



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

**FOREST (AMENDMENT)
ACT, No. 65 OF 2009**

[Certified on 16th November, 2009]

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Forest (Amendment) Act, No. 65 of 2009

[Certified on 16th November, 2009]

L.D.—O. 64/2000.

AN ACT TO AMEND THE FOREST ORDINANCE

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

1. This Act may be cited as the Forest (Amendment) Act, No. 65 of 2009. Short title.

2. The Long Title to the Forest Ordinance (hereinafter referred to as the “principal enactment”) is hereby repealed and the following Long Title substituted therefor :— Amendment of Long Title to Chapter 451.

“AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE CONSERVATION, PROTECTION AND SUSTAINABLE MANAGEMENT OF THE FOREST RESOURCES AND UTILIZATION OF FOREST PRODUCE; TO PROVIDE FOR THE REGULATION OF THE TRANSPORT OF TIMBER AND FOREST PRODUCE AND OTHER ACTIVITIES RELATED TO SUCH TRANSPORT; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.”.

3. (1) In the principal enactment and in any other written law there shall be substituted — General amendments to the principal enactment.
 - (a) for the words “Forest Ordinance” the words “Forest Conservation Ordinance”; and
 - (b) for the words “Conservator of Forests” the words “Conservator-General of Forests”;

- (2) Every reference to the “Forest Ordinance” and the “Conservator of Forests” in any regulation, rule, notice, notification, contract, communication or other document shall be read and construed as a reference respectively, to the “Forest Conservation Ordinance” and the “Conservator-General of Forests”.

Replacement of heading in the principal enactment.

4. The heading appearing immediately after the word and figure Chapter II of the principal enactment is hereby repealed and the following heading substituted therefor :—

“OF RESERVED AND CONSERVATION FORESTS”

Amendment of section 3 of the principal enactment.

5. Section 3 of the principal enactment is hereby amended as follows:—

- (1) by the re-numbering of that section as subsection (1) thereof;
- (2) by the addition immediately after the re-numbered subsection (1) of the following subsections:—

“(2) Where an Order has been made under subsection (1), the Conservator-General of Forests shall prepare a Management Plan for Reserved Forests, in such manner as may be prescribed, for the purposes of conservation of bio-diversity, soil and water and for the preservation of its unique ecosystem, genetic resources and as a habitat of rare and endemic species of flora and fauna.

(3) The Conservator-General of Forests or any other officer authorized in writing in that behalf shall implement the Management Plan for the Reserved Forests, in the manner as may be prescribed for the purposes specified in subsection (2).

(4) The Minister shall make regulations applicable either to the whole or any specified area of the Reserved Forests in respect of :—

- (a) the administration and management of the Reserved Forests;

- (b) the matters required to be included in the Management Plan and the manner and procedure to be followed in the preparation and implementation of such Management Plan;
- (c) the preparation of Management Agreements for the purpose of obtaining community and non-state sector participation in the sustainable management of Reserved Forests;
- (d) the levying of fees or charges in respect of activities implemented under this subsection, which shall in all cases be equivalent to the value of the benefit obtained from the forest, whether monetary or otherwise. Any such benefit not validly declared shall amount to an offence under this Ordinance and shall be charged and recovered, in such manner as may be specified, as a fine imposed by Court;
- (e) entering into such agreements, cancellation of the same, imposing conditions, levying of fees, formulating strategies for the settlement of disputes in connection with the management of such forest;
- (f) the development of a benefit sharing mechanism among the management partners or stakeholders;
- (g) the procedure to be followed in authorizing the use of non-timber forest produce and dead or fallen sticks for fuel in a Reserved Forest, by the local community;
- (h) the conditions applicable to any activity carried out within the Reserved Forest; and

- (i) the areas in respect of which and the conditions subject to which scientific research may be permitted in a Reserved Forest.”.

Amendment of section 3A of the principal enactment.

6. Section 3A of the principal enactment is hereby amended by the addition immediately after subsection (2) thereof of the following subsections :—

“(3) Where an Order has been made under subsection (1), the Conservator-General of Forests shall for the purpose of preserving the values described in subsection (1) prepare a Management Plan for Conservation Forests, in the manner prescribed.

(4) The Conservator-General of Forests or any other officer authorized by him in writing in that behalf shall implement the Management Plan for the Conservation Forests in respect of which such Management Plan was prepared, in the manner as prescribed for the purposes specified in subsection (1).

(5) The Minister shall make regulations in respect of the matters required to be included in the Management Plan and the manner and procedure to be followed in the preparation, implementation and administration of such Management Plan.

(6) Where any immovable property, not being a State land, which is possessed of any of the features referred to in subsection (1), is required for the existence and preservation of a Conservation Forest that has been declared under subsection (1), such land may be acquired under the provisions of the Land Acquisition Act (Chapter 460) on the recommendation of the Minister.”.

Amendment of section 3B of the principal enactment.

7. Section 3B of the principal enactment is hereby amended by the substitution for the words “conservation forest” wherever those words appear in that section of the words “Conservation Forest or Reserved Forest” respectively.

8. Section 5 of the principal enactment is hereby amended as follows:—

Amendment of section 5 of the principal enactment.

- (1) by the substitution for the words “watercourse in a reserved forest” in the section and in the marginal note to that section of the words “watercourse in a Conservation Forest or Reserved Forest”;
- (2) by the substitution for the words “Government Agent” in the first proviso and second proviso respectively to that section, of the words “Divisional Secretary”.

9. Section 6 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement of section 6 of the principal enactment.

“Acts prohibited in a Conservation Forest.

6. (1) No person shall be permitted to enter a Conservation Forest other than under the authority of a permit issued by the Conservator-General of Forests or a person authorized by him in that behalf for the purpose of:—

- (a) engaging in scientific research within a Conservation Forest;
 - (b) observing the fauna and flora in a Conservation Forest; or
 - (c) implementation of the activities prescribed in the Management Plan.
- (2) Subject to the provisions of subsection (1), a person who, in a Conservation Forest:—
- (a) trespasses or causes trespass or remains therein;
 - (b) fells, cuts, saws or causes the felling, cutting or sawing of or alters, converts, collects, removes or

transports or marks, lops or girdle, any plant, tree or timber or collects, removes or transports or has in his possession, custody or control of any forest produce or erects a scaffolding or constructs a saw pit;

- (c) removes the bark or leaves from any tree or strips of the bark from any tree or cuts its branches or taps or burns any tree or otherwise damages it;
- (d) permits cattle to trespass, cuts grass or any other plant or feeds cattle with such grass or plants;
- (e) blocks any waterways within such forest or obtains water from such waterway by means of a pipe line or any other devices or pollutes or poisons water or pollutes the forest environment by dumping and disposing any garbage in the forest;
- (f) transports, removes, uproots or destroys any plant or any part of it or causes any loss or damage to any plant or part of it;
- (g) sells, exposes, exhibits or offers for sale any plant found within such forest;
- (h) kills or attempts to kill any bird, animal, reptile, amphibian or sets traps or snares or guns, constructs and uses ambushes or molests, disturbs or shoots or attempts to

molest, disturb or shoot or attempts to remove any such bird, animal, reptile or amphibian;

- (i) sells, offers for sale or exposes for sale any bird, animal, reptile or any part of any such bird, animal or reptile;
- (j) takes or destroys an egg of any bird or animal or reptile or removes or destroys any dwelling or nest of any bird, animal or reptile;
- (k) fires any gun or does any other act which disturbs or is likely to disturb any 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 weapon or tool or explosives or poisonous substance which is capable of being used to injure or destroy any animal or plant;
- (m) erects any permanent or temporary building or occupies any building so erected;
- (n) makes any fresh clearing or quarries stone or extracts coral or molluse shells or digs or mines for plumbago, gems or minerals, burns lime or charcoal or blasts rocks, or collects or removes or transports sand, soil or stones;

- (o) kindles or keeps or carries any fire or causes the kindling of any fire or allows any fire to keep burning or to spread;
- (p) clears or breaks up soil or digs any land for cultivation or for any other purpose or cultivates any such cleared land or erects a hut or does any other activity on it;
- (q) constructs any road or alters or damages any road so constructed or uses a road so constructed;
- (r) damages, alters, removes or disfigures any wall, ditch, embankment, fence, hurdle, gutter, hedge, name board or sign board or any other boundary mark;

shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding seven years or to a fine not less than rupees twenty thousand and not exceeding rupees two hundred thousand or to both such imprisonment and fine. In addition to the above, the court may award compensation for any damage caused to the Conservation Forest. Such compensation shall not be less than the value of the damage caused to the Conservation Forest, and shall be charged and recovered as a fine levied by Court.

(3) Any person who aids or abets in the commission of any offence specified in subsection (1), 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 the commission of that offence.

(4) The Conservator-General of Forests may issue permits to engage in scientific research to any person—

(a) who has made an application in the prescribed form; and

(b) made payment of the prescribed fee,

for observation of flora and fauna within such areas subject to such terms and conditions as may be prescribed.”.

10. Section 7 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement of section 7 of the principal enactment.

“Acts prohibited in a Reserved Forest.

7. (1) Any person who in a Reserved Forest—

(a) trespasses or causes trespass or remains therein;

(b) permits cattle to trespass or cuts grass or any other plant or feed cattle with grass or plants;

(c) fells a tree or cuts or drags timber, causes damage by negligence or intentionally strips off bark or leaves from any tree or girdles, lops, taps or burns a tree or does any act to damage or destroy any tree;

(d) blocks any waterways within such forest or obtains water from such waterway by means of a pipe line or any other devices or pollutes or poisons water or pollutes the forest environment by dumping and disposing any garbage in the forest;

- (e) transports, removes, uproots or destroys any plant or any part of it or damages any plant or any part of any plant or sells or exposes for sale or exhibits or offers for sale any plant found within such forest;
- (f) kills or attempts to kill, removes, transports, shoots, or attempts to shoot, catches, snares or sets traps to catch, molests or disturbs any bird, animal or reptile or sells or exposes for sale or offers for sale any part of any such bird, animal or reptile or takes or destroys eggs of any such bird, animal or reptile or destroys or removes the dwelling of any such bird, animal or reptile;
- (g) quarries stone, burns lime or charcoal, collects any forest produce or subjects them to any process of manufacture, extracts coral or molluse shells digs or mines for plumbago, gems or other form of minerals, collects or removes or transports sand, soil or stones and uses or possesses explosives for such purpose;
- (h) kindles or keeps any fire or leaves any fire burning or causes any fire or allows any fire to spread or carries any fire;
- (i) fells, cuts, saws, converts, alters, collects, removes or transports any tree or timber or collects, removes, transports or has in his possession, custody or control of any forest produce;

- (j) erects a scaffolding or constructs a saw pit;
- (k) clears or breaks up soil or digs any land for cultivation or prepares any land for building purposes or cultivates any land already cleared or erects a hut or any building whether permanent or temporary or occupies any building so erected;
- (l) constructs any road, alters or damages any road already constructed, uses any road so constructed, damages, alters, disfigures or removes any wall, ditch, embankment, fence, hurdle, gutter, hedge, name board, sign board or any other boundary mark,

shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding five years or to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to both such imprisonment and fine. In addition to the above, the Court may award compensation for any damage caused to the Reserved Forest. Such compensation shall be equivalent to the actual value of the damage caused to the Reserved Forest and shall be charged and recovered as a fine levied by Court.

(2) Any person who aids or abets in the commission of any offence specified in subsection (1), 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 the commission of that offence.”.

Repeal of sections 7A and 9 of the principal enactment.

11. Sections 7A and 9 of the principal enactment are hereby repealed.

Amendment of section 10 of the principal enactment.

12. Section 10 of the principal enactment is hereby amended as follows:—

- (1) by the renumbering of that section as subsection (1) of that section;
- (2) by the addition immediately after the re-numbered subsection (1) of the following:—

“(2) The Conservator-General of Forests may, duly authorize any person to enter or remain within a Conservation Forest, Reserved Forest, Village Forest or any other forest for the purpose of discharging any official duty arising out of or in connection with the implementation of the Management Plan.”.

Replacement of section 20 of the principal enactment.

13. Section 20 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Acts prohibited in any Forest other than a Conservation Forest, Reserved Forest or Village Forest.

20. (1) A person who in a forest other than a Conservation Forest, Reserved Forest or Village Forest:—

- (a) causes damage by negligence when felling any tree or cutting or dragging any timber;
- (b) strips the bark or leaves from any tree or girdles, taps or burns any tree or otherwise damages any tree;
- (c) blocks any waterways within such forest or obtains water from such waterway by means of a pipeline or any other devices or pollutes or

poisons water or pollutes the forest environment by dumping and disposing any garbage in the forest;

- (d) quarries stone, burns lime or charcoal or collects any forest produce or subjects them to any process of manufacture, or extracts coral or mollusc shells, or digs or mines for plumbago, gems or any other mineral and uses or is in possession of explosives for such purposes;
- (e) feeds cattle with grass, hunts shoots, catches fish or sets traps, snares or guns;
- (f) makes any clearings;
- (g) sets fire or kindles any fire in such a manner as to endanger any forest or any part of such forest or leaves any fire burning;
- (h) kindles, keeps or carries any fire, except during such seasons and in such manner as may be authorized in that behalf from time to time;
- (i) fells, cuts, saws, converts, collects, removes or transports any tree or timber or collects, removes, transports or has in his possession, custody or control of any forest produce;
- (j) erects a scaffolding or constructs a saw pit;

- (k) clears or breaks up soil or digs any land for cultivation or for any other purpose or cultivates any land already cleared;
- (l) erects a hut or any building permanent or temporary or occupies any building so erected;
- (m) constructs any road or uses any road so constructed;
- (n) damages, alters or removes any name board or signboard or any wall, ditch embankment, fence, hurdle, gutter or any other boundary mark or marks false boundaries,

shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding two years or to a fine not less than rupees five thousand and not exceeding rupees fifty thousand or to both such fine and imprisonment. In addition to the above, the Court may award compensation for any damage caused to such forest. Such compensation shall not be less than the value of the damage caused to such forest and shall be charged and recovered as a fine levied by Court.

(2) Any person who aids or abets in the commission of any offence specified in subsection (1), 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 the commission of that offence.

- 14. Section 21 of the principal enactment is hereby repealed. Repeal of section 21 of the principal enactment.

- 15. Section 22 of the principal enactment is hereby amended by the substitution for the words “forest officer duly authorized in that behalf” of the words “forest officer or any officer duly authorized in that behalf”. Amendment of section 22 of the principal enactment.

- 16. The following new Chapter (sections 23A, 23B, 23C and 23D) is hereby inserted immediately after Chapter IV of the principal enactment and shall have effect as Chapter IV A of that principal enactment:— Insertion of new Chapter IV A and sections 23A, 23B, 23C and 23D in the principal enactment.

“CHAPTER IV A

PROCEDURE OF OBTAINING A CERTIFICATE OF REGISTRATION
AND A PERMIT

- Prohibition on carrying on the business of a timber depot &c., without Certificate of Registration and a permit. 23A. No person shall carry on the business of a timber depot otherwise than under the authority of a Certificate of Registration and a permit authorizing such person to carry on the business stated therein for the period specified in such permit, which is issued by the Conservator-General of Forests or any officer authorized by the Conservator-General of Forests in that behalf in writing.

- Issue of permit. 23B. (1) The Conservator-General of Forests or any officer authorized by the Conservator-General of Forests in that behalf may, on application being made to him in such form as may be prescribed, and on payment of the prescribed fee, issue a Certificate of Registration and a permit to any person authorizing such person to engage in the business of a timber depot subject to specified terms and conditions.

(2) The said permit shall be valid for the period specified therein and may be renewed on payment of the prescribed fee.

Suspension or cancellation of Certificate of registration and permit.

23C. Where a Certificate of Registration and a permit are issued to any person under section 23B and such person contravenes any of the terms or conditions of the permit, the Conservator-General of Forests or any officer authorized by the Conservator-General of Forests in that behalf may make order suspending the registration of such person for any such period as may be specified therein or cancel such registration.

Penalty.

23D. (1) Any person who in contravention of the provisions of section 23A, carries on the business of a timber depot shall be guilty of an offence and shall on conviction be liable—

- (a) where the offence is for engaging in the business of a timber saw mill which is fixed to the ground or otherwise, a timber sales outlet or a timber seasoning and processing factory to imprisonment for a term not exceeding two years or to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to both such imprisonment and fine; and
- (b) where the offence is for engaging in the business of a carpentry shop (mechanical or otherwise), a furniture shop or a shop which sells wooden implements or parts thereof or any wooden articles or a firewood

depot, to imprisonment for a term of not exceeding six months or to a fine not less than rupees five thousand and not exceeding rupees fifty thousand or to both such imprisonment and fine.

(2) Where any person convicted of an offence under subsection (1) continues to commit such offence after a period of six weeks from the date of his conviction, the court may, upon an application made by the Conservator-General of Forests or any person authorized by the Conservator-General of Forests in that behalf for the closure of such trade or business, order the closure of such trade or business until such time person obtains a Certificate of Registration and a permit in terms of section 23A and complies with the conditions stated in the permit.

(3) In any case, where such person fails to comply with the Order of Closure, and continues to engage in the business of a timber depot the Magistrate shall, order such person to pay a sum not exceeding five thousand rupees for each day on which he so continues to carry on his business subsequent to the Order and also require and authorize the Fiscal of the Court to close such business of a timber depot, which is being carried out at such premises before such date, being a date not earlier than three days or later than seven days from the date of issue of such Order. Such Order shall be sufficient authority for the said Fiscal or any Police Officer authorized by him in that behalf to enter the premises with such number of assistants as the Fiscal deems necessary to close down the business of the timber depot which was being carried on at such premises.”.

Amendment of section 24 of the principal enactment.

17. Section 24 of the principal enactment is hereby amended in subsection (1) of that section:—

- (1) by the substitution for the words “by land or water”, of the words “by land, air or water”;
- (2) by the substitution in paragraph (i), for the words “transport”, wherever that word appears in that paragraph of the words “transport or removal”;
- (3) by the repeal of paragraph (p) thereof, and the substitution therefor of the following paragraphs:—

“(p) regulate the import and export of timber and forest produce and the levying of fees;

(q) prohibit the export from Sri Lanka of any timber or forest produce, except under the authority of a permit issued for such purpose by the Conservator-General of Forests; and

(r) prohibit the export of any specified timber or forest produce.”.

Insertion of new section 24A in the principal enactment.

18. The following new section is hereby inserted immediately after section 24 of principal enactment and shall have effect as section 24A of that enactment:—

“Application of the Customs Ordinance.

24A. (1) It shall be lawful for an officer of the Department of Customs to levy a fee in respect of all timber or forest produce exported from Sri Lanka, at the port of shipment, at such rates, as are prescribed from time to time.

(2) This section shall be enforced as if it forms part of the Custom Ordinance (Chapter 235) and the provisions of that Ordinance shall apply accordingly.”.

19. Section 25 of the principal enactment is hereby amended as follows:—

Amendment of section 25 of the principal enactment.

- (1) in subsection (1) of that section—
 - (a) by the substitution for the words “by a fine not less than five thousand rupees and not exceeding fifty thousand rupees, or by imprisonment for a term not less than three months and not exceeding six months”, of the words “by a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand, or by imprisonment for a term not exceeding four years”;
 - (b) in the second proviso to that section by the substitution for 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”, of the words “to a fine not less than rupees fifteen thousand and not exceeding rupees one hundred and fifty thousand, or by imprisonment for a term not exceeding four years”;
- (2) in subsection (2) of that section—
 - (a) by the substitution for the words “for a term not less than six months and not exceeding five years”, of the words “for a term not exceeding five years or to a fine not less than rupees twenty thousand and not exceeding rupees two hundred thousand or to both such imprisonment and fine”;
 - (b) in the proviso to that section by the substitution for 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”, of the words “to imprisonment for a term not exceeding two years” or to a fine not less than rupees five thousand and not exceeding rupees twenty five thousand;

- (3) by the repeal of subsection (2A) of that section and the substitution therefor of the following subsection:—

“(2A) Any person who allows any tool, vehicle or machine of which he is the owner or which is in his possession, to be used in the commission of an offence under this Chapter, shall be guilty of an offence and shall on conviction liable to imprisonment for a term not exceeding two years or to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to both such imprisonment and fine”; and

- (4) in subsection (3) of that section by the substitution for the words “in this Chapter,” of the words “in this Chapter or any regulation made thereunder,”.

Amendment of section 26 of the principal enactment.

20. Section 26 of the principal enactment is hereby amended as follows:—

- (1) by the re-numbering of that section as subsection (1) of that section;
- (2) in the re-numbered subsection (1), by the substitution for the words “Government Agent” wherever those words appear in that section, of the words “District Secretary, Divisional Secretary or Forest Officer not below the rank of a Range Forest Officer”;

- (3) by the addition immediately after the re-numbered subsection (1) of the following new subsection:—

“(2) Any person who makes an application for a permit to transport timber or forest produce stating that such timber or forest produce was obtained from a private property and there is evidence of proof to the contrary that such timber or forest produce was obtained from a forest declared under the provision of this Ordinance or State land, such person shall be guilty of an offence, and shall on conviction, be liable to the same punishment as is specified in subsection (1) of section 25. The application shall be admissible as evidence against such person in a court of law in .”.

- 21.** Section 27 of the principal enactment is hereby amended as follows:—

Amendment of section 27 of the principal enactment.

- (1) in subsection (1) of that section, by the substitution for the words “power to stop and examine any timber during transit” of the words “power to stop and examine any vehicle during its transit for the purpose of ascertaining whether such vehicle is being used to transport or remove any timber or forest produce,”;
- (2) in subsection (2) of that section, by the repeal of paragraphs (a), (b) and (c) thereof and the substitution therefor of the following:—
- “(a) give such order, direction, signal or use such devices to take such measures as may be necessary to stop any vehicle or cause such vehicle to be halted;
- (b) detain for any vehicle inspection and search;
- (c) seize any timber or forest produce found in a vehicle and deal with the timber and forest produce as provided for in Chapter VII.”.

- (3) in subsection (3) of that section, by the substitution for the words “to a fine not less than five thousand rupees and not exceeding fifty thousand rupees, or to imprisonment of either description for a term not less than three months and not exceeding six months,”, of the words “to imprisonment of either description for a term not exceeding five years, or to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand”; and
- (4) by the substitution for the words “timber”, wherever that word appears in that section of the words “timber and forest produce”.

Amendment of section 28 of the principal enactment.

22. Section 28 of the principal enactment is hereby amended by the repeal of subsection (2) thereof and the substitution therefor of the following:—

“(2) Any person who obstructs or in any way interferes with any forest officer or police officer, in the exercise of his powers under this section, or who causes the obstruction of, or interferes with the exercise of the powers under this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding five years or to a fine not less than rupees twenty thousand and not exceeding rupees two hundred thousand or to both such imprisonment and fine.”.

Amendment of section 36 of the principal enactment.

23. Section 36 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for 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” of the words “punishable by imprisonment for a term not exceeding two years, or by a fine not less than rupees ten thousand and not exceeding one hundred thousand rupees”.

24. Section 37 of the principal enactment is hereby repealed and the following section substituted therefore:—

Replacement of section 37 of the principal enactment.

“Power to seize timber or forest produce or vehicles.

37. (1) Any Forest Officer or Police Officer may, after due inquiry if he has reason to believe that an offence in respect of any timber or forest produce has been committed or is being committed, seize and detain such timber or forest produce, together with all tools, vehicles and all implements cattle and machines used in the commission of such offence.

(2) The Forest Officer or Police Officer referred to in subsection (1) shall produce, such timber or forest produce, together with all tools, vehicles, implements cattle and machines used in the commission of the offence together with the relevant documents before the Magistrate having jurisdiction, within seven working days from the date of such seizure or detention:

Provided however, that a Certificate under the hand of the Conservator-General of Forests or any officer not below the rank of a Range Forest Officer or any Police Officer not below the rank of a Sub-Inspector of Police, who is personally aware and satisfied that it is not practicable to remove and produce in Court, any timber or forest produce from the place where such timber or forest produce is seized or detained, by reason of the fact that the cost to be incurred in the hauling and transportation of such timber or forest

produce for production exceeds the value of the timber or forest produce so seized, shall be admissible in evidence and shall be *prima facie* proof of the facts stated therein.”.

Amendment of section 38A of the principal enactment.

25. Section 38A of the principal enactment is hereby amended by the substitution for the words “motor vehicle, machine, implement, raft, tug, trailer” of the words “vehicle, machine, cattle and implement,” and for the words and figure “seized under section 37,” of the words and figure “seized or a certificate given under section 37,”.

Amendment of section 40 of the principal enactment.

26. Section 40 of the principal enactment is hereby amended by the repeal of subsection (1) thereof and the substitution therefor of the following:—

“(1) Where any person is convicted of a forest offence—

- (a) all timber or forest produce which is not the property of the State in respect of which such offence has been committed; and
- (b) all tools, vehicles, implements, cattle and machines used in committing such offence,

shall in addition to any other punishment specified for such offence, be confiscated by Order of the convicting Magistrate:

Provided that in any case where the owner of such tools, vehicles, implements and machines used in the commission of such offence, is a third party, no Order of Confiscation shall be made if such owner proves to the satisfaction of the Court that he had taken all precautions to prevent the use of such tools, vehicles, implements, cattle and machines, as the case may be, for the commission of the offence.”.

27. The following new section is hereby inserted immediately after section 40A of the principal enactment and shall have effect as section 40B of that enactment:—

Insertion of section 40B in the principal enactment.

“The provisions of section 433A of the Code of Criminal Procedure Act, No. 15 of 1979, not to apply to persons who plead guilty to or are found guilty of a forest offence. 40B. The provisions of subsections (1) and (2) of section 433A of the Code of Criminal Procedure Act, No. 15 of 1979, as amended by Act, No. 12 of 1990, shall not apply to or in relation to any person who pleads guilty to, or is found guilty of a forest offence.”.

28. Section 47 of the principal enactment is hereby amended as follows:—

Amendment of section 47 of the principal enactment.

(1) by the repeal of paragraph (c) of that section and the substitution therefor of the following new paragraphs:—

“(c) alters, moves, destroys, defaces or forges any boundary mark or boundary post or prepares false survey plans or tenders any such false survey plan of any forest to which the provisions of this Ordinance apply; or

(d) keeps in his possession or custody unlawfully stamped timber or timber with counterfeit stamping.”;

(2) by the substitution for the words “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” in that section of the words “for a term not exceeding two years or to a fine not less than rupees five thousand and not exceeding rupees fifty thousand or”.

Amendment of section 48 of the principal enactment.

29. Section 48 of the principal enactment is hereby amended by the repeal of subsection (2) thereof and the substitution therefor of the following:—

“(2) Every officer making an arrest under this section shall, without unnecessary delay, produce the person arrested to the nearest police station together with a statement stating the commission of the offence with which the accused is charged. The Officer-in-Charge of the police station shall, forthwith, take or send the person arrested to the nearest Magistrate:

Provided however, that where the arrest of any person under this section is made by a Forest Officer or any Officer of the Department of Wild Life Conservation, such person shall be taken to the Range Forest Officer or a Wild Life Ranger respectively who shall produce the arrested person before the nearest Magistrate without any delay.”.

Amendment of section 48A of the principal enactment.

30. Section 48A of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words “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 or not exceeding one hundred thousand rupees” of the words “for a term of not exceeding five years or to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand”.

Replacement of section 52 of the principal enactment.

31. Section 52 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Presumption that timber &c., belongs to the State.

52. Where in any proceedings under this Ordinance, or in consequence of anything done under this Ordinance, a question arises as to whether any timber or forest produce, is the property of the State, such timber or forest produce, shall be presumed to be the property the State until the contrary is proved.”.

32. Section 53 of the principal enactment is hereby amended by the substitution for the words “Criminal Procedure Code” wherever such words appear in that section, of the words “Code of Criminal Procedure Act, No. 15 of 1979” and for the word and figures “Chapter XVI” of the word and figures “Chapter XV” respectively.”

Amendment of section 53 of the principal enactment.

33. Section 53A of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 53A of the principal enactment.

“Ejectment from State Land. 53A. Where any person unlawfully clears or encroaches or is in unlawful or unauthorized possession of a portion of, any Conservation Forest, Reserved Forest, Village Forest or any Forest not included in those categories, as the case may be, such person shall be guilty of an offence and he shall in addition to the punishment for such offence be ejected from such land and the provisions of the State Lands (Recovery of Possession) Act, No. 7 of 1979 shall, *mutatis mutandis*, apply to any such ejectment. Every reference to Divisional Secretary in that Act shall be read and construed as a reference to the Divisional Forest Officer of the area in which such land is situated.”.

34. Section 55 of the principal enactment is hereby amended by the repeal of paragraphs (a), (b) and (c) of that section and the substitution therefor of the following paragraphs:—

Amendment of section 55 of the principal enactment.

- “(a) for each elephant or buffalo - Rs. 15,000.00
- (b) for each calf, ass, pig, sheep, lamb. goat or kid - Rs. 3,000.00
- (c) for every head of cattle other than the above - Rs. 7,500.00”.

Amendment of section 58 of the principal enactment.

35. Section 58 of the principal enactment is hereby amended in subsection (2) by the insertion immediately after paragraph (b), of the following new paragraphs:—

- “(c) any employee or officer of the Department of Wild Life Conservation to perform the functions of a Forest Officer for the purposes of sections 24, 27, 37, or 48 of this Ordinance;
- (d) a District Land Officer, Land Officer, Kachcheri Surveyor, Grama Niladhari and a Colonization Officer of the Land Commissioners Department to perform the functions of a Forest Officer for the purposes of sections 27, 37 or 48 of this Ordinance; or
- (e) a District Secretary, Divisional Secretary, Assistant Divisional Secretary to perform the functions of a Forest Officer for the purposes of sections 24, 27, 28, 30, 31, 32, 37 or 48 of this Ordinance.”.

Amendment of section 59 of the principal enactment.

36. Section 59 of the principal enactment is hereby amended in subsection (1) of that section by the insertion immediately after paragraph (i) thereof of the following paragraphs:—

- “(j) power to name and appoint the category of officers empowered to issue permits for specified timber and forest produce and to specify the corresponding specific areas in relation to paragraph (b) of subsection (1) of section 24 of this Ordinance ;
- (k) power to classify the category of timber and the forest produce in relation to paragraph (p) and (r) of subsection (1) of section 24.”.

Replacement of section 64 of the principal enactment.

37. Section 64 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Regulations. 64. (1) The Minister may make regulations in respect of matters required by this Ordinance

to be prescribed or in respect of which regulations are authorized or required to be made.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations—

- (a) to declare the forest officer or class of forest officers, who shall exercise or perform the powers or duties conferred or imposed by this Ordinance;
- (b) to regulate and administer the “Forest Department Fund” for the purpose for which such Fund was established;
- (c) to provide for the payment into such fund of the whole or part of—
 - (i) sums received as compensation for offences committed under this Ordinance and proceeds of fines imposed by Court and proceeds from the sale of confiscated vehicles;
 - (ii) sums received through activities undertaken by the Forest Department; and
 - (iii) such other contributions as may be made to the fund by the Government, any public or private corporation or any individual;

- (d) to provide for the payment out of the fund, subject to such conditions as may be specified in the regulations,—
 - (i) of rewards to informers under the Informers Reward Ordinance (Chapter 28) and to forest officers;
 - (ii) of compensation for bodily injury caused to forest officers, police officers or other officers in the exercise, performance and discharge of their powers, duties and functions under this Ordinance, or
 - (iii) when death results from such injury, for compensation to their heirs;
 - (iv) of travelling expenses properly incurred in attending courts for the purposes of this Ordinance;
 - (v) of expenses for carrying on raids to abate illicit fellings and illicit transport, of timber; and
 - (vi) of expenses incurred in forest protection activities including the conduct of training programmes for forest officers enabling them to carry out their functions efficiently under this Ordinance;

- (e) to implement an insurance scheme for the benefit of the forest officers of the Forest Department;
- (f) to generally carry out the provisions of this Ordinance, which would include a levy of the fee to be paid for any licence or permit issued under this Ordinance or under any regulation made thereunder, and the mode and manner of payment or recovery of any such fee; and
- (g) in respect of the matters set out below within any forest which is not a Conservation Forest, Reserve Forest or Village Forest:—
 - (i) levying of fees or charges in respect of activities to be carried out within the forest;
 - (ii) activities to be carried out for the purpose of conservation and development of degraded forest areas with community and private sector participation including the procedure for the preparation of Management Agreements indicating their purpose, scope and extent;
 - (iii) entering into such agreements, cancellation of the same, imposing conditions, levying of fees and formulating strategies for the settlement of disputes in connection with the management of such forest;

- (iv) the development of a benefit sharing mechanism among the management partners or stakeholders;
- (v) the procedure to be followed in authorizing the use of forest produce in such forest, by any local community and the conditions applicable thereto;
- (vi) the conditions applicable to any activity within the forest; and
- (vii) the areas in respect of which and the conditions subject to which any scientific research may be permitted.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, within one month after its publication in the *Gazette*, be brought before Parliament for approval.

(5) Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(6) Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.”.

38. The following new sections are hereby inserted immediately after section 64 of the principal enactment and shall have effect as sections 64A and 64B of that enactment:—

Insertion of new sections 64A and 64B in the principal enactment.

“Court to direct payment of share of fine to the Fund.

64A. The Court may—

- (a) where an offence relates to the imposition of a fine, direct that an amount equivalent to not less than one-half of the amount of such fine; and
- (b) where an offence relates to the confiscation of the vehicles used in connection with the commission of the offence, direct that an amount equal to not less than one-half of the proceeds recovered from the sale of such vehicle,

be credited to the Forest Department Fund established under the provisions of this Act.

Purposes for which the moneys of the Fund may be applied.

64B. (1) The Fund shall be utilized for the purposes of granting compensation to any forest officer who is permanently, disabled, or partially disabled or temporarily incapacitated, or in the event of death of any forest officer, to the legal heirs, in any case where such disablement, incapacitation or death, as the case may be is due to an injury—

- (a) sustained by such officer while on duty; or
- (b) sustained by such officer while travelling—
 - (i) from his place of residence to his place of work to report for duty; or

- (ii) from his place of work to his place of residence after duty; or
- (c) sustained by such officer, while not on duty in the performance of some act which is within the scope of his ordinary duties; or
- (d) sustained by such officer in consequence of any act or performance in the execution of his duties; or
- (e) sustained by such officer as a result of any act of reprisal occasioned by, or arising out of, any action taken by him in the execution of his duties.

(2) Any compensation granted in accordance with regulations made under the preceding provisions of this section in respect of the disablement, incapacitation or death of a forest officer shall be in addition to any pension, gratuity, compensation, allowance or other benefit granted in respect of such disablement, incapacitation or death under the Minutes on Pensions or any other written law applicable thereto.”.

Amendment of section 65 of the principal enactment.

39. Section 65 of the principal enactment is hereby amended by the repeal of that section and the substitution therefor of the following:—

“Rules.

65. The Minister may make rules in respect of matters required by this Ordinance to be made. Every rule so made shall be published in the *Gazette*.

40. Section 67 of the principal enactment is hereby amended by the substitution for the words “in a reserved forest or village forest” of the words “in a Conservation Forest or Reserved Forest or Village Forest or any Forest not included in those categories.”.

Amendment of section 67 of the principal enactment.

41. The following new section is hereby inserted immediately after section 67 of the principal enactment and shall have effect as section 67A of that enactment:—

Insertion of new section 67A in the principal enactment.

“Reward for informers. 67A. It shall be lawful for the Conservator-General of Forests to determine in accordance with specified criteria, the sum of money to be paid to persons as rewards from the Forest Department Fund for the protection of the forest, where such persons provide—

(a) voluntary information in relation to any offence under this Ordinance;

(b) voluntary assistance in extinguishing any fire occurring within any forest.”.

42. Section 77 of the principal enactment is hereby repealed.

Repeal of section 77 of the principal enactment.

43. Section 78 of the principal enactment is hereby amended as follows:—

Amendment of section 78 of the principal enactment.

(1) by the repeal of the definition of the expression “animal” and the substitution therefor of the following definition:—

‘ “animal” means any member of the animal kingdom at any stage of the life cycle or any part thereof;’;

(2) by the substitution in the definition of the expression “cattle”, for the words “elephants, buffaloes, horses,” of the words “elephants, buffaloes, neat cattle, horses”;

(3) by the repeal of the definition of the expression “classification mark” and the substitution therefor of the following definition:—

‘ “classification mark” means a mark placed on timber to denote its origin, or the agency by which it has been handled and the class to which such timber belongs;’;

(4) by the insertion immediately after the definition of the expression “Conservation Forest” of the following definition:—

‘ “District Secretary” means the District Secretary in charge of an Administrative District;

“Divisional Secretary” means the Divisional Secretary in charge of a Divisional Secretary’s Division;’;

(5) by the repeal of the definition of the expression “forest officer” and the substitution therefor of the following definition:—

‘ “forest officer,” means any person appointed by name or as holding an office, to be Conservator-General of forests, Conservator of Forests, Senior Deputy Conservator of Forests, Deputy Conservator of Forests, Assistant Conservator of Forests, Divisional Forest Officer, Additional Divisional Forest Officer, Assistant Divisional Forest Officer, Special Forester, Forester, Range Forest Officer, Additional Range Forest Officer, Beat Forest Officer, Forest Field Assistant, Forest

Watcher, Forest Labourer, Plantation Labourer and any other person by name or by office appointed to discharge any function of a forest officer under the provisions of this Ordinance or any regulation or rule made thereunder;’;

- (6) in paragraph (a) of the definition of the expression “forest produce”—
- (a) by the substitution for all the words from “gum and myrabolans” of the words “gum, myrabolans and extracts from plants, animals and birds.”;
 - (b) by the repeal of paragraph (c) thereof substitution therefor of the following paragraph:—
 - “(c) tusks, horns, shed horns, edible bird’s nests, animal skin and parts of animals.”;
 - (c) in paragraph (d) thereof, by the substitution for the words “rocks and minerals” of the words “rocks and minerals, sand, stones, gems or soil excavated from the gem pits.”;
 - (d) by the insertion immediately after paragraph (d) of the following new paragraph:—
 - “(e) water from natural springs, fountains and other natural resources of water.”;
- (7) by the insertion immediately after the definition of the expression “forest produce” of the following definition:—
- ‘ “Grama Niladhari” means the Grama Niladhari in charge of a Grama Niladhari Division;’;
- (8) by the repeal of the definition of the expression “Government Agent”;

(9) by the repeal of the definition of the expression “Headman”;

(10) by the insertion immediately after the definition of the expression “imprisonment” of the following definition:—

‘ “person” includes a body of persons, corporate or unincorporate;’;

(11) by the repeal of the definition of the expression “plant” and the substitution therefor of the following definition:—

‘ “plant” means any member of the plant kingdom inclusive of any part of its life cycle of plants and also includes climbers or creepers wooden or otherwise, trees, ferns, lichens, epiphytes or any part thereof, seed, fruit or flowers or any part thereof;’;

(12) by the repeal of the definition of the expression “police officer” and substitution therefor of the following definition:—

‘ “Police Officer” means any officer appointed under the Police Ordinance (Chapter 53) and serving in the Police Department in the Regular Service, Reserve Service or Special Task Force, as the case may be;’;

(13) by the insertion immediately after the definition of the expression “river” of the following definition:—

‘ “State Land” means any land defined under the Crown Lands Ordinance (Chapter 454);’;

- (14) in the definition of the expression “timber depot or timber yard”, by the addition immediately after paragraph (d) thereof, of the following:—

‘“A timber depot” includes any firewood shed, any shop or showroom where wooden furniture or wooden articles are kept for sale and place where carpentry work is being carried out using machines or otherwise any timber sales outlet, timber saw mill fixed to the ground or otherwise, or timber seasoning and processing factory. It shall also include a hand tractor if it is used as a mobile timber saw mill but it shall not include any temporary carpentry work shop in a construction site where wooden articles are made or wood is being fashioned utilizing timber brought to such site on a permit legally issued by an officer authorized in that behalf;’;
and

- (15) by the repeal of the definition of the expression “tree” and substitution therefor of the following definitions:—

‘“tree” includes bamboos, stumps and brushwood, palms, canes, creepers, climbers woody, or otherwise, reeds and trees in all stages of their growth;

“vehicle” includes boats, carts, motor vehicles, tractors, trailers, containers, rafts, tugs or any mode of transport motorized or otherwise;’.

44. 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.

Replacement of Schedules in the principal enactment.

45. Schedule III and Schedule IV to the principal enactment are hereby repealed and the following Schedules substituted therefor:—

“Schedule III (Section 74)

Whereas the sum of Rs. was due to the State under the provisions of the Forest Ordinance, from of which said sum has not been paid by the said

And where the land being the property of the said was seized in conformity with the provisions of the said Ordinance, and sold also in conformity therewith on the day of The land was purchased by of for the sum of Rs. which has been duly paid by the said

Now know ye that I, District Secretary, by virtue and in exercise of the powers vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (described herein with special accuracy as to boundaries), has been sold to and purchased by the said for the sum of Rs. which he has duly paid, and that the said premises are and shall hence forward be vested in the said. his heirs, executors, administrators and assigns, free of all encumbrances.

Given under my hand this day of

(Signature)
District Secretary.

Schedule IV (Section 75)

Where the sum of Rs. was due to the State under the provisions of the Forest Ordinance, from of which said sum has not been paid by the said

And whereas the land being the property of the said was seized in conformity with the said Ordinance, and sold also in conformity therewith on the day of and the same was purchased by District Secretary, for the sum of Rs. which has been credited to the Government of Sri Lanka in part satisfaction (or full, as the case may be) of a sum of Rs. due to the State.

Now know ye that I, District Secretary, by virtue and in exercise of the powers vested in me in this behalf by the said Ordinance, do hereby certify that the following property, (described herein with special accuracy as to boundaries), which has been sold to and purchased by the said District Secretary, for and on behalf of the State, for the sum of Rs. which said sum has been duly credited to the State as aforesaid, and that the said premises are and shall hence forth be vested in the State, free of all encumbrances.

Given under my hand this day of

(Signature)
District Secretary.

Schedule V

The principal enactment is hereby amended in the sections specified in Column I by the substitution, for the word or expression specified in the corresponding entry in Column II, of the word or expression specified in the corresponding entry in Column III of that Schedule.

Column I Section	Column II Words to be deleted	Column III Words to be substituted
4	Government Agent	District Secretary
24(1)	Ceylon	Sri Lanka
49A	Government Agent	District Secretary
53A	Government Agent	District Secretary
57	Government Agent	District Secretary
72	Government Agent	District Secretary
73	Government Agent	District Secretary
74	Government Agent	District Secretary
75	Government Agent	District Secretary".

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