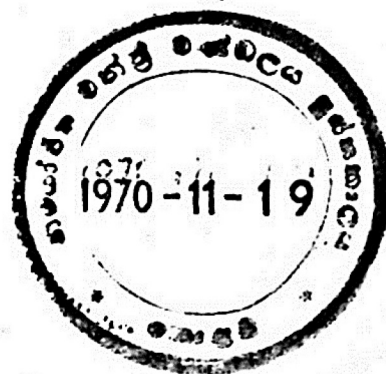


PARLIAMENT OF CEYLON

1st Session 1970-71



Prevention of the Avoidance of Tax Act, No. 26 of 1970

Date of Assent: November 1, 1970

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*Prevention of the Avoidance of Tax
Act, No. 26 of 1970*

L. D.—O. 42/70.

AN ACT TO ENABLE SPECIAL MEASURES TO BE TAKEN FOR THE COLLECTION OF INCOME TAX, TO PREVENT THE LOSS TO REVENUE THROUGH THE EVASION OF SUCH TAX, AND TO MAKE MODIFICATIONS TO THE MONETARY LAW ACT CONNECTED WITH OR INCIDENTAL TO SUCH SPECIAL MEASURES.

[Date of Assent: November 1, 1970]

WHEREAS there has been serious and widespread evasion of income tax:

And whereas the hoarding of currency notes of large denominations is widely practised as a means of such evasion:

And whereas it is expedient that immediate steps should be taken for the collection of the taxes so evaded:

Be it, therefore, enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Prevention of the Avoidance of Tax Act, No. 26 of 1970.

Short title.

2. As from October 26, 1970, the provisions of sections 55, 56 and 57 of the Monetary Law Act shall cease to apply to all currency notes of the denominations of hundred rupees and fifty rupees, bearing a date earlier than October 26, 1970, hereafter in this Act referred to as "old currency notes".

Certain sections of the Monetary Law Act not to apply to currency notes of specified denominations.

3. (1) On November 3, 1970, all old currency notes shall cease to be legal tender and shall, except as otherwise expressly provided by this Act, cease to be the liability of the Central Bank, and accordingly the bearer of any such note shall not be entitled to any compensation.

Surrender of old currency notes.

(2) Subject to the provisions of sub-section (4), until and including November 25, 1970, a person in possession of any old currency notes belonging to him may surrender or cause to be surrendered such notes to any scheduled bank, if but only if a written declaration, in such form as may be provided by the Central

Bank, made and signed by him in duplicate is presented at the time of such surrender, and such bank is hereby authorized and required to accept, as agent of the Central Bank, the notes so surrendered.

(3) Where any person has surrendered old currency notes under sub-section (2) to any scheduled bank on or before November 2, 1970, such bank shall,—

(a) if the value of the old currency notes so surrendered does not exceed one thousand rupees, pay to such person the value of the currency notes so surrendered, such payment being made by currency notes of the same denomination of the old currency notes so surrendered as far as possible; or

(b) if the value of the old currency notes so surrendered exceeds one thousand rupees, pay to such person a sum not exceeding one thousand rupees, such payment being made by notes of the same denominations of the old currency notes so surrendered as far as possible, and the balance value of the currency notes so surrendered shall be held in deposit to the credit of such person in that bank.

(4) Any surrender of old currency notes by any person under sub-section (2) during the period commencing on November 3, 1970, and ending on November 25, 1970, shall—

(a) if such person has an account with only one scheduled bank, be made to that bank; or

(b) if such person has an account with more than one such bank, be made to only one such bank as may be determined by him.

(5) Where any person has surrendered old currency notes to any scheduled bank in accordance with the provisions of sub-sections (2) and (4), such bank shall credit his account with an amount equal to the value of such currency notes.

(6) Where any person has, during the period commencing on November 3, 1970, and ending on November 25, 1970, surrendered old currency notes under sub-section (2) to any scheduled bank in which he has no account, such bank shall hold in deposit the value of such currency notes to the credit of such person.

(7) If any scheduled bank has any suspicion that old currency notes surrendered to such bank under the preceding provisions of this section do not, wholly or partly, belong to the person by or on whose behalf such surrender is made, such bank may withhold any payment which it may be required to make under such provisions in respect of such surrender, until it is satisfied that the surrendered currency notes belong to such person.

4. Any scheduled bank to which any old currency notes have been surrendered under section 3 along with the declaration in duplicate required by that section shall transmit to the Commissioner of Inland Revenue one such declaration, and shall keep in its possession the other such declaration.

Transmission
of declaration
to the
Commissioner of
Inland Revenue.

5. Any person who has surrendered old currency notes under the provisions of this Act to any scheduled bank may make a declaration to the Commissioner of Inland Revenue in regard to any evasion of income tax or any other tax during the years of assessment commencing on April 1, 1965, and ending on March 31, 1970.

Declaration
to the
Commissioner of
Inland Revenue
by persons
surrendering
old currency
notes.

6. (1) The Commissioner of Inland Revenue shall examine, or cause to be examined by any officer appointed under the Inland Revenue Act, any person who has made a declaration under section 5 and also that declaration, and shall levy a tax equal to $33\frac{1}{3}$ *per centum* of the income declared by such person for the purposes of that Act:

Action taken
by
Commissioner
of Inland
Revenue on
declarations
made to him.

Provided, however, that where the amount of the tax so levied is less than 50 *per centum* of the value of the old currency notes surrendered by such person, then, the tax so levied shall be 50 *per centum* of the value of the old currency notes surrendered by such person:

And provided further that where such person has not given notice to an Assessor under section 81 of that Act that he is liable to income tax for any year of assessment during the period commencing on April 1, 1965, and ending on March 31, 1970, or where such person has not been required by an Assessor to make a return of income for the years of assessment during that period—

(a) a tax at the rate of $33\frac{1}{3}$ *per centum* shall be levied on the entirety of his income for that period; or

(b) if the amount of the tax computed under paragraph (a) is less than 50 *per centum* of the value of the old currency notes surrendered by such person, a tax equivalent to 50 *per centum* of the value of the old currency notes surrendered by such person shall be levied on such person.

(2) For the purposes of the levy and the recovery of the tax under this section, the provisions of the Inland Revenue Act relating to assessment and the recovery of income tax shall apply as far as is practicable.

(3) The provisions of sub-section (1) shall not apply in respect of any person if prior to the date of commencement of this Act an Assessor has had reason to believe that such person had made an incorrect return of income and an inquiry into the matters arising out of such return has commenced or the declaration under section 5 includes any income which has been invested to the extent of such investment.

Restrictive
period for the
withdrawal of
deposits.

7. Where any sum of money is held in deposit to the credit of any person by any scheduled bank under this Act, such bank shall not permit such person to withdraw the whole or any part of such sum until the expiry of three clear working days after the date on which such deposit was made.

Relief
available to
persons who
have been
refused the
payment of any
money held in
deposit in any
scheduled bank
to the credit
of such person.

8. Where the payment of any sum of money held in deposit in any scheduled bank under this Act to the credit of any person is withheld or refused by such bank otherwise than in conformity with the provisions of section 7, such person may bring an action against the Attorney-General for the recovery of the money so held in deposit, and in any such action the onus shall be on the plaintiff to prove that the currency notes surrendered under this Act to which such deposit so relates belonged to such person. Such person shall not be entitled to any other remedy in any court, whether by way of action or application or writ, for the recovery of the money constituting such deposit.

Special
provisions
relating to the
onus of proof
in any action
or proceedings
in any court.

9. Any act or thing done by any officer of any scheduled bank or any other person under the provisions of this Act shall, in any action or other proceedings taken in any court against such officer or other person arising out of or in connection with

such act or thing, be deemed to have been lawfully done by such officer or other person until the contrary is proved in such action or proceedings.

10. The Central Bank is hereby empowered and authorized by general or special order to exempt any person or institution from the obligations arising from any of the provisions of this Act.

Exemptions
by the Central
Bank.

11. Any person who—

Offences.

(a) makes a false or inaccurate declaration under this Act, or aids or abets any other person to make any such declaration; or

(b) obstructs, or aids or abets any other person to obstruct, any officer of any scheduled bank or any other person exercising, performing or discharging any power, duty or function under this Act; or

(c) fails to comply with the provisions of subsection (4) of section 3, or aids or abets any other person to contravene such provisions; or

(d) fails to comply with any direction issued to him under section 12,

shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period of two years.

12. The Central Bank may, from time to time direct any other scheduled bank to furnish to the Central Bank, within such period as shall be specified in the direction, all such information as may be necessary for the purpose of enabling the effective enforcement of the provisions of this Act, and it shall be the duty of the manager of such other scheduled bank to comply with such direction.

Power of
Central Bank
to call for
information.

13. Notwithstanding that the Central Bank is a scheduled bank, the Central Bank shall not be obliged to accept or hold deposits under this Act.

Special
provision
relating to
the Central
Bank in its
capacity as
a scheduled
bank.

14. The provisions of this Act shall be deemed, for all purposes, to have come into force on October 26, 1970.

This Act to
have
retrospective
effect.

Interpretation.

15. In this Act, unless the context otherwise requires—

“ Central Bank ” means the Central Bank of Ceylon established by the Monetary Law Act; and

“ scheduled bank ” means the Central Bank or any commercial bank within the meaning of the Monetary Law Act or the Ceylon Savings Bank.