

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

"INSTITUTE OF REAL ESTATE PROFESSIONALS BILL"

SC (SD) No. 30/2025 **Petitioners:** 1. The Institute of Valuers of Sri Lanka

2. Dr. J.N. Hettiarachchi,
President,
Institute of Valuers of Sri Lanka

3. A.P.W. Manamperi,
Honourary General Secretary,
Institute of Valuers of Sri Lanka

Counsel: Rajeev Amarasuriya with Yohani Yogarajah
and Subani Hewapathirana

SC (SD) No. 31/2025 **Petitioner:** The Institute of Valuers of Sri Lanka

Counsel: Rasika Dissanayake with Shabeer Hussain

**Intervenient
Petitioner:** Institute of Real Estate and
Valuation

Counsel: Harith De Mel with Vihitha Lekamge

Respondents: Hon. Bimal Ratnayake,
Minister of Transport, Highways and Urban Development

Hon. Attorney General

Counsel: Manohara Jayasinghe, Deputy Solicitor General with Medhaka Fernando,
State Counsel

BEFORE:	Arjuna Obeyesekere	Judge of the Supreme Court
	Priyantha Fernando	Judge of the Supreme Court
	Menaka Wijesundera	Judge of the Supreme Court

- [1] The Court assembled for hearing at 10.00 am on 19th December 2025.
- [2] A Bill in its long title referred to as "*An Act to provide for the establishment of the Institute of Real Estate Professionals, Sri Lanka which shall be responsible for the maintenance of professional standards and discipline of members of the institute; for the protection and promotion of the interest of the public in relation to the profession of real estate; and for matters connected therewith or incidental thereto.*", and in its short title referred to as the "Institute of Real Estate Professionals, Sri Lanka" [the Bill] was published as a Supplement in Part II of the Government Gazette of 26th September 2025. It was presented in Parliament by the Hon. Minister of Transport, Highways and Urban Development and was placed on the Order Paper of Parliament of 5th December 2025.
- [3] Three Petitioners have invoked the jurisdiction of this Court in terms of Article 121(1) of the Constitution by filing the above numbered petitions on 18th December 2025. The Petitioners have prayed *inter alia* that this Court declare that the Bill in its entirety and Clause 3 of the Bill in particular, is in violation of Articles 3, 4, 12(1), 12(2), 13(6), 14(1)(g) and 83 of the Constitution and for a determination that in addition to being passed with not less than two-thirds of the whole number of Members of Parliament (including those not present) voting in its favour [the special majority], the Bill must be approved by the People at a Referendum.
- [4] Upon receipt of the said petitions, the Registrar of this Court, acting in terms of Article 134(1) of the Constitution issued notice on the Attorney General.
- [5] This Court heard extensive submissions from the learned Counsel for the Petitioners, the learned Counsel for the Intervenient – Petitioner and the learned Deputy Solicitor General. All parties were thereafter afforded the opportunity of filing written submissions.

Jurisdiction of Court

- [6] This Court is exercising the jurisdiction vested in it in terms of Article 120 of the Constitution which requires this Court to determine whether the Bill in its entirety is, or any of its provisions are inconsistent with the Constitution. Article 123(1) provides further that, *“The determination of the Supreme Court shall be accompanied by the reasons there for and shall state whether the Bill or any provision thereof is inconsistent with the Constitution and if so, which provision or provisions of the Constitution.”* Once a primary determination is made in terms of Article 123(1), the consequential determinations the Court is required to make are specified in Article 123(2).
- [7] It must be noted that in terms of Article 83, the requirement for a bill or a provision thereof to be passed with the special majority of Parliament and to be approved by the People at a Referendum will arise only where such bill or a provision thereof seeks to amend, repeal or replace Articles 1, 2, 3, 6, 7, 8, 9, 10, 11, 30(2), 62(2) or 83 itself, of the Constitution.

The Bill

- [8] According to the Preamble, a company by the name of “Institute of Real Estate and Valuation” had been registered under the Companies Act, No. 7 of 2007, as amended for the purpose of effectually carrying out its objects and transacting all matters connected therewith in accordance with its Memorandum and Articles of Association. The said Company had thereafter sought to be established as an institute by an Act of Parliament and approval therefor had been granted by the Cabinet of Ministers by its decision dated 23rd October 2023.
- [9] The Bill contains 31 clauses. While Clause 2 provides for the establishment of the “Institute of Real Estate Professionals, Sri Lanka” [the Institute] as a body corporate, Clauses 3 and 4 contain the objects of the Institute, and the powers, duties and functions of the Institute, respectively. Clauses 5 – 8 and 10 sets out the different categories of members, their qualifications, the period of membership, disqualification of a member, the procedure for suspending a member and the maintenance of a register of members. In terms of Clause 9, a corporate member

shall be entitled to take and use the title “A Member of the Institute of Real Estate Professionals Sri Lanka” and to use the acronym “FIREPSL” after his/her name to indicate that he/she is a Fellow Member of the Institute and to use the acronym “MIREPSL” after his/her name to indicate that he/she is a Member of the Institute. Clauses 11 – 19 provide for the establishment of the Council of the Institute which shall be responsible for the administration and management of the Institute and for the exercise, performance and discharge of the powers, duties and functions of the Institute. Provisions relating to the seal of the Institute, the holding of meetings of the Institute, the Fund, Staff and auditing of accounts of the Institute are found in Clauses 20 – 25. While in terms of Clause 26, the Institute shall be deemed to be a scheduled institution within the meaning of the Anti-Corruption Act, No. 9 of 2023, Clause 27 provides for a Code of Professional Conduct for the members of the Institute, Clause 28 for the Rules of the Institute and Clause 29 for transitional provisions.

- [10] Thus, the primary purpose of the Bill is twofold. The first is to incorporate by an Act of Parliament an already existing company. The second is to enable persons who are qualified in the field of real estate management and who have academic qualifications and professional experience in such field to be a member of a body recognized by the legislature [i.e. the Institute] and to enable them to use the titles set out in Clause 9 against their name. It is important to note that the Bill does not seek to confer any exclusive status on the Institute with regard to professionals in the real estate industry, nor does it seek to confer the Institute with the power to regulate or license such professionals.

The Petitioners and their regulatory role

- [11] The 1st – 3rd Petitioners in SD/30/2025 are the Institute of Valuers of Sri Lanka [IVSL], established by the Institute of Valuers of Sri Lanka Law, No. 33 of 1975, as amended by Act No. 9 of 2019 [the IV Law], its President and Honourary General Secretary, respectively. The IVSL is also the Petitioner in SD/31/2025.
- [12] Whilst submitting that badly drafted laws such as the current Bill can create confusion and eventually lead to the lack of professionalism that is required in the real estate industry and that due consideration has not been given to the

preservation of the integrity of the profession of valuation, Mr. Rajeev Amarasuriya and Mr. Rasika Dissanayake, the learned Counsel for the Petitioners presented two principal arguments in support of their position that the Bill as a whole and Clause 3 in particular, is inconsistent with the provisions of the Constitution.

- [13] The first argument is based on the premise that among the general objects of the IVSL found in Section 4 of the IV Law are the promotion and fostering of the study of the science of valuation and the **regulation** of the general conduct and the professional activities of persons practicing as valuers in order to ensure the maintenance of high standards in such profession. It was their contention that the IVSL is the sole and apex body regulating and upholding the profession of valuation in Sri Lanka and that no other person can engage in the practice of valuation unless he or she is a member of the IVSL.
- [14] The learned Counsel for the Petitioners submitted further that the objects of the Institute found in Clause 3(b)(i), 3(b)(iii), 3(b)(v), 3(h) and 3(j) of the Bill enables the Institute to engage in the appraisal of all business related to real estate planning etc. It was their submission that “appraisal” involves valuation and hence, conferring the Institute with the power to engage in valuation amounts to an encroachment upon and an overlap with the objects and powers of the IVSL and amounts to a violation of Articles 12(1) and 14(1)(g) of the Constitution.
- [15] The Hansard of 3rd July 1975 bears out the fact that during the second reading of the Institute of Valuation bill, concern had been expressed whether it was mandatory for a valuer to become a member of the proposed institute in order to practice as a valuer. Responding to this concern, Hon. Dr. N.M. Perera, the then Minister of Finance who had moved the bill had stated as follows:

“What are we trying to do? We are setting up an institution as a professional organisation. They are people who will look after themselves. They will form their rules. They will have all their code of conduct for their own members. Now, a valuer who does not want to come in can practice. There is nothing to prevent him from practicing. He can continue his job. Any number of brokers, auctioneers and valuers in Hulftsdorp can continue to function but if they want to come in, then

rules will be framed and each person will have to make his application. If "X" from Hulftsdorp wants to apply we will accept his application but we have to see that he has the necessary experience and the capacity to do the work." [2061 - 2062]

[16] Hon. Bernard Soysa, Member of Parliament expressed similar views when he stated as follows:

"My Hon. Friend from Colombo North and others who saw me on this matter were concerned with this question of whether this Bill would rob a number of persons practicing as valuers today of earning a livelihood as a result of the provisions being limited to persons becoming members of the Institute. Anyone reading this Bill with care will see that there is no such intention. Members of the institute are classified under four separate grades but anyone can be a valuer. There is nothing in this Bill to prevent a person practicing as a valuer unless he has membership of the institute. ... It is not stated anywhere in this Bill that to practice as a valuer one has to be a member of any particular category in this institute." [2055 - 2057]

[17] Thus, during the second reading of the bill, the intention of the legislature was not to create a licensing or regulatory authority in respect of the profession of valuation. Although in terms of Section 4(i) of the IV Law, the IVSL has among its objects the regulation of the general conduct and the professional activities of persons practicing as valuers in order to ensure the maintenance of high standards in such profession, the IV Law does not contain any provisions that would enable the IVSL to achieve such objective and more importantly the IV Law does not make it mandatory for any person who wishes to engage in the practice of valuation to obtain from the IVSL a license to do so or to register with the IVSL. Thus, the IV Law does not seek to bring all persons engaged in the practice of valuation within the framework of the IVSL.

[18] This is in direct contrast with the following laws:

[a] Engineering Council of Sri Lanka Act, No. 4 of 2017, which provides in:

- [i] Section 12 that, *"The Council shall be charged with the function of registering engineering practitioners holding such qualifications as set out in the Schedule A hereto"*; and
- [ii] Section 14(1) that, *"No engineering practitioner shall engage in the practice of engineering profession unless such engineering practitioner is registered under Section 15 or 18..."*, with Section 14(2) providing that any engineering practitioner who contravenes the provisions of Section 14(1) shall be guilty of an offence.

[b] The Medical Ordinance No. 26 of 1927, as amended which provides in:

- [i] Section 20 that the Registrar shall maintain a register of medical practitioners qualified to practice medicine and surgery in Sri Lanka;
- [ii] Section 29 that it is mandatory for a person to make an application to the Registrar for registration as a Medical Practitioner; and
- [iii] Section 38 that, *"No person, not being a medical practitioner, shall- (a) take or use any name, title, or addition implying a qualification to practice medicine or surgery by modern scientific methods, or implying or tending to the belief that he is a medical practitioner registered under this Ordinance, or by any act or omission intentionally cause or permit any person to believe that he is a registered medical practitioner, and to act upon such belief; or (b) except as mentioned in section 41, practice for gain, or profess to practice, or publish his name as practicing medicine or surgery."*

[c] The Institute of Architects Law, No. 1 of 1976, as amended which provides in:

- [i] Section 4A that, *"no person shall, after the expiration of one year from the coming into force of this section, take and use the title of Chartered Architect, Architect or Architectural Licentiate unless he is duly registered as a Chartered Architect, Architect or Architectural Licentiate, in accordance with the provisions of this Law"*; and

- [ii] Section 8E in terms of which no person shall be registered as an architect unless he has obtained the educational qualifications listed therein.
- [d] Survey Act, No. 17 of 2002 which provides in Section 37 that it shall be the function of the Land Survey Council to register such surveyors where the Council is satisfied that such surveyors possess the prescribed qualification and experience and have the ability and skill to practice land surveying, to issue all registered surveyors with an annual practicing license and that it shall also be the function of the Council to maintain standards and procedures relating to land surveying and professional discipline among persons engaged in land surveying.

[19] In the above circumstances, we are of the view that:

- [a] The IVSL is a professional body of valuers who possess the relevant educational qualifications and the professional experience in valuation;
- [b] The IVSL is not a regulatory or licensing body for the profession of valuers, even though the IV Law contain six provisions that provide for State involvement including the power of the Minister to appoint two persons to the Council of the IVSL and to make regulations.

The policy objective of the Cabinet of Ministers

[20] The second argument of the learned Counsel for the Petitioners is that even though the policy of the Cabinet of Ministers as evidenced by the several Cabinet Memoranda relating to this Bill is that the powers of the Institute should not overlap with the powers of the IVSL and thus, the subject of valuation must be kept out of the objects of the Institute, the Bill goes beyond the stated policy objective by providing for “appraisal” as one of the objects of the Institute, thus enabling the members of the Institute to engage in the practice of valuation. It was submitted therefore that the Bill is irrational and arbitrary, and is violative of Article 12(1) of the Constitution.

[21] We must state that this argument of the Petitioners is reflected in (a) the observations of the Minister of Finance on the Cabinet Memorandum dated 15th May 2017, (b) the Cabinet Memorandum dated 5th October 2023, (c) the observations of the Minister of Justice on the said Cabinet Memorandum, (d) the Cabinet Memorandum dated 8th July 2025, and the Cabinet decisions relevant thereto. The intention of the Cabinet of Ministers therefore was to limit the activity of the Institute and its members to the real estate industry.

[22] It was submitted by Mr. Amarasuriya that the following provisions of the Bill, found in the objects clause, would enable a member of the Institute to engage in the practice of valuation:

Clause 3(b) -

"To promote and develop the principles, techniques, standards and practices relating to real estate industry in Sri Lanka including

- (i) all businesses related to real estate planning, investment, development, management, supervision, monitoring, **appraisal** and evaluation of real estate projects to bring the highest and best use of land and properties in Sri Lanka;*
- (iii) providing professional opinion and advisory services to the public and private sector, any other agency or individual when such a service on real estate planning, investment, development, asset management and appraisal of all types of landed property, fixtures, fittings, equipment, plant and machinery and interests therein are required and to act as an arbitrator on matters referred to above;*
- (v) subject to applicable written law, appraisal of environmental impact, water and air rights, mines and minerals, biological assets and heritage properties from real estate planning and development point of view;"*

Clause 3(h) -

"To conduct examinations qualifying for membership of the Institute to assess the competence of persons engaged in matters, activities and practices related to real

estate and its appraisals specified in paragraph (a) and to award certificates of competences;"

Clause 3(j) –

"To offer capacity building facilities for the members of public or private institutions or any interested individual on real estate development, management and appraisal."

- [23] Thus, although the Bill does not use the word “valuation”, the argument of the Petitioners was that by the use of the word “appraisal” of real estate in the above manner, which as admitted by Mr. Manohara Jayasinghe, the learned Deputy Solicitor General and Mr. Harith De Mel, the learned Counsel for the Intervenient Petitioner includes valuation, valuation has been brought within the objects of the Institute.
- [24] Even though the Institute may have “appraisal” of real estate as one of its objects, that by itself would not enable its members to engage in the appraisal of real estate. Thus, the issue to be decided is whether the Bill has gone outside the policy objective of the Cabinet of Ministers by conferring upon the members of the Institute the right to engage in the practice of valuation.
- [25] The phrase, “practice as a valuer” has incidentally been defined in Section 25 of the IV Law to mean as follows:

“For the purposes of this Law, a person shall be deemed to practice as a valuer, if, in consideration of remuneration received or to be received whether by himself or in partnership with any other person he –

 - (a) *engages himself in the practice of valuation of immovable property or holds himself out to the public as a valuer of immovable property; or*
 - (b) *renders professional service or assistance in respect of matters of principle or detail relating to valuation of immovable property; or*
 - (c) *certifies a report on the value of any immovable property; or*

(d) *renders any other service which may be prescribed by the Council to be service constituting practice as a valuer.”*

[26] In terms of Clause 5 of the Bill, the members of the Institute shall consist of Corporate Members and Non-Corporate Members, with the former category being further classified as Fellow Members or Members and the latter consisting of Associates, Students and Honorary Members.

[27] The qualifications and experience required to apply for and obtain the above categories of membership are set out in the Schedule to the Bill and are listed below:

Honorary Member	Persons who have rendered outstanding service contribution to the real estate industry and profession in Sri Lanka
Student Member	Undergraduate of Bachelor of Science in Estate Management and Valuation (Special) Degree or any other equivalent degree recognized by the University Grants Commission, or being a registered student of Post Graduate Diploma or Post Graduate Degree (Masters) in Real Estate Management and Valuation
Associate Member	Bachelor of Science in Estate Management and Valuation (Special) Degree or any other equivalent degree recognized by the University Grants Commission and minimum one year experience in the real estate sector after obtaining the degree, or a Post Graduate Diploma or a Post Graduate Degree (Masters) in Real Estate Management and Valuation and minimum two years post qualification experience in the real estate sector and shall pass the viva voce examination for Associate Membership conducted by the Institute
Member	Associate Membership and two years work experience in the real estate field after obtaining the Associate Membership and

	shall pass the examination or viva voce for corporate membership conducted by the Institute
Fellow Members	Corporate Membership and seven years work experience in the real estate field after obtaining the Corporate Membership

[28] Although the Schedule sets out five different categories of members, the Bill is silent with regard to the powers of each category of members or the areas of practice that they can engage in. It is important that the powers of the members are clearly distinguished for the reason that it is only an Associate Member, Member and a Fellow Member who shall have an academic qualification in estate management and valuation and have the expertise to engage in the real estate sector.

[29] The Bill only seeks to create a professional body of members and does not confer upon the members a specific right to engage in the practice of real estate management and/or valuation. The only benefit that a member of the Institute would receive in terms of the Bill is an embellishment in the form of an acronym of the title 'FIREPSL' or 'MIREPSL' against their name. Having said so, we must reiterate that the profession of valuers has so far not been regulated unlike in the case of surveyors, engineers, architects and medical practitioners, and even though it may appear by looking at the objects clause that the Bill has gone beyond the policy objective of the Cabinet of Ministers, a closer examination would reveal that the members of the Institute have not been conferred with the right to engage in the practice of valuation by virtue of being members of the Institute, thus demonstrating that the Bill is within the stated objective of the Cabinet of Ministers.

Conclusion

[30] In the above circumstances, we are of the opinion that the Bill as a whole or any provision thereof is not inconsistent with the Constitution and may be passed by the simple majority of Parliament.

[31] We place on record our appreciation of the assistance given by the learned Deputy Solicitor General who represented the Hon. Attorney General, the learned Counsel for the Petitioners and the learned Counsel for the Intervenient Petitioner.

JUSTICE ARJUNA OBEYESEKERE
JUDGE OF THE SUPREME COURT

JUSTICE PRIYANCHA FERNANDO
JUDGE OF THE SUPREME COURT

JUSTICE MENAKA WIJESUNDERA
JUDGE OF THE SUPREME COURT