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SUPPLEMENT

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PROTECTION OF OCCUPANTS

A

BILL

**to prevent a landlord from ejecting persons from occupation of a
premises; and to provide for matters connected therewith or incidental
thereto**

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Protection of Occupants

L.D. – O. 64/2023

AN ACT TO PREVENT A LANDLORD FROM EJECTING PERSONS FROM
OCCUPATION OF A PREMISES; AND TO PROVIDE FOR MATTERS
CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Protection of Occupants Act, No. of 2024. Short Title

5 2. The provisions of this Act shall apply to a person who- Application
of the Act

(a) is in lawful occupation of a premises; and

(b) has been in undisturbed and uninterrupted
occupation of such premises for a period of more
than three months, prior to the eventualities
10 specified under section 3, 4 or 5,

in this Act referred to as the “occupant”.

PART I

SAFEGUARDS AFFORDED TO OCCUPANTS

15 3. The landlord of any premises, either by himself or
through any other person, shall not-

(a) discontinue or withhold any amenity or facility
or any essential supply or utility service
previously provided to the occupant; or

Landlord not
to
discontinue
amenities or
facilities

(b) refuse, withhold, fail to repair or maintain in proper condition, or refuse to grant permission to repair or maintain in proper condition, any essential supply or utility service previously provided to the occupant.

4. The landlord of any premises, or any other person authorised by the landlord shall not, either by himself or through any other person, directly or indirectly, damage, demolish or tamper with the premises, in order to induce or compel an occupant to vacate the premises.

Landlord not to damage premises

5. The landlord of any premises or any other person authorised by the landlord shall not, either by himself or through any other person, eject or cause to eject the occupant from the premises or a part of the premises in contravention of the terms and conditions of any lease agreement or tenancy agreement entered into between the landlord and the occupant in terms of the relevant written law, or a decree or an order of a competent court.

An occupant not to be ejected except on an order of a court

PART II

6. (1) Where the landlord of any premises (in this Act referred to as the "respondent") either by himself or through any other person, directly or indirectly, commits any one or more acts or omissions referred to in section 3, 4 or 5, the aggrieved occupant of such premises (in this Act referred to as the "petitioner") may institute an action in the Court having jurisdiction within one month of the commission or omission of the act, by presenting a petition supported by an affidavit setting out the grounds on which the action is based together with any other relevant material, seeking an order for one or more of the following reliefs:-

Institution of action by the occupant against the landlord

- 5 (a) to restore the amenities, facilities, essential supplies or utility services or to grant permission to repair and maintain such amenities, facilities, essential supplies or utility services in a proper condition;
- (b) to prevent the respondent from using or threatening to use any force or violence, or from inflicting or threatening to inflict any harm, damage or loss upon or against the occupant of such premises;
- 10 (c) to prevent the respondent from damaging, demolishing or tampering with the premises;
- (d) to restore the petitioner to vacant and undisturbed possession of the premises; or
- (e) any other relief as may be determined by the Court.

15 (2) In addition to any order seeking relief specified in subsection (1), the petitioner may seek interim relief to maintain the *status quo* of the premises and to prevent the respondent from committing any wrongful act in contravention of the provisions of section 3, 4 or 5 or any
20 such wrongful act that would render the final judgement in the action, nugatory.

25 7. (1) Upon an action being instituted under section 6, if the Court is satisfied on the evidence exhibited or adduced that the material facts of the petition are *prima facie* established, and is of the opinion that the petitioner is entitled to any one or more of the reliefs which he has prayed for, then the Court shall make-

Hearing of the petition by the Court

(a) an order *nisi*, conditioned to take effect, in the event the respondent does not show cause against it, on a day specified by the order; or

5 (b) an interlocutory order specifying a day for the determination of the matter of the petition, and intimating that the respondent will be heard in opposition to the petition if he appears before the Court for that purpose on the day so specified.

10 (2) The date referred to in paragraphs (a) and (b) of subsection (1) shall be a date not more than fourteen days from the date of delivery of the relevant order.

(3) The provisions of Chapter XXIV of the Civil Procedure Code shall, *mutatis mutandis*, apply to any proceedings commenced under this section.

15 (4) (a) Any application for an order under this Act shall be heard and determined expeditiously, and the Court shall complete the hearing within three months from the date of the petition on being satisfied only of the content of the affidavit and the evidence exhibited or adduced with the
20 petition.

(b) Where the respondent requests to be heard in opposition by way of a statement of objection, the Court shall complete the hearing not later than nine months from the date of the statement of objection.

25 **8.** Where the respondent appears before the Court or moves to be heard in opposition in terms of the provisions of section 7 and the Court determines that there is sufficient cause as to why the order *nisi* should not take effect, the Court may order such costs, reliefs and expenses claimed for by the
30 respondent as justice may demand.

Orders made
in matters
heard in
opposition

5 **9.** (1) Where the Court makes an order *nisi* for the restoration of any amenities, facilities, essential supplies or utility services in any premises, the Court may make further order in the same order or in a subsequent order that if the respondent fails to comply with such order *nisi* within the period specified in such order, such order *nisi* or subsequent order shall be executed in such manner as may be specified therein.

Failure to comply with an order to restore amenities, &c

10 (2) Where the respondent fails to comply with such order *nisi*, the said order shall be executed in such manner as specified in such order *nisi* or subsequent order, *ex mero motu* or on application of the petitioner to grant the order *nisi* to be made final.

15 **10.** (1) Where the Court orders the restoration of the petitioner into vacant possession of the premises, the Court shall forthwith direct the Fiscal to restore the petitioner into vacant possession of the premises referred to in the order by ejecting all those who are in occupation of the premises.

Restoration of the petitioner into vacant possession of the premises

20 (2) Where the Fiscal is resisted or obstructed by the respondent or any other person, in the execution of the final order restoring the petitioner into vacant possession of the premises, the Fiscal shall, within fourteen days of such resistance or obstruction, report such resistance or obstruction to the Court in such form as specified in the Schedule to this

25 Act, and the Court shall thereupon issue a notice against the person resisting or obstructing requiring him to show cause within fourteen days from the date of such notice as to why he should not be dealt with for contempt of Court occasioned by such resistance or obstruction.

30 (3) (a) Where, after the petitioner is restored into vacant possession, the petitioner is hindered or ousted from the possession of the premises by the respondent or any other

person within a period of one year and one day from the date of possession of the premises, the petitioner may, at any time within one month from the date of such hindrance or ouster, make a complaint thereon to the Court by a petition
 5 in which the respondent or other person hindering or ousting him shall be named respondents.

(b) The Court shall, upon receipt of a petition under paragraph (a), serve a copy of such petition on the parties named therein as respondents and require them to show cause
 10 within fourteen days from the date of such order as to why they should not be dealt with for contempt of Court occasioned by such hindrance or ouster.

(4) On the hearing of such report made by the Fiscal or petition filed by the petitioner under subsection (2) or (3), if
 15 the Court is satisfied –

- (a) that the resistance, obstruction, hindrance or ouster complained of was occasioned by the respondent to the original petition or by any other person at his instigation or on his behalf;
- 20 (b) that the resistance, obstruction, hindrance or ouster complained of was occasioned by a person other than the respondent to the original petition, and that the claim of such person to be in possession of the premises, whether on his own
 25 account or on account of some person other than the respondent to the original petition, is not in good faith; or
- (c) that the claim made by the respondent or the person who occasioned the resistance, obstruction,
 30 hindrance or ouster, if any, has not been established,

the Court shall proceed to take action as set out in subsection (5).

(5) The Court shall, pursuant to subsection (4) -

(a) direct the Fiscal to restore possession of the premises, to the petitioner forthwith; and

5 (b) punish the respondent or any other person who occasioned the resistance, obstruction, hindrance or ouster as referred to in paragraphs (a) and (b) of subsection (4) for contempt of court with a fine not exceeding rupees five hundred thousand or with an imprisonment for a term not exceeding
10 one year or with both such fine and imprisonment:

15 Provided however, the provisions of section 303 of the Code of Criminal Procedure Act, No. 15 of 1979 shall not be applicable in respect of an offender on whom a sentence of imprisonment is imposed under this paragraph.

(6) In any case involving a false claim under paragraph (c) of subsection (4), the offender shall, on conviction, be liable to a fine not exceeding rupees five hundred thousand.

20 (7) In any proceedings under this section, the Court may make an order as to the costs, and charges and expenses incurred for the hearing and the issue of writ, as the Court shall deem meet.

25 **11.** (1) The execution of any final order made by the Court shall not be stayed unless there is a specific stay order made by a competent higher court under section 12. Execution of final order not to be stayed

(2) An order for the stay of execution shall not be made by such higher court without notice to the petitioner in whose favour the Court made the final order.

12. Any person aggrieved by a final order made under Appeals
the provisions of this Act may prefer an appeal in terms of
the provisions of subsection (1) of section 754 of the Civil
Procedure Code.

5 **13.** In this Act, unless the context otherwise requires – Interpretation

“Civil Procedure Code” means the Civil Procedure Code
(Chapter 101);

“Court” means the District Court having jurisdiction;

10 “eject” in relation to the occupant of any premises, means
to deprive, by using direct or indirect methods, such
occupant of his right to use and occupy the whole
or any part of such premises in contravention of
the provisions the lease agreement or tenancy
agreement entered into between the landlord and
15 the occupant;

20 “essential supplies or utility services” includes supply
of water, electricity, sewerage, cooking gas and
lights including lights in passages and on
staircases, lifts and conservancy or sanitary
services;

25 “landlord” in relation to any premises, means the person
entitled to receive the rent of the premises from an
occupant, and includes an occupant who lets the
premises or any part thereof to a subtenant, with
the written consent of the original landlord;

“lessee” shall have the same meaning as in the Recovery
of Possession of Premises Given on Lease Act, No.
1 of 2023;

5 “occupation” in relation to a premises or any part of a premises, means having entered into occupation of such premises as a lessee or tenant under a lease agreement or tenancy agreement with the landlord, continues to be in occupation with the consent of the landlord for a particular period of time; and

“possession” and “premises” shall have the same meaning as in the Recovery of Possession of Premises Given on Lease Act, No. 1 of 2023.

10 14. 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

SCHEDULE

FORM [Section 10(2)]

REPORT TO COURT BY THE FISCAL OF RESISTANCE AND OBSTRUCTION

To the Judge of the District Court of

I,, the Fiscal of the District Court of, do hereby report to the court that on the day of20**, (name of the respondent and/ or other person who caused resistance and/ or obstruction) of caused resistance and/or obstruction to me by (describe the manner in which the resistance and/or obstruction was caused), while executing the final order of the court made on theday of 20** to restore(name of the petitioner) into vacant possession of the premises referred to in the Schedule hereto.

The Schedule of the premises above referred to

(signed) (Name of the Fiscal)

On this day of, 20**.

