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2nd Session 1971-72



Finance Act, No. 38 of 1971

Date of Assent: October 19, 1971

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Finance Act, No. 38 of 1971

L. D.—O. 66/70.

AN ACT TO ENACT THE PROVISIONS OF LAW NECESSARY TO GIVE LEGAL FORCE TO CERTAIN PROPOSALS, FINANCIAL OR OTHERWISE, CONTAINED IN THE BUDGET SPEECH OF THE MINISTER OF FINANCE FOR THE YEAR 1970-71, AND TO PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: October 19, 1971]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Finance Act, No. 38 of 1971.

Short title.

PART I

COMPULSORY SAVINGS FUND

2. Notwithstanding the provisions of any law to the contrary, the Monetary Board of the Central Bank shall lend to the Government the moneys lying in the Compulsory Savings Fund on such terms as may be determined by that Board with the concurrence of the Minister of Finance. Any moneys received by way of interest from such lending shall be credited to that Fund.

Moneys in the Compulsory Savings Fund to be loaned to the Government.

3. The expenses incurred in the administration of the Compulsory Savings Fund, the interest payable in terms of section 20 of the Compulsory Savings Act, No. 6 of 1971, the repayments of contributions made to that Fund and refunds of amounts paid in excess of contributions to that Fund, shall be met out of that Fund:

Certain expenses to be met out of the Compulsory Savings Fund.

Provided, however, that where at any time the balance in the Compulsory Savings Fund is insufficient to meet any such payment, the money necessary to meet such payment shall be charged on the Consolidated Fund.

4. In this Part of this Act, "Compulsory Savings Fund" means the Compulsory Savings Fund established under section 2 of the Compulsory Savings Act, No. 6 of 1971.

Interpretation

PART II

FINANCIAL CONTROL OF PUBLIC CORPORATIONS

Application of provisions of this Part of this Act.

5. (1) The provisions of this Part of this Act shall apply to every public corporation notwithstanding anything to the contrary in the provisions of any other written law:

Provided, however, that the Minister of Finance may from time to time, by Order published in the *Gazette*, exempt any public corporation from all the provisions of this Part of this Act, or from any such provisions as shall be specified in the Order.

(2) Any Order published in the *Gazette* by the Minister of Finance under sub-section (1) may be amended, revoked or replaced by a like Order.

(3) Any Order published in the *Gazette* by the Minister of Finance under the preceding provisions of this section shall come into operation on the date of such publication, or on such later date as may be specified therein.

Effective date for implementation of this Part of this Act.

6. A public corporation shall give effect to the provisions of this Part of this Act from the date of commencement of the financial year 1973 or, if possible, earlier.

Financial obligations of a public corporation.

7. (1) It shall be the duty of the governing body of a public corporation to conduct the business of the corporation so that the ultimate surpluses on revenue account shall at least be sufficient to cover the ultimate deficits on such account over a period of five years or such other period as may be determined by the Minister of Finance. In determining the ultimate surplus or ultimate deficit for each year under this section, there shall be charged against the revenue account the charges specified in section 9 and the appropriations specified in section 10.

(2) Subsidies which may be received by a public corporation from the Government in terms of section 17 shall be included in the revenue of the corporation in arriving at the surplus or deficit in any year.

Preparation of budgets of public corporations.

8. (1) Every public corporation shall prepare a budget in respect of every financial year and such budget shall be approved by the governing body of such corporation not later than three months prior to the commencement of the financial year to which the budget relates.

(2) Notwithstanding the approval of the budget by the governing body of a public corporation, no commitments of capital expenditure provided in such budget in excess of five hundred thousand rupees shall be incurred by such corporation except,—

- (a) in any case where the appropriate Minister is the Minister of Planning, with the prior approval of the appropriate Minister given with the concurrence of the Minister of Finance; or
- (b) in any case where the appropriate Minister is not the Minister of Planning, with the prior approval of the appropriate Minister given with the concurrence of both the Minister of Planning and the Minister of Finance.

(3) The budget of a public corporation shall give projections of revenue and expenditure both recurrent and capital, financial resources, investments of funds, cash resources and other relevant information. Such budget shall show a budgeted profit and loss account or income and expenditure account for each financial year and a projected balance sheet showing the position at the end of that year. The form and manner in which the budget shall be prepared, and the minimum information that the budget shall contain, shall be as determined in any case where—

- (a) the appropriate Minister is the Minister of Finance, by the appropriate Minister; or
- (b) the appropriate Minister is not the Minister of Finance, by the appropriate Minister with the concurrence of the Minister of Finance.

(4) A public corporation shall forward copies of its budget to the Ministry of the appropriate Minister, the Ministry of Finance and the Ministry of Planning immediately after the budget has been approved by the governing body of the corporation.

9. (1) The revenue of a public corporation in any year shall consist of moneys received and accrued in the exercise, performance or discharge of its powers, duties or functions in respect of—

- (a) the sale of its products and services;
- (b) any subsidies received in terms of section 17; and

Revenue and determination of net surplus and net deficit.

(c) other sundry income including profit from the sale of capital assets.

(2) For the purpose of determining the net surplus or net deficit in any year of a public corporation, the following charges shall be set off against its revenue :—

(a) the working, establishment and other expenses of the corporation whether paid or accrued in connection with the exercise, performance and discharge of its powers, duties and functions, properly chargeable to revenue account;

(b) allocations to cover the depreciation of the movable and immovable property of the corporation, based on historical cost;

(c) the interest on any loans obtained by the corporation;

(d) any losses incurred in the sale of capital assets;

(e) income tax or any other tax which the corporation is required to pay under any written law; and

(f) payment to the Consolidated Fund of a return on the capital grants of the Government at such rate, or payment to the Consolidated Fund of such amount, as may be determined, from time to time, by the Minister of Finance.

Appropriation
of net surplus
revenue of
a public
corporation.

10. (1) Subject to the provisions of sub-section (3), the net surplus for any year, if any, out of the revenue of a public corporation after defraying the charges mentioned in section 9 may be appropriated by the corporation for all or any of the purposes to which the provisions of this sub-section apply.

(2) The provisions of sub-section (1) shall apply to the following purposes :—

(a) writing off the whole or any part of any accumulated losses brought forward;

(b) writing off the whole or any part of the preliminary expenses incurred in the formation of the corporation;

- (c) writing off the whole or any part of any unproductive expenditure or loss not properly chargeable to revenue account;
- (d) transfers to a loan redemption reserve which the corporation is hereby authorized to establish and maintain; and
- (e) transfers to other reserves.

(3) No appropriation shall be made by a public corporation under the preceding provisions of this section except,—

- (a) in any case where the appropriate Minister is the Minister of Finance, with the approval of the appropriate Minister so, however, that, if the purpose for which such appropriation is to be made is the purpose mentioned in paragraph (e) of sub-section (2), no such approval shall be given without the concurrence of the Minister of Planning; or
- (b) in any case where the appropriate Minister is not the Minister of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister of Finance so, however, that, if the purpose for which the appropriation is to be made is the purpose mentioned in paragraph (e) of sub-section (2), no such approval shall be given without the concurrence also of the Minister of Planning.

(4) No debits against or transfers out of any of the reserves mentioned in paragraphs (d) and (e) of sub-section (2) shall be made by a public corporation except,—

- (a) in any case where the appropriate Minister is the Minister of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister of Planning; or
- (b) in any case where the appropriate Minister is not the Minister of Finance, with the approval of the appropriate Minister given with the concurrence of both the Minister of Finance and the Minister of Planning.

(5) All sums remaining out of the net surplus revenue of a public corporation in any year after the appropriations mentioned in sub-section (1) have been made shall be paid to the Consolidated Fund.

Investment of moneys of a public corporation.

11. No moneys of a public corporation shall be invested except,—

(a) in any case where the appropriate Minister is the Minister of Finance, with the approval of the appropriate Minister; or

(b) in any case where the appropriate Minister is not the Minister of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister of Finance:

Provided, however, that any temporary surpluses of cash of a public corporation shall be deposited by the corporation in the General Treasury, and shall be refundable on demand made by the corporation.

Accounts of a public corporation.

12. A public corporation shall cause proper accounts of the income and expenditure, assets and liabilities and of all other transactions of the corporation to be kept. A public corporation shall prepare an annual statement of accounts and statistics relating to the activities of the corporation in such form and containing such particulars as,—

(a) in any case where the appropriate Minister is the Minister of Finance, the appropriate Minister may from time to time specify; or

(b) in any case where the appropriate Minister is not the Minister of Finance, the appropriate Minister may from time to time specify with the concurrence of the Minister of Finance.

Rendering of accounts and audit.

13. (1) The Auditor-General shall be the auditor for every public corporation. For the purpose of assisting him in the audit, the Auditor-General may, if he thinks it necessary to do so, employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in the audit of the accounts of a public corporation, the Auditor-General shall be paid by the corporation such remuneration as the appropriate Minister may, with the concurrence of the Minister of Finance, determine. Any remuneration received from

the corporation by the Auditor-General shall, after deduction of any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General shall inspect the accounts, the finances, the management of the finances and the property of a public corporation. The Auditor-General shall as far as possible, and as far as necessary, examine—

- (a) whether the organization, 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 corporation, and whether such systems, procedures, books, records and other documents are in effective operation;
- (b) whether the conduct of the corporation has been in accordance with the law, rules and regulations relevant to the corporation and whether there has been fairness in the administration of the corporation;
- (c) whether there has been economy and efficiency in the commitment of funds and utilization of such funds;
- (d) whether systems of keeping moneys and the safeguarding of property are satisfactory;
- (e) whether the accounts audited have been so designed as to present a true and fair view of the affairs of the corporation in respect of the period under consideration due regard being had to principles of accountancy, financing and valuation; and
- (f) any such other matters as he may deem necessary.

(4) The Auditor-General shall at his discretion determine the nature and extent of the audit that shall be carried out in any particular period in respect of any particular public corporation, and may at his discretion dispense with the audit of any particular aspect or aspects relevant to a particular public corporation in the period under review.

(5) The Auditor-General shall have—

- (a) the right of access to any books, records, documents and any type of information which is directly or indirectly related to the activities of a public corporation under audit as he deems necessary;
- (b) the right to call for such information, documents, explanations, reports or other material at any time as in his opinion are necessary for the purposes of the audit;
- (c) the right to summon any person for examination, and for the production of any documents where such examination or production is considered necessary for the purposes of the audit;
- (d) the right to require the corporation to settle its minimum internal audit programmes by agreement with the Auditor-General, and the right to give any directions to the corporation with regard to the conduct of the minimum internal audit programmes and the manner of reporting by the internal audit.

The corporation or any person shall comply with any request made by the Auditor-General in the exercise of his above-mentioned rights.

(6) The accounts of a public corporation for each financial year shall be submitted to the Auditor-General for audit within four months after the close of that year along with any report on the accounts which the Auditor-General may require to be submitted in the manner specified by him. Any such corporation which contravenes or fails to comply with the preceding provisions of this sub-section shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.

(7) (a) The Auditor-General shall submit a report to the Chairman of each public corporation within eight months after the close of the financial year to which the report relates dealing with the results of the audit including a report on the accounts examined in the year. Copies of such report shall be forwarded by him where—

- (i) the appropriate Minister is the Minister of Finance, to the appropriate Minister; or

(ii) the appropriate Minister is not the Minister of Finance, to both the appropriate Minister and the Minister of Finance.

(b) The Auditor-General may, if he thinks it necessary to do so, also submit to the Chairman of each public corporation interim reports at any time dealing with matters arising from the audit.

(c) The Auditor-General shall, within ten months after the close of the financial year, submit a report to the House of Representatives on the results of the audit carried out in respect of each public corporation drawing attention to matters which in his opinion would be of interest to the House of Representatives.

(8) The reports referred to in paragraphs (a) and (b) of sub-section (7) shall be considered by the governing body of a public corporation and after such consideration that body shall inform the Auditor-General of the steps that they propose to take with regard to the matters pointed out in the audit reports within three months of the submission of the reports to the corporation.

(9) For the purposes of this section, the expression "qualified auditor" means—

(a) an individual who, being a member of the Institute of Chartered Accountants of Ceylon, possesses a certificate to practise as an Accountant, issued by the Council of that Institute; or

(b) a firm of Chartered Accountants each of the partners of which being a member of that Institute, possesses a certificate to practise as an Accountant issued by the Council of that Institute;

and includes—

(i) a person, not being an employee of the public corporation under audit or directly or indirectly associated with the direction and management of the affairs of such corporation, who may be engaged by the Auditor-General to assist him in the examination of any technical, professional or scientific problem relevant to the audit; or

- (ii) any technical or professional or scientific institution, not being an institution which has any interest in the management and affairs of such corporation, whose services the Auditor-General may obtain to assist him in the examination of any technical, professional or scientific problem relevant to the audit.

(10) Where a public corporation is guilty of an offence under this Act by reason of a contravention of the provisions of sub-section (6), every member of the governing body of that corporation shall be deemed to be guilty of that offence:

Provided, however, that a member of the governing body of such corporation shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Accounts and reports to be laid before the House of Representatives.

14. (1) A public corporation shall, immediately after the end of each financial year of the corporation, prepare a draft annual report on the exercise, discharge and performance by the corporation of its powers, functions and duties during that year and of its policy and programme. Such report shall set out any directions given by the appropriate Minister to the corporation during the year. Copies of such report shall, within four months after the end of that year, be submitted to the appropriate Minister and to the Minister of Finance (if he is not the appropriate Minister), the Minister of Planning and the Auditor-General.

(2) A public corporation shall, on receipt of the audited accounts in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the appropriate Minister:—

- (a) the audited balance sheet;
- (b) the audited operating and profit and loss accounts;
- (c) any comments or observations made by the Auditor-General which the Auditor-General considers should be published with the annual report of the corporation;
- (d) the statement of accounts and statistics prepared under section 12; and

(b) the annual report of the corporation referred to in sub-section (1) in its final form.

(3) The appropriate Minister shall lay copies of the documents transmitted to him under sub-section (2) before the House of Representatives before the end of ten months following the year to which such report and accounts relate.

(4) A public corporation shall cause copies of the documents referred to in sub-section (2) to be printed at the expense of the corporation and to be made available for purchase by the public at such price as shall be determined by the corporation.

15. The appropriate Minister may direct the governing body of a public corporation to give effect to such recommendations made by the Public Accounts Committee in its reports to the House of Representatives relating to the corporation as may be determined by the Minister.

Recommendations of the Public Accounts Committee.

16. (1) The governing body of a public corporation may, subject to the provisions of sub-sections (2), (3) and (4), borrow by way of overdraft or otherwise or negotiate and obtain on credit terms in Ceylon or abroad, such sums as that body may require for meeting the obligations of the corporation or carrying out its objects.

Borrowing powers of a public corporation.

(2) The governing body of a public corporation shall not exercise the borrowing powers conferred on it by sub-section (1), except,—

(a) in any case where the appropriate Minister is the Minister of Finance, with the concurrence of the appropriate Minister, or in accordance with the terms of any general authority given with the concurrence of the appropriate Minister; or

(b) in any case where the appropriate Minister is not the Minister of Finance, with the concurrence of both the appropriate Minister and the Minister of Finance, or in terms of a general authority given with like concurrence.

(3) The aggregate of the amounts outstanding in respect of any borrowings by the governing body of a public corporation under the preceding provisions of this section shall not at any time exceed,—

- (a) in any case where the appropriate Minister is the Minister of Finance, such sum as may be determined by him; or
- (b) in any case where the appropriate Minister is not the Minister of Finance, such sum as may be determined by the appropriate Minister with the concurrence of the Minister of Finance.

(4) Where any liability in respect of foreign exchange will be incurred if the governing body of a public corporation exercises the borrowing powers conferred on it by sub-section (1), then, such body shall not exercise such powers without the prior concurrence of the Minister of Planning.

Subsidies
from the
Government.

17. (1) A public corporation may be entitled to claim a subsidy from the Government for any year if as a result of any decision of the Government or of any directions issued by the appropriate Minister the governing body of the corporation is prevented from determining during any particular period a pricing policy for the corporation to meet the financial obligations referred to in section 7. Such subsidy shall not in any case exceed an amount which, when added to the revenue for that year, shall enable the corporation to meet the said financial obligations.

(2) Every claim for a subsidy by a public corporation in terms of the preceding provisions of this section shall, not later than a period of three months after the end of the year to which the subsidy relates, be referred,—

- (a) in any case where the appropriate Minister is the Minister of Finance, for decision to the appropriate Minister; or
- (b) in any case where the appropriate Minister is not the Minister of Finance, for decision to the Minister of Finance through the appropriate Minister who shall make his recommendations on such claim.

(3) The Minister of Finance shall decide on the subsidy to be paid to a public corporation and the manner of such payment.

18. The capital contributed to a public corporation by the Government by way of grants shall not be reduced except on the authority of a resolution introduced in the House of Representatives by the appropriate Minister and passed by that House.

Reduction of capital of a public corporation.

19. Where the appropriate Minister considers that the activities of a public corporation should be terminated, the Minister may, under the authority of a resolution passed by the House of Representatives—

Dissolution of a public corporation.

(a) dissolve the corporation; and

(b) appoint one or more persons to be the liquidator or liquidators of the corporation.

20. The liquidator of a public corporation appointed under section 19 shall, subject to the directions of the appropriate Minister, have power to—

Liquidator's powers.

(a) decide any questions of priority which arise between the creditors;

(b) compromise any claim by or against the corporation with the sanction of the Minister previously obtained;

(c) take possession of the books, documents and assets of the corporation;

(d) sell the property of the corporation with the previous sanction of the Minister; and

(e) arrange for the distribution of the assets of the corporation in a manner set out in a scheme of distribution approved by the Minister.

21. (1) In the liquidation of a public corporation, the funds of the corporation shall be applied first to the cost of liquidation and then to the discharge of the liabilities of the corporation.

Closure of liquidation.

(2) When the liquidation of a public corporation has been closed, a notice of liquidation shall be published in the *Gazette* and no action in respect of any claim against the corporation shall be maintainable, unless it is commenced within two years from the date of the publication of such notice in the *Gazette*.

(3) Any surplus remaining after the application of funds to the purposes specified in sub-section (1) and the payment of any claim for which an action has been instituted under sub-section (2) shall be vested in the Secretary to the Treasury.

Interpretation.

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

“appropriate Minister”, in any context relating to a public corporation or any object or function of the corporation, means the Minister to whom the subject of the corporation, or of that object or function, as the case may be, has been assigned by the Prime Minister;

“Auditor-General” means the Auditor-General, and includes any member of his staff acting under his authority;

“governing body”, in relation to a public corporation, means the board of directors, or other body of persons by whatsoever name or designation called, charged with the management or administration of the affairs of the corporation;

“public corporation” means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form.

PART III

FINANCIAL YEAR OF THE GOVERNMENT AND OF PUBLIC INSTITUTIONS

Financial year of Government and of public institutions.

23. (1) Notwithstanding anything to the contrary in any other written law, with effect from January 1, 1972, the financial year of the Government and of every public institution shall be the period of twelve months commencing on the first day of January of each year:

Provided, however, that where the accounting period for the previous year ends on or after September 30, 1971, the first set of accounts in terms of sub-section (1) shall relate to the period commencing from such date and ending on December 31, 1972.

(2) Where the accounting period of a public institution for the previous year ends on a date prior to September 30, 1971, such public institution shall prepare a separate set of accounts for the period commencing from such date and ending on December 31, 1971.

24. In this Part of this Act, unless the context otherwise requires, "public institution" means any corporation, board or other body established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form.

Interpretation.

PART IV

ESTABLISHMENT OF SPECIAL FUNDS TO RECEIVE VOLUNTARY CONTRIBUTIONS IN MONEY MADE TO THE GOVERNMENT FOR CHARITABLE PURPOSES

25. (1) Any voluntary contribution made to the Government for any specified charitable purpose may be held in deposit in one or more accounts in the General Treasury, or in any such Kachcheri in the Island as may be determined by the Minister of Finance.

Establishment of special deposit accounts to receive voluntary contributions in money made to the Government for specified charitable purposes.

(2) The expression "charitable purpose" in subsection (1) means—

- (a) the relief of poverty or distress;
- (b) medical relief;
- (c) the advancement of education or knowledge; or
- (d) any other purpose beneficial to the public or any section of the public.

26. Payments may be made from any deposit account established under section 25 by the Deputy Secretary to the Treasury, or by an officer authorized by such Deputy Secretary in that behalf, subject to the general directions and control of the Minister of Finance.

Payments from deposit accounts.

PART V

AMENDMENTS TO THE MOTOR TRAFFIC ACT

Date of
operation of
section 28.

27. The provisions of section 28 shall come into operation on such date as the Minister of Finance may, in consultation with the Minister to whom the subject of communications has been assigned by the Prime Minister, appoint by Order published in the *Gazette*.

Amendment of
section 240 of
the Motor
Traffic Act.
(Cap. 203)

28. Section 240 of the Motor Traffic Act is hereby amended as follows:—

(1) by the substitution, for the definition of "motor vehicle", of the following new definition:—

"motor vehicle" means—

(a) any mechanically propelled vehicle including a tractor, or trailer which is intended or adapted for use on roads and which is duly authorized in that behalf by the Registrar of Motor Vehicles, but does not include a road-roller; or

(b) any mechanically propelled vehicle intended for use on land in connection with an agricultural or constructional purpose such as levelling, dredging, earth-moving, forestry or any similar operation and authorized in that behalf by the Registrar of Motor Vehicles, but does not include a road-roller; and

(2) by the deletion of the definition of "land vehicle".

Levy of
penalty of ten
per centum for
failure to pay
licence fees on
due date.

29. Notwithstanding any of the provisions of the Motor Traffic Act, there shall be levied and collected a penalty amounting to ten *per centum* of the amount of any licence fee due under any regulation made under that Act if payment of such licence fee is not made in full on or before the date on which such fee falls due for payment in terms of such regulation.

PART VI

AMENDMENTS TO THE FOREIGN EXCHANGE AMNESTY
ACT, No. 1 OF 1971

30. The Foreign Exchange Amnesty Act, No. 1 of 1971, is hereby amended—

Amendments to
Act No. 1 of
1971.

- (a) in sub-section (1) of section 2 of that Act, by the substitution, for the expression “any person resident in Ceylon”, of the expression “any person”;
- (b) in sub-section (1) of section 3 of that Act, by the substitution, for the expression “March 31, 1971,”, of the expression “July 31, 1971,”;
- (c) in section 7 of that Act, by the substitution, for the expression “March 31, 1971,”, of the expression “July 31, 1971,”; and
- (d) in the long title to that Act—
 - (i) by the substitution, for the expression “by persons resident in Ceylon”, of the expression “by persons”; and
 - (ii) by the substitution, for the expression “March 31, 1971,”, of the expression “July 31, 1971,”.

31. The amendments made to the Foreign Exchange Amnesty Act, No. 1 of 1971, by section 30 of this Act shall be deemed, for all purposes, to have come into force on the date on which that Act came into operation.

Retrospective
effect of
amendments.