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SRI LANKA**

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SUPPLEMENT

(Issued on 10.02.2021)



**SRI LANKA LAND DEVELOPMENT CORPORATION
(AMENDMENT)**

A

BILL

**to amend the Sri Lanka Land Development Corporation
Act, No. 15 of 1968**

*Ordered to be published by the State Minister of Urban Development, Coast
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STATEMENT OF LEGAL EFFECT

Clause 2: This clause amends section 2A of the Sri Lanka Land Development Act, No.15 of 1968 (hereinafter referred to as the “principal enactment”), and the legal effect of the section as amended is to prescribe a fine and a term of imprisonment by a Magistrate in a summary trial where an offence under this section is committed and to set out the procedure to take action in case of any violation of the provisions of this section.

Clause 3 : This clause amends section 2B of the principal enactment and the legal effect of that section as amended is to prescribe a fine and a term of imprisonment by a Magistrate in a summary trial where an offence under this section is committed and to set out the procedure to take action in case of any violation of the provisions of this section.

Clause 4 : This clause amends section 4A of the principal enactment and the legal effect of that section as amended is to prescribe a fine and a term of imprisonment by a Magistrate in a summary trial where an offence under this section is committed and to set out the procedure to take action in case of any violation of the provisions of this section.

Clause 5 : This clause amends section 6 of the principal enactment and the legal effect of that section as amended is to replace two *ex-officio* members of the Corporation.

Clause 6 : This clause amends section 9 of the principal enactment and the legal effect of that section as amended is to enhance the powers of the Corporation.

Clause 7 : This clause amends section 20A of the principal enactment and the legal effect of that section as amended is to set out the procedure for application to obtain a restraining order.

Clause 8 : This clause introduces two sections in order to provide for the procedure to be followed by a police officer and for the offences committed by a body of persons or a partnership.

Clause 9 : This clause amends section 22A of the principal enactment and the legal effect of that section as amended is to provide for the summary trial before a Magistrate where no penalty is provided.

Clause 10 : This clause amends section 28 of the principal enactment in order to provide for new definitions.

Clause 11 : This clause provides for the continuation of the actions etc.,under the principal enactment to continue even after the amendment.

*Sri Lanka Land Development Corporation
(Amendment)*

L.D.-O 11/2012

AN ACT TO AMEND THE SRI LANKA LAND DEVELOPMENT
CORPORATION ACT, NO. 15 OF 1968

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

1. This Act may be cited as the Sri Lanka Land Development Corporation (Amendment) Act, No. of 2021. Short title

5 2. Section 2A of the Sri Lanka Land Development Corporation Act, No. 15 of 1968 (hereinafter referred to as the "principal enactment") is hereby amended as follows: - Amendment
of section 2A
of Act,
No.15 of
1968

10 (1) in subsection (3) of that section, by the substitution for the words "shall be guilty of an offence under this Act." of the words "commits an offence and be liable on conviction after summary trial before a Magistrate to a fine not less than one hundred thousand rupees and not exceeding five hundred thousand rupees or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.";

15 (2) in subsection (4) of that section, by the repeal of all the words and figures from "to prevent such person from carrying on the unlawful activity," to the end of that subsection, and the substitution therefor of the words "to prevent such person from carrying on the unlawful activity.";

20 (3) in subsection (5) of that section, by the repeal of all the words and figures from "he may make an application" to the end of that subsection, and the substitution therefor of the following: -

"the chief executive officer may –

(a) make an application to the Magistrate's Court within whose local jurisdiction such extent

2 *Sri Lanka Land Development Corporation*
 (Amendment)

of land or any part thereof in which such unlawful activity is being carried on, is situated, for the issue of an order –

- 5 (i) restraining such person, his agents and servants from acting in contravention of the provisions of subsection (1);
- (ii) granting the chief executive officer, the authority-
- 10 (aa) to demolish any building or construction which may have been erected whether wholly or partly on such extent of land;
- (ab) to excavate or unearth and to remove the soil and materials used in the filling or the construction; and
- 15 (ac) to take into custody any implement, instrument, machinery, vehicle or document used for such filling or construction; and
- 20 (iii) for the recovery of the total cost incurred by the Corporation-
- (aa) in the demolition of any building or construction;
- 25 (ab) in the excavation or the unearthing and the removal of the soil and materials used in the filling or the construction; and
- (ac) in the taking of any implement, instrument, machinery, vehicle or document used for such filling or construction into custody; or
- 30

5 (b) complain to the officer in charge of the police station of the area where such extent of land or any part thereof in which such unlawful activity is being carried on or wholly or partly carried out, is situated.”.

(4) by the repeal of subsections (6), (7) and (8) of that section and the substitution therefor of the following subsections: –

10 “(6) Where any person to whom approval has been granted under subsection (2) has failed to comply with the terms and conditions subject to which such approval was granted, the Chief Executive Officer of the Corporation or the officer or servant authorised by the Chief Executive Officer
15 shall direct such person to comply with the same within the time specified in such direction and where such person fails to do so, the Chief Executive Officer may –

20 (a) make an application to the Magistrate’s Court within whose local jurisdiction such extent of land or any part thereof in which such unlawful activity is being carried on, is situated, for the issue of an order –

25 (i) restraining such person, his agents and servants from acting in contravention of the terms and conditions imposed under the provisions of subsection (2);

(ii) granting the Chief Executive Officer, the authority-

30 (aa) to demolish any building or construction which may have been erected whether wholly or partly on such extent of land;

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 (Amendment)

- (ab) to excavate or unearth and to
 remove the soil and materials
 used in the filling or the
 construction; and
- 5 (ac) to take into custody any
 implement, instrument,
 machinery, vehicle or document
 used for such filling or
 construction; and
- 10 (iii) for the recovery of the total cost
 incurred by the Corporation-
- (aa) in the demolition of any building
 or construction;
- 15 (ab) in the excavation or the
 unearthing and the removal of the
 soil and materials used in the
 filling or the construction; and
- 20 (ac) in the taking of any implement,
 instrument, machinery, vehicle or
 document used for such filling or
 construction into custody; or
- (b) complain to the officer in charge of the police
 station of the area where such extent of land
 or any part thereof in which such unlawful
25 activity is being carried on or wholly or partly
 carried out, is situated.”.

3. Section 2B of the principal enactment is hereby amended as follows:-

- 30 (1) in subsection (3) of that section, by the substitution
 for the words “shall be guilty of an offence under
 this Act.”, of the words “commits an offence and be
 liable on conviction after summary trial before a
 Magistrate to a fine not less than one hundred

Amendment
of section 2B
of the
principal
enactment

thousand rupees and not exceeding five hundred thousand rupees or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.”.

- 5 (2) by the repeal of subsections (5), (6) and (7) thereof, and the substitution therefor, of the following subsections: –

10 “(5) Where the Chief Executive Officer is informed and upon being satisfied that any person is acting in contravention of the provisions of subsection (3), the Chief Executive Officer may –

- 15 (a) make an application to the Magistrate’s Court within whose local jurisdiction such extent of land or any part thereof in which such unlawful activity is being carried on, is situated, for the issue of an order –

(i) restraining such person, his agents and servants from acting in contravention of the provisions of subsection (3);

- 20 (ii) granting the Chief Executive Officer, the authority-

25 (aa) to demolish any building or construction which may have been erected whether wholly or partly on such extent of land;

(ab) to excavate or unearth and to remove the soil and materials used in the filling or the construction; and

- 30 (ac) to take into custody any implement, instrument, machinery, vehicle or document used for such filling or construction; and

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(Amendment)

- (iii) for the recovery of the total cost incurred by the Corporation-
- (aa) in the demolition of any building or construction;
- 5 (ab) in the excavation or the unearthing and the removal of the soil and materials used in the filling or the construction; and
- 10 (ac) in the taking of any implement, instrument, machinery, vehicle or document used for such filling or construction into custody; or
- 15 (b) complain to the officer in charge of the police station of the area where such extent of land or any part thereof in which such unlawful activity is being carried on or wholly or partly carried out, is situated.”.

4. Section 4A of the principal enactment is hereby amended by the repeal of subsections (3), (4), (5), (6) and (7) thereof and the substitution therefor of the following: -

20

Amendment
of section 4A
of the
principal
enactment

“(3) Every person who acts in contravention of the provisions of subsection (2) commits an offence and be liable on conviction after summary trial before a Magistrate to a fine not less than one hundred thousand rupees and not exceeding five hundred thousand rupees or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

25

(4) Where the Chief Executive Officer is informed and upon being satisfied that any person is acting in contravention of the provisions of subsection (2), the Chief Executive Officer may –

30

- (a) make an application to the Magistrate’s Court within whose local jurisdiction such extent of land or any part thereof in which such unlawful activity

is being carried on, is situated, for the issue of an order –

- 5
- (i) restraining such person, his agents and servants from acting in contravention of the provisions of subsection (2);
 - (ii) granting the Chief Executive Officer, the authority-
 - 10 (aa) to demolish any building or construction which may have been erected whether wholly or partly on such extent of land;
 - (ab) to excavate or unearth and to remove the soil and materials used in the filling or the construction;
15 and
 - (ac) to take into custody any implement, instrument,
20 machinery, vehicle or document used for such filling or construction; and
 - (iii) for the recovery of the total cost incurred by the Corporation-
 - 25 (aa) in the demolition of any building or construction;
 - (ab) in the excavation or the unearthing and the removal of the soil and materials used in the filling or the construction; and
 - 30 (ac) in the taking of any implement, instrument, machinery, vehicle or document used for such filling or the construction into custody; or

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 (Amendment)

 (b) complain to the officer in charge of the police
 station of the area where such extent of land
 or any part thereof in which such unlawful
 activity is being carried on or wholly or partly
5 carried out, is situated.

 (5) Where any person to whom approval has been granted
 under subsection (2) has failed to comply with the terms and
 conditions subject to which such approval was granted, the
 Chief Executive Officer or the officer or servant authorised
10 by the Chief Executive Officer shall direct such person to
 comply with the same within the time specified in such
 direction and where such person fails to do so, the Chief
 Executive Officer may –

 (a) make an application to the Magistrate’s Court
15 within whose local jurisdiction such extent of land
 or any part thereof in which such unlawful activity
 is being carried on, is situated, for the issue of an
 order –

 (i) restraining such person, his agents and
20 servants from acting in contravention of
 the terms and conditions imposed under
 the provisions of subsection (2);

 (ii) granting the Chief Executive Officer, the
 authority-

 (aa) to demolish any building or
25 construction which may have been
 erected whether wholly or partly
 on such extent of land;

 (ab) to excavate or unearth and to
30 remove the soil and materials used
 in the filling or the construction;
 and

- 5 (ac) to take into custody any implement, instrument, machinery, vehicle or document used for such filling or construction; and
- (iii) for the recovery of the total cost incurred by the Corporation-
- 10 (aa) in the demolition of any building or construction;
- (ab) in the excavation or the unearthing and the removal of the soil and the materials used in the filling or the construction; and
- 15 (ac) in the taking of any implement, instrument, machinery, vehicle or document used for such filling or construction into custody; or
- 20 (b) complain to the officer in charge of the police station of the area where such extent of land or any part thereof in which such unlawful activity is being carried on or wholly or partly carried out, is situated.”.
- 25 **5.** Section 6 of the principal enactment is hereby amended by the repeal of subparagraphs (ii) and (iii) of paragraph (a) of subsection (1), and the substitution thereof, of the following: - Amendment of section 6 of the principal enactment
- 30 “(ii) an Additional Secretary of the Ministry of the Minister; and
- (iii) the Director-General of the National Physical Planning appointed under section 5 of the Town and Country Planning Ordinance (Chapter 269); and”.

10 *Sri Lanka Land Development Corporation*
(Amendment)

6. Section 9 of the principal enactment is hereby amended by the insertion immediately after paragraph (e) of subsection (1), of the following new paragraph: -

Amendment
of section 9
of the
principal
enactment

5 “(ea) to enter into joint ventures, partnerships or other commercial agreements with foreign or local companies or individuals directly, jointly or otherwise, within or outside Sri Lanka with the concurrence of the Minister and in accordance with other written law to achieve the objects of the Corporation by utilizing the skilled labour, expert knowledge and the experience of the Corporation;”.

7. Section 20A of the principal enactment is hereby repealed and the following section is substituted therefor: -

Replacement
of
section 20A
of the
principal
enactment

15 “Procedure for application for restraining order

20A. (1) Every application for an order under subsection (5) or (6) of section 2A, subsection (5) of section 2B or subsection (4) or (5) of section 4A shall be supported by an affidavit verifying the matters set out in the application.

20 (2) Upon receipt of the application, where the Magistrate is satisfied that an act has been committed in contravention of the provisions of subsection (5) or (6) of section 2A, subsection (5) of section 2B or subsection (4) or (5) of section 4A, may make an interim order restraining such person, his agents and servants from carrying on such unlawful activity until such interim order is made permanent under the provisions of subsection (4) or (7) or is set aside under the provisions of subsection (7).

30 (3) Summons shall be issued on the person against whom the interim order under subsection (2) is made or where an interim order has not been made by the Magistrate’s Court

5 under subsection (2) on the person against
whom an application for an order under
subsection (5) or (6) of section 2A, subsection
(5) of section 2B or subsection (4) or (5) of
section 4A has been made to appear and show
cause on the date specified in such summons
being a date not later than fourteen working
days from the date of issue of such summons,
10 as to why such person, his agents and servants
should not be restrained, as prayed for in the
application.

15 (4) If the person against whom such order
has been made fails to appear before the Court
on the date specified in subsection (3) or such
person has no cause to show as to why the
interim order made under subsection (2) shall
not be made permanent, then the Court shall
forthwith make the interim order permanent as
prayed for in the application.

20 (5) If the person against whom an interim
order has not been made and against whom the
summons has been served under subsection (3)
fails to appear before Court or such person has
no cause to show as to why a restraining order
25 against him shall not be made, then the court
shall issue a restraining order as prayed for in
the application.

30 (6) If such person appears in Court and
states that such person has cause to show
against the making of the interim order or the
making of a restraining order, the Court may
either proceed with the case forthwith or set
the case for inquiry on a later date.

35 (7) At such inquiry the person on whom
summons under subsection (3) has been served,

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 (Amendment)

shall not be entitled to contest any of the matters stated in the application under subsection (1) except to show cause that –

5 (a) the relevant area of the land is not a land that comes under sections 2, 2B or 4A of this Act; or

10 (b) such person has complied with the terms and conditions of the approval under subsection (2) of section 2A or subsection (2) of section 4A or has complied with the requirements specified in the order made under subsection (1) of section 2B.

15 (8) After the inquiry the Magistrate may either make the interim order permanent as prayed for in the application or set aside such interim order or make a restraining order as prayed for in the application or reject such application.

20 (9) Where the Magistrate has made an order under subsection (4), (5) or (8), the Magistrate may direct –

(a) the Chief Executive Officer -

25 (i) to demolish any building or construction which may have been erected whether wholly or partly on such extent of land;

30 (ii) to excavate or unearth and to remove the soil and materials used in the filling or the construction; and

5 (iii) to take into custody any
implement, instrument,
machinery, vehicle or
document used for such filling
or construction; and

(b) the person against whom such order
was made to pay the total cost
incurred-

10 (i) in the demolition of any
building or construction;

(ii) in the excavation or unearthing
of the soil and materials used
in the filling or the
construction;

15 (iii) in the removal of the soil and
materials used for such filling
or construction; and

20 (iv) in the taking into custody of
any implement, instrument,
machinery, vehicle or
document used for such filling
or construction.

25 (10) The cost incurred by the Corporation,
as specified in the statement of cost certified
by a Chartered Civil Engineer and submitted
with an affidavit to the Magistrate's Court by
the Chief Executive Officer shall be final and
conclusive and be recovered from the person
30 against whom the order was made in the same
manner as a fine imposed by such Court and
shall be credited to the Fund of the Corporation.

5 (12) Where an order under subsection (9) is made and the Magistrate has directed the Chief Executive Officer to take any implement, instrument, machinery, vehicle or document into custody and the owner of such implement, instrument, machinery, vehicle or document is a third party, no order of forfeiture shall be made, if the owner proves to the satisfaction of the Court that-

10 (a) he has taken all precautions to prevent the use of such implement, instrument, machinery, vehicle or document; or

15 (b) that such implement, instrument, machinery, vehicle or document have been used without his knowledge,

for the commission of the offence.

20 (13) (a) Where the Chief Executive Officer or the officer or the servant authorised by the Chief Executive Officer is unable or suspects that he will be unable to proceed with-

(i) the demolition of any building or construction;

25 (ii) the excavation or unearthing of the soil and materials, used in the filling or the construction;

(iii) the removal of the soil and all materials used for such filling or construction; and

5 unearthed the soil and materials used and
removed the soil and materials used in the
filling or the construction and taken into
custody any implement, instrument,
machinery, vehicle or document used for such
filling or construction, the person against whom
the order under subsection (9) is made, shall
pay the total cost incurred in such
demolition, excavation, unearthing, removal,
10 or taking into custody any implement,
instrument, machinery, vehicle or document
used for such filling or construction and the
same be recovered in the same manner as a fine
imposed by such Court.

15 (e) Where an order under paragraph (a) is
made, all the implements, instruments,
machinery, vehicles or documents taken into
custody by the fiscal shall subject to the
provisions of paragraph (f) be forfeited to the
20 State.

(f) Where an order is made under
paragraph (a) for the taking into custody of
any implement, instrument, machinery, vehicle
or document and the owner of such implement,
25 instrument, machinery, vehicle or document is
a third party, no order of forfeiture shall be
made, if the owner proves to the satisfaction of
the Court that-

30 (i) he has taken all precautions to
prevent the use of such implement,
instrument, machinery, vehicle or
document; or

(ii) that such implement, instrument,
35 machinery, vehicle or document have
been used without his knowledge,

for the commission of the offence.

(14) The Minister may by regulations prescribe the forms of the applications and the affidavit.”.

8. The following new sections are hereby inserted
5 immediately after section 20C of the principal enactment and shall have effect as sections 20D and 20E of that enactment: -

Insertion of new sections 20D and 20E in the principal enactment

“Procedure to be followed by a police officer
10
15
20D. (1) (a) Upon a complaint under paragraph (b) of subsection (5) of section 2A, paragraph (b) of subsection (6) of section 2A, paragraph (b) of subsection (5) of section 2B, paragraph (b) of subsection (4) of section 4A, or paragraph (b) of subsection (5) of section 4A being made, the officer - in - charge of such police station shall take into custody all persons involved in the commission of such offence as having committed a cognizable offence together with any implement, instrument, machinery, vehicle or document.

20 (b) A cognizable offence within the meaning of this Act shall be an offence for which a police officer may arrest a person in the first instance without a warrant.

25 (c) All offences under this Act shall be non-bailable and the provisions of the Bail Act, No. 30 of 1997 shall apply.

30 (2) All such persons and any implements, instruments, machinery, vehicles or documents as are taken into custody under subsection (1) shall forthwith be produced before the Magistrate’s Court.

(3) Where a person is convicted of an offence under subsection (3) of section 2A, subsection (3) of section 2B or subsection (3) of section 4A, the Court may order such person-

5 (a) to demolish any building or construction; and

 (b) to excavate or unearth and to remove the soil and materials used in the filling or the construction,

10 in respect to which such offence was committed within such period as may be specified by Court.

 (4) Upon conviction of a person of an offence under subsection (3) of section 2A, subsection (3) of section 2B or subsection (3) of section 4A, the person so convicted shall for every day in respect of which the offence is so continued after conviction pay a fine of one thousand rupees for each such day.

20 (5) (a) When a person is convicted of an offence under subsection (3) of section 2A, subsection (3) of section 2B or subsection (3) of section 4A, all the implement, instrument, machinery, vehicle or document used by such person in committing such offence, shall subject to the provisions of paragraph (b) be forfeited to the State.

 (b) Where the owner of any implement, instrument, machinery, vehicle or document is a third party, no order of forfeiture shall be made if the owner proves to the satisfaction of the Court that-

30 (i) he has taken all precautions to prevent the use of such implement, instrument, machinery, vehicle or document; or

35

20 *Sri Lanka Land Development Corporation*
(Amendment)

(ii) such implement, instrument, machinery, vehicle or document have been used without his knowledge,

for the commission of the offence.

5 Offences committed by a body of persons or a partnership 20E. Where an offence under this Act or any regulation made thereunder is committed by a body of persons, then if that body of persons -

10 (a) is a body corporate, every director, officer, servant or agent of such body corporate; or

(b) is a partnership, every partner, officer, servant or agent of such partnership,

shall be guilty of that offence:

15 Provided however, that a director, an officer, a servant or an agent of a body corporate or a partner, an officer, a servant or an agent of a partnership, as the case may be, shall not be deemed to be guilty of such offence, if he
20 proves to the satisfaction of the Court that such offence was committed without his knowledge or that he had exercised all due diligence as was necessary to prevent the commission of such offence.”.

25 **9.** Section 22A of the principal enactment is hereby amended by the substitution for the words “is prescribed shall”, of the words “is prescribed shall, on conviction after summary trial before a Magistrate,”. Amendment of section 22A of the principal enactment

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(Amendment)

10. Section 28 of the principal enactment is hereby amended as follows: -

Amendment
of section 28
of the
principal
enactment

5 (1) by the insertion immediately before the definition of the term “Corporation”, of the following new definition: -

““Chief Executive Officer” means the General Manager of the Corporation appointed under subsection (1) of section 14 of the Act;” and

10 (2) by the insertion immediately after the definition of the term “Corporation”, of the following new definition: -

15 ““Minister” means the Minister to whom the Sri Lanka Land Development Corporation is assigned under Article 43 or 44 of the Constitution.”.

11. All actions, prosecutions and proceedings pending or incomplete on the date of commencement of this Act may be carried on and completed after the date of commencement of this Act as if the provisions of the Sri Lanka Land Development Corporation Act were not amended.

Transitional
Provision

12. 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

