

Prescription (Special provisions) Act No. 05 of 2016

The Prescription (Special Provisions) Act No. 05 of 2016 was brought into operation in April 2016 to provide special legal provisions for persons who were unable to institute court proceedings to recover their immovable property including land, due to the terrorist activities in Sri Lanka during the period from 1 May 1983 to 18 May 2009.

According to the Act, if any person who had a valid legal claim (as rightful owner of the property) to any immovable property including land was a 'disadvantaged person' (the Act defines a 'disadvantaged person' as a person who was unable to pursue his rights in a court in which he was by law enabled to pursue such rights, as a result of the circumstances which prevailed due to the activities of any militant terrorist group during the period commencing on May 1st, 1983 and ending on May 18th, 2009) such a person could claim his/her property despite it being possessed or occupied by another person who claims ownership through prescription.

Section 4 of the Act provides that a 'disadvantaged person' is entitled to benefit from the Act within two years after the date of operation. As the date of operation was 26 April 2016 (being the date of the Speaker's certification) the said stipulated time period expires on 26 April 2018.

Therefore, if any person is interested in reclaiming his/her/their property through the provisions of this Act, such claim ought to be brought before 26 April 2018.

Trilingual electronic copies of the Act are available on the official website of the Ministry of Justice at <http://moj.gov.lk/> Members of the Bar Association of Sri Lanka too are notified of the contents of this Act. If a person wishes to pursue legal action in terms of this Act, he/she could seek legal advice.



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

**PRESCRIPTION (SPECIAL PROVISIONS)
ACT, No. 5 OF 2016**

[Certified on 26th April, 2016]

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Prescription (Special Provisions)
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L.D.—O. 21/2010.

AN ACT TO ENABLE SPECIAL LEGAL PROVISIONS TO BE MADE IN RESPECT
OF PERSONS WHO WERE UNABLE TO PURSUE THEIR RIGHTS IN COURT
FOR THE RECOVERY OF ANY IMMOVABLE PROPERTY INCLUDING LAND
DUE TO THE ACTIVITIES OF ANY MILITANT TERRORIST GROUP WHICH
PREVAILED IN SRI LANKA AND FOR MATTERS CONNECTED THEREWITH
OR INCIDENTAL THERETO

WHEREAS certain persons have been disadvantaged and
therefore unable to pursue their rights in court for the
recovery of any immovable property including land due to
the activities of any militant terrorist group during the period
commencing on May 1st, 1983 and ending on May 18th,
2009:

Preamble.

AND WHEREAS it has now become necessary to enact
special legal provisions to enable such persons to pursue
their rights in court.

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

1. This Act may be cited as the Prescription (Special
Provisions) Act, No. 5 of 2016.

Short title.

2. (1) If at the time, when the right of any person to sue
for the recovery of any immovable property including land
shall have accrued, such person was a disadvantaged person,
possession of the aforesaid immovable property including
land by any other person shall not be taken as giving such
other person any entitlement specified in section 3 of the
Prescription Ordinance (Chapter 68) to such immovable
property including land by virtue of such possession, so
long as the first mentioned person remained a disadvantaged
person.

Right to sue for
immovable
property
including land
of a
disadvantaged
person.

Illustration

‘A’ is a disadvantaged person at the time ‘B’ commences to possess ‘A’s land – Prescription will not begin to run against ‘A’ as long as ‘A’ continued to be a disadvantaged person.

(2) Notwithstanding anything to the contrary in section 13 of the Prescription Ordinance (Chapter 68), the adverse and undisturbed possession for thirty years of any immovable property including land by any person claiming the same, or by those under whom he claims, shall not be taken as conclusive proof of title in the manner provided for by section 3 of the Prescription Ordinance (Chapter 68), where the person against whom the adverse and undisturbed possession is being claimed was a disadvantaged person.

Avoidance of doubt.

3. For the avoidance of doubt, it is hereby declared that if a disadvantaged person dies, the period during which he was so disadvantaged shall inure to the benefit of his heir or heirs and accordingly such heir or heirs shall be entitled to the benefit granted to a disadvantaged person under section 2 of this Act.

A disadvantaged person to be entitled to benefit from this Act within two years after the date of operation of this Act.

4. A disadvantaged person who was unable to pursue his rights for the recovery of any immovable property including land, shall be entitled to institute an action to avail himself of the benefits conferred by this Act within two years after the coming into operation of this Act.

Provisions of the Act not to apply to State land.

5. The provisions of this Act shall not apply to or in respect of any land which has been granted under the provisions of the Land Development Ordinance (Chapter 464), the Land Grants (Special Provisions) Act, No. 43 of 1979, or the State Lands Ordinance (Chapter 454).

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6. In this Act— Interpretation.

“activities of any militant terrorist group” means any act which is defined as a “terrorist act” in the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005, as amended by Act, No. 3 of 2013;

“disadvantaged person” means a person who was unable to pursue his rights in a court in which he was by law enabled to pursue such rights, as a result of the circumstances which prevailed due to the activities of any militant terrorist group during the period commencing on May 1st, 1983 and ending on May 18th, 2009.

7. 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.

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