

## CHAPTER 95

### TRUST RECEIPTS

Ordinance  
No. 12 of 1947.

AN ORDINANCE TO PROVIDE FOR THE EXECUTION OF TRUST RECEIPTS IN CONFORMITY WITH PRESCRIBED REQUIREMENTS AND FOR THE REGISTRATION AND EFFECT OF TRUST RECEIPTS SO EXECUTED.

[ 1st May. 1947.]

Short title

1. This Ordinance may be cited as the Trust Receipts Ordinance.

Trust receipt  
for imported  
goods.

2. (1) Where any person, being the consignee of any goods imported into Sri Lanka or a person at whose instance any goods are imported into Sri Lanka, is not entitled, under the terms of any contract relating to the goods or to payment therefor or otherwise, to obtain possession of the goods or of the documents of title relating thereto, except upon payment of a sum of money or upon an undertaking to hold the goods in trust, and such person or any other person—

(a) obtains possession of such goods or documents upon the execution, in favour of any approved credit agency by which the goods or documents are actually released, of a document in respect of the goods which complies with the provisions of subsection (2) or subsection (3) (which document is hereinafter referred to as " a trust receipt for imported goods "); or

(b) obtains a loan from any approved credit agency for the purpose of making the payment necessary to enable him to obtain possession of such goods, or documents, upon the execution in favour of such agency of a document in respect of those goods which complies with the provisions of subsection (2) or subsection (3) (which document is hereinafter referred to as " a trust receipt for imported goods"), the provisions of section 4 shall be applicable in relation to that trust receipt and the goods to which it relates.

(2) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertakings on the part of that person in respect of the goods to which it relates :—

- (i) an undertaking to hold those goods in trust for the agency in favour of which it is executed, to mark the goods or packages or cases containing them in a specified manner, and to keep the goods in specified premises until the sale thereof;
- (ii) an undertaking to pay to the agency from time to time as received, the proceeds of the sale of those goods or a specified proportion of such proceeds;
- (iii) an undertaking not to sell those goods or any of those goods except for cash;
- (iv) an undertaking to deliver such of those goods as may for the time being be unsold, to, or to the order of, the agency upon demand made in writing in that behalf;
- (v) an undertaking to permit the agency,
  - without prior notice, from time to time to enter and inspect the premises in which those goods are kept and to take stock of such of those goods as may be in the premises.

(3) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertaking on the part of that person in respect of the goods to which it relates, that is to say—an undertaking to hold the goods in trust for the agency in favour of which it is executed, and to store them in a specified warehouse in the name of the agency.

(4) Nothing in subsection (2) or subsection (3) shall be deemed to prevent the inclusion in the document of any undertakings, conditions or stipulations in addition to the undertaking specified in either of those subsections.

Trust receipt for goods for exportation.

**3.** (1) Where, upon a statement made to any approved credit agency by any person, that he proposes to purchase goods for the purpose of exportation from Sri Lanka, such person, for the purpose of making payment for the goods and of meeting expenditure in connection with the exportation and preparation for exportation thereof, obtains from such agency advances by way of loan, overdraft or otherwise, upon the execution in favour of such agency, of a document which complies with the provisions of subsection (2) (which document is hereinafter referred to as "a trust receipt for goods for exportation"), the provisions of section 4 shall be applicable in relation to that trust receipt and the goods to which it relates.

(2) In order to comply with the provisions of this subsection, a document which is executed by any person in the circumstances mentioned in subsection (1) must contain the following undertakings on the part of that person in respect of the goods to which the document relates:—

- (i) an undertaking to hold those goods in trust for the agency in favour of which it is executed, to mark the goods or the packages or cases containing them in a specified manner, and to keep the goods in specified premises until the exportation thereof ;
- (ii) an undertaking, upon the exportation from Sri Lanka of those goods, to

deliver to the agency the bills of lading and other shipping documents relating to such goods;

- (iii) an undertaking not to sell those goods to any other person in Sri Lanka except with the consent of the agency, and in the event of any such sale with such consent to deliver the proceeds of sale from time to time as received to the agency;
- (iv) an undertaking, in the event of those goods not being exported from Sri Lanka within a specified period, to deliver the goods to, or to the order of, the agency upon demand made in writing in that behalf;
- (v) an undertaking to permit the agency, without prior notice, from time to time to enter and inspect the premises in which those goods are kept and to take stock of such of those goods as may be in the premises.

(3) Nothing in subsection (2) shall be deemed to prevent the inclusion in the document of any undertakings, conditions or stipulations in addition to the undertakings specified in that subsection.

**4.** (1) Where a trust receipt for imported goods, or a trust receipt for goods for exportation, has been executed by any person in conformity with the provisions of section 2 or section 3 and the trust receipt is registered under the Registration of Documents Ordinance as a bill of sale affecting the goods to which it relates, the following provisions shall apply during such time as any money stated in the trust receipt to be due or to become payable thereunder to the agency remain due and unpaid :—

- (i) The agency shall, in the event of the seizure of the goods by any other person in execution of any decree of any court, be entitled, upon application made to that court in the action in the course of which the seizure was effected, to an order directing that the goods shall be delivered to the agency and shall be sold, either by public auction by an auctioneer selected by the agency

Legal effect of trust receipts to which this Ordinance applies.

and approved by the court, or in such manner as the court may direct, and in accordance with such directions as may be issued by the court."

Upon the sale of such goods the agency shall be entitled to retain out of the proceeds of sale the amount due under the trust receipt, and the balance, if any, of the proceeds of sale shall be paid into court and be deemed to be proceeds of the sale of the goods in execution of the decree under which they were seized.

- (ii) The agency shall, in the event of the insolvency of the person by whom the trust receipt is executed, be entitled to obtain from the court in which the proceedings upon such insolvency are pending, an order directing that the goods to which the trust receipt relates shall be sold either by public auction by an auctioneer selected by the agency and approved by the court, or in such other manner as the court may direct, and in accordance with such directions as may be issued by the court.

Upon the sale of such goods, the agency shall be entitled to retain out of the proceeds of sale the amount due under the trust receipt, and the balance, if any, of the proceeds of sale shall be paid into court to the credit of the assignee of the estate of the insolvent.

- (iii) Where any goods are delivered to the agency in compliance with any undertaking referred to in paragraph (iv) of section 2 (2) or in paragraph (iv) of section 3 (2), the agency may sell the goods so delivered, whether after removal thereof, or at the premises in which the goods are kept if the person executing the trust receipt consents to a sale at such premises.

The agency shall be entitled to retain, out of the proceeds of sale

of the goods, the amount due to it under the trust receipt, and the balance, if any, shall be paid to the person by whom the trust receipt was executed.

- (iv) The person by whom the trust receipt was executed shall, if he commits a breach or fails to comply with any Undertaking referred to in subsection (2) or subsection (3) of section 2, or in subsection (2) of section 3, as the case may be, being an undertaking contained in the trust receipt, be guilty of an offence and shall, on conviction be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

(2) The provisions of this Ordinance relating to the payment to, or the recovery by, an approved credit agency, of the amount due under a trust receipt shall be in addition to, and not in substitution or derogation of, the provisions of any written or other law under which any right or remedy is available to the agency for the purpose of the recovery of that amount, or where any part of that amount has already been paid or recovered, of the balance remaining due.

**5.** (1) In this Ordinance, "approved credit agency" means— Approved credit agencies;

- (a) any banking company as defined in section 333 of the Companies Ordinance\*, which is declared by the Director of Commerce, by Notification published in the Gazette, to be an approved credit agency for the purposes of this Ordinance;
- (b) the State Mortgage and Investment Bank, the Loan Board, the National Savings Bank, and the Local Loans and Development Commissioners; or
- (c) any other company, firm, institution or individual for the time being declared by the Director of

\* Repealed and replaced by the Companies Act, No. 17 of 1982.

## ***TRUST RECEIPTS***

**[Cap.95**

Commerce, by Notification published in the Gazette, to be an approved credit agency for the purposes of this Ordinance.

institution mentioned in paragraph *(b)* of subsection (1) to make loans or afford any credit facilities in consideration of the execution of trust receipts, if the power to make such loans or to afford such facilities is not conferred on such institution by the Ordinance providing for the establishment, powers and functions of such institution.

(2) Nothing in this Ordinance shall be deemed or construed to authorize any