

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

*————————*

**PARTITION (AMENDMENT)**

**A**

**BILL**

**to amend the Partition Law, No. 21 of 1977**

*————————*

*Presented by the Minister of Justice, Prison Affairs and*   
*Constitutional Reforms on 23rd of March, 2023*

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**[Bill No. 168]**

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*STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause inserts new section 2A to the Partition Law, No. 21 of 1977 (hereinafter referred to as the “principal enactment”). The new section enables the praveni nilakaraya or any person who derives title from a praveni nilakaraya in a praveni pangu of a temple land to institute a partition action for the partition or sale of such praveni pangu in accordance with the provisions of the principal enactment.

*Clause 3* : This clause amends section 15 of the principal enactment by making provisions for the public announcement on the partition action by way of exhibiting a banner and using a loudspeaker to enable all persons having interest in the land to be partitioned, to become aware of such partition action.

*Clause 4* : This clause amends section 16 of the principal enactment which enables the court to issue further commissions to any surveyor referred to in section 73 either on its own motion or at the instance of any party to the action for the adjudication of the action.

*Clause 5* : This clause amends section 17 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 3.

*Clause 6* : This clause amends section 23 of the principal enactment by providing for a time period to file a list of documents to a party who intervenes after the first date fixed for trial.

*Clause 7* : This clause amends section 27 of the principal enactment enabling the court to issue the commission for the division of the land in to lots to the surveyor who made preliminary survey or any surveyor whose name is in the list referred to in section 73 or any other surveyor upon agreement of all parties who have been awarded any right by the interlocutory decree entered under section 26 of the principal enactment.

*Clause 8* : This clause amends section 30 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 3.

*Clause 9* : This clause replaces section 36A of the principal enactment by providing a person dissatisfied with an order made under section 36 to prefer an application for leave to appeal to the Court of Appeal against such order.

*Clause 10* : This clause amends section 45A of the principal enactment by rectifying an error occurred in that section in making a wrong reference inadvertently to sections 36A and 45A.

*Clause 11* : This clause amends section 48 of the principal enactment and is consequential to the amendment made to the principal enactment by clause 2.

*Clause 12* : This clause amends section 57 of the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 3.

*Clause 13* : This clause amends section 83 of the principal enactment by the insertion of definitions for the terms “praveni nilakaraya”, “praveni pangu”, “temple” and “trustee”and is consequential to the amendment made to the principal enactment by clause 2.

*Clause 14* : This clause amends the form which bears the title “REPORT BY GRAMA NILADHARI” in the Second Schedule to the principal enactment and is consequential to the amendment made to section 15 of the principal enactment by clause 3.

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| *Partition (Amendment)* | 1 |

L.D.—O. 68/2021

A N ACTTOAMENDTHE PARTITION LAW, NO. 21 OF 1977

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

**1.** This Act may be cited as the Partition (Amendment) Short title Act, No. of 2023.

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| --- | --- | --- | --- |
| 5 | **2.** The Partition Law, No. 21 of 1977 (hereinafter referred | | Insertion of |
| to as the “principal enactment”) is hereby amended by the | | section 2A in |
| Law, No. 21 |
| insertion immediately after section 2 thereof, of the following | |
| of 1977 |
| new section which shall have effect as section 2A thereof:- | |
| 10 |
| “Institution | 2A. (1) Every praveni nilakaraya or any |
| of partition action by a praveni  nilakaraya | person who derives title from a praveni nilakaraya in a praveni pangu of a temple land shall be entitled to institute a partition action for the partition or sale of such praveni pangu |

in accordance with the provisions of this Law.

15 (2) Where there are more than one praveni nilakarayas or persons having an interest in a praveni pangu, such praveni nilakarayas or such persons may be made parties to any action instituted under subsection (1).

20 (3) (*a***)** For the avoidance of doubt, it is hereby stated that the partition or sale of a praveni pangu shall not affect any rights of a temple enforceable under the provisions of the Service Tenures Ordinance (Chapter 467) and 25 the temple shall be entitled to exercise rights under such Ordinance through its trustee or Viharadhipathi as the case may be, as though no partition or sale had occurred in respect of the entirety of the praveni pangu or any portion

30 thereof as the case may be.

2 *Partition (Amendment)*

(*b*) Any right of a temple enforceable under   
the Service Tenures Ordinance (Chapter 467)   
shall remain unaffected irrespective of the fact   
that a trustee or a Viharadhipathi of such temple

|  |  |
| --- | --- |
| 5 | has been or has not been made a party to a partition action instituted under the provisions |

of this section.

(4) (*a*) A trustee appointed with reference to a temple referred to in subsection (1) under the 10 provisions of the Buddhist Temporalities Ordinance (Chapter 318) or a Viharadipathi of a temple which is exempted under the provisions of section 4(1) of the Buddhist Temporalities Ordinance (Chapter 318), as the

|  |  |
| --- | --- |
| 15 | case may be, may make an application to be a party to the partition action instituted under |

subsection (1).

(*b*) Where such trustee or Viharadhipathi,   
as the case may be, makes an application under

|  |  |
| --- | --- |
| 20 | paragraph (*a*) of this subsection, the court shall make such trustee or Viharadhipathi a party to |

such action.”.

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| 25 | **3.** Section 15 of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section 15 |
| of the |
| (1) | by the repeal of subsections (2) and (3) of that | principal |
| enactment |
| section and substitution therefor of the following | |

subsections:-

“(2) Every Grama Niladhari to whom a copy of   
such notice and a copy of a translation thereof are

|  |  |
| --- | --- |
| 30 | sent by registered post under subsection (1) of this section shall cause the contents of the notice, |

including the Schedule of the land or lands, as the   
case may be, to be exhibited in a banner displayed,   
in the manner as may be prescribed by regulations,

*Partition (Amendment)*  3

in a conspicuous place in his office or close to his   
office for a period of not less than thirty days, and   
shall forward to the court a report to that effect   
substantially in the form set out in the Second

5 Schedule.

(3) The Grama Niladhari shall also cause the   
contents of the notice sent to him under subsection   
(1) of this section, including the Schedule of the   
land or lands as the case may be-

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | to be exhibited in a banner, in a |
| conspicuous position in the land or lands |

as the case may be, in the manners as may   
be prescribed by regulations; and

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | to be orally proclaimed by way of public |
| announcement made using a loudspeaker |

at such land or each of such lands and at   
any public place close to such land or each   
of such lands, as the case may be,

and shall forward to the court a report to that effect 20 substantially in the form set out in the Second Schedule.”;

(2) by the addition, at the end of that section of the   
 following new subsection:-

|  |  |
| --- | --- |
| 25 | “(4) The cost of the publication done under subsections (2) and (3) of this section shall be borne |

by the plaintiff in the first instance and shall be   
recoverable “*prorata*”. The Grama Niladhari shall   
forward an affidavit to the court affirming the   
execution of the publications referred to in

|  |  |
| --- | --- |
| 30 | subsections (2) and (3) of this section along with the reports referred to in subsections (2) and (3) of |

this section within two months from the date of   
receipt of such notice.”.

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| --- | --- | --- |
| 4 | *Partition (Amendment)* | Amendment of section 16 of the  principal |
| **4.** Section 16 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and substitution therefor of the following subsection:- | |

enactment“(2) (*a*) The commission issued to a surveyor under

5 subsection (1) of this section shall be substantially in the form set out in the Second Schedule and shall have attached thereto a copy of the plaint certified as a true copy by the registered attorney for the plaintiff.

(*b*) The court may, upon transmit to it under section 10 18 the plan prepared by the surveyor in the execution of the commission issued under subsection (1), order to issue a further commission, on its own motion or at the instance of any party to the action, authorizing-

|  |  |  |
| --- | --- | --- |
| 15 | (i) | the surveyor referred to in subsection (1) or |
| any other surveyor whose name is specified in |

the list of surveyors referred to in section 73,   
to survey any larger or smaller portion of the   
land that was surveyed under the commission   
issued under subsection (1); or

|  |  |  |
| --- | --- | --- |
| 20 | (ii) | any surveyor other than the surveyor referred |

to in subsection (1) and whose name is specified in the list of surveyors referred to in section 73, to resurvey the land that was surveyed under the commission issued under 25 subsection (1),

and the court may also direct the surveyor who executes the further commission to superimpose the plan prepared under the further commission on the plan prepared in the execution of the commission issued under subsection 30 (1) or to carry out any other similar matter necessary for the adjudication of the action.

*Partition (Amendment)*  5

(*c*) In the execution of the further commission referred   
to in paragraph (*b*), the provisions of paragraph (*a*) of   
this subsection, the provisions of subsections (1), (3),   
(4), (5) and (6) of this section and the provisions of

|  |  |  |
| --- | --- | --- |
| 5 | sections 17 and 18 shall *mutatis mutandis*, apply in | Amendment |
| respect thereof.”. |
| **5.** Section 17 of the principal enactment is hereby |
| 10 | amended in subsection (2) of that section by the substitution | of section 17 |
| of the |
| for the words “after beat of tom-tom,” of the words “by way |
| principal |
| of public announcement made using a loudspeaker,”. |
| enactment |
| 15 | **6.** Section 23 of the principal enactment is hereby | Amendment |
| amended in subsection (1) of that section by the substitution | of section 23 |
| of the |
| for all the words from “Every party to a partition action |
| principal |
| shall,” to “the contents of such documents.” of the words- |
| enactment |
| “Every party to a partition action shall, not less than |

thirty days before the date first fixed for the trial of the action, file or cause to be filed in the court a list of documents on which he relies to prove his right, share or interest to, of or in the land together with an abstract of

|  |  |
| --- | --- |
| 20 | the contents of such documents. Where a party is allowed to intervene after the first date fixed for trial, such party |

shall file a list of documents within thirty days of such intervention.”.

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| --- | --- | --- |
| 25 | **7.** Section 27 of the principal enactment is hereby | Amendment |
| amended by the repeal of subsection (3) of that section and | of section 27 |
| of the |
| substitution therefor of the following subsection:- |
| principal |

enactment “(3) Where the court decides that the land or any   
portion thereof shall be partitioned, the commission   
under subsection (2) of this section shall be issued to

|  |  |
| --- | --- |
| 30 | the surveyor who made the preliminary survey under section 17 unless the court decides to issue it to any |

other surveyor whose name is specified in the list   
referred to in section 73orwhere court deemed fit,

6 *Partition (Amendment)*

notwithstanding anything to the contrary in section   
73, to any other surveyor upon agreement of all parties   
who have been awarded any right by the interlocutory   
decree entered under section 26.”.

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| 5 | **8.** Section 30 of the principal enactment is hereby | | Amendment |
| 10 | amended in subsection (3) of that section by the substitution | | of section 30 |
| of the |
| for the words “after beat of tom-tom,” of the words “by way | |
| principal |
| of public announcement made using a loudspeaker,”. | |
| enactment |
| **9.** Section 36A of the principal enactment is hereby | |
| Replacement |
| repealed and the following section is substituted therefor:- | | of section |
| 36A of the |
| “Application | 36A. Any person dissatisfied with an order | principal |
| enactment |
| for leave to | made by the court under section 36 may prefer |
| appeal | an application for leave to appeal to the Court |

of Appeal in terms of subsection (2) of section

|  |  |  |
| --- | --- | --- |
| 15 | 754 of the Civil Procedure Code (Chapter 101) | Amendment |
| against such order.”. |
| **10.** Section 45A of the principal enactment is hereby |
| 20 | amended in subsection (2) of that section by the substitution | of section |
| 45A of the |
| for the words “under sections 36A and 45A” of the words |
| principal |
| “under sections 36 and 45”. |
| enactment |
| 25 | **11.** Section 48 of the principal enactment is hereby | Amendment |
| amended in subsection (1) of that section by the substitution | of section 48 |
| of the |
| for the words “a lease at will or for a period not exceeding |
| principal |
| one month.” of the words “a lease at will or for a period not |
| enactment |
| exceeding one month or the rights of a temple enforceable |

under the Service Tenures Ordinance (Chapter 467).”.

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| 30 | **12.** Section 57 of the principal enactment is hereby | | Amendment |
| amended by the repeal of paragraph (*d*) of subsection (1) of | | of section 57 |
| of the |
| that section and substitution therefor of the following | |
| principal |
| paragraph:- | |
| enactment |
| “(*d*) | the cost incurred in the display of the banner and |

the proclamation made under section 15 and the   
cost incurred in the proclamation made under   
section 17;”.

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| 5 | *Partition (Amendment)* | | 7 | Amendment |
| **13.** Section 83 of the principal enactment is hereby | | |
| amended as follows:- | | | of section 83 |
| of the |
| (1) | in the definition of the expression “land” by the | | principal |
| enactment |
| substitution for the words “of that action;” of the | | |
| words “of that action and it shall also include the | | |
| praveni pangu of a temple land as specified in | | |

section 2A;”;

(2) by the insertion immediately after the definition of the expression “partition action”, of the following 10 new definitions:-

““praveni nilakaraya” shall have the same meaning assigned to it under section 2 of the Service Tenures Ordinance (Chapter 467) to the extent it relates to a 15 temple;

“praveni pangu” shall include any land or a   
part of any land held by one or more   
persons subject to the performance of any   
service or rendering of any duties to the

|  |  |
| --- | --- |
| 20 | temple as defined in section 2 of the Buddhist Temporalities Ordinance |

(Chapter 318) in respect of which an order   
for commuted dues in lieu of services   
under section 15 of the Service Tenures

|  |  |
| --- | --- |
| 25 | Ordinance (Chapter 467) has been made and shall include the same meaning |

assigned to it in section 2 of the Service   
Tenures Ordinance (Chapter 467) to the   
extent it relates to a temple;”;

|  |  |  |
| --- | --- | --- |
| 30 | (3) | in the definition of the expression “surveyor” by |
| the substitution for the words “ the time being in |

force.” of the words “the time being in force;”;

(4) by the insertion immediately after the definition of  
 “surveyor”, of the following new definitions:-

8 *Partition (Amendment)*

““temple” shall have the same meaning   
assigned to it in section 2 of the Buddhist   
Temporalities Ordinance (Chapter 318)   
in so far as such temple is possessed of

|  |  |
| --- | --- |
| 5 | rights as specified under the Service Tenures Ordinance (Chapter 467); and |

“Trustee” shall have the same meaning   
assigned to it in section 2 of the Buddhist   
Temporalities Ordinance (Chapter 318).”.

|  |  |  |
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| 10 | **14.** The Second Schedule to the principal enactment is | Amendment |
| hereby amended in the Form prescribed under subsection | of the |
| (2) of section 15 which bears the title “ REPORT BY GRAMA | Second |
| Schedule to |
| NILADHARI” as follows:- |
| the principal |

enactment

|  |  |  |
| --- | --- | --- |
| 15 | (1) | by the substitution for the words and figures |
| “(Section 15(2))” of the words and figures |

“(subsections (2) and (3) of section 15)”; and

(2) by the substitution for the words “I have exhibited   
 the annexed notice with translations on the notice   
 board of my office” of the following:-

20 “I have exhibited the contents of the notice, including the Schedule of the land in a banner displayed in a conspicuous place in my office and in a conspicuous place in the landand orally proclaimed by way of public

|  |  |
| --- | --- |
| 25 | announcement made using a loudspeaker at such land and at any public place close to such |

land.”.

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| --- | --- |
| **15.** 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

|  |  |
| --- | --- |
| *Partition (Amendment)* | 9 |

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