



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

**AGRARIAN DEVELOPMENT (AMENDMENT)
ACT, No. 46 OF 2011**

[Certified on 22nd November, 2011]

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*Agrarian Development (Amendment)
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L.D.—O. 57/2007.

AN ACT TO AMEND THE AGRARIAN DEVELOPMENT
ACT, NO. 46 OF 2000

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

1. This Act may be cited as the Agrarian Development (Amendment) Act, No. 46 of 2011. Short title.

2. The Agrarian Development Act, No. 46 of 2000 (hereinafter referred to as the “principal enactment”) is hereby amended by the insertion immediately after section 1 thereof, of the following Part which shall have effect as PART I of the principal enactment:— Insertion of new Part I in the Act, No. 46 of 2000.

“PART I

TENANT CULTIVATORS OF PADDY LANDS

“Persons deemed to be tenant cultivators for the purposes of this Act. 1A. A person being a citizen of Sri Lanka shall, from and after the date of the coming into operation of this Act, be deemed to be a tenant cultivator within the meaning and for the purposes of the principal enactment, if, at any time during the period commencing on the eighteenth day of August two thousand and ending on the day immediately preceding the date of the coming into operation of this Act,—

- (a) such person had cultivated an extent of paddy land under an agreement, whether written or oral, entered prior to, or on, the eighteenth day of August two thousand;

- (b) such person, being in terms of the provisions of section 1b, a successor, of a tenant cultivator who is deceased or is permanently disabled, who had been evicted from the extent of paddy land which had previously been cultivated by such deceased or disabled tenant cultivator.

Procedure to be followed where possession of the extent of paddy land cannot be awarded to a person deemed to be a tenant cultivator.

1B. (1) Where at any time during the period commencing on the eighteenth day of August two thousand and ending on the day immediately preceding the date of the coming into operation of this Act, the nature of the possession of any extent of paddy land specified in section 1A has changed by reason of any sale, transfer or upon any Order of any Court, no person shall, even though such person is deemed to be the tenant cultivator by virtue of the provisions of section 1A, be placed in possession of any such extent of paddy land or be given possession of any such extent:

Provided however, such tenant cultivator as is referred to above, may make an application in writing, in that behalf to the Commissioner-General of Agrarian Services setting out with documentary proof, the reason which prevents him from being placed in or given possession of the extent of paddy land of which he has been deemed to be the tenant cultivator. The Commissioner-General shall, after such inquiry as may be required in the circumstances and on consideration of the facts before him and upon summoning such person to make any further explanation as he considers necessary, make order that such person shall therefor be paid compensation in *lieu* of placing such person in or giving such person possession of the relevant extent of paddy land.

(2) Regulations shall be made specifying the criteria to be taken into account in making an order for the payment of compensation in terms of the above proviso and the basis on which the amount to be paid as compensation is to be determined.

Where the lessee of an extent of paddy land shall not be deemed to be a tenant cultivator.

1c. Where a person who pursuant to a permit issued under the Land Development Ordinance (Chapter 469)—

- (a) holds an extent of paddy land subject to the condition that such permit holder himself shall cultivate such extent of paddy land; and
- (b) leases out such extent of paddy land to a person who cultivates such extent of paddy land,

the person so cultivating such extent of paddy land shall not be deemed to be a tenant cultivator within the meaning and for the purpose of the principal enactment.

Devolution of rights of tenant cultivators.

1D. (1) The rights of a tenant cultivator under the principal enactment in respect of an extent of paddy land shall in the event of the death or permanent disability of such tenant cultivator, devolve on the surviving spouse of such tenant cultivator and failing such spouse, on only one of the children of such tenant cultivator:

Provided that in the latter instance, if there is more than one child, the child whose sole means of living is cultivation, shall be preferred to the others:

Provided further, if there is more than one child, whose sole means of living is cultivation, the oldest from amongst such children shall be preferred to the others.

(2) The rights of a tenant cultivator of an extent of paddy land which is cultivated, either jointly or in rotation with any other tenant cultivator, who dies or becomes permanently disabled, shall in relation to such extent, be devolved in accordance with the provisions of this section.

Nomination
of a
successor
by a tenant
cultivator.

1E. (1) Notwithstanding the provisions of section 1D, any tenant cultivator, other than those who cultivate an extent of paddy land jointly or in rotation with any other tenant cultivator or cultivators, may nominate any member of his family as the successor who shall be entitled to succeed to the rights of such tenant cultivator under this Act in respect of the extent of paddy land he cultivates, in the event of his death or permanent disability.

(2) Any nomination of successor may at any time be cancelled by the tenant cultivator who made such nomination and a fresh nomination of a successor may be made by such tenant cultivator.

(3) The nomination of a successor and the cancellation of any such nomination shall be effected by a tenant cultivator in a document substantially in the prescribed form executed in duplicate and witnessed in the presence of the Government Agent or the Divisional Secretary or the Registrar of Lands or a Notary Public or a Justice of Peace, who is in charge of, or is engaged in, official duties in respect of the area within which the extent of paddy land relating to the nomination or cancellation, is situated.

(4) No stamp duty shall be charged or levied on the execution of a document specified in subsection (3).

(5) The original and the duplicate of the document executed in accordance with the provisions of subsection (3) shall be submitted for registration to the Commissioner-General by the respective officer referred to in subsection (3) in the presence of whom the document is executed. Any such document shall not be valid unless and until it has been duly registered by the Commissioner-General.

(6) The Commissioner-General shall return the original of the document submitted to him under subsection (5) after registration, to the tenant cultivator making the nomination or cancellation and keep the duplicate thereof, for the purpose of maintaining records. Such records shall be inspected by any person upon paying the prescribed fee.

(7) After the registration of a document specified under subsection (3) whereby a person is nominated as the successor to the rights of a tenant cultivator under this Act in respect of any extent of paddy land, a document specified in that subsection whereby any other person is nominated as the successor to those rights shall not be registered unless the nomination effected by the registered document has been duly cancelled by the registration of a document of cancellation. In one and the same document the registered nomination may be cancelled and another nomination in *lieu* thereof may be made. In that event the document in which such cancellation and nomination are combined may be registered and shall upon due registration operate both as a cancellation of the previously registered nomination and as the nomination of a new nominee.

(8) Where an application under subsection (3) of section 53 is made to the Commissioner-General, to amend an Agricultural Lands Register by entering the name of a new tenant cultivator therein, in the event of the death or permanent disability of a tenant cultivator, a document, if any, nominating a successor to the rights of the tenant cultivator under subsection (1), or cancelling any such nomination under subsection (2), shall be taken into account by the Commissioner-General and upon verifying the facts of the application, he shall make order to the Agrarian Development Council of the area within which the paddy land relating to such application is situated, to make entries required to include the name of the applicant as the new tenant cultivator of the relevant paddy land.

(9) Regulations shall be made prescribing the procedure for registration of a document specified under subsection (3), including the registers which shall be kept for maintaining records of the documents submitted to the Commissioner-General under this section.

(10) For the purposes of this section “member of the family” means the spouse or a son or a daughter of the tenant cultivator, whose main occupation is cultivation and whose only source of income is derived from the extent of paddy land cultivated by the tenant cultivator.

Where there
is no
successor.

1F. (1) Where a tenant cultivator of any extent of paddy land dies or becomes permanently disabled, and if there is no successor in terms of the provisions of section 1D or 1E, to inherit the rights of such deceased or permanently disabled tenant cultivator, as the case may be, in respect of such extent, the

landlord being the owner of such extent may, if he so desires, take possession of such extent of paddy land and cultivate the same as the owner cultivator of such extent:

Provided that prior to cultivating such land as the owner cultivator, the landlord shall give written notice to the Commissioner-General, of his intention so to cultivate such extent of paddy land as owner cultivator.

(2) If it is proved to the satisfaction of the Commissioner-General, that the tenant cultivator has died or has become permanently disabled and there is no successor of the family in terms of the provisions of section 1D or 1E, to inherit the rights of the deceased or of permanently disabled tenant cultivator, he shall permit the owner of such extent of paddy land to occupy and cultivate such extent as the owner cultivator thereof.

Person not entitled to rights of a deceased or permanently disabled tenant cultivator in respect of any extent of paddy land not to use or occupy same.

1G. (1) Where the tenant cultivator of an extent of paddy land has died or has become permanently disabled, no person who is not entitled to the rights of a tenant cultivator in respect of such extent of paddy land shall occupy and use such extent of paddy land.

(2) Where a person uses or occupies an extent of paddy land in contravention of the provisions of subsection (1), the Commissioner-General shall in writing, order such person to vacate such extent, on or before such date as shall be specified in such order. If such person fails to comply with such order, he shall be evicted from the relevant extent of paddy land in accordance with the provisions of section 8.

Commissioner-General to determine disputes regarding devolution of rights of tenant cultivators.

1H. (1) Where on the death or permanent disability of a tenant cultivator of any extent of paddy land, there is a dispute as to the person on whom the rights of such tenant cultivator under this Act should devolve, the parties to the dispute shall first refer such dispute to the Commissioner-General for determination, after having given written notice of such dispute to the Commissioner-General by registered post.

(2) On receipt of the notice under subsection (1), the Commissioner-General shall refer the dispute to an Agrarian Tribunal and direct such Tribunal to hold an inquiry for the purpose of determining the person on whom the rights of the deceased or permanently disabled tenant cultivator shall devolve.

(3) The determination of the Agrarian Tribunal shall be communicated by registered post to the Commissioner-General with copies to the parties to such dispute.”

Replacement of the Headings of PART I of the principal enactment.

3. The Headings “PART I” and “Rights of persons who cultivate paddy lands” appearing immediately after section 1 of the principal enactment are hereby replaced by the following:—

“PART I A

RIGHTS OF TENANT CULTIVATORS OF PADDY LANDS”.

Amendment of section 4 of the principal enactment.

4. Section 4 of the principal enactment is hereby amended by the substitution for the words and figures “section 6” of the words and figures “section 1A”, wherever it appears in that section.

Repeal of section 6 of the principal enactment.

5. Section 6 of the principal enactment is hereby repealed.

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

Amendment of section 7 of the principal enactment.

- (1) by the repeal of subsection (6) thereof and substitution therefor of the following:—

“(6) The landlord of the extent of paddy land and the person evicted shall be given an opportunity of being heard in person or through a representative, at an inquiry held by the respective Agrarian Tribunal. On the conclusion of the inquiry, the decision of the Agrarian Tribunal shall be communicated in writing by registered post to the Commissioner-General, the landlord and the person evicted.”;

- (2) by the insertion immediately after subsection (6) thereof of the following new subsections:—

“(6A) The landlord or the person evicted who is aggrieved by the decision of the Agrarian Tribunal may, within thirty days of the communication of the decision to him, appeal therefrom to the Board of Review established under section 42A either on a question of law or fact. Such appeal shall be submitted to the Commissioner-General within the time period allowed for such appeal and the Commissioner-General shall forthwith refer such appeal to the Panel appointed under subsection (1) of section 42A to be heard and concluded by a Board of Review established under the provisions of subsection (5) of section 42A.

(6B) The Board of Review established under subsection (5) of section 42A shall inquire into all appeals referred to such Board under subsection (6A) and inform the parties thereto and the Commissioner-General in writing by registered post of its decision thereon.

(6C) The landlord or the person evicted who is aggrieved by the decision of the Board of Review may, within thirty days of the communication of the decision to him, appeal to the High Court of the Province against such decision on a question of law. A copy of the appeal shall be sent to the Commissioner-General by registered post at the time when the appeal is made.

(6D) Where no appeal is made against the decision of the Board of Review within the time allowed therefor, such decision shall be final.”;

- (3) by the repeal of subsection (7) thereof and the substitution therefor of the following:—

“(7) Where at any inquiry referred to in subsection (6B) the Board of Review decides that—

- (a) eviction has taken place and no appeal has been made under subsection (6C) against such decision within the time allowed therefor or the High Court of the Province has, in an appeal made under subsection (6C) confirmed the decision of the Board of Review; or
- (b) eviction has not been taken place and the High Court of the Province has, in an appeal made under subsection (6C), varied the decision of the Board of Review and confirmed the fact that eviction has in fact taken place,

then, in any one of the above situations—

- (i) the person evicted shall be entitled to have the use and occupation of the extent of paddy land restored to him; and

- (ii) the Commissioner-Genetal shall on receipt of the decision of the Board of Review or the High Court of the Province, as the case may be, by an order in writting require all persons in occupation of the extent of paddy land in dispute to vacate such extent on or before such date as shall be specified in such order, and if such persons fail to comply with such order, they shall be evicted from such extent in accordance with the provisions of section 8; and
- (iii) the landlord of such extent shall be required to pay damages at such rate as may be prescribed to the person mentioned in sub-paragraph (i), for each day during which such person in respect of whom an order has been made, continues to occupy such extent after the date specified in such order, unless the Board of Review or the High Court of the Province has determined that such person was evicted without the knowledge, consent or connivance of the landlord.”.

7. Section 19 of the principal enactment is hereby amended by the substitution for the words and figures “section 6” wherever those words and figures appear of the words and figures “section 1A”.

Amendment of section 19 of the principal enactment.

8. Section 20 of the principal enactment is hereby repealed.

Repeal of section 20 of the principal enactment.

Amendment of
section 39 of the
principal
enactment.

9. Section 39 of the principal enactment is hereby amended—

(1) by the repeal of subsection (1) thereof and the substitution therefor of the following:—

“(1) The Commissioner-General shall appoint for every administrative district or for one or more administrative districts one or more Agrarian Tribunals consisting of one person appointed from among retired judges who have had more than seven years experience, or retired public officers who have had seven years experience at executive level in the field of agrarian services.”;

(2) in subsection (2) thereof by the substitution for the words “Where a member of an Agrarian Tribunal” of the words “Where the person appointed to the Agrarian Tribunal”;

(3) by the repeal of subsection (3) thereof and the substitution therefor of the following:—

“(3) Every person appointed to the Agrarian Tribunal shall, unless he earlier vacates office, hold office for a period of three years:

Provided that—

(a) a person appointed in place of a person who has died, resigned or been removed from office, shall hold office for the unexpired period of the term of office of the person whom he succeeds; and

(b) a person appointed in place of a person who is absent from Sri Lanka or is ill, shall hold office for the period of absence or illness of such person. ”;

- (4) by the repeal of subsection (4) thereof and the substitution therefor of the following:—

“(4) A person vacating office by effluxion of time shall be eligible for re-appointment.”

- (5) by the repeal of subsection (5) thereof; and

- (6) by the repeal of subsection (9) thereof and the substitution therefor of the following:—

“(9) An Agrarian Tribunal shall inquire into and conclude all applications and complaints referred to it under this Act within a period of six months from the date of receipt of such application or complaint and shall inform the parties thereto and the Commissioner-General by registered post of its decision thereon.”

- 10.** Section 40 of the principal enactment is hereby repealed.

Repeal of section 40 of the principal enactment.

- 11.** Section 41 of the principal enactment is hereby amended—

Amendment of section 41 of the principal enactment.

- (1) in subsection (1) thereof by the substitution for the words “any such application, complaint or appeal has not preferred an appeal to the Court of Appeal” of the words “any such application or complaint has not preferred an appeal to the Board of Review”;

- (2) by the repeal of subsection (2) thereof and the substitution therefor of the following subsection:—

“(2) Where any such party has preferred an appeal to the Board of Review against the decision of the Agrarian Tribunal within thirty days of the receipt by him of the decision of the Agrarian Tribunal, the decision of the Board of Review once given, shall be given effect to.”

Replacement of section 42 of the principal enactment.

12. Section 42 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Right of Appeal.

42. Any party aggrieved by the decision of an Agrarian Tribunal on any application or complaint referred to it under this Act, may make an appeal to a Board of Review established under section 42A, within thirty days from the date of receipt of such decision.”.

Insertion of new Part IVA in the principal enactment.

13. The following new Part is inserted immediately after section 42 of the principal enactment and shall have effect as Part IVA of that enactment:—

“PART IVA

BOARDS OF REVIEW

Boards of Review.

42A. (1) The Judicial Service Commission shall appoint a Panel of not more than nine persons from among the persons who have a wide knowledge in the fields of law and agrarian services for the purpose of establishing Boards of Review for a period of three years.

(2) Where a member of the Panel vacates office by reason of death, resignation, removal from office, absence from Sri Lanka or illness, another person shall be appointed in his place subject to the provisions of subsection (1).

(3) (a) A person appointed in place of a member who had died, resigned or been removed from office shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(b) A person appointed to act for a member who is absent from Sri Lanka or is ill, shall hold office for the period of absence or illness of the member whom he succeeds.

(4) One of the members of the Panel shall be appointed as the Chairman of the Panel.

(5) (a) There shall be established for the purpose of this Act, such number of Boards of Review as may be determined by the Commissioner-General.

(b) The Commissioner-General shall determine from among such number of Boards of Review, the number of Boards which are required for any particular Administrative District, depending on the requirement of such District:

Provided that, the number of Boards determined by the Commissioner-General as being operated within an Administrative District shall not exceed three such Boards.

(6) It shall be the duty of any Board of Review established under subsection (5) to entertain appeals of any aggrieved party referred to such Board of Review under the provisions of this Act and the proceedings in respect of any such appeal shall be concluded within a period of six months from the date of receipt of any such appeal by the Board of Review.

(7) Each Board of Review, shall comprise three members selected by the Chairman from among the members of the Panel appointed under subsection (1) for the purpose of exercising the power conferred on a Board of Review under subsection (6). The Chairman may select himself as a member of any particular Board of Review.

(8) Where the Chairman of the Panel is a member of a Board of Review constituted under this section then he, or where he is not a member of a Board, then such member of the Board as may be nominated by such Chairman, shall be the President of such Board of Review.

(9) There shall be appointed to each Board of Review a Secretary, who shall in respect of every appeal heard by the Board, keep a record of all such proceedings before the Board as relates to that appeal.

(10) A Board of Review may examine any witness on oath if it thinks fit so to do, and may summon any person to appear before it or to produce any documents which may be relevant in the opinion of the Board.

(11) The documents, notices or summons issued under the hand of the President of a Board of Review or the Secretary of a Board of Review, shall be deemed to have been issued by that Board of Review.

(12) When a Board of Review, has issued or deemed to have issued summons on any person and such person,—

- (a) fails without reasonable cause to appear before the Board of Review at the time and place mentioned in the summons; or
- (b) refuses without reasonable cause to be sworn or affirmed, or having been duly sworn or affirmed, refuses or fails without reasonable cause to answer any question put to him by a member of the Board of Review touching the matters to be heard and determined by such Board, or willfully gives a false answer to any such question; or

- (c) refuses or fails without reasonable cause to produce before the Board of Review any document which is in his possession and which he has been required to produce,

such person shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding rupees ten thousand or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

(13) Regulations may be made in regard to the allowances to be paid and procedure to be followed at the meeting of a Board of Review.

When the decision of a Board of Review shall be executed.

42B. (1) Where any party to any such appeal has not preferred an appeal to the High Court of the Province against the decision of the Board of Review within thirty days of the receipt by him of the notice of the decision of the Board of Review, the decision of the Board of Review shall be given effect to.

(2) Where any such party has preferred an appeal to the High Court of the Province against the decision of the Board of Review, within thirty days of the receipt by him of the decision of the Board of Review, the decision of the High Court of the Province given in repeal thereof, shall be given effect to.”.

14. Section 53 of the principal enactment is hereby amended—

Amendment of section 53 of the principal enactment.

- (1) by the repeal of subsection (3) thereof and the substitution therefor of the following:-

“(3) An application to amend the Agricultural Lands Register by entering the name of a new tenant cultivator, in the case of

the death or permanent disability of the tenant cultivator of an extent of paddy land included in the Register shall be made in writing to the Commissioner-General, accompanied by a letter from the owner consenting to the registration of the applicant as the tenant cultivator in respect of that extent of paddy land, and the Commissioner-General shall make order thereon:

Provided however, where the applicant proves to the satisfaction of the Commissioner-General that he is the successor in terms of the provisions of section 1D or 1E, to the tenancy rights of the deceased or permanently disabled tenant cultivator, the Commissioner-General shall make such order notwithstanding the consent of the owner.”;

- (2) by the insertion immediately after subsection (3) thereof of the following subsection:—

(3A) The Commissioner-General shall take steps to conduct annually, a census of the tenant cultivators of paddy lands with a view to annually updating the Agricultural Lands Registers.”;

- (3) by the repeal of subsection (8) thereof.

Amendment of section 101 of the principal enactment.

15. Section 101 of the principal enactment is hereby amended—

- (1) by the insertion immediately after the definition of the expression “evict” of the following definition:—

“High Court of the Province” means the High Court established for the Province in terms of Article 154P of the Constitution;”.

(2) by the insertion immediately after the definition of the expression “statutory tenant” of the following definition:—

“ “permanent disability” in relation to a person means the—

- (a) loss of both hands; or
- (b) loss of both legs; or
- (c) loss of eye sight of both eyes; or
- (d) loss of one hand and one leg; or
- (e) loss of one leg and eye sight of one eye; or
- (f) loss of one hand and eye sight of one eye; or
- (g) body paralysis; or
- (h) being of unsound mind;”.

16. The principal enactment is hereby amended by the substitution for the words “Court of Appeal” wherever those words appear in the principal enactment, of the words “High Court of the Province”.

General amendment to the principal enactment.

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

Sinhala text to prevail in case of inconsistency.

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