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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 636/13 — 1990 නොවැම්බර් 15 වැනි බ්‍රහස්පතින්දා — 1990.11.15

No. 636/13—THURSDAY, NOVEMBER 15, 1990

(Published by Authority)

PART IV (A) — PROVINCIAL COUNCILS

PROVINCIAL COUNCIL NOTIFICATIONS

Financial Statute No. 17 of 1990, Provincial Council of Central Province

ORDER UNDER SECTION 1

BY virtue of the powers vested in me by section 1 of the Financial Statute, No. 17 of 1990, Provincial Council, Central Province, I Weerasuriya Disanayake Mudiyanselage Punchi Banda Dissanayake, Chief Minister and Minister of Land, Textiles, Provincial Administration and Cultural Affairs, Provincial Council of the Central Province do by this order appoint that the Financial Statute, No. 17 of 1990 shall come into operation on 1st of January, 1991.

W. D. M. P. B. DISSANAYAKE,
Chief Minister and Minister of Land,
Textiles, Provincial Administration and
Cultural Affairs.

Chief Minister's Office (Central Province),
Kachcheri,
Kandy.
8th Day of November, 1990.

A STATUTE TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF TAXES AND FEES FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

THIS STATUTE IS INCONSISTENT WITH CERTAIN PROVISIONS OF THE TURNOVER TAX ACT, No. 69 OF 1981 AS AMENDED AND THE STAMP DUTY ACT, No. 43 OF 1982 AS AMENDED.

Be it enacted by the Provincial Council of the Central Province as follows :—

Short title and date of operation.

1. (i) This Statute may be cited as the Finance Statute of the Central Province No. 17 of 1990 and its provisions shall come into operation on such date or dates as may be appointed by the Minister by order pulbished in the Gazette.

(ii) The Minister may appoint different dates in respect of different parts. Whenever Part 1 or 2, is brought into operation, Parts 3 and 8 shall be deemed to have come into operation from the date appointed on which the first of the aforesaid Part 1, or 2 is brought into operation and whenever Part 4, 5, 6 or 7 is brought into operation Part 8 if it is not already in operation shall be deemed to come into operation from the date appointed on which the first of the aforesaid parts 4, 5, 6 or 7 is brought into operation. This statute supercedes Act, No. 01 and 04 of 1990 adopted by this council on this subject.

Appointment of officers.

2. For the purpose of this Statute, there shall be appointed a Provincial Commissioner of Revenue and such number of Provincial Deputy Commissioners, Provincial Assessors and such other officers as may be necessary.

PART I

CHAPTER I

IMPOSITION OF TURNOVER TAX

Imposition of turn over tax.

3. (1) Subject to such limits and exemptions as may be prescribed by law made by Parliament and other provisions of this Statute, there shall be charged for every quarter commencing on or after January 1, 1991 from every person who carries on any business in the province a tax (hereinafter referred to as the "turnover tax") in respect of the trunover made by that person from that business at such rate as the Minister may fix from time to time by Order published in the Gazette.

(2) For the purpose of this Chapter "business" shall mean selling by wholesale or retail of any commodity or article but shall not include a sale by a manufacturer.

Circumstances in which a person becomes chargeable with turnover tax.

4. (1) A person shall, in respect of any business carried on by him in the province, be chargeable with turnover tax for each quarter.

(2) Where a person is chargeable with turnover tax in respect of any business carried on by his and a change of ownership of that business occurs, then notwithstanding the provisions of subsection (1), the new owner of that business shall be chargeable with turnover tax as though he had been the owner of that business immediately before the occurrence of the change of ownership.

CHAPTER II

EXEMPTIONS

Exemption from turnover tax.

5. (1) The Minister may, if he is of opinion that it is essential for the economic progress of the Province exempt by order published in the Gazette any business or such business as may be specified, which is carried on by any person, from the turnover tax.

(2) Every Order under subsection (1) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in such order and shall be brought before the Provincial Council within a period of three months from the date of the publication of such order in the Gazette or, if no meeting of Provincial Council is held within such period, at the first meeting of Provincial Council held after the expiry of such period, by a motion that such Order shall be approved.

(3) Any Order which the Provincial Council refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of such order until the date of such refusal, and the notification of the date on which such order is deemed to be revoked shall be published in the Gazette.

CHAPTER III

TURNOVER

6. (1) For the purpose of this Statute "turnover" in relation to any business means the total amount received or receivable from transactions entered into in respect of that business.

(2) For the purposes of sub-section (1) above "turnover" shall not include any amount received or receivable by the sale of capital assets.

(3) Where in respect of any quarter turnover tax has been paid in respect of any sum receivable during that quarter no such tax in respect of that sum need be paid in respect of that quarter in which such sum is actually received.

(4) In ascertaining the turnover of a Business for a quarter, there shall be deducted an amount equal to any bad debt incurred by that business which has became bad debt during that quarter, being an amount which has been included in the turnover of that business for a previous quarter and in respect of which turnover tax has been paid:

Provided that any sum received in any quarter by that business on account of an amount previously deducted under this subsection in respect of a bad debt shall be included in the turnover of that business for the quarter in which that sum is received.

CHAPTER IV

RATES OF TAX

Rate of turnover tax.

7. (1) The rate of turnover tax in respect of any business may be determined by reference to the nature of such business and accordingly different rates of such tax may be determined by the Minister, in respect of different classes or descriptions of business and published in the Gazette.

(2) The rate of turnover tax in respect of any class or description of business may from time to time be varied by the Minister by Order published in the Gazette.

(3) Every determination under subsection (1) and every order made under subsection (2) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in such determination or order and shall be brought before the Provincial Council within a period of three months from the date of the publication of such determination or order in the Gazette, or, if no meeting of the Provincial Council is held within such period, at the first meeting of the Provincial Council held after the expiry of such period by a motion that such determination or order shall be approved. There shall be set out in a schedule to every such motion the text of the determination or order to which the motion refers.

(4) Any determination under subsection (1) or any order under subsection (2) which the Provincial Council refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of any thing done thereunder. Notification of the date on which any such determination or order is deemed to be revoked shall be published in the Gazette.

Excepted Articles.

8. The Minister may, by order published in the Gazette, declare any article specified in such order to be an excepted article for the purposes of this Statute. Different articles may be declared to be excepted articles in respect of different classes or descriptions of businesses.

(9) Where an article is, under section (8), declared to be an excepted article in respect of any class or description of business, no turnover tax shal be payable in respect of the sum realized by the sale of such article.

CHAPTER V

RETURNS

Returns and information.

10. (1) Every person who carries on any business in the Province shall in respect of each quarter furnish to the Provincial Commissioner not later than fifteen days after the expiry of that quarter, a return setting out the turnover of that business for that quarter. Every such return shall be in the prescribed form and shall contain all such particulars as may be required to be set out in such form.

(2) An Assessor may by notice in writing, direct any person who, in the judgment of that Assessor, is a person chargeable with turnover tax to furnish within the time specified in such notice a return containing such particulars as the Assessor may require.

(3) For the purpose of obtaining full information in respect of the turnover from any business carried on by any person, an Assessor may give notice in writing to such person requiring him—

(*a*) to produce for examination or transmit to the Assessor, within the period specified in such notice, any such books, accounts, trade lists, registers, vouchers, cheques, paying-in-slips, auditor's, reports or other documents in his possession as may be specified in such notice.

(*b*) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in the notice for the purpose of being examined regarding the turnover in respect of that business.

(4) For the purposes of this Statute, a Deputy Commissioner may give notice in writing to any person requiring him—

(*a*) to produce, or transmit, to such Deputy Commissioner within the period specified in such notice any books, accounts, tradelists, stock lists, registers, vouchers, cheques, paying-in-slips, auditor's repotrs or other documents in his possession as may be specified in such notice;

(b) to attend in person or by an authorized representative at such place and on such date and at such time as may be specified in such notice so that he may be examined on any such matter or matters as may be specified in such notice.

(5) A person who attends in compliance with a notice give under subsection (4) may be, allowed by the Commissioner the expenses reasonably incurred by him in so attending.

A Deputy Commissioner, or an Assessor with the approval of a Commissioner, may retain in his custody as long as such retention is necessary for the purposes of this Statute any books, accounts, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditor's reports or other documents which are or have been produced before him or transmitted to him under subsection (3) or subsection (4) or which otherwise come or have come into his possession.

(6) An Assessor may give notice in writing to any person as often as he thinks necessary requiring him to furnish within the time specified in such notice :

(a) fuller or further returns ; or

(b) fuller or further information relating to any matter as will in the opinion of the Assessor be necessary or relevant for the assessment of turnover tax payable by such person.

(7) A return, statement or form purporting to be furnished under this Statute by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or under his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters contained therein.

(8) Where any person fails to comply with the requirements of a notice given to him by an Assessor under subsection (2), the Commissioner may by a notice in writing—

(a) impose a penalty not exceeding ten thousand rupees on such person ; and

(b) require such person to—

(i) pay such penalty ; and

(ii) furnish the return referred to in the notice given to him by the Assessor, within such time as may be specified in the notice of the Commissioner.

(9) The Commissioner may reduce or waive any penalty imposed on any person under this section if such person proves to the satisfaction of the Commissioner that his failure to furnish a return was due to circumstances beyond his control and that he has after the imposition of the penalty, furnished such return.

(10) Where a penalty is imposed on a person under subsection (9) he shall not be liable to a prosecution for an offence under section 35 relating to that notice.

CHAPTER VI

Payment of Tax

Payment of turnover tax.

11. The turnover tax in respect of any quarter shall be paid not later than the fifteenth day of the month following the end of that quarter. Any tax not so paid shall be deemed to be in default and the person by whom such tax is payable or where any tax is payable by more than one person, or by a partenship then each of such persons and partner in the partnership shall be deemed to be a defaulter for the purposes of this Statute :

Penalty for default

12 (1) Where any turnover tax is in default, the defaulter shall in addition to such tax in default, pay as a penalty—

(a) a sum equivalent to ten per centum of the amount in default ; and

(b) where any amount in default is not paid before the fifteenth day of the month succeeding the month in which such tax has begun to be in default, a further sum equivalent to two per centum of the amount in default in respect of each period ending on the fifteenth day of each succeedind month or part of such period during which it is in default :

provided however that the total amount payable as penalty under this subsection shall in no case exceed fifty per centum of the tax in default and any such amount may be waived or reduced if the Commissioner is satisfied that by reason of any special circumstances in which the default occurred a waiver or reduction of such amount would be just and equitable.

(2) Where upon the final determination of an appeal under section 79 any tax in default to which any sum or sums under subsection (1) has or have been added is reduced then such sum or sums shall be calculated on the tax as so reduced.

CHAPTER VII

ASSESSMENT

Power of Assessor to make assessments.

13 (1) Where any person—

(a) Who, in the opinion of an Assessor, is chargeable with turnover tax fails to furnish a return under Section 10 for any quarter and to pay tax for that quarter.

(b) Who is chargeable with the turnover furnishes under section 10 a return in respect of any quarter but fails to pay tax for that quarter.

The Provincial Assessor shall assess the amount of the turnover tax, which such person, in the judgment of the Assessor, ought to have paid for that quarter and shall by notice in writing require that person to pay such amount immediately. The amount so assessed in respect of any person for a quarter shall, subject to the provisions of section 14, be deemed to be the amount of the turnover tax payable by him for that quarter.

(2) An assessment made under subsection (1) in respect of any person for any quarter shall not affect the liability of such person to a penalty under Section 12 as though the amount assessed were the amount of turnover tax due from him for that quarter.

(3) Where, in the opinion of the Provincial Assessor, the amount paid as turnover tax for any quarter by any person who has failed to furnish under section 10 a return in respect of that quarter is less than the proper amount payable by that person for that quarter, the Provincial Assessor shall assess the amount which, in the judgment of the Provincial Assessor ought to have been paid by such person and shall by notice in writing, require that person to pay on or before a date specified in that notice, the difference between the amount so assessed and the amount paid by that person.

(4) Where an assessment is made under subsection (3) in respect of any person for any quarter, the difference between the amount so assessed and the amount paid by that person as turnover tax for that quarter shall be deemed to be the turnover tax, in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 11 be liable in respect of that amount to the penalty under subsection (1) of section 12.

Additional assessments.

14. Where it appears to an Assessor that a person chargeable with turnover tax has for any quarter paid as tax an amount less than the proper amount of the tax payable by him for that quarter or chargeable from him for that quater, the assessor may at any time, assess such person at the additional amount at which, according to the judgment of the Assessor, tax ought to have been paid by such person. The Assessor shall give such person notice of assessment.

15. Where an assessment is made under Section 14 in respect of any person for any quarter, the amount so assessed shall be deemed to be turnover tax in default for that quarter and accordingly such person shall, from the date on which such person ought to have paid the tax for that quarter under section 11 be liable to the penalty under subsection (1) of section 12 in respect of such amount.

Assessor to give reasons for not accepting a return.

16. Where an Assessor does not accept a return furnished by any person under section 10 for any quarter and makes an assessment or additional assessment on that person for that quarter under section 13 or section 14 he shall communicate to such person in writing by registered letter sent through the post his reasons for not accepting the return.

CHAPTER VIII

FINALITY OF ASSESSMENTS AND PENALTY FOR INCORRECT RETURNS

Assessment or amended assessments to be final.

17. Where no valid appeal has been lodged within the time specified in this Statute against an assessment in respect of the turnover tax or where the amount of such tax is agreed to under section 79(5) or has been determined on appeal; the assessment as made or as agreed to, or as reduced or increased or confirmed, on appeal, as the case may be, shall be final and conclusive for all purposes of this Statute, as regards the amount of such tax.

Provided that nothing in this Statute shall prevent a Provincial Assessor from making an assessment or additional assessment for any quarter if it does not involve reopening any matter which has been determined on appeal for that quarter.

Penalty for payment under of turnover tax.

18. Where in an assessment made in respect of any person, the amount of the turnover tax exceeds the amount already paid by him as the amount due from him in respect of the turnover specified in his return and the assessment is final and conclusive under section 11 the Provincial Commissioner may, unless that person proves to the satisfaction of the Provincial Commissioner that there is no fraud or willful neglect involved in the disclosure of the turnover made by that person in his return or in the application of the rates of turnover tax to such turnover, in writing, order that person to pay as a penalty for making an incorrect return or for applying an incorrect rate of turnover tax to the turnover set out in his return, a sum not exceeding two thousand rupees and a sum equal to twice the amount of the difference between the total turnover tax claims in the assessment and the turnover tax paid on the return.

CHAPTER IX

SPECIAL CASES, PENALTIES AND OFFENCES

Who may act for incapacitated person.

19. Any act or thing required by or under this statute to be done by any person shall, if such person is an incapacitated person, be done by the trustee of such incapacitated person.

Precedent partner to act on behalf of partnership.

20. Any act or thing required by or under this Statute to be done by any person shall, in the case of two or more persons in partnership, be deemed to be required to be done by the precedent partner of such partnership.

Provided that any person to whom a notice has been given under the provisions of this Statute as a precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner of such partnership or that some other person in Sri Lanka is the precedent partner thereof.

Principal Officer to act on behalf of a Company or body of persons

21. (1) The Secretary, Manager, Director or other Principal Officer of every company or body or person, corporate or unincorporate, shall be liable to do all such acts, matters or things as are required to be done under the provisions of this Statute by such company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Statute on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with that company or body of persons or that some other person resident in Sri Lanka is the principal offier thereof.

(2) Where an offence under this Statute is committed by a company or body of persons, corporate or unincorporate, every person who at the time of the commission of the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity and to all the other circumstances.

Liability to pay turnover tax in the case of cessation of business.

22. (1) Subject as hereinafter provided where during the course of a quarter a person chargeable with turnover tax ceases to carry on any business in respect of which he is chargeable with such tax, he shall, notwithstanding that be liable to pay such tax for the period during which he carried on that business in that quarter.

(2) Where any person carrying on a business transfers such business to any other person, any turnover tax payable in respect of such business for any period prior to the transfer may, if it cannot be recovered from the transferor, be recovered from the transferee notwithstanding that an assessment may not have been made on the transferee and the provisions of this Act as to collection and recovery of turnover tax shall apply accordingly.

Liability of executor to pay turnover tax.

23. (1) Where any person chargeable with turnover tax dies the executor of such deceased person shall, in respect of all periods prior to the date of death of such person, be chargeable with turnover tax which such person would be chargeable if he were alive, and shall be liable to do all acts, matters and things which such person if he were alive would be liable to do under this Statute : Provided that—

(a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person ;

(b) no assessment or additional assessment inrespect of a period prior to the date of such person's death shall be made after three years from the end of the quarter in which the death occurred ; and

(c) the liability of the executor under this section shall be limited to the sum of—

(i) the deceased person's estate in his possession or control at the date when notice is given to him that liability to turnover tax will arise under this section ; and

(ii) any part of the estate which may have passed to a beneficiary.

(2) Where an executor on behalf of the estate of a deceased person carries on any business which is a part of such estate, such executor shall, in respect of such business, be chargeable with turnover tax with which such person would be chargeable if he were alive.

Liability of certain persons to pay turnover tax in respect of business not belonging to them.

24. Where any business in respect of which turnover tax is payable is carried on by any person on behalf of any other person as the agent of such other person, the first mentioned person shall be chargeable with turnover tax in respect of that business in like manner and to the like amount as the latter mentioned person would be chargeable under this statute.

Joint agents trustee and executors

25. Where two or more persons act in the capacity of trustees of a trust or executors of a deceased person's estate, they may be charged jointly and severally with turnover tax with which they are chargeable under this statute, and shall be jointly and severally liable for payment of such tax.

Persons liable to pay turn-over tax upon liquidation of a company or dissolution of a body of persons.

26. (1) Notwithstanding anything in the Companies Ordinonce, where a company is wound up and where any turnover tax to which that company is liable cannot be recovered then, every person who was a director of the company at any time during the period in respect of which such tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect, or breach of duty on his part in relation to the affairs of the company and the provisions of this Statute as to collection and recovery of turnover tax shall apply accordingly.

(2) Where a body of persons is dissolved and where any turnover tax to which such body of persons is liable cannot be recovered, then, every person who was a member of that body of persons during the period in respect of which the tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that the default in payment of tax cannot be attributed to any gross neglect misfeasance or breach of duty on his part in relation to the affairs of that body, and the provisions of this statute as to collection and recovery of turnover tax shall apply accordingly.

(3) Where the Provincial Assessor is of the opinion that any transaction or disposition which reduces, or would have the effect of reducing, the amount of turnover tax payable by any person is artificial or fictitious or that any transaction or disposition is not in fact given effect to he may disregard any such transaction or disposition accordingly.

In this section, disposition includes any trust, gran covenant, agreement, or arrangement.

Validity of Assessments.

27. (1) No notice assessment certificate or other proceedings purporting to be in accordance with the provisions of this statute shall be quashed or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission, therein, if the same is in substan and effect in conformity with, or according to the intent and meaning of this statute, and if the person assessed or intended to be assessed or affected thereby in designated therein according to common intent and understanding.

(2) Without prejudice to the generality of subsection (1), an assessment shall not be affected or impugned.

(a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of turnover or the amount of turnover tax charged ; or

(b) by reason of any variance between the assessment and the notice thereof.

If the notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (*a*) of this subsection.

Power to search buildings or places

28. (1) Any officer of the Provincial Public Service dealing with the collection of taxes who is specially authorized by the Provincial Commissioner in that behalf may, accompainted by a peace officer, do all or any of the following acts :—

(*a*) enter and search any building or place where he has reason to believe that any books of account, registers, records or other documents which in his opinion will be usefull for, or relevant to any proceeding under this Statute may be found, and examine them if found ;

(*b*) seize any such books of account, registers, records or other documents or place marks of indentification thereon or make extracts or copies therefrom ;

(*c*) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion will be useful for,or relevant to,any proceedings under this statute, and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979 relating to searches shall apply so far as may be to searches under this section. In this subsection "peace officer" shall have the same meaning as in the Code or Criminal Procedure Act, No. 15 of 1979.

(2) Before authorizing any officer to exercise the powers under subsection (1) the Provincial Commissioner shall record the circumstances which necessitate the exercise of those powers by that officer.

(3) Where any officer authorized by the Provincial Commissioner under subsection (1) seizes any book of account, register, record or other document from any person, such officer shall issue to that person a memorandum specifying the book, register, record or other document he has seized.

(4) Any book of account, register, record or other document seized under subsection (1) by any officer may be retained in the possession of such officer as long as may be necessary for a scrutiny of such book, register, record or other document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

29. (1) The Provincial Commissioner or any other officer of the Provincial Public Service dealing with the collection of taxes who is specially authorized in that behalf by the Provincial Commissioner in writing may do all or any of the following acts :—

(*a*) enter and inspect any place or building where any busineess is carried on by any person for the purpose of ascertaining whether the provisions of this Statute are being complied with ;

(*b*) open and examine any receptacle where any book of account, register, record or other document may be found and make an inventory of any of the article found therein ;

(*c*) examine and take copies of, or make extracts from, any book of account, register, record or other document found in such place or building ;

(*d*) take possession of any book of account, register, record or other document or place marks of identification thereon ;

(*e*) count and make a record immidiotly of the cash found in such place or building ;

(f) require any person whom he finds in such place or building to give such information as is in his power to give with respect to matters under this Statute, every person who he finds in such place or building.

(2) Where an officer authorised by the Provincial Commissioner under subsection (1) takes into his possession any book of account, register record or other document 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 as long as may be necessary for the scrutiny 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.

Voucher to be prepared and issued by every person chargeable with turnover tax.

30. Every person chargeable with turnover tax shall, in respect of each transaction entered into by him, in carrying on his business, prepare or cause to be prepared a voucher setting out;

(a) the date on which such transaction was entered into;

(b) the nature of such transaction;

(c) the amount of money received or receivable in respect of such transaction; and

(d) the name and address of the person with whom such transaction was entered into.

The original of such voucher shall be issued to the person with whom such transaction was entered into and the copy of such voucher shall be retained and preserved by the person by whom or on whose behalf such voucher was prepared for a period of five years after the expiry of the quarter in which such voucher was prepared notwithstanding anything in this section the Provincial Commissioner may prescribe the form and manner in which transactions may be recorded in different business.

Register of transactions.

31. (1) Every person chargeable with turnover tax shall, in respect of transactions entered into by him in carrying on his business keep and maintain in respect of each quarter a register of transactions.

(2) The register of transactions kept by any person in respect of any quarter shall be retained and preserved by him for a period of five years after the expiry of that quarter.

Breach of, secrecy and other matters to be offences.

32. Every person—

(a) who being a person required to take an oath of secrecy under section 102, acts under this Part without taking such oath; or

(b) who acts in contravention of the provisions of section 102; or

(c) who aids, abets or incites any other person to act in contravention of any of the provisions of this Part;

shall be guilty of an offence under this Statute, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penal Provisions relatings to fraud.

33. Any person who—

(a) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Part; or

(b) omits from a return made or furnished under this Part any particulars which he should have included in such return;

(c) makes any false return or false entry in any return made under this Part,

and thereby evades or attempts to evade turnover tax or assists and other person to avade or attempt to evade such tax shall be guilty of an offence under this Statute and shall be liable on conviction after summary trial before the Magistrate to a fine consisting of—

(i) a sum equal to twice the amount of tax so evaded or attempted to be evaded for which he, or as the case may be, the other person or assisted, is liable under this Statute for the quarter in respect of or during which the offence was commited and;

(ii) a sum not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine an imprisonment.

Penal Provisions relating to returns etc.

34. Every person who—

(a) fails to comply with the provisions of Section 10 or Section 30 or Section 31 or

(b) fails to comply with the requirement of a notice issued to him under Section 10 or Section 79; or

(c) having appeared before an office of the Provincial Department of Revenue in compliance with notice issued to him under Section 10 or Section 79 fails without sufficient cause to answer any question lawfully put to him by such officer; or

(d) gives any incorrect information relating to any matter or thing affecting his own liability to turnover tax or the liability of any other person; or

(e) wilfully obstructs or delays the Commissioner or any other officer in the exercise of his powers under Section 28 or Section 29; or

(f) aids, abets or incites any other persons to act contrary to the provisions of this Statute.

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Compounding of offences.

35. The Commissioner may compond any offence under Section 32, Section 33 or Section 34 and may before judgment stay or compound any proceedings thereunder.

Prosecutions to be with the sanction of the Commissioner General.

36. No prosecution in respect of an offence under Section 32, Section 33 or Section 34 shall be commenced except at the instance, or with the sanction, of the Commissioner.

PART 2

CHAPTER X

IMPOSITION OF STAMP DUTY

37. There shall be charged on— Instruments with duty.

(*a*) every instrument relating to a transfer of immovable property situated in the Central Province;

(*b*) every document presented or filed, in proceedings instituted in any Court of Law established by law, in the Central Province of Sri Lanka;

(*c*) every transfer of a motor vehicle effected in Central Province a stamp duty at the prescribed rate. Different rates may be prescribed in respect of different classes of categories of instruments.

38. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duty that would have been chargeable had each of such matters been dealt with by a separate instrument. Instruments relating to several distinct matters.

CHAPTER XI

EXEMPTIONS

39. The following instruments and documents shall be exempted from the payment of stamp duty:— Exemption.

(1) bail bond in criminal proceedings;

(2) conveyance or transfer of any immovable property or motor vehicle by the Government or by a person for or on behalf of the Government;

(3) instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(4) instrument executed by or on behalf of, or in favour of, the Government of any country, being a country, in respect of which an Order under Section 76(2) is in force;

(5) the following documents filed in legal proceedings—

(*a*) all documents filed in Magistrates' Courts and Primary Courts and all documents filed for the purposes of criminal proceedings in any other court;

(*b*) documents filed in any court, by public officers suing, or being sued or intervening, virtute officii in any proceedings in such court;

(*c*) documents filed in any court, by a person duly admitted to sue, defend or intervene, as a pauper in any proceedings instituted in such court;

(*d*) documents filed in any court, by a person applying to be declared as insolvent by such court;

(*e*) all documents filed in any court for the purposes of an application for an order in the nature of a writ of habeas corpus;

(*f*) all documents filed on behalf of any person who is certified by a prescribed officer as suing, defending or intervening with legal aid provided by the Legal Aid Law No. 27 of 1978.

(*g*) all documents filed in any court by, or on behalf of any person claiming damages arising from death or damage caused by a motor vehicle;

(*h*) motions filed in any court;

(*i*) warrants issued by any court whether on application or on its own motion;

(6) will, testament or codicil, whether notarial or otherwise.

CHAPTER XII

TIME AND MODE OF STAMPING

Time and mode of paying stamp duty.

40. (1) The stamp duty with which an any instrument is chargeable shall be paid before or at the time of execution of the instrument except as otherwise permitted in this Statute and such payment shall be indicated on such instrument by means of adhesive stamps or impressed stamps or a Certificate of payment refered to in subsection (2) hereof.

(2) Stamp Duty payable on an instrument relating to a transfer of immovable property may be paid to a prescribed bank which shall issue a Certificate in the prescribed form of payment of the amount of Stamp Duty paid and the date of payment of such duty and such instrument shall have affixed on it the Certificate of payment issued by the Bank, in that behalf. Notwithstanding the provisions of any other law, where such payment cannot be made to a Bank before the execution or at the time of execution of the instrument due to any reason beyond the control of the person liable to pay the duty, such duty shall be paid within such time as shall not exceed 7 days from the date of execution of the instrument provided that in every such case the notary attesting the instrument shall certify on the deed the reasons therefor. An instrument which has affixed on it the certificate for the payment of the samp duty shall be deemed to be duly stamped.

(3) Where it is not practicable to use adhesive or impressed stamps to indicate the payment of the stamp duty with which such instrument is chargeable or to make payment to a Bank as aforesaid, the Commissioner may, on payment to him, of an amount equal to the stamp duty with which such instrument is chargeable, endorse on the instrument the amount paid and date of payment of such duty. An instrument so endorsed shall be deemed to be duly stamped.

Cancellation of adhesive.

41. (1) Where the payment of stamp duty with which an instrument is chargeable is indicated by means of an adhesive stamp the person or any one of the persons executing such instruments shall cancel the stamp by writing his name across and initialling it in ink so as not to admit of it being used again.

(2) Where an instrument bears an adhesive stamp of the value of fifty rupees or more such stamp, shall, in addition to the writing preferred to in sub-sections (1) be cancelled by cutting it with a prick, punch, cutter or nipper.

(3) Any instrument bearing an adhesive stamp which has been cancelled in the manner set out in sub-sections (1) or (2) shall be deemed to be unstampted to the extent of the value of that stamp.

CHAPTER XIII

HOW CERTAIN INSTRUMENTS ARE TO BE STAMPED

Only one instrument to be on a piece of stamped paper.

42. No second instrument chargeable with stamp duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with stamp duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby or of acknowledging the receipt of money or goods the payment or delivery of which is secured thereby or for extending the time for payment of a bill of exchange or promissory note.

How instruments effecting exchange are to be stamped.

43. Where there are several instruments of conveyance or transfer for effecting an exchange of property, the instrument first executed shall be stamped with the stamp duty, if any, with which such exchange is chargeable, and all the other instruments shall be stamped with a stamp duty of five rupees ;

Provided, however, that the preceding provisions of this section shall not apply to any such subsequent instrument executed after a period of three months from the date on which the first instrument was executed.

Documents in legal proceedings.

44. Every document filed in any legal proceedings and chargeable with stamp duty shall be treated as duly stampted if the proper duty payable on every such document is affixed to the list of such documents and paid in the manner provided for in this Statute.

Stamping of duplicate of certain instruments.

45. Where any instrument chargeable with stamp duty is executed or acknowledged before a notary public or fiscal in the execution of his office, the stamp duty chargeable on such instrument shall be chargeable on the duplicate or counterparty thereof, instead of on the original instrument and the original instrument shall bear a stamp or stamps to the value of two rupees.

CHAPTER XIV

Composition Of Stamp Duty

Composition of stamp duty payable.

46. (1) The Commissioner may authorise an officer of a Court of Law created or established by law, to compound for the payment of the stamp duty payable, on the documents presented or filed in any court instituted in any such court on the following conditions :—

(i) that the officer maintains records of the doduments presented or filed in proceedings instituted in such court.,

(ii) that such officer remits to the Commissioner at the end of such periods as may be specified by the Commissioner the aggregate stamp duty payable as the case may be, on—

(*a*) the documents presented or filed in civil or admiralty proceedings instituted in the Court to which such officer is appointed ; or

(*b*) instruments issued by such other person, during the period.

(2) Where the payment of the stamp duty payable on a document presented or filed in civil or admiralty proceedings instituted in any Court, created or established by law, has been compounded in accordance with this Section, the officer of such Court, authorized, under sub-section (1) shall endorse on such document, the amount of stamp duty payable on such document and that the payment, of such stamp duty, has been compounded in accordance with this Section.

(3) Notwithstanding that the payment of stamp duty with which an instrument or document is chargeable has been compounded as aforesaid, the Commissioner may adjudicate on the proper duty payable in respect of such instrument or document.

CHAPTER XV

SPECIAL PROVISIONS RELATING TO DOCUMENTS FILED IN LEGAL PROCEEDINGS

Value of suits.

47. (1) For the purposes of determining the stamp duty payable on documents presented or filed in—

(a) any proceedings instituted in a Court created or established by law or

(b) any admirality proceedings instituted in the High Court—the value of such proceedings shall, unless otherwise provided in this any other enactment,—

(i) be the amount of the debt, demand or damages claimed in the proceedings ;

(ii) where the proceedings relate to the right, title or interest in land, be the value of such land ;

(iii) be the nett value of the estate in the case of applications for probate or letters of administration in respect of the estate of a deceased person ;

(iv) in any other case be Rs. 5000.

(2) The total stamp duty chargeable in respect of the documents filed in any proceedings in any Court shall not exceed the aggregate of the stamp duty chargeable on the first ten documents filed by each party to the proceedings.

CHAPTER XVI

VALUATION FOR STAMP DUTY

Valuation for stamp duty.

48. (1) Where any property is conveyed by an instrument, the stamp duty with which such instrument is chargeable shall be calculated on the value of the property conveyed.

(2) Where any property transferred for a consideration is subject to any mortgage, encumbrances or reservation of interest, stamp duty with which the instrument of transfer is chargeable shall be calculated on the value of the property transferred, without any deduction for the mortgage encumbrances or reservation.

(3) Where any property is gifted subject to any reservation in favour of the donor or any other person, stamp duty with which the instrument of gift is chargeable shall be calculated on the value of the property gifted as if that property had been gifted to the donee without that reservation.

49. Where any instrument is chargeable with stamp duty in respect of any money expressed in any currency other than that of Sri Lanka, such duty shall be calculated on the value of such money in the currency of Sri Lanka according to the current rate of exchange on the day of the date of the instrument.

Drawing several instruments to avoid duty.

50. Where any immovable property, or any part thereof, is conveyed or transferred to the same person in lots by several instruments, and it appears to the Assessor that several instruments were executed with the instruments to prove to his satisfaction that such instruments were not total area conveyed or transferred by such instruments been conveyed or transferred by a single instrument, he may call upon the parties to such instruments to prove to his satisfaction that such instruments were not executed with such intention and if no such proof is furnished or the proof furnished is inadequate, each such instrument shall be charged with stamp

duty in proportion, to the value of the property conveyed by the instrument of such an amount as would make the aggregate stamp duty chargeable on all such instruments equal to one and half times the stamp duty that would have been chargeable had a single instrument been executed to convey and transfer the total area transferred by such instruments.

CHAPTER XVII
PERSONS LIABLE TO PAY STAMP DUTY

Duty by whom payable.

51. Except where there is an agreement to the contrary stamp duty shall be payable—

(a) in the case of a conveyance or agreement to convey by the grantee or intended grantee;

(b) in the case of any other instrument by the person drawing, making or executing such document.

Liability of other parties for stamp duty.

52. (1) If any instrument chargeable with stamp duty, is executed in the Province or is in respect of immovable property situated in the Province and is not duly stamped, then, every person executing such instrument shall be liable to pay to the Commissioner the amount of such duty and any penalty atached to the non-payment of such duty

(2) When the stamp duty and penalty, if any, payable in respect of any instrument have beeen recovered by the Commissioner under subsection (1) from any person other than the person, who by agreement or otherwise or under section 51 was liable to pay stamp duty on such instrument, such first-mentioned person shall be entitled to recover from such second-mentioned person the amount of the duty and penalty, if any, so recovered.

(3) The Provisions of subsections (1) and (2) of this section shall have effect notwithstanding anything to the contrary in section 51.

(4) An executor of the estate of a deceased person shall be liable to do all such acts, matters and things as such deceased person would be chargeable with stamp duty with which such deceased person would have been chargeable, if he were alive, in respect of all instruments to which such deceased person was a party :

Provided that—

(i) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person.

(ii) the liability of an executor under this subsection shall be limited to the sum of—

(a) the deceased person's estate in his possession or control at the date when notice is given to him that liability to stamp duty will arise under this subsection ; and

(b) any part of the estate which may have passed to a beneficiary.

Liability when company is wound up.

53. (1) Notwithstanding anything in the Companies Act No. 17 of 1982, where any private company is wound up and any amount, which that compapny is liable to pay as stamp duty, whether such liability arose before, or in the course of or after, its liquidation, cannot be recovered, the every person who was a director of the company at any time during the periid in which the liability of the company to pay such duty arose shall be jointly and severally liable for the payment of such duty arose shall be proves that the default in payment of the amount cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) In this section, the expression "private company", has the same meaning as in the Companies Act, No. 17 of 1982.

CHAPTER XVIII

IMPOUNDING OF INSTRUMENTS

Power of certain officers to impound and examine instruments.

54. (1) Every person having by law or consent of parties authority to receive evidence, and every officer in a public office (other than a police officer) and every officer of a public corporation or bank, or approved credit agency before whom any instrument, chargeable in his opinion with stamp duty is produced or comes in the performance of his functions, shall if it appears to him that such instrument, is not duly stamped, impound such instrument:

Provided that, nothing in this section shall be deemed to require any Magistrate or Judge of a criminal court to impound or examine if he does not think fit to do so, any instrument coming before him in the course of any proceedings in that court.

(2) The Commissioner may require any officer in á public office or corporation or bank, or approved credit agency before whom any instrument chargeable with duty is produced or comes in the performance of his functions—

(*a*) to examine such instrument in order to ascertain whether it is duly stamped;

(*b*) to impound such instrument.

(3) Where any person is required under subsection (2) to examine or impound any instrument, it shall be the duty of such person to impound or examine such instrument, as the case may be, and take such further steps as may be required by the Commissioner.

(4) The Commissioner or any officer authorised in writing by him may, after giving due notice to any person in charge of a public officer, corporation, or bank or approved credit agency, examine any instrument in such office, corporation or bank or agency in order to ascertain whether such instrument is duly stamped and shall impound such instrument if it is not so stamped.

Impounded instruments to be transmitted to the Commissioner

55. (1) Where any person who has, by law or consent of parties, authority to receive evidence or the Registrar-General admits in evidence, or acts upon, any instrument in accordance with the provisions of the proviso to section 62, he shall send the Commissioner an authenticated copy of such instrument, supplied at the expense of the person tendering it, together with a certificate in writing stating the amount of the stamp duty and penalty levied in respect thereof, and shall send such amount to the Commissioner.

(2) In every other case the person so impounding an instrument shall send it in the original to the Commissioner.

Instruments not duly stamped by accident produced voluntarily.

56. If any instrument chargeable with stamp duty and not duly stamped, not being an instrument cargeable with stamp duty not exceeding Rupees two, is produced by any person of his own motion before an Assessor within one year from the date of its execution and such person brings to the notice of the Assessor the fact that such instrument is not duly stamped and offers to pay to the Assessor the amount of the proper duty or the amount required to make up the same and the Assessor is satisfied that the omission to stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may instead of impounding the instrument receive such amount and shall by endorsement thereon state that the proper amount of stamp duty with which such instrument is chargeable has been paid.

The Commissioner to deal with impounded instruments.

57. (1) Where the Commissioner impounds any instrument under section 54 or receives any instrument under section 55 (2) not being an instrument chargeable with a duty of Rupees two, he shall refer it to an Assessor who shall adopt the following procedure in respect thereof—

(*a*) if he is of opinion that such instrument is duly stamped or is not chargeable with stamp duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be :

(*b*) if he is of opinion that such instrument is chargeable with stamp duty and is not duly stamped, he shall, by notice in writing, require the person liable to pay the stamp duty to pay the proper duty or the amount required to make up the same, together with a penalty not exceeding three times the amount of the proper duty.

(2) Where the proper amount of stamp duty has been paid on any such instrument and it has been impounded on account of any irregularity in the mode of execution of such instrument or because it has not been stamped at the time as required by law, the Assessor, if he is satisfied that the irregularity was due to accident, mistake or urgent necessity may, on payment of a penalty not exceeding five hundred rupees, certify by endorsement thereon that the instrument has been duly stamped, and every instrument so endorsed shall be deemed to have been duly stamped from the date of its execution.

Endorsement of instrument on which duty has been paid

58. (1) Where the stamp duty and penalty, if any, required to be paid in respect of any instrument under section 56 or by a notice under section 57 (1) (*b*) or under section 60 have been paid or recovered, the Assessor or the person admitting such instrument in evidence or acting upon such instrument shall certify by endorsement thereon—

(i) that the proper stamp duty and panalty, have been paid in respect of the instrument ;

(ii) the name and address of the person paying them ; and

(iii) the date of payment.

Such certificate shall be conclusive evidence of the matters stated therein for the purposes of this Statute.

(2) Every instrument endorsed in accordance with subsection (1) shall be deemed to be duly stamped and shall be admissible in evidence, and be registered and acted upon, and authenticated as if it is so stamped, and shall be returned on his application, to the person from whose possession it came into the hands of the officer impounding it.

Non-liability for loss of instruments sent.

59. (1) If any instrument sent to the Commissioner under section 55 is lost, destroyed or damaged during transmission the person sending the same shall not be liable for such loss, destruction, or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

CHAPTER XIX

ADMISSIBILITY OF INSTRUMENTS

Admissibility of instruments.

60. No instrument chargeable with stamp duty shall be received or admitted in evidence by any person having by law or consent of parties authority to receive evidence or registered or authenticated or acted upon by any person or by any officer in a public office or corporation or bank or apprved credit agency unless such instrument is duly stampted:

Prvided that any such instrument may—

(a) be admitted in evidence by any person having by law or consent of parties authority to receive evidence: or

(b) if the stamp duty chargeable on such instrument is Five Thousand Rupees or less, be acted upon by the Registrar General, or any Deputy Registrar General any Assistant Registrar General authenticated by the Registrar General in that behalf;

upon payment of the proper duty with which it is chargeable or the amount required to make up the same and a penalty not exceeding three times the proper duty.

Admissibility of receipts in certain cases.

61. Where any person require to give a stamped receipt has given an unstamped receipt and such receipt if stamped would be admissible in evidence against him, then such receipt shall, notwithstanding anything in section 60, be admitted in evidence against him on payment of a penalty of five rupees, by the person tendering it.

CHAPTER XX

ADJUDICATION OF STAMP DUTY

Adjudication as to proper stamp duty.

62. Where any instrument whether executed or not and whether previously stamped or not, is brought to an Assessor together with a copy thereof and the person bringing it applies to have the opinion of the Assessor as the stamp duty, if any, with which it is chargeable, and pays a fee of two hundred and fifty rupees the Assessor shall determine the stamp duty, if any with which in his opinion the insrtument is chargeable and shall notify his determination to such person in writing.

63. For the purpose of giving his opinion under section 62 the Assessor may require the person bringing the instrument to produce any such document or other evidence as is necessary to prove the facts relating to the chargeability of the instrument with stamp duty or the amount of the stamp duty with which it is chargeable;

Provided that, every person by whom any such evidence is furnished shall, on payment of the full stamp duty with which the instrument to which it relates is chargeable, as relieved from any penalty which he may have incurred under this Statute, otherwise than by reason of his omitting, to state truly in such instrument any of the facts or circumstances aforesaid.

Endorsement by Assessor.

64. (1) The Assessor shall certify by endorsement on any instrument brought to him under Section 62 that any stamp duty with which such insrument is chargeable has been paid or that such instrument is not chargeable with stamp duty.

(2) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with stamp duty, as the case may be, and if chargeable with stamp duty shall be receivable in evidence or otherwise and may be acted upon and registered as it had been originally duly stamped ;

Provided that nothing in this Section shall authorise the Assessor to endorse—

(*a*) any instrument executed or first executed in Sri Lanka and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ; or

(*b*) any instrument executed or first executed out of Sri Lanka and brought to him after expiration of one month after it has been first received in Sri Lanka.

CHAPTER XXI

ALLOWANCES FOR STAMP

Allowances for unused and spoiled stamps.

65. (1) The Commissioner may on a written application made to him within the period specified in sub section (2) and upon being satisfied as to the facts make an allowance for unused or spoiled stamps in the following instances :

(*a*) Where stamp has been inadvertently or undesignedly spoiled and rendered unfit for the purpose for which it was intended to be used ;

(*b*) Where a stamp has been affixed to an instrument which is incomplete or which is not executed or is void or has by person of a mistake been found unfit for the purpose intended ; or

(*c*) Where a stamp of the wrong description or value has been inadvertently or undesignedly affixed to an instrument subsequently replaced by a duly stamped instrument ; or

(2) The application for an allowance under sub section (1) shall be made within one year of the date of purchase of the unused or spoiled stamp.

(3) The Commissioner may on an application for an allowance under sub section (1) either give to the applicant other stamps of the same description and value or the value of the stamps in money, and where he does the latter he shall deduct five cent for each rupee or fraction of a rupee.

CHAPTER XXII

OFFENCES AND PENALTIES

66. (1) Any person—

(*a*) who executes, otherwise than as a witness, any instrument chargeable with duty without the same being duly stamped; or

(*b*) who fails to cancel an adhesive stamp in the manner prescribed by section (41);

shall be guilty of an offence under this Statute and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees.

(2) Any person who without lawful authority makes or produces, or assists, in any manner whatsoever, in the making or producing, of any stamp or die or has in his possession any such dies or any stamp so made or produced shall be guilty of an offence and be liable on conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Notary Public failing to act in accordance with provisions of this Act.

67. Any notary public who knowingly fails to comply with any requirement imposed on him by Section 78 shall be guilty of an offence under this statute and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding the stamp duty payable on the instrument in respect of which the offence is committed and five thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penalty for defrauding Council.

68. Any person—

(*a*) with intent to defraud the Council draws, attests or executes any instrument in which all the facts and the circumstances required by Section 78 to be set out in such instrument are not fully set out;

(*b*) having received any sum of any money for payment of stamp duty on any instrument executed, authenticated or attested by him, does not apply the money to the payment of the stamp duty and improperly withholds or detains the same or any part thereof; or

(*c*) in executing, authenticating or attesting any instrument, affixes or causes to be cancelled any stamp which is not genuine or has been previously used; or

(*d*) does any other act calculated to deprive the Council of any duty or penalty under this Statute; or

(*e*) tails to comply with any requirment imposed on him by the Commissioner under Section 54(2);

(*f*) resists or obstructs the Commissioner in the exercise by the Commissioner, of the power conferred on him by Section 54(4),

shall be guilty of an offence under this Statute and shall be liable on conviction after summary trial before a Magistrate ;

(i) In the case of an offence under sub section (*b*), to a fine consisting of a sum equal to the amount of the stamp duty withheld or detained by such person and an amount not exceeding five thousand rupees ;

(ii) In the case of an offence under Sub Section (*c*), to a fine consisting of a sum equal to ten times the amount of the stamp affixed or cancelled by such person and an amount not exceeding five thousand rupees ;

(iii) In the case of an offence under sub section (*a*) or (**d**) or (*e*) or (*f*), to a fine not exceeding five thousand rupees,

or in every case, to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

69. Any person who fails to comply with the requirement of a notice given to him under Section 73 (8) shall be guilty of an offence and shall be liable to after a summary trial before a Magistrate to a fine not exceeding five thousand rupees.

Amount of stamp duty or penalty to be payable notwithstanding any proceeding for penalties &c.

70. The institution of a prosecution against any person in respect of an offence under this Part or the imposition of a penalty, fine or term of imprisonment on any person in respect of any such offence shall not relieve such person from any liability to the payment of any stamp duty or penalty which he has incurred or may incur under this Statute.

Institution of prosecution

71. No prosecution in respect of any offence under this Statute shall be instituted without sanction of the Commissioner.

Power of the Commissioner to compund offences.

72. The Commissioner may, having regard to the circumstances in which the offence was committed, compound any offence under this Statute and may, before judgement, stay or compound any proceedings thereunder.

CHAPTER XXIII

General

Signature the service and validity of notice.

73. (1) Every notice to be given by the Commissioner or an Assessor under this Statute shall bear the name of the Commissioner or Assessor, as the case may be, and every and such notice shall be valid if the name of the Commissioner or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Statute may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is or was carrying on business.

(3) Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post.

(4) In proving service by post, it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate, given or issued for the purposes of this Statute which purports to be the name of the person authorised to give or issue the same, shall be judicially noticed.

(6) No notice, assessment certificate or other proceeding purporting to be in accordance with the provisions of this Statute shall be quashed, or deemed to be void, or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with, or according to, the intent and meaning of this Statute, and if the person to whom such notice or certificate is given or intended to be given or affected thereby is designated therein according to common intent and understanding.

(7) Without prejudice to the generality of sub section (5) a notice or assessment shall not be impeached or affected by reason of mistake therein as to the name or surname of the person chargeable with the amount, if the notice is duly served on the person intended to be charged.

Power to call for information.

(8) (1) The Commissioner, Deputy Commissioner or an Assessor may for the purposes of this Statute give notice in writing to any person requiring him to—

(i) produce, or transmit to him for examination, within the period specified such notice, any such document or instrument as may be specified in such notice;

(ii) furnish any such information as may be specified in such notice;

(iii) attend in person, or by authorising a representative at such place and such date and at such time as may be specified in such notice, so that may be examined on any such matter as may be specified in such notice.

(2) Where notice has been given to a person under sub section (1) requiring him to furnish any information, such person shall comply with such requirements notwithstanding anything to the contrary in any other law prohibiting the furnishing of such information.

(3) Any person who attends in complaince with a notice given under subsection (2) may be allowed by the Commissioner such expenses as are reasonably incurred by him in so attending.

(4) In this section "person" includes a Banker:

Exercise of discretions in regard to penalties.

74. Where any discretion is conferred on the Commissioner or an Assessor as to the amount of any penalty to be imposed on any person under this Statute such discretion shall be exercised by the Commissioner or Assessor, as the case may be, after having regard to all the circumstances in which that penalty was incurred.

Persons paying duty or penalty may recover same in certain instances.

75. (1) When any stamp duty or penalty has been paid by any person in respect of an instrument and, by agreement or under the provisions of this Statute or any other enactment, some other person was liable to pay stamp duty in respect of such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purposes of such recovery, a certificate under the hand of the Commissioner, to the effect that stamp duty has been paid in respect of the instrument by the person specified in the certificate shall be conclusive evidence of the matters specified therein.

Orders.

76. (1) The Minister may, by Order published in the Gazette, require that stamps of the description specified in the Order be used for the stamping of the instruments specified in the Order and it shall not be lawful for any person to use stamps other than the stamps of that description for the payment of duty on such instruments.

(2) The Minister of being satisfied, in respect any country, that no stamp duty is chargeable in that country in the case of any instrument executed by or on behalf of, or in favour of, the Government of Sri Lanka may declare, by Order published in the Gazette that the exemption granted by paragraph 3 of Section 39 shall apply to a similar instrument executed by or on behalf of, or in favour of, the Government of that country.

Regulations.

77. (1) The Minister may make regulations in respect of all or any of the following matters :

(*a*) any matter which is required or authorised by this Statute to be prescribed ;

(*b*) the instruments in respect of which stamp duty may be payable by means of impressed stamps.

(2) Every regulation made under this section shall come into operation on the date of its publication in the Gazette or on such later date as may be specified in the regulations.

(3) Every regulation made under this section shall, as soon as convenient after its publication in the Gazette be brought before the Council for approval. Any such regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

Conditions affecting instruments of conveyance.

78. (1) Every person drawing, making, executing or attesting any instrument chargeable stamp duty shall set out therein, the full names and addresses of the parties of such instrument, the consideraiton, the date and manner of payment and all other facts and circumstances affecting the chargeability of such instrument with stamp duty and the amount of the stamp duty with which it is chargeable.

(2) Every notary public who attests an instrument of conveyance shall before doing so take all reasonable steps to satisfy himself that the value on which the stamp duty is paid represents the value of the property conveyed.

(3) Every notary public who attests any instrument for which adhesive stamps are used shall affix stamps of the correct description and value to such instrument and cause them to be cancelled them in the manner directed by this Statute and state in his attestation, the number and value of the stamps affixed to such instruments.

(4) When Stamp Duty is paid on an instrument in the manner set out in Section 40(2) and (3) the Notary Public who attests the instrument of conveyance shall certify that the certificate of payment issued by the Bank has been duly affixed to the instrument and where the duty is not paid at or before the time of execution, certify on the deed the reasons therefor.

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PART 3

CHAPTER XXIV

APPEALS

Appeals to the Provincial Commissioner.

79. (1) Any person may if he is aggrieved with any assesment or additional assessment made in respect of him by a Provincial Assessor, or a penalty imposed under Part 1 of this Statute or an opinion given under Section 62 or requirement given under section 57 (1) (b) of Part 2, appeal against such assessment or additional assessment or penalty or opinion or requirements as the case may be to the Commissioner within thirty days after the service of notice of such assessment additional assessment, imposition of penalty, opinion or requirement. Such person shall, notwithstanding the appeal, pay the turnover tax or stamp duty charged or levied by such assessment or additional assessment or opinion or requirement together with any penalty imposed on him by this Statute, unless the Commissioner orders that the payment of the turnover tax or stamp duty or any part thereof be held over pending the determination of such appeal. Upon the making of such order, the amount of turnover tax or stamp duty or part thereof held over, shall not be deemed to be in default :

Provided that the Commissioner, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period shall grant an extension of time for preferring the appeal.

(2) Every appeal shall be preferred by a petition in writing addressed to the Commissioner and shall state precisely the grounds of such appeal.

(3) Where the assessment or additional assessment appealed against has been made in the absence of a return, the petition of appeal shall be sent together with a return duly made.

(4) Every petition of appeal which does not conform to the provisions of subsections (1), (2) and (3) shall not be valid.

(5) On receipt of a valid petition of appeal, the Commissioner may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the matters specified in the petition of appeal, the necessary adjustment of the assessment shall be made or the amount specified in the opinion or notice shall be amended accordingly.

(6) Where no agreement is reached between the appellant and the Assessor in the manner provided in subsection (5) the Commissioner shall fix a time and place for the hearing of the appeal.

(7) Every appellant shall attend before the Commissioner at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorised representative. The Commissioner may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorised representative attends on behalf of the appellant, the Commissioner may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner, the Commissioner may dismiss the appeal.

Provided that, if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner that he or his authorised representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by reason of absence from Sri Lanka, sickness, or other unavoidable cause the Commissioner may vacate the order of dismissal and fix a time and place for the hearing of the appeal.

(8) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(9) Before making his determination on any appeal, the Commissioner may, if he considers it necessary so to do, by notice given in writing to any person require that person to produce for examination, or to transmit to the Commissioner within the period specified in such notice, any such deeds, plans, instruments, books, accounts, lists, stock lists, registers, cheques, paying-in-slips, auditor's reports or valuers reports or other documents in his possession as may be specified in such notice.

(10) Where the Commissioner hears the evidence of the appellant or of any other person in respect of the appeal, he shall maintain or cause to be maintained a record of such evidence.

(11) In determining an appeal under this section the Commissioner may confirm, or amend the opinion appealed against or reduce, increase or annul the assessment or notice appealed against and shall give notice in writing to the appellant of his determination on the appeal.

(12) Where upon the final determination of an appeal or upon an order made by the Commissioner, any turnover tax or stamp duty which has been held over under subsection (1) becomes payable or the turnover tax charged by the original assessment or stamp duty is increased, the Commissioner shall give to the appellant a notice in writing fixing a date on or before which any such turnover tax or balance of turnover tax or stamp duty or balance thereof shall be paid. Any turnover tax or stamp duty not so paid shall be deemed to be in default.

(13) Where there is an appeal against an assessment or opinion or requirement and where the payment of any turnover tax or stamp duty specified in the notice of assessment is held over under subsection (1), the Commissioner may, if the appellant agrees during the course of inquiry into or hearing of that appeal, that a certain sum is due or is likely to be due as turnover tax or stamp duty in respect of that assessment, or requirement by notice in writing given to the appellant, direct him to pay such sum on or before the date specified in the notice. Any sum not so paid shall be deemed to be in default.

CHAPTER XXV

APPEALS TO BOARD OF REVIEW

Constitution of the Board of Review.

80. (1) For the purpose of hearing appeals in the manner hereinafter provided there shall be a Board of Review (hereinafter referred to as "the Board") consisting of five members who shall be appointed by the Minister. Every member of the Board so appointed shall hold office for a term not exceeding three years but shall be eligible for reappointment. A member shall be appointed as Chairman by the Minister.

(2) There shall be a Secretary to the Board who shall be appointed by the Minister.

(3) Any three members of the Board nominated by the Chairman may hear any appeal.

(4) At the request of the Provincial Commissioner, the Secretary to the Board shall summon a meeting of the Board.

(5) The remuneration of the members of the Board, and the Secretary shall be fixed by the Minister.

Appeals to Board of Review.

81. (1) Any person aggrieved by the determination of the Commissioner upon any of appeal made to him under section 79 may communicate in writing to the Commissioner his dissatisfaction with that determination. Every such communication shall be made within one week from the date of the determination.

(2) Where the appellant has communicated in accordance with subsection (1), his dissatisfaction with the determination of the Commissioner, the Commissioner shall, within one month of the date of that determination transmit in writing to the appellant his reasons for that determination.

(3) The appellant may within one month of the transmission, by the Commissioner under subsection (2), of the reasons for the determination by petition in writing addresssed to the Board, appeal from that determination. Every such petition shall—

(a) be accompanied by a Copy of the Commissioner's determination against which the appeal is made;

(b) set out precisely the grounds of appeal there from; and

(c) be delivered to the Secretary to the Board.

Provincial may refer appeals to the Board of Review.

82. The Commissioner shall refer any valid appeal made to him to the Board of Review and the Board shall hear and determine such appeal and accordingly the provisions of section 83 shall apply to the hearing and determination of any appeal, so referred.

83. (1) As soon as may be after the receipt of a petition of appeal, the Secretary to the Board shall fix a date and time and place for the hearing of the appeal, and shall give fourteen day's notice thereof both to the appellant and to the Commissioner.

(2) The Commissioner shall on receipt of a notice under subsection (1), transmit to the Board a copy of the record of evidence maintained under section 79 (10).

(3) Every appellant shall attend in person or by, an authorised representative at the hearing of an appeal. The Board may postpone the hearing for such time as it thinks necessary to enable the attendance in person, of the appellant.

(4) The assessor who made the assessment or gave the opinion or imposed the requirement appealed against or some other person authorised by the Commissioner shall attend the meeting of the Board at which such appeal is heard in support of the assessment as determined by the Commissioner.

(5) The onus of proving that the assessment, opinion or requirement confirmed by the Commissioner on appeal, or as referred by him under Section 82 as the case may be, is excessive or erroneous shall be on the appellant.

(6) All appeals shall heard in camera.

(7) The Board shall have power to summon to attend at the hearing any person whom as may consider able to give evidence respecting the appeal and may examine him as a witness, either on oath or otherwise, any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(8) Except with the consent of the Board and on such terms as the Board may determine, the appellant shall not, at the hearing by the Board, be allowed to produce any document which was not produced before the Commissioner or to adduce the evidence of any witness whose evidence was not led before the Commissioner or whose evidence has already been recorded at the hearing before the Commissioner.

(9) At the hearing of the appeal the Board may, subject to the provisions of subsection (8), admit or reject any evidence adduced whether oral or documentary, and the provisions of the evidence ordinance relating to the admissibility of evidence shall not apply.

(10) After hearing the appeals, the Board shall confirm, reduce, increase or annual the assessment as determined by the Commissioner on appeal or as referred by him under Section 82 as the case may be or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require. The decision of the Board shall be notified to the Appellant and the Commissioner in writing.

(11) Where under subsection (10, the Board does not reduce or annul such assessment, the Board may order the appellant to pay costs of the Board, a sum not exceeding five hundred rupees which shall be added to the tax charged by the assessment and recovered therewith.

CHAPTER XXVI

Appeals to the Court of Appeal

84. (1) The decision of the Board shall be final :

Appeal on a Question of law to the Court of Appeal.

Provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of th Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the Secretary to the Board together with a fee of fifty rupees. Within one month of the date on which the decision of the Board was notified in writing, the Commissioner or the appellant, as the case may be.

(2) The case stated by the Board shall set out the facts, the decision of the Board and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party requiring the Board to state such case shall transmit the case, when stated and signed, to the Court of Appeal, within fourteen days after receiving the same.

(3) For the purposes of the application of the provisions of the stamp Ordinance ;

(*a*) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees, or of such amount as is set out by the Board in the stated case as the amount of the tax in dispute ;

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(b) Every such case stated shall, together with all books, documents and papers annexed thereto by the Board, be deemed to be a single exhibit in civil proceedings before the Court of Appeal;

(c) The Commissioner, if he is the appellant, shall be deemed to be a Government officer sueing, or if he is the respondent to the appeal, a Government officer being sued, in a suit virtute office.

(4) At or before the time when he transmits the stated case to the Court of Appeal the party requiring it shall send to the other party notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any judge of the Court of Appeal may cause a stated case to be sent back to the Board for amendment, and the Board shall amend the case accordingly.

(6) Any one or more judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of the court upon such question, confirm or amend, the opinion appealed against or confirm, reduce, increase, or annul the assessment or notice determined by the Board, or may remit the case to the Board with the opinion of the Court thereon. Where a case is so remitted by the Court the Board shall revise the assessment in accordance with the opinion of the Court.

(7) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(8) For the purposes of enabling the Commissioner or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6) and for the purpose of the application of the provisions of any written law relating to appeals to the Supreme Court from the decisions of the Court of Appeal.

(a) an order by the Court of Appeal under subsection (6), shall, together with any order of that Court under subsection (7), be deemed to be a final judgment or the Court of Appeal in a civil action between the provincial Commissioner and such other party;

(b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees.

Provided that where the Board has in the case stated set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and

(c) the Commissioner shall not be required in respect of any such appeal, to make any deposit or pay any fee or any security prescribed by such written law.

CHAPTER XXVII

RECOVERY OF TAX

85 (1) In this chapter "tax" includes "Turnover Tax" and "Stamp Duty" and any sum added to such "Turnover Tax" or "Stamp Duty" and any fines penalties fee or costs whatsoever incurred under this Statute.

(2) The tax required to be paid by any notice under Section 4 and Section 57 (1) (b) shall be paid before the date specified on such notice and the tax not so paid shall be deemed to be in default.

(3) Where the tax payable during every quarter under Section 11 and 12 and under Section 57 (1) (b) is not paid on or before the date specified therein such tax together with a penalty of 10 per cent of the tax and 2 per cent of the tax in default for every month of non-payment shall be deemed to be in default and the person liable to pay the tax shall be deemed to be a defaulter.

Provided that the total amounts payable as penalty shall not exceed 50% of the tax in default.

(4) Tax shall be paid, notwithstanding any appeal unless the Commissioner-General orders that payment of the tax or any part thereof be held over, pending the determination of such appeal, and upon such order, the amount held over shall be deemed not to be in default.

(5) Where the Commissioner is of opinion either that the tax or any part thereof held over under subsection (3) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may revoke any order made under that subsection and make such fresh order as the case may appear to him to require and the amount of any tax not paid on or before such date as may be specified in the fresh order shall be deemed to be in default.

(6) Where upon the final determination of an appeal under this Part or upon any order made by the Commissioner, any tax which has been held over under sub-section (4) becomes payable or the tax payable under a notice is increased, the Commissioner shall give to the appellant a notice in writing fixing a date on or before which any tax or balance tax shall be paid. Any tax not paid before such date shall be deemed to be in default.

86. Any tax in default shall be a first charge upon all the assets of the defaulter;

Provided that—

(i) such charge shall not extend to, or affect, any assets sold by the defaulter to a bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of section 88 ; and

(ii) as regards immovable property, the amount in default shall not rank in priority to any lease or encumbrance created bona fide for value and registered prior to the date of such seizure.

87 (1) Where any tax is in default, the Commissioner shall, before proceeding to recover such duty any manner hereinafter provided, issue a notice in writing to the defaulter stating—

(a) the particulars of such tax ; and

(b) that action is being contemplated to recover the tax.

(2) If such defaulter has not appealed within the proper time against any assessment or notice under section 57 (1) (*b*) he may within thirty days of the date of the notice issued under subsection 1 of this section, make any objection to the tax so charged and the Commissioner shall, consider such objections and give his decision thereon which shall be final.

(3) Notwithstanding anything in this section, where there is an appeal against a notice under section 57 (1) (*b*) and the payment of any tax specified in such notice is held over on the order of the Commissioner and the appellant agrees, during the course of the hearing of that appeal, that a certain sum is due or is likely to be due as tax in respect of that notice, the Commissioner any, by notice in writing given to the appellant, direct the appellant to pay such sum on or before such date as is specified in the notice. Any sum not paid before such date shall be deemed to be in default.

(4) Where upon the final determination of an appeal under this Part any tax in default is reduced the penalty payable in respect of such tax shall be proportionately reduced.

88 (1) The Commissioner may appoint persons to be tax collectors for the purposes of this Statute.

(2) (*a*) Where any tax is in default, the Commissioner may issue a certificate to a Government Agent, Fiscal, Deputy Fiscal or tax collector containing particulars of such tax and the name of the defaulter, and the officer to whom such certificate is issued is hereby empowered and required to cause the tax to be recovered from the defaulter named in the certificate by seizure and sale of his movable property.

(*b*) A seizure of movable property shall be effected in such manner as such officer shall deem most expedient in that behalf, and as soon as any movable property is seized by such officer a list of such property shall forthwith be made and signed by him and shall be given to the defaulter and a copy thereof furnished to the Commissioner.

(*c*) Where the property so seized is—

(i) cash in Sri Lanka currency, such cash shall be applied in satisfaction of the tax in default;

(ii) cash in foreign currency, such cash shall be deposited in the Central Bank and the proceeds therefrom applied in satisfaction of the tax in default;

(iii) property other than cash, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal, or tax collector shall cause such property to be sold by public auction or where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day.

(d) The sum realized by the sale referred to in sub-paragraph (iii) shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping and selling the property; and

(ii) secondly, in satisfaction of the tax in default, and any balance shall be paid to the owner of the property seized.

(3) It shall be lawful for a tax collector to recover from any defaulter reasonable expenses incurred by him in proceeding against the defaulter under this section notwithstanding the seizure was not effected. Where cash is seized such reasonable expenses shall be set of first from the so seized.

(4) Where any tax is in default and the Commissioner is of opinion that recovery by the means provided in subsection (2) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property, movable or immovable, owned by the defaulter is situate, containing particulars of such tax and the name or names if the person or persons by whom the tax is payable, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any to the property, movable or immovable, of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, mutatis mutandis, apply to such seizure and sale.

For the purposes of this Section "movable property" include plant and machinery.

(5) Whenever the Commissioner issues a certificate under this section, he shall forthwith issue to defaulter, a notification thereof by personal service, or registered letter sent through the post or telegraph, but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

89. (1) Where the Commissioner is of the opinion in any case that recovery of tax in default by seizure and sale is impracticable or inexpedient or where the full tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate.

The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with a fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (*a*), (*b*) and (*i*) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner for the purposes of sub section (1) shall not be called in question or examined by the Magistrate in any proceedings under this Section and accordingly, nothing in that subsection shall be read and construed as authorizing the Magistrate to consider, or decide the correctness of any statement in such certificate.

(3) Nothing in sub sections (2) to (5) of Section 291 of the Code of Criminal Procedure Act No. 15 of 1979, shall apply in any case referred to in sub section (1) of this Section.

(4) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in instalments.

(5) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (4) for the payment of the fine ; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is or required to give bail.

(6) Where a Magistrate directs under subsection (4) that a payment could be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) In any proceedings under subsection (1) the certificate of the Commissioner shall be sufficient evidence that the duty has been duly required to be paid and is in default, and any plea that the amount is excessive incorrect, or under appeal shall not be entertained.

90. (1) Where tax payable by any person is in default and it appears to the Commissioner to be probable that any person—

(a) owes or is about to pay money to the defaulter or his agent ; or

(b) holds money for or on account of the defaulter or his agent ; or

(c) holds money on account of some other person for payment to the defaulter or his agent ; or

(d) has authority from some other person to pay money to the defaulter or his agent,

the Commissioner may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such moneys not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such moneys which are in his hands or due from him at the date of receipt of such notice, or come into his hand or become due from him or are about to be paid by him at any time within a period of three months after the date of such notice.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and of all other persons concerned and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract, or agreement.

(3) Any person to whom a notice has been given under subsection (1) who is unable to comply therewith or owing to the fact that the moneys referred to in that subsection do not come into his hands or that no such moneys become due from him within the period referred to in that sub section shall within fourteen days of the expiration thereof give notice in writing to the Commissioner apprising him of the facts.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to give notice to the Commissioner as provided in subsection (3), or where such person has paid or could have paid the tax to which the notice relates or any part thereof and has not paid over such tax or part thereof as required by the notice given by the Commissioner within fourteen days after the expiration of the period referred to in sub section (1), such person shall if he is an individual, where such person is a company or body or persons, whether corporate or unincorporate, the Secretary, Manager or other Principal Officer of such company or body be personally liable for the whole of the tax which such person has been required to pay and such tax may be recovered from the such individual, Secretary, Manager or other Principal Officer, as the case may be by all the means provided in this Statute.

(5) For the purposes of this Section the expression "defaulter" shall be deemed to include the agent, of a person who is in default and the provisions of this section shall apply in any case where the tax which would have been paid by any person if he were alive is in default; and for the purposes of the application of those provisions in any such case, the expression "defaulter" in Subsection (1) means—

(a) the executor or administrator of a deceased person; or

(b) any person who takes possession of, or intermeddle with, the property of a deceased person; or

(c) any person who has applied or is entitled to apply to a District Court for the grant or resealing of a probate or letters of administration in respect of the estate of a deceased person.

91. (1) Where the Commissioner is of opinion that any person is about to or likely to leave Sri Lanka without paying the amount of tax required to be paid by such person, he may issue a certificate containing particulars of such amount and the name of such person to a Magistrate who shall, on receipt thereof, direct the Inspector General of Police to prevent such person from leaving Sri Lanka without paying the amount or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) At the time of issue of his certificate to the Magistrate the Commissioner shall issue to such person a notification thereof by personal service or registered letter sent through the post, or telegraph; but the non-receipt of any such notification by such person shall not invalidate proceedings under this section.

(3) Production of the certificate signed by the Commissioner stating that the amount has been paid or that security has been furnished or that the amount has been paid to a Police Officer in charge of a Police Station, shall be sufficient authority for allowing such person to leave Sri Lanka. Any Police Officer to whom the amount of any tax has been paid shall forthwith pay such amount to the Commissioner.

92. Where the Commissioner is of opinion that application of any of the provisions of this chapter has failed or is likely to fail to secure the payment of the whole or any part of the tax due under this Statute from any person, it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this Chapter, notwithstanding that an order has been made by a Magistrate under section 89 and carried into effect.

93. The Commissioner may, by notice in writing to any person, require that person to furnish within the period specified in such notice, such information as the Commissioner may require for the purposes of recovery of any tax due from such person or any other person.

PART 4

CHAPTER XXVIII

EXCISE REVENUE

Excise Licence Fees and Tavern Rents.

94. All fees, including rents, tapping licence fees and liquor licence fees on the possession, transport, purchase and sale of intoxicating liquors levied or imposed under the Excise Ordinance No. 8 of 1912 (as amended) which are paid or collected in the province shall be collected in accordance with the aforesaid Ordinance (as amended) and remitted to the credit of the Provincial Fund of the Province.

95. The Commissioner of Revenue of the Province or an Officer not below the rank of Assessor and authorised in that behalf by the Commissioner, may, for the purpose of verifying any matter relative to the recovery of licence fees or rents, by written order, require, any tavern renter or liquor licensee engaged in the transport, possession, purchase or retail sale of liquor, to produce books of accounts, registers, records or other documents for inspection by such officer.

PART 5

CHAPTER XXIX

LOTTERIES

Lotteries Tax.

96. (1) There shall be imposed in respect of any lotteries conducted in the Central Province, in accordance with any law other than the National Lottery or a lottery organized by the Government of Sri Lanka a tax at such rate as the Minister may by Order published in the Gazette specify, on the gross proceeds of every lottery.

(2) Every Order made under Sub Section (1) shall come into force on the day specified in the Order and shall be brought before the Provincial Council within one month from the publication of such Order or if no meeting of the Council is held within such period, at the 1st meeting held after expiry of such period for approval by the Council.

(3) Any Order which the Council refuses to approve shall, with effect from the date of such refusal, be deemed to be revoked, but without prejudice to the validity of anything done thereunder. Notification of the date on which such order is deemed to be revoked shall be published in the *Gazette*.

(4) In this section Lottery includes any undertaking in the nature of a Lottery.

Payment of Tax

97 (1) Any tax imposed under Section II shall be payable by the promoter or promoters of the Lottery to the Provincial Commissioner of Revenue. If such tax is not paid it may be recovered from the promoter or promoters as a debt to be Provincial Council.

(2) Where a promoter or promoters shall not pay tax he or they shall also be guilty of an offence under this part of the Statute.

(3) Every person who commits an offence under this part of this Statute shall upon conviction after summary trial before a Magistrate be liable to a fine not exceeding Rs. 5,000 or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

PART 6

CHAPTER XXX

MOTOR VEHICLES

Motor vehicle Fees

98. All fees, including licence fees, together with any charges or penalties levied or imposed under the Motor Traffic Act (Chapter 203 CLE as amended) enacted by the Parliament of Sri Lanka which are paid or collected in the Province to the authority who is entitled to receive it under the Act shall be collected by such authority or by any other authority appointed by the Chief Secretary of the Provincial Council and remitted to the credit of the Provincial Fund of the Province by such authority.

PART 7

CHAPTER XXXI

COURT FINES

Court Fines.

39. All fines in respect of offences under a Statute passed by a Provincial Council imposed by a Court of law exercising jurisdiction within the Province and paid into Court shall, subject to any direction which a Court of law may make with regard to any payment to be made out of such fine in terms of any written law, be credited to the Provincial Fund of that Province.

PART 8

CHAPTER XXXII

GENERAL

Signature and service of notice

100. (1) Every notice to be given by the Commissioner, a Deputy Commissioner or a Assessor under this Statute shall bear the name of the Commissioner or Deputy Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Provincial Commissioner, Deputy Provincial Commissioner or Provincial Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this statute may be served on a person either personally or by being delivered at, or sent by post to, the last known place of abode or any place at which he is, or was, during the period to which the notice relates, carrying on business.

Provided that a notice of assessment under section 13 or 14 shall be served personally or by being sent by registered letter post to any such place as aforesaid.

(3) Any notice sent by post shall be deemed to have been served on the day on which it could have been received in the ordinary course of post.

(4) In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(5) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this statute, which purports to be the name of the person authorised to give or issue the same, shall be judicially noticed.

Stamp duty or penalty paid inadvertently.

101 (1) If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years of the date of the payment of any stamp duty or penalty, by composition or otherwise, that any person has paid any stamp duty or penalty in excess of the amount properly payable by him, such person shall be entitled to have refunded the amount so paid in excess:

Turnover ta paid in exces to be refunded.

(2) If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years after the end of a quarter that any person has paid turnover tax in excess of the amount with which he was properly chargeable for that quarter, such person shall be entitled to have refunded the amount so paid in excess:

(3) Provided that nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid or to authorize the revision of any matter which has become final and conclusive.

(4) Where it is proved to the satisfaction of the Commissioner by claim made in writing that any person has paid any sum referred to in subsection (1) of section 12 which is in excess of the sum which he should have paid in such sum were calculated in accordance with the provisions of subsection (2) of that section, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within three years of the end of the quarter in which the sum preferred to in the aforesaid subsection (1) was paid.

Official secrecy.

102 (1) Except in the performance of his duties under this Statute, every person who is or has been employed in carrying out or in assisting any person in carrying out the provisions of this Statute shall preserve, and aid in preserving, secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Statute, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative or to the Minister or the Secretary to the Ministry of Finance nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner.

(2) Every person employed in carrying out the provisions of this statute shall before acting under this Statute and the Minister and the Secretary to the Ministry of Finance may before acting under this Statute take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person employed in carrying out the provisions of this Statute shall be required to produce in any court any return document or assessment or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Statute, except as may be necessary for the purpose of carrying into effect the provisions of this Statute or any other written law administered by the Commissioner.

(4) Notwithstanding anything contained in this section any officer of the Provincial Department of Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Statute or under any other written law administered by the Commissioner to any other officer of that Department if the communication is necessary for the performance of any duty under this Statute or under any such other written law and the Commissioner may notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any court in any proceedings under this Statute, a copy of any particulars contained in any return or document received by him or in his possession under this Statute or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars :

Provided that the Commissioner may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature or the person who wrote, made, signed or furnished such return or document but only for the purpose of such proof :

Provided further that the Commissioner shall not in any case be compelled to produce in any court either the original of such document or return or copy of any particulars contained in such document or return.

(5) Notwithstanding anything contained in this section, the Commissioner may permit the Auditor-General or any officer of the Department of the Auditor-General duly authorized by him in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Auditor-General or any officer authorized by him under this subsection shall be deemed to be a person employed in carring out the provisions of this Statute for the purpose of subsection (2).

Forms and register of transactions.

103. The Commissioner may from time to time prescribe the forms and register of transactions to be used for all or any of the purposes of this Statute ; and any forms or register of transactions so prescribed may from time to time be amended or varied by the Commissioner or some other forms or register of transactions may be substituted by the Commissioner in place of any forms or register of transactions so prescribed.

CHAPTER—XXXIII

ADMINISTRATION

Officers.

104. (1) The Commissioner shall be in charge of the administration of this Statute.

(2) The Commissioner may authorize an Assessor to exercise, perform or discharge any power, duty or function which is conferred or imposed on, or assigned to, the Commissioner by this Statute.

(3) An Assessor exercising, performing or discharging any power, or function conferred or imposed on, or assigned to, the Commissoner by any provision of this Statute shall be deemed for all purposes to be authorized to exercise, perform or discharge that power, duty or function until the contrary is proved.

(4) A Commissioner or a Deputy Commissioner may exercise, perform or discharge any power, duty or function conferred or imposed on, or assigned to, an Assessor by this Statute.

105. Any person who fails to qualify with the requirements of a notice given to him under Section or 78 (8) shall be guilty of an offence and shall be liable to conviction after summary trial before a Magistrate to a fine not exceeding five thousand rupees.

CHAPTER—XXXIV

INTERPRETATION

106. In this Act unless the context otherwise requires—

Interpretation.

" adhesive stamp " means a stamp which can be pasted and in respect of which an order under section 76 (1) is in force ;

" agent " includes any person having the direction, control or management of any business on behalf of any other person ;

" Assessor " means a Provincial Assessor of Revenue appointed for the purposes of and includes a Senior Assessor of Revenue appointed for the purposes of that Act ;

"authorised representative" means any individual—

(1) who is authorised in writing by a person to act on his behalf for the purposes of this Act and who is—

(*a*) in any case—

(i) a member of the Institute of Chartered Accountants of Sri Lanka

(ii) an Accountant approved by the Commissioner

(iii) an Attorney-at-law ; or

(iv) an employee regularly employed by that person ; or

(*b*) in the case of an individual, a relative ;

(*c*) in the case of a company, a director or the secretary of that Company ;

(*d*) in the case of a partnership, a partner in that partnership ;

(*e*) in the case of body of persons, a member of that body ; or

(2) who is authorised in writing from time to time, by a person to act on his behalf for the purposes of this Act in respect of such matters as are specified in the authorization and who being an individual registered as an auditor under the Companies (Auditors) Regulations is approved by the Commissioner ;

"bank" includes a banking institution ;

"banking institution" has the same meaning as in the Monetary Law Act ;

"body of persons" means any body corporate or incorporate, any fraternity fellowship, association or society or persons, whether incorporated or unincorporated, or any partnership ;

"business" means selling by wholesale or retail of any commodity or article but shall not include a sale by a manufacturer.

"chargeable" in relation to an instrument executed or first executed after the date of commencement of this Statute means chargeable with stamp duty under this Statute :

"cheque" means a bill of exchange drawn on a specified bank and not expressed to be payable other than on demand ;

"Commissioner or Provincial Commissioner" means the Provincial Commissioner of Revenue and includes a Provincial Deputy Commissioner of Revenue appointed for the purposes of this Statute who is authorized either generally or for some special purpose, by the Commissioner to act on his behalf ;

"company" means any company incorporated or registered, under any law in force in Sri Lanka elsewhere and includes a public corporation ;

"conveyance" includes conveyance on sale and every instrument by which property or any interest in any property is transferred ;

"Die" includes any plate, type, tool, or implement a part thereof used under the direction of Commissioner for expressing or denoting the fact that any stamp duty or penalty has been paid in respect of an instrument or that an instrument is duly stamped or is not chargeable with stamp duty ;

"document" in relation to legal proceedings in any court means an appointment of attorney, plant, answer, replication or other pleading, petition, application, affidavit, appointment, summons, judgment, decree, order of any description, award, writ, warrant inventory, account, mandate, bond recognizance, citation, application other than motion, interrogations, answer to interrogating notice of appeal, bill of costs, commission injunction or notce;

"duly stamped" in relation to an instrument means that the instrument bears an adhesive or impressed stamp or a certification of endorsement of not less than the proper amount and where such stamp is an adhesive stamp, that such stamp has been affixed and cancelled according to the provisions of this Statute;

"executed" and "execution" used in relation to an instrument means "signed" and "signature" respectively;

"executor" Means an executor or administrator of a deceased person and includes—

(*a*) any person who takes Possession of intermeddles with property of a deceased person;

(*b*) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate of letters or administration in respect of the estate of a deceased person; or

(*c*) a trustee acting under trust created by a last will of the author of the trust;

"gift" means a transfer by one person to another of any movable or immovable property made voluntarily and without consideration in money or money's worth:

"incapacitated person" means any minor lunatic, idiot or person of unsound mind;

"impressed stamp" means a stamp impressed by means of a die and in relation to any instrument chargeable with a stamp duty not exceeding ten rupees, includes stamps impressed by means of a postal franking machine, which is used under a permit issued by the Council;

"instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished, or recorded;

"Minister" means the Minister of the Board of Ministers of the Province to whom the subject of Finance has been assigned;

"money" includes all sums, whether expressed in Sri Lanka or foreign currency;

"Motor vehicle" shall have the same meaning as in the Motor Traffic Act;

"power of attorney" includes any instrument empowering a specified person to act for, and of the person executing it;

"Person" includes a company or body of persons;

"Province" means the Central Province of Sri Lanka;

"Provincial Assessor" means an Assessor of Revenue appointed for the purposes of this Statute;

"Provincial Commissioner" means the Provincial Commissioner Revenue appointed for the purposes, of this Statute;

"Provincial Deputy Commissioner" means a Provincial Deputy Commissioner of Revenue appointed for the purposes of this Statute;

"Provincial Council" or Council means the Provincial Council of the Province;

"Precedent Partner" means the partner who, of the active partners resident in Sri Lanka;

(*a*) is first named in the agreement or partnership; or

(*b*) if there is no agreement is specified by name or initial singly or with precedence to the other partners in the usual name of the partnership; or

(*c*) is first named in the statement made under section 4 of the Business Names Ordinance ;

"Quarter" means the period of three months commencing on the 1st day of January, the 1st day of April, the 1st day of July, and the 1st day of October, of each year;

"Trustee" includes any trustee, guardian, curator, manager, agent or other person having the direction, control of management of any property, on behalf of any person but does not include an executor.

"Chief Secretary" means the Chief Secretary of the Central Provincial Council.

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