



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**PUBLIC ENTERPRISES REFORM
COMMISSION OF SRI LANKA
ACT, No. 1 OF 1996**

[Certified on 9th January, 1996]

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**Public Enterprises Reform Commission of
Sri Lanka Act, No. 1 of 1996**

[Certified on 9th January, 1996]

L.D.—O. 47/95

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE PUBLIC
ENTERPRISES REFORM COMMISSION OF SRI LANKA ; AND FOR
MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO ,**

BE it enacted by the Parliament of the Democratic Social-
list Republic of Sri Lanka as follows :—

1. This Act may be cited as the Public Enterprises Reform
Commission of Sri Lanka Act, No. 1 of 1996 and shall come
into operation on such date as the Minister may appoint
by Order published in the Gazette (hereinafter referred to
as "the appointed date").

Short title
and date of
operation

PART I

**ESTABLISHMENT OF THE PUBLIC ENTERPRISES REFORM
COMMISSION OF SRI LANKA**

2. (1) There shall be established in accordance with the
provisions of this Act, a Commission which shall be called
the Public Enterprises Reform Commission of Sri Lanka
(hereinafter referred to as "the Commission").

Establish-
ment of the
Public
Enterprises
Reform
Commission
of Sri
Lanka.

(2) The Commission shall, by the name assigned to it by
subsection (1), be a body corporate having perpetual suc-
cession and a common seal and may sue and be sued in
such name.

3. (1) The Commission shall consist of—

Members
of the
Commission

(a) two *ex-officio* members namely, the Secretary
to the Minister of the Minister in charge of
the subject of Finance and the Director-
General of the Securities and Exchange
Commission of Sri Lanka established by the
Securities and Exchange Commission of Sri
Lanka Act, No. 36 of 1987 ; and

(b) not less than four and not more than six
members of whom one member shall be a
public officer, appointed by the Minister
(hereinafter referred to as the "appointed
members").

(2) The Minister shall nominate from amongst the mem-
bers of the Commission, one member to be the **Chairman**
of the Commission.

(3) The provisions of the Schedule to this Act shall have effect in relation to the term, of office of the members of the Commission and the remuneration payable to the members of the Commissioner, meetings and seal of the Commission.

PART II

FUNCTIONS AND POWERS

**Functions
of the
Commission.**

4. The functions of the Commission shall be to advise and assist the Government on the reform of public enterprises with the following objects in view :—

- (a) fostering and accelerating the economic development of the country ;
- (b) improving the efficiency and competitiveness of the economy ;
- (c) upgrading production and services with access to international markets on a competitive basis, by the acquisition of new technology and expertise ;
- (d) developing and broadbasing the capital market and mobilizing long term private savings ;
- (e) motivating the private sector ;
- (f) augmenting the revenues of the Government, so as to enable it to better address the social agenda.

**Powers and
duties.**

5. For the purpose of discharging its functions the Commission may exercise and perform the following powers and duties :—

- (a) to carry out surveys and studies to ascertain and determine the public enterprises which require to be reformed ;
- (b) to formulate a framework for a sustainable and stable public enterprise reform strategy ;
- (c) to make recommendations to the Government on the continuation, and efficiency, of public enterprises which are profit making and are of national importance ;
- (d) to make recommendations to the Government, on the selection of public enterprises for conversion into public companies under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987 ;

- (e) to make recommendations to the Government on the sale or disposal to the public, of shares in, or assets of, companies registered under the Conversion of Public Corporations and Government Owned Business Undertaking into Public Companies Act, No. 23 of 1987 ;
- (f) to manage, on behalf of the Government, companies registered under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, in which the entirety of the shares are owned by the Secretary to the Treasury ;
- (g) to monitor the performance of companies registered under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987, and majority of the shares in which are owned by persons other than the Government, to identify weaknesses in their performance and to make recommendations to the Government, for the correction of these weaknesses ;
- (h) to advise and assist the Government in regulating companies registered under the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act, No. 23 of 1987 ;
- (i) to assist the Government to create public awareness of Government policies and programmes on the reform of public enterprises with a view to developing a commitment by the public, to such policies and programmes ;
- (j) to promote worker participation in the implementation of such policies and programmes and to ensure worker participation in the equity of the companies referred to in paragraph (e) ;
- (k) to make rules in respect of the management of the affairs of the Commission ;

4 **Public Enterprises Reform Commission of
Sri Lanka Act, No. 1 of 1996**

- (l) to enter into such contracts as are deemed necessary for the discharge and performance of its functions and duties ;
- (m) to appoint, employ, remunerate and exercise disciplinary control over such officers, servants or agents as are necessary for the discharge and performance of its functions and duties ;
- (n) to enter into agreements for co-operation with educational and other institutions, whether in Sri Lanka or abroad, for the exchange of personnel, advisory services and the training of personnel ;
- (o) to open and maintain current, savings or deposit accounts in any bank or banks ;
- (p) to establish provident funds or pension schemes for the benefit of officers and servants of the Commission and to make contributions to any such fund or scheme ;
- (q) to borrow such sums of money as may be necessary for the discharge and performance of its functions and duties ;
- (r) to take such action as may be necessary to advance the skills of its officers and servants ;
- (s) to issue publications, circulars and press notices ;
- (t) to act as the agent of the Government, in Sri Lanka or abroad, for the purposes of any matter or transaction, if so authorized ;
- (u) to undertake all such activities as in the opinion of the Commission are necessary to facilitate the discharge and performance of its functions and duties.

PART III

FINANCE

6. (1) The Commission shall have its own Fund.

(2) There shall be paid into the Fund of the Commission—

- (a) all such sums of money as may be voted upon from time to time by Parliament for the use of the Commission ;

**The Fund
of the
Commission**

(b) all such sums of money as may be received by the Commission in the exercise, performance and discharge of its powers, duties and functions;

(c) all such sums of money as may be received by the Commission by way of fees, grants, donations, gifts, bequests from any source whatsoever, whether domestic or foreign; and

(d) all sums of money borrowed by the Commission.

(3) There shall be paid out of the Fund of the Commission, all such sums of money as may be required to defray any expenditure incurred by the Commission in the exercise, performance and discharge of its powers, duties and functions.

7. The Financial year of the Commission shall be the calendar year. **Financial year.**

8. (1) The Commission shall cause proper books of accounts to be kept of the income and expenditure assets and liabilities and all other transactions of the Commission. **Audit of accounts.**

(2) The provisions of Article 154 of the Constitution relating to audit of accounts of Public Corporations shall apply to the audit of accounts of the Commission.

PART IV

GENERAL

9. (1) The Minister shall, on the advise of the Commission appoint a Director-General of the Commission (hereinafter referred to as "the Director-General"). The Director-General shall be a full time officer of the Commission and shall receive such remuneration and other benefits as may be determined by the Commission. **Director-General.**

(2) The Director-General shall be responsible to the Commission. He shall be entitled to attend the meetings of the Commission in an advisory capacity but shall not be entitled to vote at such meetings.

(3) The Director-General shall exercise, discharge and perform any such powers, functions and duties as may be delegated to him by the Commission.

Appointment
of officers
and servants.

10. (1) The Commission may appoint such officers, servants and consultants as may be necessary for the administration and management of the affairs of the Commission and shall determine the remuneration payable to, and the conditions of service of, the officers servants and consultants so appointed.

(2) At the request of the Commission, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent be permanently appointed to such staff.

(3) Where any officer of the public service is temporarily appointed to the staff of the Commission the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where any officer in the public service is permanently appointed to the staff of the Commission, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to and in relation to him.

(5) Where the Commission employs any person who has agreed to serve the Government for a specified period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

Appointment
of officers
and servants
of public
corporations
to the
staff of the
Commission.

11. (1) At the request of the Commission any officer or servant of a public corporation may, with consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or with like consent be permanently appointed to the staff of the Commission on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Commission and the governing board of such corporation.

(2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Commission he shall be subject to the same disciplinary control as any other member of the staff.

12. (1) For the purpose of enabling the Commission to exercise, perform and discharge any of its powers, duties and functions under section 5 of this Act, the Commission or any person authorized in that behalf by the Commission may by notice in writing require any person to furnish to the Commission or to the person authorized, within such period as shall be specified, in the notice, all such returns or information pertaining to any business affairs or transactions of any public enterprise as are known to or in the possession of any person as shall be specified in such notice.

Returns and information.

(2) It shall be the duty of any person who is required to furnish any return or information by a notice under subsection (1) to comply with such requirement within the time specified in such notice, except where such person is precluded from making such return or divulging such information under the provisions of any law.

(3) The Commission or any member thereof or any officer or servant of the Commission, shall not disclose to any person or use any returns or information furnished under subsection (1), except when required to do so by a court of law or for the purposes of achieving the objects of the Commission.

13. All members, officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code,

Members and employees of the Commission deemed to be public servants.

14. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act, shall be construed accordingly.

Commission deemed to be a scheduled institution within the meaning of the Bribery Act.

15. The President may, from time to time, direct the Commission to furnish to him in such form as he may require returns, accounts and other information with respect to the work of the Commission and the Commission shall carry out every such direction.

Furnishing of information & to the President.

protection
for action
taken under
this Act

16. (1) No suit or prosecution shall be instituted against any member of the Commission or against any of the officers or servants of the Commission for any act which in good faith is done or purported to be done by such members, officer or servant under this Act or on the direction of the Commission.

(2) Any expenses incurred by the Commission in any suit or prosecution brought by or against it before any court, shall be paid out of the Fund of the Commission, and any costs paid to, or recovered by the Commission in any such suit or prosecution shall be credited to the Fund of the Commission.

(3) Any expenses incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Commission shall, if the court holds that such act was done in good faith be paid out of the Fund of the Commission, unless such expenses are recovered by him in such suit or prosecution.

17. (1) Any person who—

(a) fails to furnish any returns or information in compliance with any requirement imposed on him by subsection (1) of section 12;

(b) knowingly makes any false statement in any return or information furnished by him in compliance with any requirements imposed on him by subsection (1) of section 12; or

(c) wilfully omits any matter in any return or information furnished by him in compliance with any requirement imposed on him by subsection (1) of section 12;

(d) contravenes the provisions of subsection (3) of section 12; or

(e) wilfully obstructs any member of the Commission or an officer or servant of the Commission in the performance of his duties under this Act,

shall be guilty of an offence under the Act, and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees.

(2) Where an offence under this Act is committed by a body of persons, then —

- (a) if that body of persons is a body corporate, every director and officer of that body corporate;
- (b) if that body of persons is a firm, every partner of that firm,

shall be guilty of such offence:

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

18. (1) From and after the inclusion of the Commission under section 8 of the Inland Revenue Act, No. 28 of 1979, the profits and income of the Commission shall be exempt from income tax.

Exemption from tax. 1

(2) From and after the inclusion of the Commission under section 9 of the Inland Revenue Act, No. 28 of 1979, the emoluments of every officer, servant and consultant of the Commission shall be exempt from income tax.

(3) A donation made in money or otherwise to the Commission shall be deemed, for the purposes of the Inland Revenue Act, No. 28 of 1979, to be a donation made in money or otherwise to a fund established by the Government.

19. The Commission shall at the end of each sale or disposal by lease or otherwise as the case may be, made in pursuance of a recommendation made under paragraph (e) of section 5, submit to Parliament through the Minister a report in respect of all matters pertaining to such sale or disposal.

Report. 1

20. Any act done by the Special Task Force for the implementation of the programme of Public Enterprise Reform, appointed by the President, during the period commencing on March 1, 1995 and ending on the appointed date shall be deemed not to have been, or to be invalid by reason only of the fact that such Task Force was not lawfully authorised to do such act.

Validation. 1

Power of
Commission
to make
rules.

21. (1) The Commission may, with the approval of the Minister, make rules relating to the exercise, performance and discharge of the powers, duties and functions conferred or imposed on or assigned to the Commission, and relating to matters in respect of which rules are authorised to be made by this Act.

(2) Every rule made under subsection (1) shall come into force upon its publication in the Gazette.

Sinhala
text to
prevail in
case of incon-
sistency.

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

Interpreta-
tion.

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

“Chairman” means the Chairman of the Commission, nominated under section 3;

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

“public corporation” means any corporation, board or other body which was or is established by or under any written law other than the Companies Act, No. 17 of 1932. with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

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

“public enterprise” includes a public corporation or a government owned business undertaking or a company where all the shares or the majority of the shares of such company are held by the Government.

SCHEDULE

[Section 3]

Provisions relating to the members of the Commission.

1. A person shall be disqualified from being appointed or from continuing as members of the Commission, if he —

(a) is a Member of Parliament or a member of a Provincial Council or a local authority; or

(b) is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind, or

(c) is a person who, having been declared an insolvent or a bankrupt, under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or

(d) is serving, or has served a sentence of imprisonment imposed by Court in Sri Lanka or any other country.

2. Any appointed member of the Commission may resign from the Commission by letter in that behalf addressed to the Minister.

3. The Minister may, without assigning any reason therefor remove any appointed member of the Commission.

4. (1) The *ex-officio* member shall hold office as a member of the Commission, so long as he holds office by virtue of which he was appointed a member of the Commission.

(2) Every appointed member of the Commission shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall, unless he has been removed from office, be eligible for reappointment :

Provided that a member of the Commission appointed in place of a member who dies or resigns or otherwise vacates office, shall, unless he earlier vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(3) Where the Chairman or any other member of the Commission becomes, by reason of illness, infirmity or absence from Sri Lanka, temporarily unable to discharge the functions of his office the Minister may appoint any other member to act as Chairman or any other person to act in place of such Chairman or member of the Commission, as the case may be.

5. The Chairman and the members shall be paid such remuneration out of the Fund of Commission, as may be determined by the Minister.

6. (1) The term of office of the Chairman of the Commission shall be the period of his membership of the Commission.

(2) The Chairman may earlier resign his office as Chairman by letter in that behalf addressed to the Minister.

(3) The Minister may, at any time, without assigning a reason therefor, terminate the appointment of the Chairman.

7. (1) The Chairman shall preside at the meetings of the Commission. In the absence of the Chairman from a meeting of the Commission, a member chosen by the members of the Commission present thereat shall preside at such meeting.

(2) The Commission may, delegate to the Chairman any power, duty or function conferred or imposed on or assigned to the Commission by the Act.

(3) The Commission shall meet at least once in every six calendar months.

(4) The quorum for a meeting shall be three members.

(5) Subject to the provisions of this Act, the Commission shall make rules regulating the procedure in regard to its meetings and the transaction of business of such meetings.

8. (1) The seal of the Commission shall be in the custody of such person as the Commission may decide from time to time.

(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.

(3) The seal of the Commission shall not be affixed to any instrument or document except in the presence of two members of the Commission who shall sign the instrument or document in token of their presence.

(4) The Commission shall maintain a register of the instruments or documents to which the seal of Commission is affixed.

9. The Commission shall have the power to act notwithstanding any vacancy in its membership and any act or proceeding of the Commission shall not be or deemed to be invalid by reason only of any such vacancy or any defect in the appointment of a member.