



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

FINANCE COMPANIES

ACT, No. 78 OF 1988

[Certified on 18th December, 1988]

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AN ACT TO PROVIDE FOR THE CONTROL AND SUPERVISION OF
FINANCE COMPANIES 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 Finance Companies Act,
No. 78 of 1988. Short title.

2. (1) Subject to the provisions of section 3, no finance
business shall be carried on except by a public company
which— Registration
of finance
companies
under this
Act.

(a) is registered under the Companies Act, No. 17 of
1982; and

(b) has a minimum issued and paid up capital of not
less than five million rupees; and

(c) is registered under the provisions of this Act.

(2) Every application for registration under this Act by
a company shall be made to the Board in the prescribed
form, and shall contain a declaration by the applicant that
the particulars stated in the application are, to the
knowledge and belief of the applicant, true and accurate.

(3) Every person who makes any declaration, or
furnishes any information under subsection (2), knowing
the same to be false, shall be guilty of an offence under
this Act.

(4) Where an application is made to the Board for
registration under this Act, the Board may call for and
examine or cause to be examined, the books, records and
documents of the company applying for registration.

(5) The Board may, on considering an application made
to it by a company for registration under the Act, register
such company as a finance company if it is satisfied that—

(i) the requirements of subsection (1) of this section
have been complied with; and

(ii) on the information made available to it, that its
registration would not be detrimental to the
interests of its depositors and creditors.

(6) Where a company is not registered under subsection (5), or a person or a body of persons to whom section 3 is applicable, has failed to comply with the provisions of that section, the Board may issue to such company, a person or body of persons as the case may be directions for winding up or for divesting the finance business carried on by it and for the settlement of its deposit liabilities and it shall be the duty of such company or person or body of persons to comply with such direction.

(7) Where a company or person or a body of persons fails to comply with directions issued under subsection (7) within one month of the issue of such directions, the Board may require the Director to take such action as may be necessary, to secure compliance therewith including filing action for winding up in which event the provisions of section 18 shall apply.

Transitional provision regarding carrying on of finance business by persons or body of persons not registered under this Act.

3. (1) Notwithstanding the provisions of section 2, a company or a person or a body of persons carrying on finance business on the day preceding the date of commencement of this Act—

(a) may continue to carry on such business for a period of two years from the date of commencement of this Act, notwithstanding the fact that it is not registered under section 2;

(b) shall take such steps as may be necessary to comply with the provisions of section 2(1) and to divest itself of any of the activities carried on in contravention of any direction issued under paragraph (r) of subsection (1) of section 9 of this Act, within a period of two years from the date of commencement of this Act, or four months from the date of issue of such direction, whichever is later.

(2) Every company or person or body of persons referred to in subsection (1) shall on compliance with the provisions of paragraph (b) of subsection (1) submit to the Monetary Board evidence in proof of such compliance. A company or body of persons complying with such provisions to the satisfaction of the Board, may apply for registration under section 2.

(3) Where a company or a person or a body of persons carries on finance business under subsection (1), the provisions of this Act shall in so far as they are applicable and subject to the other provisions of this Act, apply to such company or person or a body of persons.

4. (1) A finance company shall, at all times maintain an unimpaired capital of not less than five million rupees.

Unimpaired capital to be maintained by finance companies.

(2) A finance company shall not reduce or impair its capital or statutory reserves without the prior written approval of the Board.

In this subsection, "statutory reserves" means any reserve fund maintained by the company in pursuance of a direction issued to it under this Act.

5. A finance company shall at all times conduct its business in such manner so as to safeguard its deposits and shall take all such measures as are reasonably necessary to ensure that deposits and interest on deposits, are payable to depositors on the due dates.

Conduct of business by finance companies.

6. The Board shall keep and maintain in the prescribed form a register of every finance company registered under this Act.

Register of finance companies.

7. (1) Where a finance company has been registered under this Act, the Board shall issue to such finance company a licence in the prescribed form permitting such company to carry on finance business.

Issue of licence to finance companies.

(2) Such licence shall be exhibited at all times in the principal office or place of business of such finance company.

(3) Every finance company registered under the Act, shall pay an annual licence fee of the prescribed amount to the Board.

8. (1) Where any finance company registered under this Act has ceased to carry on finance business, a notice of such cessation shall be given to the Board forthwith upon such cessation, by such company.

Duty of finance company to notify Monetary Board of cessation of finance business.

(2) On receipt of notice of cessation under subsection (1), the Board shall remove the name of the finance company from the register maintained under section 6 and cancel its licence, and may issue to such finance company directions for winding up or for divesting the finance business of the finance company and for the settlement in such manner as may be specified, of the deposit liabilities of the finance company.

(3) Where the Board has reasonable grounds to believe that any finance company registered under this Act is not carrying on finance business, the Board may send to such

company, a notice by registered post requiring such company to furnish proof, within two weeks from the date of such notice, that it has not ceased to carry on finance business. Where such finance company fails to furnish such proof within such period, the Board shall remove the name of such finance company from the register maintained under section 6 and shall cancel its licence. Where the registration of a finance company is so cancelled, the Board may issue such directions as it deems necessary, including directions for winding up or require the Director to apply for winding up of the company, in which event, the provisions of section 13 shall apply.

(4) Where a finance company fails to comply with directions issued under subsection (2) within one month of the issue of such directions, the Board may require the Director to file action for winding up the finance company and the provisions of section 13 shall apply to such winding up.

**Directions
of the
Board**

9. (1) Notwithstanding the provisions of any other law, the Board may give directions to finance companies or to any group or category of finance companies regarding the manner in which any aspect of the business of such companies are to be conducted and in particular—

(a) the terms and conditions under which deposits may be accepted by such companies, the maximum rates of interest payable on such deposits, and the maximum periods for which deposits may be accepted and the maximum amount that may be deposited with a company in the name of one person in one or more accounts ;

(b) the terms and conditions under which any loan, credit facility or any type of financial accommodation may be granted by such companies, the maximum rates of interest that may be charged on such loans, credit facilities or other types of financial accommodation, and the maximum periods for which any such loan, credit facility or other type of financial accommodation may be granted ;

(c) the maximum rates which may be paid to, or charged by, such companies by way of commissions, discounts, fees or other receipts or payments whatsoever :

- (d) the minimum initial payment a prospective hirer should make on any hire purchase agreement and specific different initial payments for different classes of transactions; such minimum initial payment may be expressed as a percentage of the value of the goods hired under such agreement;
- (e) the terms and conditions under which investments may be made by such companies;
- (f) the maximum permissible maturities for loans, credit facilities or other types of financial accommodation and investments made by such companies, and the nature and amount of the security that may be required or permitted for various types of lending, credit and investment operations;
- (g) the form and manner in which books of accounts or other records or documents are to be maintained by such companies;
- (h) the exclusion from the income of companies in whole or in part, unpaid interest in respect of loans granted, if such loans have become overdue;
- (i) the minimum ratio which the liquid assets of such companies should bear to the total deposit liabilities of such companies;
- (j) the maintenance of cash balances by finance companies with the Central Bank of Sri Lanka if so required by the Board, and the minimum ratio such cash balances should bear to the deposit liabilities of finance companies;
- (k) conditions which should be applicable to withdrawal by depositors of deposits before maturity;
- (l) prohibiting such companies from increasing the amount of their loans, credit facilities other types of financial accommodation or investments;
- (m) fixing the limits to the rate at which the amount of any loans, investments or financial accommodation made or granted by them may be increased within specified periods;
- (n) requiring the decrease of the amount of their loans, investments or financial accommodation to specified limits within a specified period:

(o) the maximum percentage of the share capital in a finance company which may be held—

(i) by a company, an incorporated body, or an individual ;

(ii) in the aggregate by—

(a) a company and one or more of the following :—

(aa) its subsidiary companies ;

(bb) its holding company ;

(cc) a subsidiary company of its holding company ; or

(dd) a company in which such company or its subsidiary company, or its holding company, or a subsidiary company of its holding company has a substantial interest ; or

(b) an individual and one or more of the following :—

(aa) his relative ;

(bb) a company in which he has a substantial interest or in which his relative has a substantial interest ;

(cc) the subsidiary company of such company ;

(dd) a holding company of such company ;

(ee) a subsidiary company of such company's holding company ;

(ff) a company in which such company, or its subsidiary company, of its holding company has a substantial interest ; or

(gg) an incorporated body other than a company in which such individual or his relative has a substantial interest :

Provided, however, that these directions shall not require the reduction of the shares of a person held in a finance company on the date of commencement of this Act, otherwise than on a requirement imposed on him under the provisions of paragraph (d) of subsection (1) of section 10.

In order to comply with a direction issued to it under paragraph (d) of subsection (1) of section 10 a finance company may direct a person holding shares in such company to reduce the number of shares held by such person in such company whether such shares were acquired by such person before or after the date of commencement of this Act, within such period as may be specified in such direction; and it shall be the duty of such person to comply with such direction;

- (p) the margins to be maintained in respect of secured advances;
- (q) the terms and conditions relating to leasing agreements between the company and a lessee;
- (r) restriction on the types of activities that may be carried on by Finance Companies.

(2) The maximum rates of interest fixed by any direction under paragraphs (a) and (b) of subsection (1) shall, if so determined by the Board, apply in respect of any deposit accepted or in respect of any loan, credit facility or any other financial accommodation granted, before the date of such direction:

Provided, however, that nothing in any such direction shall—

- (a) apply to any interest accrued before the date of such direction in respect of any such deposit or loan, credit facility or other financial accommodation; or
- (b) require the reduction of the rate of interest payable on any deposit accepted or loan, credit facility, or financial accommodation granted before the date of such direction, if such reduction would constitute a breach of the contract or agreement relating to such deposit, loan credit facility or other financial accommodation, as the case may be.

(3) For the purposes of this Act, the Board may give directions where necessary to any finance company in particular on such matters as are specified in subsection (1):

Provided, however, that a competent court may, on any application made to it in that behalf by a finance company at any time while any direction is in force,

make a declaration permitting that company to carry on its business without being subject to such direction, or may vary or alter such direction in such a manner as the court may determine, and any declaration by the court as aforesaid shall have effect notwithstanding anything to the contrary in the direction made by the Board.

(4) The Monetary Board may in its discretion pay interest on any cash balance maintained by a finance company in the Central Bank of Sri Lanka, in pursuance of a direction issued to it under paragraph (j), at such rate as may be determined by the Board.

Procedure where Director is of opinion that finance company is following unsound practices.

10. (1) Where the Board on a report made by the Director is of the opinion that a finance company—

- (i) is following unsound or improper financial practices, detrimental to the interest of its depositors;
- (ii) is like to be carrying on its business in a manner detrimental to the interests of its depositors;
- (iii) has contravened or failed to comply with any provisions of this Act, or any direction issued thereunder,

the Board may direct such Company—

- (a) to cease following any such practice or desist from any such contravention; or
- (b) to comply with the provisions of this Act; or
- (c) to take necessary action to correct the conditions resulting from such practice or contravention; or
- (d) secure the reduction of the number of shares held in the company by any person.

(2) Any finance company dissatisfied with an order given under subsection (1), may, before the expiry of thirty days from the date of the issue of such order, appeal in writing to the Board and the Board shall render its decision within fifteen days of receipt of such appeal.

Director or authorized officer to require production of books for examination.

11. (1) The Director or any officer authorized by him may require any person or a body of persons to furnish him with such information as he may consider necessary to ascertain whether such person or body of persons is carrying on finance business, and for this purpose, may require the production of, and examine any books or records relating to such person or body of persons, and if he is of the opinion that such person or body of persons is carrying on finance business, report such fact to the Board.

(2) If the Board, on consideration of a report under subsection (1), determines that a person or body of persons is carrying on finance business, it shall require such person or body of persons to comply with the requirements of the Act within a specified period of time, and where it fails to do so, shall have the power to give directions and take such steps as it considers necessary to safeguard depositors, including the power to wind up persons or a body of persons, in which event the provisions of section 18 shall, *mutatis mutandis*, apply.

(3) Any person or body of persons required to furnish information or to produce any books or records under subsection (1) shall furnish such information or produce such books, or records, documents to an officer authorized by the Director and shall comply with any directions or requirements made under subsection (2).

(4) Without prejudice to the generality of subsection (1), the Board may require any person or a body of persons to furnish information as may be necessary to ascertain whether any sum of money accepted, borrowed or solicited by such person or body of persons is a deposit.

12. (1) The Director may, at any time, examine or authorize any officer of his department to examine, the books and accounts of any finance company.

Power of Director to examine books and accounts of finance company.

(2) The report on any such examination shall be furnished to the Governor of the Central Bank of Sri Lanka by the Director as soon as such examination is completed. The Director may recover the costs of such examination from the finance company.

(3) It shall be lawful for the Director or any officer authorized by him—

(a) to administer, in accordance with the Oaths Ordinance, oaths or affirmations to any director, manager, secretary, employee or auditor of any finance company ;

(b) to require any director, manager, secretary, employee or auditor of any finance company to furnish all such information relating to the affairs of the company, as the Director or any officer authorized by him may consider necessary to ascertain, for the purpose of this Act ;

(c) to require any director, manager, secretary, employee or auditor of any finance company to produce for inspection any books, records or documents relating to the affairs of the company, in his possession or custody, likely to contain any such information ;

(d) in any case where there is evidence of mismanagement by a finance company, to require any director, manager or secretary of such finance company to submit the accounts of the finance company for audit by an auditor authorized by the Director and to require the finance company to furnish such information, or produce such books, records or documents and to pay such fees, as may be specified or authorized by the Director, to such auditor.

(4) It shall be the duty of every director, manager, secretary, employee or any auditor of any finance company to comply with any requirement imposed on him under this section and to afford to the Director or to any officer authorized by him, or to any auditor authorized by him under paragraph (d) of subsection (3), access to all books and records of that finance company including its cash balances, assets and liabilities whenever requested to do so by the Director.

(5) The Director may, where he considers it necessary to ascertain the true condition of the affairs of a finance company and to ascertain whether such finance company is carrying on business in a manner detrimental to its present or future depositors, by notice in writing require any person whom he considers to have information relating to the finance company, to furnish such information to him or to any officer authorized by him or to any auditor authorized by him under paragraph (d) of subsection (3) or to attend in person before him or any officer authorized by him, at such place and at such date and time as may be specified in such notice, so that the person may be examined on such matters as may be specified in such notice.

(6) For the purpose of ascertaining the true condition of the affairs of the finance company, the Director may if he thinks it necessary for the purposes of an examination under subsection (5), also examine the business of any company which is or has at any relevant time been—

(a) a holding company or subsidiary company of the finance company under examination ;

(b) a subsidiary company of a holding company of that finance company ;

(c) an associate company of that finance company,

and may exercise in relation to any such company, any of the powers conferred on him by the preceding provisions of this section.

In this subsection "associate company" when used in relation to a finance company, means a company in which the finance company holds ordinary shares equivalent to twenty *per centum* or more, but less than fifty *per centum* of the paid up share capital of the company.

12A. Where the Board proposes to take action against a finance company based upon a report made under section 12 or section 18, it shall furnish to such company a copy of such report, excluding the part containing the recommendations made by the Director and allow the company a period of at least seven days to state to the Board, its position in regard to such report.

Board to allow company to state its position before taking action against it on a report made under section 12 or section 18.

Nothing in this subsection shall be deemed to prohibit the Monetary Board from taking action on the report without allowing the company to state its position in regard to such report where the Board is of the view that it is necessary to take immediate action, in the interest of depositors and the finance company.

13. Every finance company shall prepare at the expiration of each financial year—

Accounts of finance Company.

(a) a balance sheet as at the last working day of each financial year ; and

(b) a profit and loss account in respect of such year.

14. (1) The balance sheet of a finance company shall set out the state of affairs of such company as at the end of the financial year to which such balance sheet relates.

Balance sheet of finance company.

(2) There shall be shown in the balance sheet or in any statement annexed thereto—

(a) capitalized expenses not represented by tangible assets under separate headings, so far as they are not written off ;

(b) the market value of investments ;

- (c) the method adopted to value fixed assets if there had been any valuation of such assets during the financial year;
- (d) the aggregate amounts of advances after the provision for bad and doubtful debts;
- (e) any increase or decrease in the provision for depreciation renewals, or diminution in the value of fixed assets;
- (f) the sources and application of funds;
- (g) reserves, provisions and liabilities distinguishable from each other;
- (h) except in the case of the first balance sheet after the date of commencement of this Act, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet.

Profit and
loss account.

15. There shall be shown in the profit and loss account or in any statement annexed thereto.

- (a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;
- (b) the amount charged to revenue for Sri Lanka income tax and other Sri Lanka taxation on profits and distinguishable from such accounts, the amounts and materials, set aside, or proposed to be set aside, for liabilities in respect of tax due in the current year of taxation or a succeeding year;
- (c) the aggregate amount of dividends paid or proposed to be paid;
- (d) the amount of remuneration of auditors;
- (e) the amount charged to revenue representing the aggregate amount of the emoluments of directors;
- (f) the amount set aside or proposed to be set aside to, or withdrawn from reserves;
- (g) under separate headings, the profit or loss or the income and expenses arising from transactions, such as are not usually carried on by the finance

company and are carried on owing to circumstances of an exceptional or nonrecurrent nature or by a change in the basis of accounting;

- (h) except in the case of the first profit and loss account after the date of commencement of this Act, the corresponding amount at the end of the immediately preceding financial year for all items shown in the profit and loss account.

16. (1) Every finance company shall transmit to the Director and publish within six months after the close of the financial year—

- (a) the profit and loss account of the company for that year ;
- (b) the balance sheet as at the date to which such profit and loss account is made up ;
- (c) the auditor's report attached to such profit and loss account and balance sheet ; and
- (d) the report by the directors relating to the state of the affairs of the company attached to such balance sheet.

Publication of balance sheet and profit and loss account of finance company.

(2) Every finance company shall exhibit the balance sheet and profit and loss account of such company in a conspicuous part of each of its places of business until the balance sheet and profit and loss account for the succeeding financial year are prepared and exhibited.

(3) The Board may specify the form of the balance sheet and profit and loss account referred to in this section and where such form is specified, the balance sheet and profit and loss account of every finance company shall be prepared in such form as is specified.

17. The Auditor of a finance company shall inspect the accounts, the finances, the management of the finances and the property of that finance company. The Auditor shall as far as possible, and where necessary examine—

Auditing of accounts.

- (a) whether the conduct of the affairs of the finance company has been in accordance with the law, rules and directions issued by the Board ;
- (b) whether records relating to the acceptance of deposits and maintaining of accounts are satisfactory ;

- (c) whether the accounting systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of financial control purposes and from the point of view of the presentation of information to enable a continuous evaluation of the activities of the finance company and whether such systems, procedures, books, records and other documents are in effective operation ;
- (d) whether the accounts audited have been so designed as to present a true and fair view of the affairs of the finance company in respect of the period under consideration due regard being had to principles of accountancy, financing and valuation.

18. (1) In any case where the Director is satisfied after examination by himself or by any officer authorized by him, of the affairs of any finance company, or upon information received from the company, that it is insolvent or is likely to become unable to meet the demands of its depositors or that its continuance in business is likely to involve loss to its depositors or creditors, the Director shall make a report accordingly to the Governor of the Central Bank of Sri Lanka for submission to the Board ; and if the Board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinafter provided, the Board may make an order directing the company forthwith to suspend business and directing the Director to take charge of all books, records and assets of the company, and to take such measures as may be necessary to prevent the continuation of business by the company. Winding up.

(2) Any director, manager, secretary or employee of a finance company or any other person having in his possession or custody any books, records or assets of the company, who fails to hand over the same to the Director or to an officer authorized by him, or any person who obstructs or resists the Director or an officer authorized by him from taking charge of any books, records or assets of the company or from taking such other measures as the Director may consider necessary to prevent the continuation of business by the company shall be guilty of an offence under the Act.

(3) Notwithstanding anything in any other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order

made in goodfaith under subsection (1), or in respect of any loss or damage incurred, or likely or alleged to be incurred by reason of such order.

(4) An order made by the Board in respect of any finance company shall cease to have effect upon the expiration of a period of sixty days from the date on which it is made and it shall be the duty of the Board as soon as practicable and in any event before the expiration of such period to—

(a) made order permitting the company to resume business, either unconditionally or subject to such condition as the Board may consider necessary in the public interest, or in the interest of the depositors and other creditors of the company ; or

(b) notify the finance company that it intends to cause the Director to make application as hereinafter provided to a competent court for the winding up of the company,

Without prejudice to the generality of the powers conferred by paragraph (a) and notwithstanding any other law or the memorandum and articles of association of the company, the Board may, as a condition of permitting the company to resume business, remove any director, manager or employee of such company where it is of the view that the continuance of such director, manager or employee in the company is detrimental to the interests of its depositors and appoint any person as director, manager or employee of such company :

Provided however that the number of persons so appointed as directors, shall not constitute a majority in the Board of such finance company.

(5) If the finance company has not made an application to the Supreme Court in accordance with section 43 or where the court has rejected the application of the finance company, made in accordance with that section the Director shall make an application as hereinafter provided to a competent court for the winding up of the company.

(6) During the period in which the business of a finance company is suspended under subsection (1), the Board may if it considers it in the public interest to do so meet any expenses connected with the administration of that company out of the funds of the Central Bank of Sri Lanka.

(7) The competent court may, on any application made by the Director order the winding up of any finance company and accordingly the provisions of the Companies Act, No. 17 of 1982, relating to the winding up or companies subject to the supervision of court shall, *mutatis mutandis*, apply to the winding up of such company.

(8) Where application is made for winding up of a person or body of persons (other than a company) under this Act, the value of the assets and liabilities of such person or body of persons shall be ascertained in such manner and upon such basis as the liquidator thinks fit. The competent court may at any time after making a winding up order authorize the liquidator to realise all assets and may require any person to pay, deliver, convey, surrender or transfer forthwith or within a specified time to the liquidator any money, property or books and other documents in his hands to which such person or body of persons is entitled. A scheme for the purpose of the winding up such person or body of persons shall be prepared by the liquidator and submitted for confirmation to the competent court and the winding up of such person or body of persons shall be carried out according to the scheme.

(9) In any case where an order is made, whether in pursuance of an application under this section or otherwise for the winding up of a finance company, person or unincorporate body of persons (other than a company) then notwithstanding anything in any other written law, the Director or any person authorized in that behalf by the Board shall be appointed to be the liquidator for the purposes of such winding up. Where an order is made to wind up a person or body of persons other than a company the remuneration of a liquidator appointed hereunder and all costs, charges and expenses properly incurred in the winding up shall be payable in priority to all other claims, notwithstanding any other written law to the contrary, out of the assets of such person or body of persons being wound up.

(10) Any costs, charges and expenses incurred in the winding up of a finance company may be paid out of the funds of the Central Bank of Sri Lanka where the Board considers it in the public interest to do so.

(11) In any case where application is made by the Director as provided in subsection (4) for the winding up of any finance company—

(a) the company shall not carry on business during the pendency of the application, unless it is authorized so to do by the court and except in accordance with such conditions, if any as may be specified by the court; and

(b) if the court is of opinion after such inquiry as it may consider necessary that the company is not insolvent, it may make a declaration permitting the finance company to resume business, either unconditionally or subject to such conditions as the court may consider necessary in the public interest or in the interest of the depositors and other creditors of the company.

(12) Every order made by a competent court under this section shall be subject to an appeal to the Supreme Court and the provisions of the Civil Procedure Code relating to appeals in civil actions shall apply, *mutatis mutandis*, in the case of any appeal:

Provided that an order under paragraph (a) of subsection (11) shall be final.

(13) Every application to a competent court under this section shall be deemed to be a proceeding of the value of five thousand rupees.

(14) In this section "competent court" in relation to any finance company means the District Court of Colombo or the District Court of the district in which the principal office in Sri Lanka of the finance company is maintained.

19. (a) Any director, manager, secretary or employee of any finance company who fails to attend in person or to furnish any information or to produce any book, record or other document when required so to do under section 12 by the director or by any officer authorized by him or who obstructs or fails to permit the Director or any officer authorized by him or auditor authorized by him under paragraph (d) of subsection (3) of section 12 to make any examination under section 12 shall be guilty of an offence under this Act.

Failure to
furnish
information
an offence.

(b) Any person who in any report or information furnished to the Director or to any officer authorised by him or to any auditor authorized by him under paragraph (d) of subsection (3) of section 12 makes any statement which he knows to be false, shall be guilty of an offence under this Act.

Board may take over administration and management of a finance company.

20. (1) If the Board after review of the facts and circumstances upon the receipt of a report by the Director under section 18 is of opinion that a finance company may be made a solvent and viable by action as hereinafter provided, it may by a notice published in the *Gazette* take over the administration and management of a finance company for such period as may be specified in such notice. The Board may by a subsequent Notice published in the *Gazette* extend the period specified in the original notice. The Board shall cause copy of every such notice to be sent to the Registrar of Companies who shall make a minute thereof in the books relating to the company.

(2) Where the Board takes over the administration and management of a finance company the Board may—

- (a) exercise, perform and discharge with respect to such finance company all the powers, duties and functions conferred or imposed on, or assigned to, the Board of Directors of such company by or under any written law or by the articles of association of such company.
- (b) enter into any agreement with any person or body of persons for the management of the finance company subject to such conditions as may be agreed upon between the Board and such person or body of persons having regard to the interests of the depositors and creditors of the company and in the public interest.
- (c) make such arrangements as it considers necessary for the amalgamation of the finance company with another finance company or any other institution with the consent of such other finance company or institutions.

- (d) re-organise such finance company by increasing its capital, arranging for new shareholders, and by re-constituting its Board of Directors.
- (e) reconstruct the finance company in any such manner as it considers to be in the interest of depositors ; or
- (f) direct any shareholder of any finance company to divest or transfer the ownership of any shares owned by him to a person nominated by the Board on payment by such person of compensation determined as follows--
 - (i) where such shares are quoted, at the market value thereof ; or
 - (ii) where such shares are not so quoted, at a price to be determined by a valuer nominated by the Board.

(3) During the period for which the administration and management of a finance company is taken over by the Board, every director, manager and secretary of such finance company shall, unless expressly authorized to do so by the Board, cease to exercise, perform and discharge any powers, duties and functions with respect to such company.

(4) Where the administration and management of a finance company is taken over by the Board under subsection (1), the Board may where it considers it in the public interest to do so—

- (a) arrange for or grant, such financial accommodation as it may consider necessary to the finance company by way of loans or other accommodation, other than by way of grants; and
- (b) meet all costs, charges and expenses incurred in the administration and management of the company:

Provided however that the Board may at any time after the take over of the administration and management of a finance company under subsection (1) suspend the business of the company temporarily, if it is of opinion, that it is in the interest of the public or of the depositors to do so, or direct the Director to apply to a competent court to wind up the company, if on a report made by the Director or any person authorized by the Board, it appears to the Board that the company cannot be made viable and solvent within a

reasonable period of time. In the event of the Board directing the Director to wind up the finance company, the provisions of section 18 relating to winding up shall apply.

Providing
of tem-
porary
financial
assistance
by the
Board.

21. (1) In any case where the Director is satisfied, after examination by himself, or by any officer authorized by him, of the affairs of any finance company or upon information received from the finance company that it would be in the interest of depositors to provide temporary financial accommodation to such finance company, the Director shall report accordingly to the Board, and the Board may grant a loan or advance to a commercial bank from the Medium and Long Term Credit Fund established under section 88E of the Monetary Law Act (Chapter 422), for the purpose of lending to such finance company on such terms and conditions as may be determined by the Board.

(2) The provisions of section 88A to 88E of the Monetary Law Act shall, *mutatis mutandis*, apply to any loan or advance granted to a commercial bank under the provisions of subsection (1).

Power of
Board to
vary
contracts
entered
into by
Finance
Companies,
the
administra-
tion of
which it
has taken
over.

22. Notwithstanding the provisions of this Act or any other law, the Board may—

- (a) review any contract entered into by a depositor with a finance company the management and administration of which is taken over by the Board, and may vary the terms of such contract, including the terms relating to repayment, interest rates and charges where it considers that such contract has been entered into without due regard to the interests of depositors or creditors or due regard to prudent commercial practice ;
- (b) review any agreement or contract entered into by a finance company the management and administration of which is taken over by the Board, with any person or body of persons and if upon such review, it appears to the Board that the agreement or contract has been entered into without due regard to the interest of the depositors and creditors or without due regard to prudent commercial practice, vary the terms of such agreement or contract.

23. Where the Board has taken over the administration and management of a finance company under section 20, the Board shall not be liable or subject to any action or proceedings in any court in respect of any loss or damage suffered or incurred or alleged to have been suffered or incurred by any person by reason of any act or thing done or omitted to be done in good faith by the Board or in the exercise of any power, duty or function conferred or imposed on, or assigned to, the Board by or under subsection (2) of section 20.

Protection
from suit.

24. (1) Where the Board has taken over the administration and management of a finance company under section 20, the Board may, in order to take steps to safeguard the interest of the depositors or creditors by order published in the *Gazette*, vest the administration and management of such finance company in any statutory board or person with the consent of such statutory board or person. On the publication in the *Gazette* of such order, the administration and management of such finance company shall vest in such statutory board or person which shall exercise, perform and discharge with respect to such finance company all the powers, duties and functions conferred or imposed on, or assigned to; the Board of Directors of such company by or under any written law or by the articles of association, of the company.

Vesting of
finance
companies
in statutory
board.

(2) Where the Board has vested the administration and management of a finance company in any statutory board or person by order made under subsection (1) the Board may direct any shareholder of such finance company to divest or transfer the ownership of any shares owned by him to a person nominated by the Board on payment by such person of compensation calculated as follows:—

- (a) where such shares are quoted, at the market value there of; or
- (b) where such shares are not quoted, at the price to be determined by a valuer nominated by the Board.

25. (1) If the Board upon review of the facts and circumstances upon the Director making a report under section 18, is of the opinion that any past or present Director, chief executive, manager, employee or an agent of a finance company has fraudulently, wrongfully or unlawfully enriched himself or any other person or persons by misapplication of any money or property belonging to the company, the Board may notwithstanding that action has also

Steps to
be taken
upon the
Director
making
a report
under
section 18.

been taken under section 18 or 20, require such person or persons to repay or restore to the finance company the money or property attributable to the finance company, with interest at such rate as the Board may think fit within such period of time as may be specified by the Board.

(2) Where any person referred to in subsection (1) above fails to restore to the finance company, the monies or properties referred to in that subsection, the Board may—

(a) direct such person to disclose to any officer authorized by it within a specified time, the value, nature and whereabouts of any monies, properties or assets—

(i) owned by such person; or

(ii) in which such person has a beneficial interest;
or

(iii) acquired or purchased or held or possessed, by a relative of such person or any other person, in trust for such person, or acquired or purchased with monies attributable to the assets of the finance company.

(b) require such person to furnish a sworn statement in writing enumerating all movable or immovable property owned or possessed at any time, or at such time as may be specified by the Board by such person specifying the date on which each of the properties enumerated was acquired and whether the acquisition was by way of purchase, gift, bequest, inheritance or otherwise;

(c) require any other person to furnish a sworn statement in writing—

(i) enumerating all movable or immovable property owned or possessed at any time, or at such time as may be specified by the Board by such person, where the Board has reasonable grounds to believe that such information can assist an investigation into the affairs of a Finance Company;

(ii) containing particulars of such other matters which in the opinion of the Board are relevant to such investigations;

- (d) require the manager of any bank in Sri Lanka to produce within such time as may be specified in the notice, any book, document or cheque of the bank, containing entries relating to the account of such person or to furnish as so specified, certified copies of such entries;
- (e) require the Commissioner-General of Inland Revenue to furnish, as specified in the notice, all information available to such Commissioner-General relating to the affairs of such person and to produce or furnish as specified in the notice, any document or certified copy of any document relating to such person, which is in the possession or under the control of such Commissioner-General;
- (f) invite the public by any means whatsoever to furnish to a person authorized by it, any information referred to in paragraph (a);
- (g) serve a notice on any person referred to in subsection (1), or on a relative or other person holding property or assets in trust for the first mentioned person, or on any other person holding property or assets purchased with monies attributable to the funds of a finance company prohibiting the transfer by such person, relative of such person, or other person, of possession, ownership or any interest in any properties or assets specified to in that notice, and also—
 - (i) requiring such person to hand over to the Director, in the case of a motor vehicle, the certificate of Registration issued by the Registrar of Motor Vehicles; in respect of that motor vehicle;
 - (ii) in the case of immovable property the photostat copies of deeds relating to the title of such property;

Every notice issued under this paragraph shall be in force for a period of ninety days;

- (h) serve a copy of the notice referred to in paragraph (g) on any relevant authority including in the case of immovable property, the Registrar of Lands, in the case of motor vehicles, the Commissioner of Motor Traffic and in the case of shares, stocks and

debentures of any company, the Registrar of Companies and the Secretary of the relevant finance company ;

- (i) require any authority on whom a copy of a notice referred to in paragraph (h) is served, to register such notice in the appropriate books or records in the custody of such authority ;
- (j) require any authority referred to in paragraph (h) to furnish such information as he may have in his possession or custody relating to the properties, assets of any person or relative of a person, referred to in paragraph (a) ;
- (k) (i) before the expiration of the period of ninety days for which a notice served under paragraph (g) is in force, the Director may make an application by way of summary procedure to the District Court having jurisdiction in the district within which any property specified in such notice is situated, for an order authorizing the seizure and sale of such property, and for a writ of execution for seizure and sale of such property,
 - (ii) a District Court upon, application made to it under sub-paragraph (i) and being satisfied that the property referred to in the application, or any interest therein, has been acquired, whether directly or indirectly, with funds attributable in whole or in part, to a Finance Company, direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell such property,
 - (iii) the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the seizure and sale of any property under a writ of execution issued under sub-paragraph (ii),
 - (iv) any sum realized by the seizure and sale of any property under this paragraph shall, be applied by the court—
 - (a) firstly, in payment of the costs and charges incurred in seizing, keeping and selling such property ;

- (b) secondly, in satisfaction of the amount determined by court to be attributable to the finance company, referred to in subparagraph (ii), and the balance shall be paid to the owner of the property seized.

26. (1) Notwithstanding the provisions of any other written law or the Memorandum and articles of association of a finance company, the Monetary Board may, where a Order has been made by the Board under paragraph (a) of subsection (4) of section 18, on a report made by the Director—

Power of Director to issue directions in respect of connected matters.

- (a) make such arrangements as it considers necessary for the amalgamation of the finance company with another finance company or any other institution; with the consent of such other finance company or institution;
- (b) re-organise such finance company by increasing its Capital and arranging for new shareholders and by reconstituting its Board of Directors; or
- (c) re-construct the finance company in any such manner as it considers to be in the interest of depositors;
- (d) direct any shareholder of any finance company to divest or transfer the ownership of the shares owned by him, to a person nominated by the Monetary Board, on payment by such person of compensation determined as follows:—
- (i) where such shares are quoted, at the market value thereof; or
- (ii) where such shares are not quoted at a price to be determined by a valuer nominated by the Board.

(2) A shareholder who fails to comply with a direction given to him under paragraph (d) of subsection (1) shall be guilty of an offence.

27. The Central Bank of Sri Lanka may—

Insurance of deposits.

- (a) notwithstanding anything in section 10 of the Insurance Corporation Act, No. 2 of 1961, or other written law, establish, maintain, manage and control a scheme for the insurance of deposits held by

finance companies registered under this Act and require such companies to insure the deposits held by such companies, under such scheme ; or

- (b) require finance companies registered under this Act to insure the deposits held by such companies under any scheme for the insurance of such deposits established by any such institution as is specified by the Board.

Application
to be made
to Central
Bank for
insurance
of deposits.

28. (1) Where a scheme for the insurance of deposits has been established by the Central Bank under paragraph (a) of section 27 every finance company registered under this Act shall, apply to the Central Bank to insure the deposits held by such company under the scheme.

(2) The Central Bank of Sri Lanka may in its discretion, accept or reject any application made under subsection (1) and where it accepts such application, require the applicant finance company to pay such premium to the Central Bank of Sri Lanka on the insurance as may be determined by the Board from time to time having regard to the risks involved.

(3) The premium shall be payable for such periods, at such times and in such manner as may be determined by the Monetary Board.

(4) If an insured finance company makes any default in the payment of any premium, it shall, for the period of such default, be liable to pay to the Central Bank of Sri Lanka interest on the amount of such premium at such rate as may be determined by the Board having regard to the losses likely to be incurred by the Board, by reason of such default.

Rules
relating to
deposit
insurance.

29. Rules may be made by the Board in respect of—

(a) the interest which may be charged from an insured finance company, where it makes default in the payment of premia ;

(o) any matter that is stated or is required to be prescribed or in respect of which a rule is authorized to be made under this Act for the purpose of insuring of deposits of finance companies ;

- (c) any other matter affecting, connected with or incidental to the exercise, discharge or performance of the powers, functions and duties of the Central Bank of Sri Lanka under sections 27 and 28 of this Act.

30. Notwithstanding the provisions of subsection (1) of section 2, the provisions of this Act shall not apply to the business of any banking institution as defined in the Monetary Law Act (Chapter 422), or to a co-operative society registered under the Co-operative Societies Law, No. 5 of 1972, or the business of the National Development Bank established under the National Development Bank Act, No. 2 of 1979, or to the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act (Chapter 165).

Non-appli-
cation of
provision
of Act to
certain
institutions.

31. (1) Where a deposit with any finance company has lain dormant, that is to say, where a depositor has not called for withdrawal of the deposit on maturity for a period of ten years after maturity, (or where there has been no receipt by the finance company of any written correspondence from the depositor or his lawful representative in relation to the deposit for a period exceeding ten years), the monies lying in deposit together with interest thereon accrued, if any, shall notwithstanding anything contained in any other law, if the Board so directs, be transferred by such finance company to a special account in the Central Bank of Sri Lanka.

Transfer of
dormant
deposit
to special
account in
Central
Bank.

(2) Any person who furnishes proof to the satisfaction of the Board, that any monies lying to his credit in his name with any finance company registered under this Act or in the name of a person from whom he derives title have been transferred to a special account in the Central Bank of Sri Lanka under subsection (1) shall, subject to such terms, conditions or restrictions as may be imposed in respect of such monies, by or under any written law, be entitled to repayment of such monies by the Central Bank of Sri Lanka together with the interest payable on such monies upto the date of repayment at such rate as the Board may, from time to time determine, or without such interest, if the Board so decides.

(3) Any monies transferred to a special account under subsection (1) may be utilised for such purposes as may be determined by the Board after consultation with the Minister in charge of the subject of Finance.

Disquali-
fications
for holding
certain
posts in
finance
companies.

32. (1) A person shall be disqualified from being appointed or elected as the case may be, as director, chief executive or secretary of a finance company or from holding such post if such person—

- (a) has been declared insolvent by any court of law ;
- (b) has been convicted in any court of law for an offence involving moral turpitude ;
- (c) has been convicted for any offence under this Act or the Companies Act, No. 17 of 1982 ;
- (d) is a person against whom action has been taken by the Monetary Board under section 18 or 25 of this Act.

(2) Any person who acts as a director, chief executive or secretary of a finance company while being under any disqualification set out in subsection (1), shall be guilty of an offence under this Act.

Rules.

33. (1) The Board may make rules on any matter in respect of which rules are authorized to be made under this Act, or which is stated or required to be prescribed.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), the Board may make rules in respect of all or any of the following matters :—

- (a) registration of finance companies and the annual licence fees payable to the Board by finance companies registered under this Act ;
- (b) the forms to be used under this Act ;
- (c) the regulation or prohibition of the issue by any person or body of persons of any prospectus or advertisement soliciting the deposit of monies from the public and the conditions, subject to which any such prospectus or advertisement may be issued.

Directions

34. The Minister may give to the Board general or special directions in writing for the purpose of giving effect to the principles and provisions of this Act and the Board shall give effect to such directions.

35. (1) Any person who, being a director, chief executive, manager, officer or employee or auditor of a finance company—

Offences.

- (a) fails to take all reasonable steps to secure compliance by that finance company with the requirements of this Act ; or
- (b) fails to comply with any direction issued by the Board under the provisions of this Act ;
- (c) fails to take all reasonable steps to secure the correctness of any statement submitted by such finance company under the provisions of this Act ;
- (d) wilfully makes a false entry, or causes such an entry to be made, in any book or record or in any report, slip, document, or statement relating to business affairs, transactions, conditions, assets or liabilities or accounts of such finance company, or wilfully causes any such entry to be omitted ; or
- (e) wilfully omits to make an entry in any book or record or in any report, slip, document or statement relating to the business, affairs, transactions, conditions, assets or liabilities or accounts of such finance company or wilfully causes such entry to be omitted ; or
- (f) wilfully alters, abstracts, conceals or erases any entry in any book or record or in any report, slip, document, or statement relating to the business, affairs, transactions, conditions, assets or liabilities or accounts of such finance company or wilfully causes any such entry to be erased, abstracted, concealed or destroyed shall be guilty of an offence under this Act.

(2) In any prosecution instituted against a person under subsection (1), it shall be a defence to prove that he had reasonable grounds to believe that another person was charged with the duty of securing compliance with the requirements of this Act or with the duty of ensuring that the statements in question were accurate and that such person was competent and in a position to discharge that duty.

Offences
by body of
persons.

36. (1) Any person or body of persons who contravenes or fails to comply with any provisions of this Act or any rule, direction, order or requirement made or imposed thereunder or furnishes false information when required under any provision of this Act, to furnish information, shall be guilty of an offence under this Act.

(2) In the case of any offence under this Act committed by a body of persons—

(a) where such body of persons is a body corporate, every director, manager, or secretary of that body corporate; and

(b) where such body of persons is an unincorporate body, every individual who is a member of such body, shall be guilty of such offence:

Provided however that no such person shall be deemed to be guilty of an offence if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of that offence.

Publication
of names
of persons
contraven-
ing the
provisions
of this Act.

37. The Monetary Board may in the public interest, where any person or body of persons carries on finance business in contravention of the provisions of section 2, and notwithstanding that any action has been, or is to be, taken under the provisions of any other section of this Act, in respect of such contravention, publicise by any means whatsoever—

(a) in the case of a company or an incorporated body of persons, the name of such company; and the names of its directors or the name of such incorporate body, the names of the directors of such incorporated body, as the case may be; and

(b) in the case of a person or unincorporated body of persons, the name of such person or members of such unincorporated body of persons as the case may be.

Penalties.

38. Every person who is guilty of an offence under this Act shall be liable on conviction after trial before a Magistrate's Court to imprisonment of either description for a term not exceeding three years or to a fine not exceeding one million rupees.

39. Officers of the Central Bank of Sri Lanka shall be deemed to be public officers, within the meaning of section 136 of the Code of Criminal Procedure Act No. 15 of 1979 for the purpose of instituting proceedings in respect of offences under this Act.

Officer of Central Bank of Sri Lanka deemed to be public officers.

40. (1) The Director may, having regard to the circumstances in which an offence under this Act was committed and with the approval of the Board, compound such offence for a sum not exceeding one hundred thousand rupees.

Compounding of offences.

(2) The compounding of any offence under this section—

(a) shall be notified in writing under the signature of both parties to the Court having jurisdiction over the offence; and

(b) shall have the effect of an acquittal of the accused.

41. (1) Where the Board is satisfied that any finance company has—

Cancellation of licence of finance companies.

(a) failed to commence business within nine months of the issue of the licence; or

(b) failed to pay up any debts incurred by it, on such debts becoming due; or

(c) where a petition or action for relief has been filed against it, had appointed in respect of it, under any bankruptcy law or any other law which provides for relief of debtors or which relates to debtors, a custodian or receiver; or

(d) ceased to carry on finance business; or

(e) continuously violates or contravenes the provisions of the Act or any directions issued thereunder; or

(f) fails to pay the annual licence fee,

the Board may, give notice that it would cancel the licence issued to such finance company and shall communicate such notice to the finance company.

(2) A financial company may tender objections in writing to the Board against the notice of cancellation under subsection (1), within thirty days of the date of receipt of such notice, giving reasons why the licence issued to it under section 7 should not be so cancelled.

(3) After the expiration of sixty days from the date of notification of the cancellation and after considering the objections tendered to the Board under subsection (2), the Board may withdraw such notice or cancel the licence issued to the finance company, and shall notify the finance company accordingly.

(4) A cancellation of a licence under subsection (3), shall take effect—

(a) where no application is made to the Supreme Court against the cancellation, after the period for preferring such application has expired; or

(b) where an application is made to the Supreme Court, after the cancellation is upheld by the Supreme Court,

and notification of such cancellation shall be published in the *Gazette*.

(5) Where the licence of a finance company is so cancelled the Board shall remove the name of the finance company from the register maintained under section 6 and may issue such directions as it considers necessary, including directions for winding up or require the Director to apply for winding up of the company in which event the provisions of section 18 shall apply.

(6) Where the finance company fails to comply with the provisions of subsection (5) within thirty days of the issue, the Board may require the Director to file action for the winding up of the finance company, and the provisions of section 18 shall apply to such winding up.

Delegation.

42. Subject to and in accordance with such rules, if any, as may be made by the Board in that behalf, the Board may in writing delegate to any officer of the Central Bank of Sri Lanka its authority to represent the Board for any of the purposes of this Act, so however, that the Board shall remain and continue to remain to be responsible for any act or thing done or omitted to be done by such officer.

**Provision
for appeals
from
certain
orders.**

43. (1) No person aggrieved by an order made or purported to have been made under section 2 or section 10(2) or section 11(2) or section 18(4) (b) or section 20 or section 24 or section 25 or section 26 or section 41 or who apprehends that he would be affected by any act or any step taken, or proposed to be taken under or purporting to

be taken under, any such section shall be entitled to a permanent or interim injunction, an enjoining order, a stay order or any other order having the effect of staying, restraining, or impeding the Board from giving effect to such order.

(2) (a) The jurisdiction conferred on the Court of Appeal by Article 140 of the Constitution shall in relation to any order or purported order under section 2 or section 10 (2) or section 11(2) or section 18(4) (b) or section 20 or section 24 or section 25 or section 26 or section 41, be exercised by the Supreme Court and not by the Court of Appeal.

(b) Every application invoking the jurisdiction referred to in paragraph (a) shall be made within one month of the date of commission of the act in respect of which or in relation to which, such application is made and the Supreme Court shall hear and finally dispose of such application within two months of the filing of such application.

(3) Nothing contained in subsection (1) shall effect the powers which the Supreme Court may otherwise lawfully exercise in respect of any application made under Article 126 of the Constitution or in the exercise of the jurisdiction referred to in subsection (2).

(4) The Supreme Court shall before making any order whether interim or final against the Board, in the exercise of the jurisdiction conferred on it by this section afford the Board an opportunity of being heard.

44. No suit or prosecution shall lie against any member of the Monetary Board or any officer or servant of the Central Bank of Sri Lanka for any act which is in good faith done or purported to be done, or omitted to be done, by him under this Act.

Protection
from
suit.

45. (1) The Control of Finance Companies Act, No. 27 of 1979, is hereby repealed.

Repeal and
transitional
provisions.

(2) Notwithstanding the repeal of the Control of Finance Companies Act, No. 27 of 1979 every notice, order, rule or direction issued, requirement imposed rule or delegation made under the repealed Act and in force on the day preceding the date of commencement of this Act shall in so far as such notice, order, direction, requirement, rule or delegation is not inconsistent with the provisions of this Act,

be deemed to be a notice, order, direction, requirements, rule or delegation issued imposed or made as the case may be under the corresponding provisions of this Act.

(3) Any action taken, order made or direction given under the Control of Finance Companies Act, No. 27 of 1979 read with the Control of Finance Companies regulations made under the Public Security Ordinance during the period commencing on June 16, 1988 and ending on the date of commencement of this Act shall be valid and effectual as if the Public Security Ordinance had authorized the making of those regulations.

(4) No civil or criminal Proceedings shall be instituted or maintained or continued against the Board or any officer, servant or agent of the Board or any other person or authority for any act *bona fide*, done or omitted to be done by him during the period commencing on June 16, 1988 and ending on the date of commencement of this Act, in pursuance or supposed pursuance of the provisions of the Control of Finance Companies Act, No. 27 of 1979, read with the Control of Finance Companies regulations made under the Public Security Ordinance.

Interpretation.

46. In this Act unless the context otherwise requires—

“Board” means the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act, (Chapter 422) ;

“Capital” means the paid up capital of any company ;

“capital funds” in relation to a finance company means paid up capital and permanent free reserves and includes, if so determined by the Board, the face value of unsecured debentures and other loan bonds, which in the event of the winding up of a finance company or the return or reduction of capital shall rank after and be subordinated to deposits and other borrowings of the finance company ;

“commercial bank” has the same meaning as in the Monetary Law Act, (Chapter 422) ;

“Director” means the head of the department of the Central Bank of Sri Lanka to which the subject of finance companies has been assigned ;

“finance business” means the business of acceptance of money by way of deposit the payment of interest thereon and—

- (a) the lending of money on interest ; or
- (b) the investment of money in any manner whatsoever ; or
- (c) the lending of money on interest and the investment of money in any manner whatsoever ;

“finance company” means a company as defined in the Companies Act, No. 17 of 1982 registered under this Act for carrying on finance business ;

“hire purchase agreement” means an agreement for the letting of goods with an option to purchase (whether the agreement describes the weekly fortnightly or monthly payments as rentals, instalments, hire or otherwise) but does not include any agreement whereby property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods ;

“hirer” means a person to whom the goods are let, hired or agreed to be sold under a hire purchase agreement and includes a person to whom the rights or liabilities of the hirer under such agreement have passed by assignment or by operation of law ;

“holding company” and “Subsidiary Company” have the respective meanings assigned to them in section 150 of the Companies Act, No. 17 of 1982 ;

“liquid assets” means—

- (a) cash in hand ;
- (b) balances in a current or deposit account in a commercial bank, free from any bankers lien or charge ;
- (c) Sri Lanka Government Treasury Bills free from any charge or lien ;
- (d) Sri Lanka Government Securities maturing within one year and free from any charge or lien ;

(e) Central Bank of Sri Lanka securities maturing within one year and free from any charge or lien ;

(f) cash balance if any maintained with the Central Bank of Sri Lanka ;

“loan” includes any advance or the deferment of payment on any sale or the deferment or payment in a transaction relating to hire purchase agreement or the payment agreements in any leasing transaction ;

“prescribed” means prescribed by rules made under this Act ;

“relative” in relation to an individual means the spouse or dependent child of such individual ;

“substantial interest”—

(i) in relation to a company means the holding of a beneficial interest by another company or an individual or his relative whether singly or taken together, in the shares thereof the paid up value of which exceeds one million rupees or ten *per centum* of the paid up capital of the company, whichever is less or the existence of guarantee or indemnity given by an individual or his relative or by another company on behalf of such company ;

(ii) in relation to a firm means the holding of a beneficial interest in the capital thereof by an individual or his relative which singly or take together represents more than ten *per centum* of the total capital subscribed by all partners of that firm or the existence of a guarantee or indemnity given by an individual or his or her spouse or parent or child on behalf of such firm and ;

“unimpaired capital” means capital on which there is no lien or other charge.