

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

Part II of May 13, 2021

SUPPLEMENT

(Issued on 20.05.2021)



**CORONAVIRUS DISEASE 2019 (COVID - 19)
(TEMPORARY PROVISIONS)**

A

BILL

to make temporary provisions in relation to situations where persons were unable to perform certain actions required by law to be performed within the prescribed time periods due to Covid - 19 circumstances; to assign alternative courts where a court cannot function due to Covid - 19 circumstances; to conduct court proceedings using remote communication technology to facilitate the control of coronavirus disease 2019 (Covid - 19); to grant relief in relation to parties to certain contracts who were unable to perform contractual obligations due to Covid - 19 circumstances and for matters connected therewith or incidental thereto

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Coronavirus Disease 2019 (Covid - 19)
(Temporary Provisions)

L.D.-O 19/2020

AN ACT TO MAKE TEMPORARY PROVISIONS IN RELATION TO SITUATIONS WHERE PERSONS WERE UNABLE TO PERFORM CERTAIN ACTIONS REQUIRED BY LAW TO BE PERFORMED WITHIN THE PRESCRIBED TIME PERIODS DUE TO COVID - 19 CIRCUMSTANCES; TO ASSIGN ALTERNATIVE COURTS WHERE A COURT CANNOT FUNCTION DUE TO COVID - 19 CIRCUMSTANCES; TO CONDUCT COURT PROCEEDINGS USING REMOTE COMMUNICATION TECHNOLOGY TO FACILITATE THE CONTROL OF CORONAVIRUS DISEASE 2019 (COVID - 19); TO GRANT RELIEF IN RELATION TO PARTIES TO CERTAIN CONTRACTS WHO WERE UNABLE TO PERFORM CONTRACTUAL OBLIGATIONS DUE TO COVID - 19 CIRCUMSTANCES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. (1) This Act may be cited as the Coronavirus Disease 2019 (COVID -19) (Temporary Provisions) Act, No. 2021. Short title, duration and extension of operation of the Act
- 5 The provisions of this Act shall be in operation for a period of two years commencing from March 1, 2020.
- (2) The Minister may, at any time within one month prior to the expiration of the period of operation of this Act, by Order published in the *Gazette*, extend for a further period
- 10 the operation of the Act:

Provided however, the aggregate period of any extension shall not exceed two years from the date of such extension.

PART I

RELIEF FOR INABILITY TO COMPLY WITH PRESCRIBED TIME PERIODS

- 15 2. (1) Where any court, tribunal or any other authority established by or under any law is satisfied that, a person was prevented from-
- Relief in respect of inability to comply with prescribed time periods
- (a) instituting or filing any action, application, appeal or other legal proceeding, as the case may be, within
- 20 the period prescribed by law for such purpose; or

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(b) performing any act which is required by law to be done or performed within a prescribed time period,

due to any Covid - 19 circumstance, it shall be competent for such court, tribunal or any other authority established by
5 or under any law to allow, admit or entertain an action, application, appeal, other proceeding or act, referred to in paragraph (a) or (b), notwithstanding the lapse of the time period prescribed by law for such purpose and subject to the provisions of section 9, the period within which such person
10 was subject to such Covid - 19 circumstance shall be excluded in calculating the said prescribed time period.

(2) Any relief granted under subsection (1) shall not apply in relation to any application or appeal-

(a) to which the following rules apply-

- 15 (i) the Supreme Court (Temporary Provisions) Rules, 2020 published in the *Gazette* extraordinary No. 2174/4 of May 6, 2020;
- (ii) the Supreme Court (Temporary Provisions) Rules, 2021 published in the *Gazette*
20 extraordinary No. 2211/56 of January 21, 2021;
- (iii) the Court of Appeal (Procedure for Appeals from High Courts established by Article 154P of the Constitution) (Temporary Provisions) Rules, 2020 published in the *Gazette*
25 extraordinary No. 2175/2 of May 12, 2020; or
- (iv) the Court of Appeal (Procedure for Appeals from High Courts established by Article 154P of the Constitution) (Temporary Provisions) Rules, 2021 published in the *Gazette*
30 extraordinary No. 2211/56 of January 21, 2021;

5 (b) to which any Supreme Court Rule or Court of Appeal Rule as may be made under Article 136 of the Constitution within the period of operation of this Act, granting any exclusion of time period as a relief in respect of any Covid - 19 circumstance, apply.

PART II

DESIGNATION OF ALTERNATIVE COURTS

10 3. (1) Subject to the provisions of sections 46 and 47 of the Judicature Act, No. 2 of 1978, where the ordinary functioning of any court of first instance is disrupted due to any Covid - 19 circumstance, the Judicial Service Commission may designate the nearest court of concurrent jurisdiction as the alternative court in place of such court, 15 for the period during which such Covid - 19 circumstance exists. Any action, prosecution, proceeding or matter filed in or considered by such court of first instance or any new action, prosecution, proceeding or matter filed, shall be considered or heard by the court so designated:

Designation of alternative courts in place of courts affected by Covid - 19 circumstances

20 Provided however, no transfer of an action, prosecution, proceeding or matter referred to in this subsection shall be made where-

25 (a) any such court of first instance has reserved such action, prosecution, proceeding or matter for judgment, order or other pronouncement; or

 (b) all hearings in such action, prosecution, proceeding or matter have concluded before such court of first instance.

30 (2) An action, prosecution, proceeding or matter filed in or considered by an alternative court referred to in subsection (1) may, by the presiding Judge of the alternative court, subsequently be transferred to the court of first instance which previously exercised jurisdiction in relation to such action upon the resumption of ordinary functions of such 35 original court:

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Provided however, no transfer of an action, prosecution, proceeding or matter referred to in this subsection shall be made where-

- 5 (a) the alternative court has reserved such action, prosecution, proceeding or matter for judgment, order or other pronouncement; or
- (b) all hearings in such action, prosecution, proceeding or matter have concluded before such alternative court.

10 PART III

CONDUCTING COURT PROCEEDINGS USING REMOTE COMMUNICATION TECHNOLOGY

- 15 **4.** Notwithstanding anything contained in any other written law, where, in any action, application, appeal or other proceeding before a court of first instance, –
- (a) any person is unable to appear in court; or
- (b) the proceedings of the court cannot be conducted under the ordinary procedure,

Conducting court proceedings using remote communication technology

20 due to any Covid - 19 circumstance, such action, application, appeal or proceeding before such court may be conducted by means of a live video or live television link created using a remote communication technology, subject to such conditions as may be prescribed by regulations made by the Minister, in concurrence with the Chief Justice.

PART IV

TEMPORARY RELIEF IN RESPECT OF CONTRACTS

5 **5.** For the purpose of this Part, a “Scheduled contract” means any contract specified in the First Schedule to this Act or any other contract as may be prescribed, from time to time. Scheduled contracts

10 **6.** (1) Notwithstanding anything contained in any other written law, contract or agreement, where any party to a Scheduled contract is- Relief in respect of inability to perform contractual obligations or exercise contractual rights

(a) subject to any Covid - 19 circumstance; and

(b) unable to perform any obligation or exercise any right under such contract due to such Covid - 19 circumstance,

15 such party may make an application for relief under this Part of this Act, to the court, tribunal or any other authority established by or under any law which would otherwise have jurisdiction, authority or power to adjudicate in respect of such contract under any applicable law.

20 (2) Upon the receipt of an application under subsection (1), such court, tribunal or any other authority established by or under any law may, subject to the provisions of section 9, exclude the period within which such party was subject to the Covid - 19 circumstance which prevented him from performing the obligation or exercising the right, from the period within which such obligation or right would otherwise be required to be performed or exercised under the Scheduled contract.

30 Provided that, where the party making the application has already been granted an exclusion of time as a relief voluntarily by the other party or parties to the contract or according to the terms of the contract, the court, tribunal or any other authority established by or under any law may, upon satisfaction that it is just and equitable, grant a further relief under this section.

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(3) An application for relief under this Part of this Act shall be accompanied by the relevant material supporting the application including any material which discloses any moratorium or extension of time already granted as referred to in subsection (2) of section 9.

7. (1) An application made under section 6 by any party to a Scheduled contract who is subject to any Covid - 19 circumstance and unable to perform any obligation or exercise any right under such contract due to such Covid - 19 circumstance, shall not prevent any other party to such contract from instituting any action specified in subsection (2), in relation to such inability.

Application under section 6 not to prevent the right to institute actions

Provided however, the fact that such inability was due to a Covid - 19 circumstance shall be a defence available to the party who was unable to perform such obligation or exercise such right in such action.

(2) The actions referred to in subsection (1) include-

- (a) an action in a court against the party who is unable to perform the contractual obligation or a guarantor or surety of such party;
- (b) proceedings under the Arbitration Act, No. 11 of 1995 against the party who is unable to perform the contractual obligation or a guarantor or surety of such party;
- (c) an action to enforce any security over any immovable property;
- (d) an action to enforce any security over any movable property used for the purpose of a trade, business or profession;
- (e) an application under the Companies Act, No. 7 of 2007 for a meeting of creditors to be

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summoned to approve a compromise or an arrangement in relation to the party who is unable to perform the contractual obligation or the guarantor or surety of such party;

- 5 (f) an application for a judicial management order in relation to the party who is unable to perform the contractual obligation or the guarantor or surety of such party;
- 10 (g) an application for the winding up of the party who is unable to perform the contractual obligation or the guarantor or surety of such party;
- (h) a bankruptcy application in relation to the party who is unable to perform the contractual obligation or the guarantor or surety of such party;
- 15 (i) an action to appoint a receiver or manager over any undertaking in relation to the party who is unable to perform the contractual obligation or the guarantor or surety of such party;
- 20 (j) an action to commence or levy execution, distress or other legal process against any property in relation to the party who is unable to perform the contractual obligation or the guarantor or surety of such party, except with the leave of the court;
- 25 (k) an action to repossess any goods under any chattels lease agreement, hire-purchase agreement or retention of title agreement, being goods used for the purpose of a trade, business or profession;
- 30 (l) an action to terminate a Scheduled contract, being a lease or licence of immovable property, where the obligation unable to be performed is the non-payment of rent or other moneys;

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- 5 (m) an action to exercise a right of re-entry or forfeiture under a Scheduled contract, being a lease or licence of immovable property, or the exercise of any other right that has a similar outcome;
- 10 (n) an action to enforce a judgment of a court or an award made by arbitral proceedings conducted under the Arbitration Act, No. 11 of 1995 against the party who is unable to perform the contractual obligation or a guarantor or surety of such party;
- (o) the forfeiture of any part of any consideration paid to the party who is unable to exercise the right; or
- 15 (p) any other action as may be prescribed.

Avoidance of doubt

20 **8.** For avoidance of doubt, it is hereby declared that the provisions of this Part of this Act shall not be construed as absolving, in any way, a party to a Scheduled contract from performing any obligation or exercising any right which would otherwise be required to be performed or exercised by such party under such contract.

PART V

GENERAL

25 **9.** (1) Any period excluded as a relief under section 2 or subsection (2) of section 6 of this Act shall not exceed a period of twelve months:

Limitations on relief under this Act

30 Provided that, a period exceeding twelve months may be excluded as a relief where the court, tribunal or any other authority established by or under any law is satisfied that it is just and equitable to do so and the period so excluded shall not exceed a period of further six months:

 Provided further, that the period excluded as a relief shall not exceed eighteen months in the aggregate.

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(2) Any relief granted under Part IV of this Act shall not apply where any moratorium has been granted by the Central Bank or any other regulatory authority as a relief in relation to circumstances arising out of Coronavirus Disease 2019
5 (COVID - 19), on or after March 1, 2020.

10. The burden of proof of that - Burden of proof

- (a) the inability to comply with the prescribed time periods for the purpose of section 2; or
- 10 (b) the inability to perform any contractual obligation or exercise any contractual right for the purpose of section 6 or 7,

is due to any Covid - 19 circumstance, shall be on the party making the application for relief or claiming the defence, as the case may be, under such sections.

15 **11.** (1) The Minister may make regulations in respect of all matters which are required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act. Regulations

(2) Every regulation made under subsection (1) shall be
20 published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.

(3) Every regulation made under subsection (1) shall, within three months from the date of its publication in the
25 *Gazette*, be placed before Parliament for approval. Every 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.

(4) Notification of the date on which any regulation is
30 deemed to be so rescinded shall be published in the *Gazette*.

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12. In this Act, unless the context otherwise requires – Interpretation

“Central Bank” means the Central Bank of Sri Lanka established under the Monetary Law Act (Chapter 420);

5 “Covid - 19” means the Coronavirus Disease 2019 (COVID - 19) declared as a quarantinable disease by Notification published in the *Gazette* extraordinary No. 2167/18 of
10 March 20, 2020 under the Quarantine and Prevention of Diseases Ordinance (Chapter 222);

“Covid - 19 circumstance” includes-

(a) Covid - 19;

15 (b) the operation of or compliance with any law of Sri Lanka or another country or territory, or an order or direction of the Government or any statutory body, or of the Government or other public authority of another country or territory, being any
20 law, order or direction that is made by reason of or in connection with Coronavirus Disease 2019 (COVID - 19);
or

25 (c) any other circumstance arising out of or consequential to the circumstances referred to in paragraph (a) or (b).

“Minister” means the Minister assigned this Act under Article 44 or 45 of the Constitution;

30 “prescribe” means prescribe by regulations made under this Act;

”regulatory authority” means an authority established by or under any written law to be a regulatory or approving authority in relation to a Scheduled contract.

- 5 **13.** 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

FIRST SCHEDULE (section 5)

Scheduled contracts

1. Scheduled contracts include-

- (a) a contract for the grant of a loan facility by a bank licensed under the Banking Act, No. 30 of 1988 or a finance company licensed under the Finance Business Act, No. 42 of 2011 to an enterprise, where such facility is secured, wholly or partially, against any commercial or industrial immovable property located in Sri Lanka;
- (b) a contract for the grant of a loan facility by a bank licensed under the Banking Act, No. 30 of 1988 or a finance company licensed under the Finance Business Act, No. 42 of 2011 to an enterprise-
 - (i) where such facility is secured, wholly or partially, against any plant, machinery or fixed asset located in Sri Lanka; and
 - (ii) where such plant, machinery or fixed asset, as the case may be, is used for manufacturing, production or other business purposes;
- (c) a performance bond or equivalent that is granted pursuant to a construction contract or supply contract;

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- (d) a hire-purchase agreement within the meaning of the Consumer Credit Act, No. 29 of 1982, where the good hired or conditionally sold under the agreement is —
 - (i) any plant, machinery or fixed asset located in Sri Lanka, where such plant, machinery or fixed asset is used for manufacturing, production or other business purposes; or
 - (ii) a commercial vehicle;
- (e) a lease of -
 - (i) any plant, machinery or fixed asset located in Sri Lanka, where such plant, machinery or fixed asset is used for manufacturing, production or other business purposes; or
 - (ii) a commercial vehicle;
- (f) a finance lease within the meaning of the Finance Leasing Act, No. 56 of 2000, where the equipment provided under the finance lease is-
 - (i) any plant, machinery or fixed asset located in Sri Lanka, where such plant, machinery or fixed asset is used for manufacturing, production or other business purposes; or
 - (ii) a commercial vehicle;
- (g) an event contract;
- (h) a tourism-related contract;
- (i) a construction contract or supply contract;
- (j) a lease of non-residential immovable property;

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- (k) an option given by a housing developer to an intending purchaser for the purchase of one or more units of housing accommodation;
- (l) an agreement between a housing developer and a purchaser for the sale and purchase of one or more units of housing accommodation;
- (m) an option given by a commercial property developer to an intending purchaser for the purchase of one or more units of commercial property;
- (n) an agreement between a commercial property developer and a purchaser for the sale and purchase of one or more units of commercial property.

2. For the purpose of this Schedule-

“commercial property developer” means any person that engages in the business of commercial property development;

“commercial property development” means the construction or causing the construction of any number of units of commercial property, including any building operations in, on, over or under the land for the purpose of erecting such commercial property, and the sale of land which would be appurtenant to such commercial property;

“commercial property” means any building or other premises which is permitted by or under any written law for use for a commercial or an industrial purpose, or for mixed purposes the predominant purpose of which is a commercial or an industrial purpose;

“commercial vehicle” means any motor vehicle used for a commercial or an industrial purpose;

“construction contract” means an agreement with a person or entity for any of the following-

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- (a) the carrying out of construction work;
- (b) arranging for the carrying out of construction work by others, whether under sub-contract or otherwise to such person or entity, as the case may be;
- (c) providing his own labour or labour owned by the entity or the labour of others, for carrying out of construction work;

“event contract” means a contract to provide a venue, accommodation, amenities, transport, entertainment, catering or other goods or services for-

- (a) a business meeting, incentive travel, conference, exhibition, sales event, concert, show, wedding, party or other social gathering, or sporting event;
or
- (b) the participants, attendees, guests, patrons or spectators of any of the events specified in paragraph (a);

“housing accommodation” includes a building or tenement wholly or principally constructed, adapted or intended for human habitation, or for human habitation and as business premises;

“housing developer” means any person that engages in a business of housing development;

“housing development” means the construction or causing the construction of any number of units of housing accommodation, including any building operations in, on, over or under the land for the purpose of erecting such housing accommodation, and the sale of land which would be appurtenant to such housing accommodation;

“supply contract” means an agreement under which one party undertakes to supply goods required for the purpose of construction work, to any other party who is engaged in the business of carrying out construction work or who causes to be carried out construction work;

“tourism related contract” means-

- (a) a contract for the international carriage of passengers by sea or land;
- (b) a contract for the provision of transport, short-term accommodation, entertainment, dining, catering, tours or other tourism-related goods or services for visitors to Sri Lanka, domestic tourists or outbound tourists; or
- (c) a contract for the promotion of tourism in Sri Lanka or the distribution for the purposes of trade or retail of products related to such tourism;

“unit” means a horizontal stratum of any building or part of a building, whether such stratum is on one or more levels, and which is intended for use in accordance with the provisions of any written law as a complete and separate unit for residential, commercial or industrial purpose.

