



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

**DECLARATION OF
ASSETS AND LIABILITIES
(AMENDMENT)
ACT, No. 74 OF 1988**

[Certified on 17th December, 1988]

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**Declaration of Assets and Liabilities (Amendment)
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L.D.—O 19/86

**AN ACT TO AMEND THE DECLARATION OF ASSETS AND
LIABILITIES LAW, No. 1 OF 1975**

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

1. This Act may be cited as the Declaration of Assets and Liabilities (Amendment) Act, No. 74 of 1988. Short title.

2. Section 2 of the Declaration of Assets and Liabilities Law, No. 1 of 1975 (hereinafter referred to as “the principal enactment”) is hereby amended in subsection (1) of that section, as follows:— Amendment
of section
2 of Law
No. 1 of 1975.

(a) by the substitution for paragraph (b) of that subsection, of the following paragraph:—

“(b) Judges and public officers appointed by the President, public officers appointed by the Cabinet of Ministers, judicial officers and scheduled public officers appointed by the Judicial Service Commission and staff officers in Ministries and Government Departments;”;

(b) by the insertion immediately after paragraph (d) of that subsection, of the following paragraphs:—

“(da) office-bearers of recognized political parties for the purposes of elections under the Presidential Elections Act, No. 15 of 1981, the Parliamentary Elections Act, No. 1 of 1981 or the Provincial Councils Elections Act, No. 2 of 1988 or the Development Councils (Elections) Act, No. 20 of 1981 or the Trade Unions Ordinance;

(db) the executive of trade unions registered under the Trade Unions Ordinance;

(dc) candidates nominated for election at elections to be held under the Presidential Elections Act, No. 15 of 1981, the Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988, the Development Councils (Elections) Act, No. 20 of 1981 or the Local Authorities Elections Ordinance;

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(dd) proprietors, editors and members of the editorial staff of newspapers in respect of which declarations have been made under section 2 of the Newspapers Ordinance ;

(de) Chairman, Directors and staff officers of companies registered under the Companies Act, No. 17 of 1982, in which the majority of shares are held by the State or by a public corporation ;”.

Amendment
of section
3 of the
principal
enactment.

3. Section 3 of the principal enactment is hereby amended as follows :—

(a) by the addition at the end of subsection (2) of that section, of the following proviso :—

“ Provided that a person to whom this Law applies referred to in paragraph (dc) of subsection (1) of section 2 shall be deemed to have complied with the provisions of this subsection if he makes a declaration of his assets and liabilities as at the date of his nomination as a candidate for election under any of the Acts referred to in that paragraph on the date of such nomination or before he functions, or sits or votes, as President, a Member of Parliament, a member of a Provincial Council, a member of a Development Council or any other Local authority, as the case may be, and in the case of an unsuccessful candidate at an election within a period of three months after the date of nomination.” ;

(b) by the repeal of subsection (3) of that section, and the substitution therefor, of the following subsection :—

“ (3) Every person who is required to make the first declaration of assets and liabilities under subsection (1) or subsection (2) shall, unless such person ceases to be a person to whom this Law applies, by the thirtieth day of June in each year, make in the prescribed form, a declaration of his assets and liabilities as at the thirty-first day of March of such year and include in such declaration the assets and liabilities he held on the date on which he was first required to make a declaration of his assets and liabilities under this Law :

Provided that, where a person who is required to make a declaration of assets and liabilities under subsection (2) has made the first declaration as at any date within six months preceding the thirty-first day of March in any year, he shall not be required to make another declaration for such year."

4. Section 4 of the principal enactment is hereby amended as follows:—

Amendment
of section
4 of the
principal
enactment.

(a) by the substitution for paragraph (c) of that section of the following paragraph:—

" (c) to the Judicial Service Commission^{b.} by judicial officers and by scheduled public officers within the meaning of Article 114 of the Constitution ;";

(b) by the insertion immediately after paragraph (i) of that section of the following paragraphs:—

" (ia) to the Commissioner of Elections—

(i) by office-bearers of recognized political parties for the purposes of elections under the Presidential Elections Act, No. 15 of 1981, Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988, the Development Councils (Elections) Act, No. 20 of 1981 or the Local Authorities Elections Ordinance ;

(ii) by candidates nominated for election at elections to be held under the Presidential Elections Act, No. 15 of 1981, the Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988, the Development Councils (Elections) Act, No. 20 of 1981 or the Local Authorities Elections Ordinance ;

(ib) to the Secretary to the Ministry of the Minister in charge of the subject of Labour by the executive of trade unions registered under the Trade Unions Ordinance ;

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(ic) to the Secretary to the Ministry of the Minister in charge of the subject of newspapers by proprietors, editors and members of the editorial staff of newspapers, in respect of which declarations have been made under section 2 of the Newspapers Ordinance ;

(id) to the Registrar of Companies, by Chairman, Directors and staff officers of companies registered under the Companies Act, No. 17 of 1982, in which the majority of the shares are held by the State or by a public corporation ;”.

Amendment
of section
5 of the
principal
enactment.

5. Section 5 of the principal enactment is hereby amended by the addition immediately after subsection (2) of that section of the following subsection :—

“(3) Any person shall, on payment of a prescribed fee to the appropriate authority, have the right to call for and refer to any declaration of assets and liabilities and on payment of a further fee to be prescribed, shall have the right to obtain a certified copy of such declaration.

In this subsection “appropriate authority” in relation to a declaration of assets and liabilities means the person to whom that declaration of assets and liabilities has been made under section 4.”.

Amendment
of section
7 of the
principal
enactment.

6. Section 7 of the principal enactment is hereby amended by the repeal of subsection (4) of that section and the substitution therefor of the following subsection :—

“(4) Save as provided in subsection (1) and for the purposes of a proceeding under section 9A, it shall be an offence for any person to make a public statement concerning a person to whom this Law applies alleging that such person has made recent acquisitions of wealth or property, or recent financial or business dealings, or incurred recent expenditures not commensurate with the known sources of wealth and income of such person, or

as to the contents of any declaration of assets and liabilities of such person, or to make any such public statement in respect of any investigation being made by an appropriate authority upon a written communication made by him under the provisions of subsection (1).”.

7. Section 8 of the principal enactment is hereby amended as follows :—

Amendment
of section
8 of the
principal
enactment.

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

“ (1) Except in the performance of his duties under this Law or as may be necessary for the institution of proceedings under, or for the purpose of carrying into effect the provisions of, this Law, a person shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person to whom this Law applies, or which may come to his knowledge in the performance of his duties under this Law or in the exercise of his right under subsection (3) of section 5, and shall not communicate any such matter to any person other than the person to whom such matter relates, or suffer any unauthorized person to have access to any papers or records which may have come into his possession in the performance of his duties under this Law or in the exercise of his right under subsection (3) of section 5.” ; and

(2) by the repeal of subsection (3) of that section and the substitution therefor of the following subsection :—

“ (3) Any person required to preserve and aid in preserving secrecy under the provisions of subsection (1) shall not be required to produce in any court any declaration of assets and liabilities or any other document relating thereto, or to divulge or communicate to any court any matter or thing

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coming to his notice in the performance of his duties under this Law or in the exercise of his right under subsection (3) of section 5, except as may be necessary for proceedings instituted or to be instituted under, or for the purpose of carrying into effect the provisions of, this Law or the Bribery Act, the Exchange Control Act, the Inland Revenue Act, No. 28 of 1979 or the Customs Ordinance."

Amendment
of section
9 of the
principal
enactment.

8. Section 9 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section by the insertion immediately after paragraph (b) of the following paragraph:—

"(bb) who wilfully omits any asset or liability from any such declaration; or";

(2) by the insertion immediately after subsection (3) of that section of the following subsection:—

"(3A) Where any person is convicted of an offence under paragraph (bb) of subsection (1) the asset in respect of which the offence was committed shall by virtue of such conviction be vested in the State free of all incumbrances.

(3B) The vesting of any assets in the State under subsection (3A) shall take effect—

(a) where an appeal has been preferred to the Court of Appeal or the Supreme Court against the order of forfeiture, upon the determination of the appeal, conforming or upholding the order of forfeiture;

(b) where no appeal has been preferred to the Court of Appeal against the order of forfeiture after the expiration of the period within which an appeal may be preferred to the Court of Appeal against the order of forfeiture."

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

Insertion of
new section
9A in the
principal
enactment.

"Procedure
for prosecution and
trial of
offences
referred to
in section 9(1)
(b) or (bb).

9A. An offence under paragraph (b) or (bb) of subsection (1) of section 9 (in this section referred to as "the relevant offence") shall be inquired into, tried and otherwise dealt with, according to the provisions of the Code of Criminal Procedure Act, No. 15 of 1979 (in this section referred to as "the Criminal Procedure Act") subject to the following modifications—

(a) no complaint under section 136(1) (a) of the Criminal Procedure Act in respect of the relevant offence shall be entertained by a Magistrate unless it is—

(i) in writing;

(ii) drawn and countersigned by a pleader;

(iii) signed by the complainant; and

(iv) accompanied by a certified copy, obtained under subsection (3) of section 5 of this Law, of the declaration in respect of which the offence is alleged to have been committed;

(b) notwithstanding anything in subsection (5) of section 9, of this Law, the prior sanction of the Attorney-General shall not be necessary for the institution of a prosecution for the relevant offence;

(c) where a complaint in respect of the relevant offence is entertained by a Magistrate, the Magistrate shall where he is of opinion that there is sufficient ground for proceeding against the person alleged to have committed the offence, not issue summons, under section 139 of the Criminal Procedure Act requiring the attendance of such person, unless the complainant deposits in court, such sum as the Magistrate may

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determine, as security for the payment of the costs incurred, or likely to be incurred, by the accused and of any compensation that may be ordered under paragraph (d) ;

(d) whenever a Magistrate acquits or discharges a person accused of the relevant offence and declares that the complaint was frivolous or vexatious, the Magistrate shall order the complainant to pay the State reasonable costs in a sum determined by the Magistrate and shall also order the complainant to pay to the accused the amount of the costs incurred by the accused and such compensation as the Magistrate shall think fit from and out of the security deposited by the complainant ;

(e) nothing in subsection (7) of section 17 of the Criminal Procedure Act shall limit the amount of the compensation that may be ordered by a Magistrate under paragraph (d) ;

(f) where the complainant in a prosecution for the relevant offence pays the State costs and compensation ordered against him under paragraph (d), the accused shall not be entitled to institute, or maintain, an action for damages in any civil court against such complainant in respect of such prosecution ; and

(g) notwithstanding anything in section 318 of the Criminal Procedure Act, the complainant in a prosecution for the relevant offence may appeal against the acquittal of the person accused of such offence, without the written approval of the Attorney-General."

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10. The following new section is hereby inserted immediately after section 10, and shall have effect as section 10A of the principal enactment:—

Insertion
of new
section 10A
in the
principal
enactment.

“Value of
assets.

10A. Nothing in this Law shall be read and construed as requiring any person to whom this Law applies to indicate the value of any asset included in any declaration made by him under this Law except where such asset consists of holdings in cash.”.

11. Section 12 of the principal enactment, as amended by Act No. 29 of 1985, is hereby further amended as follows:—

Amendment
of section
12 of the
principal
enactment.

(a) by the substitution for the definition of assets and liabilities of the following definition:—

“assets and liabilities” means assets and liabilities in and outside Sri Lanka, and includes movable and immovable property owned by the declarant in whole or in part, any property in which the declarant has a beneficial interest and any property acquired by the declarant during the period to which the declaration relates, in the name of his spouse or child;’;

(b) by the insertion immediately after the definition of “Commissioner of Local Government” of the following definition:—

“executive” when used with reference to a trade union has the same meaning as in the Trade Unions Ordinance;’;

(c) by the substitution for the definition of “local authority” of the following definition:—

“local authority” means any Municipal Council, Urban Council or Development Council, or Pradeshiya Sabha, and includes any authority created and 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;’;

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(d) by the insertion immediately after the definition of "local authority" of the following definition :—

"office-bearers" in relation to a recognized political party means the President, Vice-President, Secretary or a member of the Executive committee of such recognized political party and any other person who is duly empowered to give directions in regard to such political party and includes the leader of such political party, howsoever designated, whether as Patron, President, Advisor or otherwise ;; and

(e) by the substitution for the definition of "staff officer" of the following definition :—

"staff officer" means—

(a) in the case of any employee of the Government or a local authority any officer—

(i) holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 6,720 per annum, or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial,

(ii) holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of the creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (i) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial ;

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(b) in the case of any employee of a public corporation any officer—

(i) holding any office created prior to November 18, 1970, the initial of the salary scale of which was, on November 18, 1970, not less than Rs. 7,200 per annum, of such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial ;

(ii) holding any office created after November 18, 1970, the initial of the salary scale of which is, on the date of creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (i) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial ;