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1st Session 1970-71



Protection of Tenants (Special Provisions) Act, No. 28 of 1970

Date of Assent : November 18, 1970

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Protection of Tenants (Special Provisions)
Act, No. 28 of 1970

L. D.—O. 25/70.

AN ACT TO MAKE SPECIAL PROVISION TO PREVENT LANDLORDS FROM EJECTING TENANTS BY RESORT TO THREATS, VIOLENCE AND HARASSMENT, BY DISCONTINUING OR WITHHOLDING AMENITIES, BY INTERFERING IN THE USE AND OCCUPATION OF PREMISES OR BY OTHER MEANS, AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

[Date of Assent: November 18, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Protection of Tenants (Special Provisions) Act, No. 28 of 1970.

Short title.

2. No landlord of any premises or other person shall, either by himself or through any other person, directly or indirectly, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten to inflict, any harm, damage or loss upon or against the tenant of, or any person in occupation of, such premises, or damage, remove or tamper with any part of such premises, in order to induce, compel or prevail upon, such tenant or person to vacate such premises, or to make any payment of money in excess of the authorized rent of such premises.

Use of force on tenants and causing damage to premises.

3. (1) No landlord of any premises or other person shall, either by himself or through any other person, without reasonable cause, discontinue or withhold any amenities or facilities previously provided for the tenant of, or the person in occupation of, such premises, or deprive, withhold or fail to repair or maintain in proper condition any essential supply or service previously provided to such tenant or person.

Withholding amenities provided to tenants.

(2) In this section "essential supply or service" includes supply of water, gas, electricity and lights including lights in passages and on staircases, lifts and conservancy or sanitary service.

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Interference
with occupation
by tenants.

4. No landlord of any premises or other person shall, either by himself or through any other person, interfere or attempt to interfere in any manner in the occupation or use of any premises by the tenant of, or the person in occupation of, such premises or in any manner prevent access to such premises by such tenant or person.

Prohibition
of ejection
other than
by an order
of Court.

5. (1) No landlord of any premises or other person shall, by himself or through any other person, eject or cause to be ejected from such premises, otherwise than on an order of a competent Court, the tenant of, or the person in occupation of, such premises notwithstanding anything to the contrary in any oral or written agreement by which such premises were let.

(2) (a) Where the tenant of, or the person in occupation of, any premises notifies the Commissioner that he has been ejected from such premises in contravention of the provisions of sub-section (1), the Commissioner may hold an inquiry for the purpose of deciding the question whether or not such tenant or person has been ejected from such premises.

(b) The landlord of such premises and the person ejected shall be given an opportunity of being heard in person or through a representative at such inquiry. The Commissioner's decision on such question shall, notwithstanding anything in any other law, be final and conclusive and shall not be called in question in any court, whether by way of writ, order, mandate or otherwise.

(c) Where the Commissioner decides that such tenant or person has been ejected, then,—

(i) such tenant or person shall be entitled to have the use and occupation of such premises restored to him; and

(ii) the Commissioner shall in writing order that every person in occupation of such premises shall, on such date as shall be specified in the order, vacate such premises and deliver possession thereof to the person ejected, and if any person ordered to vacate and deliver possession fails to comply with such order, he shall be ejected from such premises in accordance with the provisions of section 6.

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Every order made under this paragraph shall be communicated by registered post to every person in occupation of such premises.

6. (1) Where any person who has been ordered under section 5 by the Commissioner to vacate any premises and to deliver possession thereof fails to comply with such order, the Commissioner or any person authorized in that behalf by the Commissioner, may present to the Magistrate's Court within whose local jurisdiction such premises are situated, a written report specifying the nature of such order and the person to whom it was issued, specifying the premises to which such order relates, stating that such person has failed as required by such order to vacate and deliver possession of such premises, praying for an Order to eject from such premises such person and all other persons in occupation of such premises, and mentioning the person to whom delivery of possession of such premises should be made.

Procedure for
ejectment.

(2) Where a written report is presented to the Magistrate's Court under sub-section (1), such Court shall issue an Order directing the person specified in such report and all other persons in occupation of the premises specified in the order to be ejected forthwith from such premises. After making such Order, the Court shall give notice of such Order through the Fiscal or a peace officer to the person against whom the Order is made.

(3) Where any person fails to comply with an Order made under sub-section (2), the Magistrate's Court shall, notwithstanding anything in any other law, on the application of the person by whom the written report under sub-section (1) was presented, direct the Fiscal or a peace officer to eject from the premises to which the Order relates, all persons bound by the Order and to deliver possession of such premises to the person mentioned in such report as the person to whom delivery of possession of such premises should be made.

(4) The Fiscal or the peace officer entrusted with the execution of the Order of ejectment shall comply with the directions of the Magistrate's Court by which such Order was made and shall make a due return of the manner in which he executed such Order.

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(5) In executing an Order of ejectment the Fiscal or the peace officer or any person authorized by the Fiscal or the peace officer may use such force as may be necessary to enter the premises to which the Order relates and to eject any person bound by the Order and to deliver possession of such premises in accordance with the directions of the Magistrate's Court which issued the Order.

Powers of the
Commissioner.

7. It shall be lawful for the Commissioner or any officer authorized by him in writing in that behalf,—

(a) to institute a prosecution in respect of any offence under this Act;

(b) to make such inquiry as may be necessary in the event of any complaint being made of any contravention of the provisions of this Act; and

(c) for the purposes of such inquiry—

(i) to examine any witness on oath, if he thinks fit so to do, and to summon any person to appear before him, and to require any person to produce any document including a document of title which may in his opinion be relevant; and

(ii) to enter upon any premises at any reasonable time of the day for the purpose of inspecting such premises or of obtaining information with respect to the matter of the complaint.

Prosecution
to be with
sanction of
Commissioner.

8. No prosecution in respect of an offence under this Act may be commenced except at the instance of or with the sanction of the Commissioner.

Punishment
for offences.

9. (1) Every person who acts in contravention of the provisions of section 2 or section 3 or section 4 of this Act shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a period which shall be not less than one month and not more than six months.

(2) Every person who, on or after the date of commencement of this Act, acts in contravention of the provisions of section 5 of this Act shall be guilty of an offence under this Act, and shall be liable on

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conviction after summary trial before a Magistrate to imprisonment of either description for a period which shall be not less than one month and not more than six months.

10. Where a person committing an offence under this Act is a company or other body corporate, or an association of persons (whether incorporated or not) or a firm, or a club, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Offences by
bodies
corporate,
associations,
clubs or firms.

11. The provisions of sections 5 and 6 of this Act shall for all purposes be deemed to have come into operation on May 27, 1970.

Retrospective
operation of
sections 5 and 6.

12. The provisions of this Act shall cease to be operative on the expiry of a period of two years after the date of commencement of this Act.

Operation of
this Act.

13. The provisions of this Act shall, for all purposes and in all respects, be as valid and effectual as though such provisions were in an Act for the amendment of the Ceylon (Constitution) Order in Council, 1946, enacted by Parliament after compliance with the requirement imposed by the proviso to sub-section (4) of section 29 of that Order in Council.

The provisions
of this Act to
be regarded as
an amendment
of the Ceylon
(Constitution)
Order in
Council, 1946.

14. In this Act, unless the context otherwise requires—

Interpretation.

“ authorized rent ” shall have the same meaning as in the Rent Restriction Act (Chapter 274);

“ Commissioner ” means the Commissioner of National Housing and includes the Deputy Commissioner of National Housing or an Assistant Commissioner of National Housing;

“ eject ” means in relation to the tenant of, or the person in occupation of, any premises, to deprive, by using direct or indirect methods, such tenant or person of his right to use and occupy the whole or any part of such premises;

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“ landlord ” means the person for the time being entitled to receive the rent of any premises;

“ person in occupation ” in relation to any premises means any person in lawful occupation of such premises, and includes—

(a) any person who is in occupation of such premises or part thereof with the consent of the tenant or landlord of such premises; and

(b) any person to whom such premises or part thereof have been lawfully sublet by the tenant thereof; and

“ premises ” means any building or part of a building together with the land appertaining thereto.