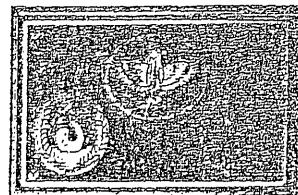


මොහාන් විලේවිකුම
මොහාන් විලේවිකුම
Mohan Wijewickrama
හැගෙනහිර පළාත ආන්ත්‍රිකාර්ථ
කිරුක්කු මාකාණ නුගුනර
Governor of the Eastern Province



My No. G/EPC/B/FR/9

05.03.2009

Hon. Chairman,
Eastern Provincial Council.

Financial Statute No. 01 of 2008 of the
Eastern Provincial Council

By virtue of the powers vested in me under Article 154 H, of the Constitution of the Democratic Socialist Republic of Sri Lanka - I, Mohan Wijewickrama, the Governor of the Eastern Provincial Council hereby set my hand granting the assent to the Statute No. 01 of 2008 approved by the Eastern Provincial Council on 18th November 2008.

Mohan Wijewickrama
Mohan Wijewickrama,
Governor,
Eastern Province.

Mohan Wijewickrama
Governor
Eastern Province

ආන්ත්‍රිකාර කාරුවාලය, සිරසිල් පාර, දිගුනාමලය
නුගුනර ජේයලකම, ඔවර මලෙ ඩ්නි, තිරුක්කොණමලෙ.
Governor's Secretariat, Orr's Hill Road, Trincomalee.

වාමය, දරකාරිත අංශ
ලෙකත් තොකළපොෂී } 026-2222102
Telephone

රැක්ස්
පක්ස් } 026-2222320
Fax

කිල තිවිය
වත්මිල් } 026-2220012
Residence

4

5

6

7

8

9

THE FINANCE STATUTE OF THE EASTERN PROVINCE

A STATUTE TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF TAXES AND FEES AND 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, the Stamp Duty Act, No. 43 of 1982 as amended, the Excise Ordinance as amended, the Prize Competition Act, No.37 of 1957 as amended, the Municipal Councils Ordinance as amended, the Urban Councils Ordinance as amended and the Pradeshiya Sabhas Act, No. 15 of 1987.

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

Short title and
date of
operation

1. (i) This Statute may be cited as the Finance Statute of the Eastern Province No. 1 of 2008 and its provisions and Parts shall come into operation on such date or dates as may be appointed by the Minister by Order published in the Gazette.

(ii) The Minister may appoint different dates in respect of different provisions and Parts. Whenever Sections 1, 2, 2A, 2B, 2C, 2D and 2E are brought into operation, Part 8 shall be deemed to have come into operation from the date appointed on which those Sections are brought into operation and whenever Part 1 or 2 is brought into operation, Part 3 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.

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.

Revenue collected
by other
authorities

2A. If any authority is at present levying any tax or licence fee or collecting any revenue relating to the subjects coming under List I of the 9th Schedule of the Constitution of the Democratic Socialist Republic of Sri Lanka, which legitimately belongs to the Eastern Provincial Council, that authority shall, without any delay, remit such money to the credit of the Provincial Fund of the Eastern Province and take action to transfer the data relating to the levying of such tax or licence fee or collection of such revenue to the Provincial Council.

2B. The Commissioner of Revenue of the Eastern 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 matters relating to the levying of any tax or licence fee or collecting any revenue, or for the transfer of data mentioned in Section 2A by written order require any authority or officer or person to produce books of accounts, registers, records or other documents for inspection by such officer.

2C. Every person who fails to comply with the provisions of Sections 2A or 2B 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 period not exceeding three months or to both such fine and imprisonment.

2D. No prosecution in respect of an offence under sections 2A or 2B shall be commenced except at the instance of or with the sanction of the Commissioner.

2E. "Person" includes a company or body of persons (corporate or incorporate) or any Government Department, and, when a person is found guilty under Section 2C, if that person -

(i) is a body of persons, every person who, at the time of the commission of the offence, was a director, manager or secretary of such body;

(ii) is a Government Department, every officer who, at the time of the commission of the offence, was a Head, Deputy or any other responsible officer;

shall be deemed to be guilty of such offence unless such director, manager, secretary, Head, Deputy or other responsible officer, as the case may be, proves that such offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of such offence as he ought to have exercised having regard to the nature of his functions, in such capacity and in all the circumstances.

PART 1
CHAPTER I
IMPOSITION OF TURNOVER TAX

Imposition of turnover 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 from every person who carries on any business in the Province, a tax (hereinafter referred to as the "turnover tax") in respect of the turnover made by that person in that quarter 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 article but shall not include a sale by a manufacturer.

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 him and 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, if the tax cannot be recovered from the previous owner.

CHAPTER II **EXEMPTIONS**

Exemption from
turnover tax

5. (1) The Minister may, if he is of the 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**

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 purpose of subsection (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 become a 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 description 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, having regard to the public interest, by Order published in the Gazette, declare any article specified in such Order to be an excepted article for the purpose of this Statute. Different articles may be declared to be excepted articles in respect of different classes or descriptions of businesses.

No turnover tax on excepted article

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 shall be payable in respect of the sum realised 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 authorised 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 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, trade lists, stock lists, registers, vouchers, cheques, paying-in-slips, auditor's reports or other document in his possession as may be specified in such notice.

(b) to attend in person or by an any authorised 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 given 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 the Commissioner, may retain in his custody as long as such retention is necessary for the purpose 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 requirement 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 (8) he shall not be liable to a prosecution for an offence under Section 34 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 partnership then each of such persons and partner in the partnership shall be deemed to be a defaulter for the purpose 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 succeeding 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 **ASSESSMENTS**

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; or

(b) who is chargeable with turnover tax furnishes under Section 10 a return in respect of any quarter but fails to pay tax for that quarter;

the 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 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 Assessor shall assess the amount which, in the judgment of the 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 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 quarter, 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.

Additional assessments made by Assessor deemed to be tax in default.

Assessor to give reasons for not accepting a return

Assessment or amended assessments to be final

Penalty for under-payment of turnover tax

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.

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

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, that 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 an 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.

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 17 the Commissioner may, unless that person proves to the satisfaction of the 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 assessments 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 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 of persons, 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 officer thereof.

(2) Where an offence under this Statute is committed by a company or a body of persons, corporate or unincorporate, every person who at the time of the commission of the offence was a Secretary, Manager, Director or other Principal Officer shall be liable for the commission of the offence unless he proves that 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 to 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 Statute 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 in respect 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 the deceased person carries on 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,
trustees 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 turnover tax
upon liquidation of
a company or
dissolution of a
body of persons

26. (1) Notwithstanding anything in the Companies Act, 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 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 that tax is charged shall be jointly and severally liable for the payment of such tax unless he proves that 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 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, grant, covenant, agreement, or arrangement.

Validity of Assessments.

27. (1) No notice, assessment, certificates 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 substance 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 is 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 authorised by the Commissioner in that behalf may, accompanied 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 useful for, or relevant to, any proceedings 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 identification 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 of Criminal Procedure Act, No.15 of 1979.

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

(3) Where any officer authorised by the 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.

Power to search business places

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

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

(b) open and examine any receptacle where any book of account, register, record or other document may be kept and make an inventory of any of the articles 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 immediately 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.

(2) Where the Commissioner or an officer authorised by the 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 the Commissioner or an officer authorised by him may be retained in the possession of the Commissioner or 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.

Vouchers 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 Commissioner may prescribe the form and manner in which transactions may be recorded in different businesses.

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.

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 relating 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 of this Statute; or
- (b) knowingly omits from a return made or furnished under this Part of this Statute any particulars which he should have included in such return; or
- (c) make any false return or false entry in any return made under this Part of this Statute, and thereby evades or attempts to evade turnover tax or assists any other person to evade 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 a 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 who assisted is liable under this Statute for the quarter in respect of or during which the offence was committed; 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 and imprisonment.

Penal Provisions relating to return 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 Section 93; or
- (c) having appeared before an officer of the Provincial Department of Revenue in compliance with a 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) knowingly gives any incorrect information relating to any other matter or thing affecting his own liability to turnover tax or the liability of any other person; or
- (e) willfully 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 fifty 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 compound any offence under Section 32, Section 33 or Section 34 and may before judgement stay or compound any proceedings thereunder.

Prosecutions to be with the sanction of the Commissioner

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.

Instruments with duty

37. There shall be charged on –

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

(b) every document presented or filed, in proceedings instituted in any court of law established by law, in the Eastern Province of Sri Lanka;

(c) every transfer of a motor vehicle effected in the Eastern Province;

a stamp duty at the prescribed rate. Different rates may be prescribed in respect of different classes or categories of instruments.

Instruments relating to several distinct matters.

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.

CHAPTER XI **EXEMPTIONS**

Exemptions

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

(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) instruments executed by, or on behalf of, or in favour of, the Government in cases where, but for this exception, 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 Magistrate's 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, “*virtue 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 the High Court of the Eastern Province for the purpose of an application for an order in the nature of a writ of *habeas corpus*;

(f) all documents filed by or on behalf of any person who is certified by the Administrator of the Legal Aid Scheme approved under the Legal Aid Law, No. 27 of 1978 or any officer duly authorised by him in that behalf as suing, defending or intervening with legal aid provided under the said Legal Aid Law.

(g) all document 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 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 referred 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. 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 seven days from the date of execution of the instrument. An instrument which has affixed on it the certificate for the payment of stamp 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 provided for in subsection (2), 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 the date of payment of such duty. An instrument so endorsed shall be deemed to be duly stamped.

Cancellation of adhesive stamp

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 subsection (1) be cancelled by cutting it with a prick, punch, cutter or nipper.

(3) Any instrument bearing an adhesive stamp which has not been cancelled in the manner set out in subsection (1) or (2) shall be deemed to be unstamped to the extent of the value of that stamp.

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

CHAPTER XIII

HOW CERTAIN INSTRUMENTS ARE TO BE STAMPED

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.

How instruments effecting exchange are to be stamped

43. (1) 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.

(2) Where an instrument relates to a transfer of an immovable property or immovable properties which is or are situated in the Eastern Province and in any one or more of the provinces of Sri Lanka, such instrument shall be and be deemed to be duly stamped in respect of the land or lands situated in the Eastern Province if stamped either with the stamp duty chargeable thereon and in the manner provided in this Statute or with the stamp duty chargeable thereon and in the manner provided in the Finance Statute of any other Provincial Council of Sri Lanka within whose jurisdiction such immoveable property or any of the immoveable properties to which such instrument relates may also be situated.

Documents in legal proceedings.

44. Every document filed in any legal proceedings and chargeable with stamp duty shall be treated as duly stamped if the proper duty payable on every such document is affixed to the list of such documents and cancelled 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 counterpart thereof, instead of on the original instrument and the original instrument shall bear a stamp or stamps to the value of one rupee or such stamp duty of one rupee may be paid to a prescribed bank in the manner set out in Section 40(2).

CHAPTER XIV **COMPOUNDING OF STAMP DUTY**

Compounding of stamp duty payable.

46. (1) The Commissioner may authorise an officer of a Court of Law created or established by law and exercising jurisdiction in the Eastern Province, for the payment of the stamp duty payable, on the document presented or filed in any court in proceedings instituted in any such court on the following conditions :-

- (i) that the officer maintains records of the documents 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 and exercising jurisdiction in the Eastern Province, has been compounded in accordance with this Section, the officer of such Court, authorised under subsection (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 and thereafter such document shall be deemed to be duly stamped.

(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 document.

CHAPTER XV
SPECIAL PROVISIONS RELATING TO DOCUMENTS
FILED IN LEGAL PROCEEDINGS

Value of suits 47. (1) For the purpose 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 admiralty proceedings instituted in the High Court- exercising jurisdiction in the Eastern Province, the value of such proceedings shall unless otherwise provided in this or 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 net 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.

Stamp duty in currency of Sri Lanka

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 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 intention of avoiding the stamp duty which would be chargeable had the 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 an instrument of transfer by the grantee;
- (b) in the case of any other instrument by the person drawing, making or executing the instrument.

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 attached to the non-payment of such duty.

(2) When the stamp duty and penalty, if any, payable in respect of any instrument have been 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 liable to do under this Statute if he were alive and shall 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 any thing in the Companies Act, No. 7 of 2007, where any private company is wound up and any amount, which that company is liable to pay as stamp duty, whether such liability arose before, or in the course of, or after, its liquidation, cannot be recovered, then every person who was a director of the company at any time during the period in which the liability of the company to pay such duty arose shall be jointly and severally liable for the payment of such amount, unless he 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 7 of 2007.

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 a 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 office, 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 60, 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 chargeable 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 offer 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 not exceeding two rupees, 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 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 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 penalty have been paid in respect of the instrument; and
- (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 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 approved credit agency unless such instrument is duly stamped:

Provided 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 or any Assistant Registrar General authorised 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 receipt in certain cases

61. Where any person who is required to give a stamped receipt has given an un stamped 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 to 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 instrument is chargeable and shall notify his determination to such person in writing.

Chargeability of stamp duty

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, be 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 instrument 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 the expiration of one month after it has been first received in Sri Lanka.

CHAPTER XXI
ALLOWANCES FOR STAMP

Allowance for unused and spoiled stamps.

65. (1) The Commissioner may on a written application made to him within the period specified in subsection (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 reason 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.

(2) The application for an allowance under subsection (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.

(4) For the purpose of this section "stamp" shall include an adhesive stamp, an impressed stamp or a certificate of payment of stamp duty issued under Section 40(2).

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.

(3) For the purpose of this Section "stamp" shall include an adhesive stamp, an impressed stamp or a certificate of payment of stamp duty referred to in Section 40(2).

Notary Public failing to act in accordance with provisions of this Statute

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; or
- (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) fails to comply with any requirement imposed on him by the Commissioner under Section 54(2); or
- (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 subsection(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 subsection(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 subsection (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.
	For the purposes of this Section 'stamp' shall include an adhesive stamp, an impressed stamp or a certificate of payment of stamp duty referred to in Section 40(2).
Requirement to act under notice.	69. Any person who fails to comply with the requirements of a notice given to him under Section 73(8) shall be guilty of an offence and shall be liable to after 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 etc.	70. The institution of a prosecution against any person in respect of an offence under this Part of this Statute or the imposition of a penalty, fine or term 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 the sanction of the Commissioner.

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

CHAPTER XXIII **GENERAL**

Signature & services 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 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 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 purpose 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 subsection (6) a notice or assessment shall not be impeached or affected by reason or 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) (a) The Commissioner, Deputy Commissioner or an Assessor may for the purpose 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 in 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 such time as may be specified in such notice, so that he may be examined on any such matter as may be specified in such notice.

(b) Where notice has been given to a person under subsection (8)(a) 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.

(c) Any person who attends in compliance with a notice given under subsection (8)(a) may be allowed by the Commissioner such expenses as are reasonably incurred by him in so attending.

(d) In this section “person” includes a Banker.

Exercise of discretion
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 on being satisfied, in respect of 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 Section 39(4) 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 regulation.

(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 any thing 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 with stamp duty shall set out therein, the full names and addresses of the parties of such instrument, the consideration, the date and manner of payment and all other facts and circumstances affecting the chargeability of such instrument of stamp duty and the amount of 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 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) or 40(3), the Notary Public who attests such instrument shall certify in his attestation that the certificate of payment issued by the bank under Section 40(2) has been duly affixed to the duplicate of such instrument or that such instrument has been endorsed by the Commissioner in the manner set out in Section 40(3).

PART 3
CHAPTER XXIV
APPEALS

Appeals to the
Commissioner

79. (1) Any person may if he is aggrieved with any assessment or additional assessment made in respect of him by an Assessor under Part 1 of this Statute, or a penalty imposed on him under Part 1 of this Statute or an opinion given under Section 62 or requirement given under Section 57(1)(b), appeal against such assessment or additional assessment or penalty or opinion or requirement, as the case may be, to the Commissioner within thirty days after the service of notice of such assessment or 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 ground 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 applicant 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, and if the appellant or his authorised representative fails to attend at the time and place fixed for the hearing or any 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 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, pay-in-slips, auditor's reports or valuer's 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 confirm, 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 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 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 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.

Commissioner may refer appeals to the Board of Review

Hearing of appeal by Board of Review.

(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 addressed 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 ground of appeal therefrom; and
- (c) be delivered to the Secretary to the Board.

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 be heard in camera.

(7) The Board shall have power to summon to attend at the hearing any person whom it 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 appeal, the Board shall confirm, reduce, increase or annul 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 HIGH COURT OF THE PROVINCE

Appeal on a
question of law to
the High Court

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

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 the High Court of the Eastern Province exercising appellate jurisdiction. 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 two hundred and fifty rupees in the case of the appellant, within one month of the date on which the decision of the Board was notified in writing, to 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 High Court, within fourteen days after receiving the same.

(3) For the purposes of application of the provisions of the Stamp Duty Act, No. 43 of 1982:

- (a) all proceedings before the High Court 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 High Court 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;
- (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 High Court;
- (c) The Commissioner, if he is the appellant shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtue officii*.

(4) At or before the time when he transmits the stated case to the High Court 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 High Court may cause 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 High Court 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 High Court under this Section, the Court may make such order in regard to costs in the High Court 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 High Court 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 decision of the High Court:

- (a) an order by the High Court under subsection (6), shall, together with any order of that Court under subsection (7), be deemed to be a final judgment of the High Court in a civil action between the 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**

Tax not paid by specified date deemed tax in default.

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 other taxes, fines penalties, fee or costs whatsoever incurred or paid under this Statute.

(2) The tax required to be paid by any notice under Section 4 or Section 57(1) (b) shall be paid on or 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 Sections 11 or 12 or under Section 57(1)(b) is not paid on or before the date specified therein such tax together with a penalty of 10 percent of the tax and 2 percent 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 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 (4) 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 subsection (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 on or before such date shall be deemed to be in default.

Tax to be the first charge.

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 bona fide purchaser for value prior to the seizure of the same in accordance with the provisions of Section 88; and
- (ii) as regards immoveable 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.

Notice to defaulter.

87. (1) Where any tax is in default, the Commissioner shall, before proceeding to recover such duty in 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, notwithstanding anything to the contrary in this Statute, 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 likely to be due as tax in respect of that notice, the Commissioner may, 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 on or 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.

Appointment of Tax Collectors

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

(2) (a) Where any tax is in default, the Commissioner may issue a certificate to a Government Agent, Divisional Secretary, 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 Lankan 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, Divisional Secretary, 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) of paragraph (c) 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 proceedings against the defaulter under this Section notwithstanding the seizure was not effected. Where cash is seized such reasonable expenses shall be set off first from the cash so seized.

(4) Where any tax is in default and the Commissioner is of opinion that recovery by the means provided in the 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 situated, containing particulars of such tax and the name or names of 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 authorising and requiring him to seize and sell all or any of 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" includes plant and machinery.

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

Proceeding before
Magistrate for
recovery of tax.

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 situated.

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 imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Commissioner for the purpose of subsection (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 authorising the Magistrate to consider, or decide the correctness of any statement in such certificate.

(3) Nothing in subsections (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 subsection (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 provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No.15 of 1979, shall apply where the defaulter is required to give bail.

Recovery of tax
from person owing
money to defaulter.

(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 tax 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 any payment to the defaulter or his agent;

(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 defaulter) requiring him to pay any such moneys not exceeding the amount of 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 subsection shall within fourteen days of the expiration thereof give notice in writing to the Commissioner apprising of the facts.

(4) Where any person to whom a notice has been given under subsection (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 day after the expiration of the period referred to in subsection (1), such person shall if he is an individual and where such person is a

company or body of 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 form 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 purpose 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.

Recovery of tax
from persons
leaving Sri Lanka.

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 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 tax has been paid shall forthwith pay such amount to the Commissioner.

Recovery of tax
by more than one
means

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.

Power to recover taxes from any person

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.

Authority for inspection of books of accounts.

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 relating 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 charged on every lottery conducted in the Eastern Province in accordance with the Lotteries Ordinance, other than a national lottery or a lottery organised by the Government of Sri Lanka, a tax calculated on the gross proceeds of such lottery at such rates as the Minister may by Order published in the Gazette.

(2) Every Order made under subsection (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 in the Gazette or if no meeting of the Council is held within such period, at the first meeting held after the 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 96 shall be payable by the promoter or promoters of the Lottery to the Commissioner. If such tax is not paid it may be recovered from the promoter or promoters as a debt due to the Provincial Council.

(2) Where a promoter or promoters do 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.5000 or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(4) In this Section "promoter" in relation to a lottery means a person licensed under the Lotteries Ordinance to promote or conduct a lottery.

PART 6
CHAPTER XXX
PRIIZE COMPETITIONS

98. (1) There shall be charged on the proceeds of every prize competition conducted in the Eastern Province under the authority of a licence issued under the Prize Competition Act, a tax at such rates as may be prescribed by the Minister by Order published in the Gazette. Different rates may be prescribed in respect of different prize competitions.

Imposition of tax for prize competitions

Date on which tax to be paid

(2) The tax imposed under subsection (1) on the proceeds of a prize competition shall be paid by the promoter of that prize competition to the Commissioner, within thirty days of the closure of entries in such competition.

(3) Where the promoter of a prize competition fails to comply with subsection (2) he shall be guilty of an offence under this Statute and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding five thousand rupees.

Penalty for defaulting payment of tax

(4) Where the promoter of a prize competition fails to pay the tax imposed on the proceeds of such prize competition within the period referred to in subsection (2), the tax shall be deemed to be in default and the amount of such tax together with the penalty equal to ten per centum of such amount may be recovered from such promoter by the Commissioner as a debt due to the Provincial Council.

Interpretation

(5) In this Section, "proceeds" in relation to a prize competition means the total amount paid as entrance fees in respect of entries in such competitions; "promoter" in relation to a prize competition means the person deemed under Section 14 of the Prize Competitions Act to be the promoter of that competition.

PART 7
CHAPTER XXXI
COURT FINES AND FEES

Court fines.

99. (1) All fines in respect of offences imposed by a Court of Law, exercising jurisdiction within the Eastern Province and paid into Court shall, other than fines imposed for recovery of a tax, charge or other levy under any written law, shall be subject to any direction which a Court of Law may make with regard to any payment to be made out of such fines in terms of any written law, be credited to the Provincial Fund of the Province.

(2) All Court fees collected by a Court of Law exercising jurisdiction within the Eastern Province shall be credited to the Provincial Fund of the 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 an 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 Commissioner, Deputy 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 the 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 post by registered letter 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 compounding 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 tax paid in excess 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) 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 authorise 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 if 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 referred 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 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 authorised representative or to the Minister or the Secretary to the Ministry of the Minister nor offer 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 the Minister 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 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 of 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 authorised 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 authorised by him under this subsection shall be deemed to be a person employed in carrying out the provisions of this Statute for the purpose of subsection (2).

(6) Notwithstanding anything contained in this Section, any officer of the Department may communicate any matter which comes to his knowledge in the performance of his duties under this Statute or under any other Statute administered by the Commissioner to-

(a) any other officer of the Department, if the communication of such matter is necessary for the performance of any duty under this Statute or such other Statute;

(b) the Commissioner- General of Inland Revenue of Sri Lanka, being a matter which relates to the income of any person to such an extent as the Commissioner may deem necessary to enable the Commissioner – General of Inland Revenue to ascertain such income

102A (1) There shall be established a fund called the Revenue Incentive Fund (hereinafter in this Section referred to as “the Fund”).

Revenue Incentive Fund (2) There shall be paid into the Fund in respect of the year commencing on or after 1st January 2009 such sums as may be appropriated annually by the Eastern Provincial Council for the purpose of the Fund.

(3) There shall be paid out of the Fund:

(a) all sums required for the welfare of the officers of the Eastern Province Revenue Department in accordance with a scheme drawn up by the Commissioner.

(b) group incentive allowances to the officers of the Eastern Province Revenue Department in accordance with such scheme to ensure efficiency in the administration of any Statute administered by the Commissioner

(4) The Commissioner shall administer the Fund in accordance with the rules set out in such scheme.

This Section shall come into effect on 1st January 2009.

Forms and register of transactions

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

Requirement to comply with notice

105. Any person who fails to comply with the requirements of a notice given to him under Section 73 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***

Interpretation

106. In this Statute unless the context otherwise requires –

“ 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 this Statute;

“article” means any goods, material or any agricultural or horticultural produce;

“authorised representative” means any individual:

(1) who is authorised in writing by a person to act on his behalf for the purpose of this Statute and who is –

(a) in any case-

- (i) a member of the Institute of Charted Accountants of Sri Lanka; or
- (ii) an Accountant approved by the Commissioner; or
- (iii) an Attorney-at- Law; or
- (iv) an employee regularly employed by that person;

(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 a 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 purpose of this Statute in respect of such matters as are specified in the authorisation and who, being an individual registered as an auditor under the Companies (Auditors) Regulations is approved by the Commissioner or is an individual approved by the Commissioner General of Inland Revenue for the purpose of the Inland Revenue Act, No. 10 of 2006 under regulations made under that Act in that behalf.

“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 of persons, whether incorporated or unincorporated, or any partnership;

“business” means selling by wholesale or retail of any article, but shall not include a sale by a manufacturer.

“chargeable” in relation to an instrument executed first after the date of commencement of this Statute, means chargeable with stamp duty under this Statute.

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

“company” mean any company incorporated or registered, under any law in force in Sri Lanka or elsewhere and includes a public corporation;

“conveyance” includes every instrument by which any immovable property or motor vehicle or any interest therein is transferred;

“die” includes any plate, type, tool or implement, a part thereof used under the direction of the Commissioner for expressing or denoting the fact that any stamp duty or penalty has been paid in respect of an instrument, or that any 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, plaint, answer, replication or other pleading, petition, application, affidavit, appointment, summons, judgment, decree, order of any description, award, writ, warrant, inventory, account, mandate, bond recognisance; citation, application other than motion, interrogatories, answer to interrogatories, notice of appeal, bill of costs, commission injunction or notice;

“duly stamped” in relation to an instrument means that the instrument bears an adhesive or impressed stamp or a certification of endorsement or has affixed thereto a certificate of payment 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 or intermeddles with property of a deceased person; or
- (b) any person who has applied or is entitled to apply to a District Court for the grant or resealing of probate or letters of 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 moveable 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 mean of a postal franking machine, which is used under a permit issued by the Council;

“instrument” include every document relating to a transfer of immovable property in the Eastern Province or a transfer of a motor vehicle effected in the Eastern Province;

“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 Lankan or foreign currency;

“motor vehicles” shall have the same meaning as in the Motor Traffic Act;

“power of attorney” includes any instrument empowering a specified person to act for, in the name of the person executing it;

“person” includes a company or body of persons or any Government Department;

“prescribed” means prescribed under this Statute;

“Province” means the Eastern Province of Sri Lanka;

“Assessor” means a Provincial Assessor of Revenue appointed for the purposes of this Statute;

“Commissioner” means the Provincial Commissioner of Revenue appointed for the purposes of this Statute;

“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 Eastern Province.

“Precedent Partner” means the partner who, of the active partners resident in Sri Lanka:

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

(b) if there is no agreement is specified by the name or initials 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.

“public officer” has the same meaning as in Article 170 of the Constitution and includes a provincial public officer.

“quarter” means the period of three months commencing on the first day of January, the first day of April, the first day of July, and the first day of October, of each year;

“transfer” means a sale and shall include a gift or exchange or a conveyance, without consideration, by an executor or administrators of an estate of a deceased to a person beneficially entitled to such property or to a trustee appointed under the will of the deceased, or by a trustee to a beneficiary or a conveyance, without consideration, by a trustee or the executor or administrator of a deceased trustee to a surviving trustee or to a new trustee, but does not include a deed of partition of any land held in common or an agreement to transfer.

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

“value” with reference –

(a) to any property (other than immovable property which is gifted) and to any date, means the price which in the opinion of the Assessor, that property would have fetched in the open market on that date;

(b) to any immovable property which is gifted, being immovable property which was acquired by the donor on or before March 31st, 1977 means –

(i) the price which in the opinion of the Assessor that property would have fetched if sold in the open market on March 31st, 1977 increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after March 31st 1977 and prior to the date of the instrument by which such property is gifted; or

(ii) the price which, in the opinion of the Assessor, that property would have fetched if sold in the open market on the date of the instrument by which such property is gifted;

whichever price is the lower;

(c) any immovable property which is gifted, being immovable property which was acquired by the donor after March 31, 1977 means –

- (i) the price which, in the opinion of the Assessor, such property would have fetched if sold in the open market on the date on which such property was acquired by the donor, increased by an amount equal to the cost of the improvements, alterations and additions, if any, made to such property after the date on which the property was acquired by the donor, and prior to the date of the instrument by which such property is gifted; or
- (ii) the price which, in the opinion of the Assessor that property would have fetched, if sold in the open market on the date of the instrument by which such property was gifted;

whichever price is the lower.

Tamil text to prevail in
the event of an
inconsistency

107. In the event of an inconsistency between the Tamil and Sinhala texts of this Statute the Tamil text shall prevail.

