



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

PUBLIC CONTRACTS

ACT, No. 3 OF 1987

[Certified on 30th January, 1987]

Printed on the Orders of Government

Published as a Supplement to Part II of the *Gazette of the Democratic
Socialist Republic of Sri Lanka of January 30, 1987*

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO

Price : Re. 1.80

Postage : Re. 1.15

Public Contracts Act, No. 3 of 1987

[Certified on 30th January, 1987]

L.D.—O. 13/80.

AN ACT TO PROVIDE FOR THE REGISTRATION OF PUBLIC CONTRACTS AND PERSONS WHO TENDER OR ENTER INTO PUBLIC CONTRACTS WITH ANY PUBLIC BODY ; FOR THE APPOINTMENT OF A PANEL OF INQUIRY AND THE NOMINATION OF MEMBERS TO CONSTITUTE A TRIBUNAL TO INVESTIGATE INTO MATTERS CONNECTED WITH PUBLIC CONTRACTS ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Public Contracts Act, No. 3 of 1987, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. (1) Subject to subsection (2), the provisions of this Act shall apply to every public contract where the contract cost exceeds five million rupees.

Application
of the Act
to public
contracts.

In this subsection "contract cost" means the anticipated or estimated consideration for such contract and where such contract has been concluded by acceptance of tender, the agreed consideration for such contract, and accordingly, where the contract is for the performance in instalments, the consideration shall be the aggregate of the amounts payable in respect of such instalments.

(2) The provisions of this Act shall not apply—

(a) to any public contract or any class of public contracts that the President may in the interest of national economy, exempt by general or special order ;

(b) to a sale by public auction by any public body.

PART I

APPOINTMENT OF PANEL OF INQUIRY AND NOMINATION OF MEMBERS OF TRIBUNAL

3. (1) The President may from time to time appoint from among persons who appear to the President to have had experience and shown capacity in industrial, commercial, legal or financial and administrative matters, a Panel of inquiry of not less than ten persons.

Appointment
of Panel and
nomination of
members
of
Tribunal.

(2) The provisions of the First Schedule hereto shall have effect in relation to the members of the Panel.

(3) For the purpose of carrying out any investigation under this Act, the President may nominate one or more members of the Panel to constitute a tribunal of inquiry (in this Act referred to as the "Tribunal").

(4) Where more than one member of the Panel have been nominated to the Tribunal, the President may nominate one of them as the Chairman of the Tribunal.

(5) Where a Tribunal is constituted under this section, the Registrar of Public Contracts appointed under section 5 shall function as the Secretary to the Tribunal.

**Powers and
duties of the
Tribunal.**

4. (1) The Tribunal shall have and may exercise and discharge the powers and duties conferred or imposed upon it by this Act, and in particular the following:—

- (a) to investigate and report to the President subject to such directions as may be given by him on any matter relating to any public contract;
- (b) to summon any person before the Tribunal and to direct any person to disclose any information within his knowledge or produce any book or document in his possession or under his control in relation to any investigation under paragraph
- (c) to require by notice in writing the chief executive officer or the person in charge of any public body or any public or private company to produce or furnish, any document or certified copy of any document, as may be specified in such notice, which is or may be in his possession or under his control;
- (d) to give general or special directions in writing requiring any person to comply with all or any of the provisions of this Act; and
- (e) to do all other things, necessary to facilitate the carrying out of any investigation under this Act.

(2) Notwithstanding anything contained in any other law, it shall be the duty of any person to whom a request, summons or directive is made or given under this section, to forthwith or within the time specified therein to comply with the same, and if he fails to do so without reasonable excuse he shall be guilty of the offence of contempt against, or in disrespect of the authority of the Tribunal.

5. (1) For the purpose of this Act, the President shall appoint a person to be known as the Registrar of Public Contracts (hereinafter referred to as the "Registrar") and such other persons as Assistant Registrars as may be deemed necessary.

Appointment
of
Registrar.

(2) Any person appointed as an Assistant Registrar may perform and discharge any power, duty or function expressly conferred or imposed upon the Registrar under this Act.

6. (1) The duties of the Registrar shall be—

Duties
of the
Registrar.

(a) to register—

(i) every tenderer or every person who acts as an agent, sub-agent, representative or nominee, for and on behalf of such tenderer,

(ii) every public contract ; and

(b) to require any person referred to in sub-paragraph (i) of paragraph (a) to furnish such particulars as specified in the Second Schedule hereto accompanied by a duly sworn affidavit ;

(c) to maintain one or more registers which shall contain the particulars furnished under paragraph (b) ;

(d) to require any person registered under sub-paragraph (i) of paragraph (a)—

(i) to maintain such books and records as the Registrar considers necessary for the proper enforcement and administration of this Act and the regulations made thereunder ; and

(ii) to file with the Registrar returns, with respect to their financial position, and the nature of the proposed public contract and such other matters as the Registrar may consider necessary.

(2) The Registrar shall from time to time, make all such corrections, additions or alterations as may be necessary, to the registers maintained by him under paragraph (c) of subsection (1).

7. The particulars entered in the register maintained by the Registrar shall be prima facie evidence of any matters by this Act directed or authorized to be inserted therein

Register to
be evidence.

PART II

REGISTRATION

Persons
required to
register
with the
Registrar.

8. (1) Any person who acts as an agent or sub-agent, representative or nominee for or on behalf of any tenderer, shall register himself and such public contract in accordance with section 10 and shall furnish to the Registrar the particulars required to be furnished under section 6.

(2) Where any person is an agent, sub-agent, representative or nominee for or on behalf of a tenderer he shall first produce a certificate of his appointment as agent, sub-agent, representative or nominee to the Registrar before he registers himself and the public contract under this section.

Contra-
vention of
provisions of
section 8
an offence.

9. (1) Every person who contravenes or fails to comply with the provisions of section 8 shall be guilty of an offence and shall be liable on conviction to a fine of one hundred thousand rupees and to imprisonment for a term not exceeding two years.

(2) No person required to be registered under section 8 shall have any dealing directly or indirectly relating to a public contract—

(a) with the Registrar except for the purpose of registration; or

(b) with any member of a public body, a technical committee, tender board or evaluation board of such body or any officer or employee thereof or any State officer,

without first producing a valid certificate of registration under this Act and if such person has any dealings or attempt to have any dealings he shall be guilty of an offence and liable, on conviction thereof, to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding two years.

Application
for
registration.

10. (1) Every application for registration under section 8 shall be made in the prescribed form and shall contain a declaration by the applicant that the particulars stated therein are to the best of his knowledge true and accurate.

(2) The Registrar, shall, upon being satisfied that the applicant has not contravened any of the provisions of this Act, and the particular stated in the application are true and accurate, register the applicant and the public contract to which such application relates.

(3) No person shall be registered or issued with a certificate under section 11 until he has paid to the Registrar the prescribed fee.

11. (1) Pursuant to a registration under section 10 the Registrar shall issue to such applicant a certificate in the prescribed form.

Certificate of registration.

(2) The Registrar may, at any time, require the attendance before him of the persons applying to be registered, or who has been registered, and may require the attendance of any other person to ascertain any information the Registrar considers necessary for the proper enforcement of the provisions of this Act and examine such person upon oath or affirmation.

(3) A certificate issued under this section, shall, subject to the provisions of section 14 remain in force for a period of one year from the grant of such certificate and may from time to time be renewed for a period of one year on payment of the prescribed fee.

12. Any member of a public body, a technical committee, tender board or evaluation board of such body or any officer or employee thereof or any State officer or the Registrar, except for the purposes of registration, shall not have any dealing with any person referred to in section 8 in regard to any matter arising out of or in relation to any public contract unless the persons referred to in section 8 first produce a valid certificate of registration issued under this Act. Any person who contravenes the provisions of this Act shall be guilty of an offence.

Prohibition of members and officers from dealing with contractors and agents.

13. Whenever there is any change in the particulars furnished to the Registrar under section 6, it shall be the duty of any person registered under section 10 to inform the Registrar of such change within a period of sixty days of the occurrence of such change.

Notification of changes of particulars furnished under section 6.

14. (1) The registration of any person registered under this Act may be cancelled or suspended by the Registrar on his own motion—

Cancellation of registration for fraud or on other grounds.

(a) where registration has been obtained by fraud or misrepresentation ;

(b) where such person has committed deceit or malpractice in relation to any public contract or the fulfilment of any terms or conditions of such contract ;

(c) where such person has been convicted of any offence under this Act or any regulation made thereunder ;

(d) where such person had contravened any terms or conditions specified in the certificate ; or

(e) where such person fails to inform of any change in the particulars furnished under section 13.

(2) Where the registration of any person has been cancelled or suspended by the Registrar under subsection (1), that person shall thereupon cease to be registered and the Registrar shall inform such person in writing of such cancellation or suspension as the case may be.

(3) Before cancelling or suspending the registration of any person under this section, the Registrar shall—

(a) send to such person by registered post to the address stated in the register notice in writing of the complaint against him ; and

(b) hold an inquiry into the matter of the complaint and afford that person an opportunity of giving an explanation personally or in writing and of calling evidence.

**Appeal from
the decision
of the
Registrar.**

15. (1) Any person aggrieved by a decision of the Registrar in respect of any cancellation or suspension under section 14, may appeal against such decision to the Court of Appeal, within fourteen days of his being informed by the Registrar of such cancellation and suspension.

(2) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall apply to every appeal made under this section.

(3) The Court of Appeal may on an appeal made to it under this section, confirm, revise, modify or set aside the decision against which the appeal is made and make any other order as the interest of justice may require.

**Fulfilling
obligations
under a
contract
notwith-
standing
its cancel-
lation or
suspension.**

16. Notwithstanding the cancellation or suspension of a registration of one of the parties to a public contract, the other party to such contract may require the party whose registration is cancelled or suspended to fulfil his obligations under the subsisting contract, and such person shall notwithstanding the provisions of this Act be entitled to do all such acts as may be necessary for the purpose of fulfilling his obligations under that contract.

PART III

INDUCEMENTS, GRATIFICATIONS, &C. FOR THE GRANT OF PUBLIC CONTRACTS OR FOR THE AWARD OF TENDERS

17. (1) Any person who, in the course of any transaction relating to a public contract or at any stage in the duration of such contract—

- (a) offers or gives any gratification of any form whatsoever ;
- (b) intentionally makes any misrepresentation ;
- (c) makes over, gives or transfers any movable or immovable property ;
- (d) offers or gives any scholarship, reward or any other form of benefit or consideration whether in Sri Lanka or elsewhere,

Inducements, gratifications or misrepresentations made or offered to any person to obtain benefits in the award of tenders and public contracts.

to the Registrar or to any member of the Panel or Tribunal, public body or a technical committee, tender board or evaluation board of such body or any employee or officer thereof, or to any State officer or any other person for the purpose of causing or inducing the Registrar or any such member, employee, officer or State officer or other person to enter into any public contract or to award any tender or to show or give any favour or privilege to any person for or in connection with any public contract, shall be guilty of an offence and shall be liable on conviction to a penalty of not less than one hundred thousand rupees and to imprisonment for a term not less than two years and not exceeding five years.

(2) Where a person convicted of an offence under subsection (1) is a person registered under this Act, such person in addition to any penalty imposed under subsection (1), shall be liable to a further penalty equal to an amount imposed under that subsection.

(3) Where in the course of any transaction relating to a public contract the Registrar or any member of the Panel or a Tribunal or any member of a public body or of a technical committee, tender board or evaluation board of such body, or any officer or employee thereof, or any State officer or any other person has accepted any inducement or gratification of any form whatsoever, or has accepted or received any movable or immovable property or has accepted or received any scholarship, reward or any other form of benefit or consideration offered, made or given in contravention of subsection (1) whether in Sri Lanka or elsewhere such Registrar, member, officer, employee, State officer or any other

person shall be guilty of an offence and be liable on conviction to a penalty of not less than one hundred thousand rupees and to imprisonment for a term not less than two years and not exceeding five years.

(4) Where in any proceeding under this section evidence has been adduced that an inducement, gratification, transfer of movable or immovable property or a scholarship, reward or any other form of benefit or consideration has acted as a material factor in the award of a public contract and in consequence thereof the Registrar or any member of the Panel or a Tribunal, a public body or of a technical committee, tender board or evaluation board of such body or any employee or officer thereof or any State officer or any other person derived any direct or indirect material advantage or benefit it shall be presumed in the absence of proof to the contrary that an inducement, gratification, transfer of movable or immovable property or award of a scholarship or any other form of benefit or consideration was offered or made or given for the purpose of inducing the person to whom it was made to enter into such public contract.

Interference with the Registrar, or member of a Panel or Tribunal or public body.

18. (1) Every person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever, influences or attempts to influence whether in Sri Lanka or elsewhere—

- (a) the Registrar or any member of the Panel or a Tribunal ;
- (b) a member of a public body, technical committee, tender board or evaluation board of such body or any officer or employee thereof ;
- (c) any state officer ; or
- (d) any other person,

in the exercise, performance and discharge of his powers, functions and duties under this Act or in connection with any public contract or at any stage in the duration of such contract, shall be guilty of an offence and shall be liable on conviction to a fine of rupees one hundred thousand or to imprisonment for a term not exceeding two years.

(2) Any offence committed in any place referred to in subsection (1) shall be triable by the High Court holden in the judicial zone nominated by the President of the Court of Appeal by a direction in writing under his hand.

19. (1) It shall be the duty of—

Duty to report.

(a) the Registrar or any member, officer or an employee of a public body, technical committee, tender board or evaluation board of such body ;

(b) any State officer ; or

(c) any other person,

in the exercise, performance and discharge of his powers, function and duties, to report forthwith to the President the commission or attempted commission of any act or acts by any person in contravention of any of the provisions of this Act or any regulations made thereunder.

(2) Upon the receipt of a report under subsection (1) the President may, under subsection (3) of section 3, nominate a Tribunal to carry out an investigation.

(3) Any person referred to in subsection (1) who fails to comply with the provisions of that subsection shall be guilty of an offence and shall be liable on conviction to a fine of one hundred thousand rupees or to a term of imprisonment, not exceeding two years.

(4) No suit or prosecution shall lie against any person in respect of a report submitted by such person under subsection (1).

(5) No person shall print or publish any report or statement which directly or indirectly refers to the contents of any report made under subsection (1), except with the written approval of the President.

(6) A person who contravenes the provisions of subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine of one hundred thousand rupees or to imprisonment, for a term not exceeding two years.

20. (1) Where it is alleged that any public contract has been entered into contrary to the specifications or pre-qualifications required in relation thereto, or where restrictive specifications have been set out for the award of a tender or contrary to the provisions of this Act, any person aggrieved by the award of such contract may, by petition in writing accompanied by a duly sworn affidavit, request the President to appoint a Tribunal under subsection (3) of section 3 to carry out an investigation with regard to such contract.

Leave to appeal to the Tribunal.

(2) For the purpose of section 6, and this section "duly sworn affidavit" means an affidavit sworn or affirmed to, before a justice of the peace or a judicial officer that sets out the facts and circumstances within the personal knowledge of the deponent.

(3) On receipt of a petition under subsection (1) the President may nominate, under subsection (3) of section 3 a Tribunal to carry out an investigation.

Tribunal to
report to
President.

21. The Tribunal shall upon the conclusion of an investigation conducted under this Act, forthwith submit a report of its finding to the President.

Tribunal to
forward
report to
Attorney-
General.

22. (1) Where it appears to the Tribunal that in the course of an investigation under this Act, any person has been guilty of an offence, the Tribunal may of its own motion, report the matter to the Attorney-General and shall furnish him such information and give him such access to, and facilities for inspecting and taking copies of any statement, information or documents as are in the possession or under the control of the Tribunal.

(2) If on any report submitted to the Attorney-General under subsection (1) it appears to him that it is a case where a prosecution ought to be instituted, he shall within one month of the receipt of such report inform the Tribunal accordingly, and shall institute proceedings within two months thereafter, and it shall accordingly be the duty of the Tribunal to render him all assistance in connection with the prosecution or proceedings:

Provided that where the Attorney-General is of the opinion having regard to the circumstances of the case that proceedings cannot be instituted within the period of two months, he shall inform the Tribunal accordingly and such proceeding shall not be deemed to be invalid by reason only that it had not been instituted within the period of two months.

(3) Where a person convicted under this section is a contractor, tenderer or any other person registered under this Act, the Court shall give notice of such conviction to the Registrar who shall thereupon—

(a) strike out the name of the person from the register ;
and

(b) debar him from registering as a tenderer or in any other capacity whatsoever with the Registrar for a period of seven years.

23. (1) Any person while being employed in any capacity by any public body has occasion to acquire or obtain cognisance of any classified information, and communicates such information to any person other than to a person to whom he has a duty to disclose such information, whether in Sri Lanka or elsewhere, and before or after the award of any tender relating to a public contract, then such person shall be guilty of an offence, and on conviction be liable to a fine of one hundred thousand rupees or to imprisonment for a term not exceeding two years.

Persons who disclose classified information.

(2) In this section "classified information" means any facts, information or knowledge, documents or objects that relate to any public contract.

PART IV

GENERAL

24. (1) The Tribunal shall have power to summon and examine all witnesses at any investigation conducted by the Tribunal. Every summons shall be under the hand of the Chairman of the Tribunal.

Power to summon witnesses.

(2) A summons may be served by delivering it to the person named therein, or if that is not practicable, by leaving it at the last known place of abode of that person.

(3) Every person on whom a summons is served shall attend before the Tribunal at the time and place mentioned therein, and shall give evidence or produce such documents or other thing as are required of him and are in his possession or power, according to the tenor of the summons.

25. (1) The Tribunal shall have power for the purpose of any inquiry or any investigation under this Act—

Evidence.

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as it may think necessary or desirable to procure, receive or examine ;

(b) to require the evidence, whether written or oral, of any witness to be given on oath or affirmation ; such oath or affirmation to be that which would be required of that witness if he were giving evidence in court, and to administer an oath or affirmation to every such witness.

(2) All such evidence whether written or oral as may be obtained by the Tribunal in the course of an investigation under this Act certified by the Chairman as having been so obtained shall subject to the provisions of the Evidence Ordinance and notwithstanding the provisions of any other law to the contrary, be admissible in evidence against an accused person in any prosecution for an offence or in any proceedings under this Act.

Failure to
obey summon
or to give
evidence &c.

26. If any person upon whom a summons is served under this Act—

- (a) fails without cause, which in the opinion of the Tribunal is reasonable, to appear before the Tribunal at the time and place mentioned in the summons ; or
- (b) refuses to be sworn or affirmed or, having been duly sworn or affirmed, refuses or fails without cause, which in the opinion of the Tribunal is reasonable, to answer any question put to him relating to the matters directed to be inquired or investigated into by the Tribunal ; or
- (c) refuse or fails without cause, which in the opinion of the Tribunal is reasonable, to produce to the Tribunal any document or other thing which is in possession or power and which is in the opinion of the Tribunal necessary for arriving at the truth of the matters to be inquired into,

such person shall be guilty of the offence of contempt against, or in disrespect of, the Tribunal.

Punishment
of offence of
contempt.

27. (1) Any act or omission in contravention of the provisions of section 26, shall constitute an offence of contempt against, or in disrespect of, the Tribunal if such act or omission would, if, done or omitted to be done in relation to the Court of Appeal have constituted an offence of contempt against, or in disrespect of, the authority of such Court.

(2) (a) where the Tribunal determines that a person has committed an offence of contempt against, or in disrespect of, its authority, the Tribunal may cause its Chairman to transmit to the Court of Appeal a certificate setting out such determination. Every such certificate shall be signed by the Chairman of the Tribunal.

(b) In any proceeding for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognisance of as provided in this section, any document purporting to be a certificate signed and transmitted to the Court under the preceding provisions of this subsection shall—

(i) be received in evidence, and be deemed to be such a certificate without further proof unless the contrary is proved ; and

(ii) be evidence that the determination set out in the certificate was made by the Tribunal on the facts stated in the determination.

(c) In any proceeding taken as provided in this section for the punishment of any alleged offence of contempt against or in disrespect of the Tribunal no member of the Tribunal shall, except with his own consent, be summoned or examined as a witness and any such proceeding shall be heard and disposed of within three months on receipt of the certificate referred to in paragraph (a).

28. Every person who gives evidence before the Tribunal shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court is entitled to in respect of evidence given by him before such court.

Privileges of witnesses.

29. Every member of the Panel, a Tribunal and the Registrar, and every member of the staff of such Tribunal or of the Registrar shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting his duties and shall by such declaration pledge himself not to reveal any matter except—

Secrecy.

(a) when required to do so by the Tribunal, a court, or the person to whom the transaction or matter relates ;

(b) in the performance of his duties ; and

(c) in order to comply with any of the provisions of this Act or any other written law.

Protection against suit or prosecution.

30. (1) No suit or prosecution shall lie against the Registrar, the members of the Tribunal or any officer or employee thereof, for any act which in good faith is done or purported to be done by the Registrar, a member of the Tribunal or any officer or employee thereof under this Act.

(2) No action, prosecution or other proceeding civil or criminal, shall be instituted in any court or tribunal against any person referred to in subsection (1) in respect of any report made by him under this Act.

Persons committing offences under this Act to be triable before a Judge of the High Court.

31. Any person who has committed any offence under this Act shall, notwithstanding the provisions of any other law to the contrary, be triable without preliminary inquiry, on an indictment before a Judge of the High Court sitting alone without a jury and such court shall give priority to any such trial before any other work of such Court.

Attorney-General to institute prosecutions.

32. No prosecution for an offence under this Act shall be instituted except by the Attorney-General.

Service of documents.

33. For the purposes of this Act or any regulations made thereunder, any notice, or other communication sent by mail under registered post shall be presumed until the contrary is proved, to have been received by the addressee within three days of the posting thereof, and a certificate of such posting signed by the Registrar shall be prima facie proof thereof.

Offence by body of persons &c.

34. Where an offence under this Act is committed—

(a) by a body of persons then—

(i) if that body is a body corporate, every person who at the time of the commission of the offence was a director, secretary or other similar officer of that body ; or

(ii) if that body is not a body corporate, every person who at the time of the commission of that offence was a member or a partner of that body, or its chief executive officer ; or

(b) by any person acting for or on behalf of a person registered under this Act then the registered person,

shall be liable for the commission of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all due diligence to prevent the commission of that offence as he ought to have exercised, having regard to the nature of his functions and all other circumstances.

35. (1) Where negotiations in relation to any public contract have not reached finality by the execution of a contract or where any public contract has been entered into and the performance of such contract has not been completed or where the final payments in respect of the performance of any public contract have not been made on the date of commencement of this Act, the provisions of this Act shall apply, *mutatis mutandis*, in respect of such contract.

Act to apply to public contracts which have not reached finality &c.

(2) where after the date of commencement of this Act final payment has been made in respect of the performance of all the obligations in a public contract and the Tribunal is of the opinion after investigation that there have been irregularities in the procedure adopted by any public body in the awarding of such contract or that there has been a contravention of the terms and conditions specified in such contract, the Tribunal may make such inquiries as it may deem necessary and may report the result of that inquiry to the President and to the Attorney-General, and the provisions of section 22 shall apply, *mutatis mutandis*, to any such report.

36. (1) The President or where the subject or function is assigned to a Minister, such Minister, acting with the concurrence of the President may make regulation for all matters in respect of which regulations are authorized to be made under this Act.

Regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1), where the subject or function has been assigned to a Minister, such Minister may with the concurrence of the President make regulations in respect or all of any of the following matters:—

- (a) the form and manner of registration and the fees payable in respect of such registration;
- (b) the form and manner of renewal of registration or re-registration and fees payable for such renewal or re-registration;

- (c) the conditions subject to which certificates are issued;
- (d) the inspection of books, records or accounts kept by registered persons; and
- (e) reports or other information to be supplied by persons to whom certificates have been issued.

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

(4) Every regulation made by the Minister shall, as soon as convenient after the date of its publication, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

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

Officers and servants of the Tribunal and Registrar deemed to be public officers.

37. All officers and servants of the Tribunal, and the Registrar shall be deemed to be public officers within the meaning and for the purposes of the Penal Code.

Tribunal to furnish reports to the President.

38. (1) The Chairman of the Tribunal shall submit to the President in such form and detail as the Tribunal may determine the report of the Tribunal's work during the year completed.

(2) The Tribunal may, in addition to the report furnished under subsection (1), submit to the President such other reports on such matters as it deems necessary and shall furnish to the President such information as the President may call from time to time in respect of the activities and affairs of the Tribunal.

Acts and decisions of the Tribunal.

39. No act or decision of the Tribunal shall be called in question in any court by writ or otherwise.

Proceedings of Tribunal.

40. Unless the President otherwise directs all proceedings before a Tribunal shall be held in camera.

41. The Registrar may from time to time with the prior written approval of the President give general or special directions in writing to any person registered under this Act in respect of any matter which such person is required to do or perform under this Act.

Powers of Registrar to give general or special directions.

42. The Chairman of the Tribunal shall take oath or make an affirmation on entering upon the duties of his office before the President and the other members of the Tribunal, and the Registrar shall take oath or make an affirmation before the Secretary to the President. The officers and staff of the Registrar shall take oath or make an affirmation before the Registrar.

Oath or affirmation.

43. Every person who contravenes any of the provisions of this Act or any regulation made thereunder shall be guilty of an offence under this Act.

Contravention of provision of an offence.

44. Every person guilty of an offence under this Act for which no penalty is prescribed shall be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Penalty for offence for which no penalty is prescribed.

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

Interpretation.

“Chief executive officer” means—

(a) in the case of a government department, the head of such department;

(b) in the case of a public corporation its Chairman; or

(c) in the case of a local authority the Mayor or Chairman as the case may be;

“contract” means any contract, agreement, undertaking or an invitation to tender which is intended to be, or is or has been, entered into in pursuance of tenders called for by, or on behalf of any public body;

“duration of contract” with its grammatical variations and cognate expressions means the time from the commencement of the preparation of specifications upto the completion and discharge of all obligations of all contracting parties in respect of any public contract;

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

"peace officers" includes police officers and Grama Seva Niladharies appointed by a Government Agent in writing to perform police duties ;

"prescribed" means prescribed by this Act or regulations made thereunder ;

"public body" means any department, office or establishment of the Government, public corporation or local authority and includes any undertaking vested in the Government under any written Law ;

"public contract" means any contract for the performance of any work or services or for the supply or sale of any goods, materials or property to any public body which is intended to be, or is or has been, entered into in pursuance of tenders by or on behalf of that public body and includes any contract for the sale or disposal by that public body of any goods, materials or property in its possession, power or control ;

"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 1982, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise ;

"Registrar" includes an Assistant Registrar ;

"restrictive specification" means any specification framed in relation to a subject matter of a tender that has been wilfully framed so as to benefit a particular tenderer in the award of a public contract ;

“State officer” means a person who holds any paid office under the Republic of Sri Lanka, other than a judicial officer and does not include—

- (a) the President ;
- (b) the Speaker ;
- (c) a member of the Judicial Services Commission ;
- (d) a member of the Public Service Commission ;

“technical committee” means any person or body of persons entrusted with the responsibility of preparing specifications in connection with any public contract ;

“tenderer” means—

- (a) any consortium of persons any one or more of whom is not a citizen of Sri Lanka, or not ordinarily resident in Sri Lanka ; or
- (b) a company or firm incorporated or registered or has its principal place of business outside Sri Lanka ;
- (c) any individual ordinarily resident in Sri Lanka or if not so resident is or has been a citizen of Sri Lanka ; or
- (d) any company, firm or public body incorporated in or which has its principal place of business in Sri Lanka ; or
- (e) any company or firm not incorporated in Sri Lanka or not having its principal place of business in Sri Lanka, in which any Director partner or any shareholder holds more than twenty-five *per centum* of its share is, or has been a citizen of Sri Lanka,

and who enters into any public contract with any public body or is a prospective tenderer, contractor or supplier in respect of any such contract with a public body.

“tender” includes any bid, offer, quotation or proposal.

FIRST SCHEDULE

Provisions relating to members of the Panel

1. A person shall be disqualified for being appointed or being a member of the Panel if he is a Member of Parliament.

2. Before appointing a person to be a member of the Panel the President shall satisfy himself that such person will have no financial or other interest as is likely to affect prejudicially the discharge by such person of his functions as a member of the Panel. Any person who is appointed by the President shall whenever requested by the President so to do furnish to the President such information as the President considers necessary for the performance of his duties under this Act.

3. A member of the Panel who is in any way directly or indirectly interested in a public contract made or proposed to be made, shall disclose the nature of his interest to the President.

4. Every member of the Panel shall—

(a) subject to the provisions of paragraph 6, hold office for such period not exceeding three years as the President shall specify in the instrument by which that member is appointed; and

(b) be eligible for re-appointment.

5. Any member of the Panel may without any reason being assigned therefor, be removed from office by the President.

6. A member of the Panel who is not a public officer may resign from the panel of which he is a member, by letter in that behalf addressed to the President.

7. Where the office of a member of the panel becomes vacant or such member becomes, by reason of illness or other infirmity, or absence from Sri Lanka, temporarily unable to perform the duties of his office, the President may appoint another person in place of such member.

8. The members of the Panel shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the President.

SECOND SCHEDULE

The particulars required to be entered in the register maintained by the Registrar under section 6 of this Act, shall be—

(a) in the case of a public company the name, address and nationality of each director;

(b) in the case of a private company the name, address and nationality of each director and shareholder;

(c) in the case of a firm the name, address and nationality of its partners and the percentages of financial interest of each partner in such firm;

- (d) in the case of an individual the name, address and nationality of such individual;
- (e) the name, address and nationality of every person who acts as an agent, sub-agent, representative or nominee on behalf of a tenderer;
- (f) where a tender is awarded—
 - (i) the name, address and nationality of the successful tenderer;
 - (ii) the amount accepted for the award of such tender;
 - (iii) the name address and nationality of every person who acts as an agent, sub-agent, representative or nominee on behalf of a successful tenderer;
- (g) Any other particulars as may be required to ensure due compliance with the provisions of this Act.

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