

CHAPTER 333

SRI LANKA EXPORT CREDIT INSURANCE CORPORATION

Act No. 15 of 1978. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SRI LANKA EXPORT CREDIT INSURANCE CORPORATION AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[15th December, 1978]

Short title. 1. This Act may be cited as the Sri Lanka Export Credit Insurance Corporation Act.

PART I

CONSTITUTION OF THE SRI LANKA EXPORT CREDIT INSURANCE CORPORATION

Establishment of the Sri Lanka Export Credit Insurance Corporation. 2. (1) There shall be established a Corporation which shall be called the Sri Lanka Export Credit Insurance Corporation (hereinafter referred to as the " Corporation ").

(2) The Corporation 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.

(3) The head office of the Corporation shall be in Colombo and the Corporation may with the prior approval of the Minister establish branch offices within or outside Sri Lanka.

Constitution of the Board of Directors of the Corporation. 3. (1) The management and the administration of the affairs of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the " Board") which shall consist of the following members appointed by the Minister:—

- (a) a Chairman in consultation with the Minister in charge of the subject of Finance;
- (b) an officer of the Central Bank of Ceylon nominated by the Monetary Board-

(c) an officer of the Insurance Corporation of Ceylon nominated by the Board of Directors of the Insurance Corporation of Ceylon;

(d) an officer of the Ministry charged with the subject of Trade; and

(e) an officer of the Ministry charged with the subject of Finance nominated by the Minister in charge of the subject of Finance.

(2) The provisions of Part III of this Act shall apply to the members of the Board.

4. The Board may exercise, discharge and perform the powers, functions and duties of the Corporation subject to such general or special directions as the Minister may issue from time to time and it shall be the duty of such Board to comply with such directions. *Board to exercise its powers, &c., under the directions of the Minister.*

PART II

OBJECTS, POWERS AND FUNCTIONS

5. The objects of the Corporation shall be- *Objects.*

- (1) to issue insurance policies to exporters of goods and services against non-receipt or delayed receipt of payments resulting from commercial and non-commercial risks;
- (2) to issue guarantees to banks and other financial institutions to facilitate the granting of pre-shipment and post-shipment finance;

- (3) to issue guarantees to persons or institutions abroad in connexion with goods exported by any person or institution from Sri Lanka or for the due performance of any services to be rendered to such persons or institutions within or outside Sri Lanka;
- (4) to provide financial assistance to exporters for the promotion and development of export of goods and services from Sri Lanka;
- (5) to provide guarantees to exporters against losses that may be sustained in undertaking market surveys, publicity and any other promotional measures in foreign countries;
- (6) to re-finance and provide refinancing facilities to banks and other financial institutions in respect of credit facilities granted by such banks and institutions for the promotion of exports;
- (7) to undertake market studies abroad for promotion of exports from Sri Lanka and to conduct seminars and courses on various aspects of export promotion and to collect and disseminate information relating to marketing possibilities and procedures;
- (8) to act as agent of the Government, or with the approval of the Government on its own account, to provide insurance and guarantees, undertake such responsibilities and discharge such functions as are considered by the Government as necessary in the national interest;
- (9) to help exporters to diversify and expand exports, find new markets and sell their goods abroad on competitive terms of payment; and
- (10) to discharge such other functions as the Corporation may consider as necessary for the achievement of any of its objects.
6. (1) For the purpose of carrying out its objects the Corporation may exercise, perform and discharge all or any of the following powers, duties and functions:—
- (a) acquire and hold any movable or immovable property and dispose of any property acquired or held by the Corporation;
- (b) draw, make, accept, discount, execute, endorse, issue and negotiate bills of exchange, promissory notes and other negotiable or transferable instruments;
- (c) obtain loans on such terms and conditions as may be approved by the Minister with the concurrence of the Minister in charge of the subject of Finance;
- (d) invest the moneys of the Corporation in appropriate Government securities as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance;
- (e) take all such steps as may be necessary or expedient for the protection or realization of any investment;
- (f) provide financial assistance in the form of loans with or without security to exporters, banks or any other person to promote the expansion of exports;
- (g) employ such officers and servants as may be necessary for the purpose of carrying out the work of the Corporation;
- (h) delegate, subject to the general or special directions of the Corporation, to any member or officer of the Corporation any functions or duties of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of its business,

Powers, duties and functions of the Corporation-

- (t) establish and maintain a provident fund for persons employed by the Corporation and to make contributions to such fund and to provide for the welfare of the employees and their dependants by grants of loans, pension or other payments;
- (o) appoint, employ, remunerate and control its officers, servants and agents and direct and decide all matters connected with the administration of its affairs;
- (k) enter into and perform all such contracts as may be necessary for or incidental to the carrying out and performance of its objects;
- (l) re-insure with any insurer, organization or any Government any liability arising out of any policy of insurance or guarantee issued by the Corporation and to offer re-insurance to other insurers ;
- (m) collaborate and associate with other insurers, in regional or international export credit insurance or re-insurance schemes;
- (n) provide managerial, technical and administrative training for its officers and servants;
- (o) furnish managerial, technical and administrative advice and services to any Government Department, public corporation or other institution within or outside Sri Lanka; and
- (p) do all such other things as are incidental or conducive to the attainment of its objects.

- (A) if he directly or indirectly holds or enjoys any right or benefit under any contract made by or on behalf of the Corporation; or
- (c) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

8. Every member appointed under section 3 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.

9. Any member of the Board may at any time resign his office by letter to that effect addressed to the Minister.

10. (1) The Minister may, by Order published in the Gazette, remove the Chairman or any member from office without assigning any reason therefor and such removal shall not be called in question in any court:

Provided, however, that no member shall be removed under this subsection except in consultation with the Minister in consultation with whom such member was appointed or the Minister or authority nominating such member.

(2) In the event of the vacation of office by any member of the Board or his removal from office under the provisions of the preceding subsection, the Minister may appoint another person in like manner as such member was appointed in accordance with the provisions of section 3. Any person appointed in place of such member shall hold office during the unexpired part of the term of office of the member whom he succeeds.

(3) If any member of the Board 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, in like manner as such member was appointed in accordance with the provisions of section 3.

PART III

BOARD OF DIRECTORS

7. A person shall be disqualified from being appointed or continuing as the Chairman or a member of the Board—

- (a) if he is or becomes a member of Parliament;

Disqualification from membership.

PART IV

FINANCE

Remuneration of members. **11.** The Chairman or any member of the Board may be paid such remuneration out of the Fund of the Corporation as may be determined by the Minister.

Meetings of the Board. **12.** (1) The Chairman of the Board shall, if present preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at such meeting.

(2) The quorum for any meeting of the Board shall be three members and the Board may regulate the procedure in regard to the meetings of such Board and the transaction of business at such meetings.

(3) All questions for decision at any meeting of the Board 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,

Member to disclose any interest in contract proposed to be made by the Corporation.

13. A member who is directly or indirectly interested in any business transacted or proposed to be transacted by the Corporation shall disclose the nature of such interest at the meeting of the Board where such business is being discussed. The disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board with regard to that business, 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.

14. No act or decision or proceeding of the Board shall be invalidated by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

The seal of the Corporation.

15. (1) The seal of the Corporation shall be in the custody of the Board.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Board.

(3) The seal of the Corporation shall not be affixed to any instrument of document except in the presence of two members of the Board who shall sign the instrument in token of their presence.

16. (1) The authorized capital of the Corporation shall be five million rupees of which a sum of two and a half million rupees shall be initially paid up by the Central Bank of Ceylon and the Insurance Corporation of Ceylon in equal proportion.

(2) On a resolution adopted by the Board, the balance authorized capital of two and a half million rupees shall be drawn by the Corporation from the Central Bank of Ceylon and the Insurance Corporation of Ceylon in equal proportion.

(3) The authorized and paid-up capital of the Corporation may be increased from time to time by such amount as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

(4) The amount of any increase in the capital referred to in subsection (3) shall be paid to the Corporation in such instalments as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

17. (1) At the request of the Minister, the Minister in charge of the subject of Finance shall guarantee the liability of the Corporation in respect of the insurance policies and guarantees issued by the Corporation up to such amount as may be determined by him. Government guarantee.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may be paid out of the Consolidated Fund.

(3) In pursuance of a resolution of the Board, any portion of the amount of the guarantee provided under subsection (1) as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance may be drawn by the Corporation for the payment of any claim in excess of the minimum reserves of the Corporation in respect of any insurance policies and guarantees issued by the Corporation.

Maximum liability of the Corporation.

18. The maximum limit up to which the Corporation may undertake liability under the policies of insurance and guarantees issued by the Corporation shall be determined from time to time by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Fund.

19. (1) The Corporation shall have its own Fund.

- (2) There shall be paid into the Fund—
 - (a) any sum paid to the Corporation under sections 16 and 17 ;
 - (b) all sums received by the Corporation as premium in respect of the policies of insurance and guarantees issued by the Corporation;
 - (c) all grants of money received by the Corporation; and
 - (d) all sums of money including recoveries and charges received by the Corporation in the exercise, discharge and performance of its powers, functions and duties.

(3) There shall be paid out of the Fund—

- (a) all sums of money required for the discharge of the liabilities of the Corporation under the policies of insurance and the guarantees issued by the Corporation ; and
- (b) all sums of money required to defray any expenditure incurred by the Corporation in the exercise, discharge and performance of its powers, functions and duties.

Accounts and audit.

20. (1) The financial year of the Corporation shall be the calendar year.

(2) The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Corporation as though such Corporation were a public corporation within the meaning of that Act.

21. (1) The net profit of the Corporation in each year shall be exempt from income tax.

(2) The profits of the Corporation may be invested in such manner as the Corporation may determine with the approval of the Minister in consultation with the Minister in charge of the subject of Finance.

(3) No dividend shall be paid on the share capital of the Corporation.

22. (1) No person other than a Director or a person expressly authorized by the Board, shall sign and execute any documents required to be signed or executed by the Board in the exercise, discharge or performance of any powers, functions or duties conferred or imposed on or assigned to him by the Board under this Act.

Signature of documents by a Director on behalf of the Board.

(2) Receipts signed by the Directors or by any person expressly authorized by the Board to sign such receipts shall be an effectual discharge of the amounts paid to the Corporation,

PART V

STAFF OF THE CORPORATION

23. (1) The Chairman shall function as the Managing Director of the Corporation.

Chairman of the Board to function as the Managing Director of Corporation.

(2) The Chairman shall, subject to the general directions and control of the Board, be charged with the direction of the business of the Corporation, the organisation and the exercise, discharge and performance of the powers, functions and duties of the Corporation and the administrative control of the employees of the Corporation.

(3) The Chairman may, with the approval of the Board, whenever he considers it necessary to do so delegate in writing 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 Chairman.

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Appointment of officers and servants.

24. (1) The Board 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 Board.

(3) At the request of the Board any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Corporation 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 Corporation the provisions of subsection (2) of section 13 of the Transport Board Law 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 Corporation, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

(6) Where the Corporation employs any person who has agreed to serve the Government for a specified period, any period of service to the Corporation 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 Corporation 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 of the Local Government Service Advisory Board, or the local authority, as the case may be, be temporarily appointed to the staff of the Corporation for such period as may be determined by the Corporation 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 Corporation and the Local Government Service Advisory Board or that local authority.

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

(9) Where any person is temporarily appointed to the staff of the Corporation in pursuance of subsection (7) or (8), such person shall be subject to the same disciplinary control as any other member of such staff.

25. All Directors, officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Directors, officers and servants of the Corporation deemed to be public servants.

26. The Corporation 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.

Corporation deemed to be a scheduled institution within the meaning of the Bribery Act.

PART VI

GENERAL

27. No Director, officer or servant of the Corporation shall be liable for any damage or loss suffered by the Corporation unless such damage was caused by his wilful act or default.

Liability for damage of loss suffered by the Corporation.

28. (1) No suit or prosecution shall

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or

Protection for action taken under this Act or on the direction of the Board.

(b) against any Director, officer, servant or agent of the Corporation for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expenses incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any court shall be paid out of the funds of the Corporation, and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall be credited to the funds of the Corporation.

(3) Any expenses incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Corporation unless such expenses are recovered by him in such suit or prosecution.

Secrecy.

29. Every Director, employee or auditor of the Corporation shall, before entering upon his duties, sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Corporation and all matters relating to such transactions and shall by such declaration pledge himself not to reveal any such transaction or matter except—

- (a) when required so to do by the Board of Directors, a court of law, or the person to whom the transaction or matter relates;
- (b) in the performance of his duties; and
- (c) in order to comply with any of the provisions of this Act or any other written law.

Service of notices, &c.

30. Any notice, order or document required or authorized under this Act or any regulation made thereunder to be served on any person, may be served—

- (a) by delivering it to that person or by delivering it at the usual or last

known address of abode or business of that person in a cover addressed to such person ;

- (b) by sending it by registered post addressed to that person at his usual or last known place of abode or business.

31. (I) The Minister may make Regulations. regulations relating to all or any of the matters in respect of which regulations are required or 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 therein.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval- Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

32. Any person who— offences.

- (a) contravenes any provision of this Act or of any regulation made thereunder; or
- (b) furnishes for the purposes of this Act any information which is, or any document the contents of which are, or any part of the contents of which is, to his knowledge untrue or incorrect; or
- (c) wilfully obstructs any officer of the Corporation in the performance of his duties under the provisions of this Act,

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

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Transfer of assets and liabilities of Packing Credit Guarantee and Export Performance Guarantee Scheme to the Corporation.

33. All the assets, debts, liabilities and obligations of the Central Bank of Ceylon, acting as agent of the Government under the provisions of section 108 of the Monetary Law Act, in relation to the Packing Credit Guarantee Scheme and the Export Performance Guarantee Scheme operated by the Bank and subsisting on the 15th day of December, 1978, shall be transferred to the Corporation.

Contribution to share capital possible notwithstanding the provisions of the Insurance Corporation Act.

34. Notwithstanding anything to the contrary in the Insurance Corporation Act, the Insurance Corporation of Ceylon may contribute to the share capital of the Corporation.

This Act to operate notwithstanding the provisions of the Insurance Corporation Act.

35. Notwithstanding anything to the contrary in the Insurance Corporation Act, the Corporation shall carry on the insurance business specified in this Act.

36. Notwithstanding anything to the contrary in the Monetary Law Act, the Central Bank of Ceylon may contribute to the share capital of the Corporation.

This Act to operate notwithstanding the provisions of the Monetary Law Act.

37. (1) The Minister may by regulations made under this Act provide for the application to the Corporation, with or without any modifications of any provisions of the Companies Ordinance.*

Application of company law to the Corporation.

(2) The provisions of the Companies Ordinance,* other than the provisions of that Ordinance which are made applicable to the Corporation by regulations made under this Act, shall not apply to the Corporation.

38. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Provisions of this Act to prevail over other laws.

* Repealed and replaced by the Companies Act, No. 17 of 1982.