act, No. 52 of 1971 ;

“operator” in relation to —

- (a) an aircraft, means the owner, a person acting on behalf of the owner or Captain of that aircraft ; and
- (b) a ship, means the owner, a person acting on behalf of the owner and in possession of a license under the Licensing of Shipping Agents Act, No. 10 of 1972, or the Captain of that ship ;

“passenger manifest” means a list of passengers authenticated by the operator and carried on board an aircraft during flight or a ship during a voyage, from one destination to another.

PART II

TOURISM DEVELOPMENT LEVY

11. From and after the date of commencement of this Part of this Act, there shall be levied from every institution licensed under the Tourist Development Act, No. 14 of 1968, a levy of one *per centum* on the turnover of such institutions in any year, to be called the Tourism Development Levy.
12. (1) The levy imposed under section 11 shall be paid in such manner as may be prescribed by the relevant Minister in consultation with the Minister in charge of the subject of Finance and collected by the Director-General of the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966.
- (2) The Director-General of the Ceylon Tourist Board shall retain the entirety of the Levy collected under subsection (1). He shall also furnish such returns in such manner as may be prescribed in that behalf to the Deputy Secretary to the Treasury, within thirty days of the date on which such amount is collected.

13. For the purposes of this Part, “turnover” in relation to—

- (a) a tourist hotel, means the amount received or receivable from the total sales excluding the service charge upto ten per centum of such sales and the value added tax charged on such sales in terms of the Value Added Tax Act, No. 14 of 2002;
- (b) a travel agent, means the total receipts from services provided in relation to the tourist industry excluding payments made by him in respect of services provided to him by other local service providers and the value added tax charged on such services in terms of the Value Added Tax Act, No. 14 of 2002;
- (c) a tourist shop, means the amount received or receivable from the total sales of products from any such shop excluding the value added tax charged on such sales in terms of the Value Added Tax Act, No. 14 of 2002.

PART III

REPEAL OF THE EMBARKATION TAX ACT, NO. 19 OF 1961 AND AMENDMENT OF AIR NAVIGATION ACT

14. The Embarkation Tax Act, No. 19 of 1961 is hereby repealed.

- 15.** (1) All persons in possession of airline tickets or tickets in relation to passage by ship, purchased prior to September 1, 2003, where the travel on such ticket takes place after September 1, 2003, and on which the embarkation levy specified under section 2 had not been collected shall be required to pay the amount due as embarkation levy under this Act, to an officer authorised in writing by the Competent Authority at the airport or port of departure as the case may be. An endorsement that the embarkation levy has been duly paid shall be made on the ticket by an officer authorised in writing by the Competent Authority.
- (2) Any person who refuses to pay the embarkation levy when requested to do so in terms of subsection (1), shall not be permitted to board the aircraft or ship, as the case may be.
- (3) An officer authorised in writing by the Competent Authority who fails to collect the embarkation levy in terms of subsection (1) shall be liable to a fine of rupees five hundred in respect of each ticket in relation to which the levy had not been collected.
- (4) The amount collected as embarkation levy under this section, shall be paid to the Competent Authority daily, by the officer authorised in writing by the Competent Authority. The Competent Authority shall credit such amount to the Consolidated Fund. A return containing the information in relation to such levy shall be sent weekly to the Deputy Secretary to the Treasury.

16. Section 23 of the Air Navigation Act (Chapter 365), is hereby amended as follows :—

- (1) by the repeal of subsection (2A) of that section ; and
- (2) in subsection (3) of that section by the omission of the words, “(including the embarkation taxes collected by him under section (2A) :”.

PART IV

GENERAL

- 17.** (1) The Minister may make regulations in respect of all matters which are required to be prescribed or for which regulations are authorized to be made under this Act.
- (2) Without prejudice to the generality of the foregoing, the Minister may by regulation provide for —
- (a) the mode and manner of the payment and collection of the embarkation levy by the operator ;
 - (b) the amount of any deposit or bank guarantee for such duration not exceeding one year to be made or given to the Competent Authority by the operator ;
 - (c) the procedure to be followed in the disbursement of the levies collected under this Act ;
 - (d) the making of returns for the purposes of this Act and the form of such returns ;
 - (e) the mode and manner of payment and collection of the Levy from institutions licensed under the Tourist Development Act, No. 14 of 1968.

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

INLAND REVENUE (SPECIAL PROVISIONS) (AMENDMENT) ACT, NO. 31 OF 2003

[Certified on 22nd October, 2003]

AN ACT TO AMEND THE INLAND REVENUE (SPECIAL PROVISIONS) ACT, NO. 10 OF 2003

1. This Act may be cited as the Inland Revenue (Special Provisions) (Amendment) Act, No. 31 of 2003.
2. Section 2 of the Inland Revenue (Special Provisions) Act, No. 10 of 2003 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section, as follows :—
 - (1) by the substitution for the words and figures “to the Commissioner-General on or before June 30, 2003” of the words and figures “to the Commissioner-General on or before August 31, 2003” ; and
 - (2) by the substitution for the words and figures “may make a declaration under section 2” in the proviso to that subsection of the words and figures “may make a declaration on or before August 31, 2003, which shall be considered to be a declaration made under subsection (1) of section 2”.
3. Section 11 of the principal enactment is hereby amended in the proviso to subsection (2) of that section, by the substitution for the words “within a period of three months from the date of the coming into operation of this Act” of the words and figures “on or before August 31, 2003”.
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. 37 OF 2003

[Certified on 14th November, 2003]

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 38 OF 2000

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 37 of 2003.
2. Section 2 of the Inland Revenue Act, No. 38 of 2000 (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “specified in the First, Second and Third Schedules to this Act,”, of the words “specified in the First, Second, Third, Fourth, Fifth and Sixth Schedules to this Act,”.
3. Section 4 of the principal enactment is hereby amended in subsection (1) of that section as follows :—
 - (1) in the proviso to paragraph (d) of that section by the substitution for the words “shall be disregarded.”, of the words “shall be disregarded ; ” ; and
 - (2) by the insertion immediately after paragraph (d) of the proviso to that subsection of the following paragraph :—

“ (e) the value at the time of its disposal, of any share of a company, received as a benefit, from the employer or on behalf of the employer at no cost or at a price which is less than the prevailing market value of such share of a company whether directly or through a share option scheme ;

The value at the time of its disposal of such share shall be the surplus over the cost of acquisition of such share —

 - (i) in the case of a sale, the sale price or the market value, of such share as at the date of sale, whichever is higher ;
 - (ii) in the case of a disposal, otherwise than by way of sale, the market value of such share as at the date of disposal ;

- (iii) in the case of an employee ceasing to be in the employment of such employer, without selling or disposing of such share, the market value as at the last date of his employment with such employer which date shall be deemed to be the date of the disposal of such share :

Provided however, in the event of the death of such employee during his period of employment with such employer the value of such share shall be zero.

For the purpose of this paragraph the profits from employment arising in accordance with the preceding provisions shall be charged with income tax in the year of assessment during which such sale, disposal or cessation of employment took place, on the basis that such profits from the sole taxable income within the meaning of Chapter VII for that year of assessment and such tax shall be recovered in accordance with the provisions of Chapter XIV of this Act :

Provided further, that where the employer was not instrumental in the disposal of such share such employee shall pay the tax due on such profit from employment in accordance with the provisions of Chapter XIII of this Act.”.

4. Section 8 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended in paragraph (f) of that section, by the substitution for the words “for any year of assessment”, of the words and figures “for any year of assessment commencing prior to April 1, 2003”.
5. Section 9 of the principal enactment as amended by Act, No. 8 of 2001 is hereby further amended in subsection (1) of that section as follows :—
 - (1) in paragraph (j) of that subsection, by the substitution for the words “any year of assessment”, of the words and figures “any year of assessment commencing prior to April 1, 2003”; and
 - (2) in paragraph (k) of that subsection, by the substitution for the words “from all sources other than employment,”, of the words and figures “from all sources other than employment for any year of assessment commencing prior to April 1, 2003.”.
6. Section 11 of the principal enactment as amended by Act, No. 10 of 2002, is hereby further amended as follows :—
 - (1) in paragraph (f) of that section by the substitution for the word and figure “or 21B”, of the word and figures “21B, 21C, 21D, 21E, 21F, 21G or 21H”;
 - (2) in paragraph (h) of that section by the substitution for the words “within one year thereafter.”, of the words “within one year thereafter ;” ; and
 - (3) by the addition at the end of that section of the following paragraph :—

“ (i) any dividend paid to a share holder of a unit trust or a mutual fund, on or after April 1, 2003, out of the taxable profits and income of such unit trust or mutual fund.”.
7. Section 12 of the principal enactment is hereby amended as follows :—
 - (1) in paragraph (b) of subsection (1) of that section, by the substitution for the words “income accruing to the owner of a house”, of the words and figures “income accruing to the owner of any house constructed prior to April 1, 2003”;
 - (2) by the insertion immediately after subsection (1) of that section of the following subsection :—

“ (1A) There shall be exempt from income tax the income accruing to the owner of any house constructed on or after April 1, 2003, for the year of assessment, in which the construction of such house was completed and for the four years of assessment immediately succeeding that year of assessment if such house is used solely for residential purposes.”.
8. Section 15 of the principal enactment, amended by Act, No. 8 of 2001, is hereby further amended as follows :—
 - (1) in paragraph (aa) of that section, by the substitution for the words and figures “in any year of assessment commencing on or after April 1, 2001, in respect of services rendered by that company or partnership in that year of assessment outside Sri Lanka (including services relating to any construction project)” of the following—

“ in any year of assessment commencing—

- (i) on or after April 1, 2001, in respect of services rendered by that company or partnership in that year of assessment out side Sri Lanka (including services relating to any construction project) ; and
 - (ii) on or after April 1, 2003, in respect of any off-shore business which does not any way involve any goods manufactured or produced in Sri Lanka or any goods imported into Sri Lanka.”; and
- (2) in paragraph (d) of that section by the substitution for the words “by an informer as a reward”, of the words and figures “by an informer prior to April 1, 2003 as a reward”.

9. Section 21A of the principal enactment as amended by Act, No. 19 of 2003, is hereby further amended by the repeal of subsection (2) of that section, and the substitution therefor of the following subsection :—

“(2) For the purposes of subsection (1) “specified undertaking” in relation to a company means—

- (a) an undertaking carried on by a company incorporated on or after April 1, 2002, or by any company incorporated prior to April 1, 2002 as a new undertaking commenced on or after April 1, 2002 with an investment of not less than rupees two and one-half of million and which is engaged in agriculture, agro-processing, industrial and machine tool manufacturing, electronics, export of non-traditional goods or information technology and allied services ;
- (b) (i) any designated project carried on by a company, incorporated on or after April 1, 2002, or by any company incorporated prior to April 1, 2002 as a new undertaking commenced on or after April 01, 2002 with an investment of not less than rupees two and one-half of million ; or
- (ii) an undertaking having an investment in excess of rupees two hundred and fifty million, and which confirms to the prescribed guidelines :

Provided however, the amount of investment referred to in sub-paragraph (i) of paragraph (b) shall not be applicable to any Export Production Village Company.”.

In the case of a company receiving income from any other trade or business in addition to the income from any specified undertaking, the exemption provided under this section shall be applicable only in respect of the profits and income from the relevant specified undertaking.

For the purpose of this subsection—

- (i) “agriculture” means the cultivation of land with plants of any description and the rearing of fish ;
- (ii) “export of non-traditional goods” means the export of any goods, as defined in section 52 including deemed export of such goods within the meaning of section 49, not less than eighty *per centum* of the total turnover of such undertaking for any year of assessment.’.

10. The following new sections are hereby inserted immediately after section 21G of the principal enactment and shall have effect as sections 21H and 21I of the principal enactment :—

“Exemption from income tax of any venture capital company.

21H. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than profits and income from the sale of any capital asset within the meaning of paragraph (b) of subsection (7) of section 23) of any venture capital company shall be exempt from income tax, for a period of five years commencing from the year of assessment in which the company commences to carry on commercial operations, where such company invests a sum of money as specified in subsection (2), which investment shall be identified as a specific investment, for the purchase of ordinary shares in a company engaged in—

- (i) a project which is of a pioneering nature (i) and the operation of which results in, value addition and the promotion of economic development;
- (ii) a project which is engaged in the business of information technology ;
- (iii) a project which is connected to the rehabilitation of non-performing or under performing industries within the meaning of section 21E ; or

- (iv) any other project as may be specified by the Minister by Order published in the *Gazette*,

and such investment shall be for the financing of seed capital or start up or early stage financing of the investee company :

Provided however —

- (a) the venture capital company shall not have commenced commercial operations prior to April 1, 2003 ; and
- (b) the specific investment shall not be made in relation to a company which is at the time of making the first investment an associate company within the meaning of the Companies Act, No. 17 of 1982.
- (2) In order to qualify for the tax exemption provided for in subsection (1), the venture capital company shall have invested a sum—
- (i) not less than forty *per centum* of the total equity capital of such company during the second year from the year in which such company commenced its commercial operations, on or before the end of that second year ;
- (ii) not less than eighty *per centum* of the total equity capital of such company during the third year from the year in which such company commenced its commercial operations, on or before the end of that third year ;
- (iii) not less than eighty *per centum* of the total equity capital of such company during the fourth and fifth years from the year of commencement of commercial operations, on or before the end of such fourth and fifth years respectively,

in any project specified in subsection (1) :

Provided that if a company which has claimed exemption under this section fails to comply with the provisions of this subsection, or any dividends have been declared during the first two years from the year of assessment in which the company commences to carry on commercial operations the exemption afforded to such company shall be withdrawn and the assessment shall be issued for the relevant years.

- (3) Investments may be made in foreign companies, and such investments shall be considered as a specific investment for the purpose of this section, in the second year and thereafter where such investment is not more than ten *per centum* of equity capital of such company during the second year and not more than twenty *per centum* of equity capital of such company during the third year and subsequent years respectively, from the year in which such company commences its commercial operations.
- (4) During the first three years including the year in which such company commences its commercial operations any equity capital in excess of the minimum investments required by subsection (2) may be invested in Government Securities and such investment shall be considered as a specific investment.
- (5) For the purposes of this section “a venture capital company” means any company registered under the Companies Act, No. 17 of 1982 with a minimum issued share capital of rupees one hundred million and which is engaged in the business of providing equity investment in relation to any project as is specified in subsections (1), (2), (3) and (4) ; and—
- (i) which has entered into a Technical Service Agreement a management company possessing the required experience in the relevant area of investment ; or
- (ii) which has in its employment, professional staff who have been trained by foreign venture capital companies and other local staff possessing the required professional venture capital management experience.

- (6) The year of commencement of commercial operations for the purpose of this section, shall be the year in which the issued equity capital of the venture capital company has reached rupees one hundred million and shall not apply in respect of commercial operations commencing on or after April 1, 2008.

Exemption from income tax of any person engaged in the business of providing Manor Houses or Thematic Bungalows to tourists.	211.	<p>(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 person engaged in business as specified in section 2 shall be exempt from income tax, for a period of three years commencing from the year of assessment in which such person commences to make profits in such business or any year of assessment not later than two years reckoned from the date of commencement of commercial operation, which ever is earlier.</p> <p>(2) The provisions of subsection (1) shall apply to any person registered with the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 on or after April 1, 2003 under the scheme for providing accommodation to tourist in Manor Houses or Thematic Bungalows for a period of ten years from the date of registration.”.</p>
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11. Section 29 of the principal enactment as last amended by Act, No. 19 of 2003 is hereby further amended as follows :-

- (1) in subsection (2) of that section, by the insertion immediately after paragraph (d) thereof of the following paragraph :-
- “ (e) For any year of assessment commencing on or after April 1, 2003 the amount of a loss (other than any brought forward loss incurred by him from any period prior to April 1, 2003 which is deductible under this section) in any trade, business, profession or vocation shall be deducted as follows :—
- (i) any loss from a trade or business to be deducted only from the statutory income from trade and business ;
 - (ii) any loss from a profession to be deducted only from the statutory income from profession ;
 - (iii) any loss from a vocation to be deducted only from the statutory income from vocation.

Any balance loss not deductible may be carried forward and deducted from the next year of assessment and so on from the statutory income as mentioned above subject to the limitations on carry forward of losses under this section :

Provided however, the preceding provisions shall not be applicable to any loss—

- (i) if the loss represents any excess payments of annuity, ground rent, royalty or interest not deductible under section 23 ;
 - (ii) if the loss represents any allowance for depreciation or cost of renewal under section 23 ;
 - (iii) if the total statutory income from which such loss is deductible for that year of assessment does not exceed one million rupees.”;
- (2) by the insertion immediately after subsection (1B) of that section of the following new subsection :—
- “ (1C) The assessable income of any person shall not include—
- (a) any reward received by such person as an informer under any scheme for the payment of such rewards ; or
 - (b) a share of fine received by such person under any scheme for the distribution of such share of fine,
- from any Government Institution, on or after April 1, 2003, from which income tax has been deducted in accordance with Chapter XVIB.”;
- (3) in subsection (2) of that section by the substitution for the words “within such period of six years or eleven years as the case may be ;”, of the following :—
- “ within such period of six years, or eleven years, as the case may be :

Provided however, notwithstanding the provisions of paragraphs (b) or (c) the Minister may determine the maximum period for which a loss may be carried forward in relation to any specific activity considering the importance of such activity for the economic development of Sri Lanka .”; and

- (4) in paragraph (a) of subsection (3) of that section, by the substitution for the words and figures “or section 20 of this Act”, of the words and figures “or section 20 or section 21A or section 21B or section 21C or section 21D or section 21E or section 21F or section 21G or section 21H of this Act.”.

12. Section 31 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended as follows :-

- (1) in subsection (2) of that section –
- (a) in paragraph (j) of that subsection, by the substitution for the words “Minister in charge of the subject of Housing,”, of the words “Minister in charge of the subject of Housing ;”;
- (b) by the addition immediately after paragraph (j) of that subsection, of the following paragraph :-
- “ (k) fifty *per centum* of any investment of not less than rupees five hundred thousand in any year of assessment in the purchase by any person of ordinary shares, other than the existing shares, issued by a venture capital company during the period that such company is exempted from income tax under section 21H.”; and
- (2) in subsection (4) of that section :-
- (a) in paragraph (a) of that subsection –
- (i) in subparagraph (vi) of that paragraph by the substitution for the words “one hundred thousand rupees which ever is less.”, of the words “rupees one hundred thousand whichever is less ;”;
- (ii) by the insertion immediately after subparagraph (vi), of that paragraph of the following subparagraph –
- “ (vii) in respect of all qualifying payments referred to in paragraph (k) of subsection (2) made by him in that year of assessment, shall not exceed one third of his assessable income or such qualifying payment which ever is less.”;
- (b) in paragraph (b) of that subsection –
- (i) in subparagraph (i) of that paragraph by the substitution for the word and letters “paragraphs (b) and (h)”, of the word and letters “paragraphs (b) and (h) and (k)”;
- (ii) in subparagraph (ii) of that paragraph by the substitution for the words “ten million rupees.”, of the words “ten million rupees ;”;
- (c) by the addition at the end of sub-paragraph, (ii) of paragraph (b) of the following sub-paragraph :-
- “ (iii) in respect of all qualifying payments referred to in paragraph (k) of subsection (2) made by that company shall not exceed one fifth of its assessable income or such qualifying payment which ever is less.”.

13. Section 32 of the principal enactment as amended by Act, No. 10 of 2002 is hereby further amended in the proviso to subsection (2) of that section by the substitution for the words “such sum shall be treated as a capital gain,”, to the end of that proviso of the following :-

“such sum –

- (i) is a capital gain within the meaning of this Act which is chargeable with tax at the rate of a maximum of twenty five *per centum* for any year of assessment commencing prior to April 1, 2002 ;
- (ii) is income from employment which shall be chargeable with tax at the appropriate rate specified in the First Schedule for any year of assessment commencing on or after April 1, 2002.”.

14. Section 33 of the principal enactment is hereby amended in paragraph (a) of subsection (2) of that section, by the substitution for the words “at the rate of ten *per centum*.”, of the words “at the appropriate rate specified in the Sixth Schedule to this Act.”.

- 15.** Section 34 of the principal enactment is hereby amended in subsection (2) of that section as follows :—
- (1) in paragraph (a) of that subsection by the substitution for the words “at the rate of fifteen *per centum*”, of the words and figures “at the rate of fifteen *per centum* for any year of assessment commencing prior to April 1, 2003 and at the appropriate rates specified in the Sixth Schedule to this Act, for any year of assessment commencing on or after April 1, 2003,” and
 - (2) In paragraph (b) of that subsection, by the substitution for the words “fifteen *per centum*” of the words “ten *per centum*”.
- 16.** Section 35 of the principal enactment is hereby amended by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate specified in the Sixth Schedule to this Act.”.
- 17.** Section 36 of the principal enactment is hereby amended by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate specified in the Sixth Schedule to this Act.”.
- 18.** Section 37 of the principal enactment is hereby amended as follows :—
- (1) in subsection (1) of that section by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the rate specified in Part II of the First Schedule to this Act.”; and
 - (2) in subsection (2) of that section by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the rate specified in Part II of the First Schedule to this Act.”.
- 19.** Section 38 of the principal enactment is hereby amended by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate specified in the Sixth Schedule to this Act.”.
- 20.** Section 39 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “and the rate of income tax” to the end of that subsection, of the words “such specified profits shall be chargeable with tax at the appropriate rates specified in the Sixth Schedule to this Act notwithstanding anything to the contrary in other provisions of this Act.”.
- 21.** Section 40 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate specified in the Sixth Schedule to this Act.”.
- 22.** Section 40A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “at the rate of twenty *per centum*.” of the words “at the appropriate rate as specified in the Sixth Schedule to the Act.”.
- 23.** Section 40B of the principal enactment is hereby amended as follows :—
- (1) in subsection (1) of that section, by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate as specified in the Sixth Schedule to the Act.”; and
 - (2) by the addition at the end of that section of the following new subsection :—
 - “ (3) The profits and income within the meaning of paragraph (a) of section 3 of any company referred to in section 21E for any year of assessment commencing after the expiry of the period during which the profits and income of such company were exempt from income tax shall notwithstanding any thing contained in this Act be chargeable with income tax at the rate of —
 - (a) at the appropriate rate specified in item 7, 12 or 14 of the Sixth Schedule to this Act if such company is a company engaged in any undertaking referred to in section 40 or in the export or deemed export of non-traditional goods ;
 - (b) at the appropriate rate specified in the Sixth Schedule to this Act, if such company is a company engaged in any undertaking other than undertakings and activities referred to in paragraph (a).”.
- 24.** Section 41 of the principal enactment is hereby amended as follows :—
- (1) in subsection (1) of that section —
 - (a) in item (ii) of that subsection by the substitution for the words and figures “or of Chapter VIII.”, of the words and figures “or of Chapter VIII; ”;

(b) by the insertion at the end of that subsection of the following proviso :-

“ Provided however, for any year of assessment commencing on or after April 1, 2003, any dividend referred to in sub-paragraphs (a) and (b), shall be chargeable with income tax at the appropriate rate as specified in the Sixth Schedule to this Act.” ; and

(2) in subsection (2) of that section by the substitution for the words “fifteen *per centum*”, of the words “fifteen *per centum* for any year of assessment commencing prior to April 1, 2003 and at the appropriate rate as specified in the Sixth Schedule to this Act, for any year of assessment commencing on or after April 1, 2003.”.

25. Section 42 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “for any year of assessment”, of the words and figures “for any year of assessment commencing prior to April 1, 2003.”.

26. Section 43 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “for any year of assessment”, of the words and figures “for any year of assessment commencing prior to April 1, 2003.”.

27. Section 44 of the principal enactment is hereby amended by the substitution for the words “any qualified export profits and income,”, to the end of that section, of the words “any qualified export profits and income, such income shall be chargeable with tax at the appropriate rate as specified in the Sixth Schedule to this Act.”.

28. Section 45 of the principal enactment is hereby amended by the substitution for the words “at the rate of fifteen *per centum*”, of the words “at the appropriate rate as specified in the Sixth Schedule to this Act.”.

29. Section 46 of the principal enactment is hereby amended by the substitution for the words “any qualified export profits and income” to the end of that section, of the words “ any qualified export profits and income, such income shall be chargeable with tax at the appropriate rate as specified in the Sixth Schedule to this Act.”.

30. Section 47 of the principal enactment is hereby amended by the substitution for the words “at the rate of fifteen *per centum*.”, of the words “at the appropriate rate as specified in the Sixth Schedule to this Act.”.

31. Section 48 of the principal enactment is hereby amended as follows :-

(1) in subsection (1) of that section, by the substitution for the words “notwithstanding anything to the contrary in this Act.”, of the words “notwithstanding anything to the contrary in this Act :”;

(2) by the insertion immediately after subsection (1) of that section, of the following proviso :-

“ Provided however, any dividend referred to in sub-paragraphs (a), (b) and (c) which are taxable for any year of assessment commencing on or after April 1, 2003 shall be chargeable with tax at the appropriate rate as specified in the Sixth Schedule to this Act.”;

(3) in subsection (2) of that section, by the substitution for the words “notwithstanding anything to the contrary in this Act.”, of the words notwithstanding anything to the contrary in this Act :” ; and

(4) by the addition immediately after subsection (2) of that section, of the following proviso:-

“ Provided however, any dividend referred to in sub-paragraphs (a), (b) and (c) which are taxable for any year of assessment commencing on or after April 1, 2003 shall be chargeable with tax at the appropriate rate as specified in the Sixth Schedule to this Act.”.

32. Section 48A of the principal enactment is hereby amended by the substitution for the words “in the form of shares or debentures”, to the end of that section of the following :-

“ (i) not in the form of money or an order to pay money ;

(ii) out of dividend received from another company where such dividend is not exempt from income tax under section 11 without a deduction of tax under subsection (1A) of section 61 irrespective of whether such company is entitled to deduct such tax or not,

the income from such dividend shall be charged with tax at the appropriate rate as specified in the Sixth Schedule to this Act.”.

33. The following new section is hereby inserted immediately after section 48A of the principal enactment and shall have effect as section 48B of that enactment :-

“Rate of income tax on dividend received from outside Sri Lanka. 48B. Where the taxable income of any person for any year of assessment commencing on or after April 1, 2003, includes a dividend received from outside Sri Lanka, the taxable income representing such dividend, shall be charged with tax at the appropriate rate as specified in the Sixth Schedule to this Act, subject to the provisions of any agreement for the avoidance of double taxation”.

34. Section 49 of the principal enactment is hereby amended by the repeal of paragraph (a) of subsection (1) of that section and the substitution therefor of the following paragraph :-

“(a) of any commodity (other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconut) for export by such specified undertaking without further production or manufacture by such specified undertaking ; or”.

35. Section 50 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section, by the substitution for the words “in accordance with the succeeding provisions of this section”, of the words “at the appropriate rate as specified in the Sixth Schedule to this Act.” ; and
- (2) by the repeal of subsections (2) and (3) of that section.

36. Section 51 of the principal enactment is hereby amended as follows :-

- (1) in subsection (1) of that section by the substitution for the words “in accordance with the succeeding provisions of this section.”, of the words “at the appropriate rate as specified in the Sixth Schedule to this Act.” ; and
- (2) by the repeal of subsection (2) of that section.

37. Section 52 of the principal enactment is hereby amended as follows :-

- (1) the repeal of sub-paragraph (ii) of paragraph (b) and by the substitution of the following sub-paragraph :-
“(ii) any amount receivable, whether received or not from the export of black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts ; or”
- (2) in paragraph (d) of that section by the substitution for all the words from “For the purposes of this section” and ending with “published in the *Gazette*” of the following :—
“ For the purposes of this section non-traditional goods means goods other than black tea in bulk, crepe rubber, sheet rubber, scrap rubber, latex or fresh coconuts.”.

38. The following new section is hereby inserted immediately after section 52 of the principal enactment and shall have effect as section 52A of that enactment :—

“Payment of income tax on taxable income by an individual whose employment income is exempt under paragraph (a) or (b) of subsection (1) of section 9. 52A. (1) Where any individual referred to in paragraph (a) or (b) of subsection (1) of section 9 is in receipt of profits from employment, exempt under such section and any other profits and income chargeable with income tax, for any year of assessment commencing on or after April 1, 2003, the income tax payable by such person on income chargeable with tax shall be calculated notwithstanding any other provisions of this Act, as follows –

- (2) The statutory income of such individual for any year of assessment commencing on or after April 1, 2003 shall include the income chargeable with tax and the emoluments and other benefits referred to in paragraph (a) or (b) of subsection (1) of section 9, other than benefits referred to in section 4(1)(c) which shall not be subject to the provisions of this section.
- (3) The assessable income and taxable income of such individual for each year of assessment shall be ascertained as provided for in section 29 and section 30 respectively.
- (4) The income tax on such taxable income for each year of assessment shall be calculated applying the tax rates specified in the First Schedule to this Act.

- (5) A special employment tax credit in addition to other tax credits available for each year of assessment under this Act shall be granted before granting of other tax credits, calculated as given below.
- (6) (a) For the purpose of calculating the special employment tax credit, the employment income for the relevant year which is exempt from tax under paragraph (a) or (b) of subsection (1) of section 9, shall be considered as the total statutory income of such person for such year and any deductions allowable under section 29 and any allowance due under section 30 for such year to such person shall be deducted from such total statutory income and the residue of such total statutory income, if any shall be considered as the taxable income and the tax shall be calculated applying the rates specified in the First Schedule to this Act, to such taxable income ;
- (b) The amount of tax calculated in accordance with the provisions of paragraph (a) shall be the special employment tax credit.
- (7) A special employment tax credit calculated in accordance with subsection (6) shall be deducted before taking credit for any other tax credits as may be available for set off against the tax payable on other income.
- (8) Any excess amount of such credit as may arise from the special employment tax credit shall not be refundable.”.

39. Section 53 of the principal enactment is hereby amended in subsection (1) of that section as follows :—

- (1) in paragraph (d) of that subsection, by the substitution for the words “business of life insurance.”, of the words “business of life insurance ;”;
- (2) by the addition at the end of that paragraph of the following paragraph :—
 - “ (e) in the case of any company liable to pay tax under paragraph (1) of this section at a rate not less than thirty *per centum* for any year of assessment commencing on or after April 1, 2003 an amount equal to two and one half *per centum* of the taxable income of such company and such tax to be credited to the Human Resource Endowment Fund established by the Government :

Provided however, such amount of tax shall be credited to the Consolidated Fund pending the establishment of the Human Resources Endowment Fund.”.

40. Section 57 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 substitution for the words “in that year of assessment” of the words and figures “in any year of assessment and where such year of assessment is any year of assessment commencing prior to April 1, 2003” ; and
 - (b) in sub-paragraph (ii) of that paragraph by the substitution for the words “one third of such taxable income.”, of the words “one third of such taxable income ;” ;
- (2) by the insertion immediately after paragraph (b) of that section of the following paragraph :—
 - “ (c) in any year of assessment commencing on or after April 1, 2003, where there is any remittance by such company a sum equal to ten *per centum* of the aggregate amount of the remittances by such company.” ; and
- (3) in paragraph (a) of subsection (2) of that section, by the substitution for the words “profits of the company”, of the words “profits and income chargeable with income tax, of the company and any sum received outside Sri Lanka by or on behalf of such company in relation to any trade, business, profession or vocation carried out in Sri Lanka by such company the profits of which are chargeable with income tax in Sri Lanka”.

41. Section 61 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1A) of that section by the substitution for the words “shall be entitled to deduct” of the words “shall deduct [excluding any dividend payable to any institution referred to in items (ix), (xi), (xv), (xvii),

(xx), (xxi), (xxxix), (liv), (lxiv), (lxv), (lxvi), (lxxii), (lxxiii), and (lxxiv) of section 8 (a)]” ; and

(2) in subsection (4) of that section—

(a) in paragraph (b) of the proviso to that subsection, by the substitution for the words “income tax under this Act.”, of the words “income tax under this Act ; or” ;

(b) by the insertion immediately after the proviso to paragraph (b) of the following paragraph :—

“ (c) the amount of any dividend received from any other company on or after April 1, 2002, subject to the deduction of income tax under subsection (1A).”.

42. The following new section is hereby inserted immediately after section 63 of the principal enactment and shall have effect as section 63A of that enactment :—

“Provisions of this Chapter not to apply to charitable institutions etc. 63A. The provisions of this Chapter shall not apply to, any charitable institution or any body of persons which is a body corporate and assessable under section 96.”.

43. Section 70 of the principal enactment is hereby amended by the addition immediately after subsection (3) of that section of the following subsection :—

“ (4) Any unit trust or mutual fund which engages in the business of investing in shares, securities or other investments in accordance with the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987, or any regulation or rule made thereunder, such unit trust or mutual fund shall be a unit trust or mutual fund which invest in specified areas for the purpose of this Act.”.

44. Section 96 of the principal enactment is hereby amended by the addition immediately after subsection (4) of that section, of the following subsection—

“ (5) The provisions of Chapter X shall not apply to any body of persons which is a body corporate and which is assessable for income tax under this section.”.

45. Section 98 of the principal enactment is hereby amended as follows :—

(1) in subsection (1) of that section, by the substitution for the words “the income of such child.”, of the words “the income of such child : ” ;

(2) by the insertion immediately after subsection (1) of that section of the following proviso :—

“ Provided however, the preceding provisions shall not apply to an individual whose income for any year of assessment comprises solely of one or a combination of the following—

(a) profits from employment as specified in section 4 and chargeable with income tax does not exceed rupees four hundred and twenty thousand and income tax under Chapter XIV has been deducted by the employer on the gross amount of such profit and income ;

(b) dividends chargeable with tax on which tax at ten *per centum* has been deducted under subsection (1A) of section 61 ;

(c) income from interest chargeable with tax on which income tax at the rate of ten *per centum* has been deducted under section 122A or 122B.” ;

(3) in subsection (2) of that section by the substitution for the words “an assessor” of the words “a Deputy Commissioner” ;

(4) by the insertion immediately after subsection (4) of that section, of the following subsection :—

“ (4A) Where any person receives an intimation under subsection (4), such person may within thirty days of receipt of such intimation furnish necessary particulars required to make such return a proper return and the provisions of subsection (3) shall, thereafter not apply in respect of such return.” ;

(5) by the repeal of subsection (5) of that section and substitution therefor of the following subsection :—

“ (5) Where any person carries on or exercises more than one business, trade, profession or vocation and the profits and income from such business, trade, profession or vocation are chargeable with tax at

different rates, such person shall maintain and prepare statements of accounts in a manner that the profits and income from each such activity may be separately identified.” ;

- (6) in subsection (6) of that section—
- (a) in paragraph (b) of that subsection by the substitution for the words “by such person.” of the words “by such person :”;
- (b) by the insertion immediately after paragraph (b), of that subsection of the following :
- “ Provided however, no such returns or information shall be called by an Assessor from such person after the expiry of five years from the end of the relevant year of assessment.” ;
- (7) in subsection (7) of that section—
- (a) in paragraph (b) of that subsection by the substitution for the words “regarding his income.”, of the words “regarding his income : ” ;
- (b) by the insertion immediately after paragraph (b) of that subsection of the following proviso :—
- “ Provided however, such notice shall not be issued by an Assessor after the expiry of five years from the end of the relevant year of assessment.” ;
- (8) in subsection (8) of that section—
- (a) in paragraph (c) of that subsection by the substitution for the words “class of persons.”, of the words “class of persons : ” ;
- (b) by the insertion immediately after paragraph (c) of that subsection of the following proviso :—
- “ Provided however, such notice shall not be issued by an Assessor after the expiry of five years from the end of the relevant year of assessment.” ;
- (9) in subsection (10) of that section—
- (a) by the substitution for the words “his possession.”, of the words “his possession :” ;
- (b) by the insertion immediately after that subsection, of the following proviso —
- “ Provided however, such retention by an Assessor shall not be valid after the expiry of a period of five years from the end of the relevant year of assessment.” .

46. Section 99 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) of that section, by the substitution, for the words “within the period specified in such notice”, of the words, “within the period specified in such notice, all particulars as may be necessary for the ascertainment of the statutory income in respect of any year of assessment including” ;
- (2) in the proviso to subsection (1) of that section—
- (i) in paragraph (a) of that proviso for the words “published in the *Gazette* ;and”, of the words “Published in the *Gazette*.”;
- (ii) by the insertion immediately after paragraph (a) of that proviso of the following :—
- “ For any year of assessment commencing on or after April 1, 2003, the provisions of sub-paragraph (a) shall not apply to any company other than a quoted public company, or any other company having a turnover of not less than rupees two hundred and fifty million or net profit of not less than rupees one hundred million for the year.”.
- (iii) by the addition immediately after paragraph (b) of that proviso to that subsection of the following :—
- “ For any year of assessment commencing on or after April 1, 2003, the provisions of sub-paragraph (b) shall not apply to any partnership or any person other than a company, having a turnover of less than rupees fifty million or in the case of a partnership a divisible profit of less than rupees twenty-five million or in the case of any other person a net profit of less than rupees twenty-five million for the year.” ;
- (3) by the insertion immediately after subsection (2) of that section of the following :—

“For any year of assessment commencing on or after April 1, 2003 the provisions of this subsection shall apply only to a quoted public company or any other person or partnership having a turnover of not less than rupees two hundred and fifty million or a net profit or divisible profit, as the case may be not less than rupees one hundred million for the year.”;

(4) in subsection (3) of that section —

(a) in sub-paragraph (ii) of paragraph (a) of that subsection by the substitution for the words “authorized representative ; or”, of the words “authorized representative; ” ;

(b) in sub-paragraph (iii) of paragraph (a) of that subsection by the substitution for the words “authorized representative ; and” of the words “authorized representative ; or” ;

(c) by the insertion immediately after sub-paragraph (iii) of paragraph (a) of that subsection of the following :—

“ (iv) an auditor authorized to carry out audits of co-operative societies registered under the Co-operative Societies Law, No. 5 of 1972, in relation to any such co-operative society where the turnover of such society for the year does not exceed rupees fifty million;”;

(d) in sub-paragraph (b) of that subsection by the substitution for the words “sale of capital assets”, of the words “sale of capital assets) ; and” ;

(e) by the addition at the end of that subsection of the following paragraph –

[“ (c) “net profit” in relation to any trade, business, profession or vocation means net profit ascertained in accordance with accepted commercial practices and accounting standards.”.]

47. Section 106 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “remuneration of an employee”, of the words “remuneration of an employee and remitted to the Commissioner-General as provided in this Chapter.”.

48. Section 118 of the principal enactment is hereby amended as follows :—

(1) in paragraph (ii) of the proviso to that section, by the substitution for the words “tax in default.”, of the words “tax in default ; ” ;

(2) by the addition at the end of that proviso of the following new paragraph :—

“ (iii) where any penalty is payable as at November 6, 2002 –

(A) such penalty shall be waived where the tax in default in respect of which the penalty is payable has been paid on or before such date ;

(B) where a portion of such tax in default has been paid on or before such date the portion of the penalty as is attributable to the amount of tax that has been paid shall be waived.”.

49. The following new Chapter is hereby inserted immediately after Chapter XVIA of the principal enactment, and shall have effect as Chapter XVII B of that enactment :—

‘CHAPTER XVII B

DEDUCTION OF INCOME TAX FROM, REWARD PAYMENTS MADE BY ANY GOVERNMENT INSTITUTION TO INFORMANTS AND OTHERS AND SHARES OF FINES PAID TO ANY PERSON AND LOTTERY PRIZES, WINNINGS FROM GAMBLING OR WINNINGS FROM BETTING, PAID BY ANY PERSON OR PARTNERSHIP.

“Government 132A. Where, on or after April 1, 2003 —

institution paying rewards (a) any Government institution pays a reward or distributes a share of fine to any person ;

or fines or other person or partnership (b) any person or partnership pays a lottery prize, winnings from gambling or winnings from betting to any person,

paying lottery prizes *etc.* to deduct income tax. such institution, person or partnership, as the case may be, shall deduct at the time of the payment of such reward, share of fine, a lottery prize, winning from gambling or winning from betting as the case may be, income tax at the rate of ten *per centum* on such gross payment :

Provided, however, in case of any payment referred to in paragraph (b), the tax shall be deducted only where such payment is not less than rupees five hundred thousand :

Provided further, where any person or partnership pays a lottery prize, winnings from gambling or winnings from betting, other than in cash, such person shall be liable to, pay the relevant amount of income tax on such lottery prize winnings from gambling or winnings from betting to the Commissioner-General.

Provisions of Chapter XV to apply in relation to the deduction under this Chapter.

- 132B. (1) The provisions of Chapter XV relating to the deduction of income tax from interest paid by banks and financial institutions, duties of banks and financial institutions, default in the deduction of income tax, issue of assessments of banks and financial institutions, appeals and penalty for default, shall, *mutatis mutandis*, apply to the deduction of income tax from such payments of rewards, share of fines, lottery prizes, winnings from gambling or winnings from betting as is mentioned in section 132A, duties of persons or partnerships making such reward payments, share of fine, lottery prize, winnings from gambling or winnings from betting, default in the deduction of income tax, issue of assessments on such persons and partnerships, appeals and penalty for default under this Chapter as if there were substituted in Chapter XV for the words “banks and financial institutions” of the words “any person or partnership paying any reward, share of fine, a lottery prize, winnings from gambling or winnings from betting” and for the word “interest” of the words “any reward, share of fine, lottery prize, winnings from gambling or winnings from betting” where ever they appear in that Chapter.
- (2) (a) The aggregate amount of—
- (i) rewards paid to any person during any calendar month shall be deemed to be one reward payment and the income tax on such payment shall be deducted on the last working day of each month ;
 - (ii) shares of fines paid to any person during any calendar month shall be deemed to be one share of fine payment and the income tax on such payment shall be deducted on the last working day of each month ;
 - (iii) winnings from gambling paid or winnings from betting paid per day to any person shall be deemed to be one payment of winnings from gambling or winnings from betting and the income tax on such payment shall be deducted during the course of that day ;
- (b) in the case of lottery prizes each such prize whether paid in cash or otherwise shall be considered as a separate prize.
- (3) For the purposes of this Chapter—
- “reward” means any gift made or reward paid by the Government under any scheme for the payment of rewards to the informants and others ;
 - “share of fine” means any share of fine collected and distributed or paid by the Government in accordance with any scheme for the payment of fines ;
 - “lottery prize” means any prize either in money or otherwise offered and won in any lottery conducted by any person in Sri Lanka ;
 - “winnings from gambling” means any payment received for winning in any gambling or gaming activity from any party including a casino ;
 - “winnings from betting” means any payment received for winning in any on-course or off-course betting.
- (4) Notwithstanding the provisions of section 125 the total amount of the tax deducted—
- (a) from lottery prizes shall be remitted, to the Commissioner-General on the first day of the week and where such first day of the week is not a working day on the following working day, which amount shall be the total tax deducted during the week ending on the Sunday immediately preceding the date of such remittance;

- (b) from the winnings from gambling or winnings from betting shall be remitted to the Commissioner-General, on the first day of the week and where such first day of the week is not a working day on the following working day, and the amount to be remitted shall be the total tax deducted during the week ending on the Sunday immediately preceding the date of such remittance.’.

50. Section 134 of the principal enactment is hereby amended in subsection (5) of that section as follows :—

- (1) in paragraph (b) of that subsection, by the substitution for the words “after the expiry of six years from the end of that year of assessment ;”, of the words “or where no return of income has been made, after the expiry of five years from the end of the relevant year of assessment in respect of which such return relates or such return is due ;” ;
- (2) in the second proviso to that subsection, by the substitution for the words “at any time after the end of that year of assessment”, of the words “not later than five years after the end of that year of assessment”.

51. Section 136 of the principal enactment is hereby amended as follows :—

- (1) in subsection (6) of that section, by the substitution for the words “made by an Assessor,”, of the words “made by an Assessor, other than the Assessor who made such assessment against which the appeal is preferred” ;
- (2) in the subsection (13) of that section—
 - (a) in sub-paragraph (ii) of paragraph (b) of that subsection, by the substitution for the words “the Commissioner-General or an Assessor”, of the words “the Commissioner-General or an Assessor ;”;
 - (b) by the addition at the end of paragraph (b) of that section, of the following proviso :—

“ Provided, however an appeal received by the Commissioner-General on or after April 1, 2003, shall be determined by the Commissioner-General within two years from the date of receipt of such appeal.”.

52. Section 140 of the principal enactment is hereby amended as follows :—

- (1) in subsection (10) of that section, by the substitution for the words “the Commissioner-General in writing”, of the words “the Commissioner-General in writing ;” ;
- (2) by the addition at the end of that subsection, of the following proviso :—

“ Provided, however, the Board shall make its determination or express its opinion as the case may be, within two years from the date of commencement of the hearing of such appeal :

Provided further where the hearing of any appeal has commenced at the date of commencement of this Act, the appeal shall be determined or an opinion shall be expressed within two years from the commencement of this Act.”.

53. Section 141 of the principal enactment is hereby amended by the insertion immediately after subsection (6) of that section of the following new subsection :—

- “(6A) The Court of Appeal may, pending the determination of the case stated to such court, make an interim determination as regards the amount of tax recoverable by the Commissioner-General in respect of the amount of tax in dispute on the basis of a report furnished by the Commissioner-General.”.

54. Section 144 of the principal enactment is hereby amended as follows :—

- (1) in the proviso to paragraph (b) of section (3) of that section—
 - (a) by the substitution in sub-paragraph (ii) of that proviso for the words “quarterly instalment of tax became due.”, of the words “quarterly instalment of tax became due;”;
 - (b) by the addition at the end of subparagraph (ii) thereof of the following—

“(iii) where any penalty is payable as at November 6, 2002—

 - (A) such penalty shall be waived where the tax in default in respect of which the penalty is payable, has been paid, on or before November 6, 2002 ;

(B) where only a portion of such tax in default has been paid on or before November 6, 2002 the proportionate amount of such penalty attributable to the amount of such tax paid shall be waived.” ; and

(2) by the addition immediately after subsection (12) of that section of the following subsection :—

“(12A) Where any tax held over by the Commissioner-General becomes payable, either wholly or partly on settlement of the appeal, then any amount payable shall be recovered within one year from the date of settlement of the appeal unless a case has been stated in relation to such appeal to the Court of Appeal under section 141.”.

55. The First Schedule of the principal enactment is hereby repealed and the following Schedule substituted therefor :—

“ FIRST SCHEDULE

(Section 32)

Rate of Income Tax-Individuals other than any Receivers, Trustees, Executors or Liquidators

PART I

Individuals other than those referred to in PART II

For any year of assessment commencing prior to April 1, 2002

On the first Rs. 100,000 of the taxable income	10 <i>per centum</i>
On the next Rs. 100,000 of the taxable income	15 <i>per centum</i>
On the next Rs. 100,000 of the taxable income	25 <i>per centum</i>
On the balance taxable income	35 <i>per centum</i>

PART IA

For the year of assessment commencing on April 1, 2002

On the first Rs. 180,000 of the taxable income	10 <i>per centum</i>
On the next Rs. 180,000 of the taxable income	20 <i>per centum</i>
On the balance taxable income	35 <i>per centum</i>

PART IB

For any year of assessment commencing on or after April 1, 2003.

On the first Rs. 180,000 of the taxable income	10 <i>per centum</i>
On the next Rs. 180,000 of the taxable income	20 <i>per centum</i>
On the balance taxable income	30 <i>per centum</i>

PART II

Any individual who is not a citizen of Sri Lanka and also is deemed, under subsection (7) of section 73, to be non-resident

Section 37(1) and (2) 15 *per centum*

PART III

(a) The rates of income tax applicable to certain profits from employment specified in subsection (2) of section 32—

For any year of assessment commencing prior to April 1, 2002

On the first Rs. 500,000	Nil
On the next Rs. 150,000	5 <i>per centum</i>
On the next Rs. 150,000	10 <i>per centum</i>
On the balance	15 <i>per centum</i>

(b) The rate of income tax applicable to any sum referred to in paragraph (c) of subsection (2) of section 32 paid under a scheme not uniformly applicable to all the employees of such employer—

As per PART IA or PART IB subject to the maximum of 20 *per centum*

PART IIIA

The rate of income tax applicable to certain profits from employment specified in subsection (2) of section 32

For any year of assessment commencing on or after April 1, 2002

On the first Rs. 1,000,000	Nil
On the next Rs. 500,000	5 per centum
On the next Rs. 500,000	10 per centum
On the balance	15 per centum”.

56. The Second Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefor :—

“ SECOND SCHEDULE

(Section 53 and 70)

RATES OF INCOME TAX – COMPANIES

PART I

For any year of assessment commencing prior to April 1, 2002 –

Company including unit trust and mutual fund	35 per centum
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PART IA

For the year of assessment commencing on April 1, 2002

Company including unit trust and mutual fund when taxable income does not exceed Rs. 5,000,000 for the year of assessment	20 per centum
Where taxable income exceeds Rs. 5,000,000 for the year of assessment	35 per centum

PART IB

The following rates shall be applicable subject to the rates specified in the Sixth Schedule for any year of assessment commencing on or after April 1, 2003.

Where the taxable income of the company, exceeds Rs. 5,000,000 in that year of assessment (other than a quoted public company with 300 or more than 300 members during the year of assessment, venture capital company, unit trust or mutual fund)	32.5 per centum (inclusive of 2.5 per centum contribution to the Human Resource Endowment Fund)
A quoted public company with 300 or more than 300 members during the year of assessment and the taxable income exceeds Rs. 5,000,000 in that year of assessment	30 per centum (inclusive of 2.5 per centum contribution to the Human Resource Endowment Fund)
Where the taxable income of the company, does not exceed Rs. 5,000,000 in that year of assessment (other than unit trust, mutual fund or a venture capital company)	20 per centum
A venture capital company	20 per centum
An unit trust or mutual fund-profits under specified areas	10 per centum
An unit trust or mutual fund-profits under un-specified areas	20 per centum”.

57. The Third Schedule of the principal enactment is hereby amended as follows :—

(1) by the substitution for item 1 thereof, of the following item :—

“1, Hindu undivided families

For any year of assessment commencing prior to April 1, 2003	35 per centum;
For any year of assessment commencing on or after April 1, 2003	30 per centum”;

(2) in item 2 thereof by the substitution for the words “institutions” of the words “institutions” (including corporate bodies)” ;

(3) by the substitution for item 3 thereof, of the following item :—

“3. Executor (other than trustees under last wills) and receivers (other then liquidators)

For any year of assessment commencing prior to April 1, 2003.	35 per centum;
For any year of assessment commencing on or after April 1, 2003.	30 per centum”;

- (4) by the substitution for item 4 thereof of the following item :—
- “ 4. Trustees (including trustees under last wills)
- | | |
|--|------------------|
| For any year of assessment commencing prior to April 1, 2003. | 35 per centum; |
| For any year of assessment commencing on or after April 1, 2003. | 30 per centum” ; |
- (5) by the substitution for item 5 thereof, of the following item :—
- “ 5. Partnerships
- | | |
|---|------------------|
| For any year of assessment commencing prior to April 1, 2003. | 35 per centum; |
| For any year of assessment commencing on or after April 1, 2003 | 30 per centum” ; |
- (6) by the substitution for item 9 thereof, of the following item :—
- “ 9. Governments (other than the Government of Sri Lanka and the Government of the United Kingdom)
- | | |
|---|------------------|
| For any year of assessment commencing prior to April 1, 2003 | 35 per centum; |
| For any year of assessment commencing on or after April 1, 2003 | 30 per centum” ; |
- (7) by the substitution for item 10 thereof, of the following item —
- “ 10. Business Undertakings vested in the Government under the Business Undertaking (Acquisition) Act, No. 35 of 1971
- | | |
|---|------------------|
| For any year of assessment commencing prior to April 1, 2003 | 35 per centum; |
| For any year of assessment commencing on or after April 1, 2003 | 30 per centum” ; |
- (8) by the substitution for item 13 thereof, of the following item —
- “13. Persons (other than those referred to above and in the FIRST and SECOND SCHEDULES)
- | | |
|---|-------------------|
| For any year of assessment commencing prior to April 1, 2003 | 20 per centum; |
| For any year of assessment commencing on or after April 1, 2003 | 30 per centum.” . |

58. The following new Schedule is hereby added immediately after the Fifth Schedule to the principal enactment and shall have effect as the Sixth Schedule to the principal enactment –

“SIXTH SCHEDULE

The following rates shall be applicable notwithstanding the rates specified in the FIRST, SECOND and THIRD SCHEDULES.

- | | |
|---|---|
| 1. Rate of income tax on the total amount of interest on compensation payable in respect of property vested in the Government, the Land Reform Commission or a public corporation or a local authority. (section 33) | 10 per centum |
| 2. Rate of income tax on the total amount of interest received from any bank deposit. (section 34) | 10 per centum |
| 3. Rate of income tax on the gross interest on loans granted by a company, partnership or other body of person outside Sri Lanka. (section 35) | 15 per centum |
| 4. Rate of income tax on royalty payable to any company, partnership or other body of person outside Sri Lanka. (section 36) | 15 per centum |
| 5. Rate of income tax on the profits and income of any foreign currency banking unit arising from any on-shore foreign currency banking transactions. (section 38) | 15 per centum |
| 6. Rate of income tax on profits from an undertaking carried on by a person other than a company and engaged in agriculture, promotion of tourism or construction work as defined in section 186 and section 39. (section 39) | as per the FIRST SCHEDULE subject to a maximum of 15 per centum |
| 7. Rate of income tax on profits from any undertaking carried on by a company and engaged in agriculture, promotion of tourism or construction work as defined in section 186 and section 40. (section 40) | 15 per centum |
| 8. Rate of income tax applicable to specialized housing banks. (section 40A) | 20 per centum |
| 9. Rate of income tax applicable to certain companies which are exempt from income tax under section 21A or 21C for a period of two years immediately succeeding such period of exemption. (section 40B) | 10 per centum |
| 10. Rate of income tax applicable to certain companies after the expiry of the tax exemption period where such exemption is under section 21B or 21D. (Section 40B) | 15 per centum |
| 11. Rate of income tax applicable to certain companies after the expiry of the tax exemption where such exemption is under section 21A, 21C or 21E and where 10 per centum or 15 per centum is not applicable. (section 40B) | 20 per centum |

12. Rate of income tax applicable to dividends paid out of profits and income, taxable in accordance with section 40 and any dividend received from outside Sri Lanka and other dividends referred to in section 48A. (section 41, section 48A and section 48B).	10 <i>per centum</i> for any year of assessment commencing on or after April , 2003.
13. Rate of income tax on qualified export profits and income of a person not being a company, who commenced to carry on any specified undertaking prior to April 1, 2014 (section 44)	as per the FIRST SCHEDULE but subject to a maximum of 15 <i>per centum</i>
14. Rate of income tax on qualified export profits and income of a company which commenced to carry on any specified undertaking prior to April 1, 2014. (section 45)	15 <i>per centum</i>
15. Rate of income tax on qualified export profits and income of a person (not being a company) who carries on any specified undertaking prior to April 1, 2015. (section 46)	as per the FIRST SCHEDULE but subject to a maximum of 15 <i>per centum</i>
16. Rate of income tax on qualified export profits and income of a company which carries on any specified undertaking prior to April 1, 2015. (section 47)	15 <i>per centum</i>
17. Rate of income tax on dividends out of qualified export profits and income. (section 48)	10 <i>per centum</i> for any year of assessment commencing on or after April 1, 2003.
18. Rate of income tax on profits and income from deemed exports of any person or partnership. (section 49)	as per the FIRST SCHEDULE subject to a maximum of 15 <i>per centum</i> for an individual, and 15 <i>per centum</i> for a company
19. Rate of income tax on profits and income from services rendered outside Sri Lanka by any resident company or a partnership. (section 50)	15 <i>per centum</i> in case of a partner as per the FIRST SCHEDULE subject to a maximum of 15 <i>per centum</i>
20. The rate of income tax on emoluments and fees earned in foreign currency by an individual or by a partner or a partnership. (section 51)	as per the FIRST SCHEDULE subject to a maximum of 15 <i>per centum</i> ".

59. The amendments made to —

- (a) sections 21A, 32 and 48A of the principal enactment by sections 9, 13 and 32 respectively by this Act shall for all purposes be deemed to have come into force on April 1, 2002 ;
- (b) the principal enactment, by this Act, other than to the sections specified in paragraph (a), shall for all purposes be deemed to have come into force on April 1, 2003.

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

APPROPRIATION (AMENDMENT) ACT, NO. 43 OF 2003

[Certified on 18th December, 2003]

AN ACT TO AMEND THE APPROPRIATION ACT, NO. 31 OF 2002

1. This Act may be cited as the Appropriation (Amendment) Act, No. 43 of 2003.
2. Section 2 of the Appropriation Act, No. 31 of 2002 is hereby amended in paragraph (b) of subsection (1) of that section, by the substitution for the words “rupees three hundred and sixteen thousand million”, of the words “rupees three hundred and seventy-five thousand six hundred and fifty seven million.”.
3. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

APPROPRIATION ACT, NO. 44 OF 2003

[Certified on 31st December, 2003]

AN ACT TO PROVIDE FOR THE SERVICE OF THE FINANCIAL YEAR 2004, TO AUTHORISE 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 THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Appropriation Act, No. 44 of 2003.
2. (1) Without prejudice to any other law authorising any expenditure, the expenditure of the Government which it is estimated will be rupees three hundred and seventy eight thousand one hundred and sixty nine million six hundred and sixty one thousand for the service of the period beginning on January 1, 2004, and ending on December 31, 2004, in this Act referred to as the “financial year 2004”, 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 three hundred and fifty thousand million.
- (2) The sum of rupees three hundred and seventy eight thousand one hundred and sixty nine million six hundred and sixty one thousand referred to in subsection (1) may be expended as specified in the First Schedule to this Act.
- (3) The provisions of subsection (1) shall have effect without prejudice to the provisions of any other written law authorising the raising of loans for and on behalf of the Government.
3. (1) The receipts of the Government during the financial year, 2004, from each activity specified in column I of the Second Schedule to this Act, shall be credited to the account of such activity, but 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, 2004.
- (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, 2004, 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, 2004, 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, 2004, 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 shall not exceed the maximum limit of expenditure specified in the corresponding entry in column II of that Schedule. Any sum 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, may be 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 Programme or to any allocation of Recurrent Expenditure of that Programme.
 - (3) Subject to the provisions of subsection (2), any money allocated to Recurrent or Capital Expenditure under the “Public Resources Management” Programme appearing under the Head “Department of National Budget” specified in the First Schedule may be transferred to any other Programme under any other Head in the Schedule by order of the Secretary to the Treasury or any other officer authorized by him. The money so transferred shall be deemed to have been covered by a supplementary estimate submitted by the appropriate Minister.
6. Where the Minister is satisfied—
- (a) that receipts from taxes and other sources will be less than the amounts anticipated to finance authorised expenditure ; or
 - (b) 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 to meet any authorised expenditure.
7. (1) The Minister with the approval of the Government may, on or before May 31, 2005, by Order, vary or alter—
- (a) any of the maximum limits specified in column II, column IV and column V ;
 - (b) the minimum limits specified in column III, of the Second Schedule to this Act.
- (2) No Order made under subsection (1) shall have effect unless it has been approved by Parliament, by resolution.
- (3) Any Order made under subsection (1) 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 providing for—
- (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.