



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

FINANCE ACT, No. 5 OF 2005

[Certified on 30th March, 2005]

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L.D.—O. 59/2004.

AN ACT TO MAKE PROVISION FOR THE IMPOSITION OF CERTAIN LEVIES
CONSEQUENTIAL TO THE 2005 BUDGET PROPOSALS ; AND TO MAKE
PROVISION 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 Act, No. 5 of 2005. Short title.

PART I

IMPOSITION OF SOCIAL RESPONSIBILITY LEVY

2. A levy to be called the Social Responsibility Levy shall, subject to the provisions of this Act, be imposed with effect from the year commencing on January 1, 2005 and for every year thereafter, at the rate of 0.25 *per centum* on all taxes and levies chargeable in terms of the provisions of the enactments specified in the First Schedule to this Act. The funds so collected by way of the Social Responsibility Levy shall be disbursed for meeting any expenditure incurred for the implementation of activities connected with the National Action Plan for Children, approved by the Government :
- Imposition of Social Responsibility Levy.

Provided that the imposition of the Social Responsibility Levy in terms of the provisions of this Part of this Act, on income tax chargeable under the provisions of the Inland Revenue Act, No. 38 of 2000, shall be effective from April 1, 2005.

3. The Social Responsibility Levy collectable in terms of section 2 shall be collected at the time of payment of such taxes or levies, by the relevant authorities administering such enactments as are specified in the First Schedule to this Act and shall be credited to a special account operated for such purpose. The money so collected shall be remitted to the Consolidated Fund within fifteen days from the date of the collection of such money by the relevant authorities.
- Social Responsibility Levy to be collected by relevant authorities.

Maintenance
of records.

4. Every relevant authority administering the enactments specified in the First Schedule shall maintain records of all amounts collected by such authorities in relation to the Social Responsibility Levy chargeable by such authorities in terms of the provisions of the respective enactments specified in the Schedule to this Act.

Action in
cases of
failure to pay
levy.

5. (1) Any person to whom the provisions of this Part of this Act applies, who fails to pay the total amount of the Social Responsibility Levy in terms of section 2, shall be deemed to be a defaulter and where such defaulter is a body corporate, the Chairman of the Board of Directors, any director or principal officer of such body corporate shall be deemed to be a defaulter for the purposes of this Part of this Act, and such Levy as is not paid on or before the due date shall be deemed to be a Levy in default.

(2) The defaulter shall be liable to pay a surcharge in addition to the Social Responsibility Levy in default, calculated—

- (a) at the rate of ten *per centum* of the amount of such levy as is in default for the subsequent period of one month or part thereof, from the due date for the payment of the Levy under section 2 ; and
- (b) at the rate two *per centum* of the amount of such Levy as is in default for each subsequent period of one month or part thereof, from the due date for the payment specified in paragraph (a),

which surcharge shall be collected by the relevant authorities administering the enactments specified in the First Schedule to this Act.

(3) The relevant authorities administering the enactments specified in the First Schedule shall take action to recover the Social Responsibility Levy or such part of the Levy which is in default for a period of more than three months, and the amount of the surcharge accrued thereon, in the manner as is specified hereafter.

(4) The relevant authorities administering the enactments specified in the First Schedule shall cause to be issued on the defaulter, three weeks prior to the taking of any steps for the recovery of the Social Responsibility Levy in default along with the amount of the surcharge accrued thereon, a Notice, informing the defaulter of the intention of the relevant authorities administering the enactments specified in the First Schedule to institute proceedings for the recovery of the amount of the Social Responsibility Levy in default and the amount of the surcharge accrued thereon, in terms of the provisions of this section.

(5) Where the relevant authorities administering the enactments specified in the First Schedule issues Notice on the defaulter in terms of subsection (4) but the amount of the Social Responsibility Levy in default and the amount of the surcharge accrued thereon remains unpaid even though the period of three weeks specified in such Notice has elapsed, the relevant authorities administering the enactments specified in the First Schedule shall issue to the Magistrate having jurisdiction over the division in which the defaulter resides or is carrying on business, a Certificate containing the name and address of the defaulter and the total sum in default along with a statement to the effect that the person so named has defaulted in making the payment as required by this section. Where the defaulter is a body corporate, the Certificate shall contain the name of the Chairman, the Board of Directors and of every Director of such body corporate.

(6) The Magistrate shall on receipt of the Certificate issued under subsection (5), issue summons on the defaulter requiring him to appear before him on a date to be specified and show cause as to why proceedings should not be taken against him for the recovery of the amount of the Social Responsibility Levy or such part of the Levy which is in default and the amount of the surcharge accrued thereon. Where the cause shown appears to the Magistrate to be insufficient so as to explain the reason for the non-payment, the Magistrate shall after recording the same, make order for

the recovery of the amount of the Social Responsibility Levy in default and the amount of the surcharge accrued thereon, from the defaulter as if it were a fine imposed by the Magistrate. The money so recovered shall be remitted to the respective relevant authorities administering the enactments specified in the First Schedule who shall credit the same to the Consolidated Fund.

Date of
operation of this
Part and
indemnity.

6. (1) The provisions of this Part of the Act shall be deemed for all purposes to have come into operation on January 1, 2005.

(2) Where any amount has been collected by the relevant authorities administering the enactments specified in the First Schedule, as Social Responsibility Levy in terms of this Part of the Act during the period commencing on January 1, 2005 and ending on the date of the commencement of this Act, the Social Responsibility Levy so collected shall be deemed to have been validly collected and the respective relevant authorities are hereby indemnified from any action civil or criminal in respect of the collection of the aforesaid Levy.

PART II

IMPOSITION OF SHARE TRANSACTION LEVY

Imposition of
Share
Transaction
Levy.

7. There shall be imposed with effect from the year commencing on January 1, 2005 and for every year thereafter, a levy to be called the Share Transaction Levy at the rate of 0.2 *per centum* from every buyer and seller, on the turnover of every share trading transaction, which is conducted through a Stock Exchange.

Share
Transaction
Levy to be
collected by
relevant
stockbroker &c.

8. The Share Transaction Levy so imposed shall be collected by the relevant stockbroker, stock dealer or custodian bank as the case may be, who is responsible for the settlement of such share transaction. The Share Transaction Levy so collected in terms of section 7 shall be paid to the stock exchange through which the share transaction took place, at the time of making settlement of such share transaction by the respective stockbroker, stock dealer or

custodian bank, as the case may be. The Stock Exchange shall remit the levy so collected to the Commissioner-General within three working days from the date of such settlement.

9. The Stock Exchange shall furnish to the Commissioner-General, a monthly statement giving the total turnover in respect of which the Share Transaction Levy has been remitted to the Commissioner-General within fifteen days from the last day of each month.

Returns to be furnished of collections.

10. (1) Any stockbroker, stock dealer or custodian bank as the case may be, to whom the provisions of this part of this Act applies, who fails to pay the total amount of the Share Transaction Levy in terms of sections 7 and 8, shall be deemed to be a defaulter, and where such defaulter is a body corporate, the Chairman of the Board of Directors and every Director or principal officer of such body corporate shall be deemed to be a defaulter for the purposes of this Part of this Act, and such Levy as is not paid on or before the due date shall be deemed to be a Levy in default.

Action in case of failure to pay levy.

(2) The defaulter shall be liable to pay a surcharge in addition to the Share Transaction Levy in default, calculated—

- (a) at the rate of ten *per centum* of the amount of such levy as is in default for the subsequent period of one month or part thereof, from the due date for the payment of the Levy under section 8 ; and
- (b) at the rate of two *per centum* of the amount of such Levy as is in default for each subsequent period of one month or part thereof, from the due date for the payment specified in paragraph (a),

which surcharge shall be collected by the Commissioner-General.

(3) The Commissioner-General shall take action to recover the Share Transaction Levy or such part of the Levy which is in default for a period of more than three months and the amount of the surcharge accrued thereon, in the manner as is specified hereafter.

(4) The Commissioner-General shall cause to be issued on the defaulter, three weeks prior to the taking of any steps for the recovery of the Share Transaction Levy in default along with the amount of the surcharge accrued thereon, a Notice, informing the defaulter of the intention of the Commissioner-General to institute proceedings for the recovery of the amount of the Share Transaction Levy in default and the amount of the surcharge accrued thereon in terms of the provisions of this section.

(5) Where the Commissioner-General issues Notice on the defaulter in terms of subsection (4) but the amount of the Share Transaction Levy in default and the amount of the surcharge accrued thereon remains unpaid even though the period of three weeks specified in such Notice has elapsed, the Commissioner-General shall issue to the Magistrate having jurisdiction over the division in which the defaulter resides or is carrying on business, a Certificate containing the name and address of the defaulter and the total sum in default along with a statement to the effect that the person so named has defaulted in making the payment as required by this section, Where the defaulter is a body corporate, the Certificate shall contain the name of the Chairman of the Board of Directors and of every Director or principal officer of such body corporate.

(6) The Magistrate shall on receipt of the Certificate issued under subsection (5), issue summons on the defaulter requiring him to appear before him on a date to be specified and show cause as to why proceedings should not be taken against him for the recovery of the amount of the Share Transaction Levy or such part of the Levy which is in default and the surcharge accrued thereon. Where the cause shown appears to the Magistrate to be insufficient so as to explain the reason for the non-payment, the Magistrate shall after recording the same, make order for the recovery of the amount of the Share Transaction Levy in default and the amount of the surcharge accrued thereon, from the defaulter as if it were a fine imposed by the Magistrate. The money so recovered shall be remitted to the Commissioner-General, who shall credit the same to the Consolidated Fund.

11. In this Part of the Act, unless the context otherwise requires,—

Interpretation for Part II.

“Commissioner-General” means the Commissioner-General of Inland Revenue appointed in terms of the Inland Revenue Act, No. 38 of 2000 ;

“custodian bank” means any Bank licensed by the Central Bank of Sri Lanka providing custody services in respect of share transactions ;

“stockbroker” means any individual or body corporate engaged in the business of buying or selling of securities on behalf of investors in return for a commission ;

“stock dealer” means any individual or body corporate engaged in the business of buying or selling of securities or in the dealing or jobbing or trading of securities, or the underwriting or retailing of securities ; and

“stock exchange” means a market, exchange, or other place at which securities are regularly offered for sale, purchase or exchange, including any services connected with such business.

12. (1) The provisions of this Part of the Act shall be deemed for all purposes to have come into operation on January 1, 2005.

Date of operation of this Part and indemnity.

(2) Where any amount has been collected by the Commissioner-General as Share Transaction Levy in terms of this Part of the Act during the period commencing on January 1, 2005 and ending on the date of the commencement of this Act, the Share Transaction Levy so collected shall be deemed to have been validly collected and the Commissioner-General is hereby indemnified from any action civil or criminal in respect of the collection of the aforesaid Levy.

PART III

CONSTRUCTION INDUSTRY GUARANTEE FUND LEVY

Imposition of
Construction
Industry
Guarantee Fund
Levy.

13. There shall be imposed with effect from the year commencing on January 1, 2005 and for every year thereafter, a levy to be called the Construction Industry Guarantee Fund Levy on every construction contract enforced in Sri Lanka by every construction contractor on their contract value arising from any contract entered into on or after that date, calculated at the rates set out in the Second Schedule to this Act. The percentage of the Construction Industry Guarantee Fund Levy so calculated shall be based on the total cost which shall be payable by each contractor or sub-contractor as the case may be, even if the individual sub-contract value is lower than the amounts specified in the Second Schedule to this Act.

Mode of
collection of
Construction
Industry
Guarantee Fund
Levy.

14. The Construction Industry Guarantee Fund Levy payable under section 13 shall be remitted by the construction contractor to the Institute for Construction Training and Development (hereinafter referred to as "ICTAD") at the time that the contractor receives each contract payment.

ICTAD to collect
the Construction
Industry
Guarantee Fund
Levy on behalf
of the
Government.

15. The Construction Industry Guarantee Fund Levy, collected by ICTAD on behalf of the Government in respect of each contract in terms of section 13, shall be credited within fifteen days from the end of every month as provided for in section 13 to the Consolidated Fund along with a monthly statement setting out the basis of the calculation of the amount payable as the Construction Industry Guarantee Fund Levy.

Secretary to the
Treasury to issue
guidelines.

16. The Secretary to the Treasury may from time to time issue guidelines in relation to the collection and remittance of the Construction Industry Guarantee Fund Levy on behalf of the Government.

17. ICTAD shall furnish within thirty days after the last day of the year to which the collection of the Construction Industry Guarantee Fund Levy relates, a statement containing such information as may be specified by the Secretary to the Treasury.

Statements to be furnished of collection.

18. ICTAD shall maintain a record of all amounts collected by it in relation to the turnover on every contract entered into on or after January 1, 2005, by the relevant contractors and the reconciliation of the statement relating to the collection of the Construction Industry Guarantee Fund Levy.

Maintenance of records.

19. (1) Any construction contractor to whom the provisions of this Part of this Act applies, who fails to pay the total amount of the Construction Industry Guarantee Fund Levy in terms of section 13, shall be deemed to be a defaulter and where such defaulter is a body corporate, the Chairman of the Board of Directors, any director or principal officer of such body corporate shall be deemed to be a defaulter for the purposes of this Part of this Act, and such Levy as is not paid on or before the due date shall be deemed to be a Levy in default.

Action in cases of failure to pay levy.

(2) The defaulter shall be liable to pay a surcharge in addition to the Construction Industry Guarantee Fund Levy in default, calculated—

- (a) at the rate of ten *per centum* of the amount of such levy as is in default for the subsequent period of one month or part thereof, from the due date for the payment of the Levy under section 16 ; and
- (b) at the rate of two *per centum* of such Levy as is in default for each subsequent period of one month or part thereof, from the due date for the payment specified in paragraph (a),

which surcharge shall be collected by ICTAD.

(3) ICTAD shall take action to recover the Construction Industry Guarantee Fund Levy or such part of the Levy which is in default for a period of more than three months, and the amount of the surcharge accrued thereon, in the manner as is specified hereafter.

(4) ICTAD shall cause to be issued on the defaulter, three weeks prior to the taking of any steps for the recovery of the Construction Industry Guarantee Fund Levy in default and the amount of the surcharge accrued thereon, a Notice, informing the defaulter of the intention of ICTAD to institute proceedings for the recovery of the amount of the Construction Industry Guarantee Fund Levy in default and the amount of the surcharge accrued thereon in terms of the provisions of this section.

(5) Where ICTAD issues Notice on the defaulter in terms of subsection (4) but the amount of the Construction Industry Guarantee Fund Levy in default and the surcharge thereon remains unpaid even though the period of three weeks specified in such Notice has elapsed, ICTAD shall issue to the Magistrate having jurisdiction over the division in which the defaulter resides or is carrying on business, a Certificate containing the name and address of the defaulter and the total sum in default along with a statement to the effect that the person so named has defaulted in making the payment as required by this section. Where the defaulter is a body corporate, the Certificate shall contain the name of the Chairman of the Board of Directors and of every Director or the principal officer of such body corporate.

(6) The Magistrate shall on receipt of the Certificate issued under subsection (5), issue summons on the defaulter requiring him to appear before him on a date to be specified and show cause as to why proceedings should not be taken against him for the recovery of the amount of the Construction Industry Guarantee Fund Levy or such part of the Levy which is in default and the amount of the surcharge accrued thereon. Where the cause shown appears to the Magistrate to be insufficient so as to explain the reason for the non-payment,

the Magistrate shall after recording the same, make order for the recovery of the amount of the Construction Industry Guarantee Fund Levy in default and the amount of the surcharge accrued thereon, from the defaulter as if it were a fine imposed by the Magistrate. The money so recovered shall be remitted to ICTAD who shall credit the same to the Consolidated Fund.

20. In this Part of this Act, unless the context otherwise requires—

Interpretation for Part III.

“construction contractor” means the person or persons or organization or organizations named as the contractor in a bid or who is otherwise accepted by the employer as the person or organisation responsible for the implementation, completion and maintenance of the construction works being carried out under the terms of such contract ;

“contract value” means the amount or the amounts stated in the letters of acceptance and which are thereafter adjusted in accordance with the provisions of the contract. The said contract value shall be the sum total of individual contracts or of several contracts which have been entered into in respect of the carrying out of the construction of the project and shall include sub-contract values, supply contract values and such other construction costs that may be incurred in carrying out the works ; and

“The Institution for Construction, Training and Development (ICTAD)” means the industrial undertaking constituted and established by Order made under section 3 of the State Industrial Corporations Act, No. 49 of 1957 and published in Gazette Extraordinary No. 718/15 of June 10, 1992.

21. The provisions of this Part of this Act shall be deemed for all purposes to have come into operation with effect from January 1, 2005.

Operation of the provisions of this Part.

Indemnity.

22. The amount charged and collected by ICTAD as Construction Industry Guarantee Fund Levy in terms of this Part of the Act, during the period commencing from January 1, 2005 and ending on the date of commencement of this Act, shall be deemed to have been so validly charged and levied and ICTAD is hereby indemnified from any action civil or criminal in respect of the collection of such levy.

PART IV

AMENDMENT OF FINANCE ACT, No. 11 OF 2002

Amendment of section 2 of Part I of the Finance Act, No. 11 of 2002.

23. The Finance Act, No. 11 of 2002 is hereby amended in section 2 of Part I of that Act, (Port and Airport Development Levy) by the repeal of the proviso to that section and the substitution therefor of the following :—

“Provided that, in respect of the cost, insurance and freight value of any article referred to above, there shall, with effect from November 19, 2004, be charged and levied a levy at the rate of 1.5 *per centum* :

Provided further, that in the case of an article imported into Sri Lanka for the purpose of processing and re-export, the levy on the cost, insurance and freight value of that article—

- (a) for the period Commencing on January 1, 2003 and ending on December 31, 2004 shall be charged and levied at the rate of 0.5 *per centum* ; and
- (b) for the period commencing on January 1, 2005, shall be charged and levied at the rate of 0.25 *per centum*.”.

Indemnity.

24. Where an amount equal to one *per centum* on the cost, insurance and freight value of such article has been collected by the Director-General of Customs as Port and Airport Levy in terms of this Part of this Act during the period commencing on November 19, 2004 and ending on the date

of commencement of this Act, from any person importing, an article as is referred to in Part I of the Finance Act, No. 11 of 2002, such collection shall be deemed for all purposes to have been and to be, validly made, and the Director-General of Customs is hereby indemnified against all action civil or criminal, in respect of such collection.

PART V

GENERAL

25. (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

Regulations.

(2) Every regulation made under subsection (1) 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 therein.

(3) Every regulation made under subsection (1) shall, as soon as convenient after its publication in the Gazette, be placed before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

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

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

Sinhala text to prevail in case of inconsistency.

FIRST SCHEDULE

(Section 2)

1. The Excise Ordinance (Chapter 52).
2. The Customs Ordinance (Chapter 235).
3. The Excise (Special Provisions) Act, No. 13 of 1989.
4. The Inland Revenue Act, No. 38 of 2000. (Other than the provisions of Chapter XV, XVI, XVII and Section 33 and Section 61).

SECOND SCHEDULE

(Section 13)

| Value of Construction Contract | Rates applicable for the calculation of the Levy |
|--|---|
| 1. Where the value of the construction contract is less than rupees fifteen million | Nil |
| 2. Where the value of the construction contract is not less than rupees fifteen million and not exceeding rupees fifty million | <i>0.25 per centum</i> |
| 3. Where the value of the construction contract is not less than rupees fifty million and not exceeding rupees one hundred and fifty million | <i>0.5 per centum</i> |
| 4. Where the value of the construction contract is rupees one hundred and fifty million or above | <i>1 per centum</i> |

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