



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

**PAYMENT AND SETTLEMENT SYSTEMS
ACT, No. 28 OF 2005**

[Certified on 20th September, 2005]

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*Payment and Settlement Systems
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L. D.—O. 39/2004

AN ACT TO PROVIDE FOR THE REGULATION OF PAYMENT, CLEARING AND SETTLEMENT SYSTEMS ; FOR THE DISPOSITION OF SECURITIES ON THE BOOKS OF THE CENTRAL BANK ; FOR THE REGULATION OF PROVIDERS OF MONEY SERVICES ; FOR THE ELECTRONIC PRESENTMENT OF CHEQUES ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND 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 Payment and Settlement Systems Act, No. 28 of 2005 and shall come into operation on such date as the Minister may by Order published in the Gazette appoint (hereinafter referred to as the “appointed date”).

Short title and date of operation.

PART I

GENERAL PROVISIONS

2. (1) The objectives of the Act shall be—

Objectives of the Act.

- (a) to provide for the regulation, supervision and monitoring of payment, clearing and settlement systems ;
- (b) to provide for the disposition of securities in securities accounts maintained at the Central Bank ;
- (c) to provide for the regulation, supervision and monitoring of providers of money services ; and
- (d) to facilitate the electronic presentment of cheques.

(2) Subject to the definitions specifically provided for in the other provisions of this Act, and unless the context otherwise requires—

“clearing system” means a mechanism for the exchanging and processing of obligations to make payment or the transfer of securities among banks and other financial institutions for the purpose of settling them ;

“money services” means services relating to money including safekeeping, money transmission, cheque encashment and currency exchange ;

“payment system” means institutions and mechanisms facilitating payment in money and the transfer of monetary value by means of payment transactions . It includes mechanisms for clearing and settlement of obligations to make payment ;

“electronic presentment of cheques“ means the electronic transmission by a banker of an image and payment information of the cheque, to the banker on whom it is drawn ;

“settlement system” means a mechanism for the discharge of obligations to make payment and to transfer securities cleared by banks and other financial institutions through the adjustments to their accounts.

“books, records, accounts, documents, information” means books, records, accounts, documents or information recorded or stored in any media including paper and data stored by electronic, optical, magnetic or in any information system.

Regulatory schemes to be in addition to other schemes and powers of the Central Bank under this Act.

3. The obligations, requirements, powers and regulatory schemes established under the provisions of this Act, shall be in addition to the obligations, requirements, powers and regulatory regimes under any other written law, and the powers conferred on the Central Bank by this Act shall be in addition to those conferred on it by the Monetary Law Act (Chapter 422), the Banking Act, No. 30 of 1988 or any other written law for the time being in force.

(2) The provisions of the Act shall be read and construed in conformity with the Monetary Law Act (Chapter 422) and the Banking Act, No. 30 of 1988.

(3) For the purposes of this Act, “Central Bank” means the Central Bank of Sri Lanka, established under the Monetary Law Act (Chapter 422).

(4) Where under this Act any power, duty or function is required or authorized to be exercised, performed or discharged by the Central Bank, the Monetary Board of the Central Bank of Sri Lanka may in writing authorise any officer of the Central Bank, to exercise, perform or discharge such powers, duties or functions.

PART II

PAYMENT, CLEARING AND SETTLEMENT SYSTEMS AND MONEY SERVICES

CHAPTER I

THE NATIONAL PAYMENT SYSTEM

4. (1) The Central Bank shall be the authority responsible for the preparation of a plan for a national payment system. The Central Bank shall also be charged with the responsibility of providing guidance and leadership for the establishment and development of payment, clearing and settlement systems in Sri Lanka.

Responsibility of the Central Bank in relation to payment, clearing and settlement systems.

(2) The Central Bank shall facilitate—

- (a) the interaction of its clearing and settlement systems and related arrangements with other systems or arrangements connected with the exchange, clearing or settlement, of payments or securities ;
- (b) the development of new methods and technologies for payments in domestic or foreign currencies and the transfer of securities ; and

- (c) the co-operation among all participants in the evolution of payment systems and the provision of payment services.

(3) In the exercise of its powers under this Act, the Central Bank may, notwithstanding anything to the contrary in any other law—

- (a) regulate and supervise the services and facilities provided by any Bank, any other financial institution or person, with regard to the sending, processing and receiving of payment orders and instructions for the transfer of securities on its own account and for its customers in domestic or foreign currencies, and assist any bank or other financial institution in the establishment, operation and organization of such services and facilities ;
- (b) establish, operate, organize, promote, participate or assist in the establishment, operation, organization and promotion of, and regulate and supervise —
 - (i) any system for the clearing and settlement of payments and other arrangements for the making or exchange of payments in domestic or foreign currencies ;
 - (ii) any system for the clearing and settlement of securities and other arrangements for the exchange of securities ; and
 - (iii) any system to facilitate the clearing and settlement including other arrangements for the making or exchange of payments or the exchange of securities in any currency against other payments or securities in another currency.

Payment system
policy.

5. (1) The Central Bank shall have the power to formulate, adopt and monitor the implementation of a payment system policy for Sri Lanka. Such policy shall be made public.

(2) In the exercise of its powers under subsection (1) the Central Bank shall be guided by best international standards. The payment system policy of the Central Bank shall primarily be designed to facilitate the overall stability of the financial system, promote payment system safety and efficiency and control risk. Subject to this primary objective, the policy shall be designed to enhance other aspects of the public interest and particularly contribute to the promotion of competition in the market for payment services and the protection of payment system users.

(3) In promoting safety and efficiency of the payment system the Central Bank shall co-operate with Central Banks of other countries and with other relevant domestic or foreign authorities.

CHAPTER II

SECURITIES ACCOUNTS

6. (1) The Central Bank shall maintain securities accounts for each direct participant and for each customer of a dealer direct participant. A person may have more than one securities account. A securities account may be a designated securities account.

Securities
accounts and
securities
account holders.

(2) A securities account holder may exercise all the rights that comprise the security credited to his or her securities account, or designated securities account, subject to any applicable adverse claim :

Provided however, a customer securities account holder may deal with his or her securities account as provided in this section only through a dealer direct participant authorized to act in that customer's securities account :

Provided further that, no remedy against the account holder will be prejudiced where the exercise of rights under this section is in breach of a contract or is otherwise in violation of the rights of any other person.

(3) All communications and payments relating to a securities account shall be submitted or made to or by the Central Bank exclusively by or to—

- (a) direct participants, in respect of own securities accounts ; and
- (b) dealer direct participants, in respect of both own accounts and on securities accounts of their customers in respect of which they are authorized to act.

Each disposition shall be recorded directly in the securities accounts of the transferor and transferee of the security and not pass through the own account of a dealer direct participant authorized to act on behalf of a customer who is the transferor or transferee.

(4) The provisions contained in this section shall be read consistently with the provisions of the Local Treasury Bills Ordinance (Chapter 417) and the Registered Stocks and Securities Ordinance (Chapter 420) respectively. The provisions contained in such Ordinances shall prevail in the event of an inconsistency.

Disposition of securities.

7. (1) A disposition of a security is carried out by means of debit and credit posted to the transferor's and transferee's respective securities account.

(2) Upon a disposition, the transferee acquires rights to the extent of the interest transferred in the security that the transferor had or had the power to transfer. Where the credit for the interest acquired was posted to the transferee's securities accounts, and the transferee gave value without notice of any adverse claim, the transferee also acquires the transferor's interest in the security, free of any adverse claims. For the purposes of this subsection,—

- (a) notice to the dealer direct participant authorized to act in the securities account of the transferee customers is not to be attributed to the customer ; and

- (b) notice only that the transferor acts as a trustee, an agent or in a representative capacity, or that the transfer is out of a designated securities account, is not notice of breach of trust or authority and does not amount to notice of an adverse claim.

(3) A dealer direct participant who deals with a security under the authority of a customer, is not liable to a person who has an adverse claim to the security, unless the dealer direct participant—

- (a) acted in collusion with any person who violated the rights of the adverse claimant ; or
- (b) acted, after having been served with an injunction, restraining order or other creditor process issued by a Court of competent jurisdiction enjoining the dealer direct participant from so dealing, and the dealer direct participant has had an opportunity to act on the injunction, restraining order, or other creditor process as the case may be.

(4) In the handling of a disposition of securities and having it recorded in securities accounts, the Central Bank shall not incur any liability whatsoever to any person, including a direct participant, customer, adverse claimant or third party, unless the Central Bank acts contrary to a binding and effective injunction, restraining order or other creditor process, issued by a Court of competent jurisdiction which has been lawfully served on the Central Bank, or unless the Central Bank acts in bad faith or in collusion with any wrongdoer.

8. (1) A security credited to a securities account may be made subject to creditor process or insolvency proceedings by or for the benefit of a creditor of the securities account holder, only to the extent of the interest of the securities account holder and subject to any adverse claim to satisfy a debt of the securities account holder.

Creditor Process.

(2) Without prejudice to the generality of subsection (1), a security credited to a securities account held by a customer, may not be subject to creditor process or insolvency proceedings by or for the benefit of a creditor of the dealer direct participant authorized to act in the customer's securities account, to satisfy any debt of that dealer direct participant.

(3) The interest of a debtor in a security may be reached only by creditor process duly served on the Central Bank. The Central Bank shall comply with any creditor process duly served on it.

Dealers lien.

9. A security held in a customer's securities account, sold to the customer by the dealer direct participant authorized to act in the securities account of the customer, is subject to a lien in favour of the dealer direct participant to secure the payment of its price.

Interpretation
for Chapter II.

10. (1) In this Chapter unless the context otherwise requires—

“adverse claim” means a claim to a property interest in a security credited to the securities account of a person other than that of the claimant, including the right of redemption of a debt, under a mortgage, pledge or charge, or any other transaction intended to secure the payment of a debt and a beneficial interest under a trust ;

“creditor process” means any process of execution issued by a Court of competent jurisdiction on behalf of a creditor or other claimant with respect to a security or securities account, such as a levy, attachment, garnishment, notice of lien, sequestration or similar process, including any order restraining or blocking a disposition, but shall not include any action taken by a securities account holder of a designated securities account to extinguish an adverse claim to a security credited to the designated securities account ;

“customer” means in relation to a dealer direct participant, a transferor or transferee in a disposition, who is a securities account holder, other than a direct participant ;

“dealer direct participant” and “direct participant” shall have the same meanings as are assigned to them in the Local Treasury Bills Ordinance (Chapter 417) and the Registered Stocks and Securities Ordinance (Chapter 420) ;

“designated securities account” means a securities account in which title to securities held in it is stated to be subject to adverse claims ;

“disposition” means any absolute transfer of title to a security between a transferor and transferee ;

“own securities account” means a securities account in the name of a direct participant as the securities account holder ;

“securities account” means an account maintained at the Central Bank to which securities may be credited and debited and in which dispositions of securities are recorded ;

“securities account holder” means a person in whose name the Central Bank maintains a securities account ;

“security” means any—

- (a) treasury bills issued in a scripless form in accordance with the provisions of the Local Treasury Bills Ordinance (Chapter 417) ;
- (b) treasury bonds issued in a scripless form in accordance with the provisions of the Registered Stocks and Securities Ordinance (Chapter 420) ;

- (c) securities issued in a scripless form by the Central Bank in accordance with the provisions of the Monetary Law Act (Chapter 422) ;

“transferee” means the party to a disposition to whom a security is transferred and whose securities account is credited as the result of the disposition ; and

“transferor” means the party to a disposition who transfers a security and whose securities account is debited as a result of the disposition.

CHAPTER III

MONEY SERVICES AND PAYMENT SYSTEMS.

Central Bank to supervise &c., service providers.

11. The Central Bank shall in terms of the provisions of this Chapter, regulate, supervise and monitor all service providers or any specified category of service providers in accordance with such regulations which the Minister may make for the purposes of this Chapter.

Directive for money services and payment systems.

12. (1) The Central Bank may, where it is of the opinion that any person—

- (a) is engaged in, or is about to engage in any unsafe, unsound or unfair practice in providing any money service or in the operation of a payment system ; or
- (b) has contravened or failed to comply with, or is likely to contravene or fail to comply with the provisions of this Act, or any rule, regulation, instruction, directive or order given under this Act or any other written law which in the opinion of the the Central Bank relates to money services or payment systems or any category thereof,

issue a directive to that person requiring such person, within such time as the Central Bank considers necessary,-

- (i) to cease and refrain from engaging in the act, omission or course of conduct ; and
- (ii) to perform such acts as in the opinion of the Central Bank are necessary to rectify the situation.

(2) Every directive issued under subsection (1) shall be served on the service provider to whom it is directed and shall be in operation from the date of service thereof.

(3) Every directive issued under this section shall be binding on the person to whom it is directed.

13. (1) The Central Bank may, if it considers it in the public interest to do so, designate a payment system to be made subject to additional regulation and supervision as provided in sections 14 and 15.

Designated
Payment
Systems.

(2) The following factors shall be taken into consideration when determining whether it is in the public interest to designate a payment system—

- (i) the level of financial safety provided by the payment system to the participant and users ;
- (ii) the efficiency and competitiveness of payment systems in Sri Lanka ; and
- (iii) the best interests of payment system participants and their customers or the financial system in Sri Lanka.

(3) Prior to the designation of a payment system, the Central Bank shall consult the manager and participants of the payment system and may consult interested parties, with respect to the effects of such designation.

(4) The Central Bank shall notify the manager and the participants of the designation of the payment system in such manner as the Central Bank considers appropriate. The designation shall be effective from the date specified in such notification. Every such notification shall be published in the *Gazette*.

Rules of designated payment systems.

14. (1) The Manager of the designated payment system or if there is no Manager, the participants of the system, shall forward to the Central Bank a copy of every payment system rule governing the designated payment system, within such periods as are hereinafter set out-

- (i) where a payment system rule was made before the designation of the payment system, within thirty days of the date of such designation ; and
- (ii) where a payment system rule was made after the designation of the payment system, within ten days of the date of the making of such rule.

(2) A payment system rule, other than a payment system rule referred to in paragraph (i) of subsection (1) shall not come into operation before the thirtieth day after a copy of it is sent to the Central Bank under subsection (1) :

Provided that the Central Bank may declare the payment system rule to be in force at any time before the expiry of the aforementioned periods.

(3) Where the Central Bank is of the opinion that an extension of the period specified in subsection (2) is required to permit adequate review of a payment system rule, the Central Bank may within ten days after its receipt, after giving written notice to the sender of the payment system rule, extend that period upto thirty days.

(4) The Central Bank may disallow the whole or a part of a payment system rule governing a designated payment system, before or anytime after it comes into force or is in force. A payment system rule when so disallowed becomes ineffective from the moment the decision to disallow it is communicated to the Manager or the participant of a designated payment system, or at any time thereafter, as instructed by the Central Bank in its decision to disallow the payment system rule.

(5) (a) Where a payment system rule in force is disallowed in whole or in part by the Central Bank under subsection (4), giving rise to the need to amend or replace the payment system rule in order to facilitate the continued smooth operation of the designated payment system, the decision of the Central Bank to disallow it must be included in a directive, issued pursuant to section 15. The Central Bank shall notify the Manager of the designated payment system, of the required amendment or replacement to the payment system rule ;

(b) Every such directive shall provide a text for a temporary payment system rule which shall be applicable until an amendment or replacement to the payment system rule is adopted by the payment system. The temporary payment system rule becomes effective immediately upon the payment system rule which is to be amended or replaced, becoming ineffective.

(6) The Central Bank may exempt a designated payment system from the application of the requirements of subsection (2).

15. (1) The Central Bank may issue a written directive to the Manager or to a participant of a designated payment system in respect of any one or more of the following:—

Directives for designated payment systems.

- (a) the conditions to be met by any person in order to have access or to become a participant of the designated payment system ;
- (b) the operation of the designated payment system, including the clearing and settlement procedures to be followed ;
- (c) the interaction of the designated payment system with other payment systems ; or
- (d) the relationship of the designated payment system with its participants.

(2) The Central Bank shall prior to issuing any written directive under subsection (1), consult the person to whom it is directed, and may also consult any interested persons with respect to the content and the effect of the directive.

(3) The Central Bank may by a written directive specify that a Manager of the designated payment system or a participant in such a system shall, within such time as the Central Bank considers necessary-

- (i) cease or refrain from engaging in an act or course of conduct ;
- (ii) perform such acts as in the opinion of the Central Bank are necessary in the public interest ; or
- (iii) make, amend or repeal a payment system rule.

(4) As soon as is practicable after implementing a directive and completing any actions required to be taken in connection with it, the person to whom it is given shall notify the Central Bank that the directive has been implemented and the action completed.

(5) Every directive issued under this section shall be communicated to the person to whom it is directed and shall come into operation from the date of its issue. A directive is binding on the person to whom it is directed.

Information obligations and compliance.

16. (1) The Central Bank may audit, inspect, and require the production of accounts, records, books, and documents, inspect offices of, and request information from, service providers and any person the Central Bank may determine to be a service provider or a payment system designated under this Chapter.

(2) It shall be the duty of any person, or an employee, agent or manager of a person to whom a request is made under subsection (1) to comply with it.

(3) The Central Bank may, where it considers it necessary require that audits and inspections under subsection (1) shall be carried out on its behalf, in whole or in part by qualified auditors who shall submit their report to the Central Bank.

(4) In this section “qualified auditor” shall have the same meaning as in paragraph (8) of Article 154 of the Constitution.

(5) Every participant shall be required to perform all the duties imposed under this Chapter on a Manager of a payment system.

(6) If a Manager of a payments system fails to perform the duties imposed on it under this Chapter, the participants jointly and severally shall comply with those duties and shall be liable for contravention in the same manner and to the same extent as the Manager.

(7) For the purposes of obtaining evidence on oath in relation to any audit or inspection in terms of this section, the Central Bank shall have the power to administer oaths or affirmations in terms of the provisions of the Oaths Ordinance (Chapter 17)

17. (1) The Minister may for the purpose of giving effect to the provisions of this Chapter, make regulations with respect to any matter required by this Chapter to be prescribed or in respect of which regulations are required or authorized to be made.

Regulations for
Chapter III.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations—

- (a) to provide for the conditions, requirements and standards under which money services may be provided and payment systems may be operated and designated ;

- (b) to require the registration or licensing of service providers and the procedure to be followed for such registration or licensing, to specify the conditions and requirements for such registration or licensing and provide for the circumstances under which such license or registration may be revoked by the Central Bank ;
- (c) to provide for the levy of a licence fee and the amount of such charges and fees for the registration of service providers ;
- (d) specifying the procedures required for the regulation, supervision and monitoring of service providers ;
- (e) specifying the conditions, requirements, guidelines, procedures, measures and standards provided in this Chapter, on any matter, including licensing, registration or designation, fees and charges to be levied in respect of the different categories of service providers as classified and determined by regulations ;
- (f) specifying the manner in which the conditions, requirements, guidelines, procedures, measures and standards provided in this Chapter will apply in respect of any person who carries out or is authorized to carry out any part of a money service or the operation of a payment system on behalf of a service provider ;
- (g) specifying the conditions and requirements under which persons including those providing money transmission services may participate in a payment system or maintain accounts and deposits in the Central Bank ;
- (h) specifying the prudential requirements relating to service providers including accounting and reporting requirements ;

- (i) specifying the requirements, standards and guidelines on corporate matters of service providers including matters with regard to their form of incorporation or organization, administration, management, governance, control, capital adequacy and other capital requirements, ownership structure, quality of shareholders and administrators and business and investment powers ;
- (j) specifying the requirements, standards and guidelines for service providers designed to facilitate their inspection by the Central Bank, including requirements, standards and guidelines regarding the collection, maintenance of record and reporting to the Bank of information on matters as specified including information about their customers or participants and in relation to transactions or any category of them, in such format and detail as may be specified ; and
- (k) specifying the measures necessary for the protection of customers and participants or any category of them, and particularly, to specify disclosure requirements and contract terms of money service providers and their customers and of payment systems and their participants.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified in the regulation.

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

(5) Notification of the date on which any regulation made by the Minister is rescinded shall be published in the *Gazette*.

Interpretation
for Chapter III.

18. Unless the context otherwise requires, for the purposes of this Chapter—

“cheque encashment” means receiving compensation for taking payment instruments or stored value, in exchange for money, payment instruments, or stored value delivered to the person delivering the payment instrument or stored value ;

“currency exchange” means receipt of revenues from the exchange of money issued, established, authorized or adopted by one government, or monetary value denominated in its monetary unit, for money issued, established, authorized or adopted by another government or for monetary value denominated in its monetary unit;

“designated payment system” means a payment system designated under the provisions of this Chapter ;

“manager” includes a member of the Board of Directors of service providers and means any person that in the opinion of the Central Bank is in a position to supervise and be responsible for the management of the business and affairs of a service provider. Notice under this Chapter to be given to a Manager is to be given to the Manager as advised to the Central Bank by the service provider, unless the Central Bank specifically designates another person to be a Manager ;

“monetary value” means a medium of exchange, whether or not redeemable in money, including in the form of stored value, payment instrument or credit to account ;

“money” means a monetary unit or a medium of exchange that is issued, established, authorized, or adopted by Sri Lanka or a foreign government. The term includes a monetary unit or a medium of exchange issued, established, authorized or adopted by an inter-governmental organization or by agreement between two or more governments ;

“money services” means any services relating to money, including safekeeping, money transmission, cheque encashment, or currency exchange, and other similar services ;

“money transmission” means selling or issuing monetary value or receiving money or monetary value in connection with the transmission of money or monetary value, either from the transmitter or for a beneficiary and includes the provision of a facility for the withdrawal of money for the transfer of monetary, value between accounts or for the payment of monetary value to third parties. The term includes the taking part in any transaction or arrangement involved in carrying out the transmission from the transmitter to the beneficiary even if neither the transmitter nor the beneficiary is a party or direct participant to such transaction or arrangement. Money transmission could be from place to place, within, to or from Sri Lanka or any other country ;

“participant” means a party to an arrangement in respect of a payment system. It may include a bank, a provider of money transmission services or any other person but does not include a user or customer of a participant who instructs or receives payment over the payment system ;

“payment card” means any card, plate, coupon book, or other device, including a code or any other means of access to an account, stored value or credit that may be used from time to time to obtain money or to make payment and includes a debit, charge, credit and stored-value card ;

“payment instrument” means cheque, draft, money order, traveller’s cheque, payment card or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer only in goods or services ;

“payment system” means a system or arrangement for the communication, processing, exchange, clearance or settlement of payment orders and other messages effecting, ordering, enabling, or facilitating the making of payments money transmission, money withdrawals, or transfers of monetary value ;

“payment system rule” means a rule, by whatever name called, other than one issued by the Central Bank, that governs a payment system, including its operation, clearing and settlement, and includes an amendment to or a repeal of a payment system rule ;

“person” means an individual, corporation, business trust estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other public, private or commercial body, unit or organization, with or without separate legal personality ;

“record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form ; and

“service provider” means any person who provides money services or operates a payment system ;

“stored value” means monetary value that is evidenced by an electronic record.

CHAPTER IV

CLEARING AND SETTLEMENT SYSTEMS.

Designated clearing and settlement systems.

19. (1) Where the Central Bank is of the opinion that a clearing and settlement system may be operated in such a manner as to pose a risk to the financial system of Sri Lanka, the Central Bank may designate the clearing and settlement system as a systemically important clearing and settlement system which is subject to the provisions of this Chapter.

(2) The Central Bank shall in writing, notify a designated clearing and settlement system's clearing house of the designation and shall cause a copy of the designation to be published in the *Gazette*. The designation shall be effective as from the date of the making of the relevant notification.

(3) Designation of a clearing and settlement system as systemically important under Chapter IV of this Part of the Act may be in addition to the designation of the same system as a payment system which is subject to additional regulation, supervision and monitoring under Chapter III of this Part of this Act :

Provided however, where there is a designation made in terms of both Chapters of this Part of the Act as aforesaid, it shall be incumbent on the persons who are subject to the provisions of Chapters III and IV of this Act, to comply with the requirements under both Chapters respectively

20. (1) The Central Bank may issue rules, instructions and directions and may enter into any agreement with a clearing house or a participant of a designated clearing and settlement system, or both, in respect of the following matters :—

Agreements with clearing house or participant.

- (a) netting arrangements;
- (b) risk sharing and risk control mechanisms ;
- (c) certainty of settlement and finality of payment;
- (d) the nature of financial arrangements among participants ;
- (e) the operational systems and financial soundness of the clearing house; and
- (f) such other matters that in the view of the Monetary Board pertain to a risk to the financial system.

(2) The Minister may make regulations in respect of all or any of the matters specified in paragraphs (a) to (f) of subsection (1) and in the event of a conflict between any rule, instruction, direction or agreement and any regulations made in that behalf under this Act, such regulation shall prevail.

Directives.

21. (1) Where the Central Bank is of the opinion that—

- (i) a clearing house for a designated clearing and settlement system engages in or is about to engage in any act, omission or course of conduct ;
- (ii) a participant is engaging in or is about to engage in any act, omission, or course of conduct with respect to its participation in the designated clearing and settlement system; or
- (iii) the designated clearing and settlement system operates or is about to be operated in a manner,

that results in or is likely to result in a risk to the financial system being inadequately controlled, the Central Bank may issue a directive in writing to the clearing house, requiring it within such time as the Central Bank considers necessary —

- (i) to cease or refrain from engaging in the act, omission or course of conduct or require the participants to cease or refrain from engaging in the act, omission or course of conduct ;
- (ii) to perform such acts or have the participant perform such acts as in the opinion of the Central Bank are necessary to remedy the situation.

(2) Where the Central Bank is of opinion in terms of subsection (1) that the risk to the financial system is being inadequately controlled, and it appears to the Central Bank that —

- (i) the clearing house fails to comply with a directive that has been issued to it in terms of subsection (1) ;

- (ii) the designated clearing and settlement system does not have a clearing house located in Sri Lanka ; or
- (iii) in the opinion of the Central Bank —
 - (a) the risk to the financial system is being inadequately controlled due to an act, omission, or course of conduct of a participant with respect to its participation in the designated clearing and settlement system; and
 - (b) the act, omission, or course of conduct does not comply with any agreement, rule, procedure, guideline or other documentation relating to the designated clearing and settlement system,

the Central Bank may issue a directive in writing to any participant requiring it, within such time as the Central Bank considers necessary,—

- (i) to cease or refrain from engaging in certain acts, omissions, or courses of conduct with respect to its participation in the designated clearing and settlement system; and
- (ii) to perform such acts with respect to its participation as the Central Bank considers necessary to remedy the situation.

(3) A directive under this section may be made in respect of any matter that is directly related to participation in the designated clearing and settlement system. A directive under this section may not be made in respect of—

- (i) the capital adequacy of a participant;
- (ii) the management of its investments;
- (iii) its corporate governance;

- (iv) its relations with customers who are not themselves participants in the designated clearing and settlement system; or
- (v) its ownership structure.

(4) A directive may require that the payment obligations that arises from clearing within the designated clearing and settlement system shall be settled through adjustments to the account or accounts of one or more of the participants at the Central Bank.

(5) A directive, if it so provides, shall be applicable to a designated clearing and settlement system that is established by or under any written law.

(6) A directive issued under this section shall be communicated to the person to whom it is directed and shall be published in the *Gazette*. A directive so issued shall come into operation on the date it is issued.

(7) A directive shall be binding on the person to whom it is issued.

Powers of
Central Bank.

22. (1) The Central Bank may perform all or any of the following functions in relation to a designated clearing and settlement system and its clearing house :—

- (a) the provision of a secured or unsecured guarantee of settlement by participants;
- (b) the making of liquidity loans to the clearing house and the central counter-party; and
- (c) acting as the central counter-party to the participants.

(2) If the Central Bank is of the opinion that participation in a designated clearing and settlement system by a participant poses or is likely to pose, an unacceptable risk, to the financial system or an unacceptable risk to the Central Bank in guaranteeing settlement of that participant's obligations, the Central Bank may—

- (a) suspend participation of that participant; or
- (b) prohibit it from being a participant; or
- (c) may require it to comply with such conditions, with respect to its participation, as the Central Bank considers necessary.

23. (1) In section 23 and 24 “insolvency proceedings” shall mean any collective measures provided for in any applicable law, either to wind-up the participant or to reorganize it, whether voluntarily or involuntarily, or to suspend its business, including insolvency proceedings instituted under the Insolvency Ordinance (Chapter 81), where such measure involves the suspending of, or the imposing of limitations on, payment orders and payments.

Insolvency
proceedings.

(2) Payment orders which have been entered into a designated clearing and settlement system and their netting shall be legally enforceable and binding on third parties, notwithstanding the commencement of insolvency proceedings against a participant, provided that payment orders were entered into the system prior to the commencement of such insolvency proceedings.

(3) Where payment orders have been entered into a designated clearing and settlement system after the commencement of insolvency proceedings and are carried out on the day of the commencement of such proceedings, such payment orders shall be legally enforceable and binding on third parties only if, after the time of settlement, the central counter-party or the clearing house can furnish evidence to the satisfaction of the Court of the fact that they were not aware nor could they have been aware of the commencement of such proceedings.

(4) The specific moment of entry of a payment order into a designated clearing and settlement system shall be determined by the rules of that system.

(5) For the purposes of this section, the time of commencement of insolvency proceedings is the moment either when the judgement or order of insolvency, winding-up or suspension is pronounced or the effective resolution for the voluntary winding-up is passed.

(6) A participant against whom a judgement or order is pronounced, or who has passed an effective resolution for voluntary winding-up, as provided for in subsection (5), shall advise the Central Bank and where applicable the central counter-party or the clearing house as the case may be, of the judgement, order or resolution on the day it is pronounced or passed.

(7) Insolvency proceedings shall not have any retroactive effect on the rights and obligations of a participant, arising from the clearing and settlement of payment obligation on a designated clearing and settlement system prior to the time of commencement of such proceedings.

Settlement rules.

24. (1) Notwithstanding anything to the contrary in any other written law—

- (i) the settlement rules of a designated clearing and settlement system are valid and binding on the clearing house, the participants, the central counter-party and the Central Bank. Any action may validly be initiated or any payment may be made in accordance with such settlement rules;
- (ii) the obligation of a participant, a clearing house or a central counter-party to make payments to a participant, and the right of a participant, a clearing house or a central counter-party to receive payments from a participant, clearing house or central counter-party, shall be netted, and a net settlement or close-

out amount shall be determined in accordance with the settlement rules of the designated clearing and settlement system, if it is so provided in the rules; and

- (iii) where the settlement rules of a designated clearing and settlement system provide that the settlement of a payment obligation through an entry to, or a payment out of, an account of a participant, a clearing house or a central counter-party at the Central Bank is final and irrevocable, the entry or payment shall not be reversed, repaid or set aside.

(2) An entry to or a payment out of the account of a participant, a clearing house or a central counter-party at the Central Bank to settle a payment obligation in a designated clearing and settlement system shall not be the subject of any provision or order that operates as a stay of that activity.

(3) The rights and remedies of a participant, a clearing house, a central counter-party or the Central Bank, with respect to collateral granted to it as security for a payment or the performance of an obligation incurred in a designated clearing and settlement system, may not be affected by insolvency proceedings. In particular, such rights and remedies may not be the subject of any stay provision or order affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

(4) Notwithstanding the fact that all or part of the administration or operation of a designated clearing and settlement system is conducted outside Sri Lanka or that its settlement rules are governed by the laws of a foreign jurisdiction, if a Court in Sri Lanka determines that the rights and obligations of any person arising out of or in connection with the operation of the designated clearing and settlement system are governed in whole or in part by the law of Sri Lanka, the provisions of this section shall be applicable thereto, to such extent as the law of Sri Lanka is applicable in determining those rights and obligations.

(5) In this section “settlement rules” means the effective rules, however made, which provide the basis upon which payment obligations are calculated, netted or settled and includes rules for instituting action where a participant fails or is likely to become unable to meet its obligations to the clearing house, a central counter-party or the other participants respectively.

Notice and
information.

25. (1) Every clearing house shall, with respect to its designated clearing and settlement system, provide the Central Bank with reasonable notice in advance of any significant change intended to be made by the clearing house in relation to the designated clearing and settlement system. Without limiting the generality of the foregoing the clearing house shall give notice with respect to any change affecting—

- (i) any document including its Memorandum of Association, and the relevant resolutions, agreements, rules and procedures relating to the formation, establishment, constitution, governance, administration and operation of the clearing house;
- (ii) the operation of the designated clearing and settlement system; or
- (iii) the agreements, rules, procedures, guidelines or other documentation governing the designated clearing and settlement system.

(2) Every clearing house shall, forthwith after it makes any other change in relation to the designated clearing and settlement system, provide the Central Bank with written notice of the change, and, without limiting the generality of the foregoing, the notice shall provide information in respect of any change affecting—

- (i) the composition of the Board of Directors whether by resignation or otherwise; or
- (ii) the appointed auditor of the clearing house.

(3) Every clearing house shall, with respect to its designated clearing and settlement system, provide the Central Bank with such information, at such times and in such form, as the Central Bank may in writing require.

26. (1) The Central Bank may, for the purpose of carrying out its functions under this Chapter, conduct audit and inspections of a clearing house.

Audits and inspections by the Central Bank.

(2) The Central Bank may, where it considers it necessary, require that audits and inspections under subsection (1) shall be carried out on its behalf, in whole or in part, by qualified auditors, who shall submit their report to the Central Bank.

(3) The Central Bank and every qualified auditor appointed to carry out audit and inspections, shall be entitled to have access to the information, books and records of the clearing house. The clearing house shall assist the Central Bank or the qualified auditor in carrying out its duties under this section.

(4) For the purposes of this section “qualified auditor” shall have the same meaning as in Article 154 of the Constitution.

(5) For the purpose of obtaining evidence under oath in relation to an audit or inspection under this section, the Central Bank shall have the power to administer oaths or affirmations in terms of the provisions of the Oaths Ordinance (Chapter 17).

27. The Central Bank shall have the power to do all or any of the following things in relation to a clearing and settlement system and its clearing house :

Powers of the Central Bank in relation to the clearing system.

- (i) be a participant, participate and act as a central counter-party, including in a loss-sharing mechanism;

- (ii) act as a custodian of financial assets, or settlement agent, or both; and
- (iii) accept and pay interest on deposits from clearing house, a participant or the central counter-party.

Termination of netting agreements.

28. Where a financial institution or the Central Bank is a party to a netting agreement, then notwithstanding anything in any other law relating to bankruptcy or insolvency, or any order of court made pursuant to an administration or re-organization arrangement, or receivership involving insolvency, the financial institution or the Central Bank may enforce the agreement, terminate the contract giving rise to any obligation governed by it, and determine a net termination value or net settlement amount in accordance with the provisions of the agreement, in which case, the party entitled to the net termination value or settlement amount is to be a creditor of the party owing the net termination value or net settlement amount for that value or amount as the case may be.

Central Bank may require proof of the existence of a clearing system.

29. (1) The Central Bank may, where it has reasonable grounds to believe that a system or arrangement exists for the clearing and settlement of payment obligations, request a person who is a party to the system or arrangement to provide the Central Bank with further information, records and documents relating to the system or arrangement as the Central Bank may require, in order to make a determination on the existence of the clearing and settlement system.

(2) Every person who is required under subsection (1) to provide information, records and documents shall comply with such request.

(3) Every clearing house shall, in respect of its clearing and settlement system provide the Central Bank with such information and documents as the Central Bank may from time to time require to enable the Central Bank to determine whether the clearing and settlement system poses a risk to

the financial system. Without limiting the generality of the foregoing, the clearing house shall, in respect of the clearing and settlement system, provide the Central Bank with :—

- (a) the names of its participants;
- (b) copies of all documents relating to the formation, establishment, constitution, governance and operation of the clearing house, including Memorandum of Association, by-laws, and relevant resolutions, agreements, rules and procedures;
- (c) the names of directors, committee members and auditors of the clearing house;
- (d) copies of its reports, statements, or other documents that are required to be filed with any government agency or regulatory body; and
- (e) copies of its financial statements.

(4) No participant is required to provide information to the Central Bank under this Chapter concerning another participant of a clearing and settlement system if that information has not been made available to all the participants.

30. (1) Where a clearing house fails to comply with the obligations imposed on it under this Chapter with respect to its clearing and settlement system or otherwise contravenes the provisions of this Chapter, the participants shall jointly and severally comply with those obligations and they shall be liable for the contravention of those obligations in the same manner and to the same extent, as the clearing house.

Responsibility of participants.

(2) Where a clearing and settlement system does not have a clearing house located in Sri Lanka, the participants located in Sri Lanka—

- (i) shall comply with the obligations imposed under this Chapter on a clearing house with respect to a clearing and settlement system; and

- (ii) shall have all the rights conferred by this Chapter on a clearing house with respect to a clearing and settlement system,

in the same manner and to the same extent as if the participants located in Sri Lanka were the clearing house on which those obligations and rights are imposed or conferred respectively. Any action taken by the Central Bank in respect of the clearing house may only be taken in respect of the participants located in Sri Lanka.

For the purposes of this subsection, a participant incorporated or formed under a law applicable in Sri Lanka is said to be located in Sri Lanka.

Participation of
foreign Banks.

31. A foreign bank that is or wishes to be a participant in a designated clearing and settlement system shall from time to time, provide the Central Bank with any information regarding the application of foreign laws to the foreign bank as the Central Bank considers necessary.

Interpretation
for Chapter V.

32. In this Chapter, unless the context otherwise requires—

“central counter-party” means a corporation, association, partnership, agency or other service provider or person involved in a clearing and settlement system with whom all payment rights and obligations of the participants are netted to produce a single amount owing as between each participant and the central counter-party;

“clearing and settlement system” means a system or arrangement for the clearing or settlement of payment obligations in the financial system, in any currency, and in which there is a minimum of three participants, at least one of whom is a financial institution; and includes a system or arrangement for the clearing or settlement in the official currency

of Sri Lanka, or for securities transactions, foreign exchange transactions or other transactions or financial contracts where the system or arrangement also clears or settles payment obligations arising from those transactions and contracts;

“clearing house” means a corporation, association, partnership, agency or organization or other entity or person that provides clearing or settlement services for a clearing and settlement system, but does not include the Central Bank;

“designated clearing and settlement system” means a clearing and settlement system designated under this Chapter;

“financial institution” means –

- (i) a licensed commercial bank within the meaning of the Banking Act, No. 30 of 1988 ;
- (ii) such other person, entity or person, or entity within a class of persons, or service providers engaged primarily in the business of providing financial services and which are designated by the Central Bank to be a financial institution for the purposes of this Chapter ;

“financial system” means the financial system of Sri Lanka ;

“net termination value” means the net amount obtained after setting off or otherwise netting the obligations between the parties to a netting agreement in accordance with the provisions of such agreement ;

“netting agreement” means an agreement between two or more financial institutions or between the Central Bank and one or more financial institutions that provides for the netting or set off of present or future obligations to make payments against the present or future rights to receive payments ;

“participant” means a member of a clearing house or a party to an arrangement that establishes a clearing and settlement system ;

“risk to the financial system of Sri Lanka” means the risk that the inability of a participant to meet its obligations in a clearing and settlement system as they become due, or a disruption to a clearing and settlement system, that could through the transmittal of financial problems into the system, cause –

- (i) other participants in the clearing and settlement system to be unable to meet their obligations as they become due ;
- (ii) financial institutions in other parts of the financial system of Sri Lanka to be unable to meet their obligations as they become due, or
- (iii) the clearing and settlement system’s clearing house or the clearing house of another clearing and settlement system within the financial system of Sri Lanka to be unable to meet its obligations as they become due.

PART III

ELECTRONIC CHEQUE PRESENTMENT.

Electronic presentment of cheques for payment.

33. (1) A banker may instead of presenting the cheque itself for payment, present a cheque by electronic means for payment to the banker on whom it is drawn, by transmitting an image thereof along with the stipulated electronic payment information of the cheque.

(2) In making the electronic presentment of a cheque under subsection (1) a banker may act in whole or in part through a third party service provider, including another banker or the clearing house, and such service provider is deemed to be an agent for the banker.

(3) Notwithstanding anything contained in subsection (1), and subject to the provisions of subsection (5), the banker on whom a cheque is drawn and to whom electronic presentment was made, may request the presenting banker to present the cheque itself for payment thereof.

(4) Where either an electronic presentment under subsection (1) was precluded or wholly failed, or a valid request under subsection (3) is made, the presentment under subsection (1) shall be disregarded, and the provisions of this section shall not apply to the subsequent presentment of the cheque itself. For the subsequent presentment of the cheque to be considered as having been timely made, the presenting banker is deemed to have received the cheque in order to present it for payment at the time he either received the request under subsection (3), or should have known that the electronic presentment was precluded or had wholly failed, as the case may be.

(5) A request under subsection (3) can be validly made, only –

- (a) before payment is made ; and
- (b) where the electronic presentment has failed or did not enable the banker on whom the cheque is drawn to conclude with adequate certainty that in honouring the cheque he is complying with the instructions of his customer who is stated as being the drawer of the cheque ; and
- (c) where the banker on whom the cheque is drawn has reasonable grounds to believe that there is a greater likelihood that he could arrive at such conclusion on the basis of the presentment of the cheque itself,

and such request shall be accompanied by an explanation as to the grounds thereto and shall reach the presenting banker before the close of business on the day following the day the electronic presentment of the cheque is made, in accordance with the provisions of subsection (1).

(6) A valid request under subsection (3) for the presentment of the cheque itself shall not be deemed to be a dishonouring of the cheque by non-payment.

(7) For the avoidance of doubt it is stated that, any payment made upon presentment in accordance with subsection (1) by the transmission of an image and electronic payment information of the cheque, shall not be considered to have been made outside the ordinary course of business, in bad faith or negligently.

(8) For the purposes of this section –

- (a) the image of a cheque shall comprise the front view and the back view of the cheque ; and
- (b) the electronic payment information of a cheque shall comprise –
 - (i) the serial number of the cheque ;
 - (ii) the code which identifies the banker on whom the cheque is drawn ;
 - (iii) the account number of the drawer of the cheque ;
 - (iv) the amount for which the cheque is drawn, as entered by the drawer of the cheque ; and
 - (v) any other matter as may from time to time be prescribed by regulation.

Procedure on non-payment of an electronically presented cheque.

34. (1) Where a cheque presented for payment in accordance with subsection (1) of section 33 is dishonoured by non-payment, the banker to whom the holder delivered the cheque for collection shall either return the cheque to the holder or shall issue to the holder an image return document conforming to all requirements set out by the Central bank.

(2) An image return document shall be deemed to be the cheque to which it relates.

35. (1) A banker who makes an electronic presentment in terms of subsection (1) of section 33, warrants that the image is a true, complete and accurate image of the original cheque and that the stipulated electronic payment information is the same as is on the cheque. He shall also indemnify the drawer against any loss incurred due to the presentment being made by electronic means instead of by presentment of the cheque itself.

Warranties and indemnity.

(2) A banker who issues an image return document in terms of subsection (1) of section 34 warrants that it is a true copy of the cheque to which it relates and shall also indemnify the drawer against any loss in the event of the cheque itself being paid or sued on.

(3) The warranties and indemnities guaranteed under this section are in favour of the banker on whom the cheque is drawn, its customer who is stated to be the drawer of the cheque, the holder who delivered the cheque to the presentment bank for collection and any prior indorser.

(4) Notwithstanding the provisions of subsection (3), the person stated to be the drawer of the cheque, may recover on the breach of warranty or indemnity and claim under this section directly from the banker on whom the cheque is drawn, who may then be subrogated to the claim of that person against the banker making the warranty, or be liable on the indemnity obligation.

36. (1) The provisions of subsection (4) of section 52 of the Bills of Exchange Ordinance (Chapter 82) shall not apply –

Certain provisions of the Bills of Exchange Ordinance not to apply.

- (a) to the presentment of a cheque for payment under subsection (1) of section 33;
- (b) to a cheque which is paid following presentment under subsection (1) of section 33.

(2) Where a cheque is presented for payment by a banker under subsection (1) of section 33, the provisions of section 45 of the Bills of Exchange Ordinance (Chapter 82) shall not be construed as being applicable and requiring the presentment to be made at the proper place or at a reasonable hour on a business day.

(3) The provisions of this Part of this Act shall, in so far as it is possible be read and construed as one with the Bills of Exchange Ordinance (Chapter 82).

Regulations to supersede agreements and arrangements.

37. (1) Agreements between bankers, including those in the form of clearing house rules or similar arrangements, may govern the implementation of all matters set out in this Part and shall be binding between the parties thereto :

Provided that any rules, directions or instructions issued by the Central Bank for such purposes under this Act, shall supersede any such agreement or arrangements as the case may be.

(2) Rules, directions and instructions relating to the implementation of this Part are deemed to bind and benefit parties liable on and entitled to enforce a cheque governed by them.

PART IV

MISCELLANEOUS PROVISIONS

Action to be taken in case of failure to comply with the provisions of the Act, &c.,

38. Where any person fails to comply with any provision of this Act or any regulation made thereunder or a directive, direction, instruction, or rule issued by the Central Bank in connection with any matter as relates to the foregoing provisions, or a lawful request for information, records or documents directed under this Act, the Central Bank may make an application to a Court of competent jurisdiction for an order directing compliance with the provisions of this Act, regulation, rule, instruction, directive or request, as the case may be.

39. (1) Every person who contravenes or fails to comply with any provision of this Act or any regulations made thereunder, or directive, direction, instruction or rule issued by the Central Bank in connection with any matter under those provisions, or a lawful request for information, records or documents, directed under this Act, shall be guilty of an offence, and —

Offences.

- (i) in the case of a natural person, be liable on conviction after summary trial to a fine not exceeding one million rupees or to imprisonment of either description for a term not less than one year and not more than three years, or to both such fine and imprisonment; or
- (ii) in the case of any other entity, be liable on conviction after summary trial to a fine not exceeding seven hundred and fifty thousand rupees.

(2) Where a corporation or any other legal entity other than an individual, or an unincorporated body or organization contravenes any provisions of this Act or any regulation made thereunder or any directives, directions, instructions or rules issued by the Central Bank, then, every director and member shall be liable for the contravention in the same manner and to the same extent as the corporation, legal entity or the unincorporated body or organization as the case may be.

40. (1) Any information or documents obtained under this Act by the Central Bank shall be treated as confidential.

Confidentiality
of information
and documents
&c.,

(2) Nothing in subsection (1) precludes the Central Bank from disclosing any information or documents to any government agency or regulatory body charged with the regulation of financial institutions, provided that the Central Bank is satisfied that the information or documents shall be treated as confidential by the agency, body or person to whom they are disclosed.

(3) Nothing contained in the provisions of subsection (1) shall preclude the Central Bank from disclosing any information if required to do so by a Court of law.

Immunity.

41. No action shall lie against the Monetary Board of the Central Bank, or its members, any officer, employee, director of the the Central Bank, or any person acting under the direction of the Central Bank, for anything lawfully done or omitted to be done in good faith in the exercise or performance of any powers, duties or functions under this Act, which are intended or authorized to be exercised or performed.

No designation or directive to be stayed in case of application for judicial review being made.

42. Subject to the provisions of the Constitution, in the event of an application for judicial review being made of any designation under this Act or of any directive issued thereunder, no stay of the designation or directive shall be granted, pending the final disposition of the application.

Regulations.

43. (1) The Minister may, for the purpose of giving effect to the principles and provisions of this Act, make regulations with respect to any matter required by this Act to be prescribed or in respect of which regulations are required or authorized to be made by the Act.

(2) In particular and without prejudice to the generality of the powers conferred on the Minister by subsection (1), the Minister may, make regulations in respect of all or any of the following matters :-

- (a) the protection of customers and the integrity and development of payment systems in Sri Lanka ;
- (b) the imposition of restrictions, limitations or prohibition on the use of payment orders from designated categories of accounts and persons and the specification of the conditions governing such use ;
- (c) the imposition of restrictions on the liability of individuals by specifying restrictions and pre-conditions for such liability, in connection with payment transactions to or from accounts that are used primarily for personal or household and non-business purposes ;

- (d) the determination of standards by which the performance of duties under the Act may be measured ;
- (e) the determination and modification of the time periods or deadlines for any action or omission specified by this Act, for all or specified categories of parties, participants, securities transfers or payment transactions ;
- (f) the specification of the procedures and provision of time limits, and the rights and remedies in case of computer breakdowns or other emergency affecting the financial system in whole or in part ; and
- (g) the determination of the fees to be imposed and charges to be levied in order to recover the full operating costs of the administration of this Act.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified in the regulation.

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

(5) Notification of the date on which any regulation made by the Minister is rescinded shall be published in the *Gazette*.

44. The Central Bank shall issue general directions, instructions and guidelines, for the proper and efficient implementation, administration and enforcement of the provisions of this Act, and in particular in respect of the following :-

Central Bank to
issue
instructions &c.,

- (a) the execution of its payment policy, control of payment system risk, and the achievement of settlement certainty ;
- (b) the format of instructions for the disposition of securities governed by this Act ;
- (c) the standards for the communication of instructions for the disposition of securities governed by this Act ;
- (d) statistical information required for the proper and efficient conduct of monetary policy to be provided to the Central Bank by the banks and other financial institutions ;
- (e) monitoring of all payment, clearing and settlement systems operated by the Central Bank or through accounts maintained on the books of the Central Bank ;
- (f) the regulation, licensing and supervision of money service providers, payment systems and designated systems ;
- (g) electronic presentment of cheques and all related matters, including the requirements for valid presentment, collection, retention of cheques, the dishonour of cheque so presented and responsibilities of bankers ; and
- (h) any other matter specified in this Act.

Regulation &c,
to be binding.

45. (1) Every regulation made by the Minister, and every rule, instruction, directive, direction and guideline as the case may be, issued under this Act shall be binding on all parties involved in the handling of a payment order or the disposition of a security, and shall supercede any inconsistent agreement, including inter-bank clearing rules and other agreements, to the extent of the inconsistency.

(2) In the implementation of the provisions of this Act the Minister and the Central Bank shall in so far as it is possible, follow international standards.

46. Notwithstanding anything contained in any other law, relating to payment and settlement system the provisions of this Act shall prevail in case of inconsistency between the provisions of this Act and any other written law, other than as specifically provided for in this Act.

This Act to prevail in case of inconsistency.

47. 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.

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180 (Foreign), Payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, No. 32, TRANSWORKS HOUSE, LOTUS ROAD, COLOMBO 01 before 15th December each year in respect of the year following.