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National Housing (Amendment) Act, No. 42 of 1958

Date of Assent: November 3, 1958

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AN ACT TO AMEND THE NATIONAL HOUSING
ACT, No. 37 of 1954.

[Date of Assent: November 3, 1958]

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 National Housing (Amendment) Act, No. 42 of 1958.

Short title.

2. The following new sections are hereby inserted immediately after section 45, and shall have effect as sections 45A, 45B and 45C of the National Housing Act, No. 37 of 1954, hereafter in this Act referred to as the principal Act:—

Insertion of
new sections
45A, 45B and
45C in Act
No. 37 of 1954.

" Permission of
Commissioner
required in
certain circum-
stances for
alienation of
security for a
loan granted
from the
National
Housing Fund.

45A. (1) No property which is security for a loan granted from the National Housing Fund shall, where the construction of the building or buildings for the construction of which the loan was granted is not completed, be sold, gifted, leased or otherwise alienated except with the written permission of the Commissioner and in accordance with such conditions as he may impose.

(2) Notwithstanding anything to the contrary in any other written law, any disposition of any property to which sub-section (1) applies shall, if it is in contravention of that sub-section, be invalid.

In certain
circumstances
security for a
loan from the
National
Housing
Fund not to be
seized or sold
in execution
of a decree
which is not
in favour of
the Commis-
sioner.

45B. Notwithstanding anything to the contrary in any other written law, no property which is security for a loan granted from the National Housing Fund shall, where the construction of the building or buildings for the construction of which the loan was granted is not completed, be seized or sold in execution of a decree of any Court other than a decree in favour of the Commissioner.

Security for a
loan from the
National
Housing
Fund
not to be
alienated to a
person who is
not a citizen of
Ceylon.

45C. No property which is security for a loan granted from the National Housing Fund shall be sold, gifted, leased or otherwise alienated to any person who is not a citizen of Ceylon."

Amendment of
section 48 of the
principal Act.

3. Section 48 of the principal Act, as amended by Act No. 30 of 1955, is hereby further amended by the substitution, for the word "Commissioner.", of the words "Commissioner, whether the loan or each loan was granted before, on or after the date of the publication of such Order in the *Gazette*."

Amendment of
the title of
Part VIII of
the principal
Act.

4. The title of Part VIII of the principal Act is hereby amended by the substitution, for the word "OBJECTS", of the words "OBJECTS AND OF CERTAIN PREMISES".

Insertion of
new section
49A in the
principal Act.

5. The following new section is hereby inserted immediately after section 49, and shall have effect as section 49A, of the principal Act:—

* Acquisition of
certain premises
under the Land
Acquisition Act.

49A. (1) The Minister may, by notification published in the *Gazette*, declare that it is necessary to acquire for the purposes of this section the premises referred to in any of the following cases:—

- (a) where any premises consist of a land on which a building or only part of a building has been constructed and the owner of those premises voluntarily consents in writing to the acquisition of those premises by the Crown;
- (b) where any premises consist of a land which belongs to an estate and on which there is a building constructed and occupied by a lessee of that land; for the purposes of this paragraph, "estate" means any land or group of lands which is wholly or partly cultivated and which is not less than twenty acres in extent and forms a separate and distinct property;
- (c) where any premises consist of a land on which there is a building and those premises have been sold in execution of a mortgage decree while the mortgagor was residing in those premises;

(d) where any premises consist of a land on which a building or only part of a building has been constructed and which is mortgaged as security for a loan granted from the National Housing Fund and the mortgagor has not complied with any condition or covenant set out in the mortgage bond;

(e) where any premises consist of a land on which there is a building for the construction of which a loan from the National Housing Fund has been granted and such loan or any part thereof has not been repaid by the borrower and such building is mainly used for a purpose which, in the opinion of the Minister, is not that for which it was intended, when the loan was granted, that such building should be used.

(2) Where a notification under sub-section (1) is published in the *Gazette*, the premises to which such notification relates shall, for the purposes of the Land Acquisition Act, No. 9 of 1950, be deemed to be land needed for a public purpose and may be acquired under that Act.

(3) Where any premises referred to in paragraph (c) of sub-section (1) are acquired as provided in sub-section (2), the Commissioner shall let those premises to the person referred to in that paragraph as the mortgagor of those premises on such terms as will enable him to become the owner thereof after making a certain number of monthly payments as rent.

(4) Where any premises other than those referred to in sub-section (3) are acquired as provided in sub-section (2), the Commissioner may let such premises

to any person for rent for the purpose of residence or for a commercial purpose or partly for the purpose of residence and partly for a commercial purpose, and the letting may be on such terms as will enable the tenant to become the owner of such premises after making a certain number of monthly payments as rent."

Amendment of
section 62J of
the principal
Act.

6. (1) Section 62J of the principal Act, inserted by Act No. 30 of 1955, is hereby amended as follows:—

- (a) by the repeal of sub-section (1) of that section;
- (b) by the renumbering of sub-section (2) of that section as section 62J;
- (c) by the substitution, for the expression "Any such mortgage as is referred to in sub-section (1)", of the expression "Any mortgage of land executed in favour of the appropriate authority as security for any loan"; and
- (d) by the substitution, for the word "date.", of the words "date, or in such other circumstances as may be prescribed."

(2) The following marginal note is hereby substituted for the marginal note to section 62J of the principal Act:—

"Covenant in mortgage for increasing rate of interest."

Insertion of
new section
62PP in the
principal Act.

7. The following new section is hereby inserted immediately after section 62P, and shall have effect as section 62PP, of the principal Act:—

"Appropriate authority may bid for and purchase property mortgaged to him and sold by public auction.

62PP. The appropriate authority may, at a sale by public auction of any land mortgaged to him as security for any loan, bid for and purchase that land."

Amendment of
section 63 of
the principal
Act.

8. Section 63 of the principal Act, as amended by Act No. 30 of 1955, is hereby further amended, in sub-section (2) of that section, by the substitution, in paragraph (a) of that sub-section, for the words "in respect of which", of the words "which is used solely for the purpose of residence and in respect of which".

9. Section 65 of the principal Act is hereby amended by the substitution, for all the words and figures from "issued" to "shall, if it", of the words "issued by the Commissioner under any provision of this Act or of any regulation made under this Act shall, if it".

Amendment of
section 65 of
the principal
Act.

10. The following new section is hereby inserted immediately after section 66, and shall have effect as section 66A, of the principal Act:—

Insertion of
new section 66A
in the principal
Act.

"Recovery of
sums liable to
be paid to the
Commissioner
by persons out
of the remun-
eration of such
persons.

66A. (1) Any person who is liable to pay any sum under this Act to the Commissioner may, by written notice, inform the Commissioner that he desires that such sum shall be recovered out of his remuneration from employment.

(2) Where the Commissioner receives a notice from any person under sub-section (1), he shall, if he is of the opinion that the method of recovery referred to in that sub-section is a satisfactory method of recovery, direct in writing the employer of that person to deduct and pay to the Commissioner out of the remuneration payable by that employer to that person such amount, in such manner, and at such intervals, as may be specified in the direction.

(3) Every employer who receives a direction under sub-section (2) shall forthwith comply with that direction.

(4) Where any person in respect of whom a direction under sub-section (2) is in force is about to leave, or leaves, the employment of his employer, the employer shall forthwith—

(a) if the remuneration due to such person exceeds the sum liable to be paid under such direction to the Commissioner, deduct that sum from such remuneration and pay that sum to the Commissioner; and

(b) if such remuneration does not exceed that sum, pay the amount of such remuneration to the Commissioner.

(5) Where for any reason an employer of any person is unable to comply with a direction given under sub-section (2), he shall inform the Commissioner forthwith in writing of his inability to do so and the reason therefor.

(6) Every employer who deducts an amount from the remuneration of any person by virtue of the preceding provisions of this section shall, on written request made by such person, issue to him a certificate to the effect that such deduction has been made.

(7) Every employer who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and such imprisonment.

(8) Where any offence under the preceding provisions of this section is committed by a body of persons, then—

(a) if the body of persons is a body corporate, every director and officer of that body corporate, and

(b) if the body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of such offence:

Provided that no such director, officer or partner shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(9) No prosecution for an offence under this section shall be instituted except by or with the written sanction of the Commissioner.

(10) Nothing in the preceding provisions of this section shall affect, or be deemed or construed to affect, the right of the Commissioner to recover, in any other manner or by any other procedure applicable in that behalf, any sum which is liable to be paid to him under this Act and in respect of which he has given a direction under sub-section (2). ”.

11. Section 67A of the principal Act, inserted by Act No. 30 of 1955, is hereby amended as follows:—

Amendment of
section 67A of
the principal
Act.

(1) in sub-section (1) of that section—

(a) by the substitution, for the words
“ before entering ”, of the words
“ before, on, or after entering ”;
and

(b) in paragraph (a) of that sub-section,
by the addition, at the end of that
paragraph, of the following:—

“ (iv) by the Minister; or

(v) at a meeting of the Cabinet
by the Prime Minister or any
other Minister presiding at
that meeting; or ”; and

(2) by the addition, immediately after sub-section (2) of that section, of the following new sub-section:—

“ (3) Every officer or servant who fails to sign the declaration, or to observe the pledge, referred to in sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and such imprisonment. ”.

Validation of
certain rates
of interest.

12. Where, before the commencement of this Act, interest in respect of any loan granted by the Commissioner for National Housing under the principal Act has been charged at a rate different from such of the rates determined by the Minister under regulation 9 of the National Housing (No. 1) Regulations, 1954, as is applicable to such loan, the interest so charged shall, notwithstanding such difference, be deemed to have been validly charged.