

Forest (Amendment) Act, No. 23 of 1995

AN ACT TO AMEND THE FOREST ORDINANCE

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Short title

1. This Act may be cited as the Forest (Amendment) Act, No. 23 of 1995.

Replacement of the long title to Chapter 451

2. The long title of the Forest Ordinance (hereinafter referred to as the principal enactment is hereby repealed and the following long title substituted therefor :-"AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE CONSERVATION , PROTECTION , AND MANAGEMENT OF FOREST AND FOREST RESOURCES : FOR THE CONTROL OF FELLING . AND TRANSPORT OF TIMBER AND FOREST AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO."

Amendments of section 2 of the principal enactment .

3. Section 2 of the principal enactment is hereby amended by the repeal of all the words from " and in the event of judgment being entered " to "the date of such decree."

Insertion of new section 3A, 3B, 3C and 3D in the principal enactment.

4. The following new sections are hereby inserted immediately after section 3 and shall have effect as sections 3A, 3B , 3C, 3D of the principal ' enactment : -

" Declaration of Conservation of forests. 3A

(1) The Minister may be Order publish in the Gazette declare that any specified area of state land or the whole or any specified part of any reserved forest which has unique ecosystems ,

genetic resource or is the habitat of rare and endemic species of flora, fauna and micro organism and of threatened species, or which needs to be preserved in order to achieve an ecological balance in the area by preventing Stalination or drying up of rivers, ensuring adequate rainfall, preventing landslides and fires hazardous to human life, shall from such date as may be specified in the Order be a conservation forest.

(2) From and after the date specified in the Order made under subsection (1), such state land or whole or part of such reserved forest shall become a conservation forest and shall be under the control of the Conservator of Forests subject to such conditions and restrictions as may be prescribed.

Publication to be given to Order made section 3A

3B. The Divisional Secretary or Secretaries as the case may be of the Divisional Secretary's division or divisions, in which the conservation forest is situated shall, prior to the date specified in the Order declaring the conservation forest, take all steps as may be necessary to give sufficient publicity to such Order within the respective Divisional Secretary divisions in which any portion of the conservation forest is situated and in every town or village in the immediate neighborhood of such conservation forest, by-

(a) specifying as far as possible the situation and the boundaries of the proposed conservation forest; and

(b) explaining the consequences which will ensue on the declaration of the proposed conservation forest.

Variation of limits of conservation forest

3C.

(1) The Minister may by Order published in the Gazette, declare that the limits of any conservation forest shall be altered or varied.

(2) An Order made by the Minister under subsection (1) shall have no effect until it has been approved by the President and confirmed by Parliament and notification of such confirmation is published in the Gazette.

Certificate by Conservator of forests to be prima facie proof of facts Sated there in

3D. Where in any prosecution instituted under this Act, a question arises as to whether any land is within a conservation forest, a certificate issued under the hand of the Conservator of Forests to the effect that the land described in the certificate is within a conservation forest, shall be admissible in evidence and shall be prime facie proof of the facts stated therein."

Amendment of section 6 of the principal enactment.

5. Section 6 of the principal enactment as amended by Act No. 13 of 1966, is hereby further amended as follows :-

(1) by the substitution in paragraph (e) of that section enactment for the words " forest produce; or ", of the words " forest produce ; " ;

(2) by the insertion immediately after paragraph (e) of that section, the following new paragraph:-

(ee) extracts coral or molluse shells or digs or mines for plumbago, gems or other minerals; or "

Amendment to section 7 of the principal enactment

6. Section 7 of the principal enactment as last amended by Act No. 84 of 1988, is hereby further amended as follows:-

(1) in subsection (1) of that section-

(a) by the repeal of paragraph (i) of that subsection and the substitution therefor of the following paragraph : -

(i) damages, alters or removes, any name board or sign board or any wall, ditch, embankment, fence, hedge, railing or other boundary mark."

(b) by the substitution for all the words "and in the case of an offence under any other paragraph " to the end of that subsection, of the following words:-

(2) by the repeal of subsection (3) of that section.

(3) by the substitution for all the words from "be liable on conviction " to the end of that section, of the following words

Amendment to section 7 of the principal enactment

6. Section 7 of the principal enactment as last amended by Act No. 84 of 1988, is hereby further amended as follows:-

(1) in subsection (1) of that section-

(a) by the repeal of paragraph (i) of that subsection and the substitution therefor of the following paragraph : -

(i) damages, alters or removes, any name board or sign board or any wall, ditch, embankment, fence, hedge, railing or other boundary mark."

(b) by the substitution for all the words "and in the case of an offence under any other paragraph " to the end of that subsection, of the following words:-

(2) by the repeal of subsection (3) of that section.

Insertion of section 7A in the principal enactment.

7. The following new section is hereby inserted immediately after section 7 and shall have effect as section 7A of the principal enactment:-

Acts which constitute an offence in a conservation forest 7A.

(1) Subject to the provisions of subsection (3) of this section, any person who in a conservation forest:-

(a) trespasses or permits cattle to trespass ;

(b) fells, cuts, marks, lops, girdles, saws converts, collects or removes any plant, tree or any other forest produce;

(c) wilfully strips off the bark or from, or otherwise damages or interferes with, any trees ;

- (d) cuts grass or pastures cattle
- (e) pollutes water;
- (f) removes, uproots or destroys or causes
- (g) sells, exposes or offers for sale any
- (h) traps or snares, molests or disturbs, any bird or beast or reptile;
- (i) sells, exposes or offers for sale, any bird, beast or reptile or any part of any such bird, beast or reptile;
- (j) takes or destroys, any egg of any bird or reptile or nest of any bird ;
- (k) fires any gun or does any other act which disturbs or is likely to disturb, any wild animal or does any act which interferes or is likely to interfere, with the breeding place of any such animal ;
- (l) possesses or uses any trap or any explosive or poisonous substance capable of being used for the purpose of injuring or destroying any animal or plant;
- (m) erects any building whether prepayment or temporary, or occupies any building so recited
- (n) makes any fresh clearing or queries stone, or extracts coral or shells or digs or mines for plumage, gems or minerals or burns lime or charcoal or blasts rocks;
- (o) kindles or keeps or carry any fire ;
- (p) clears or breaks up any land for cultivation or any other purpose ;
- (q) constructs any road ;
- (r) damages, alters or removes any well ditch, embankment, fence, hedge, railing name board, sign board or any other boundary mark,

(2) Any person who aids and abets the commission of any offence specified in sub-section (1) of this section, or causes

any such offence to be committed shall be guilty of an offence and shall on conviction be liable to the same punishment as is specified for that offence.

(3) Nothing in subsection (1) of this section shall be deemed to prohibit any act lawfully done in accordance with the provisions of this Ordinance or any regulations made thereunder relating to the administration and management of conservation forests."

Amendment of section 17 of the principal enactment. 8. Section 17 of the principal enactment is hereby amended by the substitution for all the words front. "Punishable by a fine not exceeding" to the end of that section, of the following words: -" punishable by a fine not less than one thousand rupees and not exceeding five thousand rupees or to imprisonment for a term not less than one month and not exceeding one year or to both such fine and imprisonment."

Amendment of section 20 of the principal enactment. 9. Section 20 of the principal enactment as last amended by Act No. 13 of 1982, is hereby further amended in subsection (1) of that section as follows:-
(1) by the substitution for the words " not included in reserve or village forest," of the words "not included in a reserve or conservation or village forest,";
(2) by the repeal of paragraph (d) of that subsection and the substitution therefor of the following paragraph:-
(d) regulate or prohibit the building of houses or huts, the occupation of such houses or huts, the quarrying of stone or extraction of coral or molluse shells or the digging or mining for plumbago or gems or the burring of lime or charcoal or blasting of rocks or drilling for minerals;"

Amendment of section 21 of the principal enactment. 10. Section 21 of the principal enactment as last amended by Act No. 13 of 1982, is hereby further amended as follows:-
(1) by the substitution for the words "by a fine not exceeding one thousand rupees or by imprisonment for a term not less than six months and not exceeding one year : " of the words " by a fine not less than two thousand five hundred rupees and not exceeding twenty five thousand rupees or to imprisonment for a term not less than one year and not exceeding four years: "; and
(2) by the repeal of the proviso to that section and the substitution therefor of the following proviso :-

Repeal of section 23 of the principal enactment 11. Section 23 of the principal enactment is hereby repealed.

Amendment of section 24 of the principal enactment. 12. Section 24 of the principal enactment as amended by Act No. 13 of 1966, is hereby further amended as follows :-
(1) in subsection (1) of that section, by the insertion immediately after paragraph (o) of that subsection, of the following paragraph : -
" (p) regulate the import and export of timber and seeds of forest, tree species and other forest produce and provide for the issue of permits for the same.";
(2) in subsection (2) of that section, by the substitution for the words "or any private individual.", of the words " or any private individual and the expression " forest tree species" means any of the trees referred to in Schedule I or Schedule II and any other trees as may be specified by the Minister from time to time by Order published in the Gazette."

Amendment of section 25 of the principal enactment.

13. Section 25 of the principal enactment as last amended by Act No. 13 of 1982 is hereby further amended as follows : -

(1) in subsection (1) of that section:-

(a) by the substitution for the word "by a fine not less than two hundred rupees and not exceeding one thousand rupees" of the word "by the fine not less than five thousand rupees and not exceeding fifty thousand rupees".

(b) by the substitution in the second proviso to that subsection for words "by a fine not less than two hundred rupees and not exceeding two thousand rupees or by imprisonment for a term not less than, three months and not exceeding one year" of the words "by a fine not less than ten thousand rupees and not exceeding one hundred thousand rupees or by imprisonment for a term not less than six months and not exceeding two years or to both such fine and imprisonment";

(2) in subsection (2) of that section-

(a) by the substitution for the words " to imprisonment for a term not less than three months and not exceeding five years" of the words " to imprisonment for a term not less than six months and not exceeding five years, " ;

(b) by the substitution in the proviso to that subsection for the words "to a fine not less than two hundred rupees and not exceeding one thousand rupees or to imprisonment for a term not less than three months and not exceeding six months.", of the words " to a fine not less than two thousand five hundred rupees and not exceeding ten thousand rupees or to imprisonment for a term not less than three months and not exceeding one year or to both such fine and imprisonment. " ;

(3) by the insertion immediately after subsection (2) of that section, of the following new subsection: -

" (2A) Notwithstanding anything in the preceding provision of this section, where any person referred to in subsection '2) is convicted of an offence referred thereto, any other person who allows any tool, boat, cart, cattle, or motor vehicle of which he is the owner or which is in his possession to be used for the commission of such offence, shall himself be guilty of an offence and shall on conviction be liable to a fine not less than ten thousand rupees and not exceeding one hundred thousand rupees or to imprisonment for a term not less than three months and not exceeding two years." .

Amendment of section 26 of the principal enactment.

14. Section 26 of the principal enactment is hereby amended by the substitution for the word "the issue of any pass" of the word " issue of any permit".

Amendment of section 27 of the principal enactment.

15. Section 27 of the principal enactment as last amended by Act No. 13 of 1982 is hereby further amended as follows:-

(1) in subsection (3) of that section by the substitution for the words "to a fine not less than five hundred

(2) by the substitution for the words "motor vehicle wherever those words appear in that section, of the words "motor vehicle, trailer, raft, tug or any other mode of transport motorised or otherwise ",

Amendment of section 28 of the principal enactment.

16. Section 23 of the principal enactment as amended by Act No. 13 of 1966 is hereby further amended in words "to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both, of the words " to imprisonment for a term not less than three

months and not exceeding one year or to a fine not less than five thousand rupees and not exceeding fifty thousand rupees or to both such imprisonment and fine " .

Amendment of section 36 of the principal enactment.

17. Section 36 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words " punishable by a fine not exceeding one hundred rupees, or by imprisonment which may extend to six months,". of the words " punishable by a fine not less than five thousand rupees and not exceeding one hundred thousand rupees or by imprisonment for a term not less than three months and not exceeding two years "

Amendment of section 37 of the principal enactment

18. Section 37 of the principal enactment is hereby amended by the substitution for the words " and motor vehicle used ", of the words " motor vehicles, trailers, rafts tugs or any other mode of transport, motorised or otherwise Implements and machines used " .

Insertion of new section 38A in the principal enactment.

19. The following new section is hereby inserted immediately after section 38 and shall have effect as section 38A of the principal enactment:-

"Release of certain property seized under section 37. 38A.

(1) A court may, at anytime after the production before such court, of any tool boat, cart, cattle, motor vehicle, machine, implement, raft, tug, trailer or any other mode of transport motorised or otherwise (in this section and section 42 referred to as " production") seized under section 37, by notice, issued to the owner or the registered owner, as the case may be of such production, direct that it be released to the owner or the registered owner as the case may be thereof within such period as may be specified in such notice, on his depositing in court the value of the production being released, as security.

(2) If any production released to its owner or registered owner under subsection (1) is subsequently seized thereafter under section 37, the same may be released to the owner or the registered owner thereof in the manner specified in subsection (1).

(3) An amount deposited in court as security under subsection (1) or (2) for the release of any production, shall be forfeited to the State on conviction of a person of a forest offence in respect of, or by the use of, such production, whether or not such person is the owner or registered owner thereof."

Amendment of section 40 of the principal enactment.

20. Section 40 of the principal enactment as amended by Act, No. 13 of 1982, is hereby further amended by the repeal of paragraph (b) of subsection (1) of that section and the substitution therefor of the following Paragraph:-

" (b) all tools, boats, carts, cattle, motor vehicles, trailers, rafts, tugs or any other mode of transport motorised or otherwise and all implements and machines used in committing such offence whether such tools, boats, carts, cattle, motor vehicles, trailers, rafts, tugs or other modes of transport motorised or otherwise are owned by such person or not;" .

Amendment of section 42 of the principal enactment.

21. Section 42 of the principal enactment as amended by Act No, 13 of 1966 is hereby further amended by the substitution for the words " any property seized under section 37 and subject to speedy and natural decay ", of the words " any property seized under section 37 which is

Amendment of section 46 of the principal enactment.

22. section 46 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words " to imprisonment for a term which may extend to six months, or to a fine which may extend to one hundred rupees, or to both ", of the words " to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine."

- Amendment of section 47 of the principal enactment. 23. Section 47 of the principal enactment as amended by Act No. 13 of 1966, is hereby further amended by the substitution for the words " to imprisonment for a term which may extend to two years, or to fine, or to both.", of the words " to imprisonment for a term not less than six months and not exceeding two years or to a fine not less than ten thousand rupees and not exceeding fifty thousand rupees or to both such imprisonment and fine. " .
- Amendment of section 48 of the principal enactment. 24. Section 48 of the principal enactment as amended by Act No. 84 of 1988, is hereby further amended in the proviso to subsection (2) of that section, by the substitution for the words " made by a forest or a Range Forest Officer such person may be produced before the nearest Magistrate by such forester or the Range Forest Officer ", of the words" made by any Forest Officer, such person shall be produced before the nearest Magistrate by a forest officer not below the rank of range forest officer. " .
- Amendment of section 48A of the principal enactment. 25. Section 48A of the principal enactment is here by amended in subsection (1) of that section, by the substitution for the words " to imprisonment for a learn not exceeding five year or to a fine not exceeding five thousand rupees or to both.", of the words " to imprisonment for a term of not less than one year and not exceeding five years or to a fine not less than twenty-five thousand rupees and not exceeding one hundred thousand rupees or to both such imprisonment and fine. "
- Amendment of section 49A of the principal enactment. 26. Section 49A of the principal enactment, as amended by Act No. 84 of 1988, is hereby further amended by the substitution for the words " to a fine not less than two
- Amendment of section 53A of the principal enactment. 27. Section 53A of the principal enactment is hereby amended as follows :-
 (a) by the substitution for the words and figures " under section 7 or section 14 or section 20 of this Ordinance ", of the words and figures " under section 7 or section 7A or section 14 or section 20 of this Ordinance ";
 (b) by the substitution for the words " be liable to ejectment from such land ; 'of the words " be ejected from such land ;",
- Amendment of section 55 of the principal enactment. 28. Section 55 of the principal enactment is here by amended by the substitution for paragraph, (a), (b) and (c) of that section of the following paragraphs :-
- Insertion of new sections 59A and 59B in the principal enactment. 29. The following new sections ore hereby inserted immediately after section 59 and shall have effect as sections 59A and 59B of the principal enactment: -
 Conservator of Forest to delegate his powers. 59A. The Conservator of Forests may in writing d legate to any forest officer, any power vested in him or duly conferred upon him by this Ordinance or any regulation made hereunder,
 General directions by the Conservator of Forests. 50B. In 'he exercise of their duties under this Ordinance or any regulation made thereunder, all forest officers appointed under subsection (1) of section 58 and all employees and officers authorized to perform the functions of a forest' officer under subjection (2) of section 58, shall be subject to the general direction and control of the Conservator of Forests."
- Replacement of section 60 of the principal enactment. 30. Section 60 of the principal enactment is hereby Repealed and the following section substituted therefor:-
 Forest officers deemed to be public servants peace officers 60. All forest officers shall be deemed to be-
 (a) public servant with in the meaning of the Penal Code;

(b) peace officers within the meaning et the Code of Criminal Procedure Act No, 15 of 1977."

Amendment of section 78 of the principal enactment.

31. Section 78 of the principal enactment as amended Act No 84 Of 1988 is hereby further amended as follows:-

(1) by the insertion immediately before the definition at the word " cattle ", of the following new definition:-

(2) by the insertion immediately after the definition of the expression " classification mark", of the following new definition :-

(3) by the repeal of the definition of the expression " forest officer " and the substitution therefor of the following definition : -

(4) by the insertion immediately after the definition of the expression land at the disposal of the state the following new definition: -

(5) by the insertion immediately after the definition of expression " tree " of the following new definition-

Replacement of schedule 1 of the principal enactment

32. Schedule 1 to the principal enactment is hereby repealed and the following Schedule is substituted there-of section for:-

Sinhala text in prevail in case of inconsistency.

33. In the event of any Inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.