

CHAPTER 564

WELLS AND PITS

*Ordinances* AN ORDINANCE TO PROVIDE AGAINST ACCIDENTS ARISING BY REASON OF WELLS AND  
 Nos.27of 1884, ARTIFICIAL PITS BEING INSUFFICIENTLY FENCED ROUND OR OTHERWISE  
 11 of 1921, PROTECTED-  
 26 of 1934,  
 61 of 1939,  
 3 of 1946.

[29th November, 1884.]

Short title. **1.** This Ordinance may be cited as the Wells and Pits Ordinance.

Gazette, and any such rule or rules shall come into operation, or shall stand abolished, as the Ccise may be, on or from such date as shall be fixed by the Minister.

Interpretation. **2.** The expression " occupier " means the person in the actual occupation of the land on which any well or artificial pit may be, whether such person is or is not the proprietor of the land, and if there be no one in actual occupation of such land, then the proprietor of such land if in Sri Lanka, and if absent from Sri Lanka, then the duly authorized agent or attorney of such proprietor.

**7.** The purposes for which rules may be made as provided by sections 5 and 6 of this Ordinance are the following :—

Purposes for which rules may be made.

- (a) the nature of the fencing to be erected round any well or artificial pit;
- (b) the nature and extent of any repairs which may at any time be required to be made to such fencings ;
- (c) the time within which any such fencing or repairs is or are respectively to be erected or carried out.

Wells and pits to be fenced. **3.** The occupier of any land within Sri Lanka on which there may now or at any time hereafter be any well or artificial pit shall, whether he shall have received any such notice as is provided for in section 9 of this Ordinance or not, and whether the said well or artificial pit be in use or abandoned, cause the said well or artificial pit to be securely fenced to the height of two and a half feet above the level of the ground, unless any such well or atificial pit shall be so securely fenced already.

**8.** The Government Agent or Assistant Government Agent of any district may appoint one or more persons to be inspectors of wells and pits within any area in such district, and such persons when so appointed shall have authority at all times to proceed to and inspect any well or pit within the respective areas for which they have been appointed, and every such inspector shall be deemed a public servant within the meaning of that term in the Penal Code.

Government Agent or Assistant Government Agent may appoint inspectors of wells and pits within their respective districts.

Fences to be efficiently maintained. **4.** All such fencing shall be maintained in an efficient state by the occupier of the premises for the time being.

Minister may make rules. **5.** It shall be lawful for the Minister, from time to time, to make any rule or rules for each of the purposes hereinafter mentioned, and from time to time to add to, alter, amend, or abolish any rule or rules so made.

**9.** Should any such inspector at any time find that in his opinion any such well or pit is likely to be dangerous to life or limb, he shall in the first instance report such fact to the Government Agent or Assistant Government Agent of the district

Inspector may give notice requiring that wells and pits should be fenced and fences repaired.

Rules made by Minister may be altered or amended **6.** Any rule or rules so made, added to, altered, or amended shall be published, or if abolished notice thereof shall be given in the

wherein such well or pit may be, and if such Government Agent or Assistant Government Agent shall after inquiry concur in the opinion of the inspector and notify his concurrence to the inspector, the inspector shall thereupon give notice in writing to the occupier of the land on which such well or pit may be to duly fence it within such time as such inspector may deem reasonable ; and if in the opinion of such inspector any repairs are required to the fencing of any such well or pit, he shall give a similar notice to have such repairs completed by or before a certain date.

seizure and of the sale hereinafter mentioned, shall be sold by public auction by the Government Agent or Assistant Government Agent of the district in which such land is situated, who is hereby authorized to seize and sell the same:

Provided that should any balance remain in the hands of the Government Agent or Assistant Government Agent after such expenses are satisfied, such balance may be paid to the late proprietor of the land on which such well or artificial pit may be, if claimed within two years from the time of the sale thereof.

Occupiers failing to fence or repair when required, to be liable to costs of the same being carried out.

10. Should any occupier upon whom any such notice shall have been served (and the posting of a notice to the usual place of abode of such occupier shall be prima facie evidence that such notice reached such occupier) fail to erect such fencing or to make such repairs as shall be required by such notice, the same may be ordered to be done by the inspector, and the costs thereof and in connexion therewith shall be recoverable from the occupier who was called upon to carry out the same, and who shall, whether called upon to pay any such costs or not, be nevertheless liable to such penalty as may be prescribed for the breach of any provision of, or any rule made under, this Ordinance.

12. Whenever any immovable property is purchased under the provisions of this Ordinance, it shall be lawful for the Government Agent or Assistant Government Agent selling any such property under this Ordinance to bid for and purchase the same on behalf of the State. A certificate substantially in the form A or B in the Schedule, as the case may be, signed by the Government Agent or Assistant Government Agent shall vest the property sold absolutely in the purchaser, or in the State if purchased on behalf of the State, free from all incumbrances, and such certificate shall be received in the Courts of Justice of Sri Lanka as conclusive evidence of the title of the purchaser to such immovable property.

State may purchase land sold under this Ordinance.

Procedure when proprietor cannot be found.

11. Should it not be possible to ascertain who is the proprietor of any land whereon a well or artificial pit may be required to be fenced, or the fencing thereof may be required to be repaired, it shall be lawful for an inspector under this Ordinance to cause the necessary fencing or repairs to be made, or to cause the well or artificial pit to be filled in, and by a notice to be published not less than three times in one Sinhala and in one Tamil newspaper in Sri Lanka, with an interval of one week at least between each publication, to declare that unless the costs of such fencing or repairs or filling in be paid within a certain time by the proprietor of such land, which time shall be specified in such written notice, that the land on which such well or artificial pit may be will be seized, and such portion thereof as it may be necessary to sell to cover such costs, together with the costs of such

\*13. Every occupier who shall commit a breach of any obligation imposed by this Ordinance, or a breach of any rule proclaimed under the provisions of this Ordinance, shall be deemed guilty of an offence punishable by a fine which may extend to fifty rupees, or by imprisonment, with or without hard labour, which may extend to three months.

Penalties for breaches of Ordinance or rules framed under it.

14. Any occupier who feels aggrieved with any requisition made upon him to fence or repair the fencing of any pit or well under this Ordinance may, within fourteen days of receiving such notice, appeal to the Minister, who shall determine whether such fencing or repairs should or should not be carried out.

Occupier who feels aggrieved with any requisition may appeal to the Minister.

\* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

Occupier may deduct cost of fence or repair thereof from rent, if any due to proprietor, or may sue proprietor for amount.

15. The cost of erecting any such fencing or carrying out any such repairs as is or are referred to in this Ordinance shall be borne in the first instance by the occupier, who shall be entitled to deduct the same from any rent that may be due from him to the proprietor of the land whereon such fencing or repairs is or are carried out, or to sue such proprietor for the same as money paid to his use.

Mayor or Chairman of that Council to the exclusion of the Government Agent or the Assistant Government Agent of the district of which the area forms a part.

(2) In the application of section 12 of this Ordinance to any property situated within the administrative limits of any Municipal Council or Urban Council or Town Council, all references in that section to the State shall be construed as references to that Council.

Mayor or Chairman of Municipal Councils and Urban or Town Councils to exercise powers of Government Agent under this Ordinance.

16. (1) All the powers of a Government Agent or of an Assistant Government Agent under this Ordinance shall, in any area within the administrative limits of any Municipal Council constituted under the Municipal Councils Ordinance, or any other written law, or of any Urban Council or Town Council constituted under the Urban Councils Ordinance or the Town Councils Ordinance, and in respect of all property situated therein, be exercised by the

17. Nothing in this Ordinance shall affect the provisions of section 89 of the Police Ordinance, and any prosecutions under that section may take place as if this Ordinance had not been passed :

This Ordinance not to affect section 89 of the Police Ordinance.

Provided that no person shall be convicted under such section and under this Ordinance on the same facts.

SCHEDULE

[Section 12.]

FORM A

Whereas the sum of rupees . . . . . was due to the State for the costs of fencing (or repairs to fencing, or the filling in) of the (wells or pits, as the case may be) on the land . . . . . hereinafter more particularly mentioned and described, and a further sum of rupees . . . . . was likewise due for costs in connexion with the same, which said sums have not been paid by the person liable therefor :

And whereas the said land was seized in conformity with the Wells and Pits Ordinance, and sold also in conformity therewith on the . . . . . day of . . . . . 19 . . . . . and the same was purchased by {here insert name of purchaser} for the sum of rupees . . . . . which has been duly paid by the said . . . . . :

Now know ye that I . . . . . (Government Agent, or Assistant Government Agent, as the case may be), by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (here describe it properly with special accuracy as to boundaries), has been sold to and purchased by the said . . . . . for the sum of rupees . . . . . , which said sum has been duly paid as afore'said, and that the said premises are and shall henceforward be vested in the said purchaser, his heirs, executors, administrators, and assigns, free of all incumbrances.

Given under my hand at . . . . . this . . . . . day of . . . . . 19 . . . . .

(Signed) . . . . .  
Government Agent.  
(Or Assistant Government Agent.)

[Section 12.]

FORM B

Whereas the sum of rupees . . . . . was due to the State for the costs of fencing (or repairs to fencing, or the filling in) of the (wells or pits, as the case may be) on the land . . . . . hereinafter more particularly mentioned and described, and a further sum of rupees . . . . . was likewise due for costs incurred in the seizure and sale of the said land :

And whereas the said sums have not been paid by the person liable therefor, and whereas the aforesaid land was seized in conformity with the Wells and Pits Ordinance, and sold also in conformity therewith on the . . . . . day of . . . . . 19 . . . . . and the same was purchased by . . . . . for and on

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behalf of the State for the sum of rupees ..... which has been duly credited to the State in (part *or* full, *as the case may be*) satisfaction of the costs of (fencing, *or* repairs to fencing, *or* the filling in) of the (wells *or* pits, *as the case may be*) aforesaid, and of the seizure and sale of the said land :

Now know ye that I, ..... (Government Agent *or* Assistant Government Agent, *as the case may be*), by virtue and in exercise of (he power vested in me in this behalf by the said Ordinance, do hereby certify that the following properly, to wit;— (*here describe the property with special accuracy as in boundaries*), has been sold to and purchased by the said ..... for and on behalf of the State for the sum of rupees ..... whicK said sum has been duly credited to the State, and that the said premises are and shall henceforward be vested in the State, free of all incumbrances.

Given under my hand at ..... this ..... day of ..... 19. ....

(Signed).....  
Government Agent.  
(Or Assistant Government Agent.)