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 1

[Certified on 16th November, 2009]

L.D.—O. 64/2000.

ANACT 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) Short title.

Act, No. 65 of 2009.

2. The Long Title to the Forest Ordinance (hereinafter Amendment of

Long Title to

referred to as the “principal enactment”) is hereby

Chapter 451.

repealed and the following Long Title substituted

therefor :—

“ANORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING

TO THECONSERVATION,PROTECTION AND SUSTAINABLE MANAGEMENT

OF THE FOREST RESOURCES AND UTILIZATION OF FOREST PRODUCE;

TO PROVIDE FOR THE REGULATION OFTHETRANSPORT OFTIMBER 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 General

law there shall be substituted — 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”.

2—PL 004320—4,250 (08/2009)

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Replacement of 4. The heading appearing immediately after the word

heading in the and figure Chapter II of the principal enactment is

principal

hereby repealed and the following heading substituted

enactment.

therefor :—

“OF RESERVED AND CONSERVATION FORESTS”

Amendment of 5. Section 3 of the principal enactment is hereby

section 3 of the amended as follows:—

principal

enactment.

(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;

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(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

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(i) the areas in respect of which and the

conditions subject to which scientific

research may be permitted in a Reserved

Forest.”.

Amendment of 6. Section 3A of the principal enactment is hereby

section 3A of the amended by the addition immediately after subsection (2)

principal

enactment. 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 7. Section 3D of the principal enactment is hereby

section 3D of the

amended by the substitution for the words “conservation

principal

enactment. forest” wherever those words appear in that section of the

words “Conservation Forest or Reserved Forest” respectively.

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8. Section 5 of the principal enactment is hereby Amendment of

amended as follows:— 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 Replacement of

section 6 of the

repealed and the following section substituted therefor:—

principal

enactment.

“Acts 6. (1) No person shall be permitted to enter

prohibited in a Conservation Forest other than under the

a

Conservation authority of a permit issued by the Conservator-

Forest. 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

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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

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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;

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(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.

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(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 Replacement of

repealed and the following section substituted therefor:— section 7 of the

principal

enactment.

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

prohibited in

a Reserved

(a) trespasses or causes trespass or

Forest.

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;

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(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;

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(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.”.

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

sections 7A and hereby repealed.

9 of the

principal

enactment.

Amendment of 12. Section 10 of the principal enactment is hereby

section 10 of the amended as follows:—

principal

enactment.

(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 13. Section 20 of the principal enactment is hereby

section 20 of the repealed and the following section substituted therefor:—

principal

enactment.

“Acts 20. (1) A person who in a forest other than a

prohibited in Conservation Forest, Reserved Forest or

any Forest

Village Forest:—

other than a

Conservation

Forest, (a) causes damage by negligence when

Reserved felling any tree or cutting or

Forest or dragging any timber;

Village

Forest.

(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

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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;

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(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.

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14. Section 21 of the principal enactment is hereby Repeal of

repealed. section 21 of the

principal

enactment.

15. Section 22 of the principal enactment is hereby Amendment of

amended by the substitution for the words “forest officer section 22 of the

principal

duly authorized in that behalf” of the words “forest officer enactment.

or any officer duly authorized in that behalf”.

16. The following new Chapter (sections 23A, 23B, 23C Insertion of new

Chapter IVA and

and 23D) is hereby inserted immediately after Chapter IV of

sections 23A,

the principal enactment and shall have effect as Chapter IVA 23B, 23C and

of that principal enactment:— 23D in the

principal

enactment.

“CHAPTER IV A

PROCEDURE OF OBTAINING ACERTIFICATE OF REGISTRATION

AND APERMIT

Prohibition 23A. No person shall carry on the business

on carrying of a timber depot otherwise than under the

on the

authority of a Certificate of Registration and a

business of a

timber depot permit authorizing such person to carry on the

&c,. without business stated therein for the period specified

Certificate of in such permit, which is issued by the

Registration

Conservator-General of Forests or any officer

and a permit.

authorized by the Conservator-General of

Forests in that behalf in writing.

Issue of 23B. (1) The Conservator-General of Forests

permit. 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.

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(2) The said permit shall be valid for the

period specified therein and may be renewed

on payment of the prescribed fee.

Suspension 23C. Where a Certificate of Registration and

or

a permit are issued to any person under section

cancellation

of Certificate 23B and such person contravenes any of the

registration terms or conditions of the permit, the

and permit. 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

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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.”.

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Amendment of 17. Section 24 of the principal enactment is hereby

section 24 of the

amended in subsection (1) of that section:—

principal

enactment.

(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 18. The following new section is hereby inserted

section 24A in

the principal immediately after section 24 of principal enactment and

enactment. shall have effect as section 24A of that enactment:—

“Application 24A. (1) It shall be lawful for an officer of

of the

the Department of Customs to levy a fee in

Customs

Ordinance. 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.”.

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19. Section 25 of the principal enactment is hereby Amendment of

amended as follows:— 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

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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 20. Section 26 of the principal enactment is hereby

section 26 of the

amended as follows:—

principal

enactment.

(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”;

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(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 Amendment of

amended as follows:— 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.”.

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(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 22. Section 28 of the principal enactment is hereby

section 28 of the

amended by the repeal of subsection (2) thereof and the

principal

enactment. 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 23. Section 36 of the principal enactment is hereby

section 36 of the amended in subsection (2) of that section by the substitution

principal

enactment. 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”.

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24. Section 37 of the principal enactment is Replacement of

hereby repealed and the following section substituted section 37 of the

principal

therefore:— enactment.

“Power to 37. (1) Any Forest Officer or Police Officer

seize timber

or forest may, after due inquiry if he has reason to

produce or believe that an offence in respect of any timber

vehicles. 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

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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 25. Section 38A of the principal enactment is hereby

section 38A of amended by the substitution for the words “motor vehicle,

the principal

enactment. 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 26. Section 40 of the principal enactment is hereby

section 40 of the amended by the repeal of subsection (1) thereof and the

principal

enactment. 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.”.

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27. The following new section is hereby inserted Insertion of

immediately after section 40A of the principal enactment section 40B in

the principal

and shall have effect as section 40B of that enactment:— enactment.

“The 40B. The provisions of subsections (1) and

provisions of (2) of section 433A of the Code of Criminal

section 433A

of the Code Procedure Act, No. 15 of 1979, as amended by

of Criminal Act, No. 12 of 1990, shall not apply to or in

Procedure relation to any person who pleads guilty to, or

Act, No. 15 is found guilty of a forest offence.”.

of 1979, not

to apply to

persons who

plead guilty

to or are

found guilty

of a forest

offence.

28. Section 47 of the principal enactment is hereby Amendment of

amended as follows:— 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”.

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Amendment of 29. Section 48 of the principal enactment is hereby

section 48 of the amended by the repeal of subsection (2) thereof and the

principal

substitution therefor of the following:—

enactment.

“(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 30. Section 48A of the principal enactment is hereby

section 48A of amended in subsection (1) of that section, by the substitution

the principal

enactment. 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 31. Section 52 of the principal enactment is hereby

section 52 of the repealed and the following new section substituted

principal

therefor:—

enactment.

“Presumption 52. Where in any proceedings under this

that timber Ordinance, or in consequence of anything done

&c., belongs

to the State. 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.”.

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32. Section 53 of the principal enactment is hereby Amendment of

amended by the substitution for the words “Criminal section 53 of the

principal

Procedure Code” wherever such words appear in that section,

enactment.

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.”.

33. Section 53A of the principal enactment is hereby Replacement of

repealed and the following new section substituted section 53A of

the principal

therefor:—

enactment.

“Ejectment 53A. Where any person unlawfully clears or

from State encroaches or is in unlawful or unauthorized

Land.

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 Amendment of

amended by the repeal of paragraphs (a), (b) and (c) of that section 55 of the

principal

section and the substitution therefor of the following enactment.

paragraphs:—

“(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".

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Amendment of 35. Section 58 of the principal enactment is hereby

section 58 of the amended in subsection (2) by the insertion immediately after

principal

paragraph (b), of the following new paragraphs:—

enactment.

“(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 36. Section 59 of the principal enactment is hereby

section 59 of the

amended in subsection (1) of that section by the insertion

principal

enactment. 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 37. Section 64 of the principal enactment is hereby

section 64 of the repealed and the following section substituted therefor:—

principal

enactment. “Regulations.

64. (1) The Minister may make regulations

in respect of matters required by this Ordinance

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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;

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(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;

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(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;

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(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.”.

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38. The following new sections are hereby inserted Insertion of new

immediately after section 64 of the principal enactment and sections 64A and

64B in the

shall have effect as sections 64A and 64B of that enactment:—

principal

enactment.

“Court to 64A. The Court may—

direct

payment of

(a) where an offence relates to the

share of fine

to the Fund. 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 64B. (1) The Fund shall be utilized for the

which the purposes of granting compensation to any

moneys of

forest officer who is permanently, disabled, or

the Fund

may be partially disabled or temporarily incapacited,

applied. 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

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(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 39. Section 65 of the principal enactment is hereby

section 65 of the

amended by the repeal of that section and the substitution

principal

enactment. 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.

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40. Section 67 of the principal enactment is hereby Amendment of

section 67 of the

amended by the substitution for the words “in a reserved

principal

forest or village forest” of the words “in a Conservation enactment.

Forest or Reserved Forest or Village Forest or any Forest not

included in those categories.”.

41. The following new section is hereby inserted Insertion of new

section 67A in

immediately after section 67 of the principal enactment and

the principal

shall have effect as section 67A of that enactment:— enactment.

“Reward for 67A. It shall be lawful for the Conservator-

informers.

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 Repeal of

section 77 of the

repealed. principal

enactment.

43. Section 78 of the principal enactment is hereby Amendment of

section 78 of the

amended as follows:—

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;”;

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(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

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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”;

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(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);’;

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(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, trailesr, containers, rafts, tugs or any

mode of transport motorized or otherwise;’.

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

the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail in case

of inconsistency.

prevail.

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Replacement of 45. Schedule III and Schedule IV to the principal

Schedules in the

enactment are hereby repealed and the following Schedules

principal

enactment. 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.

Forest (Amendment) Act, No. 65 of 2009 41

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 Column II Column III

Section Words to be deleted 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”.

42 Forest (Amendment) Act, No. 65 of 2009

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December each year in respect of the year following.