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SOCIALIST REPUBLIC OF
SRI LANKA**

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SUPPLEMENT

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LAND DEVELOPMENT (AMENDMENT)

A

BILL

to amend the Land Development Ordinance (Chapter 464)

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends the Land Development Ordinance (Chapter 464) (hereinafter referred to as the “principal enactment”) by substituting for the words “the Land Commissioner” of the words “Commissioner-General of Lands” wherever these words occur.

Clause 3 : This clause amends section 5 of the principal enactment by providing for the appointment of such number of Additional Land Commissioners, Deputy Land Commissioners, Assistant Land Commissioners and other officers for the purposes of this Ordinance.

Clause 4 : This clause amends section 19 of the principal enactment which enables the owner of the holding to mortgage the holding without the approval of the Divisional Secretary.

Clause 5 : This clause inserts a new section 28 to the principal enactment. The new section prohibits issuing a grant for unsurveyed land.

Clause 6 : This clause replaces section 30 of the principal enactment by making provisions for a land alienated on a grant to be described with reference a plan prepared by the Surveyor General.

Clause 7 : This clause amends section 104 in the principal enactment and is consequential to the amendment made by clause 8.

Clause 8 : This clause inserts new sections 104A, 104B, 104C and 104D to the principal enactment. The new sections enable the President to cancel the grant obtained on false information.

Clause 9 : This clause amends section 156 of the principal enactment in order to enable the Minister to make regulations on the procedure to be followed by the owner of the holding when disposing or mortgaging the holding and is consequential to the amendment made by clause 4.

Clause 10 : This clause amends the Third Schedule to the principal enactment to provide for the matter relating to the devolution of the title of a holding or the land for the purposes of sections 51 and 72 of the principal enactment.

Land Development (Amendment)

L.D.—O. 25/2005

AN ACT TO AMEND THE LAND DEVELOPMENT ORDINANCE
(CHAPTER 464)

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

1. This Act may be cited as the Land Development (Amendment) Act, No. of 2021. Short title
- 5 2. The Land Development Ordinance (Chapter 464) (hereinafter referred to as the “principal enactment”) is hereby amended by the substitution for the words “Land Commissioner” wherever those words occur in the principal enactment or in any written law, notice, notification, contract, communication or other document, of the words “Commissioner-General of Lands”. Amendment of Land Development Ordinance (Chapter 464)
- 10
3. Section 5 of the principal enactment is hereby repealed and the following section is substituted therefore:- Replacement of section 5 of the principal enactment
- 15 “Appointment of Additional Land Commissioners and other officers 5. There may be appointed one or more Additional Land Commissioners, Deputy Land Commissioners, Assistant Land Commissioners and such other officers as may, from time to time, be required for the purposes of this Ordinance.”.
- 20 4. Section 19 of the principal enactment is hereby amended by the addition immediately after subsection (6) of that section, of the following new subsection:- Amendment of section 19 of the principal enactment
- 25 “(7) Notwithstanding the provisions of paragraph (b) of subsection (6), the approval of the Divisional Secretary shall not be required when mortgaging such holding to a licenced commercial bank, the State Mortgage and Investment Bank, the Development Finance Corporation of Ceylon, the National

Development Bank of Sri Lanka, the National Housing Development Authority, the Housing Development Finance Corporation Bank of Sri Lanka, any registered society or other prescribed institution.”.

5 **5.** The following new section is hereby inserted immediately after section 27 of the principal enactment and shall have effect as section 28 of that enactment:-

Insertion of section 28 in the principal enactment

10 “Grant not to issue for unsurveyed land 28. State Land which has not been surveyed by the Surveyor-General shall not be alienated by a grant.”.

6. Section 30 of the principal enactment is hereby repealed and the following section is substituted therefore:-

Replacement of section 30 of the principal enactment

15 “Plan to be attached to grant 30. The land alienated on any grant shall be described with reference to a plan prepared by or under the authority of the Surveyor-General and kept in his charge. The plan prepared by or under the authority of the Surveyor-General shall be attached to each grant.”.

20 **7.** Section 104 of the principal enactment is hereby repealed and the following section is substituted therefore:-

Replacement of section 104 of the principal enactment

“The President may cancel the grant 104. The President may make order cancelling the grant of a holding where the President is satisfied that-

25 (a) there has been a failure of succession thereto either because of there is no person lawfully entitled to succeed or because no person so entitled is willing to succeed; or

30 (b) the grant has been obtained fraudulently on false information or the grant has been issued to a person other than the legitimate occupant.”.

8. The following new sections are hereby inserted immediately after section 104 of the principal enactment which shall have effect as sections 104A, 104B, 104C and 104D:-

Insertion of sections 104A, 104B, 104C, and 104D to the principal enactment

5 "Notice to owner of holding who obtained grant on false information
10
15 104A. (1) If it appears to the Commissioner-General of Lands on the information as may be available or received from a person having an interest to the title of the holding under the provisions of this Act, as the case may be, that the owner of a holding has deliberately given false information in order to obtain a grant or the grant has been issued to a person other than the legitimate occupant, the Commissioner-General of Lands shall issue notice to the owner or occupier of a holding in the prescribed form.

20 (2) Such notice shall specify that the grant issued in respect of such holding may be cancelled for reasons shown unless sufficient cause to the contrary is shown by the owner to the Commissioner-General of Lands on a date and at a time and place specified in such notice.

25 (3) The Commissioner-General of Lands may, on the information as may be available also cause a copy of such notice to be served on a person having an interest to the title of the holding under the provisions of this Act.

30 Period allowed for showing cause
104B. The date specified in a notice issued under section 104A shall not be less than thirty days from the date of the issue of such notice on the owner.

Notice to be posted on land and served on interested parties

104c. (1) The notice shall be served on the owner of the holding through registered post and a copy of the notice shall be affixed in a conspicuous place on the holding.

5 (2) (a) where an owner who has been served with a notice under subsection (1) cannot be found by the exercise of due diligence, the notice shall be deemed to be duly served on that owner if a copy thereof is left with some member of the family of such owner or with a person residing with such owner; or

10 (b) where there is no member of the family of that owner on whom the notice can be so served, the notice shall be deemed to be duly served on that owner if a copy thereof is affixed to some conspicuous part of the house or home in which the owner ordinarily resides.

15 Cancellation of a grant

20 104D. (1) Where a person who has been served a notice, fails to appear on the date and at the time and place specified in a notice or appears and states that he has no cause to show why the grant should not be cancelled, the Commissioner-General of Lands may, if the Commissioner-General of Lands is satisfied that there has been due service of such notice and that the grant has been obtained fraudulently, make recommendations together with the reasons for such recommendations to the Minister to whom the subject of Lands is assigned on the cancellation of such grant.

25 (2) The Minister may, where necessary call for further clarification from the Commissioner-General of Lands in respect of such recommendations.

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5 (3) Where the Minister is satisfied that there has been reasons to cancel the grant, the Minister shall forward the recommendations made by the Commissioner-General of Lands to the President.

(4) The President may, having considered the recommendations of the Commissioner-General of Lands make order whether or not to cancel the grant.

10 (5) Upon the receipt of the order of the President, the Commissioner-General of Lands shall inform such order to the relevant persons referred to in section 104c and take necessary action to comply with the order of the President.”
15

9. Section 156 of the principal enactment is hereby amended by the insertion immediately after paragraph (h) thereof, of the following new paragraph:-

Amendment of section 156 of the principal enactment

20 “(ha) the procedure to be followed by the owner of the holding when disposing or mortgaging the holding under this Act;”.

10. The Third Schedule to the principal enactment is hereby repealed and the following Schedule is substituted therefore:-

Replacement of the Third Schedule to the principal Enactment

“THIRD SCHEDULE

[Sections 51 and 72]

Rules

1. (a) The group of relatives from which a successor may be nominated for the purposes of section 51 shall be as set out in the subjoined table.

(b) The title of a holding or the land for the purposes of section 72, shall devolve on one only of the group of relatives of the permit holder or owner in the order of priority in which they are respectively mentioned in the subjoined table. The older being preferred to the younger where there are more relatives than one in any group.

(c) Where in any group of relatives mentioned in the subjoined table there are two or more persons of the same age equally entitled and willing to succeed to the title to the holding or the land, the title to the holding or the land shall devolve on such persons as may be determined by the Divisional Secretary of the relevant Divisional Secretary's Division where the land is situated.

(d) Notwithstanding the provisions of paragraphs (b) and (c) above-

- (i) where any person in the order of priority in which they are respectively mentioned in the subjoined table developed such land, the title to the holding or the land shall not devolve on the older person referred to in paragraph (b) but on the person who developed such land; or
- (ii) where there are two or more persons in the order of priority in which they are respectively mentioned in the subjoined table developed the land, the title to the holding or the land shall devolve on such persons who developed such land.

2. If any relative on whom the title to a holding or land devolves under the provisions of these rules is unwilling to succeed to such holding or land, the title thereto shall devolve upon the relative who is next entitled to succeed subject to the provisions of rule 1.

3. The Divisional Secretary shall, on being satisfied of the material facts before him and for reasons specified by him, determine such person or persons referred to in rule 1 according to the by laws, rules and regulations pertaining to the unit of subdivision or the minimum fraction specified by the relevant local authority, the provisions of the Agrarian Development Act, No. 46 of 2000 and the Irrigation Ordinance (Chapter 453).

Table

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|---------------------|-------------------------|
| (i) Children | (iv) Siblings |
| (ii) Grand Children | (v) Uncles and Aunts |
| (iii) Parents | (vi) Nephews and Nieces |

In this rule—

“Child” includes a child adopted according to law; and

“relative” means a relative by blood or adoption according to law and shall not include a relative by marriage.”.

11. 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

