



CAPITAL LEVY (AMENDMENT)
LAW, No. 16 OF 1972

OF

THE NATIONAL STATE ASSEMBLY

[Certified on 19th December, 1972]

Printed on the orders of Government

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA (CEYLON)

TO BE PURCHASED AT THE GOVERNMENT PUBLICATION BUREAU, COLOMBO

*Capital Levy (Amendment) Law,
No. 16 of 1972*

L. D.—O. 25/72.

A LAW TO AMEND THE CAPITAL LEVY ACT, No. 51 OF 1971.

BE it enacted by National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Capital Levy (Amendment) Law, No. 16 of 1972.

Short title.

2. Section 3 of the Capital Levy Act, No. 51 of 1971, hereafter in this Law referred to as the "principal enactment", is hereby amended by the repeal of subsection (3) of that section and the substitution, for that subsection, of the following new subsection:—

Amendment of section 3 of Act No. 51 of 1971.

"(3) For the purposes of this Act, where on March 31, 1971, an individual has a wife or has a wife and one or more children or dependent relatives or one or more children and dependent relatives or has one or more children or dependent relatives or one or more children and dependent relatives, they shall constitute a family and such individual shall be deemed to be the head of that family."

3. Section 4 of the principal enactment is hereby amended as follows:—

Amendment of section 4 of the principal enactment.

(1) in subsection (1) of that section—

(a) by the substitution, for paragraph (a) of that subsection, of the following paragraphs:—

"(a) the value of any property in which he, as a fiduciary or as a usufructuary, has a life interest, such value being determined as though he were the owner of that property;

(aa) the value of any property in which he as a fiduciary has a beneficial interest terminating on the occurrence of a specified event other than his death, such value being determined as though he were the owner of that property;"

(b) by the substitution, for paragraph (e) of that subsection, of the following new paragraph:—

"(e) being a partner in a firm, the value of his interest in the firm;"

(c) by the substitution, for paragraph (h) of that subsection, of the following new paragraph:—

“(h) his investments in the securities of the Government of Sri Lanka 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 to any relief from income tax under that Act;”;

(d) in paragraph (i) of that subsection, by the substitution, for the full stop at the end of that paragraph, of a semi-colon; and

(e) by the addition, at the end of that subsection, of the following new paragraphs:—

“(j) any property gifted by him on or after October 26, 1970, but before April 1, 1971, except when it is gifted to the Government of Sri Lanka or to a charity which is an approved charity within the meaning of section 16A or section 67 (1) (b) of the principal Act;

(k) any property transferred by him at any time on or after October 26, 1970, but before April 1, 1971, to any private company for any shares or debentures of that company, or to any other person for any consideration which in the opinion of the Assessor is not adequate; and

(l) any money paid by him as a consideration for the transfer to him of any property on or after October 26, 1970, but before April 1, 1971, if in the opinion of the Assessor such consideration is not adequate;”;

(2) by the addition, at the end of that section, of the following new subsection:—

“(3) In ascertaining the value of the interest which a partner of a firm has in that firm, no account shall be taken of the goodwill of that firm.”.

4. Section 5 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(1) by the insertion, immediately after paragraph (b) of that subsection, of the following new paragraph:—

“(bb) being a person not resident in Sri Lanka on March 31, 1971, his investment in any undertaking the profits and income of which are exempt from income tax under the provisions of subsection (2) of section 6 of the principal Act;”;

(2) by the substitution, for paragraph (f) of that subsection, of the following new paragraph:—

“(f) any such interest in any property (other than property subject to a fideicommissum) as is available to him for a period not exceeding six years from March 31, 1971;”;

(3) by the substitution, for paragraph (r) of that subsection, of the following new paragraph:—

“(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 any person whose death occurred prior to April 1, 1971, if such estate or that part of such estate is included in his capital for the purposes of this Act;”;

(4) by the substitution, for paragraph (s) of that subsection, of the following new paragraph:—

“(s) any sum due from him by way of gifts tax in respect of any gift made by him on or before March 31, 1971;”;

(5) by the substitution, for paragraph (t) of that subsection, of the following new paragraph:—

“(t) being the executor of the estate of any person whose death occurred prior to

April 1, 1971, the estate duty payable in respect of that estate;";

- (6) in paragraph (x) of that subsection, by the substitution, for the full stop at the end of that paragraph, of a semi-colon; and
- (7) by the insertion, immediately after paragraph (x) of that subsection, of the following new paragraphs:—

" (y) any property of which he is the owner but which by reason of the provisions of paragraph (j) or paragraph (k) of subsection (1) of section 4 is included in the capital of any other person;

(z) his shares or debentures in any private company being the shares or debentures allotted to him in consideration of the transfer by him to that company of any property on or after October 26, 1970, but before April 1, 1971; and

(aa) any money received by him as a consideration for the transfer by him of any property on or after October 26, 1970, but before April 1, 1971, if in the opinion of the Assessor such consideration is not adequate."

Replacement
of section 9 of
the principal
enactment.

5. Section 9 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Special
provisions
applicable
to certain
non-resident
companies.

9. Where a non-resident company holds shares in a resident company holding shares in any other non-resident company and the Commissioner is satisfied that the second-mentioned non-resident company has paid the capital levy on its leviable capital, then the Commissioner may grant to the first-mentioned non-resident company, in respect of such part of its leviable capital as in the opinion of the Commissioner is attributable to the value of the shares held indirectly by that company

in the second-mentioned non-resident company, such relief from the capital levy as the Commissioner may deem reasonable.”.

6. Section 10 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement
of section 10 of
the principal
enactment.

“ 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—

(a) in the case of any immovable property or movable property consisting of shares in any company, which was owned by him on March 31, 1971, and was acquired by him on or before March 31, 1970, be the market value of that property on the valuation date reduced by ten *per centum*;

(b) in the case of any property other than property referred to in paragraph (a), be the market value of that property on the valuation date.

(2) Where movable property forming part of the capital of any person 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 like nature issued 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—

- (a) an amount ascertained 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, or
- (b) if such shares were acquired by that person before April 1, 1970, be the amount ascertained under paragraph (a) reduced by ten *per centum*.

(3) Where any person by whom the capital levy is payable carries on by himself or in partnership with any other person or persons a business for which

accounts are maintained 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.

(4) 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 such amount as the Commissioner considers reasonable.

(5) Where, after the valuation date but before April 1, 1971, the value of any immovable property forming part of the capital of any person—

(a) has increased by reason of any improvements, additions or alterations made to that property, the cost of such improvements, additions or alterations shall be added to the value of that property on the valuation date, or

(b) has decreased by reason of any damage caused to that property or the destruction or demolition of any building on that property, an amount which in the opinion of the Commissioner is equal to the fall in value of that property in consequence of such damage, destruction or demolition may be deducted from the value of that property on the valuation date.

For the purposes of this subsection, the burden of proving that the value of any immovable property has decreased shall be on the person who asserts it.

(6) Where any property forming part of the capital of any person consists of—

- (a) shares which have been received by him in place of any shares of his in any of two or more companies which have amalgamated or merged after March 31, 1970, but before April 1, 1971, or
- (b) shares in respect of which there has been a return or distribution of capital after March 31, 1970, but before April 1, 1971, or
- (c) shares or debentures in any private company being a company which has allotted any shares or debentures to any person in consideration of any property transferred to that company on or after October 26, 1970, but before April 1, 1971,

then, notwithstanding anything contained in subsection (1), the value of that property shall be an amount determined by the Commissioner.”.

Replacement
of section
11 of the
principal
enactment.

7. Section 11 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“ Valuation
date.

11. For the purposes of this Act, the valuation date—

- (a) in relation to any immovable property forming part of the capital of any person on March 31, 1971, shall—
 - (i) if such property was acquired by him on or before March 31, 1970, be March 31, 1970, and

(ii) if such property was acquired by him after March 31, 1970, but before April 1, 1971, be the date of its acquisition, and

(b) in relation to any movable property forming part of the capital of any person on March 31, 1971, shall—

(i) where such property consists of shares, be March 31, 1970, if such property was acquired on or before that date or be the date of its acquisition, if such property was acquired on or after April 1, 1970, and

(ii) where such property does not consist of shares, be March 31, 1971.”.

8. Section 12 of the principal enactment is hereby amended by the substitution, for subsection (2) of that section, of the following new subsection:—

Amendment of
section 12
of the
principal
enactment.

“(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 subsection (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 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.”.

Replacement
of section 23 of
the principal
enactment.

9. Section 23 of the principal enactment is hereby repealed and the following new section substituted therefor:—

' 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 subsection (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 net capital assessed and the amount of the capital levy charged "; and

(b) as if in subsection (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 ".

Replacement
of section 24 of
the principal
enactment.

10. Section 24 of the principal enactment is hereby repealed and the following new section substituted therefor:—

' Validity of
assessments,
&c.

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 subsection (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 net capital assessed or the amount of the capital levy charged; ".

11. Section 25 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 25 of the principal enactment.

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

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 or any member of his family shall not, except with the written permission of the Commissioner, alienate to any other person, any immovable property or any rights in any immovable property, belonging to him or to that member of his family, as the case may be:

Provided that such person or a member of his family may, after notice to the Commissioner, alienate to the Republic any immovable property, or any rights in any immovable property, belonging to such person or that member of his family, as the case may be.”

12. Section 27 of the principal enactment is hereby amended as follows:—

Amendment of section 27 of the principal enactment.

- (1) by the renumbering of that section as subsection (1) of section 27 ; and
- (2) by the addition, at the end of that section, of the following subsection:—

“(2) At any time before the commencement of the inquiry into a notice of objection given under section 26, the Commissioner may, for any reasonable cause, permit the objector to add to the list furnished by him under subsection (1).”

13. Section 31 of the principal enactment is hereby amended by the substitution, for subsection (1) of that section, of the following new subsection:—

Amendment of section 31 of the principal enactment.

“(1) Where no valid notice of objection or appeal has been lodged against an assessment made under this Act, or where the notice of objection against an assessment made under this Act has been rejected under section 29, or where an assessment under this

Act has been determined on objection or appeal, the assessment as made or as determined on objection or appeal, as the case may be, shall be final and conclusive for all purposes of this Act. ”.

Amendment of section 36 of the principal enactment.

14. Section 36 of the principal enactment is hereby amended as follows:—

(1) by the substitution, for subsection (1) of that section, of the following new subsection:—

“ (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 notice given to him under section 38, section 39 or section 42, petition the Board of Adjudicators for 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.”; and

(2) by the addition, at the end of that section, of the following new subsection:—

“ (4) An Order of the Board on any petition referred to the Board under subsection (3) shall be final and conclusive and shall not be called in question in any court whether by way of appeal, writ, mandate or otherwise.”.

Replacement of section 37 of the principal enactment.

15. Section 37 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“ Relief which the Board may grant.

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:—

- (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 Republic.

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

Provided that the Board shall not specify any immovable property which is subject to a mortgage, except after giving the mortgagee an opportunity of being heard and unless the Board is satisfied that the value of such property is adequate to pay the moneys due on the mortgage and to recover the capital levy payable by the mortgagor."

16. Section 39 of the principal enactment is hereby amended as follows:—

Amendment of
section 39
of the
principal
enactment.

(1) by the substitution, for subsection (1) of that section, of the following new subsection:—

"(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 Republic any specified immovable property belonging to him, he shall, within fifteen days after the date of the communication notifying him of that order, give to the Commissioner a written notice setting out—

(a) full particulars relating to such property; and

(b) his title to such property."

(2) by the substitution, for subsection (6) of that section, of the following new subsection:—

"(6) Where the immovable property of any person is vested in the Republic under subsection (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 he shall be entitled—

- (a) to an amount which bears to the difference between the value placed on that property in the assessment of capital levy made in respect of him and the capital levy payable by him the same proportion as the market value of that property on March 31, 1972, bears to the value placed on that property in such assessment, or
- (b) to an amount equal to the difference between the value placed on that property in such assessment and the capital levy payable by him,

according as the value placed on that property in the assessment of capital levy made in respect of him exceeds, or does not exceed, the market value of that property on March 31, 1972.

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.”; and

- (3) by the insertion, immediately after subsection (6), of the following new subsection:—

“ (7) Before payment is made of the amount to which a person is entitled under subsection (6), any sum or sums due from that person to the Government may be deducted from such amount.”.

17. Section 42 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement
of section 42
of the
principal
enactment.

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

42. (1) Where the whole or part of the capital levy payable by any person 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 such person 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 in default to which any sum or sums has or have been added under subsection (1) is reduced, then such sum or sums shall be calculated on the amount as so reduced.”.

18. Section 51 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection:—

Amendment
of section
51 of the
principal
enactment.

(3) Where, on or after October 26, 1970, any property is gifted and such part of the capital levy as appears to the Commissioner to be attributable to that property cannot be collected or recovered from the donor, then such part of the capital levy as is attributable to that property may be collected or recovered from the donee notwithstanding that no assessment has been made on the donee and accordingly the provisions of this Act relating to collection and recovery of the capital levy shall apply to the donee.

In this subsection “ donor ” and “ donee ” shall have the meanings assigned to those expressions in section 129 of the principal Act.’.

Insertion
of new
section 51A
in the
principal
enactment.

19. The following new section is hereby inserted immediately after section 51, and shall have effect as section 51A, of the principal enactment:—

" Special provisions relating to the recovery of capital levy payable by any person in respect of any property in which he has a life interest.

51A. (1) (a) Where the capital levy or a part of the capital levy payable by any person is in respect of any property in which he has a life interest, that person may, by notice in writing given to the Commissioner within one month of the date of the notice of assessment given to that person, require the Commissioner to treat the amount of such capital levy or such part of the capital levy payable by that person as is attributable to that property as a charge on the property and thereupon that property shall be and is hereby declared to be specially bound and liable for the payment of that amount.

(b) Where the capital levy attributable to any property referred to in paragraph (a) is in default, a notice under that paragraph shall be deemed to have been given by the person from whom the capital levy is due.

(c) Where a notice given under paragraph (a) of this subsection is in respect of the capital levy attributable to any property consisting of land, such notice shall set out all such particulars relating to that land as are required by section 13 of the Registration of Documents Ordinance to be stated in respect of that land when an instrument affecting that land is presented for registration under that Ordinance.

(2) Where a notice is given or is deemed to have been given under subsection (1) in respect of the amount of the capital levy attributable to any property consisting of land, the Commissioner shall—

(a) cause to be delivered or transmitted to the appropriate Registrar of Lands for registration a notice setting out the necessary particulars relating to that property and stating that, that property is bound and liable for the payment of the amount of the capital levy attributable to that property,

(b) notwithstanding anything contained in 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, cause to be published in such manner as shall seem to him likely to give sufficient publicity, a notice stating that such property or a part thereof is liable to be vested in the Republic unless the capital levy attributable to that property is paid within the period specified in the notice by anyone interested in such property, and

(c) where the capital levy attributable to that property is not paid within the period specified in the notice published under paragraph (b), send to the Minister in charge of the subject of Finance a statement specifying—

(i) the amount of such capital levy, and

(ii) the name and address of the person by whom the notice under subsection (1) was, or is deemed to have been, given and, where such person has only a life interest in such property as a usufructuary, the name and address, if available, of the owner of such property.

(3) A notice delivered or transmitted to the Registrar of Lands under paragraph (a) of subsection (2) shall be registered by him in the manner provided by the Registration of Documents Ordinance for the registration of an instrument affecting land and shall be deemed for such purposes to be an instrument affecting the land to which the notice relates.

(4) Where payment is made of the capital levy attributable to any land in respect of which a notice under paragraph (a) of subsection (2) has been registered, the Commissioner shall, in writing, request the Registrar of Lands to cancel the registration of such notice and the Registrar of Lands shall thereupon cancel such registration.

(5) After the receipt of the statement referred to in paragraph (c) of subsection (2), the Minister in charge of the subject of Finance may, by Order published in the *Gazette*, vest in the Republic the property specified in the statement or such part of that property as the Commissioner may deem adequate for the recovery of the capital levy attributable to that property. Such Order shall, upon its publication in the *Gazette*, have the effect of vesting in the Republic free from all encumbrances the property or the part of the property specified in the Order.

(6) Where the value of the property or the part of a property vested in the Republic by an Order under subsection (5) is greater than the amount of the capital levy attributable to that property, then a sum computed in the manner set out in subsection (6) of section 39 shall be paid into the District Court having jurisdiction over the place where the property is situated to abide the orders of that Court as to the disposal thereof. Such sum shall be subject to the same settlement as that property was subject to at the time that property or a part thereof was vested in the Republic.

(7) Where a notice under subsection (1) is in respect of any property consisting of money, the Commissioner may issue a certificate to the District Court having control over such property stating the amount of the capital levy attributable to that property and the Court shall thereupon direct the payment of such amount out of that property.

(8) Where by reason of the default in payment of the amount of the capital levy attributable to any property referred to in subsection (1), any sum or sums has or have been added to such amount under subsection (1) of section 42, the Commissioner may, in his discretion, remit the whole or a part of the sum or sums so added. ”.

20. Section 54 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection:—

Amendment of
section 54 of
the principal
enactment.

“ (6) The Minister in charge of the subject of Finance may appoint a Secretary to the Panel and one or more Assistant Secretaries to the Panel.”.

Amendment of section 56 of the principal enactment.

21. Section 56 of the principal enactment is hereby amended by the repeal of subsection (3) of that section and by the substitution, for that subsection, of the following new subsection:—

“(3) The Chairman of the Panel may nominate an Assistant Secretary to the Panel to be the Secretary to a Board of Adjudicators.”.

Replacement of section 57 of the principal enactment

22. Section 57 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Remuneration of Chairman of the Panel, &c.

57. The Chairman of the Panel, the members of the Panel, the Secretary to the Panel and the Assistant Secretaries to the Panel may be paid such remuneration as may be determined by the Minister in charge of the subject of Finance.”.

Replacement of section 72 of the principal enactment.

23. Section 72 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Capital levy in respect of deceased payable by executor.

72. An executor of a deceased person's estate shall be chargeable with the capital levy with which such deceased person would be chargeable if he were alive and 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:

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.”.

24. Section 83 of the principal enactment is hereby amended as follows:—

Amendment of
section 83
of the
principal
enactment.

(1) by the insertion, immediately after the definition of “acquired”, of the following new definition:—

“agent” in relation to a non-resident person includes—

(a) the agent, attorney, factor, receiver or manager in Sri Lanka of such person; and

(b) any person in Sri Lanka through whom such person is in receipt of any profits or income arising in or derived from Sri Lanka;’;

(2) by the insertion, immediately after the definition of “executor”, of the following new definitions:—

“family” means a family within the meaning of section 3;

“fiduciary” means any person having a beneficial interest in any property by reason of a *fidei-commissum*;’;

(3) by the substitution, for the definition of “net capital”, of the following new definition:—

“net capital” when used—

(a) in relation to any person other than a non-resident company having capital in Sri Lanka, means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital of that person on March 31, 1971, 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 Sri Lanka unless such debt is contracted to be paid in Sri Lanka or is charged or secured on property in Sri Lanka,

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 Sri Lanka means the amount by which the aggregate value, computed in accordance with the provisions of this Act, of the capital in Sri Lanka on March 31, 1971, is in excess of the aggregate value of all its debts and liabilities on that date, each such debt or liability being a debt or liability incurred by the company in carrying on its business in Sri Lanka 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 Sri Lanka unless such debt is contracted to be paid in Sri Lanka or is charged or secured on property in Sri Lanka,

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

(4) by the insertion, immediately after the definition of the "principal Act", of the following new definition:—

" "private company" shall have the meaning assigned to that expression in the Companies Ordinance; "

(5) in the definition of "trustee," by the substitution, for the full stop at the end of that definition, of a semi-colon; and

(6) by the addition, at the end of that section, of the following new definition:—

" "wife" does not include a wife who is living apart from her husband under a decree of a competent court or a duly executed deed of separation, or is in fact separated from her husband in such circumstances that the separation is likely to be permanent. ' .

25. This Law shall be deemed to have come into effect on the date of commencement of the principal enactment.

Retrospective effect.