

DECLARATION OF ASSETS AND LIABILITIES

LAW TO COMPEL CERTAIN SPECIFIED CATEGORIES OF PERSONS TO MAKE PERIODIC DECLARATIONS OF THEIR ASSETS AND LIABILITIES IN AND OUTSIDE SRI LANKA ; TO PROVIDE FOR REFERENCE TO BE MADE TO SUCH DECLARATIONS BY APPROPRIATE AUTHORITIES AND FOR INVESTIGATIONS TO BE CONDUCTED UPON THE RECEIPT OF ANY COMMUNICATION AGAINST A PERSON TO WHOM THIS LAW APPLIES ; TO PROVIDE FOR PENALTIES FOR NON-DECLARATION OF ASSETS AND LIABILITIES AND FOR FALSE DECLARATIONS ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Law Nos,

1 of 1975

Act Nos,

29 of 1985

74 of 1988

[1st August , 1975]

Short title.

1. This Law may be cited as the Declaration of Assets and Liabilities Law.

Application of this Law.

2.

[2, 74 of 1988]

(1) The provisions of this Law shall apply to every person belonging to any one of the following classes or descriptions of persons:"

- (a) Members of Parliament;
- (b) Judges and public officers appointed by the President, public officers appointed by the Cabinet of Ministers, judicial officers and scheduled public officers appointed by the Judicial Service Commission and staff officers in Ministries and Government Departments ;
- (c) Chairmen, Directors, members of the Boards and staff officers of public corporations ;
- (d) elected members and staff officers of local authorities; and
- (da) office-bearers of recognized political parties for the purposes of elections under the Presidential Elections Act, No. 15 of 1981. the Parliamentary Elections Act, No. 1 of 1981 or the Provincial Councils Elections Act, No. 2 of 1988 or the Development Councils (Elections) Act, No. 20 of 1981 or the Trade Unions Ordinance ;
- (db) the executive of trade unions registered under the Trade Unions Ordinance :
- (dc) candidates nominated for election at elections to be held under the Presidential Elections Act, No. 15 of 1981, the Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988. the Development Councils (Elections) Act, No. 20 of 1981 or the Local Authorities Elections Ordinance:
- (dd) proprietors, editors and members of the editorial staff of newspapers in respect of which declarations have been made under section 2 of the Newspapers Ordinance;
- (de) Chairman, Directors and staff officers of companies registered under the Companies Act, No. 17 of 1932, in which the

majority of shares are held by the State or by a public corporation.

(e) such categories of other officers as may be specified by regulations.

(2) A person to whom the provisions of this Law apply by virtue of the operation of the preceding provisions of this section, is hereafter in this Law referred to as- a " person to whom this Law applies ".(This addition has been made to bring it into line with Article 114 of the Constitution of 1978.)

Duty of persons to whom this law applies to make declarations of assets and liabilities.
[3, 74 of 1988]

3.

(1) Every person to whom this Law applies shall, within three months after the appointed date, make, in such form as may be prescribed, a declaration, hereinafter in this Law referred to as a " declaration of assets and liabilities ", of all"

(a) his assets and liabilities ;

(b) the assets and liabilities of his spouse ; and

(c) the assets and liabilities of each of his children, as on such date as may be prescribed by resolution of the National State Assembly,

(2) Where a person who on the appointed date is not a person to whom this Law applies becomes thereafter a person to whom this Law applies, he shall, within three months of the date on which he becomes a person to whom this Law applies, make a declaration of assets and liabilities as on the last-mentioned date.

Provided that a person to whom the Law applies referred to in paragraph (de) of subsection (1) of section 2 shall be deemed to have complied with the provisions of this subsection if he makes a declaration of his assets and liabilities as at the date of his nomination as a candidate for election under any of the Acts referred to in that paragraph on the date of such nomination or before he functions, or sits or votes, as President, a Member of Parliament, a member of a Provincial Council, member of a Development Council or any other Local authority, as the case may be, and in the case of an unsuccessful candidate at an election within a period of three months after the date of nomination.

(3) Every person who is required to make the first declaration of assets and liabilities under subsection (1) or subsection (2) shall, unless such person ceases to be a person to whom this Law applies, by the thirtieth day of June in each year. make in the prescribed form, a declaration of his assets and liabilities as at the thirty-first day of March of such year and include in such declaration the assets and liabilities he held on the date on which he was first required to make a declaration of his assets and liabilities under this Law ;

Provided that, where a person who is required to make a declaration of assets and liabilities under subsection (2) has made the first declaration as at any date within six months preceding the thirty-first day of March in any year, he shall not be required to make another declaration for such year. " .

To whom declaration of assets and liabilities are to be made.

[4, 74 of 1988]

4.

The declaration of assets and liabilities Shall be made in the following manner;"

(a) to the President"

(i) by the Speaker of Parliament,

(ii) by Ministers of the Cabinet of Ministers, other Ministers and

- Deputy Ministers,
- (iii) by Judges and other public officers appointed by the President;
- (b) to the Speaker of Parliament, by all other Members of Parliament not referred to in paragraph (a) ;
- (c) be the Judicial Service Commission by judicial officers and by scheduled public officers within the meaning of Article 114 or the Constitution :
- (d) to the Secretary to the Ministry"

- (i) by Heads of Government Departments,
- (ii) by Chairmen and Directors of public corporations,
- (iii) by staff officers in the Ministry ;
- (e) to the Head of the Department, by staff officers of such Department ;
- (f) to the Chairman of the Corporation, by staff officers in such Corporation ;
- (g) to the Secretary to the Ministry charged with the subject of Local Government, by Mayors and Chairmen of local authorities ;
- (h) to the Commissioner of Local Government, by other elected members of local authorities ;
- (i) to the Director of Local Government Service, by staff officers of local authorities who are members of the Local Government Service ; and
- (ia) to the Commissioner of Elections

(i) by office-bearers of recognized political parties for the purposes of elections under the Presidential Elections Act. No. 15 of 1981, Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988, the Development Councils (Elections) Act, No. 20 of 1981 or the Local Authorities Elections Ordinance :

(ii) by candidates nominated for election at elections to be held under the Presidential Elections Act, No. 15 of 1981, the Parliamentary Elections Act, No. 1 of 1981, the Provincial Councils Elections Act, No. 2 of 1988, the Development Councils (Elections) Act. No. 20 of 1981 or the Local Authorities Elections Ordinance.

(ib) to the Secretary to the Ministry of the Minister in charge of the subject of Labour by the executive of trade unions registered under the Trade Unions Ordinance ;

(ic) to the Secretary to the Ministry of Minister in charge of the subject of papers by proprietors, editors and members of the editorial staff of newspapers, in respect of which declarations have beer-made under section 2 of the Newspaper Ordinance;

(id) to the Registrar of Companies, by Chairman. Directors and staff officers of companies registered under the Companies Act, No. 17 of 1982, in which the majority of the share are held by the State or by a public corporation;

(j) to the persons specified by regulations made by the Minister, by officers of the categories specified by such regulations.

Power to refer to
 declaration of **5.**
 assets and
 liabilities.
 [5, 74 of 1988]

(1) Any person, body or authority responsible for the appointment, promotion, transfer or secondment, of a public officer or employee of a public corporation or local authority, shall for such purpose, have the right to call for and refer to any declaration of assets and liabilities of such public officer or employee.

(2) The Attorney-General, the Bribery Commissioner, the Commissioner-General of Inland Revenue and the Head of the Department of Exchange

Control shall have the right to call for and refer to any declaration of assets and liabilities.

(3) Any person shall on payment of a prescribed fee to the appropriate authority have the right to call for and refer to any declaration of assets and liabilities and on payment of a further fee to be prescribed shall have the right to obtain that declaration.

In this subsection appropriate authority in relation to a declaration of assets and liabilities means the person to whom that declaration of assets and liabilities has been made under section 4.

Power of Bribery Commissioner to call for additional information.

6. The Bribery Commissioner may, at any time, call for such additional information as he may require from any person who has made a declaration of assets and liabilities under this Law, and utilize such information or the declaration made under this Law for the performance of his functions under the Bribery Act.

Procedure regarding written communications by any person and prohibition of public statements.

[6, 74 of 1988]

7.

(1) Any person may, by a communication in writing signed by him and addressed to an appropriate authority, draw the attention of such authority to any recent acquisitions of wealth or property or to any recent financial or business dealings or to any recent expenditures by any person to whom this Law applies, which to the knowledge of the person making such communication is not commensurate with the known sources of wealth and income of such person to whom this Law applies.

(2) Upon receipt of a written communication under subsection (1), the appropriate authority, if he is satisfied that such communication is genuine and that the communication discloses material upon which an investigation ought to be made, shall make such investigation as may be necessary for the purpose of deciding upon all or any of the following matters :"

(a) prosecution or other suitable action under the provisions of the Bribery Act or the law relating to Exchange Control or Inland Revenue ; or

(b) prosecution under this or any other law, and where such-, appropriate authority finds that a written communication received by him should be dealt with by any other appropriate authority, he may forward such communication to such other authority.

(3) Any appropriate authority, upon deciding to investigate the material in any communication received under this section, may call for and examine the declaration of assets and liabilities made under this Law, and may summon and question or cause to be summoned and questioned the person making the communication and shall cause investigations to be made and concluded as expeditiously as possible and in any case before the lapse' of a period of six months from the date of the receipt of such written communication.

(4) Save as provided in subsection (1) and for the purposes of a proceeding under section 9A. it shall be an, offence for any person to make a public statement concerning a person to whom this Law applies alleging that such, person has made recent acquisitions of wealth or property, or recent financial or business dealings, or incurred recent expenditures not commensurate with the Known sources of wealth and income of such person, or as to the contents of any declaration of assets and liabilities of such person, or to make any such public statement in respect of any investigation being made by an appropriate authority upon a written communication made by him under the provisions of subsection (1) .

(5) Any person who commits an offence under the provisions of subsection

Preservation of
secrecy and oath
of secrecy.

8.

[7, 74 of 1988]

(4) shall, upon conviction after trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to a term of imprisonment of either description not exceeding one year, or to both such fine and imprisonment.

(6) In this section, " appropriate authority " shall mean the Attorney- General, the Bribery Commissioner, the Commissioner-General of Inland Revenue, the Head of the Department of Exchange Control and the Principal Collector of Customs.

(1) Except in the performance of his duties under this Law or as may "be necessary for the institution proceedings under, or for the purpose carrying into effect the provisions of, this Law a person shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person to whom this Law applies, or which may come to his knowledge in the performance of his duties under this Law or in the exercise of his right under subsection (3) of section 5, and shall not communicate any such matter to any person other than the person to whom such matter relates, or suffer any unauthorized person to have access to any papers or records which may have come into his possession in the performance of this duties under this Law or in the exercise of his right under subsection (3) of 'section on 5, "; and

(2) Every person who is required to preserve and aid in preserving secrecy under the provisions of subsection (1) shall take and subscribe before a Justice of the Peace an oath of secrecy in such form as may be prescribed.

(3) Any person required to preserve and aid in preserving secrecy under the provisions of sub-section (1) shall not be required to produce in any court any declaration of assets and liabilities or any other document relating thereto, or to divulge or communicate to any court any matter or thing coming to his notice in the performance of his duties under this Law or in the exercise of his right under subsection (3) of section 5, except as may be necessary for proceedings instituted or to be instituted under or the purpose of carrying into effect the provisions of, this Law or the Bribery Act, the Exercise Act, the Exchange control Act the Inland Revenue Act No. 28 of 1979 or the customs ordinance.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and shall, upon conviction after trial before a Magistrate, be liable to a fine not exceeding two thousand rupees or to a term of imprisonment of either description not exceeding two years or to both such fine and imprisonment.

Offences.

9.

[8, 74 of 1988]

(1) A person-

(a) who fails without reasonable cause to make any declaration of assets and liabilities which he is required to make under section 3 ; or

(b) who makes any false statement in any such declaration ; or

(bb) who Wilfully omits any asset or liability from any "such declaration : or

(c) who fails without reasonable cause to give such additional information as the Bribery Commissioner may require under this Law ; or

(d) who otherwise contravenes any provisions of this Law,

shall be guilty of an offence and shall, unless any other penalty is otherwise

provided, on conviction after trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(2) A person who is convicted of an offence under paragraph (a) of subsection (1) shall, within a period of fourteen days after the date of conviction, or in the event of an appeal against such conviction, within a period of fourteen days after the date of affirmation of such conviction, make the declaration of assets and liabilities referred to in section 3. The provisions of section 3 and the provisions of the other preceding sections of this Law shall, mutatis mutandis, apply to any declaration of assets and liabilities made by such person under this subsection in like manner and to the same extent as they apply to any declaration of assets and liabilities made under section 3.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment and to a further fine of fifty rupees for each day of continuation of that offence.

(3A) Where any person is convicted of an offence under paragraph (bb) of subsection (1) the asset in respect of which the offence was committed shall by virtue of such conviction be vested in the State free of all incumbrances.

(3B) The vesting of any assets in the State under subsection (3A) shall take effect"

(a) where an appeal has been preferred to the court of Appeal or the Supreme Court against the order of forfeiture, upon the determination of the appeal, conforming or upholding the order of forfeiture ;

(b) where no appeal has been preferred to the Court of Appeal against the order of forfeiture after the expiration of the period within which an appeal may be preferred to the Court of Appeal against the order of forfeiture.

(4) Where any person has been convicted by a court of any offence under paragraph (a) or paragraph (b) of subsection (1), it shall be the duty of the court to bring the fact of such conviction to the notice of the person to whom such convicted person was bound to make the declaration of assets and liabilities under this Law.

(5) No prosecution for any offence under this Law shall be instituted except with the prior sanction of the Attorney-General.

Procedure for prosecution and trial of offences referred to in section 9(1) (b) or (bb).

[9, 74 of 1988]

9A. An offence under paragraph (b) or subsection (1) of section 9 (in this referred to as "the relevant offence") referred to shall inquired in, tried and otherwise in section 9 (1) dealt with, according to the provisions of the (b) or (bb) Procedure Act. No. 15 of 1979 (in the section referred, to as "the Criminal Procedure Act") subject to the following modifications"

(a) no complaint under section 136(1) (a) of the Criminal Procedure Act in respect of the relevant offence shall be entertained by a Magistrate unless it is-

(i) in writing :

(ii) drawn and countersigned by a pleader;

(iii) signed by the complainant: and

(iv) accompanied by a certified copy, obtained under subsection (3) of section 5 of this Law, of the declaration in respect of which the offence is alleged to have been committed ;

(b) Notwithstanding anything in sub-section (5) of section 9, of this Law, the prior sanction of the Attorney-General shall not be necessary for the institution of a prosecution for the relevant offence;

(c) where a complaint in respect of the relevant offence is entertained by a Magistrate, the Magistrate shall where he is of opinion that there is sufficient ground for proceeding against the person alleged to have committed the offence, not issue summons, under section 130 of the Criminal Procedure Act requiring the attendance of such person unless the complainant deposits in court, such sum as the Magistrate may determine, as security or the payment of the costs incurred, or likely to be incurred, by the accused and of any compensation that may be ordered under paragraph (d) ;

(d) whenever a Magistrate acquits or discharges a person accused of the relevant offence and declares that the complaint was frivolous or vexatious, the Magistrate shall order the complainant to pay the State reasonable costs in a sum determined by the Magistrate and shall also order the complainant to pay to the accused the amount of the costs-incurred by the accused and such compensation as the Magistrate shall think fit from and out of the security deposited by the complainant ;

(e) nothing in subsection (7) of section 17 of the Criminal Procedure Act shall limit the amount of the compensation that may be ordered by a Magistrate under paragraph (d) ;

(f) where the complainant in a prosecution for the relevant offence pays the State costs and compensation ordered against him under paragraph (d), the accused shall not be entitled to institute, or maintain, an action for damages in any civil court against such complainant in respect of such prosecution ; and

(g) notwithstanding any thing in section 318 of the Criminal Procedure Act. the complainant in a prosecution for the relevant offence may appeal against the acquittal of the person accused of such offence, without the written approval of the Attorney-General.

Regulations.

10.

(1) The Minister may make regulations"

(a) relating to any matter required by this Law to be prescribed ;

(b) specifying categories of officers for the purpose of paragraph (e) of section 2 (1) and the person to whom each such category of officers shall make the declaration of assets and liabilities ; and

(c) in respect of all matters necessary for carrying out the provisions or giving effect to the principles of this Law.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of -such approval is published in the Gazette.

Value of assets.

[10, 74 of
1988]

10A. Nothing in this Law shall be read and construed as requiring any person to whom this Law applies to indicate the value of any asset included in any declaration made by him under this Law except where such asset consists of holdings in cash."

This Law to
prevail over other
laws.

11. Where the provisions of this Law are in conflict or inconsistent with the provisions of any other law the provisions of this Law shall prevail.

Interpretation.
[2, 29 of 1985]

12. In this Law, unless the context otherwise requires"

[11, 74 of
1988]

" appointed date " means the 1st day of August, 1975 ;

" assets and liabilities means assets and liabilities in and outside Sri Lanka, and includes immovable property owned by the declarant or in part, any property in which the declarant has a beneficial interest and any property acquired by the declarant during the period to which the declaration relates, in the name of his spouse or child ;

" child " means"

(a) a child who is unmarried and under eighteen years of age ; or

(b) a child who is eighteen years of age or over but is dependent on his or her parent or parents, and includes a stepchild or a child who has been adopted under the Adoption of Children Ordinance ;

" Commissioner of Local Government " includes any Deputy Commissioner of Local Government and any Assistant Commissioner of Local Government;

"executive" when used with reference to a trade union has the same meaning as in the Trade Unions Ordinance ;

"local authority" means any Municipal Council, Urban Council or Development Council, or Pradeshiya Sabha, and includes any authority created and established by or under any law to exercise, perform and discharge powers, duties and. functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged, by any such Council or;

" office-bearers" in relation to a recognized political party means the President, Vice-President Secretary or a member of the Executive committee of such recognized political party and any other person who is duly empowered to give directions in regard to such political party and includes the leader of such political party, howsoever designated, whether as Patron, President, Advisor or otherwise; and

" prescribed " means prescribed by regulation ;

" public corporation " means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance with capital partly or wholly provided by the Government by way of grant, loan or other form, and includes all;

" scheduled institutions " within the meaning of the Bribery Act and such other institutions or bodies of persons as may be prescribed by regulations under section 10 ;

Staff officer" means

(a) in the case of any employee of the Government or a local authority- any officer"

(i) holding any office created prior November 18. 1970, the initial or the salary scale of which was on November 18. 1970, not less than Rs. 6.720 per annum, or such other amount per annum as would, under any subsequent revision of salary scales, correspond to such initial.

(ii) holding any office created after November 18, 1970, the initial of the salary scale of which is on the date of the creation of that office, not less than the initial of the salary scale applicable, on that date, to an office referred to in item (i) or such other amount per annum as would, under any subsequent revision of salary scales, correspond to the first-mentioned initial :

(b) in the case of any employee of a public corporation any officer"

(i) holding any office created prior to November 18, 1970 the initial or the salary scale of which was, on November 18, 1970, not less than Rs. 7,200 per annum, of such other amount per annum as would under any subsequent revision of salary scales correspond to such initial:

(ii) holding any office created after November 18. 1970. the

initial of the salary scale of which is, on, the date of creation of that office, not less than, the initial of the salary scale applicable, on that date, to an office referred to in item, (i) or such other amount per annum as would, under an-subsequent revision of salary scales, correspond to the first-mentioned initial.