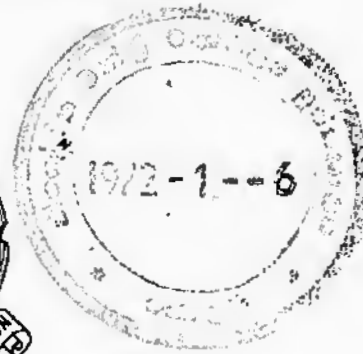


PARLIAMENT OF CEYLON

2nd Session 1971-72



Capital Levy Act, No. 51 of 1971

Date of Assent : November 24, 1971

Printed on the Orders of Government

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Capital Levy Act, No. 51 of 1971

L. D.—O. 74/71.

AN ACT TO PROVIDE FOR THE IMPOSITION OF A LEVY ON CAPITAL AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: November 24, 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 Capital Levy Act, No. 51 of 1971. Short title.

PART I

PERSONS TO WHOM THIS ACT SHALL NOT APPLY

2. This Act shall not apply to—

- (a) any person specified in section 28 of the principal Act;
- (b) the Government of any foreign country;
- (c) the Institute of Chartered Accountants of Ceylon established under the Institute of Chartered Accountants Act, No. 23 of 1959;
- (d) any company other than a non-resident company having capital in Ceylon;
- (e) any charitable institution within the meaning of section 129 of the principal Act;
- (f) any provident, building, savings or thrift society or fund; and
- (g) any other person who may be exempted from the provisions of this Act by Order made by the Minister of Finance, approved by the House of Representatives and published in the *Gazette*.

Persons to whom this Act shall not apply.

PART II

IMPOSITION OF CAPITAL LEVY

3. (1) Subject to the other provisions of this Act, there shall be imposed—

- (a) on every person (including a Hindu undivided family but not including a non-resident company having capital in Ceylon) in respect

Imposition of capital levy.

of his leviable capital on March 31, 1971, a levy at the rates specified in the Schedule to this Act, and

- (b) on every person, being a non-resident company having capital in Ceylon, a levy at the rate of 5 *per centum* of the leviable capital of that company on March 31, 1971.

(2) A levy imposed on any person under sub-section (1) is hereafter in this Act referred to as the "capital levy".

(3) For the purposes of this Act, where an individual has a wife or any child or dependent relative on March 31, 1971, they shall constitute a family and such individual shall be the head of that family.

4. (1) There shall be included in the capital of a person—

(a) the value of a life interest he has in any property;

(b) being the only beneficiary under a trust, the property subject to the trust;

(c) being one of several beneficiaries under a trust the benefits from which to the beneficiaries can be ascertained, such part of the property subject to the trust as is proportionate to the share of the benefit from the trust;

(d) being the trustee of a trust the benefits from which to all or any of the beneficiaries under the trust cannot be ascertained, the property subject to the trust;

(e) being a partner in a firm, the value of his interest in the firm determined in the prescribed manner;

(f) his approved savings within the meaning of section 69A of the principal Act;

(g) his share in the capital of any corporation or undertaking the profits and income of which are exempt from income tax under section 6 of the principal Act;

Capital to include certain property.

(h) his investments in the securities of the Government of Ceylon and his other investments whether he is entitled or not on account of his other investments to any allowance in arriving at his taxable income for the purposes of the principal Act or to any relief under that Act from income tax; and

(i) motor vehicles of which he is the possessor or where he is the head of a family, motor vehicles of which he or any member of his family is the possessor.

(2) Where the estate of a person whose death occurred prior to April 1, 1971, is administered by an executor, then, for the purposes of sub-section (1), the executor shall be deemed to be the trustee of the estate and every heir to the whole or any part of the estate shall be deemed to be a beneficiary and the estate shall be deemed to be the property subject to the trust.

5. (1) There shall be excluded from the capital of a person—

Certain
property to be
excluded
from
capital.

(a) his immovable property which is outside Ceylon;

(b) being a person not resident in Ceylon on March 31, 1971, his movable property which is outside Ceylon;

(c) being a person who is resident in Ceylon on March 31, 1971, but who is not a citizen of Ceylon, his movable property which is outside Ceylon;

(d) being a member of a Hindu undivided family, his interest in the coparcenary property of such family;

(e) any household effects or other articles (not including jewellery) of personal use of which he is the owner;

(f) any such interest in any property as is available to him for a period not exceeding six years;

- (g) the rights under any patent, copyright, trade mark or registered design belonging to him unless those rights are held by him as assets of a business, profession or vocation;
- (h) his right or interest in any life insurance policy before moneys covered by that policy become due and payable to him;
- (i) his right to receive a pension or other life annuity;
- (j) any tools and instruments necessary for him to carry on his profession or vocation, subject to a maximum of twenty thousand rupees in value;
- (k) any instruments and other apparatus used by him for purposes of scientific research;
- (l) any works of art, archaeological, scientific or art collections, books or manuscripts belonging to him and not intended for sale;
- (m) any drawings, paintings, photographs and prints belonging to him and not intended for sale;
- (n) any heirlooms belonging to him and not intended for sale, but not including jewellery;
- (o) any jewellery belonging to him or, if he is the head of a family, any jewellery belonging to him and the members of his family, subject to a maximum of twenty-five thousand rupees in value;
- (p) being an employee, the amount to his credit in any provident fund;
- (q) any property of which he is the owner but the life interest in which subsists in any other person;
- (r) any sum due from him by way of income tax or wealth tax in respect of any year of assessment ending not later than March 31, 1972, or by way of estate duty in respect of the estate or any part of the estate of a deceased

person which has passed to him and which is included in his capital for the purposes of this Act;

- (s) any sum due from him by way of gifts tax in respect of any gift made by him at any time on or before September 30, 1971;
- (t) being an heir to the estate of any person who dies on or after April 1, 1971, but before the date of commencement of this Act, the amount of the estate duty paid or payable by him in respect of such part of the estate of the deceased as is deemed under section 9 to have devolved on him on March 31, 1971, or being the executor of the estate of any such person, the amount of the estate duty paid or payable by him;
- (u) motor cycles belonging to him and kept for his personal use or, if he is the head of a family, motor cycles belonging to him and kept for his personal use or belonging to any member of his family and kept for the personal use of that member;
- (v) any motor car which is kept for his personal use or if he is the head of a family, any motor car which is kept for his personal use or for the personal use of any member of his family and of which he or that member of his family became the owner or possessor prior to April 1, 1968, and any motor car which is kept for the personal use of any member of his family who is a child in receipt of occupational income and of which that member of his family became the owner or possessor on or after April 1, 1968;
- (w) a sum of twenty-five thousand rupees out of the total value of the motor cars which are kept for his personal use and of which he became the owner or possessor on or after April 1, 1968, or if he is the head of a family, a sum of twenty-five thousand rupees out of the total value of the motor cars which are kept for his personal use or the personal use of the members of his family (not being children in receipt of occupational income) and of which he or those members became the owners or possessors on or after April 1, 1968;

Provided that where the total value of such motor cars is less than twenty-five thousand rupees, such total value and not a sum of twenty-five thousand rupees shall be deducted from the capital of that person;

- (x) any immovable property in which he has a contingent interest or the life interest in which subsists in any other person.

For the purposes of paragraphs (v) and (w), "occupational income" shall have the meaning assigned to that expression in section 129 of the principal Act.

(2) Where any sum or amount which is payable by any person by way of income tax, wealth tax, gifts tax or estate duty and which is excluded under subsection (1) from the capital of that person has not been assessed, an Assessor may determine a sum or amount which appears to him to be a reasonable estimate of such income tax, wealth tax, gifts tax or estate duty, as the case may be, and the sum or amount so determined shall be excluded from the capital of that person.

Leviable
capital of
the head of a
family.

8. (1) Where any person is the head of a family, the capital of each individual who is a member of that family shall, for the purposes of this Act, be deemed to form part of the capital of the head of that family and accordingly the values of the net capital of all such members shall be aggregated with the net capital of the head of that family and where the aggregated net capital of the head of that family—

- (a) includes any premises occupied wholly or mainly for residential purposes on March 31, 1971, and is in excess of two hundred and fifty thousand rupees, or
- (b) does not include any such premises and is in excess of two hundred thousand rupees,

such part of the aggregated net capital of the head of that family as exceeds two hundred and fifty thousand rupees or two hundred thousand rupees, as the case may be, shall be the leviable capital of the head of that family and the head of that family shall be liable to the capital levy in respect of such leviable capital.

(2) Where the debts of an individual included in a family exceeds his capital, then the excess shall be set off against the aggregated net capital of the head of that family.

For the purposes of this sub-section, debts shall not include any debts specified in any one of the sub-paragraphs (i), (ii), (iii), (iv) and (v) of paragraph (a) of the definition of "net capital" in section 83.

7. Where the net capital of any person who is not included in a family—

Leviable capital of person who is not included in a family.

(a) includes any premises occupied wholly or mainly for residential purposes on March 31, 1971, and is in excess of two hundred and fifty thousand rupees, or

(b) does not include any premises occupied wholly or mainly for residential purposes on March 31, 1971, and is in excess of two hundred thousand rupees,

such part of his net capital as exceeds two hundred and fifty thousand rupees or two hundred thousand rupees, as the case may be, shall be his leviable capital and he shall be liable to pay the capital levy in respect of such leviable capital.

8. Such part of the net capital in Ceylon of a non-resident company as exceeds one million rupees shall be the leviable capital of that company and that company shall be liable to pay the capital levy in respect of such leviable capital.

Leviable capital of non-resident company.

9. (1) Where any person on or after April 1, 1971, but not later than September 30, 1971, makes a gift of property to any other person, such gift shall, for the purposes of this Act, be deemed to have been made on March 31, 1971, and accordingly such property shall be deemed to have formed part of the capital of such other person on the latter date.

Special provisions applicable to gifts made on or after April 1, 1971, but on or before September 30, 1971, and to the estates of persons dying on or after April 1, 1971, but before date of commencement of this Act.

(2) Where the death of any person who, if he were alive on the date of commencement of this Act, would be chargeable with capital levy, occurs on or after April 1, 1971, but before the date of commencement of this Act, any part of the estate of the deceased person to which an heir is entitled shall, for the purposes of this Act, be deemed to have devolved on such heir on March 31, 1971, and accordingly such part of the estate shall be deemed to have formed part of the capital of that heir on the latter date:

Provided, however, that where every heir of the deceased person is chargeable with capital levy, the executor of the deceased person may give notice in writing to the Commissioner within six months after the date of commencement of this Act, requiring that the capital levy be imposed on the capital of the estate and where such notice is given then notwithstanding anything to the contrary in the preceding provisions of this sub-section, the executor shall be chargeable with, and be liable to pay, the capital levy on the capital of the deceased person and there shall be excluded from the capital of every heir such part of the estate as is deemed to have devolved on him on March 31, 1971.

Value of
property
which
constitutes
capital.

10. (1) Subject to the other provisions of this section, the value for the purposes of this Act of any immovable or movable property forming part of the capital of any person shall be the market value of that property on the valuation date:

Provided that where the movable property consists of shares (not being preference shares) in any company which by its articles restricts the right to transfer its shares, or which is a company in which more than half the shares issued is held by five persons, their wives or minor children, either directly or through nominees, and the Commissioner is satisfied that the shares have not, within the period of twelve months preceding the valuation date, been quoted in the official list of a recognized stock exchange in the United Kingdom or in a list of a like nature issued in Ceylon by any association of brokers approved by the Secretary to the Treasury for the purposes of this proviso, the value of such shares shall, if the Commissioner so directs, be ascertained not in the manner provided by the preceding provisions of this sub-section but by reference to the market value of all the assets of the company as a going concern, excluding goodwill, on the valuation date, after deducting therefrom—

- (i) the par or redemption value, whichever is greater, of any debentures, debenture stocks and preference shares of the company;
- (ii) all debts of the company incurred or created *bona fide* for consideration in money or money's worth;

- (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount; and
- (iv) the amount of any reserve fund separately invested which is *bona fide* intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependants or relatives and in no other manner.

(2) Where any person by whom the capital levy is payable is carrying on a business for which accounts are maintained by him regularly, the Commissioner may, instead of determining separately the value of each property held by such person in such business, determine the net value as a whole of the properties held by such person in such business.

For the purposes of this sub-section no account shall be taken of the goodwill of that business.

(3) Where for the purposes of this section the market value of any property cannot be ascertained because such property is not saleable in the open market, the value of such property shall be determined in the prescribed manner.

11. (1) Subject to the provisions of sub-section (2) and sub-section (3), for the purposes of this Act, the valuation date—

Date of valuation.

(a) in respect of an immovable property of any person—

(i) which was owned by him on March 31, 1971, and was acquired by him on or before March 31, 1970, shall be March 31, 1970, and

(ii) which was owned by him on March 31, 1971, and was acquired on or after April 1, 1970, shall be March 31, 1971; and

(b) in respect of a movable property of any person—

(i) which consists of shares, shall be March 31, 1970, if such property was acquired on or before that date and was owned by him on March 31, 1971, or March 31, 1971, if such property was acquired on or after April 1, 1970; and

(ii) which does not consist of shares, shall be March 31, 1971.

(2) Where any person dies on or after April 1, 1971, but before the date of the commencement of this Act, then, for the purposes of this Act, the valuation date in respect of his property, whether movable or immovable, shall be the date of his death.

(3) Where on March 31, 1971, the value of any immovable property forming part of the capital of any person and acquired by him on or before March 31, 1970,—

(a) is more than the value of that property on the latter date by reason of any improvements, additions or alterations made to that property, or

(b) is less than the value of that property on the latter date by reason of any damage caused to that property or the destruction or demolition of any building on that property, the amount by which the value has so increased or decreased shall be added to or subtracted from its value on March 31, 1970.

(4) For the purposes of sub-section (3) the burden of proving that the value of any immovable property has decreased after March 31, 1970, shall be on the person who asserts it.

12. (1) Any husband or wife may give notice in writing to the Commissioner within three months after the date of commencement of this Act or before an assessment of the capital levy is made requiring that capital levy shall be assessed, imposed and recovered separately on the leviable capital of the husband and on the leviable capital of the wife as if they were not married; and all the provisions of this Act shall thereupon apply to each of them accordingly:

Separate
assessment
of husband
and wife.

Provided that, in the case of a person who is not resident in Ceylon immediately prior to his arrival therein, a notice given within the period of twelve months next succeeding his arrival in Ceylon shall be effective for the purposes of this sub-section.

(2) Where the capital levy is assessed separately on the net capital of the husband and on the net capital of the wife as a result of a notice given under sub-section (1), the value of the net capital of the husband and the value of the net capital of the wife and the value of the net capital of any individual

who, according to the returns of net capital furnished by the husband and the wife, is a child or dependent relative of either or both of those spouses shall be aggregated and the capital levy that would be payable by the husband if such notice had not been given shall be ascertained in accordance with the provisions of this Act. The amount of the capital levy so ascertained shall be apportioned among the husband and the wife in the proportion which the value of the net capital of each of them bears to the value of the aggregate net capital of both of them.

PART III

RETURNS AND ASSESSMENTS

13. (1) It shall be the duty of every person chargeable, either singly or as a head of a family, with capital levy, if under this Act he has not been required by an Assessor to make a return of capital, to give notice in writing to the Commissioner within a period of three months after the date of commencement of this Act that he is so chargeable.

Duty of persons chargeable with capital levy to furnish returns if not required to do so by an Assessor.

(2) A notice under sub-section (1) shall specify—

- (a) the full name and address of the person giving the notice;
- (b) the particulars relating to his property and if he has a wife, child or dependent relative, particulars relating to the property of such wife, child or dependent relative; and
- (c) any reference to a file number of the Department of Inland Revenue in any previous correspondence between that Department and him on any matter relating to income tax, gifts tax or wealth tax.

14. (1) The provisions of section 82 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act, and—

Returns and information to be furnished.

(a) as if, for sub-section (1) of that section, there were substituted the following sub-section:—

“(1) An Assessor may give notice in writing to any person requiring him to furnish within the time specified in such notice a return of his capital and, if he has a wife, child or dependent relative,

the capital of such wife, child or dependent relative, containing such particulars and in such form as may be prescribed.”;

(b) as if in sub-section (2), for the words “assessment of the income tax, wealth tax or gifts tax payable”, there were substituted the words “assessment of the capital levy payable”; and

(c) as if in sub-section (3)—

(i) for the words “person’s income, wealth, expenditure or gifts”, there were substituted the words “person’s capital”, and

(ii) for the words “regarding his income, wealth, expenditure or gifts”, occurring in paragraph (b) of that sub-section, there were substituted the words “regarding his capital”.

(2) An Assessor may give notice in writing to any executor or trustee requiring him to furnish within the time specified in the notice—

(a) in the case of an executor, a return of the capital of the estate administered by him, the names and addresses of the heirs to the estate and such information relating to the properties devolving on the heirs as may be specified in the notice, and

(b) in the case of a trustee, a return of the capital of the trust, the names and addresses of the beneficiaries and the benefits to which they are entitled.

Information to be furnished by officials.

15. The provisions of sub-section (1) of section 83 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act.

Who may act for incapacitated or non-resident person.

16. The provisions of section 87 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act.

Precedent partner to act on behalf of a partnership.

17. The provisions of section 89 of the principal Act shall apply as if such provisions were provisions of this Act and refer to this Act and not to the principal Act and as if the words and figures “or

are persons in receipt of money, value or profits to whom section 84 applies, " occurring in sub-section (1) of the said section 89, were omitted.

18. The provisions of section 90 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act.

Principal officer to act on behalf of a company or body of persons.

19. The provisions of section 91 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act and as if the reference in that section to any other section of the principal Act were a reference to that other section applied as if they were provisions of this Act in the manner indicated in this Act.

Signature and service of notice.

20. (1) Where any person fails to comply with the notice in writing given to him by an Assessor requiring such person to furnish a return under the provisions of section 82 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 14 of this Act, the Commissioner may in writing order such person—

Power of Commissioner to impose penalty for failure to furnish return.

- (a) to pay, as a penalty for failure to comply with the requirements of such notice, a sum not exceeding two hundred and fifty rupees, and
- (b) to furnish such return within a specified period.

(2) Where a penalty is imposed on a person under sub-section (1), he shall not be liable to a prosecution for an offence under paragraph (a) of section 63 (1) in respect of his failure to comply with the requirements of the notice.

21. (1) Every person who, in the opinion of an Assessor, is chargeable with capital levy shall be assessed by him as soon as may be after the expiration of the time specified in the notice requiring him to furnish a return of capital under the provisions of section 82 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 14 of this Act:

Assessor to make assessments.

Provided that the Assessor may assess any person before the expiration of the time specified in such notice if the Assessor is of the opinion that such person is about to leave Ceylon or that for any other reason it is expedient to do so.

(2) Where a person has furnished a return of capital, the Assessor may either—

- (a) accept the return and make an assessment accordingly; or
- (b) if he does not accept the return, estimate the amount of the leviable capital and assess him accordingly.

(3) Where a person has not furnished a return of capital, and the Assessor is of the opinion that such person is chargeable with capital levy, he may estimate the amount of the leviable capital and assess him accordingly, but such assessment shall not affect the liability of such person to a penalty by reason of his failure or neglect to deliver a return.

**Additional
assessments.**

22. Where it appears to an Assessor that a person chargeable with the capital levy has not been assessed or has been assessed at less than the proper amount, the Assessor may, on or before March 31, 1978, assess such person at the amount or additional amount at which according to the judgment of the Assessor such person ought to have been assessed, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the capital levy charged thereunder.

**Notice of
assessment.**

23. The provisions of section 95 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act, and not to the principal Act, and—

- (a) as if in sub-section (1) of that section, for the words "amount of income, wealth or gifts assessed and the amount of tax charged", there were substituted the words "amount of capital assessed and the amount of the capital levy charged"; and
- (b) as if in sub-section (2) of that section, for the words "amendment of the rate of tax it is necessary to vary the amount of tax charged", there were substituted the words "amendment of the rate of the capital levy it is necessary to vary the amount of the capital levy charged".

24. The provisions of section 96 of the principal Act shall apply as if such provisions were provisions of this Act and refer to this Act and not to the principal Act and as if in paragraph (a) of sub-section (2) of that section, for the words "the amount of income, wealth or gifts assessed, or the amount of tax charged;", there were substituted the words "the amount of capital assessed or the amount of the capital levy charged;".

Validity of assessments, &c.

25. Where an assessment of capital levy under this Act is made in respect of any person and such person has not paid the levy, he shall not, except with the written permission of the Commissioner, alienate to any other person—

Restriction on disposal of immovable property by any person in respect of whom an assessment is made.

- (a) any immovable property belonging to such person or to any member of his family, or
- (b) any rights in any immovable property belonging to such person or to any member of his family:

Provided that such person or any member of his family may, after notice to the Commissioner, alienate to the Crown any immovable property belonging to him or any rights in any immovable property belonging to him.

26. (1) Any person aggrieved by the amount of an assessment made under this Act or by the amount of any valuation for the purposes of this Act may, within thirty days after the date of the notice of such assessment, give to the Commissioner a written notice of objection:

Notice of objection in respect of an assessment.

Provided that the Commissioner, upon being satisfied that, owing to absence from Ceylon, sickness or other reasonable cause, such person was prevented from giving the notice of objection within such period, may grant an extension of time for giving such notice.

(2) Every notice of objection in respect of an assessment given under sub-section (1) by any person hereinafter referred to as the "objector" shall—

- (a) state precisely the grounds on which objection is made to the assessment by the objector,
- (b) if the objection is in respect of the valuation of any property, specify that property and set out the grounds on which such valuation is erroneous and the value that should be put on that property,

(c) if it relates to an assessment made in the absence of a return, be accompanied by a return duly made, and

(d) be signed by the objector or his authorized representative.

(3) Every notice of objection which does not conform to the provisions of sub-section (1) or sub-section (2) shall not be valid.

List of documents and witnesses

27. An objector shall, within a period of thirty days after the date on which he gives to the Commissioner a notice of objection under section 26, send to the Commissioner a list of the documents upon which, and the names and designations of the persons on whose evidence, the objector proposes to rely in support of his objections:

Provided that the Commissioner, upon being satisfied, that owing to absence from Ceylon, sickness or other reasonable cause, such person was prevented from sending such list within the aforesaid period of thirty days, may grant an extension of time for the furnishing of such list.

Power of Commissioner to obtain information necessary to make his determination on a notice of objection.

28. (1) Upon receipt of a valid notice of objection the Commissioner may direct an Assessor to obtain fuller and further information relating to any matter necessary or relevant for the making of a determination on the notice of objection. The Assessor, when so directed, may by notice given in writing to the objector—

(a) require him to produce or transmit for inspection by the Assessor any document specified in the list referred to in section 27;

(b) require him to furnish, on or before the date specified in the notice, information on the matters specified in the notice.

Within thirty days after the receipt of the information the Assessor shall report to the Commissioner whether any revision of the assessment is necessary.

(2) The Commissioner may by notice in writing given to the objector require the objector in person or by authorized representative to be present, together with such documents and witnesses as may be specified in that notice, on such date and at such time as may be specified in the notice to be heard

on such matters relating to the notice of objection as may be specified in the notice given under this sub-section.

(3) At the inquiry into the notice of objection, the objector shall not be allowed—

- (a) to produce any document which is not included in the list furnished under section 27 or to adduce the evidence of any witness whose name does not appear in that list, or
- (b) to raise any objection which is not specified in the notice of objection.

(4) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the matters set out in the notice of objection to attend before him and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

29. Where an objector fails to comply with the provisions of section 27 or with the requirements of any notice given to him under sub-section (1) of section 28, the Commissioner shall reject the notice of objection given by such objector.

Rejection
of a
notice of
objection.

30. (1) The Commissioner shall make his determination on every valid notice of objection which has not been rejected under section 29 and shall give written notice of his determination to the objector.

Determination
of Commissioner
on notice
of objection.

(2) The Commissioner by his determination on a notice of objection may confirm, reduce, increase or annul the assessment to which the notice of objection relates.

31. (1) Where no valid notice of objection or appeal has been lodged against an assessment made under this Act or where an assessment has been determined on objection or appeal, the assessment as made or determined on objection or appeal, as the case may be, shall be final and conclusive for all purposes of this Act.

Finality of
assessments.

(2) The determination of any matter on objection or appeal shall not prevent an Assessor from making an assessment or additional assessment which does not involve the re-opening of that matter.

PART IV

APPEALS

Appeal to
Board of
Adjudicators.

32. (1) Any person, or the authorized representative of any person, who is aggrieved by the refusal of the Commissioner to grant the permission referred to in section 25 or by his determination under section 30 on a notice of objection may, by petition addressed to the Board of Adjudicators, appeal from the order refusing such permission or from that determination, as the case may be. Every such petition shall—

(a) if it relates to the determination of the Commissioner, be accompanied by a copy of the determination,

(b) set out precisely the grounds of appeal, and

(c) be transmitted to the Chairman of the Panel of Adjudicators within thirty days after the date of the notice of the refusal or determination, as the case may be.

Such petition shall not include any ground of appeal not set out in the notice of objection.

(2) Notice of every appeal under this section shall be served on the Commissioner.

(3) Every petition of appeal transmitted to the Chairman of the Panel of Adjudicators shall, if it conforms to the provisions of sub-section (1), be referred by him to the Board of Adjudicators and the Board shall hear and determine the appeal in accordance with the provisions of this Act.

Commissioner
may refer
notice of
objection
to the
Board of
Adjudicators.

33. (1) Notwithstanding the provisions of section 30, where the Commissioner is of opinion that no useful purpose would be served by his determining a valid notice of objection, he may refer it to the Board of Adjudicators through the Chairman of the Panel of Adjudicators.

(2) Where a notice of objection is referred to the Board of Adjudicators under sub-section (1), such notice of objection shall, notwithstanding the provisions of section 32, be deemed to be an appeal made to the Board and the Board shall hear and determine such appeal in accordance with the provisions of this Act.

Finality of
the
decisions of
the Board.

34. Subject to the provisions of section 35, the decision of the Board on any appeal shall be final and conclusive.

35. (1) Where a party to an appeal to the Board is dissatisfied with the decision of the Board on that appeal, he may, by written petition in which the other party is mentioned as respondent, appeal to the Supreme Court against that decision on a question of law.

Appeals to the Supreme Court on questions of law.

(2) A petition under sub-section (1) against a decision of the Board shall—

- (a) be presented in triplicate to the Chairman of the Panel within thirty days after the date of the communication by which that decision was notified to the appellant;
- (b) set forth the decision of the Board and the question of law to be argued;
- (c) if presented by any person other than the Commissioner, bear a certificate by an Advocate or a Proctor that such question is fit for adjudication by the Supreme Court;
- (d) state the amount of the capital levy in dispute where such amount exceeds five thousand rupees; and
- (e) be accompanied by a fee of fifty rupees.

(3) Where a petition of appeal is presented to the Chairman of the Panel in the manner and within the time specified in sub-section (2), the Chairman shall—

- (a) transmit, or cause to be transmitted, to the Supreme Court a copy of the petition together with the record of the proceedings in which the decision appealed against was made,
- (b) issue, or cause to be issued, notice of the appeal to the respondent named in the petition of appeal together with a copy of that petition, and
- (c) file, or cause to be filed, of record a copy of that petition.

(4) For the purposes of the application of the provisions of the Stamp Ordinance—

- (a) all proceedings before the Supreme Court on an appeal under this section or incidental to the hearing, determination or disposal of such

appeal shall be deemed to be civil proceedings before the Supreme Court of the value of five thousand rupees, or of such greater amount as may be stated in the petition of appeal as the amount of the capital levy in dispute ;

(b) the petition of appeal shall, together with all books, documents and papers annexed thereto by the Chairman of the Panel, be deemed to be a single exhibit in civil proceedings before the Supreme Court, and

(c) the Commissioner, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtute officii*.

(5) Every appeal under this section to the Supreme Court on a question of law shall be heard and determined by any two or more Judges of that Court. On determining such question of law, the Supreme Court may, in accordance with its decision, confirm, reduce, increase, or annul the assessment as determined by the Board or may remit the case to the Board with the decision of that Court on the question of law. Where a case is so remitted, the Board shall revise the assessment as the decision of the Supreme Court may require.

(6) The Supreme Court may, in an appeal under this section, make such order in regard to costs in that Court and in regard to the fee of fifty rupees referred to in paragraph (e) of sub-section (2) as to that Court may seem fit. Any costs so ordered shall, if the appellant is a person other than the Commissioner, be added to the capital levy imposed on him and recovered with such levy.

(7) The decision of the Supreme Court on an appeal under this section shall be final.

PART V

PETITIONS TO THE BOARD OF ADJUDICATORS FOR RELIEF

36. (1) Any person who is charged with the capital levy may, if he is unable to pay the levy in the manner stated in the notice of assessment or any other notice given to him, petition the Board of

Adjudicators for any such relief as the Board is empowered to grant under section 37. Every petition for relief shall be in writing and shall be transmitted to the Chairman of the Panel within thirty days after the date of issue of the notice of assessment or other notice, as the case may be.

(2) Notice of every petition made under this section shall be served on the Commissioner.

(3) Every petition transmitted to the Chairman of the Panel shall be referred by him to the Board for disposal.

37. (1) The relief which the Board may grant to any person on a petition made by him under section 36 shall be one or more of the following:—

Relief which the Board may grant.

(a) an extension of the period for the payment of the capital levy or any instalment of that levy,

(b) permission to pay the capital levy in instalments,

(c) an increase in the number of instalments allowed to him for the payment of the capital levy,

(d) permission to offer any immovable property of that person to the Crown.

(2) Where permission is granted by the Board to any person to offer any immovable property of that person to the Crown, the Board shall specify the immovable property which that person may offer to the Crown.

PART VI

PAYMENT, RECOVERY AND REPAYMENT OF CAPITAL LEVY

38. (1) Subject to the other provisions of this section, the capital levy charged by any assessment shall be paid by the person liable to pay the levy in a

When payment of capital levy is to be made.

lump sum on or before such date as may be specified in the notice of assessment or in any other notice given to him or in such number of instalments as may be specified in the notice and any capital levy or any instalment of the capital levy not so paid shall be deemed to be in default and the person by whom such levy or an instalment thereof is payable shall be deemed to be a defaulter for the purposes of this Act.

(2) Capital levy shall be paid notwithstanding any notice of objection or appeal against the assessment unless the Commissioner orders that payment of the levy or any part thereof be held over pending the making of a determination on the notice of objection or appeal, as the case may be, and the amount of the capital levy so held over shall be deemed not to be in default.

(3) Where the Commissioner is of opinion either that the amount held over under sub-section (2) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, the Commissioner may revoke any order under that sub-section and make such fresh order as the case may appear to him to require and the amount of any capital levy not paid on or before such date as may be specified in the fresh order shall be deemed to be in default and the person by whom that amount is payable shall be deemed to be a defaulter for the purposes of this Act.

(4) After the disposal of the notice of objection or the appeal of any person, the amount due from him as capital levy, whether that amount is the amount held over under sub-section (2) or is an amount greater or lesser than the amount so held over, shall be paid by him in a lump sum on or before such date as may be specified by the Commissioner or the Board or in such number of instalments as the Commissioner or the Board may determine. Where no provision is made by the Board for the payment of the amount due from him as capital levy, he shall pay that amount in a lump sum on or before such date or in such number of instalments, as the Commissioner shall specify in a written notice given to that person. Any sum not so paid by him shall be deemed to be in default and he shall be deemed to be a defaulter for the purposes of this Act.

(5) Where a petition for relief is made under section 36 to the Board by any person, the payment by him of the amount of the capital levy in respect of which relief is sought may be deferred until the Board makes its order on the petition. Where payment of any amount is so deferred, such amount (hereafter in this section referred to as the "deferred amount") shall be deemed not to be in default.

(6) Where the order of the Board on any petition made under section 36 by any person does not contain a provision granting him permission to offer any of his immovable property to the Crown, the deferred amount shall be paid by him in a lump sum on or before such date as may be specified by the Board or in such number of instalments as the Board may determine. Where no provision is made by the Board with regard to the payment of the capital levy by that person, he shall pay the capital levy in a lump sum on or before such date, or in such number of instalments, as the Commissioner shall specify in a written notice given to that person. Any sum not so paid by that person shall be deemed to be in default and that person shall be deemed to be a defaulter for the purposes of this Act.

(7) (a) Where the Board in its order on any petition made under section 36 by any person grants that person permission to offer to the Crown any specified immovable property of that person, and that person has in respect of that property given to the Commissioner the written notice referred to in sub-section (1) of section 39, that person may, until the offer made in respect of such property is either accepted or rejected, postpone the payment of the deferred amount or of a part of that amount but in no case shall the amount the payment of which is so postponed be more than the value placed on such property in the assessment of the capital levy made in respect of that person. Any sum the payment of which is postponed under this paragraph shall be deemed not to be in default.

(b) Where the deferred amount is more than the value of the immovable property offered to the Crown by any person, the amount equal to the difference between the deferred amount and the value of that property shall be paid on or before such date as the Commissioner shall specify in a written notice given

to such person. Any sum which is not so paid shall be deemed to be in default and such person shall be deemed to be a defaulter for the purposes of this Act.

(c) Where the offer of any immovable property of any person to the Crown is rejected, such person shall pay the amount of the capital levy the payment of which was postponed on account of the offer of that property to the Crown. The payment of such amount shall be made in a lump sum on such date, or in such number of instalments, as the Commissioner shall specify in a written notice given to such person. Any sum which is not so paid shall be deemed to be in default and such person shall be deemed to be a defaulter for the purposes of this Act.

Payment of capital levy by transferring immovable property to the Crown.

39. (1) Where the Board has, in its order on any petition made under section 36 by any person, granted him permission to offer to the Crown any immovable property belonging to him, being immovable property of such class or description as is determined by the Board, he shall, within fifteen days after the date of the communication notifying that order, give to the Commissioner a written notice setting out—

(a) full particulars relating to the immovable property he intends to offer to the Crown, and

(b) his title to such property.

(2) Upon the receipt of a notice under sub-section (1), the Commissioner shall cause the immovable property specified in that notice to be inspected. After the inspection of the property, he shall cause to be sent to the Minister of Finance a report on the situation and condition of the property.

(3) The Minister of Finance may, after considering the report sent to him under sub-section (2) in respect of any immovable property, by Order published in the *Gazette* vest such property in the Crown with effect from such date as shall be specified in the Order.

(4) The effect of an Order made under sub-section (3) in respect of any immovable property shall be that on the date specified in the Order such property shall vest in the Crown absolutely and free from all encumbrances.

(5) Where the immovable property of any person is vested in the Crown under sub-section (3) and any other person has any interest in such property, such other person shall not be entitled to obtain any compensation from the Crown in respect of such interest but nothing in this section shall be construed to prevent such other person from obtaining any relief from such person in respect of such interest.

(6) Where the immovable property of any person is vested in the Crown under sub-section (3) and the value placed on that property in the assessment of capital levy made in respect of that person is not less than the amount of the capital levy payable by such person, such person shall be deemed to have paid the capital levy and any difference between the value of that property and the capital levy payable by that person shall be paid to that person. Where the value placed on that property in the assessment of capital levy made in respect of that person is less than the amount payable by him as capital levy, the balance of the capital levy shall be paid in a lump sum on or before such date, or in such number of instalments, as the Commissioner shall specify in a written notice given to that person. Any sum not so paid shall be deemed to be in default and that person shall be deemed to be a defaulter for the purposes of this Act.

40. (1) A person charged with capital levy may, in lieu of the payment of the whole or any part of the capital levy in cash, surrender to the Secretary to the Treasury such amount of Government stock as may be necessary for the purpose.

Payment by
surrender
of Government
stock.

(2) No stock shall be accepted for the purpose of this section unless it is Ceylon Government stock

which has been issued in Ceylon and is of such description as may be prescribed.

(3) The surrender of any stock under this section by any person shall be deemed to be equivalent to the payment in cash by him of an amount equal to the aggregate of—

- (a) the value placed on such stock in the assessment of capital levy made in respect of him, and
- (b) the unpaid accrued interest on such stock.

(4) Where the surrender of stock by any person is under sub-section (3) deemed to be equivalent to the payment in cash of an amount which exceeds the capital levy payable by him, the excess shall be returned to him in cash.

Payment by
transfer of
shares.

41. (1) A person charged with capital levy may, in lieu of the payment of the whole or any part of the capital levy in cash, transfer to the Secretary to the Treasury such shares held by that person in any company as may be approved by the Secretary to the Treasury in consultation with the Chairman of the Panel.

(2) The transfer under this section by any person of any shares in a company shall be deemed to be equivalent to the payment in cash by that person of an amount equal to the value placed on such shares in the assessment of capital levy made in respect of him and where the value of such shares exceeds the amount of the capital levy payable by him, the excess shall be refunded to him.

Penalty for
delay in
payment of
capital levy
or instalment
of capital
levy.

42. (1) Where the amount of the capital levy or an instalment of the capital levy is in default, a sum equivalent to five *per centum* of the amount in default shall be added to such amount and the Commissioner shall give notice in writing to the person liable to pay such amount requiring him to pay such amount together with the sum so added on or before the date specified in the notice. Where payment is not so made, the Commissioner may add a further sum or further sums not exceeding fifteen *per centum* of the amount in default until such amount is recovered.

(2) Where, upon the final determination of an appeal, the amount of the capital levy or an instalment of the levy to which any sum or sums has or

have been added under sub-section (1) is reduced, then such sum or sums shall be calculated on the amount as so reduced.

43. In the provisions of this Part relating to the recovery of the capital levy, such levy includes an instalment of such levy and any sum or sums added to such levy by reason of default, together with any fines, penalties, fees or costs incurred.

Capital levy
to include
fines, &c.

44. The capital levy in default shall be a first charge upon all the assets of a defaulter :

Capital levy
to be a
first charge.

Provided that—

(a) such charge shall not extend to or affect any assets sold by the defaulter to a *bona fide* purchaser for value prior to the seizure of the same in accordance with the provisions of section 110 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 45 of this Act or the vesting of the same under section 47 of this Act;

(b) as regards immovable property, the capital levy shall not rank in priority to any lease or encumbrance created *bona fide* for value and registered prior to the date of the assessment made in respect of the defaulter;

(c) as regards movable property, the capital levy shall not rank in priority to any lien or encumbrance created *bona fide* for value prior to the date of default.

45. The provisions of section 110 of the principal Act shall apply as if such provisions were provisions of this Act and refer to capital levy collectors, capital levy and capital levy collector and not to tax collectors, tax and tax collector.

Recovery
of capital
levy by
seizure
and sale
of property.

46. The provisions of section 111 of the principal Act shall apply as if such provisions were provisions of this Act and as if the references in that section to tax were references to capital levy and the reference to section 103 of the principal Act were a reference to section 31 of this Act.

Proceedings
for recovery
before a
Magistrate.

47. (1) Where the Commissioner is of the opinion that it is impracticable or inexpedient to recover any capital levy in default by the means provided in section 110 or section 111 of the principal Act applied as if those sections were sections of this Act in the

Recovery of
capital levy
by vesting
immovable
property of
the defaulter
in the Crown.

manner indicated in section 45 or section 46 of this Act, he may, by petition in writing, apply to the District Court within the jurisdiction of which the defaulter resides or any such immovable property of the defaulter as is specified in the petition is situate for an order vesting in the Crown the property specified in the petition.

Every such petition shall also specify the amount of the capital levy in default and the name and address of the defaulter and shall be accompanied by a certificate under the hand of the Commissioner to the effect that the amount specified in the petition is the amount of the capital levy in default.

(2) Whenever the Commissioner makes an application to a District Court under sub-section (1) he shall forthwith give to the defaulter notice of the application. Such notice may be given by personal service, registered letter sent through the post or by telegraph but the non-receipt of such notice by the defaulter shall not invalidate proceedings under this section.

(3) Within ten days after the date on which an application is made under sub-section (1) to a District Court for an order vesting in the Crown any immovable property of a defaulter, the Commissioner shall cause to be published in the *Gazette* notice of such application and he shall also cause copies of the notice to be exhibited in some conspicuous place in or near such property. Every such notice shall be in the Sinhala, Tamil and English languages and shall state the name and address of the defaulter and the particulars relating to such property.

(4) The District Court to which an application under sub-section (1) has been made in respect of the immovable property of a defaulter may—

(a) upon application made by petition within thirty days after the publication of the notice under sub-section (3), and

(b) after notice to the defaulter and to the Commissioner and such inquiry as the Court may deem necessary,

make order declaring that such property or a portion of such property is not liable to be vested in the Crown if the Court is satisfied that the defaulter is not the owner of such property or portion thereof.

(5) An appeal shall lie to the Supreme Court against an order under sub-section (4) or against the refusal to make an order under that sub-section. Such appeal shall be free from stamp duty and shall be subject to the same rules which govern interlocutory appeals from District Courts.

(6) Where—

- (a) an application under sub-section (4) is not made in respect of any immovable property specified in an application under sub-section (1) or in respect of any portion of that property, or
- (b) an order under the aforesaid sub-section (4) is refused in respect of any such property or portion thereof, or
- (c) an order under the aforesaid sub-section (4) made in respect of any such property or portion thereof is set aside on appeal,

the District Court shall by order vest such property or such portion thereof, as the case may be, in the Crown and thereafter such property or such portion thereof shall vest in the Crown subject to such encumbrances and charges as were existing on the date on which the application under sub-section (1) was made.

(7) The District Court by which an order under sub-section (6) is made shall revoke the order made under that sub-section in respect of any immovable property or portion thereof—

- (a) if the assessment made in respect of the person who immediately prior to the making of that order was the owner of such property or portion thereof is annulled by the Supreme Court upon an appeal made to that Court against such assessment, or
- (b) if the Supreme Court upon an appeal made to that Court under sub-section (5) decides that an order under sub-section (4) should have been made in respect of that property or portion thereof.

(8) Where an order under sub-section (6) vesting any immovable property or a portion of any immovable property in the Crown is revoked under sub-section (7)—

- (a) such property or such portion, as the case may be, shall be deemed never to have vested in the Crown and any question which may

arise as to any right, title or interest in or over such property or such portion shall be determined accordingly, and

- (b) the person who immediately prior to the vesting was the owner of such property or such portion shall not be entitled to claim any compensation for any loss or damage which he may have suffered as a result of, or in consequence of, the vesting of such property or portion in the Crown and accordingly no action against the Crown for compensation for any such loss or damage shall be entertained by any Court.

(9) Where the market value of any immovable property vested in the Crown under this section exceeds the amount of the capital levy due from the defaulter, the amount in excess may be paid to the defaulter.

Recovery of
capital levy
out of debts.

48. The provisions of section 112 of the principal Act shall apply as if such provisions were provisions of this Act and refer to this Act and not to the principal Act, and—

- (a) as if the references in that section to tax were references to capital levy,
 (b) as if in sub-section (1), there were substituted for the words "post to the defaulter", the words "post to the defaulter or his agents", and
 (c) as if sub-section (5) of that section were omitted.

Recovery of
tax from
persons
leaving
Ceylon.

49. The provisions of section 113 of the principal Act shall apply as if such provisions were provisions of this Act and—

- (a) as if the references in that section to tax were references to capital levy, and
 (b) as if in sub-section (1) there were substituted for the words "all income tax, wealth tax or gifts tax", the words "the capital levy".

Use of more
than one means
of recovery.

50. The provisions of section 114 of the principal Act shall apply as if such provisions were provisions of this Act and refer to this Act and not to the principal Act, and—

- (a) as if there were substituted—
 (i) for the word "Chapter" wherever that word occurs in that section, the word "Part", and

(ii) for the word "any tax", the words "the capital levy", and

(b) as if the reference to section 111 of the principal Act were a reference to the said section 111 applied in the manner indicated in section 46 of this Act.

51. (1) Where the capital levy in respect of a person who has net capital and who is the head of a family cannot be recovered from him, then, if his wife or child is included in such family such portion of the capital levy as appears to the Commissioner to be attributable to the net capital of the wife or child may be collected or recovered from the wife or child notwithstanding that no assessment has been made upon the wife or child and the provisions of this Act as to collection and recovery of the capital levy shall apply accordingly.

When capital levy may be recovered from any person other than the person assessed.

(2) Where a property subject to a trust or deemed under sub-section (2) of section 4 to be subject to a trust or any part of that property is, for the purposes of this Act, included in the capital of a person who is or is deemed to be a beneficiary under the trust, such part of the capital levy payable by that beneficiary as appears to the Commissioner to be attributable to that property or that part of that property may, if it cannot be recovered from the beneficiary, be collected or recovered from the trustee notwithstanding that no assessment has been made upon the trustee and the provisions of this Act relating to collection and recovery of the capital levy shall apply to that trustee accordingly and he shall be entitled to deduct the amount of the levy from any moneys which will be payable to that beneficiary from the trust.

52. The provisions of section 115 of the principal Act shall apply as if those provisions were provisions of this Act and as if there were substituted for the words "any income tax, wealth tax or gifts tax", the words "the whole or a part of the capital levy".

Power of Commissioner to obtain information for the recovery of capital levy.

53. (1) If it is proved to the satisfaction of the Commissioner by any claim made in writing on or before the prescribed date, that any person has paid capital levy in excess of the amount which he was chargeable, such person shall be entitled to have refunded the amount so paid in excess:

Capital levy paid in excess to be refunded.

Provided that nothing in the preceding provisions of this sub-section shall operate to extend or reduce any time limit for appeal or to validate any notice of objection or appeal which is otherwise invalid or to authorize the revision of any assessment or other matter which has become final and conclusive.

(2) Where it is proved to the satisfaction of the Commissioner by claim in writing made on or before the prescribed date that any person has paid capital levy in excess of the amount with which he was properly chargeable and that the excess is due to any error in the assessment or the return of capital other than an error in the application or construction of any provision of this Act in the making or revision of the assessment or to any sum or amount estimated under sub-section (2) of section 5 being less than the sum or amount actually due from such person, such person shall be entitled to have refunded the amount paid in excess.

(3) Where it is proved to the satisfaction of the Commissioner by claim made in writing on or before the prescribed date that any person has paid any sum referred to in sub-section (1) of section 42 which is in excess of the sum which he should have paid if such sums were calculated in accordance with the provisions of sub-section (2) of that section, such person shall be entitled to have refunded the amount paid in excess if such claim is made on or before the prescribed date.

PART VII

BOARDS OF ADJUDICATORS

Panel of
Adjudicators.

54. (1) For the purposes of this Act, the Minister of Finance may, by Order published in the *Gazette*, constitute a Panel of Adjudicators of not less than fifteen persons from which Boards of Adjudicators shall be constituted as hereinafter provided.

(2) A member of the Panel may resign office by letter addressed to the Minister of Finance.

(3) The Minister of Finance may, without assigning any reason, remove from office any member of the Panel.

(4) Each member of the Panel shall, unless he vacates office earlier, hold office for such period as may be specified in the letter notifying him of his appointment to the Panel.

(5) A member of the Panel vacating office by effluxion of time shall be eligible for reappointment.

55. (1) The Minister of Finance shall appoint one of the members of the Panel to be the Chairman of the Panel.

Chairman of
the Panel.

(2) The Chairman of the Panel may resign office by letter addressed to the Minister of Finance.

(3) The Minister of Finance may, without assigning any reason, remove from office the Chairman of the Panel.

(4) The Chairman of the Panel shall, unless he vacates office earlier, hold office for such period as may be specified in his letter of appointment.

(5) A person who vacates office as Chairman of the Panel by reason of effluxion of time shall be eligible for reappointment.

56. (1) For the purpose of constituting a Board of Adjudicators, the Chairman of the Panel shall select from the Panel an uneven number of persons and such number shall be not less than three.

Constitution
of Boards of
Adjudicators.

(2) Where the Chairman of the Panel is a member of a Board of Adjudicators constituted under sub-section (1), then he, or, where he is not a member of that Board, then such member of that Board as may be nominated in writing by the Chairman, shall be the President of that Board.

(3) There shall be appointed to each Board of Adjudicators a Secretary.

57. The Chairman of the Panel and the members of the Board of Adjudicators may be paid such remuneration as may be determined by the Minister of Finance.

Remuneration
of Chairman
of the Panel
and of members
of the Board.

Functions
of the Board.

58. The Board shall hear and determine all appeals, and make its order on all petitions for relief made to the Board under this Act.

Proceedings
before a
Board.

59. (1) At least fourteen clear days' notice of the time and place fixed for the hearing of an appeal or of a petition for relief shall be given by the Secretary to the Board to the appellant or, as the case may be, to the person who petitioned the Board (hereafter in this section referred to as the "petitioner") and to the Commissioner.

(2) Every appellant or petitioner shall attend, either in person or by an authorized representative, the meeting at which the appeal or the petition is heard.

(3) In the case of an appeal, the Assessor who made the assessment appealed against or some other officer of the Department of Inland Revenue authorized by the Commissioner shall attend the meeting of the Board in support of the assessment. In the case of a petition, the Commissioner shall be represented at the meeting at which the petition is heard by an officer of the Department of Inland Revenue authorized by him.

(4) Where, for any reasonable cause notified in writing to the Secretary to the Board, any person who is required under sub-section (2) or sub-section (3) to be present at the hearing of an appeal or a petition is unable to do so, the Board may postpone the hearing of the appeal or petition.

(5) Where an authorized representative of an appellant or a petitioner is present at the hearing of an appeal or a petition, the Board may postpone the hearing to enable the appellant or the petitioner, as the case may be, to be present.

(6) The onus of proving that the assessment appealed against is excessive or erroneous shall be on the appellant.

(7) The Board shall hear all appeals and petitions *in camera*.

(8) The Board shall have power to summon to attend at the hearing of any appeal or petition any person who, in the opinion of the Board, may be able to give evidence respecting the appeal or the petition and may examine him as a witness either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(9) Except with the consent of the Board and on such terms as the Board may determine, the appellant shall not, at the hearing of an appeal against an assessment, be allowed—

(a) to adduce the evidence of any witness who is not mentioned in the list referred to in section 27 or to produce any document which is not included in that list; or

(b) to produce any document which he has failed to produce before the Commissioner when required to do so under sub-section (2) of section 28, or to adduce the evidence of any witness whose evidence was not tendered to the Commissioner when called for under that sub-section.

(10) Subject to the provisions of sub-section (9), the Board may, at the hearing of an appeal, admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply.

60. (1) After the hearing of an appeal or a petition, the Board shall give such decision thereon as it may think fit. In an appeal against an assessment, the Board may by its decision confirm, reduce, increase or annul the assessment appealed against or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require. The Board may also permit the appellant to pay the capital levy in such number of instalments as the Board may determine. In an appeal against the refusal of the Commissioner to grant the permission referred to in section 25, the Board may confirm or reverse the order of the Commissioner.

Decision of
the Board.

(2) In the event of any difference of opinion among the members of the Board, the decision of the majority shall be the decision of the Board.

(3) The Secretary to the Board shall communicate in writing the decision of the Board upon any appeal or petition to the appellant or the petitioner, as the case may be, and to the Commissioner.

(4) Where, in consequence of a petition made to the Board, the Board varies the manner in which or the period within which any person shall pay the amount of the capital levy imposed on him, it shall be the duty of the Commissioner to give effect to that decision.

(5) Subject to the provisions of section 35, the decision of the Board on any appeal or petition shall be final and conclusive.

Costs of
appeals to
the Board.

61. Where the Board by its decision does not reduce or annul the assessment appealed against, the Board may order the appellant to pay as costs of the appeal a sum not exceeding two hundred and fifty rupees. Such sum shall be added to the capital levy imposed on the appellant and recovered with such capital levy.

Power of
Minister to
issue general
directions to
the Board.

62. The Minister may, from time to time, give to the Board through the Chairman of the Panel general directions in writing as to the exercise of the powers of the Board and the Board shall give effect to such directions.

PART VIII

OFFENCES AND PENALTIES

Offences of
failure to
make returns,
making in-
correct
returns, &c.

63. (1) Any person who—

(a) fails to comply with the requirements of a notice given to him under the provisions of sub-section (2) of section 14 of this Act or under the provisions of sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 82, or under the provisions of sub-section (1) of section 83, of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 14 or section 15 of this Act; or

(b) fails to attend in answer to a notice given to him under the provisions of sub-section (3) or sub-section (4) of section 82 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 14 of this Act or to a summons issued to him under the provisions of sub-section (8) of section 59 of this Act or having attended fails without sufficient cause to answer any question lawfully put to him; or

(c) fails to comply with the provisions of section 13, or of an order made under sub-section (1) of section 20, of this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(2) Every person who, without reasonable excuse—

(a) makes an incorrect return by omitting or understating any capital of which he is required by this Act to make a return, either on his own behalf or on behalf of another person; or

(b) gives any incorrect information in relation to any matter or thing affecting his own liability to the capital levy or the liability of any other person,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment and, in addition to such punishment, to pay a sum equal to double the amount of the capital levy which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if such return or information had been accepted as correct.

(3) No person shall be liable to any penalty in respect of any offence under this section unless the complaint concerning such offence was made within five years after the date of the commission of the offence.

(4) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings under this section.

Penalty for
contravention
of the
provisions of
section 25.

64. (1) Any person who acts contrary to the provisions of section 25 shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(2) The Commissioner may compound an offence under sub-section (1) and may before judgment stay or compound any proceedings thereunder.

Breach of
secrecy and
other matters
to be offences.

65. Every person who—

(a) acts under this Act without taking an oath of secrecy as required by the provisions of section 124 of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 75 of this Act, or

(b) acts contrary to the provisions of sub-section (1) of section 124, or to an oath taken under the provisions of sub-section (2) of section 124, of the principal Act applied as if those provisions were provisions of this Act in the manner indicated in section 75 of this Act, or

(c) aids, abets or incites any other person to act contrary to the provisions of this Act,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Offences
of fraud.

66. (1) Every person who—

(a) omits from a return made under this Act any capital which should be included in the return; or

(b) makes any false statement or entry in any return made under this Act; or

(c) signs any statement or return furnished under this Act without reasonable grounds for believing it to be true; or

(d) gives any false answer whether orally or in writing to any question or request for information asked or made in accordance with the provisions of this Act; or

(e) makes use, or authorizes the use, of any fraud, art or contrivance whatsoever,

and thereby evades or attempts to evade, the capital levy or assists any other person to evade or to attempt to evade such levy shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding the total of five thousand rupees and treble the amount of the capital levy for which he or, as the case may be, the other person so assisted, is liable under this Act or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings under this section.

67. (1) Where in an assessment made in respect of any person the amount of his capital exceeds that specified as his capital in his return and the assessment is final and conclusive under section 31, the Commissioner may, unless that person proves to the satisfaction of the Commissioner that there is no fraud or wilful neglect involved in the disclosure of capital made by that person in his return, in writing order that person to pay as a penalty for making an incorrect return a sum not exceeding two thousand rupees and a sum equal to twice the capital levy on the amount of the excess.

Penalty for incorrect return.

(2) Any person aggrieved by an order under sub-section (1) may appeal from that order to the Board. The appeal shall be made in writing within twenty-one days after the date of that order and shall state the grounds of objection to the order.

(3) The Board may confirm, reduce, increase or annul the penalty imposed by the order of the Commissioner from which the appeal is made but any increase of such penalty shall not be in excess of the maximum amount which the Commissioner may impose under sub-section (1) as such penalty.

(4) Where a penalty has been imposed on a person under sub-section (1) for making any false statement or entry in his return of capital, such person shall not be liable to a prosecution under this Act in respect of that false statement or entry.

Capital levy to be payable notwithstanding any proceedings or penalties, &c.

68. The institution of proceedings for, or the imposition of, a penalty, fine, or term of imprisonment under this Part of this Act shall not relieve any person from liability to assessment or payment of any capital levy for which he is or may be liable.

Prosecution to be with the sanction of the Commissioner.

69. No prosecution in respect of an offence under section 63 or section 66 shall be commenced except at the instance, or with the sanction, of the Commissioner.

PART IX

ADMINISTRATION

Administration of this Act.

70. (1) The Commissioner of Inland Revenue shall be in charge of the administration of this Act.

(2) The Commissioner may either generally or specially authorize any Assistant Commissioner to exercise, perform or discharge any power, duty or function of the Commissioner under this Act.

(3) An Assistant Commissioner exercising or performing any power, duty or function of the Commissioner under this Act shall be deemed for all purposes to be authorized to exercise or perform that power, duty or function until the contrary is proved.

(4) An Assistant Commissioner may exercise or perform any power, duty or function conferred on an Assessor by this Act.

PART X

GENERAL

Persons assessable on behalf of a non-resident person.

71. (1) A non-resident person shall, in respect of his capital, be assessable either directly or in the name of his agent. The capital levy so assessed shall be recoverable by all the means provided in this Act out of the assets of the non-resident person or from the agent. Where there are more agents than one they may be assessed jointly or severally in respect of the

capital of the non-resident person and shall be liable jointly and severally for the capital levy on that capital.

(2) Where one spouse is resident and the other spouse is non-resident, the resident spouse may be deemed to be the agent of the non-resident spouse for all the purposes of this Act and shall be liable to pay the whole of the capital levy leviable on the net capital of both, whether assessed jointly or severally.

72. Where any person chargeable with the capital levy dies before the payment of such levy, the executor of such deceased person shall be chargeable with the capital levy which such person would have been liable to pay if he were alive and the executor shall be liable to do all acts, matters and things which such person if he were alive would be liable to do under this Act:

Capital levy in respect of deceased payable by executor.

Provided that—

- (a) no proceedings shall be instituted against the executor in respect of any act or default of the deceased person; and
- (b) the liability of an executor under this section shall be limited to the sum of—
 - (i) the deceased person's estate in the possession or control of the executor at the date when notice is given to him that liability to pay the capital levy will arise under this section, and
 - (ii) any part of the estate which may have passed to a beneficiary.

73. Where two or more persons are acting in the capacity of executors of a deceased person, they may be charged jointly or severally with the capital levy with which they are chargeable in that capacity and shall be jointly and severally liable for payment of such levy.

Joint executors.

74. (1) Where a body of persons liable to pay the capital levy has been dissolved before the payment of the levy, an Assessor shall determine the capital levy payable by that body as if that body had not been dissolved.

Liability in case of dissolved body of persons.

(2) All persons who, at the time of the dissolution of a body of persons, were members of that body shall be jointly and severally liable for the amount of any capital levy or penalty payable under this Act by that body notwithstanding that no assessments have been made upon them, and the provisions of this Act as to collection and recovery of the capital levy shall apply accordingly.

Official
secrecy.

75. The provisions of section 124 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act.

Indemni-
fication of
representative.

76. (1) Every person chargeable with capital levy under this Act as trustee, executor or agent or from whom such levy is recoverable in respect of the capital of another person may retain out of any assets coming into his possession or control on behalf of such other person or in his capacity as trustee, executor or agent so much thereof as shall be sufficient to produce the amount of such levy, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets.

(2) Where any person acting as trustee or executor has paid capital levy and no assets of the trust or estate come into his possession or control out of which he could retain the amount of the capital levy so paid such amount shall be a debt due from the beneficiaries of the trust or estate to the trustee or executor.

(3) Where a person chargeable with the capital levy or from whom the capital levy is recoverable in respect of the capital of another person has paid the amount of such capital levy, and no assets of such other person come into his possession or control out of which he could retain the amount so paid, such amount shall be a debt due to him from such other person.

Certain
transactions
and dis-
positions
to be
disregarded.

77. Where an Assessor is of opinion that any transaction which reduces or would reduce the amount of the capital levy payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the persons concerned shall be assessable accordingly.

78. (1) The Minister may from time to time make regulations generally for carrying out or giving effect to the principles and provisions of this Act.

Power to make regulations.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of the following matters:—

- (a) all matters (other than forms) required by this Act to be prescribed, and
- (b) the procedure to be followed in respect of applications for refunds.

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

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the House of Representatives for approval. Any 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.

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

79. The Commissioner may from time to time prescribe the forms to be used for all or any of the purposes of this Act; and any forms so prescribed may from time to time be amended or varied by the Commissioner or some other form may be substituted by the Commissioner in place of any form so prescribed.

Forms.

80. The provisions of section 126 of the principal Act shall apply as if those provisions were provisions of this Act and refer to this Act and not to the principal Act and as if the references to tax in that section were references to capital levy and as if, for paragraph (a) of sub-section (3) of that section, there were substituted the following paragraph:—

Power to search buildings or places.

- “ (a) An article shall be seized and delivered to the Commissioner by the officer carrying out the

search only if any sum payable as capital levy by the owner of that article is in default.”

Admissibility
of statements
and documents
in evidence.

81. The provisions of section 127 of the principal Act shall apply as if those provisions were provisions of this Act and refer to the capital levy and to this Act and not to tax and the principal Act and as if the references to section 118, section 119 and section 120 of the principal Act were references to section 63, section 65 and section 66 of this Act.

Amendment
of Schedule
to this Act.

82. The Schedule to this Act may be amended by a resolution of the House of Representatives.

PART XI

INTERPRETATION

Interpretation.

83. In this Act, unless the context otherwise requires—

“acquired” with reference to property, means acquired by purchase, gift, inheritance or exchange or in any other manner whatsoever;

“Assessor.” means an Assessor of Inland Revenue, appointed under the principal Act and includes a Senior Assessor of Inland Revenue and an Assistant Assessor of Inland Revenue appointed under that Act;

“Assistant Commissioner” means an Assistant Commissioner of Inland Revenue appointed under the principal Act;

“authorized representative” shall have the meaning assigned to that expression in section 129 of the principal Act;

“Board” or “Board of Adjudicators” means a Board of Adjudicators constituted under section 56 of this Act;

“capital” means movable or immovable property of any kind whatsoever, and includes property required by this Act to be included in capital and does not include property required by this Act to be excluded from capital;

“ child ” shall have the meaning assigned to that expression in section 129 of the principal Act;

“ Commissioner ” means the Commissioner of Inland Revenue appointed under the principal Act, and includes a Deputy Commissioner of Inland Revenue appointed under that Act and an Assistant Commissioner specially authorized by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner;

“ company ” means any company incorporated or registered under any law in force in Ceylon or elsewhere;

“ dependent relative ” shall have the meaning assigned to that expression in section 129 of the principal Act;

“ executor ” shall have the meaning assigned to that expression in section 129 of the principal Act;

“ incapacitated person ” means any minor, lunatic, idiot or person of unsound mind;

“ market value ” with reference to any property and any date, means the price which, in the opinion of an Assessor, that property would have fetched on that date in an open market;

“ motor car ” and “ motor vehicle ” shall have the meanings assigned to those expressions in the Motor Traffic Act;

“ net capital ” when used—

(a) in relation to any person other than a non-resident company having capital in Ceylon, means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital of that person is in excess of the aggregate value of all debts owed by such person on March 31, 1971, other than—

(i) a debt incurred without consideration or without full consideration in money or money's worth,

- (ii) a debt incurred which is not wholly for his own benefit,
 - (iii) a debt in respect of which there is a right to reimbursement from any other person unless such reimbursement cannot be obtained,
 - (iv) a debt charged or secured on, or incurred in relation to, any property of his which is excluded from his capital under this Act, and
 - (v) any debt incurred by him outside Ceylon unless such debt is contracted to be paid in Ceylon or is charged or secured on property in Ceylon,
- and account being taken not more than once of the same debt charged upon different portions of property, and
- (b) in relation to a non-resident company having capital in Ceylon means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital in Ceylon is in excess of the aggregate value of all its debts and liabilities on March 31, 1971, each such debt or liability being a debt or liability incurred by the company in carrying on its business in Ceylon and not being—
- (i) a debt incurred by the company without consideration or without full consideration in money or money's worth,
 - (ii) a debt which is not wholly for the benefit of the company,
 - (iii) a debt in respect of which there is a right to reimbursement from any other person unless such reimbursement cannot be obtained,

(iv) a debt charged or secured on, or incurred in relation to, any property of the company which is excluded from the capital of the company under this Act, and

(v) a debt incurred by the company outside Ceylon unless such debt is contracted to be paid in Ceylon or is charged or secured on property in Ceylon,

and account being taken not more than once of the same debt being charged upon different portions of property;

“ non-resident ” means not resident in Ceylon within the meaning of section 54 of the principal Act;

“ Panel ” or “ Panel of Adjudicators ” means the Panel of Adjudicators constituted under section 54 of this Act;

“ person ” includes any Hindu undivided family and any executor or trustee;

“ possessor ” when used in relation to a motor car or a motor vehicle means the person who, by reason of such motor car or motor vehicle having been mortgaged to him or by reason of any agreement (other than a hire purchase agreement) having been made in respect of that motor car or motor vehicle, is in possession of that motor car or motor vehicle;

“ precedent partner ” shall have the meaning assigned to that expression in section 129 of the principal Act;

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

“ principal Act ” means the Inland Revenue Act, No. 4 of 1963;

“ property ” includes any interest in any movable or immovable property;

“ resident ” means resident in Ceylon within the meaning of section 54 of the principal Act;

“ trustee ” shall have the meaning assigned to that expression in section 129 of the principal Act.

SCHEDULE

[Section 3 (1)]

Rates of Capital Levy

On the first Rs. 200,000 of leviable capital ...	3 per centum
On the next Rs. 200,000 of leviable capital ...	5 per centum
On the next Rs. 200,000 of leviable capital ...	10 per centum
On the next Rs. 200,000 of leviable capital ...	15 per centum
On the balance of the leviable capital ...	25 per centum