



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**CREDIT INFORMATION BUREAU OF
SRI LANKA (AMENDMENT)
ACT, No. 42 OF 2008**

[Certified on 03rd December, 2008]

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*Credit Information Bureau of Sri Lanka
(Amendment) Act, No. 42 of 2008*

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L.D.—O. 39/2005.

AN ACT TO AMEND THE CREDIT INFORMATION BUREAU OF
SRI LANKA ACT, NO. 18 OF 1990.

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

1. This Act may be cited as the Credit Information Bureau of Sri Lanka (Amendment) Act, No. 42 of 2008.

Short Title.

2. The Long Title to the Credit Information Bureau of Sri Lanka Act, No. 18 of 1990 (hereinafter referred to as “the principal enactment”) is hereby amended by the substitution for all the words “FROM LENDING INSTITUTIONS” to “WITH A VIEW TO FACILITATING THE” of the following:—

Amendment of the Long Title to Act, No.18 of 1990.

“FROM LENDING INSTITUTIONS, CONSUMERS OF CREDIT GRANTING INSTITUTIONS AND FOR THE PROVISION OF THAT INFORMATION ON REQUEST TO THE SHAREHOLDERS OF THE BUREAU AND AUTHORITIES AND INSTITUTIONS ENTITLED TO RECEIVE INFORMATION WITH A VIEW TO FACILITATING THE”.

3. Section 4 of the principal enactment is hereby amended by the substitution for the word “Colombo” wherever it appears in that section, of the word “the Western Province”.

Amendment of section 4 of the principal enactment.

4. Section 5 of the principal enactment is hereby amended in subsection (1) of that section by the repeal of paragraphs (vii) and (viii) and the substitution therefor of the following paragraphs:—

Amendment of section 5 of the principal enactment.

“(vii) a person nominated by the Monetary Board from amongst persons who are Directors on the Board of Directors of licensed specialized banks ;

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- (viii) a person elected by the shareholding leasing establishments ; and
- (ix) the person holding office as the General Manager of the Bureau;”.

Replacement of section 6 of the principal enactment.

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 Section 6 of the principal enactment is hereby repealed, and the following section substituted therefor :—

“Functions of the Bureau.

6. The functions of the Bureau shall be—

- (a) to collect, collate and synthesize credit and financial information from the categories of persons or bodies of persons specified in section 7A ;
- (b) to provide credit and financial information, on request to the persons or bodies of persons specified in section 7B ;
- (c) to undertake the function of credit rating and to sell such credit ratings to any foreign and local agencies, or to any person making a request for such ratings ;
- (d) to provide credit scoring of persons on request of lending institutions and credit granting institutions of the Bureau and other value added services in Sri Lanka ;
- (e) to undertake research and training projects for lending institutions who are shareholders of the Bureau, and participating credit granting institutions ; and

- (f) to operate a filing office of secured transactions to register the security interest of movables, if so directed by the government,

with a view to facilitating the distribution of credit to all sectors of the economy and to the informal sector, in particular.”.

6. Section 7 of the principal enactment is hereby amended as follows :—

Amendment of section 7 of the principal enactment.

- (1) by the repeal of paragraphs (a) and (b) of that section and the substitution therefor of the following:—

- “(a) to maintain a data bank, of the institutions specified in section 7A ;

- (b) to collect, collate and synthesize, credit and financial information from any of the persons referred to in section 7A ;”;

- (2) by the repeal of paragraph (d) of that section and the substitution therefor of the following paragraphs :—

- “(d) to furnish credit and financial information or any category of such information or to provide credit scoring or other value added services on request and in confidence, to the persons or body of persons specified on section 7B subject to such terms and conditions as may be determined by the Bureau ;

- (dd) to undertake to collect information relating to cheque returns from commercial banks, for the purpose of providing additional services such as decision supporting systems to lending institutions and participating credit granting institutions of the Bureau ;”;

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- (3) by the repeal of paragraph (e) of that section and the substitution therefor of the following paragraph :—

“(e) to levy such fees or other charges or require the payment of an identified subscription, for the credit and financial information being furnished or the services being provided ;”;

- (4) by the insertion immediately after paragraph (m) of the following new paragraph :—

“(mm) to enter into agreements for joint ventures for any alliance with any person or company for the effective discharge of the functions set out in section 6 and for carrying on any enterprise providing supporting services for the conduct of its business ;

(mmn) to operate a filing office of secured transactions in order to register the security interest of movables, if so directed by the government with such offer ;”.

Insertion of new sections 7A and 7B of the principal enactment.

7. The following new sections are hereby inserted immediately after section 7 of the principal enactment and shall have effect as sections 7A and 7B of that enactment:—

“Persons or body of persons in respect of whom credit and financial information can be collected.

7A. The Bureau may, in the discharge of its functions under this Act, collect information in respect of,—

(a) borrowers and prospective borrowers of lending institutions from such institutions ;

(b) consumers and prospective consumers of credit granting institutions, from such institutions ;

- (c) holders and prospective holders of insurance policies from Insurance Companies and also information in respect of credit granted on the surrender value of such policies ;
- (d) persons from the Commissioner of Registration of Persons falling within the provisions of the Registration of Persons Act, No. 32 of 1968 ;
- (e) firms and partnerships from the Registrars of Business Registration ;
and
- (f) companies from the Registrar of Companies, established under the Companies Act, No. 7 of 2007.

Persons to whom the Bureau may give information on request.

7B. (1) The Bureau may, in cases where a request is made to it, in the exercise of its powers, furnish credit and financial information available with it. to the following persons or body of persons :—

- (a) lending institutions who are shareholders of the Bureau for the purposes of evaluating or ascertaining of creditworthiness or credit standing of any person and reviewing and monitoring of existing borrowers and collection of outstanding credit of existing borrowers and opening and maintenance of current accounts by licensed commercial banks ;
- (b) the Central Bank for the purposes of ascertaining the suitability of any person to be appointed or elected or

nominated to be a Director or a Chief Executive Officer of a lending institution and for purposes of regulation and supervision of lending institutions and to improve quality of credit analysis of such institutions ;

- (c) any government agency or institution declared by the Minister in charge of the subject of Finance to be entitled to receive such information to evaluate the creditworthiness of an applicant to be issued a license or provided with a concession in terms of the applicable law to issue a license or to grant such concessions ;
- (d) participating credit granting institutions for the purpose of evaluating and ascertaining of credit worthiness and credit standing of any person and reviewing and monitoring of existing consumers and collection of outstanding credit of existing consumers ;
- (e) borrowers and prospective borrowers of lending institutions or consumers and prospective consumers of credit granting institutions and to any other person to whom such information relates ;
- (f) international Credit Bureaus subject to the consent of the person to whom such information relates ;
- (g) to any insurance company, with the consent of the person to whom the information relates, for the purpose of

underwriting or ascertaining the credit worthiness and insurability of such person ; and

- (h) such other persons or bodies of persons whom the Minister may, on the recommendation of the Monetary Board, from time to time identify for the purposes of this section by Order published in the *Gazette*.

(2) The Bureau may in furnishing such information, impose such terms and conditions as may from time to time be determined by the Board, including the identification of the purposes for which such information may be used.”.

8. Section 10 of the principal enactment is hereby amended by the repeal of subsections (3) and (4), and the substitution thereof of the following :—

Amendment of section 10 of the principal enactment.

“(3) Notwithstanding the provisions of subsection (1) of this section the Board may —

- (a) allocate or transfer shares of the Bureau to lending institutions according to proportion of such issued share capital as may be determined by the Board with the written approval of the Monetary Board ;
- (b) allocate shares to any person engaged in the advancement of technology relating to the activities referred to in paragraphs (a), (b), (c) and (d) of section 6.

(4) The allocation or transfer of shares of the Bureau, after the initial issue of shares shall be determined by the Bureau and made with the written approval of the Monetary Board.

(5) The Monetary Board shall in granting approval for the allotment or transfer of shares of the Bureau under subsection (3) and (4), ensure that at all times—

- (a) the Monetary Board shall retain not less than fifteen *per centum* of the issued share capital of the Bureau ;
- (b) the aggregate shareholding held by the Monetary Board and any other lending institution which is a public corporation shall not be less than fifty one *per centum* of the issued capital of the Bureau ; and
- (c) any lending institution which is not a public corporation or any other person referred to in paragraph (b) of subsection (3) shall not hold more than ten *per centum* of the issued share capital of the Bureau.”.

Replacement of section 12 of the principal enactment.

9. Section 12 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Borrowings by the Board.

12. (1) The Bureau may from time to time borrow sums of money from any lending institution or from any other local or foreign institution on such terms and conditions as may be determined by the Board.

(2) The Bureau may issue debentures or other securities for the purpose of carrying out the functions of the Bureau, in accordance with such terms as may be determined by the Board.

(3) No borrowings by the Bureau under subsection (1) shall be made without the concurrence of the majority of shareholders if the aggregate borrowings of the Bureau were at any time to exceed a sum equivalent to twice the paid up capital of the Bureau.”.

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

Insertion of new section 19A in the principal enactment.

“Annual General Meeting of the Board. 19A. (1) The Board shall hold an Annual General Meeting of the shareholders of the Bureau within nine months after the closure of each financial year of the Bureau.

(2) The annual report and accounts presented by the Bureau shall be considered at that meeting.

(3) The manner of summoning of the Annual General Meeting and the procedure to be followed in the transaction of business at that meeting shall be determined by the Board and published as it may consider appropriate.”.

11. Sections 21 and 22 of the principal enactment are hereby repealed and the following sections substituted therefore:—

Amendment of sections 21 and 22 of the principal enactment.

“Bureau to call for information. 21. (1) The Bureau or any other person authorized by the Bureau in that behalf may, by notice in writing require any institution specified in section 7A to furnish information under this Act either to the Bureau or any other person authorized, within such period as shall be specified in the notice, all such information required by that notice.

(2) Notwithstanding anything to the contrary in the respective laws establishing any institution specified in section 7A or any other law or in any agreement entered into between the consumers or borrowers and such institution, it shall be the duty of any such institution to furnish information under this Act,

or required to furnish in response to a notice under subsection (1) any return or information, to comply with the requirements of such notice within such time as is specified therein.

(3) The Bureau shall not publish or communicate to any person, otherwise than to the extent required for the discharge of its functions under the Act, any information contained in any return furnished in compliance with the requirements of a notice issued under subsection (1).

Duty not to disclose information.

22. (1) No director, officer or servant of the Bureau, shall except for the purpose of this Act or when required to do so by any other written law, disclose any information furnished to the Bureau under this Act or produce before a Court or other Institution, any return or other information furnished to the Bureau under this Act.

(2) No director, officer or servant employed in any institution authorized to receive credit information shall except for the purpose of this Act or when required to do so by any other written law, disclose any information furnished by the Bureau under this Act or produce before a Court or other Institution, any return or other information furnished by the Bureau under this Act.

Amendment of section 23 of the principal enactment.

12. Section 23 of the principal enactment is hereby amended in subsection (2), by the substitution for the words “lending institution” of the words “institution authorized to receive credit information”.

Insertion of new sections 26A, 26B and 26C in the principal enactment.

13. The following new sections are hereby inserted immediately after section 26 of the principal enactment and shall have effect as sections 26A, 26B and 26C of that enactment :—

“Bureau to suspend furnishing of credit information.

26A. (1) The Bureau may, if it is satisfied that there is adequate proof that a person being a director, officer or servant of any institution specified in section 7B entitled to receive credit or financial information or other value added services from the Bureau, has committed an offence under paragraphs (a), (b), (c) and (e) of subsection (1) of section 27, make an order to suspend the furnishing of any such information or the provision of any other services, to such institution.

(2) The Bureau shall before making an order under subsection (1), give any institution, mentioned in subsection (1), an opportunity of being heard.

(3) Where the Bureau has decided to withhold the release of credit and financial information or the provision of such other services under the provisions of paragraph (1) above the Bureau shall require such shareholder lending institution if it holds shares in the Bureau, to forthwith transfer the shares held by such institution in the share capital of the Bureau, if any, to the Monetary Board at a consideration determined by the Board.

Financial Ombudsman to hear and determine disputes.

26B. The Financial Ombudsman shall have the sole and exclusive jurisdiction in the first instance to hear and determine any complaint relating to a dispute between the Bureau and any institution referred to in sections 7A and 7B and any person to whom such information relates, in respect of information contained in any credit and financial information issued by the Bureau.

Regulations.

26C. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following:—

- (a) specifying the Code of Conduct, to be observed by the institutions specified in section 7B;
- (b) setting out the procedure to enable any person to whom the credit and financial information to be released relates to dispute the error records relating to data included in the credit and financial information report and to get those reports corrected if proved to be inaccurate;
- (c) specifying the relevant particulars to be included in different types of reports to be issued by the Bureau relating to credit and financial information to be released, as the Board may consider necessary and such rules and regulations shall not be inconsistent with the provisions of this Act;
- (d) specifying the forms and formats to be used by institutions and persons in furnishing information and returns to the Bureau in terms of this Act.”.

Amendment of section 27 of the principal enactment.

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

(1) in subsection (1) thereof—

- (a) by the repeal of paragraph (c) and the substitution therefor of the following :—

“(c) contravenes the provisions of this Act or any rule or regulation made thereunder;”;

(b) in paragraph (d), by the substitution for the words “Bureau, discloses any information” of the words “Bureau, or any Joint Venture or alliance discloses any information”;

(c) by the repeal of paragraph (e) and the substitution therefor of the following :—

“(e) being a director, officer or servant of any institution specified in section 7B entitled to receive information from the Bureau discloses any credit or financial information obtained by such institution from the Bureau to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act;”;

(2) in subsection (2), by the substitution for the words “not exceeding one hundred thousand rupees” of the words “not exceeding one million rupees”.

(3) in subsection (4), by the substitution for the words and figures “under section 27 (1) (a) or (b) was committed, compound such offence for a sum not exceeding fifty thousand rupees” of the words and figures “under subsection (1) was committed, compound that offence for a sum not exceeding one million rupees”.

15. Section 29 of the principal enactment is hereby amended as follows:—

Amendment of section 29 of the principal enactment.

(1) by the insertion, immediately before the definition of the expression “Bank of Ceylon”, of the following new definitions :—

“associate member” means any institution specified in Section 7B of this Act which has entered into subscription agreement with the Bureau on terms and conditions relating to payments of fees and other terms regarding the authority by the Bureau to release credit and financial information and the provision of other services;

“borrower” means any person to whom any credit limit has been granted by any Lending Institution, either availed of or not, and includes—

(a) in the case of a company or corporation, its subsidiaries and its Associate Companies;

(b) in the case of a firm, owner or any partner thereof or any person who was a partner during the preceding two years; and

(c) in the case of an individual, any firm in which such individual is a partner, proprietor or was a partner during the preceding two years.

(2) by the insertion immediately after the definition of the expression “Central Bank”, of the following definition:—

“credit information” means any information relating to—

(i) details of credit facilities granted by a lending institution to any borrower or class of borrowers;

(ii) the nature of security taken by a lending institution from any borrower or class of borrowers as the case may be for credit facilities granted to any borrower or class of borrowers;

- (iii) the guarantee or any other fund based facility furnished by a lending institution for any of its constituent or any class of its constituents;
- (iv) any guarantees furnished by the borrowers and consumers on behalf of himself or any other person to a lending institution or a credit granting institution;
- (v) details of credit facilities granted by a credit granting institution to a consumer;
- (vi) the means, antecedents, history of credit transactions and the credit worthiness of any borrower or class of borrowers or consumers;
- (vii) history of any credit facility for a limited or unlimited period depending on the nature of such credit facility or class of credit facilities as determined by the Board of Directors from time to time;
- (viii) the particulars relating to cheque returns of any constituent of a commercial bank for bank for a period of two years from the date of return of such cheque,
- (ix) any other information which the Bureau may consider to be relevant for the more orderly regulation of credit policy;
- (x) details of concessions granted to any person by a government agency during a period of two years;

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(xi) details of insurance policies payable in instalments provided by insurance companies;

(xii) details of requests made by any institution entitled to receive credit and financial information or the person to whom such information relates;

(xiii) a credit score,

and includes persons name, date of birth or registration of birth, identity card number, past and current addresses, contact details, marital status, name of spouse, past and current employment/business, details and other related information relevant to persons' identity;

“credit granting institution” means any institution providing goods and services or utility services on credit and declared by the Minister in charge of the subject Finance on the recommendation of the Board having regard to the impact of the provision of such goods, services and utilities on credit, on the National Economy, by Order published in the *Gazette*”;

(3) by the repeal of the definition of the expression “Development Finance Corporation of Ceylon”;

(4) by the insertion, immediately after the definition of the expression “Finance Company”, of the following new definitions :--

“finance leasing establishment” means a Finance Leasing Establishment within the meaning of Finance Leasing Act, No. 56 of 2000;

“financial information” means data extracted from the balance sheet, the profit and loss account, statement of income and other accounts maintained by a company or other business registered under the Business Registration Ordinance (Chapter 149), which have been audited by a qualified auditor registered with the Institute of Chartered Accountants of Sri Lanka;

“Financial Ombudsman” means the person holding office under the corporate body by the name Financial Ombudsman of Sri Lanka (Guarantee) Ltd. incorporated under the Companies Act, No. 7 of 2007;

“Insurance Company” means a company registered under the Regulation of Insurance Industry Act, No. 43 of 2000;

“lending institution” means—

- (a) a licensed commercial bank;
- (b) a licensed specialized bank;
- (c) a finance company;
- (d) a finance leasing establishment;
- (e) a Special Purpose Vehicle in which any institution referred to in (a), (b), (c), or (d) above, owns ninety percentum (90%) of the share capital;
- (f) any other institution, engaged in providing credit, declared by the Minister in charge of the subject of

Finance, on the recommendation of the Board having regard to the financial stability of that institution, by Order published in the *Gazette*, to be a lending institution for the purposes of this Act;”;

(5) by the repeal of the definition of the expression “lending institution”.

(6) by the insertion, immediately after the definition of the expression “licensed commercial bank” of the following :—

“licensed specialized bank” means a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988 ;

(7) by the repeal of the definition of the expressions “National Development Bank of Sri Lanka” and “National Savings Bank”;

(8) by the insertion, immediately after the definition of the expression “People’s Bank” of the following:—

“participating credit granting institution” means a credit granting institution which has entered into an agreement with the Bureau to be Associate Member of the Bureau;

“Special Purpose Vehicle” means a body corporate or unincorporate, including a trust, established solely for the purpose of securitization and activities connected therewith or incidental thereto;

“value added services” means the provision of additional information or statistic by using information collected from Institutions

referred to in section 7A of this Act, or in terms of any other written law with a view to facilitating the use of credit and financial information for permissible purposes by the institutions eligible to receive such information or minimizing the possible frauds and defaults of credit and the provision of statistical or market trend analysis reports;”;

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

Sinhala text to prevail in case of inconsistency.

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