

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

DEPARTMENT OF COAST GUARD

ACT, No. 41 OF 2009

[Certified on 06th August, 2009]

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Act, No. 41 of 2009

[Certified on 06th August, 2009]

L.D.—O. 29/2007.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A DEPARTMENT OF

COAST GUARD; TO SPECIFY THE FUNCTIONS OF THE DEPARTMENT OF

COASTGUARD; ANDTO PROVIDEFOR MATTERSCONNECTED THEREWITH

OR INCIDENTAL THERETO.

WHEREAS it is expedient to provide for the establishment Preamble.

of a multi-mission service to be called the Coast Guard

Service for the purpose of ensuring the security of the coastal

areas, the Maritime Zones, the territorial waters of Sri Lanka

and the high seas:

AND WHEREAS the Department of Coast Guard shall,

assist in preventing, the entry and exit of illegal immigrants

and emigrants, the trafficking of narcotic drugs and

psychotropic substances, the detection and seizure of

contraband and weapons; be entrusted with providing

assistance to ships which meet with distress at sea and to

persons found aboard such ships, to provide assistance in

ensuring maritime traffic safety, protect the marine

environment, prevent and combat maritime disasters, co-

operate with domestic and foreign organizations for the

purpose of protecting national interests in all such areas and

thereby ensuring national security and protecting the

national economy and the national integrity of Sri Lanka:

BE IT THEREFORE enacted by the Parliament of the

Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Department of Coast Short title.

Guard Act, No. 41 of 2009.

PART I

ESTABLISHMENT OF THE DEPARTMENT OF COAST GUARD

2. (1) There shall be a Department of Coast Guard which Department of

Coast Guard.

shall be under the control of a Director-General of Coast

Guard.

2—PL 004113—4,200 (06/2009)

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(2) The Department of Coast Guard shall be charged with

the implementation of the powers, duties and functions

specified in this Act and be responsible for the proper and

efficient functioning of the Coast Guard Service.

Establishment of 3. There shall be established in accordance with the

the Department provisions of this Act, a service to be called the Coast Guard

of Coast Guard.

Service, which shall be charged with the function of law

enforcement in the coastal areas, the maritime zones of Sri

Lanka and the high seas.

PART II

DUTIES AND FUNCTIONS OF THE DEPARTMENT OF COAST GUARD

Duties and 4. The functions of the Department of Coast Guard shall

functions of the be—

Department of

Coast Guard.

(a) to prevent illegal fishing in the coastal areas of Sri

Lanka and the protection of fishermen including

rendering assistance at sea;

(b) to assist the Customs and other relevant authorities

in combating anti-smuggling and anti-immigration

operations;

(c) to initiate action to prevent and manage piracy at

sea;

(d) to co-operate with the law enforcement agencies

and the armed forces by taking necessary measures

for the suppression of destructive terrorist activities

occuring in the maritime zones and the territorial

waters of Sri Lanka;

(e) to prevent transboundary movement of narcotics,

by sea;

(f) to assist the relevant authorities in ensuring safety

of life and property at sea;

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(g) to participate in search and rescue operations for

human beings in times of natural catastrophes and

to assist in salvage operations in relation to vessels

and other goods after such catastrophes and other

accidents at sea;

(h) to assist in the preservation and protection of

maritime and marine environment;

(i) to assist the relevant authorities in the

implementation and monitoring of measures

required for the prevention and control of marine

pollution and other disasters which occur at sea;

(j) to assist in the conservation of marine species;

(k) to disseminate information including warnings by

radio or any other means in times of natural

catastrophes; and

(l) the performance of such other functions as may from

time to time be conferred on it or assigned to it, by

the Government.

5. (1) The Department of Coast Guard shall have Powers of the

the power to— Department of

Coast Guard.

(a) stop, enter, board, inspect and search any place,

structure, vessel or aircraft and to arrest and detain

any vessel or aircraft;

(b) demand the production of any licence, permit,

record, certificate or any other document and to

inspect such licence, permit, record, certificate or

other document or make copies of or take extracts

from such licence, permit, record, certificate or other

document;

(c) investigate any offence which it has reason to

believe is being committed or is about to be

committed or has been committed;

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(d) exercise the right of hot pursuit;

(e) examine and seize or dispose of any fish or any

article, device, goods, vessel, air craft or any other

item relating to any offence which has been

committed or it has reasonable grounds to believe

that such offence has been committed; and

(f) arrest any person whom it has reason to believe has

committed an offence under any written law of Sri

Lanka for the time being in force.

(2) Notwithstanding the provisions of subsection (1), no

vessel shall be arrested or detained within the territorial

waters if the passage of that vessel within the territorial

waters, is an innocent passage.

For the purpose of this section, the passage of a vessel is

an innocent passage if the passage is not prejudicial to the

peace, good order or security of Sri Lanka.

Members of the 6. Every Coast Guard officer of the Department of Coast

Department of Guard shall be deemed to be a peace officer within the

Coast Guard

meaning and for the purposes, of the Code of Criminal

deemed to be

peace officers. Procedure Act, No. 15 of 1979.

Carrying of 7. Coast Guard officers may carry arms in so far as the

Arms. same is necessary for the performance of their duties. The

categories of arms Coast Guard officers may carry shall be as

prescribed.

Coast Guard 8. A Coast Guard officer may, when necessary for the

officers’ Right to performance of his duties—

visit and inspect

a vessel.

(a) direct the shipmaster or other person commanding

a vessel to produce the ships official papers which

are required to be kept aboard;

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(b) stop, visit and inspect the vessel for the purpose of

ascertaining her identity, port of registry, name of

the ship master, last port or place of departure, port

or place of destination or nature of the cargo ; or

(c) question the crew and passengers on matters

necessary for the performance of his duties.

9. Every Coast Guard officer shall when acting under Identification.

this Act, be in uniform and on demand declare his office and

produce to the person against whom he is acting or from

whom he seeks any information, the official identity card or

other identification documents issued by the Department of

Coast Guard.

10. Nothing contained in this Act shall be construed to Department of

permit the Department of Coast Guard or its personnel to be Coast Guard or

its personnel not

trained or organised as a military establishment or to function to be trained as a

as such. military

establishment.

PART III

ADVISORY COUNCIL

11. The Minister shall appoint an Advisory Council, Advisory

which shall consist of the following:— Council.

(a) the following ex-officio members :—

(i) the Secretary to the Ministry of the Minister

in charge of the subject of Defence or his

representative;

(ii) the Secretary to the Ministry of the Minister

in charge of the subject of Fisheries or his

representative;

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(iii) the Secretary to the Ministry of the Minister

in charge of the subject of Finance or his

representative;

(iv) Secretary to the Ministry of the Minister in

charge of the subject of Ports and Shipping

or his representative;

(v) Secretary to the Ministry of the Minister in

charge of the subject of Environment and

Natural Resources or his representative;

(vi) Secretary to the Ministry of the Minister in

charge of the subject of Coast Guard or his

representative;

(vii) the Commander of the Navy ;

(viii) the Inspector-General of Police ; and

(ix) Director-General of the Department of Coast

Guard ;

(b) the Minister may whenever it appears to him to be

necessary, co-opt for service in the Advisory Council

any official whose services are required by the

Council in connection with any specific matter

under consideration by the Council.

Functions of the 12. The Advisory Council shall conduct an annual

Advisory review of the activities of the Department of Coast Guard

Council.

and submit a comprehensive report to the Minister. The

Council shall also recommend to the Minister, the policies

which in the opinion of the Council ought to be implemented

by the Department of Coast Guard. The Council shall also

whenever required to do so, advice the Minister in respect of

any matter on which their advice is sought.

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13. The Advisory Council may for the purpose of Rules.

carrying out the purposes of this Act, make rules specifying

the procedure to be followed at its meetings, the quorum

and agenda for its meetings and the manner of submission of

reports.

14. Notwithstanding anything contained in any other Prosecution.

written law, where a person is arrested under this Act, no

prosecution shall be instituted against that person except

by or with the written consent of the Attorney-General.

PART IV

GENERAL

15. The officers of the Depertment of Coast Guard shall Remuneration of

be paid such remuneration as may be determined by the officers &c,

Minister in consultation with the Minister in charge of the

subject of Finance and such remuneration shall be charged

to the Consolidated Fund.

16. (1) At the request of the Department of Coast Guard, Appointment of

public officers

any officer in the public service may, with the consent of

to the

that officer and the Chairman of the Public Service Department of

Commission, be temporarily appointed to the staff of the Coast Guard.

Department of Coast Guard for such period as may be

determined by the Department or be permanently appointed

to such staff.

(2) Where any officer of the public service is appointed

to the staff of the Department as specified in subsection (1),

such appointment shall be on terms and conditions which

are not less favourable to those which such officer was

enjoying on the day immediately prior to the date of such

appointment and from and after the date of such appointment

all matters relating to such officer shall be governed by the

prevailing government regulations as may be applicable

from time to time.

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(3) Where the Department of Coast Guard employs any

person who has agreed to serve the government for a specified

period, such period of service to the Department by that

person, shall be regarded as service to the Government for

the purpose of discharging the obligation for such agreement.

Appointment of 17. (1) At the request of the Department of Coast Guard,

officers and any officer or servant of any public corporation may, with

servants of

the consent of such officer or servant and the governing

public

corporations to board of such officer or servant be temporarily appointed to

the staff of the the staff of the Department for such period as may be

Department of derermined by the Department, on such terms and conditions

Coast Guard.

as may be agreed upon by the Department and the governing

board of such corporation.

(2) Where any person is appointed under subsection (1)

to the staff of the Department such person shall be subject to

the same disciplinary control as any other member of the

staff.

Offences. 18. Any Coast Guard officer who acts in contravention

of the provision of this Act or any other written law, in the

carrying out of his duties shall be guilty of an offence and

shall be, liable to be tried by a Magistrate and punished with

such punishment as is specified for such offence.

Regulations. 19. (1) The Minister may on the recommendation of the

Advisory Council make regulations for giving effect to the

principles and provisions of the Act and in respect of matters

required by this Act 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), regulations may be made in

respect of any or all of the following matters :—

(a) the constitution, governance, qualifications,

command and discipline of the Department of Coast

Guard ;

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(b) the recruitment of persons to the Department of

Coast Guard ;

(c) the conditions of service of members of the

Department of Coast Guard ;

(d) the rank, powers and authority of officers,

subordinate officers and other persons ;

(e) the dismissal, retirement, release promotion or

discharge from the Department of Coast Guard of

officers, subordinate officers and other enrolled

persons ;

(f) any other matter which is to be or may be prescribed

or in respect of which this Act makes no provision

or makes insufficient provision which in the opinion

of the Minister, is necessary for the proper

implementation of this Act.

(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, as soon

as convenient after its publication in the Gazette, be brought

before Parliament for approval. Any 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.

(5) Notification of the date on which any regulation is

deemed to be rescinded shall be published in the Gazette.

20. The Coast Guard Unit established pursuant to a Transfer of the

decision of the Cabinet of Ministers and presently attached Coast Guard

Unit attached to

to the Ministry of Fisheries and Aquatic Resources, shall, the Ministry of

with effect from the date of the coming into operation of this Fisheries and

Act, stand transferred to the Ministry of Defence, Public Aquatic

Security, Law and Order, along with all personnel, property Resources.

and other assets.

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Sinhala text to 21. In the event of any inconsistency between the

prevail in case

Sinhala and Tamil texts of this Act, the Sinhala text shall

of inconsistency.

prevail.

Interpretation. 22. In this Act, unless the context otherwise requires—

“Coast Guard officer” means any person attached to

the regular service of the Department of Coast

Guard;

“maritime zones” shall have the same meaning as in

the Maritime Zones Law, No. 22 of 1977 ;

“territorial waters” shall have the same meaning as in

the Constitution.

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