



CEILING ON HOUSING PROPERTY

(AMENDMENT) LAW,

No. 34 OF 1974

OF

THE NATIONAL STATE ASSEMBLY

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Ceiling on Housing Property (Amendment)
Law, No. 34 of 1974

L. D.—O. 6/74

A LAW TO AMEND THE CEILING ON HOUSING PROPERTY
LAW, NO. 1 OF 1973

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Ceiling on Housing Property (Amendment) Law, No. 34 of 1974.

Short title.

2. Section 2 of the Ceiling on Housing Property Law, No. 1 of 1973, (hereinafter referred to as the "principal enactment"), is hereby amended as follows:—

Amendment of section 2 of the Ceiling on Housing Property Law, No. 1 of 1973.

(1) in subsection (3) of that section, by the substitution, for the words "as is determined", of the words "as is from time to time determined"; and

(2) in the proviso to subsection (3) of that section—

(a) in paragraph (a) of that proviso, by the substitution, for the words "public corporation; and", of the words "public corporation; "

(b) in paragraph (b) of that proviso, by the substitution for the words "such public company," of the words "such public company; and"; and

(c) by the insertion, immediately after paragraph (b) of that proviso, of the following new paragraph:—

"(c) a house owned by a body of persons which is let by such body to a person other than an employee or functionary of such body shall not be taken into account in determining the number of houses necessary for the purpose of providing residence to the employees and functionaries of such body."

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Insertion of
new section
2 A in the
principal
enactment.

3. The following new section is hereby inserted immediately after section 2, and shall have effect as section 2A, of the principal enactment:—

“Applications
by bodies of
persons for the
determination
of permitted
number of
houses.

2A. (1) Every body of persons which owns houses shall apply to the Commissioner, giving such particulars as are necessary for the purpose, for the determination of the maximum number of houses which, in accordance with the provisions of subsection (3) of section 2, may be owned by such body. Such application shall be made—

(a) in the case of a body of persons owning houses on the date of commencement of this Law or becoming the owner of houses on any day after such date and before November 1, 1974, before such date as may be fixed for the purpose by the Minister by Notification published in the *Gazette*; and

(b) in the case of a body of persons becoming the owner of houses on or after November 1, 1974, within four weeks of so becoming the owner of houses:

Provided that it shall not be necessary for any body of persons to make a fresh application under the preceding provisions of this subsection, if prior to the coming into operation of this section such body has applied to the Commissioner for a determination of the maximum number of houses that may be owned by such body.

(2) Where any body of persons becomes entitled to own any house in excess of the maximum number of houses as previously determined by the Commissioner or by the Board of Review, as the case may be, such body shall apply to the Commissioner for a further determination of the maximum number of houses that may be owned by such body.”

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4. Section 3 of the principal enactment is hereby amended as follows:—

Amendment of
section 3 of the
principal
enactment.

- (1) by the substitution, in paragraph (2) thereof, for the words "not less than one-half", of the words "more than one-half";
- (2) by the substitution, for paragraph (4) thereof, of the following new paragraph:—

"(4) a person who, prior to the commencement of this Law, owned shares in houses owned in undivided shares and became the owner thereof otherwise than by inheritance or gift, shall be deemed to own such number of houses as is equivalent to the aggregate of such shares:

Provided however that, where such aggregate comprises a fraction—

- (a) such fraction shall be disregarded if it does not exceed one-half;
 - (b) if such fraction exceeds one-half, such person shall be deemed to own such number of houses as is equivalent to the aggregate of such shares computed to the nearest whole number;";
- (3) by the insertion, immediately after paragraph (4) thereof, of the following new paragraph:—

"(5) a person who, on or after the date of commencement of this Law, becomes the owner of a subdivided portion of a house shall, by virtue of his ownership of such subdivided portion, and notwithstanding anything to the contrary in section 47, be deemed to own a house." ; and

- (4) in the marginal note thereto, by the substitution for the words "of a number", of the words "of number".

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Amendment of
section 10 of
the principal
enactment.

5. Section 10 of the principal enactment is hereby amended by the substitution, for the words "within a period of twelve months from such date," of the words "if such person is an individual, within a period of twelve months from such date, and if such person is a body of persons, within a period of six months of the date on which the determination under this Law by the Commissioner or as the case may be, by the Board of Review, of the maximum number of houses that may be owned by such body was communicated to such body, or where such body applies for, and is granted an extension of time by the Commissioner, within six months from November 1, 1974,".

Amendment of
section 11 of
the principal
enactment.

6. Section 11 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section, by the substitution, for the words "a period of twelve months from the date of commencement of this Law", of the words "the period within which such person may dispose of such house in accordance with the provisions of section 10"; and

(2) in subsection (2) of that section, by the substitution, for the words "vest in the Commissioner.", of the words "vest in the Commissioner, unless prior to such date and with the permission of the Commissioner he has disposed of such house to the tenant thereof or where such tenant refuses to purchase it, to any other person.".

Amendment of
section 12 of
the principal
enactment.

7. Section 12 of the principal enactment is hereby amended in subsection (2) of that section by the substitution, for the words "of such house.", of the words "of such house, and where the tenant does not accept such offer, the Commissioner may sell such house to any other person. Where any house vested in the Commissioner is at the time of vesting not let to a tenant, the Commissioner may sell such house to any person.".

Amendment of
section 14 of
the principal
enactment.

8. Section 14 of the principal enactment is hereby amended in subsection (1) thereof by the substitution, in paragraph (c) of that subsection, for the words "from a parent", of the words "from a grandparent, a parent".

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9. Section 15 of the principal enactment is hereby amended in subsection (2) thereof, as follows:—

Amendment of section 15 of the principal enactment.

(1) in paragraph (a) of the proviso thereto, by the substitution, for the words "in respect of the house; and", of the words "in respect of the house;"

(2) in paragraph (b) of the proviso thereto, by the substitution, for the words "sum due to him.", of the words "sum due to him; and"; and

(3) by the insertion, immediately after paragraph (b) of the proviso thereto, of the following new paragraph:—

"(c) where the house or the land appurtenant thereto was at the time of vesting subject to any servitude in favour of any other property or person, such servitude shall not be deemed to be extinguished by such vesting."

10. The following new section is hereby inserted immediately after section 15, and shall have effect as section 15A, of the principal enactment:—

Insertion of new section 15A in the principal enactment.

"Title to houses purchased directly from owners.

15A. Where a house, for the purchase of which an application may be or could have been made to the Commissioner under this Law by the tenant thereof or by the person who may succeed to the tenancy thereof under section 36 of the Rent Act, No. 7 of 1972, is, after the date of commencement of this Law, purchased by such tenant or person directly from the owner thereof, the title of such tenant or person to such house shall be as if such tenant or person had purchased such house from the Commissioner after it was vested in the Commissioner under this Law; and where the preceding provisions of this section apply to a house, a certificate to that effect may be issued by the Commissioner on payment of the prescribed fee, if an application for such certificate is made by such tenant or person or by any other person deriving title to such house from such tenant or person."

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Amendment of
section 16 of
the principal
enactment.

11. Section 16 of the principal enactment is hereby amended as follows:—

(1) by the insertion, immediately after subsection (3) thereof, of the following new subsection:—

“(4) Where any tenement or flat is vested in the Commissioner under this Law, there shall also be vested in the Commissioner such extent of land adjoining or adjacent to the tenement or flat as was, in the opinion of the Commissioner, used in common by all or some of the tenants of the tenement or flat immediately prior to the commencement of this Law; and any sale, gift, lease or other alienation of such extent of land or part thereof made on or after the date of commencement of this Law except with the written permission of the Commissioner shall be null and void.”; and

(2) in the marginal note thereto, by the substitution, for the words “appurtenant lands.”, of the words “appurtenant and adjoining lands.”.

Insertion of
new sections
17A, 17B, 17C,
17D, 17E and
17F in the
principal
enactment.

12. The following new sections are hereby inserted immediately after section 17, and shall have effect as sections 17A, 17B, 17C, 17D, 17E and 17F, of the principal enactment:—

Divesting
the ownership
of houses vested
in the
Commissioner.

17A. (1) Notwithstanding that any house is vested in the Commissioner under this Law, the Commissioner may, with the prior approval in writing of the Minister, by Order published in the *Gazette*, divest himself of the ownership of such house, and on publication in the *Gazette* of such Order, such house shall be deemed never to have vested in the Commissioner.

(2) Where any house has vested in the Commissioner under section 11 and the person who was the owner thereof immediately prior to such vesting makes application to the Commissioner requesting that he be allowed a further period of time to dispose of such house, the

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Commissioner may, if satisfied that adequate grounds exist for granting such request and with the approval in writing of the Minister, by Order published in the *Gazette*, divest himself of the ownership of such house, and on publication of such Order in the *Gazette*, such house shall be deemed never to have vested in the Commissioner. Where such person fails to dispose of such house within a period of twelve months from the date on which the Order divesting the Commissioner of the ownership of such house was published in the *Gazette*, the Commissioner may by Order published in the *Gazette*, vest such house in the Commissioner with effect from such date as may be specified therein.

Register of
vested houses.

17B. The Commissioner shall maintain a register of houses vested in him under this Law and such register shall be open to the public for inspection on payment of the prescribed fee.

Restriction on
transfer of
houses
purchased from
the
Commissioner.

17C. No house purchased from the Commissioner under this Law may, for a period of five years from the date of such purchase, be sold, gifted or leased to any person other than a child or spouse of the purchaser thereof, except with the prior permission in writing of the Commissioner granted in case of extreme hardship; and where any such house is sold, gifted or leased to any such child or spouse, such child or spouse shall not sell, gift or lease such house to any person until after the lapse of a period of five years from the date of purchase from the Commissioner by the original purchaser:

Provided however that the preceding provisions of this section shall not apply to the sale of any house purchased by any person with moneys partly or wholly provided by a prescribed State institution on a mortgage of such house created in favour of such institution, where such

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sale is consequent on any default in the payment of the moneys due on such mortgage.

Certain sections of the National Housing Act to apply to mortgages of houses purchased from the Commissioner.

17D. Where a loan is granted by the Commissioner to the purchaser of a house vested in the Commissioner under this Law, on a mortgage of such house, the provisions of sections 73 to 89 of the National Housing Act (Chapter 401) shall apply, *mutatis mutandis*, where default is made in the payment of any sum due on such loan, whether that sum is due on account of principal or interest or both.

Commissioner to recover cost of maintaining services.

17E. Where the Commissioner provides or maintains any amenities or services to or in respect of any house vested in him under this Law between the date of vesting and the date on which such house is sold or transferred to the tenant thereof or to any other person, the Commissioner may recover the cost of providing or maintaining such amenities or services from the persons who were the tenants or occupants of such house during the period when such amenities or services were provided or maintained by the Commissioner.

Discontinuance of amenities provided to vested houses.

17F. (1) Where a house is vested in the Commissioner under this Law, the person who was the owner of such house immediately prior to such vesting (hereinafter referred to as the "former owner") shall not discontinue any amenities or services provided by him to such house prior to such vesting except after giving fourteen days' notice in writing to the Commissioner.

(2) Where any such amenities or services are discontinued by the former owner without giving at least fourteen days' notice, the cost that may be incurred by the Commissioner in the

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restoration or replacement of such amenities or services shall be deducted from the price payable for such house to such owner under section 23.

(3) Where any such amenities or services are discontinued by any person other than the former owner or any local authority, Government Department or public corporation, such person shall be guilty of an offence under this Law.’.

13. The following new section is hereby inserted immediately after section 28, and shall have effect as section 28A, of the principal enactment:—

“ Provisions of the Prevention of Frauds Ordinance not to apply to instruments executed by or in favour of the Commissioner.

28A. The provisions of the Prevention of Frauds Ordinance shall not apply to any instrument executed by or in favour of the Commissioner under this Law.”.

Insertion of new section 28A in the principal enactment.

14. Section 29 of the principal enactment is hereby amended by the repeal of subsection (1) thereof and the substitution therefor, of the following new subsection:—

Amendment of section 29 of the principal enactment.

(1) There shall be established for the purposes of this Law a Board of Review consisting of not more than fifteen members appointed by the Minister of whom at least five shall be persons with judicial or legal experience and at least five shall be persons with an adequate knowledge of the valuation of land (hereinafter referred to as “ valuer members ”).

15. Section 30 of the principal enactment is hereby amended as follows:—

Amendment of section 30 of the principal enactment.

- (i) in subsection (1) of that section, by the substitution, for the words “ convene meetings ”, of the words “ convene ordinary meetings ”;
- (ii) by the repeal of subsection (2) thereof, and the substitution therefor, of the following new subsection:—

“ (2) The Chairman or the Vice-Chairman or a member with judicial or legal experience and two other members of the Board one of whom shall be a valuer member shall be

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summoned to an ordinary meeting of the Board. The members to be summoned other than the Chairman and the Vice-Chairman shall be chosen by lot by the Secretary. The quorum for an ordinary meeting of the Board shall be two members.”;

- (iii) in subsection (3) thereof by the substitution, for the words “ Two separate meetings ”, of the words “ Separate meetings ”;
- (iv) by the repeal of subsection (4) thereof, and the substitution therefor, of the following new subsection:—

“ (4) Where the Chairman or the Vice-Chairman is summoned to an ordinary meeting of the Board, the Chairman or Vice-Chairman, as the case may be, shall preside at that meeting. Where the Chairman or Vice-Chairman is not summoned, the member with judicial or legal experience shall, if he is the only member with such experience summoned to that meeting, preside at that meeting. Where more than one member with such experience is summoned to that meeting the members of the Board summoned to and present at that meeting shall choose one of the members with such experience as the Chairman of that meeting.”; and

- (v) by the insertion, immediately after subsection (4) of that section, of the following new subsection:—

“ (4A) The Secretary shall under the direction of the Chairman of the Board convene extraordinary meetings of the Board. The Chairman of the Board and four other members of the Board nominated by the Chairman of the Board shall be summoned to an extraordinary meeting of the Board. No extraordinary meeting of the Board shall be held unless the Chairman of the Board and the four other members summoned are present at the meeting. The Chairman of the Board shall preside at every extraordinary meeting of the Board.”.

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16. Section 40 of the principal enactment is hereby amended as follows:—

Amendment of section 40 of the principal enactment.

- (1) by the renumbering of that section as subsection (1) of that section; and
- (2) by the insertion, immediately after renumbered subsection (1) of that section, of the following new subsection:—

“ (2) No person shall make any extension to a house, if the floor area of such extension together with the floor area of the house would exceed two thousand square feet inclusive of the thickness of the external walls:

Provided that the preceding provisions of this subsection shall not apply to any extension commenced before the coming into operation of this subsection.”

17. Section 43 of the principal enactment is hereby amended by the substitution, for the words “ of this Part ”, of the words “ of this Part other than the provisions of subsection (2) of section 40 ”.

Amendment of section 43 of the principal enactment.

18. The following new section is hereby inserted immediately after section 46, and shall have effect as section 46A, of the principal enactment:—

Insertion of new section 46A in the principal enactment.

“ Beneficiary deemed owner of a house held in trust.”

46A. Where a house is held in trust, the beneficiary shall, for the purposes of this Law, be deemed to be the owner of such house.”

19. Section 47 of the principal enactment is hereby amended as follows:—

Amendment of section 47 of the principal enactment.

- (1) by the insertion, immediately before the definition of “ Commissioner ”; of the following new definition:—

“ “ body of persons ” includes a corporation sole; ” ; and

- (2) by the substitution, for the definition of “ Commissioner ”, of the following new definition:—

“ “ Commissioner.” means the Commissioner for National Housing and includes a Deputy Commissioner or an Assistant Commissioner; ”.

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**Retrospective
effect of certain
provisions of
this Law.**

20. The provisions of this Law other than the provisions of sections 3, 12, 16, 17 and 18 thereof shall be deemed for all purposes to have come into force and effect on the date of commencement of the principal enactment.