

SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA
ACT NO. 36 OF 1987 AS AMENDED BY ACT NO. 26 OF 1991, ACT NO. 18 OF 2003 AND ACT
NO. 47 OF 2009

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA FOR THE PURPOSE OF REGULATING THE SECURITIES MARKET IN SRI LANKA; TO GRANT LICENCES TO STOCK EXCHANGES, MANAGING COMPANIES IN RESPECT OF EACH UNIT TRUST, STOCK BROKERS AND STOCK DEALERS WHO ENGAGE IN THE BUSINESS OF TRADING IN SECURITIES; TO REGISTER MARKET INTERMEDIARIES; TO SET UP A COMPENSATION FUND, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[§2,26 of 1991]

[§2,18 of 2003]

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

- Short title
[§ 3, 26 of 1991]
1. This Act may be cited as the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 as an Amendment, and shall come into operation on such date hereinafter referred as the ("appointed date") as may be appointed by the Minister by Order published in the Gazette.

PART I

**ESTABLISHMENT AND THE CONSTITUTION OF THE
SECURITIES AND EXCHANGE COMMISSION OF SRI LANKA**

- Establishment and constitution of the Securities and Exchange Commission of Sri Lanka
2. (1) There shall be established a Commission which shall be called the Securities and Exchange Commission of Sri Lanka (hereinafter referred to as the "the Commission") consisting of the persons who are members thereof under section 3.
 - (2) The Commission shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.
- Membership of the Commission
3. (1) The Commission shall consist of
 - (a) The following members to be appointed by the Minister (hereinafter referred to as "appointed members")

(i) a Deputy Governor of the Central Bank nominated by the Governor of such Bank; and

[§ 2, 47 of 2009]

(ii) six persons drawn from the private sector possessing professional expertise, wide experience and proven competency in the fields of law, finance, banking and business. These appointments shall be made to facilitate a Commission with a multi-disciplinary capacity;

(b) the following ex officio members:-

(i) the person for the time being holding the office of Deputy Secretary to the Treasury;

(ii) the person for the time being holding the office of Registrar of Companies; and

(iii) the person for the time being holding the office of the President, Institute of Chartered Accountants, established by the Chartered Accountants Act, No. 23 of 1959.

(2) the Minister shall nominate, from amongst the members of the Commission, one member to be the Chairman of the Commission.

Term of office of appointed members

4. Every appointed member of the Commission shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years and shall be eligible for reappointment.

Removal and resignation of appointed members

5. (1) Any appointed member of the Commission may at any time resign his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.

(2)The Minister may, by Order published in the Gazette, remove, an appointed member from office without assigning any reason therefor and such removal shall not be question(ed) in any court.

[§ 4, 26 of 1991]

(3)In the event of the vacation of office by death, resignation, removal or the operation of provisions of subsection (5) of any appointed member, the Minister may appoint another person, having regard to the provisions of paragraph (a) of subsection (1) of Section 3, to hold office for the unexpired period of the term of office of the member whom he succeeds.

(4) If any appointed member of the Commission is temporarily unable to perform the duties of his office during any period due to ill-health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place during such period having regard to the provisions of paragraph (a) of subsection (1) of section 3.

[§ 4, 26 of 1991]

(5) An appointed member of the Commission who without leave of the Commission first being obtained, absents himself from three consecutive meetings of the Commission, shall be deemed to have vacated his office.

Remuneration of members

6. The members of the Commission may be paid such remuneration out of the fund of the Commission as may be determined by the Minister.

Meeting of the Commission

[§ 5,26 of 1991]

7. (1) The Chairman of the Commission shall, if present, preside at all meetings of the Commission. In the absence of the Chairman from any such meetings, the members present shall elect one of the members to preside at such meeting.

(2) The quorum for any meeting of the Commission shall be five members and the Commission may subject to the requirement as to quorum, regulate the procedure in regard to the meetings of the Commission and the transaction of business at such meetings.

(3) All questions for decision at any meeting of the Commission shall be decided by the vote of the majority of the members present. In the case of an equality of votes the member presiding shall have a casting vote.

Chairman of the Commission

8. (1) If the Chairman of the Commission is, by reason of illness or absence from Sri Lanka temporarily unable to perform the duties of his office the Minister shall nominate another member of the Commission to act in his place.

(2) The Minister may, without assigning any reason therefor, terminate the appointment of the Chairman.

(3) The Chairman may at any time resign from the office of Chairman by a letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

(4) Subject to the provisions of sub sections (2) and (3) the term of office of the Chairman shall be his period of membership of the Commission.

Members to disclose any interest in any decision to be made

9. A member who is directly or indirectly interested in any decision that is to be taken on any matter by the Commission shall disclose the nature of such interest at the meeting of the Commission where such decision is

- by the Commission being taken. The disclosure shall be recorded in the minutes of the meetings of the Commission and such member shall not take part in any deliberation or decision of the Commission with regard to that matter, and shall withdraw from such meeting while such deliberation is in progress or such decision is being made.
- Acts not invalidated by reason of a vacancy 10. No act or decision or proceeding of the Commission shall be invalidated by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member thereof.
- Seal of the Commission 11. (1) The seal of the Commission shall be in the custody of the Commission.
(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.
- [§ 6, 26 of 1991] (3) The seal of the Commission shall not be affixed to any instrument or document except in the presence of one member of the Commission and the Director-General of the Commission or in the absence of the Director-General, in the presence of any two members of the Commission, who shall sign the instrument in token of their presence.

PART II

OBJECTS, POWERS AND FUNCTIONS

- Objects of the Commission 12. The objects of the Commission shall be-
- [§ 7, 26 of 1991] (a) the creation and maintenance of a market in which securities can be issued and traded in an orderly and fair manner;
- (b) the protection of the interest of investors;
- [§3, 18 of 2003] (c) the operation of a Compensation Fund to protect investors from financial loss arising as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting his contractual obligations; and
- (d) the regulation of the securities market and to ensure that professional standards are maintained in such market.
- Powers duties and functions of the Commission 13. For the purpose of carrying out its objects the Commission may exercise, perform and discharge all or any of the following powers, duties and functions: -
- (a) to grant a licence to a body corporate to operate as a stock exchange

and ensure the proper conduct of its business;

(b) to grant a licence to any person to operate as a stock broker or a stock dealer as, the case may be, and ensure the proper conduct of their business;

[§ 8.1, 26 of 1991] (bb) to grant a licence to a managing company to operate a unit trust and to ensure the proper conduct of the business of such unit trust;

[§ 4.1, 18 of 2003] (bbb) to grant a certificate of registration to any person to carry on business as a market intermediary and to ensure the proper conduct of such business;

[§ 8.2, 28 of 1991]
[§ 4.2, 18 of 2003] (c) to give general or specific directions to a licensed stock exchange or a licensed stock broker or a licensed stock dealer or a licensed managing company or a trustee of a unit trust or a registered market intermediary, from time to time;

[§ 3, 47 of 2009] (cc) to issue general or specific directives to Listed Public Companies from time to time.

[§ 4.3, 18 of 2003] (d) to grant compensation to any investor who suffers pecuniary loss arising as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting his contractual obligations;

(e) to advise the government on the development of the securities market;

(f) to employ such officers and servants as may be necessary for the purpose of carrying out the work of the Commission;

[§ 4.4, 18 of 2003] (g) to regulate the listing and issue of securities in a licensed stock exchange;

(gg) to direct a licensed stock exchange to reject any application made to it for listing;

[§ 8.4 , 26 of 1991]
[§ 4.5, 18 of 2003] (h) to cancel or suspend the listing of any securities or the trading of any listed securities or to suspend the trading of all listed securities for not more than three days at a time, for the protection of investors;

[§ 8.5, 26 of 1991]
[§ 4.6, 18 of 2003] (i) to inquire and conduct investigations into any activity of a licensed stock exchange, a licensed stock broker or licensed stock dealer, a licensed managing company or a trustee of a unit trust, a registered market intermediary or any listed public company;

[§ 4.7, 18 Of 2003] (j) to publish findings of malfeasance by any licensed stock broker or licensed stock dealer or a licensed managing company or a trustee of a unit trust, or a registered market intermediary or any listed public

company;

(k) to implement the policies and programmes of the Government with respect to the market in securities;

(l) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of any immovable or movable property; and

[§ 8.7, 26 of 1991]

(m) to request the Registrar of Companies, in the exercise of the powers conferred on it by section 227 of the Companies Act, No. 17 of 1982, to call upon a private limited liability company to become a public limited company; and

[§ 4.8, 18 of 2003]

(n) to regulate take-overs or mergers where such take-over or merger is between one or more listed companies or where at least one of the parties involved in such take-over or merger is a listed public company;

(o) to conduct investigations into any alleged violation or contravention of the provisions of this Act or any rule or regulation made thereunder by any person; and

(p) to do all such other acts as may be incidental or conducive to, the attainment of the objects of the Commission or the exercise of its powers under this Act.

Powers of inspection
etc. of the
Commission

14. The Commission shall in addition to the powers specified in section 13 also have the powers to-

[§ 9.1, 26 of 1991]

[§ 5.1, 18 of 2003]

(a) carry out inspections of the activities of licensed stock exchanges, licensed stock brokers, licensed stock dealers, licensed managing companies or trustees of unit trusts or registered market intermediaries, in order to determine whether they are operating in conformity with the provisions of this Act or any regulations or rules made thereunder and to charge the costs incurred in carrying out such inspections from the licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company or trustee of a unit trust or registered market intermediary as the case may be, whose activities are being inspected;

[§ 9.2, 26 of 1991]

[§ 5.2, 18 of 2003]

(b) require licensed stock exchanges, licensed stock brokers, licensed stock dealers, licensed managing companies of unit trusts and registered market intermediaries to file with the Commission, annual balance sheet and income statements, certified by a qualified auditor in the form and manner specified by the Commission;

[§9.3, 26 of 1991]
[§ 5.3, 18 of 2003]

- (c) require the licensed managing company of a unit trust to file with the Commission, in respect of every year, at least two reports of the activities of that unit trust for that year. Every such report shall contain such particulars as may from time to time be determined by the Commission. The first report shall be filed not later than the thirtieth of September of that year and the second report shall be filed not later than the thirty-first of March of the subsequent year.

Levy of cess
[§6, 18 of 2003]

14A(1) There shall be charged, levied and paid a cess at such rates as may be specified by the Minister by Order published in the Gazette on every purchase and sale of securities recorded in a licensed stock exchange or notified to it under its rules by both the purchaser and the seller. Different rates may be specified in respect of different classes of securities.

- (2) The cess imposed under this section shall be in addition to any other tax or cess levied under any other written law.

Cess Fund

14B(1) There shall be established a fund called the Cess Fund to which shall be credited the proceeds of the cess imposed under section 14A.

- (2) There shall be paid out of the Cess Fund such sums as may be authorised by the Commission for the purpose of –

- (a) developing the securities market;
- (b) enhancing monies lying to the credit of the Compensation Fund established under section 38; and
- (c) exercising, performing and discharging the powers, duties and functions of the Commission for the purpose of achieving its objects.

- (3) The money lying to the credit of the Cess Fund may be invested by the Commission in such manner as may be determined by the Commission.

PART III

GRANT OF LICENCE TO A STOCK EXCHANGE, A STOCK BROKER OR A STOCK DEALER AND THE REGISTRATION OF MARKET INTERMEDIARIES

[§ 7, 18 of 2003]

Grant of a licence as a stock exchange or as a stock broker or stock dealer

15. Subject to the provisions of section 30 from and after the appointed date:-
- (a) any body corporate which is carrying on or intends to carry on the business of operating a stock exchange; or
 - (b) any person who is carrying on or who intends to carry on the business of a stock broker or of a stock dealer,

[§ 8, 18 of 2003]

shall make an application to the Commission for the grant of a licence as a stock exchange, stock broker or a stock dealer, as the case may be, in such form, together with such documents and such fee as may be specified by the Commission from time to time in that behalf.

Terms and conditions to be complied with for the grant of a licence to a stock exchange

16. No licences shall be granted under this Act to any body corporate as a stock exchange which does not comply with the terms and conditions set out in Part I of the Schedule hereto.

Terms and conditions to be complied with for the grant of a licence to a stock broker or a stock dealer

17. No licence shall be granted under this Act to any body corporate as a stock dealer or a stock broker as the case may be, which does not comply with the terms and conditions set out in Part II of the Schedule hereto.

Terms and conditions to be complied with by an individual for the grant of licence as a stock broker or a stock dealer

18. No licence shall be granted under this Act to any individual who does not comply with the terms and conditions set out in Part III of the Schedule.

[§10, 26 of 1991]

Furnishing incorrect

- 18A. (1) Where a licence is granted to a stock broker or stock dealer on the

or false information

[§11, 26 of 1991]

basis of particulars furnished by such stock broker or stock dealer which are subsequently found to be inaccurate or false, the Commission shall suspend for a specified period, the licence granted to request such stock broker or stock dealer to furnish the correct particulars on or before the expiry of the period of suspension. The Commission may on receipt of the particulars and after consideration thereof, revoke the order of suspension.

- (2) Where the particulars are not furnished within the period specified under subsection (1) in compliance with a request made under that subsection or the Commission determines on a consideration of the particulars furnished that the order of suspension should not be revoked, it shall cancel the licence.

Grant of a certificate

19. (1) On receipt of an application made under section 15, the Commission having considered the particulars stated therein and, where it deems necessary, having given the applicant an opportunity of being heard, in person or by a representative, shall by written notice to the applicant, inform the applicant whether he is being granted a licence or not.

- (2) Where the Commission grants a licence to -

- (a) a body corporate to carry on the business of a stock exchange, it shall issue a certificate to that effect for a period of five years; or
- (b) any person to carry on the business of a stock broker or stock dealer, it shall issue a certificate to that effect for a period of one year.

Registration of
market intermediaries
[§ 9, 18 of 2003]

- 19A (1) Any person who is carrying on or who intends to carry on business as a market intermediary shall register with the Commission for such purpose.

- (2) An application for the purpose of registration under subsection (1) shall be made to the Commission in such form, together with such documents and such fee as may be prescribed by the Commission from time to time in that behalf.

- (3) On receipt of an application for registration, the Commission having considered the particulars stated therein and where it appears necessary having given the applicant an opportunity of being heard, shall by written notice inform the applicant whether he is being registered as a market intermediary or not, and where he is registered as a market intermediary, issue him with a certificate of registration valid for a period of one year effective from the date of issue of such certificate. Every person issued with a certificate of registration is referred to in this Act as a “registered market intermediary”.

- (4) No person shall be registered as a market intermediary unless he complies

- with the terms and conditions set out in Part V of the Schedule hereto.
- Renewal of licence
[§12, 26 of 1991]
[§10.1, 18 of 2003]
- [§ 10.2, 18 of 2003]
- [§10.3, 18 of 2003]
- Cancellation of
licence granted to a
stock broker or a
stock dealer
- [§ 13.1, 26 of 1991]
- [§13.2, 26 of 1991]
[§11, 18 of 2003]
20. (1) A licensed stock exchange may six months prior to the expiry of the licence, make an application to the Commission in the prescribed form together with a prescribed fee for a renewal of the licence.
- (2) A licensed stock broker, a licensed stock dealer or a registered market intermediary may three months prior to the expiry of the licence or the registration as the case may be, make an application to the Commission in the prescribed form, together with the prescribed fee for a renewal of his licence or the registration as the case may be; and
- (3) In granting a renewal of a licence or registration, the Commission shall satisfy itself that the licensed stock exchange, the licensed stock broker, the licensed stock dealer or the registered market intermediary, as the case may be, has at no time been guilty of contravening any provisions, of this Act or any rules or regulations made under this Act.
21. (1) The Commission shall, cancel or suspend licence granted to a stock broker or a stock dealer, where the Commission is satisfied that-
- (a) the stock broker or the stock dealer has acted in breach of any provisions of this Act, or any rules or regulations made under this Act; or
- (b) the stock broker or the stock dealer has ceased to be of good financial standing; or
- (c) the stock broker or the stock dealer has since the grant of the licence, been disqualified for the grant of such licence; or
- (d) the stock broker or the stock dealer is guilty of malpractice or irregularity in the management of his affairs.
- (2) Before the cancellation or suspension of a licence granted to a stock broker or a stock dealer in terms of the preceding subsection such stock broker or stock dealer, as the case may be, shall be given an opportunity to show cause as to why such licence should not be cancelled or suspended.
- (3) Where the licence granted to a stock broker or stock dealer is cancelled, it shall be the duty of such stock broker or stock dealer to forthwith surrender his licence to the Commission.
- (4) Where the Commission is satisfied that a licensed stock broker or licensed stock dealer has contravened the provisions of paragraph (a) or (b) or (c) or (d) of subsection (1) and that such contravention is not of a

serious nature, it may in lieu of acting under subsection (1), direct such licensed stock broker or licensed stock dealer to take whatever action that the Commission may consider appropriate to-

- (a) rectify or set right the condition resulting from such contravention; or
- (b) comply with the provisions of this Act of any rule or regulation made under this Act or to desist from continuing such contravention.

[§11,18 of 2003]

- (5) The giving of a direction by the Commission, to a licensed stock broker or licensed stock dealer under subsection (4) shall not affect or prejudice the institution or maintenance of a prosecution against such licensed stock broker or licensed stock dealer for an offence under this Act.

Suspension and
cancellation of
registration
[§12, 18 of 2003]

21A (1) The Commission shall have the power to suspend or cancel the certificate of registration granted to a market intermediary under section 19A of this Act.

- (2) The provisions of section 21 of this Act shall, *mutatis mutandis*, apply to, and in relation to, any suspension or cancellation as the case may be, of a certificate of registration under subsection (1).

Appeal to Court of
Appeal
[§13, 18 of 2003]

22. (1) Any person aggrieved by the decision of the Commission-

- (a) suspending or cancelling a licence under section 18A;
- (b) refusing to grant a licence under section 19 or a registration under section 19A;
- (c) refusing to grant a renewal of a licence or registration as the case may be under section 20; or
- (d) cancelling or suspending a licence or a registration as the case may be, under sections 21 or 21A;

may appeal against such decision to the Court of Appeal, within fourteen days from the date on which the decision was communicated to such person.

- (2) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall apply to every appeal made under subsection (1) of this section.
- (3) The Court of Appeal may, on an appeal made to it under subsection (1), reverse, modify or set-aside the decision made by the Commission or make such order as the interests of justice may require.

Consequence of death, resignation & expiration etc of a licensed stock broker or a licensed stock dealer

23. Where a licensed stock broker or a licensed stock dealer dies, resigns, or is expelled from the membership of a licensed stock exchange, or becomes incapable of carrying on the business as such stock broker or stock dealer by reason of illness or due to any other cause or the licence granted to such stock broker or stock dealer is cancelled, the Commission shall direct the licensed stock exchange of which such stock broker or stock dealer was a member to arrange for another licensed stock broker or a licensed stock dealer, as the case may be, to take over the outstanding contracts of a such stock broker or stock dealer.

Taking over administration and management of licensed stock exchange
[§16, 26 of 1991]

23A. (1) Where the Commission is of the opinion that the public interest requires that the administration and management of a licensed stock exchange should be taken over, it may by notice published in the Gazette, take over the administration and management of such stock exchange for such period as may be specified in such Notice. The Commission may by a subsequent Notice published in the Gazette, extend the period specified in the first notice. The Commission shall cause a copy of every such notice to be sent to the Registrar of Companies who shall make a minute thereof in the records relating to the company licensed to carry on the business of operating such stock exchange.

(2) Where the Commission takes over the administration and management of a licensed stock exchange it may enter into an agreement with any person for the management of such stock exchange, subject to such conditions as may be agreed upon between the Commission and such person, having regard to the interests of investors in companies listed in such stock exchange.

(3) Where the Commission takes over the administration and management of a licensed stock exchange, the Commission, or in any case where the Commission has entered into an agreement with any person under subsection (2), that person, may-

(a) exercise, perform and discharge with respect to such stock exchange, all the powers, duties and functions conferred or imposed on, or assigned to, a licensed stock exchange by or under any written law or the articles of association of the company licensed to carry on the business of operating such stock exchange; and every such exercise, performance and discharge by the Commission or such person shall be as valid and effectual as if it were an exercise, performance and discharge by such licensed stock exchange; and

(b) take possession of, and use any such movable or immovable property as was used by such licensed stock exchange on the day preceding the date

of publication of the Notice referred to in subsection (1), for the purpose of carrying on the business of operating such licensed stock exchange, for such purpose.

- (4) During the period for which the administration and management of a licensed stock exchange has been taken over by the Commission, every director or officer of such licensed stock exchange shall, unless expressly authorised to do so by the Commission, cease to exercise, perform and discharge with respect to such licensed stock exchange, any power, duty or function conferred or imposed on or assigned to, such licensed stock exchange, by or under any written law or by the articles of association of the company licensed to carry on the business of operating such stock exchange.
- (5) The Commission may at any time before the expiry of the period specified in the Notice published under subsection (1), call upon a licensed stock exchange to reconstitute its Board of Directors in accordance with the rules of such stock exchange, and after such reconstitution, and on expiry of such period shall hand over the property taken possession of, under subsection (3), to the reconstituted Board of Directors.

Rules of a licensed
stock exchange
[§17.1, 26 of 1991]

24. (1) The Rules of a licensed stock exchange, in so far as they have been approved by the Commission, shall not be amended, varied or rescinded without the prior approval of the Commission.
- (2) Where the Board of Directors of a licensed stock exchange wish to amend its rules it shall forward by written notice to the Commission the amendment, whether by rescission, alteration or addition, to such rules which such licensed stock exchange wish to make.
- (3) The Commission shall, after hearing the licensed stock exchange, and within twenty-one days of receipt of a notice under subsection (2) give written notice to the stock exchange stating whether such amendments to the rules are allowed or disallowed.

In case such rules are disallowed the Commission shall give reasons for such disallowance.

- (4) Upon receipt of notice under subsection (3), the stock exchange, shall give immediate effect to such notice.
- (5) Notwithstanding the provisions contained in subsections (3) and (4) of this section, amendments to rules of a stock exchange of such categories as may be specified by the Commission by rules made in that behalf,

[§17.2, 26 of 1991]

shall take effect immediately upon the forwarding of the written notice referred to in subsection (2) subject to the condition that the Commission may within twenty one days of such amendment taking effect disallow such amendment without prejudice to anything previously done thereunder and require the stock exchange to comply with the provisions of subsection (4) of this section.

- Alteration of any particulars furnished
[§18.1, 26 of 1991]
[§14.1, 18 of 2003]
25. (1) Where a licensed stock exchange, a licensed stock broker or a licensed stock dealer, as the case may be, proposes to alter any material particulars already furnished or undergoes or intends to undergo a change from the state specified in the application for a licence or the renewal of a licence, as the case may be, as a stock exchange, stock broker or stock dealer, it shall be the duty of such licensed stock exchange, licensed stock broker or licensed stock dealer, as the case may be, to inform the Commission and obtain its prior consent before such alteration or change is effected; and
- [§14.2, 18 of 2003]
- (1A) Where a registered market intermediary proposes to alter any particulars already furnished or undergoes or intends to undergo a change from the state specified in the application for registration or renewal of a registration as a market intermediary, it shall be the duty of such registered market intermediary to forthwith inform the Commission of such alteration or change.
- [§18.2, 26 of 1991]
- (2) Notwithstanding the provisions contained in subsection (1) of this section, changes or alterations of such categories as may be specified by the Commission by rules made in that behalf, shall take effect immediately upon the Commission being informed of such change or alterations.
- [§19, 26 of 1991]
26. A person who, in connection with an application or appeal made under this Act, wilfully makes a false or misleading statement or wilfully omits or fails to report any matter or thing without which the application is misleading in a material respect, shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one million rupees.
- Lending or borrowing of securities without the consent of customer prohibited
27. No licensed stock broker or licensed stock dealer shall lend or arrange for the lending of, any securities carried for the account of any customer without the customer's written consent, or borrow, or arrange to borrow, using the securities, carried for the account of any customer, as collateral, without the customer's written consent.

Purchase, sale & etc. of listed securities [§20, 26 of 1991] 28. (1) (a) No person holding securities in a public company listed in a licensed stock exchange shall without the prior approval of the Commission, buy, sell, gift or otherwise deal in such securities except in compliance with the trading procedure adopted by such licensed stock exchange:

Provided that a person may gift any such security to a relation otherwise than in compliance with such trading procedure if he gives prior notice to the Commission and the licensed stock exchange, of the particulars relating to the proposed gift;

[§15.1.a, 18 of 2003]

In this subsection "relation" in relation to a person means a parent, spouse or child of that person or the spouse of a child of that person.

[§15.2, 18 of 2003]

(2) No licensed stock exchange, licensed stock broker, licensed stock dealer, the licensed managing company of a unit trust or a registered market intermediary shall either directly or indirectly, in connection with the purchase, sale or otherwise of any listed securities-

- (a) employ any device, or artifice with a view to defrauding any person;
- (b) engage in any practice or course of business which would operate as a fraud or deceit upon any person; or
- (c) make any false or misleading statement in relation to a material fact or omit to state a material fact necessary in order to make any statement made not false or misleading.

Prohibition against the listing of shares in certain cases [§ 16, 18 of 2003] 28A Where shares in any public company are allotted to any person prior to its listing in a licensed stock exchange, no shares or any security convertible to shares in any such company shall be listed on a licensed stock exchange within a period of one year from the date of the last allotment, unless the written approval of the Commission is obtained for that purpose prior to such listing.

Trading or otherwise dealing in listed securities by licensed stock brokers and licensed stock dealers [§21, 26 of 1991] 29. No licensed stock broker or licensed stock dealer shall-

- (a) trade in or otherwise deal in listed securities outside the licensed stock exchange of which he is a member without the prior approval of the Commission;
- (b) trade in listed securities in contravention of such rules as the

Commission may formulate relating to the clearance, settlement, payment, transfer and delivery of listed securities;

- (c) effect any transaction in a margin account in a manner contrary to the requirements set out by the stock exchange of which he is a member without the prior approval of the Commission;
- (d) effect any transaction by means of any manipulative, deceptive or other fraudulent device or contrivance in order to induce or attempt to induce the purchase or sale of any listed securities.

Issue of securities
[§17, 18 of 2003]

29A (1) No listed public company or any public company which has applied to obtain a listing in a licensed stock exchange, shall make any issue of securities unless the issue has been approved by the Commission or any person authorised in that behalf by the Commission.

(2) For the purposes of this section, "issue of securities" means-

- (a) in relation to a public company which has applied to obtain a listing, an introduction, an offer for subscription, an offer for sale or any placement of securities on a licensed stock exchange;
- (b) in relation to a listed public company-
 - (i) new issues or offer for sale of securities to the public, whether such issues or offers for sale are by way of public issues or otherwise or any placements of securities;
 - (ii) rights issues of securities;
 - (iii) bonus issues of securities;
 - (iv) schemes of arrangements, schemes of reconstruction, take over schemes, share option schemes and acquisition of assets by way of issues of securities.

Use of words "stock exchange", "stock broker" or "stock dealer"
[§22.1, 26 of 1991]

30. (1) From and after the appointed date, no body corporate or an individual shall use the words "stock exchange", "stock broker" or "stock dealer" as the case may be unless such body corporate or individual as the case may be, has been licensed as a stock exchange or stockbroker or stock dealer, by the Commission under this Act.

(2) From and after the appointed date, no body corporate or an individual shall carry on business as a stock exchange, stock broker, stock dealer as the case may be, such body corporate or individual is authorized to do

so under a licence granted under the provisions of this Act:

Provided, however, any body corporate or an individual who, immediately before the appointed date was carrying on business as a stock exchange, stock broker or stock dealer as the case may be, shall be entitled to carry on such business without obtaining a license under this Act-

- (a) for a period of three months from the appointed date; and
- (b) if prior to the expiration of that period an application is made for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.

[§22.2, 26 of 1991]

- (3) Any body corporate or an individual who contravenes the provisions of subsection (1) or (2), shall be guilty of an offence under this Act and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one million rupees.

PART IIIA

[§23, 26 of 1991]

GRANT OF A LICENCE TO OPERATE A UNIT TRUST

[§19, 18 of 2003]

Grant of a licence to operate a unit trust [§20, 18 of 2003]

31. A managing company intending to operate a unit trust shall make an application in the prescribed form together with the prescribed fee to the Commission for the grant of a licence to operate such unit trust. Every such application shall be accompanied by the prescribed documents.

Requirements to be complied with for the purpose of granting a licence to operate a unit trust [§21, 18 of 2003]

31A (1) No licence shall be granted under this Part for the operation of a unit trust, unless -

- (a) the trustee has been approved by the Commission; and
- (b) the managing company complies with the terms and conditions set out in Part IV of the Schedule hereto.

(2) Notwithstanding the provisions of paragraph (a) of subsection (1), where the trustee approved by the Commission is replaced by the appointment of a new trustee after the issue of a licence, such licence shall be deemed to be valid and continue in force until the new trustee is approved by the Commission.

Withdrawal of approval of a trustee [§22, 18 of 2003]

31B. (1) The Commission shall withdraw the approval of a trustee of a unit trust where the Commission is satisfied that the trustee of that unit trust-

- (a) has acted in breach of any provision of this Act or any rules or regulations made thereunder;
- (b) has ceased to be of good financial standing; or
- (c) is guilty of malpractice or irregularity in the management of its affairs.

(2) Upon withdrawal of any approval under subsection (1), the trustee shall be deemed to have retired but such retirement shall not take effect until a new trustee duly approved by the Commission has been appointed.

Grant of a licence
[§23, 18 of 2003]

31C. On receipt of an application made under section 31, the Commission, having considered the particulars stated therein and the documents accompanying such application and, where it deems it necessary, having given the applicant an opportunity of being heard, in person or by a representative, shall, by written notice to the applicant, inform the applicant, whether he is being granted a licence or not.

[§24, 18 of 2003]
Cancellation of a
licence granted to a
managing company
[§24.3, 18 of 2003]

31D. (1) The Commission shall cancel or suspend the licence granted to a managing company in respect of a particular unit trust, where then Commission is satisfied that-

- (a) the managing company of such unit trust has acted in breach of any provision of this Act or any rules or regulations made thereunder;
- (b) the managing company of such unit trust has ceased to be of good financial standing;
- (c) the managing company of such unit trust is guilty of malpractice or irregularity in the management of its affairs;
- (d) the managing company of such unit trust has been dismissed by the trustee of a unit trust; or
- (e) the approval granted to the trustee of such unit trust has been withdrawn by the Commission under section 31B and a new trustee has not been approved by the Commission.

(2) Before the cancellation of a licence granted to a managing company in respect of a particular unit trust in terms of the preceding subsection, such managing company shall be given an opportunity to show cause as to why such licence should not be cancelled.

(3) Where the licence granted to a managing company in respect of a particular unit trust is cancelled, it shall be the duty of such managing company to forthwith surrender its licence to the Commission.

(4) Where the Commission is satisfied that the managing company in respect of a particular unit trust has contravened the provisions of paragraph (a), (b) or (c) of subsection (1) and that such contravention is not considered by the Commission as being of a serious nature, it may, in lieu of acting under

subsection (1), direct such managing company to take whatever action that the Commission may consider appropriate to-

- (a) rectify or set right the condition resulting from such contravention; or
- (b) to comply with the provisions of this Act or any rule or regulation made under this Act or to desist from continuing such contravention.

(5) the giving of a direction by the Commission to a managing company under subsection (4), shall not affect or prejudice the institution or maintenance of a prosecution against such managing company for an offence under this Act.

[§24.2, 18 of 2003]

Appeal from a refusal, cancellation or suspension

[§25.1, 18 of 2003]

- 31E. (1) Any person aggrieved by a decision of the Commission -
- (a) refusing to grant a licence under section 31C; or
 - (b) cancelling or suspending a licence under section 31D,

may appeal against such decision to the Court of Appeal, within fourteen days from the date on which the decision was communicated to such person.

(2) Until rules are made under Article 136 of the Constitution pertaining to appeals under this section, the rules made under that Article pertaining to applications by way of revision to the Court of Appeal shall, mutatis mutandis, apply to every appeal made under subsection (3) of this section.

[§25.2, 18 of 2003]

[§25.3, 18 of 2003]

(3) The Court of Appeal may, on an appeal made to it under this section confirm, revise, modify or set aside the decision of the Commission and may make any order as the interests of justice may require.

[§25.4, 18 of 2003]

Amendment of trust deed relating to unit trust

[§26.1, 18 of 2003]

[§26.2, 18 of 2003]

31F. (1) The trust deed relating to a unit trust shall not be amended, without the prior approval in writing of the Commission.

(2) Where the trustee of a unit trust proposes to amend the trust deed of such unit trust he shall forward the proposed amendments, to the Commission.

(3) The Commission shall, within twenty one days of receipt of the proposed amendments forwarded under subsection (2), give written notice to the managing company and trustee stating whether the proposed amendments to the trust deed are allowed or disallowed.

In case such amendments are disallowed the Commission shall give

reasons for such disallowance.

- (4) Upon receipt of a notice under subsection (3), trustee shall give immediate effect to such notice.

Alteration of any particulars furnished [§27, 18 of 2003] 31G. Where a managing company licensed under section 31A, proposes to alter any particulars in its application for a licence or undergoes or intends to undergo a change from the state specified in the application for a licence under section 31A, it shall be the duty of such managing company to inform the Commission and obtain its prior consent before such alteration or change is effected.

Restriction on the use of the words “unit trust” [§28, 18 of 2003] 31H. No person shall use the words “unit trust” unless he has been licensed to operate such unit trust under section 31C.

Restriction on issue of advertisement inviting investment in unit trust [§29, 18 of 2003] 31I. No person shall issue or publish or cause to be issued or published an explanatory memorandum or advertisement inviting the public to invest in units of a unit trust, unless such person has been licensed as a managing company of such unit trust and has obtained prior approval of the Commission for the contents of such explanatory memorandum or advertisement and for its issue or publication.

Limitation of liability of trustee for breaches of trust [§30, 18 of 2003] 31J. (1) Notwithstanding anything in the Trust Ordinance or any other law, a trustee of a unit trust shall not be liable for any breach of trust arising from any act of the managing company of such unit trust if-

- (a) such act was done without obtaining the concurrence of such trustee;
- (b) such act was done after obtaining the concurrence of such trustee and such concurrence was given, in good faith, on the faith of any written statement or representation made to such trustee by such managing company as to any matter relating to trust property or on the faith of any professional advice obtained by such managing company independently of such trustee.

(2) nothing contained in subsection (1) of this section shall be deemed to exempt a trustee from liability for a breach of trust which has been occasioned by fraud or negligence.

PART IV

INSIDER DEALING

- Prohibition on trading listed securities by insiders [§24.1.a, 26 of 1991]
32. (1) Subject to the provision of subsections (8) and (9), an individual who is, or at any time during the six months immediately preceding the appointed date has been, connected with a company shall not trade in listed securities of that company if he has information which-
- (a) he holds by virtue of being connected with the company;
 - (b) it would be reasonable to expect a person so connected and in the position by virtue of which he is so connected, not to disclose except for the proper performance of the functions attaching to that position; and
 - (c) he can reasonably be expected to know is unpublished price sensitive information in relation to those securities.
- [§24.1.b, 26 of 1991]
- [§24.2.a, 26 of 1991]
- (2) Subject to the provisions of subsections (8) and (9), an individual who is or at any time in the six months immediately preceding the appointed date has been connected with a company shall not trade in listed securities of any other company if he has information which-
- (a) he holds by virtue of being connected with the first mentioned company;
 - (b) it would be reasonable to expect a person so connected and in the position by virtue of which he is so connected not to disclose except for the proper performance of the functions attaching to that position;
 - (c) he can reasonably be expected to know is unpublished price sensitive information in relation to those securities of that other company; and
 - (d) relates to any transaction whether actual or contemplated, involving both the first mentioned company and that other company or involving one of them and securities of the other or to the fact that any such transaction is no longer contemplated.
- [§24.2.b, 26 of 1991]
- [§24.2.c, 26 of 1991]
- (3) Subject to the provisions of subsections (8) and (9), where-
- (a) any individual has information which he obtained, or has reasonable cause to believe he obtained, whether directly or indirectly, from another individual who is connected with a particular company, or was
- [§24.3.a, 26 of 1991]

at any time in the six months immediately preceding the date of obtaining of the information so connected and who the former individual knows or has reasonable cause to believe, held the information by virtue of being so connected; and

- (b) the former individual knows or has reasonable cause to believe that, because of the latter's connection and position, it would be reasonable to expect him not to disclose the information except for the proper performance of the functions attaching to that position,

then, the former individual-

[§24.3.b, 26 of 1991]

- (i) shall not himself trade in listed securities of that company if he can reasonably be expected to know that the information is unpublished price sensitive information in relation to those securities; and

[§24.3.c, 26 of 1991]

- (ii) shall not himself trade in listed securities of any other company if he can reasonably be expected to know that the information is unpublished price sensitive information in relation to those securities, and it relates to any transaction whether actual or contemplated, involving the first mentioned company and the other company or involving one of them and securities of the other or to the fact that any such transaction is no longer contemplated.

[§24.4, 26 of 1991]

- (4) Subject to the provisions of subsections (8) and (9) where an individual is contemplating, or has contemplated, making, whether with or without another person, a take over offer for a company in a particular capacity, that individual shall not trade in listed securities of that company in another capacity if he can reasonably be expected to know that the information that the offer is contemplated or is no longer contemplated is unpublished price sensitive information in relation to those securities.

[§24.5, 26 of 1991]

- (5) Subject to the provisions of subsections (8) and (9) where an individual has obtained, or has reasonable cause to believe he has obtained, from an individual to whom the provisions of subsection (4) apply, information that the offer referred to in subsection (4) is being contemplated or no longer contemplated the first mentioned individual shall not himself trade in listed securities of that company if he can reasonably be expected to know that the information is unpublished price sensitive information in relation to those securities.

- (6) Subject to the provisions of subsections (8) and (9) an individual who is for the time being prohibited by any provision of this section from trading in listed securities shall not counsel or procure any other person

to deal in those securities, knowing or having reasonable cause to believe that person would trade in such listed securities.

(7) Subject to the provisions of subsections (8) and (9) an individual who is for the time being prohibited as aforesaid from trading in listed securities by reason of his having any information, shall not communicate that information to any other person if he knows or has reasonable cause to believe that or some other person will make use of the information for the purpose of counselling or procuring any other person to trade in such listed securities.

(8) The provisions of this section shall not prohibit an individual by reason of his having any information from-

(a) doing any particular thing otherwise than with the view to the making of a profit or the avoidance of a loss, whether for himself or another person by the use of that information; or

(b) entering into a transaction in the course of the exercise in good faith of his functions as liquidator, receiver, or trustee in bankruptcy; or

(c) doing any particular thing if the information was-

(i) obtained by him in the course of the business of a stock broker or a stock dealer in which he was engaged or employed; and

(ii) of a description which it would be reasonable to expect him to obtain in the ordinary course of that business,

and he does that thing in good faith in the course of that business.

(9) An individual shall not, by reason only of having information relating to any particular transaction, be prohibited-

(a) by the provision of subsection (2), paragraph (ii) of subsection (3), subsection (4) or subsection (5) from trading in listed securities; or

(b) by the provisions of subsection (6) or subsection (7) from doing any other thing in relation to listed securities which he is prohibited from trading in by any of the provisions referred to in paragraph (a),

if he does that thing in order to facilitate the completion or carrying out of the transaction.

[§24.6, 26 of 1991]

[§24.7, 26 of 1991]

- (10) Where a trustee or legal representative, or where a trustee or legal representative is a body corporate, an individual acting on behalf of that trustee or legal representative, who, apart from the provisions of paragraph (a) of subsection (8) would be prohibited by the provisions of this section from counselling or procuring any other person to trade in listed securities, trades in those listed securities, or counsels or procures any other person to trade in them, he shall be presumed to have acted as referred to in that paragraph if he acted on the advice of a person who-
- (a) appeared to him to be an appropriate person from whom to seek such advice; and
 - (b) did not appear to him to be prohibited by this section from dealing in those securities.

Prohibition on abuse of information obtained in official capacity

33. (1) The provision of this section shall apply to any information which-
- (a) is held by a public servant or former public servant by virtue of his position or former position as a public servant or is knowingly obtained by an individual (directly or indirectly) from a public servant or former public servant who he knows or has reasonable cause to believe, held the information by virtue of any such position;
 - (b) it would be reasonable to expect an individual in the position of the public servant or former position of the former public servant not to disclose except for the proper performance of the functions attaching to that position; and
 - (c) is unpublished price sensitive information in relation to listed securities of a particular company (hereafter in this section referred to as "relevant securities").

[§25.1, 26 of 1991]

- (2) The provisions of this section shall apply to a public servant or former public servant holding information to which this section applies and to any individual who knowingly obtained any such information (directly or indirectly) from a public servant or former public servant who, that individual knows or has reasonable cause to believe, held the information by virtue of his position or former position as a public servant.
- (3) An individual to whom the provisions of this section apply-
 - (a) shall not trade in any relevant securities;

- (b) shall not counsel or procure any other person to trade in any such relevant securities, knowing or having reasonable cause to believe that other person would trade in them; and
- [§25.2, 26 of 1991] (c) shall not communicate to any person the information held or obtained by him as referred to in subsection (2) if he knows or has reasonable cause to believe that such person or any other person will make use of that information for the purpose of counselling or procuring any other person to trade in such relevant securities.
- (4) An individual shall not, by reason only of having information to a particular transaction, be prohibited by any provision of this section from doing anything, if he does that thing in order to facilitate the completion or carrying out of the transaction.
- Offences under this Part [§31, 18 of 2003] 33A. Any person who contravenes any provision of this Part of this Act shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one million rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment.
- Interpretation of this Part [§32.1, 18 of 2003] 34. (1) For the purpose of this Part of this Act, an individual is connected with a company if, and only if-
- (a) he is a director of that company or a related company; or
- (b) he occupies a position as an officer (other than director) or employee of that company or a related company or a position involving a professional or business relationship between himself (or his employer or a company of which he is a director) and the first company or a related company which in either case may reasonably be expected to give him access to information which, in relation to listed securities of either company, is unpublished price sensitive information and which it would be reasonable to expect (a person in his position not to disclose except) for the proper performance of his function; or
- [§32.2, 18 of 2003] (c) he has access to information in relation to listed securities, which he knows, is unpublished price sensitive information and which it would be reasonable to expect him not to disclose except in the course of performing his duties.
- (2) Any reference in this Part of this Act to "unpublished price sensitive information" in relation to any listed securities of any company is a reference to information which -

- (a) relates to specific matters relating, or of concern, (directly or indirectly) to that company that is to say, is not of a general nature relating or of concern to that company; and
 - (b) is not generally known to those persons who are accustomed or would be likely to deal in those listed securities but which would if it were generally known to them be likely to affect materially the price of those securities.
- (3) In this Part of this Act except where the context otherwise requires-

"company" means a listed public company within the meaning of this Act;

"related company", in relation to any company means any body corporate which is that company's subsidiary, associate or holding company, or a subsidiary of that company's holding company;

"take-over offer for a company" means an offer made to all the holders (or all holders other than the person making the offer and his nominees) of the shares in the company to acquire those shares or a specified proportion of them, or to all the holders, or all the holders other than the person making the offer and his nominees, of a particular class of those shares to acquire the shares of that class or specified proportion of them.

PART V

FINANCE

- Fund of the Commission 35. (1) The Commission shall have its own Fund-
- (2) There shall be paid into the Fund-
- (a) all such sums of money as may be voted upon from time to time by Parliament for the use of the Commission;
- (b) all sums of money as may be charged as costs incurred in carrying out all inspections under paragraph (a) of section 14 or paid as fees under section 15, section 19A, section 20 and section 31;
- (c) all such sums of money as may be received by the Commission by way of donations, gifts or grants from any source whatsoever, whether in or outside Sri Lanka.
- (3) There shall be paid out of the Fund all such sums of money required to defray the expenditure incurred by the Commission in the exercise, discharge and performance of its powers functions and duties.
- Financial Year 36. The financial year of the Commission shall be the period of twelve months commencing on the first day of January each year.
- Audit of Accounts 37. (1) The Commission shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Commission.
- (2) The provision of Article 154 of the Constitution relating to the audit of accounts of public corporations shall apply to the audit of the accounts of the Commission.
- Compensation Fund 38. (1) There shall be established a fund called the Compensation Fund, for the purpose of granting compensation to any investor who suffers pecuniary loss as a result of any licensed stock broker or licensed stock dealer being found incapable of meeting his contractual obligations.
- (2) The Compensation Fund shall consist of-
- (a) such sums of money as may be voted upon by Parliament for the

[§26, 26 of 1991]
[§33, 18 of 2003]

[§34.1, 18 of 2003]

[§27, 26 of 1991]

purpose of the Fund;

- [§34.2.a, 18 of 2003] (b) such sums of money as may be credited to the Fund under section 51A;
- [§34.2.b, 18 of 2003] (c) such sums of money as may be credited from the Cess Fund under section 14B.

- (3) Moneys belonging to the Compensation Fund may be invested by the Commission in such manner as may be determined by the Commission.

Appointment of Compensation Committee of 39. (1) The Minister shall appoint from among the members of the Commission, three members who shall comprise the Compensation Committee (hereinafter referred to as the "Committee") of the Commission.

[§28, 26 of 1991] (2) The Committee appointed under subsection (1) shall be responsible for assessing and awarding compensation in respect of any application made under section 40 and the decision of such Committee on any such assessment or award shall be final and conclusive for the purpose of this Act.

Application for Compensation [§35, 18 of 2003] 40. (1) Any investor who has suffered pecuniary loss as a result of any licensed stock broker or a licensed stock dealer being found incapable of meeting his contractual obligation towards such investor may, within three months of the date on which he suffered such pecuniary loss, make an application to the Committee in the prescribed form claiming compensation from the Compensation Fund.

- (2) The Committee may from time to time, require an applicant to produce any document or other evidence in support of his claim for compensation. Where the applicant fails to comply with such request, the Committee may disallow his claim.

- (3) If at any time the Committee considers it necessary so to do, it may hold an inquiry into the claim of the applicant and shall by notice in writing, inform the applicant to be present on such date, and at such time and place as may be specified in the notice. Where the applicant fails to appear for such inquiry on the date set out in the notice, the Committee may disallow his claim.

Payment of Compensation 41. (1) The Committee may, after examination of the documents and other evidence produced in support of the claim by an applicant, or in any case where an inquiry was held on the conclusion of such inquiry, allow or disallow such claim for compensation.

- (2) Where the Committee allows any claim it shall make an assessment of the amount of compensation payable and shall make an award in relation thereto. Notice of such award shall be given in writing to the applicant.
- (3) The Commission shall make rules relating to the assessment of compensation payable and the assessment of compensation by the Committee under subsection (2) shall be in accordance with such rules.

PART VI

GENERAL

Director General
[§29.1, 26 of 1991]

42. (1) The Minister shall, on the recommendation of the Commission, appoint a Director-General of the Commission, who shall be its chief executive officer. The conditions of employment including remuneration of the Director-General shall be determined by the Minister.

(2) The Director-General shall, subject to the general direction and control of the Commission, be charged with the direction of the affairs and transactions of the Commission, the exercise, discharge and performance of its powers, functions and duties, and the administration and control of the employees of the Commission.

(3) The Director-General may, with the approval of the Commission, whenever he considers it necessary to do so, delegate to any employee any power, function or duty conferred or imposed on or assigned to him by this Act and such employee shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Director-General.

[§29.2, 26 of 1991]

(4) The Minister may on the recommendation of the Commission, remove from office the Director-General appointed under subsection (1) and such removal shall not be called in question in any Court.

Staff of the
Commission

43. (1) The Commission may appoint such other officers and servants as it considers necessary for the efficient discharge of its functions.

(2) The officers and servants appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Commission.

(3) At the request of the Commission any officer in the public service may, with the consent of the officer and the Secretary to the Ministry of the

Minister in charge of the subject of Public Administration, be temporarily appointed to the Commission for such period as may be determined by the Commission with like consent, or be permanently appointed to such staff.

- (4) Where any officer in the public service is temporarily appointed to the staff of the Commission, the provisions of subsection (2) of Section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to and in relation to him.
- (5) Where any officer in the public service is permanently appointed to the staff of the Commission, the provision of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to and in relation to him.
- (6) Where the Commission employs any person who has agreed to serve the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.
- (7) At the request of the Commission any member of the Local Government Service or any other officer, or servant of a local authority, may, with the consent of such member, officer or servant and the Local Government Service Commission, or the local authority, as the case may be, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or be permanently appointed to such staff on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Commission and the Local Government Service Commission or that local authority.
- (8) Where any member of the Local Government Service or any officer or servant of any local authority is appointed temporarily under subsection (7) to the staff of the Commission, he shall be subject to the same disciplinary control as any other member of such staff.

Appointment of officers and servants of public corporations to the staff of the Commission

44. (1) At the request of the Commission any officer or servant of a public corporation may, with the consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or with like consent be permanently appointed to the staff of the Commission on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Commission and the governing board of such corporation.

- (2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Commission he shall be subject to the same disciplinary control as any other member of the staff.

Production of documents and disclosure of information

[§ 36, 18 of 2003]

45. (1) The Commission or a person authorised in that behalf by the Commission may by notice in writing require any person within such period as shall be specified in the notice, to furnish any information or produce any document (other than any information or document which is prohibited from being disclosed or produced under any law which provides for the imposition and recovery of any tax) as shall be specified in such notice and as the Commission may consider necessary for the proper exercise of its powers or the discharge of its functions under this Act.

- (2) It shall be the duty of any person who receives a notice under subsection (1) notwithstanding anything to the contrary in any written law, comply with the requirements of such notice within the period specified therein and where in compliance with such notice such person discloses any information or produces any document which he is prohibited from doing under any written law, such disclosure or production shall, notwithstanding anything to the contrary in such written law, not be deemed to be a contravention of the provisions of such written law.

- (3) No information furnished or the contents of a document produced, in compliance with a notice issued under this section, shall be published or communicated by the Commission to any other person, except with the consent of the person furnishing such information, or producing such document, as the case may be or in the course of the discharge of the functions of the Commission.

Establishment of Committee to hear complaints of shareholders.

[§ 30, 26 of 1991]

[§37, 18 of 2003]

46. (1) The Commission may establish a Committee consisting of three members of the Commission to hear and determine-

- (a) complaints by any person relating to the professional conduct or activities of a licensed stock exchange, any licensed stock broker or licensed stock dealer of such stock exchange or of any listed public company or the licensed managing company or trustee of any unit trust or a registered market intermediary;
- (b) complaints by any licensed stock broker or licensed stock dealer relating to the professional conduct or activities of the licensed stock exchange of which such stock broker or stock dealer is a member;

(c) any matter referred to it for hearing and determination, by the Commission.

(2) The Committee may on receipt of any written complaint made by any person, or a licensed stock broker or a licensed stock dealer, examine the documents and other evidence produced, if any, in support of such complaint and determine whether such licensed stock exchange, licensed stock broker or licensed stock dealer, or the listed public company or the licensed managing company or trustee of such unit trust or the registered market intermediary as the case may be, has contravened the provisions of this Act or any regulation or rule made under this Act or contravened any rule of such licensed stock exchange. No such determination shall be made without affording such licensed stock exchange, licensed stock broker, licensed stock dealer, the listed public company, such managing company or trustee or such market intermediary as the case may be, an opportunity of being heard.

(3) Where the Committee determines that a licensed stock exchange, licensed stock broker, licensed stock dealer, a listed public company, licensed managing company or trustee of any unit trust or a registered market intermediary as the case may be, has contravened the provisions of this Act or any regulation or rule made under this Act or contravened any rule of such licensed stock exchange, the Committee shall recommend to the Commission the nature of the action to be taken against such licensed stock exchange, licensed stock broker, licensed stock dealer, the listed public company, managing company, trustee or the market intermediary, as the case may be. The Commission shall have the discretion either to take appropriate action to give effect to such recommendations or to refer the matter for further investigation to the appropriate authority.

[§37.2, 18 of 2003]

(3A) Notwithstanding the preceding provisions of this section, the Committee shall also have the power to inquire into any matter referred to it by the Commission and upon the conclusion of such inquiry recommend to the Commission the nature of the action that may be taken in relation to such matter.

[§37.3, 18 of 2003]

(4) The Commission shall upon receiving such recommendations made by the Committee under subsection (3) or subsection (3A), as the case may be, take such action as it may deem expedient, in accordance with the provisions of this Act.

Inquiries and investigations
[§ 38, 18 of 2003]

46A.(1) The Commission or any person duly authorized in that behalf by the Commission, may carry out such investigations or hold such inquiries as it or he may consider necessary or expedient for the exercise, performance and discharge of the powers, duties and functions of the Commission under this Act and for such purpose summon and call upon any person to appear before it or him to give evidence or to produce any books or documents in the possession or control of such person, as are required for the purpose of such investigation or inquiry.

- (2) For the purpose of carrying out an investigation or inquiry under subsection (1), the Commission may authorize in writing any officer to enter at all reasonable hours of the day any premises of a licensed stock exchange, any licensed stock broker, any licensed stock dealer, any listed public company, licensed managing company of any unit trust, a registered market intermediary, and inspect and take copies of any records required to be kept under this Act or under any regulation or rule made under this Act or any other law in respect of such business.
- (3) Any person summoned or called upon to appear before the Commission or any person duly authorized in that behalf under subsection (1), may be examined orally and any statement made by the person so examined may be reduced to writing. Every such statement reduced to writing shall be signed by the person so examined provided that prior to signing the same, such statement shall be shown or read to such person or if he does not understand the language in which it is written it shall be interpreted to him in a language he understands and he shall be at liberty to explain or add to the same.
- (4) Every person who fails to appear before the Commission or the person authorized, as the case may be, when required to do so under subsection (1), or who refuses to answer any question put to him by the Commission, or a person duly authorized by the Commission or who refuses to produce any book or document in his possession or control when required to do so, or knowingly gives any false answer to any question put to him by the Commission or a person duly authorized by the Commission, shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a term of imprisonment of either description not exceeding five years or to a fine not exceeding one million rupees or to both such imprisonment and fine.

Members and employees of the Commission deemed to be public servants
[§39, 18 of 2003]

47. All members, officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code and of the Code of Criminal Procedure Act, No. 15 of 1979.

Commission deemed to be a Scheduled institution within the meaning of the Bribery Act	48.	The Commission shall be deemed to be a Scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.
Furnishing of information, etc. to the Minister	49.	The Minister may, from time to time, direct the Commission to furnish to him in such form as he may require returns, accounts and other information with respect to the work of the Commission and the Commission shall carry out any such direction.
Protection for action taken under the Act	50. (1)	No suit or prosecution shall be instituted against any member of the Commission or against any of the officers or servants of the Commission for any act which in good faith is done or purported to be done by such person under this Act or on the direction of the Commission.
	(2)	Any expenses incurred by the Commission in any suit or prosecution brought by or against it before any court, shall be paid out of the Fund of the Commission, and any costs paid to, or recovered by, the Commission in any such suit or prosecution shall be credited to the Fund of the Commission.
	(3)	Any expenses incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Commission shall, if the court holds that such act was done in good faith be paid out of the Fund of the Commission, unless such expenses are recovered by him in such suit or prosecution.
“Threatening, intimidating, defaming members of the Commission & etc. [§40, 18 of 2003]	50A. Any person or body of persons who-	(a) threatens or intimidates; or (b) makes any derogatory remarks or publishes any statement with a view to bringing disrepute or defaming the reputation of,
		any member of the Commission, the Director General or any other officer or servant of the Commission in the course of discharging his, duties under the Act or under any regulation or rule made under 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 fifty thousand rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Offences

[§31.1.a, 26 of 1991]

[§31.1.b, 26 of 1991]
[§41.1, 18 of 2003]

[§31.1.c, 26 of 1991]

51. (1) Any person who-

- (a) contravenes any provision of this Act or any requirement imposed under the provisions of this Act or of any regulation or rules made thereunder;
- (b) furnishes or produces, for the purposes of this Act or any requirement imposed under the provisions of this Act or of any regulation or any rule made thereunder, any information which is, or any return, document or statement, the contents of which are, to his knowledge, untrue, incorrect or misleading; or
- (c) wilfully obstructs any member of the Commission or an officer or servant of the Commission or any person with whom the Commission has entered into an agreement under subsection (2) of section 23A in the performance of his duties under the provisions of this Act,

shall be guilty of an offence under this Act.

[§41.2, 18 of 2003]

(2) Any person who is found guilty of an offence under this Act for which no penalty is expressly provided for under this Act, shall be liable on conviction after summary trial by a Magistrate to of imprisonment of either description for a period not exceeding five years or to a fine not less than fifty thousand rupees and not exceeding ten million rupees or to both such imprisonment and fine.

[§41.3, 18 of 2003]

(3) Where any offence under this Act is committed by a body corporate, any person who is at the time of the commission of the offence, a director, manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that such offence was committed without his knowledge or connivance or that he exercised all due diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and all the circumstances of the case.

Compounding of offences

[§ 32, 26 of 1991]

51A. The Commission may having regard to the circumstances in which the offence under this Act was committed, compound such offence for a sum of money not exceeding one-third of the maximum fine imposable for such offence and all such sums of money received by the Commission in the compounding of an offence under this section, shall be credited to the Compensation Fund established under section 38.

Regulations made by the Minister

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

- (2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.
- (3) Every regulation made by the Minister shall, as soon as it is convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which any regulation is deemed to be rescinded shall be published in the Gazette.

Rules made by the
Commission
[§33, 26 of 1991]

53. (1) Without prejudice to the generality of the powers conferred upon it by section 13, the Commission shall formulate the following rules as may be required from time to time for the purpose of ensuring orderly and fair trading in securities and protection of investors interest-

[§42.1, 18 of 2003]

(a) listing and trading of securities in a licensed stock exchange and the subsequent issue of any additional securities by way of rights or bonus or otherwise, by listed public companies;

[§33.2.a, 26 of 1991]
[§42.2, 18 of 2003]

(b) disclosures by licensed stock brokers and licensed stock dealers about security transactions and transactions relating to units in a unit trust by persons who acquired or disposed of securities and by a licensed stock exchange about security transactions;

[§42.3, 18 of 2003]

(c) proper maintenance of books, records, accounts and audits by a licensed stock exchange, licensed stock broker, the licensed stock dealer, the licensed managing company of a unit trust or a registered market intermediary and regular reporting by such licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company or registered market intermediary to the Commission of their affairs;

[§33.2.c, 26 of 1991]
[§42.4, 18 of 2003]

(d) the annual audit of the books, records, accounts and the preparation of financial statements by a licensed stock exchange, licensed stock broker, licensed stock dealer, the licensed managing company of a unit trust and a registered market intermediary;

(e) regulation of take-overs or mergers where such take-over or merger is between one or more listed companies or where at least one of the parties involved in such take-over or merger is a listed company;

[§42.5, 18 of 2003]

(f) a code of conduct to be observed by the trustee and the licensed managing company of a unit trust ;

- [§42.6, 18 of 2003] (g) matters in respect of which rules are required by this Act to be made;
- [§42.7, 18 of 2003] (h) the capital requirements, staff qualifications, record keeping and other documentation systems to be followed by licensed stock brokers, licensed stock dealers, licensed managing companies of a unit trust and registered market intermediaries;
- (i) the form and contents of advertisements proposed to be issued by a licensed stock exchange, licensed stock broker, licensed stock dealer, licensed managing company of a unit trust, a registered market intermediary, a listed public company or a public company which has applied for listing and information to be contained in such advertisements;
- (j) the operation of securities in a margin account by a licensed stock broker, licensed stock dealer or by a registered market intermediary;
- (k) the business affairs and activities of registered market intermediaries in relation to listed securities;
- (l) disclosure and reporting and the provision of information by listed public companies;
- (m) rejection of applications for listing made to a licensed stock exchange and the suspension and cancellation of listing by a licensed stock exchange; and
- (n) the regulation of the activities of stock lenders and stock borrowers.

[§ 33.3, 26 of 1991] (2) Every rule made under subsection (1) 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 specified therein.

Amendment to the Companies Act No. 17 of 1982 54. The Companies Act No. 17 of 1982 is hereby amended by the repeal of sections 220, 221, 222 and 223 of that. Act.

Interpretation [§ 43.1, 18 of 2003] 55. In this Act unless the context otherwise requires-
"advertisement" includes advertising done in any publication or by way of

display of notices, signs or labels or by means of circulars, catalogues, price lists or other documents or by an exhibition of pictures or photographic or cinematographic films or by way of sound broadcasting or television or by the distribution of recordings or in any other similar manner;

"bonus issue" means the offer of any security or of securities to be issued in the future of a listed public company to existing security holders of such company, howsoever such offer is described or referred to, without consideration and in proportion to the securities held by them in such company on the date of such offer;

"connected person" in relation to the trustee or the licensed managing company of a unit trust means-

[§34.1, 26 of 1991]
[§43.2.a, 18 of 2003]

(a) a person, owning, directly or indirectly, a prescribed per centum or more of the ordinary share capital of the trust company, or the licensed managing company, or is able to exercise directly or indirectly a prescribed per centum or more of the total votes in the trust company, or the licensed managing company;

[§ 43.2.b, 18 of 2003]

(b) a company, a prescribed *per centum* or more of whose ordinary capital is owned, directly or indirectly, together by the trust company and the licensed managing company or a prescribed *per centum* or more of the total votes are exercised directly or indirectly by the trust company and the licensed managing company;

[§ 43.2.c, 18 of 2003]

(c) a director or officer of the trustee, or the licensed managing company of a unit trust or a company referred to in paragraph (b);

[§43.2.d, 18 of 2003]

"credit rating agency" means a person engaged in the business of assessing and evaluating the credit-worthiness of any issue of listed securities or securities to be listed with particular regard to the issuers' ability to perform any obligations imposed on the issuer thereon;

[§ 43.3, 18 of 2003]

"investment manager" means a person who for a fee or commission engages in the business of managing a portfolio of listed securities on behalf of an investor or advises any person on the merits of investing, purchasing or selling listed securities, but shall not include the licensed managing company of a unit trust;

"investor" means a person who invests in securities purchased or transacted through a licensed stock broker of a licensed stock exchange;

[§ 43.4, 18 of 2003]

“ listed public company” means any public company which has its securities listed or quoted on a licensed stock exchange, and includes

-

(a) any public corporation which has its securities listed on a licensed stock exchange; and

(b) any private company which has its securities (other than shares) listed on a licensed stock exchange;

“listed securities” means any securities listed on a licensed stock exchange;

[§ 34.2, 26 of 1991]

"managing company" in relation to a unit trust means a company, incorporated under the law for the time being in force relating to the incorporation of companies or any body corporate established by or under any written law, managing property held by the trustee of such unit trust for the benefit of unit holders of such unit trust;

[§ 43.5, 18 of 2003]

“margin account” means a brokerage account that allows an investor to buy or sell securities generally serving as collateral for the broker’s loan;

[§ 43.6, 18 of 2003]

"margin provider" means a person who is in the business of providing credit to investors to purchase securities of a listed public company;

"market intermediary" means an underwriter, a margin provider, a credit rating agency, or an investment manager and includes a person who performs the functions of a clearing house which shall be responsible for handling all securities deposited with it and which permits or facilitates the settlement of securities transactions of a licensed stock exchange;

"offer" or "offering" includes any attempt to sell or dispose of any listed securities or interest in such security for value by means of a prospectus or otherwise but does not include a *bona fide* invitation to any person to enter into an underwriting agreement with respect to any such listed securities;

"public company" means any company other than a "private company" as defined in section 30 of the Companies Act, No. 17 of 1982;

"rights issue" means the offer of any shares or of shares to be issued in the future, of a listed public company to existing shareholders of such company, howsoever such offer is described or referred to, for consideration, and in proportion to the securities held by them in such company on the date of such offer, prior to their issue to the public;

[§ 4, 47 of 2009]

“Securities” means debentures, stocks, shares, funds, bonds, derivatives inclusive of futures and options, whatever the nature of the underlying asset relied on or notes issued, or proposed to be issued, by any Government or of any body, whether corporate or unincorporated, including any rights, options or interests (whether described as units or otherwise) therein or in respect thereof or any other instruments commonly known as securities, but does not include bills of exchange or promissory notes or certificate of deposits issued by a bank;

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

“stock borrower” means a person who is engaged in the business of borrowing listed securities;

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

[§ 43.7, 18 of 2003]

"stock dealer" means any individual or body corporate engaged in the business of buying or selling of securities or in the dealing or jobbing or trading of securities, or the underwriting or retailing of securities but shall not include an underwriter who is a registered market intermediary;

"stock lender" means a person who engages in the business of loaning listed securities;

"trustee" in relation to a unit trust, means the person appointed as trustee in the instrument creating such unit trust;

[§ 43.8, 18 of 2003]

"underwriter" means any person who in connection with a public issue of securities of a listed public company or a company which has applied for a listing guarantees to purchase unsubscribed securities of such company for a fee or commission or who negotiates with such company to purchase such securities in the event of the offer being not fully subscribed and includes any person who purchases such issue from the company specifically with a view to offering such securities to the public;

[§ 43.9, 18 of 2003]

[§34.4, 26 of 1991]
[§43.10, 18 of 2003]

"unit holder" in relation to a unit trust means a person for the time being registered by the trust as the holder of a unit certificate under such unit trust;

"unit trust" means any arrangement made for the purpose, or of having the effect, of providing for the participation by persons as beneficiaries under

[§ 43.11, 18 of 2003]

a trust, in profits or income and capital gains arising from the acquisition, holding, management or disposal of securities or any other property vested in the trustee or such trust.

SCHEDULE

PART I

[§ 44.1, 18 of 2003] Requirements and conditions to be satisfied for the purpose of granting a licence as a stock exchange to a body corporate and a renewal of such licence, are as follows:

- (a) that the applicant is -
 - (i) a public limited liability company incorporated under the Companies Act, No. 17 of 1982; or
 - (ii) an association registered as a company with limited liability under section 21 of the Companies Act, No. 17 of 1982;
- (b) that the articles of association of the applicant company referred to in paragraph (a) do not permit any distribution of profits to members;
- (c) that the articles of association of the applicant company restricts the membership of the stock exchange to brokers and dealers only;
- (d) that at least six members of the applicant company will carry on broking business in securities independently of and in competition with each other and that at least four members have experience in broking in securities during the last five years;
- (e) that the applicant company is engaged solely in the business of operating a stock exchange;
- (f) that the Board of Directors and the chief executive of the applicant company consists of persons of business integrity;
- (g) that the Board of Directors of the applicant company consists of nine members approved by the Commission, out of whom not more than five members shall be from among individual stock brokers or stock dealers elected by the general membership, and not less than four members shall be appointed by the Minister from among persons recommended by the Commission;
- (h) that the applicant company's location and activities will enable the creation of a more orderly market for securities in Sri Lanka;

[§35.1, 26 of 1991]

- [§35.2, 26 of 1991] (i) that the applicant company's financial standing is satisfactory;
- (j) that the rules of the applicant company make satisfactory provision-
- (i) for admission of members;
- [§ 35.3, 26 of 1991] (ii) for exclusion from membership of persons who are not of good character and high business integrity;
- (iii) for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business or for a contravention of or failure to comply with rules of the stock exchange or the provisions of this Act;
- (iv) for appointment of authorised representatives and clerks;
- (v) with respect to the conditions under which securities may be listed for trading in the market;
- (vi) with respect to conditions under which listing of a particular security may be revoked;
- (vii) with respect to the conditions governing dealings in securities by its members;
- [§ 35.4, 26 of 1991] (viii) with respect to timely and accurate disclosure of all material information required for investors to make informed investments decisions;
- [§35.5, 26 of 1991] (ix) with respect to the protection of investors in securities from misrepresentation, misleading information, fraud, deceit and other adverse practices in the issue and trading of securities and from the abuse of certain persons of privileged information not yet made available to the general public;
- (x) with respect to prohibition of securities market manipulation of any form including false trading, market rigging & etc.
- [§ 35.6, 26 of 1991] (xi) for investigating into trading in securities and financial transactions of stock brokers and stock dealers and for conducting surprise checks on the members;
- (xii) for suspension of trading of any given security for the protection of investors or for the conduct of orderly and fair trading;

[§35.7, 26 of 1991]

(xiii) with respect to the conduct of securities trading of stock brokers and stock dealers and the manner in which information relating to such transactions shall be maintained;

(xiv) for ensuring that the customer funds and securities are segregated from other business of brokers and dealers; and

[§ 35.8, 26 of 1991]

(xv) for the appointment of a disciplinary committee a majority of the members of which are not associated with any licensed stock broker or licensed stock dealer;

[§ 35.9, 26 of 1991]

(k) that the articles of association of the applicant company provide procedure for removal of stock exchange management officials only by the vote of at least two-thirds of all the member brokers or licensed stock dealers.

PART II

Terms and conditions to be complied with for the purpose of granting a licence as a stock broker or stock dealer to a body corporate and the renewal of such licence, are-

[§44.2.a, 18 of 2003]

- (a) that the applicant company is a member of a stock exchange licensed under this Act;
- (b) that the applicant is a company incorporated under the Companies Act, No. 17 of 1982;
- (c) that the Directors of the applicant company-
 - (i) have never been declared bankrupt;
 - (ii) have never been themselves, or been Directors of, a company that has been denied a licence as a stock broker or stock dealer or
 - (iii) have never been themselves or been Directors of a company whose licence as a stock broker or a stock dealer had been removed by the appropriate authority;

[§44.2.b, 18 of 2003]

- (d) that all executive directors and employees who will be dealing with clients on behalf of the applicant company, have been trained and certified by the licensed stock exchange in accordance with the requirements laid down by the licensed stock exchange and by the Commission from time to time;
- (e) that the applicant company has lodged security in such sum as may be determined by the Minister, having regard to the value of transactions that are likely to be carried on by such applicant or an equivalent in bank guarantee with a stock exchange licensed under the provisions of this Act.

PART III

[§ 44.3.a, 18 of 2003] Terms and conditions to be complied with for the purpose of granting a licence as a stock broker or a stock dealer to an individual and the renewal of such licence are that the applicant-

- (a) is citizen of Sri Lanka;
- (b) is a fit and proper person and is of sound financial standing;

[§ 44.3.b, 18 of 2003] (bb) has been trained and certified by the licensed stock exchange in accordance with the requirements laid down by the licensed stock exchange and by the Commission from time to time;

- (c) is a member of a stock exchange licensed under this Act and is certified by such stock exchange as sufficiently trained in stock exchange operations;
- (d) has lodged security in such sum as may be determined by the Minister, having regard to the value of transactions that are likely to be carried on by such applicant or an equivalent in bank guarantee with a stock exchange licensed under this Act; and
- (e) has not been expelled or debarred from membership of any stock exchange licensed under this Act.

PART IV

[§ 35.10, 26 of 1991]

[§ 44.4, 18 of 2003]

Terms and conditions to be complied with for the purposes of the grant of a licence to a managing company to operate a unit trust and a renewal of such license, are :-

- (a) that the trustee and the managing company of the unit trust are separate persons;
- (b) that the trustee is not a connected person of the managing company;
- (c) that the managing company is a company formed and registered under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter, Letters Patent;
- (d) that the managing company has the necessary professional experience and is financially sound;
- (e) that the Directors of the managing company are fit and proper persons;
- (f) that an explanatory memorandum has been prepared by the managing company and approved by the Commission;
- (g) that the trustee has been approved by the Commission;
- (h) that the trust deed between the managing company and trustee creating the trust has been approved by the Commission;
- (i) that the trust deed-
 - (i) sets out the restrictions on the investment of trust property;
 - (ii) sets out the responsibilities of the trustee;
 - (iii) provides that unit holders shall not be required to make any further payment or assume any further liability, except in circumstances, if any, set out in such trust deed;
 - (iv) sets out the method of calculating the offer and redemption prices of units;
 - (v) sets out the circumstances in which the redemption of units can be suspended;

- (vi) provides for the maintenance of a register of unit holders;
- (vii) contains provisions requiring the trustee, the managing company and their connected persons to disclose their interest, whenever any business in which they have a material interest is being discussed at any meeting of the trust;
- (viii) provides for the appointment as auditors of the unit trust of persons having the qualifications specified by rules of the Commission and empowers the Commission to require the retirement of such auditors when they cease to possess such qualifications;
- (ix) prohibits the trustee from retiring until a new trustee is appointed;
- (x) prohibits the managing company from entering into any underwriting or sub-underwriting contract on behalf of the trust, except with the approval of the trustee and the Commission;
- (xi) prohibits the making or granting of loans out of the trust property, except with the consent of the trustee;
- (xii) provides for the approval in writing of the trustee, for any transaction between the managing company or any connected person of the managing company and the trust;
- (xiii) provides that the consideration paid in respect of any duly created units (less any charges that the managing company is entitled to retain) shall become subject to the trust immediately on receipt of such consideration by the trustee;
- (xiv) provides that a certificate in respect of units shall be delivered to a third party only on the trustee being satisfied that the consideration paid for such units (less any charges that may be retained by the managing company) has been, or will be, vested in the trustee;
- (xv) specifies the minimum initial investment in units permitted, which amount shall be subject to the approval of the Commission;
- (xvi) specifies the maximum initial charge which can be levied on the purchase of units, which charge shall be subject to the approval of the Commission;
- (xvii) provides for a deposit of security by the trustee, guaranteeing against loss due to his misconduct or negligence, where required by the Commission; and

(xviii) contains such other information as the Commission may, from time to time, determine by rules made for that purpose.

PART V

[§ 44.5, 18 of 2003]

- A. Terms and conditions to be complied with for the purpose of granting registration as a market intermediary to an investment manager, margin provider or underwriter, which is a body corporate and the renewal of such registration are :-
- (i) that the applicant is a company formed and registered under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter or Letters Patent and a body corporate established by or under any written law;
 - (ii) that the Directors of the applicant -
 - (a) have never been declared bankrupt;
 - (b) have never been persons, or been Directors of a Company, whose registration as a market intermediary or license as a stock broker, stock dealer or managing company of a unit trust has been cancelled or suspended by the Commission;
 - (iii) that all Directors and employees who will be dealing with clients on behalf of the applicant possess such adequate qualifications and training as may be determined by the Commission from time to time;
 - (iv) that the applicant is in good financial standing; and
 - (v) that the applicant meets any other criteria that may be imposed by the Commission from time to time.
- B. Terms and conditions to be complied with for the purpose of registration as a market intermediary to an investment manager who is an individual and the renewal of such registration are, that the applicant -
- (i) is a citizen of Sri Lanka;
 - (ii) is a fit and proper person, and has not been declared bankrupt at any time;

- (iii) possesses such qualifications and training as may be determined by the Commission from time to time; and
 - (iv) meets any other criteria that may be imposed by the Commission from time to time.
- C. Terms and conditions to be complied with for the purpose of registration as market intermediary of a body corporate which performs the functions of a clearing house and the renewal of such registration are -
- (i) that the applicant is a company incorporated under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka, or formed in pursuance of any statute of any foreign country, Royal Charter or Letters Patent and a body corporate established by or under any written law;
 - (ii) that the Directors of the applicant -
 - (a) have never been declared bankrupt;
 - (b) have never been persons or been directors of a company whose registration as a market intermediary or licence as a stock broker, stock dealer or managing company to a unit trust has been cancelled or suspended by the Commission;
 - (iii) that the applicant is of good financial standing;
 - (iv) that a licensed stock exchange is a shareholder of the applicant;
 - (v) that the rules of the applicant make satisfactory provision -
 - (a) with respect to the conditions under which securities may be deposited, withheld, withdrawn or transferred;
 - (b) for the holding of deposited securities;
 - (c) for the processing of dealings in deposited securities;
 - (d) for facilitating the settlement of deposited securities;
 - (e) for the protection of the interests of depositors and the protection and control of information on deposited securities and dealings therein;

- (f) for the monitoring of compliance with, and for the enforcement of the rules of the applicant company;
 - (g) with respect to the maintenance of a policy or policies of insurance, the obtaining of guarantees from participants and the establishment and maintenance of compensation funds, for the purpose of settling claims by depositors against the applicant; and
 - (h) generally for the carrying on of the business of the applicant with due regard to the interests of the public;
- (vi) that the applicant meets any other criteria that may be imposed by the Commission from time to time.
- D. Terms and conditions to be complied with, for the purpose of granting registration as a market intermediary to a credit rating agency and the renewal of such registration are -
- (i) that the applicant is a company incorporated under the Companies Act, No. 17 of 1982 and includes a company duly incorporated outside Sri Lanka or formed in pursuance of any Statute of any foreign Country, Royal Charter, Letters Patent and a body corporate established by or under any written law;
 - (ii) that the Directors of the applicant -
 - (a) have never been declared bankrupt;
 - (b) have never been persons or been Directors of a company whose registration as a market intermediary or licence as a stock broker, stock dealer or managing company of a unit trust has been cancelled or suspended by the Commission;
 - (iii) that the applicant is of good financial standing;
 - (iv) that no Director, officer or employee of the applicant has been convicted of fraud or criminal breach of trust or cheating or criminal misappropriation or has been declared bankrupt or found guilty of contravening any provisions of this Act or any rules or regulations made thereunder;

- (v) that the promoters of the applicant are, in the opinion of the Commission, persons of means and integrity and have special knowledge of matters which the company may have to deal with as a credit rating agency;
- (vi) no Director of the applicant is a Director of a corporate entity or a business firm or a shareholder holding five *per centum* or more of any corporate entity or business firm or is in any other way interested in such an entity subject to rating by the applicant; and
- (vii) an undertaking that no Director, officer or employee of the applicant shall communicate the information acquired by him for use of rating purposes, to any other person except when required under law to do so.

Savings
[§36,26 of 1991]

For the avoidance of doubts, it is declared that -

- (a) members of the Securities Council holding office immediately prior to the date of commencement of this Act shall be deemed to be members of the Securities and Exchange Commission of Sri Lanka and of the appointed members of such Securities Council holding office on that day-
 - (i) two members selected by the Minister shall, notwithstanding anything in section 4, hold office for a period of four years from the date of their appointment as members of the Council; and
 - (ii) two members selected by the Minister shall, notwithstanding anything in section 4, hold office for a period of five years from the date of their appointment as members of the Council;
- (b) every licence issued to any stock broker or stock dealer by the Securities Council and which is in force immediately prior to the date of commencement of this Act, shall be deemed to be a licence issued by the Securities and Exchange Commission of Sri Lanka.
- (c) all rules and regulations made by the Securities Council and are in force on the day immediately prior to the date of commencement of this Act shall be deemed to be rules and regulations made by the Securities and Exchange Commission of Sri Lanka;
- (d) all contracts, agreements and other instruments of the Securities Council subsisting on the day immediately prior to the date of commencement of this Act, shall be deemed to be contracts, agreements or other instruments entered into by the Securities and

Exchange Commission of Sri Lanka;

- (e) all suits, actions, and other legal proceedings instituted by or against the Securities Council and pending on the day, immediately prior to the date of commencement of this Act, shall be deemed to be suits, actions and other legal proceedings instituted by or against the Securities and Exchange Commission of Sri Lanka.

Application of the Act in respect of a licence issued to a stock exchange

[§ 37, 26 of 1991]

A licence issued to a stock exchange under the principal enactment and in force on the day immediately prior to the date of commencement of this Act shall notwithstanding anything to the contrary in the principal enactment be deemed to expire on the expiration of a period of ninety days from the date of commencement of this Act.

Sinhala text to prevail in case of inconsistency

[§ 38, 26 of 1991]

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