

FINANCE LEASING

AN ACT TO PROVIDE FOR THE REGULATION AND MONITORING OF FINANCE LEASING BUSINESSES ; TO SPECIFY THE RIGHTS AND DUTIES OF LESSORS AND LESSEES AND SUPPLIERS OF EQUIPMENT : AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

Act Nos,

24 of 2005

33 of 2007

21 of 2024

Short Title and date **1.** This Act may be cited as the Finance Leasing Act, No. 56 of 2000 and,

of operation. shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the 'appointed date').

PART I

REGISTRATION OF FINANCE LEASING BUSINESSES

Finance leasing business to be carried on a certificate of registration. 2. Subject to the provisions of section 44 from and after the appointed date, no person shall carry on finance leasing business, except under the authority of a certificate of registration issued in that behalf under the provisions of this Act.

Qualifications for registration. 3. A person shall not be eligible to be registered under this Act unless such person-
(a) is a licensed commercial bank or a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988;

(b) a finance company within the meaning of the Finance Companies Act, No. 78 of 1988; or

(c) a public company incorporated under the Companies Act, No. 17 of 1982 having such minimum issued and paid up capital as may be prescribed.

Application for
registration
[2, 24 of 2005]

4.(1) An application for registration under this Act shall be made to the Director in such form as may be provided for that purpose by the Director, and shall be accompanied by-

(a) in the case of a licensed commercial bank or a licensed specialised bank, a certified copy of the licence issued to such bank by the Monetary Board under the Banking Act. No. 30 of 1988 and in force on the date of making the application:

(b) in the case of a finance company, a certified copy of the licence issued by the Monetary Board under the Finance Companies Act. No. 78 of 1988 and in force on the date of making the application;

(c) in the case of a public company, other than those referred to in paragraph (a) and (b) of section 3 -

(i) a certified copy of the Memorandum and Articles of Association of the Company; and

(ii) a certified copy of the Certificate of Incorporation of the Company:

(d) a certified copy of the operating manual containing the particulars specified in section 7;

(e) the application fee as prescribed; and

(f) certified copies of such other documents as may be prescribed.

(2) The Director may where he considers it necessary, require an applicant to furnish such further information or particulars for the determination of the application.

(3) A person who makes any statement in an application made or in any document submitted under subsection (1), or any information or particulars furnished under subsection (2), which to the person's knowledge is false or misleading in any material particular, shall be guilty of an offence under this Act.

Certificate of
Registration.

5.(1) Where the Director, on a consideration of the information contained in an application made and the documents, information and particulars

furnished under section 4 and after such investigation as the Director may deem necessary, is satisfied that the applicant is fit and competent to carry on finance leasing business, the Director may having regard to the interests of the national economy-

(a) register the applicant ; and

(b) issue a certificate of registration to the applicant.

(2) Every person registered under subsection (1) shall be referred to as a 'registered finance leasing establishment' (hereinafter referred to as a 'registered establishment').

(3) Every registered establishment shall exhibit the certificate of registration issued to it in a conspicuous place at the principal place of business of such establishment.

(4) The Director shall keep and maintain in the prescribed form a register of every registered establishment.

Annual registration fee. **6.** Every registered establishment shall pay the Director an annual registration fee as may be prescribed, within two months of the end of each calendar year.

Operating manual. **7.** The operating manual to be submitted under paragraph (d) of subsection (1) of section 4, shall contain particulars relating to-

- (a) the period of duration of a finance lease ;
- (b) the method of recovery of the payments due on the finance lease ;
- (c) the protection by the lessor of the right of the lessee against claims in respect of the equipment provided under the finance lease ;
- (d) the disposal of such equipment after the expiration of the finance lease ; and
- (e) such other particulars as may be prescribed.

Alteration of certain documents only with approval. **8.** Except with the prior written approval of the Director, a registered establishment shall not-

- (a) alter or deviate from the particulars contained in the operating manual submitted under paragraph (d) of subsection (1) of section 4 :
or
- (b) where such establishment is a company, alter its Memorandum and Articles of Association.

Cancellation or **9.**(1) The registration of a registered establishment may be suspended or

suspension of registration.

cancelled by the Director on any one or more of the following grounds :-

- (a) failure to commence business within twelve months after registration ;
- (b) ceasing to carry on finance leasing business ;
- (c) proposing to make, or making any composition or arrangement with its creditors or going into liquidation or being wound up or otherwise dissolved ;
- (d) carrying on its business in a manner likely to be detrimental to the interests of its lessees ;
- (e) inability to meet its obligations to its lessees, creditors or suppliers, as the case may be ;
- (f) acting in contravention of any provisions of this Act or any regulations made thereunder, or any condition imposed or any directions given by the Director under this Act or such regulation ;
- (g) furnishing false, misleading or inaccurate information or concealing or failing to disclose material facts, in its application for registration ;
or
- (h) where such establishment is a licensed commercial bank, licensed specialized bank or a licensed finance company, the licence issued to such establishment has been revoked by the authority issuing the same, under the Banking Act. No. 30 of 1988 or the Finance Companies Act. No. 78 of 1988. as the case may be.

(2) The Director may, for one or more of the grounds specified in subsection (1)-

- (a) suspend the registration of a registered establishment for such period as may be specified, which shall not exceed three months, and the establishment shall not during the period of suspension enter into any finance lease ; or
- (b) cancel the registration of registered establishment and the establishment shall not thereafter carry on any finance leasing business except such business as it had entered into before the date on which the cancellation takes effect, and the establishment shall for the purpose of completing such business be deemed to be a registered establishment.

Procedure for suspension or cancellation of a

10.(1) The Director shall, before suspending or cancelling the registration of a registered establishment on any one or more of the grounds specified in section 9, serve a notice in writing on the establishment,

registration.

informing it of such fact and specifying the ground for the proposed suspension or cancellation.

(2) A registered establishment may, within fourteen days of receipt of a notice under subsection (1), show cause as to why its registration should not be cancelled or suspended.

(3) Where a registered establishment fails to show cause within the period specified in subsection (2), the Director may suspend or cancel, as the case may be, the registration.

(4) Where the registered establishment in compliance with notice issued to it under subsection (1) shows cause within the specified period, the Director may, after considering the reasons submitted:

(a) refrain from suspending or cancelling the registration, if he is satisfied that the establishment has shown sufficient cause as to why its registration should not be suspended or cancelled; or

(b) suspend or cancel the registration, if he is satisfied that the establishment has not shown sufficient cause as to why its registration should not be suspended or cancelled.

(5) The decision of the Director under subsection (3) or subsection (4), shall be served on the registered establishment and shall take effect on the date on which such decision is served on the establishment.

PART II

DUTIES OF LESSORS LESSEES AND SUPPLIERS

Rights to undisturbed possession.

11.(1) Subject to the provisions of subsection (2), a lessee has a right to the undisturbed and peaceful possession of the equipment provided to the lessee under a finance lease, and it shall be the duty of a lessor to ensure the protection of such right.

(2) The provisions of subsection (1) shall not apply where a lessee has, by reason of any act or omission of the lessee, ceased to be entitled to the right to undisturbed and peaceful possession of the equipment.

Use of equipment. **12.**It shall be the duty of a lessee to -

(a) take proper care of the equipment provided under the finance lease ;

(b) use it for the purpose for which it is provided ; and

(c) subject to fair wear and tear and to any modifications agreed to by

the parties to the finance lease, keep it in the condition in which it was delivered to the lessee.

Non-delivery, late delivery and non-conformity of equipment.

13.(1) Where an equipment specified in a finance lease has not been delivered to a lessee at or before the time fixed under such lease for its delivery, or has been delivered after such time, or where the equipment delivered does not conform to the terms, conditions, warranties or specifications in the supply agreement relating to such equipment, the lessee may, subject to the provisions of subsection (2), reject the equipment and terminate such finance lease.

(2) Where a lessee terminates a finance lease under subsection (1), the lessee may withhold the payment under such finance lease and further shall be entitled to recover from the lessor any money paid under the finance lease, less any reasonable sum withheld by the lessor in respect of:

(a) any benefits derived by the lessee prior to the termination;

(b) any expenses incurred by the lessor in connection with the lease; and

(c) any loss in value of the equipment arising from a default or negligence of the lessee.

(3) Where an equipment specified in a finance lease delivered to a lessee within the time fixed for its delivery, does not conform to the terms, conditions, warranties or specifications in the supply agreement relating to such equipment, or where the lessor has reason to believe that the equipment may not be supplied within the time fixed for its delivery, the lessor may supply to the lessee another equipment in conformity with the terms, conditions, warranties or specifications in the supply agreement, and the lessee shall unless the finance lease provides otherwise, accept the equipment as if the lessee had agreed to accept delivery of the equipment from the lessor.

(4) Where a lessee has accepted an equipment specified in a finance lease notwithstanding that it has not been delivered within the time specified for its delivery, or it had been delivered after such time, or does not conform to the terms, conditions, warranties or specifications in the supply agreement relating to such equipment, the lessee shall not thereafter have the right under subsection (1) to either reject the equipment or terminate the lease, as the case may be.

(5) The lessor shall not except as provided for in this section, incur any

liability to the lessee by reason of the non delivery or late delivery of an equipment by a supplier or of the non-conformity of such equipment with the terms, conditions, warranties or specifications in the supply agreement unless such non-delivery, late delivery or non-conformity was due to an act or omission on the part of the lessor.

Lessee's acceptance of equipment.

14.Where a lessee accepts the equipment provided under finance lease, the terms and conditions of the lease shall be irrevocable thereafter and it shall be the duty of the lessee to observe all such terms and conditions including the terms and conditions relating to payments under the lease.

Return of equipment.

15.Upon the expiration of the period of a finance lease or its prior termination under this Act, the lessee shall return the equipment to the lessor in such condition as is specified in paragraph (c) of section 12, unless the lessee had acquired a right to purchase the equipment or retain it for a further period. Where the lessee fails to return the equipment, the lessor shall have a right to recover possession of the same.

Termination or variation of conditions of a supply agreement.

16.(1) A lessee shall not terminate or rescind a supply agreement without the consent of the lessor.

(2) The rights conferred on a lessee under this Act in relation to a supply agreement, shall not be affected by any variation of a term, condition, warranty or specification in such agreement, unless the lessee has consented in writing to such variation.

Supply Agreement.

17. (1) A lessor shall not enter into a supply agreement with a supplier for the supply of an equipment under a finance lease, until the lessee agrees in writing with the terms, conditions, warranties and specifications specified in such agreement.

(2) Where a lessor has entered into a supply agreement in accordance with the provisions of subsection (1) and the equipment specified in the agreement is delivered at or before the time fixed under such agreement, the lessee shall accept the equipment supplied, if the equipment conforms to the terms, conditions, warranties and specifications specified in the agreement.

Supplier's obligations to a

18.(1) Where a lessor enters into a supply agreement for the supply of an equipment to a lessee, the lessee shall also have the right to enforce

lessee.

such agreement as if the lessee party to it.

(2) Where the supplier discharges the liability under a supply agreement to either the lessor or lessee, the supplier shall be released from the liability to the other, and the provisions of subsection (1) shall not be construed as imposing on the supplier, any liability to both the lessor and the lessee in respect of the same matter or thing under such agreement, in such instance.

Non- liability of lessor for loss in relation to equipment.

19.(1) A lessor shall not incur any liability to the lessee any loss suffered by the lessee in respect of the equipment provided under the finance lease, except to the extent of any arising out of the lessee's reliance on the lessor's skill and judgement on the selection of the equipment or in the lessor's intervention in the selection of the supplier or in the specification of the equipment.

(2) Subject to the provisions of subsection (1), the lessor shall not, in the capacity of a lessor, be liable to any person for any loss suffered by death, personal injury or damage to property caused by any equipment provided under the finance lease or its use.

(3) The provisions of subsection (2) shall not affect the liability of a lessor for the loss referred to in that subsection in a capacity other than as a lessor.

Default by lessees.

20.Where a lessee fails to comply with certain terms and conditions of the finance lease in such circumstances as would amount to a substantial failure of such lease, the lessor may subject to the provisions of section 21-

(a) require the lessee to make accelerated payment of the monies due under the lease, where the lease so provides; or

(b) where a lessee fails to make accelerated payments as required under paragraph (a), terminate the finance lease and-

(i) recover possession of the equipment provided; and

(ii) recover such damages as would place the lessor in a position the lessor would have been if the lessee had complied with the provisions of the finance lease in accordance with its terms and conditions.

Accelerated payments or termination with notice to lessee. [3, 24 of 2005]

21.(1) A lessor shall, prior to enforcing the right to accelerated payment or to the termination of a finance lease under section 20, serve by registered post a notice on the lessee-

(a) specifying the circumstances which had caused a substantial failure of the lease within the meaning of the finance lease;

(b) appointing a date, not being a date less than seven days after the receipt of the notice, for remedying the failure referred to in paragraph (a).

(2) Where a lessee fails to remedy the failure specified in a notice served under subsection (1) on or before the date appointed in the notice, or fails to give a reasonable cause for such failure, the lessor may act in accordance with the provisions of section 20.

Computation of damages.

22.A finance lease may provide for the manner in which damages recoverable under this Act may be computed and such provision shall be enforceable between the lessor and the lessee, unless the damages so computed, would be substantially in excess of those provided under subparagraph (ii) of paragraph (b) of section 20.

Due diligence of the lessor.

23.A lessor shall not be entitled to recover under subparagraph (ii) of paragraph (b) of section 20, such damages which the lessor could have on a consideration of the circumstances of the case, avoided in the exercise of due diligence.

Transfer or assignment of lessor's right. [2, 21 of 2024] [4, 24 of 2005]

24.(1) A lessor may transfer or assign all or any of the lessor's rights under the finance lease or in relation to any equipment provided under the lease or of both, to any registered establishment or to any special purpose vehicle :

Provided that in the case of a transfer or assignment to a special purpose vehicle, such transfer or assignment shall be made only for the purpose of securitisation and the structure for securitisation shall be as approved by the Central Bank.

(2) A registered establishment or a special purpose vehicle shall effect securitisation only in accordance with the structure approved granted by the Central Bank and in compliance with such directions and guidelines as may from time to time be issued by the Central Bank.

(3) A transfer or assignment under subsection (1) shall not relieve the transferor or assignor of his duties -

(a) under the finance lease or alter the nature or legal effect of such lease;
or

(b) insofar as they relate to any equipment provided under the terms of the finance lease.

(4) Upon a transfer or assignment by the lessor as provided for in subsection (1) to a special purpose vehicle of his rights in a motor vehicle within the meaning of the Motor Traffic Act (Chapter 203),-

(a) the transferee or the assignee shall, notwithstanding anything to the contrary in the Motor Traffic Act (Chapter 203), be deemed to be the absolute owner of the motor vehicle and the transferee or the assignee shall within seven days after the transfer or assignment, as the case may be, apply to the Commissioner to have the name of the transferee or assignee entered as the absolute owner of the vehicle in the appropriate register maintained in such form as may be provided by the Commissioner, for such purpose. The application shall be accompanied by the fee thereto prescribed under the aforesaid Act and a copy of the instrument of transfer or assignment as the case may be. Upon the Commissioner being satisfied on the contents of the document forwarded to him with the application, that the transfer or assignment has been effected under a securitisation structure approved by the Central Bank, he shall cause the name of the transferee or assignee, as the case may, be to be entered as absolute owner of the vehicle in the appropriate register maintained by him ; and

(b) the transferee or assignee may from the date of registration, exercise all rights under the aforesaid Act or the finance lease which the transferor or assignor may have exercised, prior to the transfer or assignment of his rights under subsection (1).

For the purposes of this section 'Commissioner' means the Commissioner of Motor Traffic appointed under section 204 of the Motor Traffic Act (Chapter 203).

Transfer of lessee's **25.**(1) A lessee shall not, except with the written permission of the lessor

right in the
equipment.

and subject to any rights of third parties, transfer the right to the possession and use of an equipment under a finance lease to any other person.

(2) For the purposes of subsection (1), a 'third party' means a person who is not a party to the finance lease in relation to the equipment.

Lessee's trustees in bankruptcy or creditors. [3, 21 of 2024]

26.(1) The rights of a lessor under this Act may be enforced against a trustee in bankruptcy of the lessee, or against any creditor of a lessee, including any creditor who has obtained an attachment in execution of such equipment, provided the lessor has validly perfected those rights under the Secured Transactions Act, No. 17 of 2024.

(2) For the purposes of subsection (1), 'a trustee in bankruptcy' includes a liquidator, administrator or other person appointed to administer the estate of a lessee for the benefit of the lessee's creditors.

Recovery of possession if resistance is not offered. [4, 21 of 2024]

27.A lessor who becomes entitled to recover possession of an equipment under the Secured Transactions Act, No. 17 of 2024 or where there are no competing claimants, under a provision of a finance lease, may-

(a) notify such right to the officer-in-charge of the police station for the area within which the equipment is found :

(b) obtain the assistance of a police officer of that police station to prevent a breach of the peace in the exercise of that right ; and

(c) recover possession of the equipment from the place where it is found, if possession could be obtained without resistance from the person in possession of the equipment or where it is not in the possession of any particular person, without resistance from any person.

Recovery of possession through court.

28.(1) Where a lessor fails to recover possession of an equipment under section 27. or where a lessor has reasonable grounds to believe that it is impracticable to obtain possession under that section, the lessor may make an application to the District Court within whose jurisdiction the finance lease had been entered into, for an order of possession of the equipment.

(2) An application under subsection (1), shall be made by way of petition and affidavit to which the lessee shall be made a respondent, and which shall contain the following information -

(a) the date of the finance lease :

(b) the payments, if any, made under the lease ; and

(c) the circumstances constituting the default by the

(3) The petition shall be accompanied by a certified copy of the finance lease,

(4) The District Court on consideration of the petition and affidavit and the documents attached thereto, and being satisfied that the petitioner is

prima facie entitled to obtain possession of the equipment, shall make an interim order of possession compelling the respondent to deliver possession of the equipment to the petitioner.

(5) A copy of the interim order made under subsection (4) shall be served on the respondent and-

(a) where the respondent fails to show sufficient cause within fourteen days after the service of the order as to why the order should not be made permanent, the court shall make the order permanent: or

(b) where the respondent shows sufficient cause within fourteen days after the service of the order as to why the order should not be made permanent, the court shall set aside the interim order.

(6) A permanent order made under subsection (5), shall be executed in the same manner as if it were a decree for the recovery of movable property,

Recovery of monies due under the finance lease.

29.(1) In an application under section 28, a lessor may in addition to praying for an order of possession, also pray for an order for recovery of any monies due under the finance lease, and in that event shall specify in the petition and affidavit filed the sum due and such other facts as may be necessary for the determination of such matter.

(2) The provisions of subsections (4) and (5) of section 28 shall, mutatis mutandis, apply to an order under subsection (1) of this section, and the court may in the interim order and the permanent order made under those subsections, include an order for recovery of the sum of money sought to be recovered.

(3) A permanent order made under subsection (2), shall be executed in the same manner as if it were a decree for the recovery of money.

Savings of other remedies.

30.The provisions of sections 27, 28, and 29 shall be in addition to and not in derogation of any other remedy that may be available to a lessor in law, for the recovery of possession of any equipment or any money due under a finance lease.

Non-applicability of certain provisions of this Part.

31.The parties to a finance lease may provide in such lease for the non-applicability of the provisions of this Part of this Act other than the provisions contained in sections 11, 16, 22 and 24, to a finance lease entered into between them.

PART III
POWERS OF THE DIRECTOR AND OFFICERS

Effect of carrying on finance leasing business without registration.

32.(1) The Director or any officer authorised by The Director may require by notice issued in that behalf to any person whom the Director has reason to believe is carrying on finance leasing business without obtaining a registration under this Act. to furnish such information including the production of any documents as the Director may consider necessary, in order to ascertain such fact.

(2) Where the Director or the officer authorised, after considering the information furnished and inspecting any documents furnished under subsection (1), is satisfied that the person concerned is carrying on finance leasing business without being registered under this Act. the Director shall by written notice issued in that behalf, require that person to immediately cease carrying on such finance leasing business.

(3) Where a person to whom a notice is issued under subsection (2) fails to comply with the requirements of the notice within the time specified therein, the Director may take necessary measures to

(a) prosecute such person for an offence under this Act; and

(b) apply to the High Court of the Province in which such person is carrying on finance leasing business to obtain an order for an injunction restraining such person from continuing to carry on finance leasing business, until a valid registration is obtained For that purpose under this Act.

(4) Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined in accordance with the procedure laid down in Chapter XXIV of the Civil Procedure Code.

(5) The High Court of the Province shall after consideration of an application made under subsection (3) and where it is satisfied that the person concerned is carrying on finance leasing business without being registered under this Act. issue an injunction restraining such person from continuing to carry on such business until a valid registration is obtained by him under this Act for that purpose.

Powers of examination of registered

33.(1) The Director or any officer authorised by the Director shall have the power to examine the books and accounts of a registered establishment, at such time and place as may be specified by him.

establishment.

(2) For the purposes of exercising the power under subsection (1), the Director or the authorized officer may require a registered establishment to produce for inspection at such place as may be notified, any books, records or documents relating to the affairs of the establishment and any registered establishment which fails to comply with such requirement shall be guilty of an offence under this Act.

Power to issue directions.

34. The Director shall have the power to issue such general directions, as he may consider necessary for the purpose ensuring that registered establishments maintain efficient standards in carrying out their duties, including directions on the following matters :-

- (a) maximum rate of payments to be levied by registered establishments ;
- (b) matters concerning the method of collecting payments ;
- (c) form and manner in which the books of accounts or other records or documents are to be maintained ;
- (d) terms and conditions of finance leases ;
- (e) minimum paid up capital and the reserves a registered establishment shall have, having regard to the value of its finance leases ;
- (f) having regard to the paid up capital and the reserves of a registered establishment, the maximum value of finance leases that may be granted to any one person, group of persons, or category of persons as may be specified by the Director ;
- (g) capital and reserves of registered establishments ;
- (h) minimum initial payment required to be made by a lessee for any equipment or different categories of equipment, such minimum to be expressed as a percentage of the value of the equipment ; or
- (i) provisions for bad and doubtful debts.

Certain registered finance leasing establishments to borrow money by the issue of debt instruments.

[2, 33 of 2007]

34A. (1) Notwithstanding anything in any other law to the contrary, a registered finance leasing establishment which is a public company referred to in paragraph (c) of section 3 of this Act, and which maintains an unimpaired issued and paid up capital of -

- (a) not less than such amount as specified from time to time by the Director by notice issued in that behalf, shall be entitled, by the issue

of any debt instrument; or

(b) less than the amount specified in the notice issued under paragraph (a), shall be entitled by the issue of any debt instrument through private placements,

to borrow money, with the approval of the Director.

(2) The approval of the Director for the purpose of subsection (1), shall be obtained by such registered finance leasing establishment on application made to the Director for the purpose and any approval granted may be subject to such terms and conditions as the Director may deem necessary.

(3) For the purposes of this section -

'debt instrument' means, a debenture, bond, promissory note or any other debt instrument as may be determined by the Director; and

'private placement' means, the issue of any debt instrument, without the issue of a prospectus or advertising through the mass media, including the internet, post, facsimile, electronic mail, leaflets, banners, posters or booklets or through any kind of propaganda carried out by any means whatsoever.

Regulations

35.(1) The Minister may make regulations in respect of any matter required by this Act, to be prescribed or in respect of which regulations are authorised by this Act, to be made.

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

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

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

Protection from

36. A suit or prosecution shall not lie against the Director authorised by the

suit. Director for any act which is in good faith done or purported to be done by the Director or such officer under this Act.

Non-disclosure of information. **37.**The Director or any officer authorised by the Director shall not disclose any information or matter acquired in the discharge of his duties under this Act, except-

- (a) when required to do so-
 - (i) by a court of law ;
 - (ii) by the person to whom such information or matter relates ;
- (b) in the performance of his duties under this Act; or
- (c) in order to comply with any of the provisions of this Act or any other law.

PART IV MISCELLANEOUS

A registered establishment and special purpose vehicle deemed to be a lending institution. **38.** Every registered establishment and every special purpose vehicle shall be deemed to be a lending institution within the meaning, and for the purposes, of the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990.

[5, 24 of 2005]

Offences. **39.**Every person who-

- (a) carries on finance leasing business in contravention of the provisions of section 2 ;
- (b) fails to comply with the provisions of subsection (3) of section 5 ;
- (c) fails to pay the annual registration fee as required by section 6 ;
- (d) fails to provide the particulars required under section 7 ;
- (e) alters the particulars contained in the operating manual or the Memorandum or Articles of Association in contravention of the provisions of section 8 ; or
- (f) contravenes any regulation made under this Act or fails to comply with any direction or notice issued under this Act,

shall be guilty of an offence under this Act. '

[6, 24 of 2005]

Wilful act or omission in relation to records and books.	<p>40. Any person who being a director, manager, officer or employee of a registered establishment-</p> <p>(a) wilfully makes, or causes to be made, a false entry in any book or record of office registered establishment;</p> <p>(b) wilfully omits to make an entry in any book or record of a registered establishment or wilfully causes any such entry to be omitted: or</p> <p>(c) wilfully alters, abstracts, conceals or destroys an entry in any book or record of the registered establishment or wilfully causes any such entry to be altered, abstracted, concealed or destroyed. shall be guilty of an offence under this Act.</p>
Penalty for offence.	<p>41.(1) Any person who is found guilty of an offence under this Act shall be liable on conviction after summary trial by a Magistrate, to imprisonment of either description for a term not exceeding two years or to a fine not less than rupees ten thousand and not exceeding rupees two hundred and fifty thousand or to both such imprisonment and fine.</p> <p>(2) Where an offence under this Act is committed by a body of persons, then -</p> <p>(a) if that body of persons is a body corporate, every director, manager or secretary of that body corporate;</p> <p>(b) if that body of persons is an unincorporated body every individual who is a member of such body;</p> <p>(c) if that body of persons is a firm, every partner of that firm shall be guilty of the offence unless such director, manager, secretary, individual or partner, as the case may be proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p>
Compounding of offences.	<p>42.(1) The Director may with the approval of the Monetary Board and having regard to the circumstances in which an offence under this Act was committed, compound such offence for a sum of money not exceeding one hundred thousand rupees.</p> <p>(2) The compounding of any offence under this section shall have the effect of an acquittal of the accused.</p>
Interpretation.	<p>43. In this Act unless the context otherwise requires 'close relation', in</p>

[7, 24 of 2005]

relation to an individual, means the spouse, or dependant child of that individual;

'Director' means the head of the department of the Central Bank of Sri Lanka to which the subject of supervision of finance leasing companies under this Act, has been assigned by the Monetary Board;

'equipment' means any tangible asset which has an economically useful life of more than one year and does not include land, any improvements made to land other than fixtures or immovable property attached to land which can be removed from the land without substantial destruction to such fixture or immovable property;

'finance lease' means an agreement between a lessor and a lessee -

(a) for the possession and use by the lessee for an initial period of not less than one year from the date of the agreement, of an equipment specified by the lessee and either provided by the lessor or a supplier selected by the lessee;

(b) for the payment by the lessee to the lessor for possession and use of such equipment of such sums to be calculated so as to take into account in particular the amortization of the whole or substantial part of the cost of the equipment;

(c) which, after the acceptance of the equipment by the lessee, is not terminable by the lessee during the initial period set out in paragraph (a); and

(d) which, though not a hire purchase agreement within the meaning of the Consumer Credit Act, No. 29 of 1982, may or may not provide for the extension of the initial period set out in paragraph (a) or for the purchase by the lessee of the equipment after the expiration of the initial period set out in paragraph (a) or the period extended under this paragraph;

'finance leasing business' means the business of investing money for the provision of equipment under a finance lease;

'lessor' in relation to a finance lease, means the person who transfers the right to possession and use of an equipment under lease to a lessee;

'lessee', in relation to a finance lease, means a person who acquires a right to possession and use of an equipment under the lease;

'Monetary Board' means the Monetary Board of the Central Bank of Sri Lanka established under the Monetary Law Act;

'securitization' means the issuance of securities by a special purpose vehicle which are backed by any assets consisting of any or all the

rights in a finance lease or any equipment forming the subject matter of a finance lease or of both, transferred or assigned by a lessor in favour of such special purpose vehicle;

'special purpose vehicle' means a body corporate or unincorporate, including a trust, established solely for the purpose of securitisation and for activities connected therewith or incidental thereto;

'supplier' means a person who supplies an equipment for the purpose of a finance lease, but does not include a lessee where the lessee supplies such equipment: and Finance Leasing Act, No. 56 of 2000;

'supply agreement', means an agreement entered into by a lessor with a supplier for the supply of an equipment by the supplier under a finance lease.

Persons engaged in **44.**(1) Every person who is carrying on finance leasing business on the appointed date, may, notwithstanding the provisions of section 2 of this Act, continue to carry on such business for a period not exceeding one year from such appointed date, but shall within that period apply for and obtain a certificate of registration under this Act to carry on such finance leasing business.

(2) Where a person referred to in subsection (1) -

(a) is registered under this Act, all finance leases entered into by such person before such registration shall be deemed to be finance leases entered into under this Act, and the provisions of this Act shall, accordingly apply to and in relation to every such lease ; or

(b) does not apply for registration, or is refused registration under this Act, only such finance leases entered into by that person before the expiration of the period referred into subsection (1) or the date of refusal, as the case may be shall remain valid for the periods for which they are entered into.

Registration of persons who failed to register under section 44 of the principal enactment.

[8, 24 of 2005]

44A. (1) Notwithstanding the provisions of subsection (1) of section 44 of the principal enactment, a person who was required to be registered under that subsection within the period of time stipulated therein and who has not obtained a registration on the date of the coming into operation of this Act -

(a) shall not be deemed to have committed an offence under the provisions of the principal enactment and consequently any agreements entered into by such person shall be deemed to be valid ;

(b) may continue to carry on the business of finance leasing for a

period of two years from the date of the coming into operation of this Act ; and

(c) shall, subject to the provisions of subsection (2) of this section, be required within the period referred to in paragraph (b) of this subsection, to apply for and obtain a Certificate of Registration under the principal enactment, to continue to carry on such finance leasing business.

(2) A person shall not be eligible to be registered under paragraph (c) of subsection (1) of this section, unless such person is a public company incorporated under the Companies Act, No. 17 of 1982 having a minimum issued and paid up capital of such amount as shall be prescribed, provided that the amount shall not exceed the amount prescribed as minimum issued and paid up capital under paragraph (c) of section 3 of this Act.

(3) Every application made for registration under this section, shall be accompanied by -

(a) the documents referred to in section 4 of the principal enactment;

(b) a copy of the audited balance sheet and the profit and loss account for the year preceding the date of submitting the application; and

(c) the prescribed fee.

(4) The Director may in addition to the documents referred to in subsection (3), request an applicant to submit such further documents or information as he may consider necessary and it shall be the duty of the applicant to comply with any such request.

(5) The provisions of subsection (2) of section 44 shall apply in respect of a person referred to in subsection (1) of this section.

(6) The Director in concurrence with the Minister may by notice issued in that behalf, require a person registered under this section, to increase within the time specified therein, its minimum issued and paid up capital to such amount as specified in such notice. Provided that the minimum issued and paid up capital as increased shall not exceed the amount prescribed under paragraph (c) of section 3.

(7) Where any registered person fails to comply with any requirement under subsection (6), the Director shall have the authority to restrict or limit the finance leasing business or any other transactions being carried on by such person, until the requirement contained in the aforesaid notice is complied with.

Sinhala text to prevail in case of inconsistency.

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