

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

MICROFINANCE ACT, No. 6 OF 2016

[Certified on 20th May, 2016]

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[Certified on 20th May, 2016]

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ANACT TO PROVIDE FOR THE LICENSING, REGULATION AND SUPERVISION

OF COMPANIES CARRYING ON MICROFINANCE BUSINESS; THE

REGISTRATION OF NON-GOVERNMENTAL ORGANIZATIONS ACCEPTING

LIMITED SAVINGS DEPOSITS AS MICROFINANCE NON-GOVERNMENTAL

ORGANIZATIONS; FOR THE SETTING UP OF STANDARDS FOR THE

REGULATIONAND SUPERVISIONOFMICROFINANCE NON-GOVERNMENTAL

ORGANIZATIONS AND MICRO CREDIT NON-GOVERNMENTAL

ORGANIZATIONSANDTO PROVIDE FOR MATTERSCONNECTED THEREWITH

OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:-

1. This Act may be cited as the Microfinance Act, Short title and

No. 6 of 2016 and different Parts of this Act shall come into date of

operation.

operation on different dates as the Minister may appoint by

Order published in the Gazette.

2. (1)The provisions of this Act shall not apply to- Applicability of

Act.

(a) a licensed commercial bank or a licensed

specialized bank within the meaning of the

Banking Act, No.30 of 1988;

(b) a finance company within the meaning of the

Finance Business Act, No.42 of 2011;

(c) a co-operative society registered under the

Co-operative Societies Law, No.5 of 1972 and

a co-operative society registered under a

Statute of a Provincial Council;

(d) a divineguma community based bank and a

divineguma community based banking society

established under the Divineguma Act, No.1

of 2013; and

2—PL 009646—2,961 (01/2016)

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(e) an entity formed in terms of the Agrarian

Development Act, No.46 of 2000.

(2) The provisions of this Act, other than Part VIII, Part IX

and Part XI, shall not apply to a microfinance non-

governmental organization and a micro credit non-

governmental organization.

PART I

LICENSING OF COMPANIES CARRYING ON MICROFINANCE BUSINESS

Licensing 3. Save and except as provided for in section 2, a person

requirement to shall be eligible to apply for a licence under this Act, if such

carry on

person is a company registered under the Companies Act,

microfinance

business. No.7 of 2007 not being a company limited by guarantee, a

private company, an offshore company or an overseas

company.

Licensing 4. (1) Every application for a licence shall be made to

procedure. the Board in compliance with such requirements, in such

form, accompanying such information and the evaluation

fee as may be specified by the Board from time to time by

rules made in that behalf.

(2) The Board may, on receipt of an application under

subsection (1), make such enquiries and call for such further

information and documents as it considers necessary and on

being satisfied that –

(a) the applicant has complied with all the requirements

laid down by the Board by rules made in that behalf;

and

(b) the issue of a licence to the applicant would not be

detrimental to the interests of its creditors and other

stakeholders,

it may issue a licence subject to such terms and conditions

as the Board may think fit or, where it is not so satisfied,

reject the application and issue such direction as it deems

necessary.

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5. A licence issued by the Board shall be in such form Form and

as may be specified by the Board by rules made in that behalf duration of

licence.

and shall remain in force until the thirty-first day of

December next following the date on which the licence is

granted and shall be renewable annually upon a fresh

application being made.

6. Every licensed microfinance company shall pay an Licence fee.

annual licence fee in such amount as may be specified by

the Board from time to time by rules made in that behalf.

7. Every licensed microfinance company shall exhibit Exhibiting the

its licence at its principal place of business and a copy of licence.

such licence at every one of its branches.

8. The Board shall maintain a register of licensed Board to

microfinance companies. maintain a

register.

PART II

BUSINESS RESTRICTIONS ON LICENSED MICROFINANCE COMPANIES

9. (1) A licensed microfinance company may carry on Forms of

such forms of businesses as set out in the Schedule to this business to be

specified.

Act and any other form of business as may be specified by

the Board under subsection (2) subject to such restrictions

and conditions as may be imposed by or under any written

law or specified in the licence issued to such licensed

microfinance company.

(2) The Board may specify by notification published in

the Gazette any form of business that a licensed microfinance

company may carry on which is not set out in the Schedule

to this Act.

(3) A licensed microfinance company shall not carry on

any form of business that is not set out in the Schedule

hereto or specified by the Board under subsection (2).

(4) Every notification published in the Gazette under

subsection (2) shall, as soon as convenient, be brought before

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Parliament for approval. Any notification which is not so

approved shall be deemed to be rescinded from the date of

such disapproval but without prejudice to anything

previously done thereunder.

(5) Notification of the date on which a notification is

deemed to be rescinded shall be published in the Gazette.

PART III

MANAGEMENT OF LICENSED MICROFINANCE COMPANIES

General 10. (1) The general superintendence and management

superintendence. of the affairs of a licensed microfinance company shall vest

in the board of directors of the company, which shall manage

the business and affairs of such company in good faith and

in the best interest of its depositors, creditors and other

stakeholders.

(2) A licensed microfinance company shall maintain a

register containing the names of members of the company,

members of the board of directors and of the chief executive

officer.

PART IV

DIRECTIONS TO AND RULES GOVERNING LICENSED MICROFINANCE

COMPANIES

Directions of the 11. Notwithstanding the provisions of any other written

Board. law, the Board may issue directions to licensed microfinance

companies or to any single licensed microfinance company

or to any group or category of microfinance companies

(referred to as “company” in this section) as to the manner in

which any aspect of the business and corporate affairs of

such company are to be conducted, and in particular –

(a) the terms and conditions under which deposits may

be accepted by such company, the maximum rates

of interest payable on such deposits, the maximum

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period for which deposits may be accepted and the

maximum amount that may be deposited with a

company in the name of one person in one or more

accounts;

(b) the terms and conditions under which any loan,

credit facility or any type of financial

accommodation may be granted by such company,

the maximum rates of interest that may be charged

on such loans, credit facilities or other types of

financial accommodation, and the maximum

periods for which any such loan, credit facility or

other type of financial accommodation may be

granted;

(c) the maximum rates which may be paid to, or charged

by, such company by way of commissions,

discounts, fees or other receipts or payments

whatsoever;

(d) the terms and conditions under which investments

may be made by such company and the maximum

permissible maturities of such investments;

(e) the minimum amount of core capital and total

capital to be maintained;

(f) the establishment of a reserve fund, minimum

percentage of annual after-tax profits that a

company shall transfer to such fund and other

operational aspects of such fund;

(g) the minimum ratio which capital of a company

should bear to the assets and the total deposit

liabilities of such company;

(h) the minimum ratio which the liquid assets of a

company should bear to the total deposit liabilities

of such company;

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(i) the maximum ratio which total outstanding deposit

liabilities should bear to the total outstanding

accommodation of such company;

(j) the minimum ratio which the outstanding

accommodation granted to low-income persons and

to micro enterprises by the company shall bear to

the total outstanding accommodation granted by

such company;

(k) the establishment of a deposit insurance fund and

the premium such company shall transfer to such

fund and the other operational aspects of such fund;

(l) internal controls, risk management and a code of

corporate governance to be adopted by such

company;

(m) a code of conduct to be adopted by such company;

(n) criteria to assess the fitness and propriety of

directors, the chief executive officer and key

management personnel of, and persons with

specified shareholding in, such company;

(o) restrictions on the structural changes to corporate

or business affairs of such company;

(p) the grounds upon which a person shall be

disqualified from being appointed or elected or

from holding the post of a director, chief executive

officer, secretary or key management personnel of

such company;

(q) the requirement for obtaining prior approval of the

Director for appointing, electing or nominating

directors of such companies; and

(r) the requirement for obtaining prior approval of the

Director for appointing the chief executive officer

and key management personnel of such company.

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For the purpose of this section –

“key management personnel” means a person

having authority and responsibility for

planning, directing and controlling the

activities of any finance company directly or

indirectly including any Director (whether

executive or otherwise) of such company;

“specified” means specified by the Board by rules

made in that behalf.

12. (1) The Board may issue guidelines to the Director Monitoring

on the manner of monitoring compliance with the directions compliance with

directions.

issued under Section 11.

(2) Where a licensed microfinance company fails to

comply with any direction issued under section 11, the

Director shall, unless otherwise provided for in any

guidelines issued under subsection (1), report such fact to

the Board and thereupon the provisions of Section 17 of

this Act shall apply accordingly.

13. (1) The Board may, from time to time, make rules Board may

on any matter in respect of which rules are authorized or make rules.

required to be made under this Act.

(2) Without prejudice to the generality of the powers

conferred by subsection (1), the Board may, in particular,

make rules in respect of all or any of the following matters:-

(a) criteria for licensing under this Act;

(b) evaluation fee for an application for a licence as a

microfinance company;

(c) annual licence fee payable to the Board by

microfinance companies;

(d) forms to be used for the purposes of this Act.

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(3) Every rule made by the Board under this Act shall be

published in the Gazette.

PART V

FINANCIAL STATEMENTS AND AUDIT OF LICENSED MICROFINANCE

COMPANIES

Financial year 14. (1) Every licensed microfinance company shall at

and audit of the expiration of each financial year prepare in accordance

accounts of a

licensed with the Sri Lanka Accounting Standards, financial

microfinance statements including-

company.

(a) a statement of financial position as at the end of the

financial year; and

(b) a statement of comprehensive income in respect of

such financial year.

(2) The financial statements prepared by a licensed

microfinance company shall be audited by a qualified

auditor.

(3) The financial year of a licensed microfinance company

shall commence from first of January, every year.

(4) Every licensed microfinance company shall transmit

to the Director within three months after the closure of each

financial year-

(a) audited financial statements including –

(i) the statement of financial position of the

company as at the end of the financial year;

(ii) the statement of comprehensive income of

the company for that financial year;

(b) the auditor’s report in respect of the financial

statements;

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(c) the report by the directors relating to the state of

affairs of the company; and

(d) a certified copy of the auditor’s confidential letter,

if any, to the board of directors of the company.

(5) Every licensed microfinance company shall exhibit

documents specified in paragraph (a) of subsection (4) in a

conspicuous place of each of its places of business until

those documents for the succeeding financial year are

prepared and exhibited.

(6) The Board may specify the forms of the financial

statements referred to in this Part and any disclosure

requirements to be made and where such forms are specified,

financial statements of every licensed microfinance

company shall be prepared in such form.

(7) Unless otherwise determined by the Board, the

financial statements of a licensed microfinance company

shall be signed, on behalf of such company by the chief

executive officer and two members of the board of directors.

PART VI

EXAMINATION AND SUPERVISON OF LICENSED MICROFINANCE

COMPANIES

15. (1) The Director or any officer of the Central Bank Examination

authorized by him, or any other person authorized by the and supervision

of licensed

Director with the approval of the Board, may at any time

microfinance

examine the books of accounts and records of any licensed companies.

microfinance company and for that purpose may do one or

more of the following:-

(a) require any licensed microfinance company, or a

director, secretary, manager, employee, auditor,

agent or contractor of any licensed microfinance

company to furnish him all such information as he

may consider necessary and to produce for

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inspection books, records, files, registers, and such

other documents, maintained in print or electronic

form, of such licensed microfinance company and

to provide authenticated copies in any form as

required of such books, records, files, registers and

such other documents;

(b) enter the premises or storage area of any licensed

microfinance company, and notwithstanding

anything to the contrary in any other law, examine

books, records, files, registers, and such other

documents, maintained in print or electronic form,

of such licensed microfinance company and may

obtain copies, authenticated or otherwise, in any

form of such books, records, files, registers and such

other documents;

(c) require any licensed microfinance company or a

director, manager, employee, agent, contractor or

secretary of any licensed microfinance company to

submit the accounts of such licensed microfinance

company, furnish such information and produce

such books, records, files, registers, and such other

documents, maintained in print or electronic form,

for audit by an auditor authorized by the Director;

(d) question and record statements of or, if necessary,

direct any director, shareholder, secretary, manager,

employee, agent, auditor or contractor of any

licensed microfinance company and of any other

person who may be acquainted with or is aware of

or is in possession of, information regarding the

business or corporate affairs of such licensed

microfinance company to submit answers to the

questions raised by way of an affidavit or if

necessary administer oath or affirmation in

accordance with the Oaths and Affirmation

Ordinance (Chapter 17) and cause questions to be

asked and record or cause the recording of

statements;

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(e) call for information by notice in writing from any

person who may be acquainted with or is aware of

or is in possession of or appears to have information

regarding the business or corporate affairs of any

licensed microfinance company and if required

summon such person for an interview;

(f) require any related party of a licensed microfinance

company to furnish information as the Director may

consider necessary and to produce for inspection

books, records, files, registers and such other

documents maintained in print or electronic form,

of such related party and to provide authenticated

copies in any form as required of such books,

records, files, registers and such other documents.

For the purposes of this paragraph “related party”

means holding company, any subsidiary or associate

company of any licensed microfinance company, or

any subsidiary or associate company of the holding

company of any licensed microfinance company, or

any other entity or individual that in the view of the

Director has a substantial financial interest or

significant management interest in any licensed

microfinance company.

(2) The cost of such examination may be recovered from

the licensed microfinance company.

(3) It shall be the duty of every person to comply with

any requirement imposed on him under this section and any

person who –

(a) fails to provide any information or produce for

inspection any book, record, file, register or such

other document, material or object required under

this section;

(b) fails to attend in person when summoned for an

interview;

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(c) provides false or incomplete or incorrect

information, book, record, file, register or such other

document, material or object; or

(d) obstructs the Director or any person authorized by

the Director under subsection (1) in the performance

of any function thereunder,

shall be guilty of an offence under this Act.

(4) The Director shall upon the conclusion of the

examination conducted in terms of subsection (1), submit a

report to the Board if such examination reveals that the

licensed microfinance company-

(a) is carrying on its business adopting unsound or

improper financial practices which are detrimental

to the interests of its depositors, creditors and other

stakeholders; or

(b) has contravened or failed to comply with any

provisions of this Act, or any direction, rule, order

or requirement made or imposed thereunder.

Supervisory 16. (1) Where the Board, on a report made by the Director,

measures of the is of the opinion that a licensed microfinance company –

Board on

licensed

microfinance (a) is carrying on or is in the process of carrying on its

company. business following unsound or improper financial

practices which are detrimental to the interest of its

depositors, creditors and other stakeholders; or

(b) has contravened or failed to comply with any

provisions of this Act or any direction, rule, order

or requirement made or imposed thereunder,

the Board may do any one or more of the following:–

(i) direct such licensed microfinance company

to cease any such practice;

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(ii) direct such licensed microfinance company

to, forthwith or within such period as may be

specified by the Board, comply with the

provisions of this Act, direction, rule, order

or requirement made or imposed thereunder

which such microfinance company has failed

to comply with;

(iii) direct such licensed microfinance company

to take necessary action to correct the

negative conditions resulting from such

practice or contravention;

(iv) restrain any director, manager or controller

of the licensed microfinance company from

carrying out any function in or in relation to

the microfinance company;

(v) direct such licensed microfinance company

to remove any director, manager or employee

of the company within a specified period;

(vi) reorganize the licensed microfinance

company by arranging for the increase of its

capital or reconstitution of the board of

directors or both such measures;

(vii) provide for such arrangements as are

necessary for the amalgamation of the

licensed microfinance company with another

licensed microfinance company or any other

institution that consents to such

amalgamation;

(viii) appoint a person to manage the affairs of such

licensed microfinance company with a view

to assuring proper conduct of the business of

such licensed microfinance company;

(ix) serve a notice in writing on such microfinance

company requiring it to show cause within

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fourteen days from the date of the notice why

a penalty should not be imposed on such

company, and upon its failure to show cause

within the time specified therefor or where

the cause shown does not satisfy the Board,

impose a penalty not exceeding rupees two

hundred and fifty thousand payable within

such period as may be specified by the Board.

(2) Any person aggrieved with any order or direction

issued or measure taken under subsection (1), may, before

the expiry of thirty days from the date of the issue of such

order or direction or the date of such measure taken, appeal

in writing to the Board and the Board shall render its decision

within sixty days of receipt of such appeal.

PART VII

CANCELLATION OF THE LICENCE AND WINDING UP OF LICENSED

MICROFINANCE COMPANY

Grounds for 17. The Board may cancel the licence of a licensed

cancellation of a microfinance company on any one or more of the following

licence.

grounds :-

(a) failing to commence business within nine months

of the issue of the licence;

(b) failing to satisfy any debt incurred by it, on such

debt becoming due for payment;

(c) proposing to make or making any composition or

arrangement with its creditors or going into

liquidation or being wound up or otherwise

dissolved;

(d) ceasing to carry on microfinance business;

(e) acting in contravention of any provisions of this

Act or any direction, requirement, rule, order,

determination issued, imposed or made under this

Act;

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(f) failing to pay the annual licence fee;

(g) carrying on its business in a manner likely to be

detrimental to the interests of its depositors, other

creditors and the economy; or

(h) furnishing false, misleading or inaccurate

information or concealing or failing to disclose

material facts to the Board.

18. (1) The Board shall, before cancelling the licence Procedure for

of a licensed microfinance company, serve a notice in writing cancellation of

licence.

on such licensed microfinance company requiring it to show

cause within thirty days from the date of such notice being

served as to why its licence should not be cancelled.

(2) Where the licensed microfinance company fails to

show cause within the specified period the Board may cancel

the licence.

(3) Where in compliance with the notice issued to it under

subsection (1), such licensed microfinance company, shows

cause within the specified period, the Board may, after

considering the reasons provided and hearing the licensed

microfinance company in support of its objections –

(a) not cancel the licence, if it is satisfied that such

microfinance company has shown sufficient cause

as to why its licence should not be cancelled; or

(b) cancel the licence, if it is satisfied that such licensed

microfinance company has not shown sufficient

cause as to why its licence should not be cancelled.

(4) In the event of cancellation of a licence, the licensed

microfinance company concerned shall be notified forthwith

of such cancellation and the cancellation shall take effect

from the date of such notification. The Board shall publish

a notice of such cancellation at least in one each of Sinhala,

Tamil and English daily newspapers circulating in Sri Lanka.

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(5) Where the licence of a licensed microfinance company

is cancelled, the Board shall remove the name of such

licensed microfinance company from the register maintained

under section 8 and may issue such directions to such

microfinance company as it considers necessary, including

directions for winding up.

(6) Where such microfinance company fails to comply

with any directions issued under subsection (5) within the

time specified by the Board, the Board may require the

Director to file action for the winding up of such

microfinance company under section 19.

Winding up. 19. A competent court may, on an application made by

the Director, order the winding up of such microfinance

company and accordingly the provisions of the Companies

Act, No.7 of 2007 relating to winding up of companies

subject to the supervision of court shall mutatis mutandis

apply to and in relation to the winding up of such

microfinance company.

PART VIII

MICROFINANCE NON-GOVERNMENTAL ORGANIZATIONS

Non- 20. (1) A non-governmental organization registered

governmental

organization to under the Voluntary Social Service Organizations

apply for a (Registration and Supervision) Act, No.31 of 1980 is eligible

certificate of to apply for a certificate of registration as a microfinance

registration.

non-governmental organization (hereinafter referred to as

the “microfinance NGO”).

(2) Every application for a certificate of registration as a

microfinance NGO shall be made to the Registrar of

Voluntary Social Service Organizations (in this Part referred

to as the “Registrar”) in such form and in compliance with

the requirements for such registration, together with such

information, as may be specified by the Registrar from time

to time by rules made in that behalf.

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(3) The Registrar may, on receipt of such application,

make such enquiries and call for such further information

and documents as he considers necessary and if he is

satisfied that-

(i) the applicant has complied with the criteria for

registration as may be laid down by the Registrar

from time to time by rules made in that behalf; and

(ii) registration of the applicant would not be

detrimental to the interests of its creditors and other

stakeholders,shall issue a certificate of registration

as a microfinance NGO,

subject to such terms and conditions as the Registrar may

think fit or where he is not so satisfied, reject the application

and issue such directions as he may deem necessary.

21. Every microfinance NGO shall exhibit its certificate Exhibiting the

of registration at its principal place of business and a copy certificate.

of such certificate at every one of its branches.

22. The Registrar shall maintain a register of Register of

microfinance NGOs. microfinance

NGOs.

23. (1) The Registrar may make rules for the purpose of Registrar to

carrying out the provisions of this Part and to give effect to make rules.

standards, principles and guidelines issued by the Board in

terms of Part IX of this Act.

(2) Without prejudice to the generality of the powers

conferred by subsection (1), the Registrar may, in particular,

from time to time make rules in respect of all or any of the

following matters:–

(a) criteria for registration under this Part of this Act ;

(b) annual registration fee payable to the Registrar by

a microfinance NGO;

(c) reporting and disclosure requirements of a

microfinance NGO;

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(d) terms and conditions for loans and credit facilities

to be granted by a microfinance NGO including

maximum rates of interest that may be charged on

such loans and credit facilities;

(e) terms and conditions on savings mobilization and

the maximum rates of interest payable on such

savings;

(f) the maximum ratio of outstanding deposits to

outstanding loans;

(g) number of borrowers and depositors;

(h) consumer protection;

(i) net assets to be maintained by a microfinance NGO;

(j) internal controls, risk management and a code of

corporate governance to be adopted by a

microfinance NGO;

(k) the types of activities that may be carried on by a

microfinance NGO;

(l) forms to be used under this Part.

(3) Every rule made by the Registrar shall be published

in the Gazette.

Duty to provide 24. (1) Every microfinance NGO shall prepare and

financial furnish financial statements in such manner, form and at

statement.

intervals or times as may be specified by the Registrar.

(2) The financial statements prepared by a microfinance

NGO shall be audited by a qualified auditor.

Registrar may 25. (1) The Registrar or any other officer authorized in

examine books writing by him in that behalf, may at any time examine the

of accounts etc.

books of accounts and records of any microfinance NGO and

for that purpose may do any one or more of the following:–

(a) require any microfinance NGO, or a director,

manager, employee or auditor of any microfinance

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NGO to furnish him all such information as he may

consider necessary and to produce for inspection

books, records, files, registers, and such other

documents of such microfinance NGO and to

provide authenticated copies in any form as

required of such books, records, files, registers and

such other documents;

(b) enter and examine books, records, files, registers,

and such other documents of a microfinance NGO

and may obtain copies, authenticated or otherwise,

in any form of such books, records, files, registers

and such other documents;

(c) require any microfinance NGO or a director,

manager, employee or auditor of any microfinance

NGO to submit the accounts of such microfinance

NGO, furnish such information and produce such

books, records, files, registers and such other

documents for audit by a qualified auditor

authorized by the Registrar.

(2) The cost of such examination may be recovered from

the microfinance NGO.

(3) It shall be the duty of every person to comply with

any requirement imposed on him under subsection (1) and

any person who-

(a) fails to provide any information or produce for

inspection any book, record, file, register or such

other document required under this section;

(b) provides false or incomplete or incorrect

information, book, record, file, register or such other

document; or

(c) obstructs the Registrar or any person authorized by

the Registrar under subsection (1) in the

performance of any function under subsection (1),

shall be guilty of an offence under this Act.

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Powers of the 26. Where the Registrar is of the opinion that a

Registrar. microfinance NGO–

(a) is carrying on or is in the process of carrying on, its

business adopting unsound or improper financial

practices detrimental to the interest of its depositors

and other creditors; or

(b) has contravened or failed to comply with any

provisions of this Act, or any direction, rule, order

or requirement made or imposed thereunder,

the Registrar may take any one or more of the following

actions:–

(i) direct such microfinance NGO to cease any

such practice;

(ii) direct such microfinance NGO to forthwith

or within such period as may be specified by

the Registrar, comply with the provisions of

this Act or rule, or requirement made or

imposed thereunder which such microfinance

NGO has failed to comply with;

(iii) direct such microfinance NGO to take

necessary action to correct the negative

conditions resulting from such practice or

contravention;

(iv) restrain any director, manager or controller

of the microfinance NGO from carrying out

any function in or in relation to the

microfinance NGO;

(v) remove any director, manager or employee

of the microfinance NGO;

(vi) re-organize the microfinance NGO by

arranging for the reconstitution of its board

of directors:

Provided however, the Registrar shall,

before taking any of the actions referred to in

subparagraph (iv), (v) or (vi) of this section,

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serve a notice in writing on such director,

manager, controller, employee or the board

of directors requiring him or it, as the case

may be, to show cause within fourteen days

from the date of such notice, why action as

referred to in the relevant subparagraph

should not be taken against him or it, as the

case may be, and satisfy himself that no

satisfactory cause has been made out.

27. (1) The Registrar may cancel the registration of a Registrar’s

microfinance NGO on any one or more of the following power to cancel

registration.

grounds:-

(a) failing to satisfy any debt incurred by it, on such

debt becoming due;

(b) proposing to make or making any composition or

arrangement with its creditors or going into

liquidation or being wound up or otherwise

dissolved;

(c) ceasing to accept limited savings deposits;

(d) acting in contravention of any provisions of this

Act or any direction, requirement, rule, order or

determination issued, imposed or made under this

Act;

(e) failing to pay the annual registration fee;

(f) carrying on its business in a manner likely to be

detrimental to the interests of its depositors and

other creditors;

(g) furnishing false, misleading or inaccurate

information or concealing or failing to disclose

material facts to the Registrar.

(2) The Registrar shall, before cancelling the registration

of a microfinance NGO, serve a notice in writing on such

microfinance NGO requiring it to show cause within thirty

days from the date of such notice being served as to why its

registration should not be cancelled.

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(3) Where the microfinance NGO fails to show cause

within the specified period the Registrar may cancel the

registration.

(4) Where in compliance with the notice issued to it

under subsection (2), such microfinance NGO, shows cause

within the specified period, the Registrar may, after

considering the reasons provided and hearing the

microfinance NGO in support of its objections –

(a) not cancel the registration, if he is satisfied that

such microfinance NGO has shown sufficient cause

as to why its registration should not be cancelled;

or

(b) cancel the registration, if he is satisfied that such

microfinance NGO has not shown sufficient cause

as to why its registration should not be cancelled.

(5) In the event of cancellation of a registration, the

microfinance NGO concerned shall be notified forthwith of

such cancellation and the cancellation shall take effect from

the date of such notification. The Registrar shall publish a

notice of such cancellation at least in one each of Sinhala,

Tamil and English daily newspapers circulating in Sri Lanka.

(6) Where the certificate of registration of a

microfinance NGO is cancelled, the Registrar shall remove

the name of such microfinance NGO from the register

maintained under section 22 and may issue such directions

to such non-governmental organisation as he considers

necessary.

PART IX

PRINCIPLES, STANDARDS AND GUIDELINES LAID DOWN BY THE BOARD

Principales, 28. (1) Notwithstanding anything to the contrary in

standards and this Act or any other written law, the Board may in order to

Guidelines. ensure that microfinance business and lending activities are

carried on in a transparent, professional and prudent manner

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and to strengthen, develop and make qualitative

improvements in the regulation and supervision of such

activities for consumer protection, set principles or standards

or issue guidelines in respect of-

(a) microfinance NGOs regulated by the Registrar of

Voluntary Social Service Organizations in terms of

Part VIII of this Act; and

(b) micro credit non-governmental organizations.

(2) The Registrar of Voluntary Social Service

Organizations shall give effect to the principles, standards

or guidelines laid down by the Board under subsection (1),

by making appropriate rules governing microfinance NGOs.

(3) Nothing in this section shall be deemed to enable

a non-governmental organization other than one which is

registered in terms of Part VIII of this Act to accept limited

savings deposits.

(4) The Board may call for monthly, quarterly, semi-

annual or annual financial data of a microfinance NGO

referred to in subsection (1) from the Registrar of Voluntary

Social Service Organizations.

PART X

IMMUNITY FROM PROSECUTION

29. (1) No prosecution shall be instituted in any court Immunity from

against the Board or a member thereof, the Director or any prosecution.

officer or servant of the Central Bank or any other person

authorized by the Board or the Director under this Act to

carry out any duty or function, by reason of any act done or

purported to be done, or omitted to be done by such person

under this Act or any direction, rule, order or requirement

made or imposed thereunder unless the prior written sanction

of the Attorney-General has been first obtained for such

prosecution.

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(2) Any expenses incurred by a member of the Board, the

Director or any officer or servant of the Central Bank or any

other person authorized by the Board, in any suit or

prosecution brought against such person before any court

in respect of any act which is done or purported to be done

or omitted to be done by such person under this Act or any

direction, rule, order or requirement made or imposed

thereunder, as the case may be, shall if the court holds that

such act was done in good faith, be paid out by the Board

unless such expenses are recovered by him in such suit or

prosecution.

PART XI

GENERAL

The Finance 30. The provisions of the Finance Business Act, No.42

Business Act and of 2011 and Part IXA of the Banking Act, No.30 of 1988

Part IXA of the

Banking Act not shall not apply to any licensed microfinance company,

to apply. microfinance NGO or micro credit non governmental

oganization.

Effect of other 31. The provisions of this Act or any regulation, order

laws. or rule made under this Act shall have effect notwithstanding

anything to the contrary in any other written law.

Restriction to 32. No person other than a licensed microfinance

carry on company, a microfinance NGO or an institution exempted

microfinance

from the application of the provisions of this Act under

business.

section 2, shall carry on microfinance business.

Transitional 33. Notwithstanding anything to the contrary in section

provision. 32, any person carrying on microfinance business on the

day preceding the date of coming into operation of any Part

of this Act-

(a) may from the date of coming into operation of any

Part of this Act, continue to carry on such business

for a period of eighteen months; and

(b) shall comply with the provisions of this Act and

apply for-

Microfinance Act, No. 6 of 2016 25

(i) a licence to continue his business as a

licensed microfinance company within such

period as may be specified by the Board by

notice published in the Gazette:

Provided however, notwithstanding Part

VIII of this Act being not operative on the

day when Part I comes into operation, such

person shall comply with the provisions of

this Act and apply for a licence to continue

his business as a licensed microfinance

company within such period as may be

specified by the Board by notice published

in the Gazette;

(ii) a certificate of registration to continue his

business as a microfinance NGO within such

period as may be specified by the Registrar

by notice published in the Gazette;

(c) the period referred to under paragraph (b) above shall

fall within the period referred to in paragraph (a).

34. No person other than a licensed microfinance Restriction on

company, microfinance NGO or an institution exempted the use of the

term “micro

under section 2 of this Act shall use in its name, the words finance”.

“microfinance” or any of its derivatives or its transliteration

or its equivalent in any other language whether alone or in

combination with any other word, without the prior written

approval of the Board.

35. (1) Any person who contravenes or fails to comply Offences.

with any provisions of this Act or any rule, direction, order

or requirement issued or imposed thereunder 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 or to imprisonment of either

description for a term not exceeding one year or to both

such fine and imprisonment.

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(2) Where an offence under this Act is committed by a

body of persons, then,-

(a) if that body of persons is a body corporate, every

director, manager, or secretary of that body

corporate;

(b) if that body of persons is a firm, every partner of the

firm; or

(c) if that body of persons is an unincorporated body

other than a firm, every member of such body,

shall be deemed to be guilty of that offence:

Provided however, that a director, manager or secretary

of such body corporate or a partner of such firm or a member

of such unincorporated body, shall not be deemed to be

guilty of such offence if he proves that such offence was

committed without his knowledge or that he exercised all

due diligence to prevent the commission of such offence.

Board to be 36. (1) Subject to such rules, if any, as may be made by

responsible for the Board, the Board may, in writing, authorize an officer of

acts of officers.

the Central Bank or any other person to represent the Board

for any of the purposes of this Act, so however, the Board

shall remain and continue to remain responsible for any act

or thing done or omitted to be done by such officer or person

representing the Board under such authorization.

(2) The Board may in writing delegate to any officer of

the Central Bank any of its powers and duties under this

Act, so however, that the Board shall remain and continue

to be responsible for any act or thing done or omitted to be

done by such officer in the exercise of such powers delegated

to him.

Interpretation. 37. In this Act, unless the context otherwise requires–

“Board” means the Monetary Board of the Central

Bank of Sri Lanka established under the

Monetary Law Act, (Chapter 422);

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“Central Bank” means the Central Bank of Sri Lanka

established under the Monetary Law Act,

(Chapter 422);

“deposit” shall have the meaning assigned to it

under the Finance Business Act, No. 42 of

2011 as may be amended from time to time;

“Director” means the head of the department of the

Central Bank to which the subject of

microfinance companies has been assigned

and includes an acting director;

“licensed microfinance company” means a

company, licensed under this Act;

“liquid assets” means –

(a) cash in hand;

(b) balances in a current or deposit

account in a commercial bank, free

from any bankers’ lien or charge;

(c) Sri Lanka Government Treasury Bills

and Treasury Bonds maturing within

one year, and free from any lien or

charge;

(d) Sri Lanka Government Securities

maturing within one year and free from

any lien or charge;

(e) Central Bank of Sri Lanka securities

maturing within one year and free from

any lien or charge; and

(f) Such other asserts as may be

determined by the Board;

“microfinance business” means accepting deposits

and providing :-

(a) financial accommodation in any form;

(b) other financial services; or

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(c) financial accommodation in any form

and other financial services,

mainly to low income persons and micro enterprises

in conformity with the Schedule to this Act;

“microfinance NGO” means a non-governmental

organization registered under the Voluntary

Social Service Organizations (Registration

and Supervision) Act, No.31 of 1980 and

issued with a certificate of registration by the

Registrar of Voluntary Social Service

Organizations under this Act to accept limited

savings deposits;

“micro credit non-governmental organization”

means a non-governmental organization

registered under the Voluntary Social Service

Organizations (Registration and Supervision)

Act, No.31 of 1980 and engaged in lending

activities and not permitted to accept

deposits;

“Minister” means the Minister to whom the subject

of microfinance is assigned;

“qualified auditor” means –

(a) an individual who being a member of

the Institute of Chartered Accountants

of Sri Lanka or of any other Institute

established by law, possesses a

certificate to practice as an Accountant

issued by the Council of such Institute;

or

(b) a firm of Accountants each of the

resident partners of which being a

member of the Institute of Chartered

Accountants of Sri Lanka or of any other

Institute established by law possesses

a certificate to practice as an

Accountant issued by the Council of

such Institute.

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38. In the event of any inconsistency between the Sinhala text to

Sinhala and Tamil texts of this Act the Sinhala text shall prevail in the

event of any

prevail.

inconsistency.

SCHEDULE [ Section 9 ]

A licensed microfinance company may engage in the following

businesses :-

(a) to provide financial accommodation, with or without

collateral security, in cash or in kind, subject to such terms

and conditions that the Board may impose for all types of

economic activities including housing;

(b) to accept time and savings deposits and to open, maintain

and manage deposits, savings and other similar accounts

excluding however the carrying on of banking business as

defined in the Banking Act, No. 30 of 1988;

(c) to accept pledges, mortgages, hypothecations or

assignments to it of any kind of movable or immovable

property for the purpose of securing loans and advances

made by it;

(d) to provide credit to buy, sell and supply industrial and

agricultural inputs, livestock, machinery and industrial raw

materials, and to act as an agent for any organization for

the sale of such goods or livestock;

(e) to invest its monies prudently;

(f) to provide storage and safe custody facilities;

(g) to provide professional advice to its customers regarding

investments in small businesses, self-employment projects

and cottage industries;

(h) to provide services and facilities to customers to hedge

various risks relating to microfinance;

(i) to render managerial, marketing, technical and

administrative advice to customers and assisting them in

obtaining services in such fields;

(j) to provide technical assistance and training to customers;

(k) to conduct finance leasing business, pawn brokering and

insurance business after obtaining necessary licence or

approval from the relevant authority and subject to such

rules and regulations of such authority;

(l) any other business which the Monetary Board of the Central

Bank of Sri Lanka may authorize a licensed microfinance

company to engage in.

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