

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

AGRARIAN DEVELOPMENT (AMENDMENT)

ACT, NO. 46 OF 2011

[Certified on 22nd November, 2011]

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Agrarian Development (Amendment) 1

Act, No. 46 of 2011

[Certified on 22nd November, 2011]

L.D.—O. 57/2007.

ANACT TOAMEND THE AGRARIAN DEVELOPMENT

ACT, NO. 46 OF 2000

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:—

1. This Act may be cited as the Agrarian Development Short title.

(Amendment) Act, No. 46 of 2011.

2. The Agrarian Development Act, No. 46 of 2000 Insertion of new

(hereinafter referred to as the “principal enactment”) is hereby Part I in the Act,

No. 46 of 2000.

amended by the insertion immediately after section 1 thereof,

of the following Part which shall have effect as PART I of

the principal enactment:—

“ PART I

TENANT CULTIVATORS OF PADDY LANDS

“Persons 1A. A person being a citizen of Sri Lanka

deemed to be shall, from and after the date of the coming

tenant

into operation of this Act, be deemed to be a

cultivators

for the tenant cultivator within the meaning and for

purposes of the purposes of the principal enactment, if, at

this Act. any time during the period commencing on

the eighteenth day of August two thousand

and ending on the day immediately preceding

the date of the coming into operation of this

Act,—

(a) such person had cultivated an extent

of paddy land under an agreement,

whether written or oral, entered prior

to, or on, the eighteenth day of August

two thousand;

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(b) such person, being in terms of the

provisions of section 1D, a successor, of

a tenant cultivator who is deceased or

is permanently disabled, who had been

evicted from the extent of paddy land

which had previously been cultivated

by such deceased or disabled tenant

cultivator.

Procedure to 1B. (1) Where at any time during the period

be followed commencing on the eighteenth day of August

where

two thousand and ending on the day

possession of

the extent of immediately preceding the date of the coming

paddy land into operation of this Act, the nature of the

cannot be possession of any extent of paddy land specified

awarded to a in section 1A has changed by reason of any

person

sale, transfer or upon any Order of any Court,

deemed to be

a tenant no person shall, even though such person is

cultivator. deemed to be the tenant cultivator by virtue of

the provisions of section 1A, be placed in

possession of any such extent of paddy land or

be given possession of any such extent:

Provided however, such tenant cultivator

as is referred to above, may make an application

in writing, in that behalf to the Commissioner-

General of Agrarian Services setting out with

documentary proof, the reason which prevents

him from being placed in or given possession

of the extent of paddy land of which he has

been deemed to be the tenant cultivator. The

Commissioner-General shall, after such inquiry

as may be required in the circumstances and

on consideration of the facts before him and

upon summoning such person to make any

further explanation as he considers necessary,

make order that such person shall therefor be

paid compensation in lieu of placing such

person in or giving such person possession of

the relevant extent of paddy land.

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(2) Regulations shall be made specifying

the criteria to be taken into account in making

an order for the payment of compensation in

terms of the above proviso and the basis on

which the amount to be paid as compensation

is to be determined.

Where the 1C. Where a person who pursuant to a

lessee of an permit issued under the Land Development

extent of

Ordinance (Chapter 469)—

paddy land

shall not be

(a) holds an extent of paddy land subject

deemed to be

a tenant to the condition that such permit

cultivator. holder himself shall cultivate such

extent of paddy land; and

(b) leases out such extent of paddy land to

a person who cultivates such extent of

paddy land,

the person so cultivating such extent of paddy

land shall not be deemed to be a tenant

cultivator within the meaning and for the

purpose of the principal enactment.

Devolution 1D. (1) The rights of a tenant cultivator

of rights of under the principal enactment in respect of an

tenant extent of paddy land shall in the event of the

cultivators.

death or permanent disability of such tenant

cultivator, devolve on the surviving spouse of

such tenant cultivator and failing such spouse,

on only one of the children of such tenant

cultivator:

Provided that in the latter instance, if there

is more than one child, the child whose sole

means of living is cultivation, shall be preferred

to the others:

Provided further, if there is more than one

child, whose sole means of living is

cultivation, the oldest from amongst such

children shall be preferred to the others.

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(2) The rights of a tenant cultivator of an

extent of paddy land which is cultivated, either

jointly or in rotation with any other tenant

cultivator, who dies or becomes permanently

disabled, shall in relation to such extent, be

devolved in accordance with the provisions of

this section.

Nomination 1E. (1) Notwithstanding the provisions of

of a section 1D, any tenant cultivator, other than

successor those who cultivate an extent of paddy land

by a tenant

jointly or in rotation with any other tenant

cultivator.

culitvator or cultivators, may nominate any

member of his family as the successor who shall

be entitled to succeed to the rights of such

tenant cultivator under this Act in respect of

the extent of paddy land he culitvates, in the

event of his death or permanent disability.

(2) Any nomination of successor may at any

time be cancelled by the tenant caltivator who

made such nomination and a fresh nomination

of a successor may be made by such tenant

cultivator.

(3) The nomination of a successor and the

cancellation of any such nomination shall be

effected by a tenant cultivator in a document

substantially in the prescribed form executed

in duplicate and witnessed in the presence of

the Government Agent or the Divisional

Secretary or the Registrar of Lands or a Notary

Public or a Justice of Peace, who is in charge

of, or is engaged in, official duties in respect

of the area within which the extent of paddy

land relating to the nomination or cancellation,

is situated.

(4) No stamp duty shall be charged or levied

on the execution of a document specified in

subsection (3).

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(5) The original and the duplicate of the

document executed in accordance with the

provisions of subsection (3) shall be submitted

for registration to the Commissioner-General

by the respective officer referred to in

subsection (3) in the presence of whom the

document is executed. Any such document

shall not be valid unless and until it has been

duly registered by the Commissioner-General.

(6) The Commissioner-General shall return

the original of the document submitted to him

under subsection (5) after registration, to the

tenant cultivator making the nomination or

cancellation and keep the duplicate thereof,

for the purpose of maintaining records. Such

records shall be inspected by any person upon

paying the prescribed fee.

(7) After the registration of a document

specified under subsection (3) whereby a person

is nominated as the successor to the rights of a

tenant cultivator under this Act in respect of

any extent of paddy land, a document specified

in that subsection whereby any other person is

nominated as the successor to those rights shall

not be registered unless the nomination effected

by the registered document has been duly

cancelled by the registration of a document of

cancellation. In one and the same document the

registered nomination may be cancelled and

another nomination in lieu thereof may be made.

In that event the document in which such

cancellation and nomination are combined may

be registered and shall upon due registration

operate both as a cancellation of the previously

registered nomination and as the nomination of

a new nominee.

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(8) Where an application under subsection

(3) of section 53 is made to the Commissioner-

General, to amend an Agricultural Lands

Register by entering the name of a new tenant

cultivator therein, in the event of the death or

permanent disability of a tenant cultivator, a

document, if any, nominating a successor to

the rights of the tenant cultivator under

subsection (1), or cancelling any such

nomination under subsection (2), shall be taken

into account by the Commissioner-General and

upon verifying the facts of the application, he

shall make order to the Agrarian Development

Council of the area within which the paddy

land relating to such application is situated, to

make entries required to include the name of

the applicant as the new tenant cultivator of

the relevant paddy land.

(9) Regulations shall be made prescribing

the procedure for registration of a document

specified under subsection (3), including the

registers which shall be kept for maintaining

records of the documents submitted to the

Commissioner-General under this section.

(10) For the purposes of this section “member

of the family” means the spouse or a son or a

daughter of the tenant cultivator, whose main

occupation is cultivation and whose only

source of income is derived from the extent of

paddy land cultivated by the tenant cultivator.

Where there 1F. (1) Where a tenant cultivator of any

is no extent of paddy land dies or becomes

successor.

permanently disabled, and if there is no

successor in terms of the provisions of section

1D or 1E, to inherit the rights of such deceased

or permanently disabled tenant cultivator, as

the case may be, in respect of such extent, the

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landlord being the owner of such extent may,

if he so desires, take possession of such extent

of paddy land and cultivate the same as the

owner cultivator of such extent:

Provided that prior to cultivating such land

as the owner cultivator, the landlord shall give

written notice to the Commissioner-General,

of his intention so to cultivate such extent of

paddy land as owner cultivator.

(2) If it is proved to the satisfaction of the

Commissioner-General, that the tenant

cultivator has died or has become permanently

disabled and there is no successor of the family

in terms of the provisions of section 1D or 1E, to

inherit the rights of the deceased or of

permanently disabled tenant cultivator, he

shall permit the owner of such extent of paddy

land to occupy and cultivate such extent as

the owner cultivator thereof.

Person not 1G. (1) Where the tenant cultivator of an

entitled to extent of paddy land has died or has become

rights of a

deceased or permanently disabled, no person who is not

permanently entitled to the rights of a tenant cultivator in

disabled respect of such extent of paddy land shall

tenant

occupy and use such extent of paddy land.

cultivator in

respect of

any extent of (2) Where a person uses or occupies an

paddy land extent of paddy land in contravention of the

not to use or

occupy same. provisions of subsection (1), the Commissioner-

General shall in writing, order such person to

vacate such extent, on or before such date as

shall be specified in such order. If such person

fails to comply with such order, he shall be

evicted from the relevant extent of paddy land

in accordance with the provisions of section 8.

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Commissioner- 1H. (1) Where on the death or permanent

General to disability of a tenant cultivator of any extent

determine

of paddy land, there is a dispute as to the person

disputes

regarding on whom the rights of such tenant cultivator

devolution of under this Act should devolve, the parties to

rights of the dispute shall first refer such dispute to the

tenant Commissioner-General for determination, after

cultivators.

having given written notice of such dispute to

the Commissioner-General by registered post.

(2) On receipt of the notice under subsection

(1), the Commissioner-General shall refer the

dispute to an Agrarian Tribunal and direct such

Tribunal to hold an inquiry for the purpose of

determining the person on whom the rights of

the deceased or permanently disabled tenant

cultivator shall devolve.

(3) The determination of the Agrarian

Tribunal shall be communicated by registered

post to the Commissioner-General with copies

to the parties to such dispute.”

Replacement of 3. The Headings “PART I” and “Rights of persons who

the Headings of

cultivate paddy lands” appearing immediately after section

PART I of the

principal 1 of the principal enactment are hereby replaced by the

enactment. following:—

“PART IA

RIGHTS OF TENANT CULTIVATORS OF PADDY LANDS”.

Amendment of 4. Section 4 of the principal enactment is hereby

section 4 of the amended by the substitution for the words and figures

principal

“section 6” of the words and figures “section 1A”, wherever

enactment.

it appears in that section.

Repeal of 5. Section 6 of the principal enactment is hereby

section 6 of the repealed.

principal

enactment.

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6. Section 7 of the principal enactment is hereby Amendment of

amended— section 7 of the

principal

enactment.

(1) by the repeal of subsection (6) thereof and

substitution therefor of the following:—

“(6) The landlord of the extent of paddy

land and the person evicted shall be given an

opportunity of being heard in person or through

a representative, at an inquiry held by the

respective Agrarian Tribunal. On the conclusion

of the inquiry, the decision of the Agrarian

Tribunal shall be communicated in writing by

registered post to the Commissioner-General, the

landlord and the person evicted.”;.

(2) by the insertion immediately after subsection (6)

thereof of the following new subsections:—

“(6A) The landlord or the person evicted who

is aggrieved by the decision of the Agrarian

Tribunal may, within thirty days of the

communication of the decision to him, appeal

therefrom to the Board of Review established

under section 42A either on a question of law or

fact. Such appeal shall be submitted to the

Commissioner-General within the time period

allowed for such appeal and the Commissioner-

General shall forthwith refer such appeal to the

Panel appointed under subsection (1) of section

42A to be heard and concluded by a Board of

Review established under the provisions of

subsection (5) of section 42A.

(6B) The Board of Review established under

subsection (5) of section 42A shall inquire into

all appeals referred to such Board under

subsection (6A) and inform the parties thereto

and the Commissioner-General in writting by

registerd post of its decision thereon.

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(6C) The landlord or the person evicted who

is aggrieved by the decision of the Board of

Review may, within thirty days of the

communication of the decision to him, appeal

to the High Court of the Province against such

decision on a question of law. A copy of the

appeal shall be sent to the Commissioner-

General by registered post at the time when the

appeal is made.

(6D) Where no appeal is made against the

decision of the Board of Review within the time

allowed therefor, such decision shall be final.”;

(3) by the repeal of subsection (7) thereof and the

substitution therefor of the following:—

“(7) Where at any inquiry referred to in

subsection (6B) the Board of Review decides

that—

(a) eviction has taken place and no appeal

has been made under subsection (6C)

against such decision within the time

allowed therefor or the High Court of

the Province has, in an appeal made

under subsection (6C) confirmed the

decision of the Board of Review; or

(b) eviction has not been taken place and

the High Court of the Province has, in

an appeal made under subsection (6C),

varied the decision of the Board of

Review and confirmed the fact that

eviction has in fact taken place,

then, in any one of the above situations—

(i) the person evicted shall be

entitled to have the use and

occupation of the extent of

paddy land restored to him; and

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(ii) the Commissioner-Genetal shall

on receipt of the decision of the

Board of Review or the High Court

of the Province, as the case may

be, by an order in writting require

all persons in occupation of the

extent of paddy land in dispute to

vacate such extent on or before

such date as shall be specified in

such order, and if such persons fail

to comply with such order, they

shall be evicted from such extent

in accordance with the provisions

of section 8; and

(iii) the landlord of such extent shall

be required to pay damages at

such rate as may be prescribed to

the person mentioned in sub-

paragraph (i), for each day during

which such person in respect of

whom an order has been made,

continues to occupy such extent

after the date specified in such

order, unless the Board of Review

or the High Court of the Province

has determined that such person

was evicted without the

knowledge, consent or

connivance of the landlord.”.

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

amended by the substitution for the words and figures section 19 of the

principal

“section 6” wherever those words and figures appear of the enactment.

words and figures “section 1A”.

8. Section 20 of the principal enactment is hereby Repeal of

repealed. section 20 of the

principal

enactment.

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Amendment of 9. Section 39 of the principal enactment is hereby

section 39 of the amended—

principal

enactment.

(1) by the repeal of subsection (1) thereof and the

substitution therefor of the following:—

“(1) The Commissioner-General shall

appoint for every administrative district or for

one or more administrative districts one or more

Agrarian Tribunals consisting of one person

appointed from among retired judges who have

had more than seven years experience, or retired

public officers who have had seven years

expenrience at executive level in the field of

agrarian services.”;

(2) in subsection (2) thereof by the substitution for the

words “Where a member of an Agrarian Tribunal”

of the words “Where the person appointed to the

Agrarian Tribunal”;

(3) by the repeal of subsection (3) thereof and the

substitution therefor of the following:—

“(3) Every person appointed to the Agrarian

Tribunal shall, unless he earlier vacates office,

hold office for a period of three years:

Provided that—

(a) a person appointed in place of a person

who has died, resigned or been removed

from office, shall hold office for the

unexpired period of the term of office of

the person whom he succeeds; and

(b) a person appointed in place of a person

who is absent from Sri Lanka or is ill, shall

hold office for the period of absence or

illness of such person. ”;

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(4) by the repeal of subsection (4) thereof and the

substitution therefor of the following:—

“(4) A person vacating office by effluxion of

time shall be eligible for re-appointment.”

(5) by the repeal of subsection (5) thereof; and

(6) by the repeal of subsection (9) thereof and the

substitution therefor of the following:—

“(9) An Agrarian Tribunal shall inquire into

and conclude all applications and complaints

referred to it under this Act within a period of six

months from the date of receipt of such

application or complaint and shall inform the

parties thereto and the Commissioner-General

by registerd post of its decision thereon.”.

10. Section 40 of the principal enactment is hereby Repeal of

repealed. section 40 of

the principal

enactment.

11. Section 41 of the principal enectment is hereby Amendment of

amended— section 41 of the

principal

enactment.

(1) in subsection (1) thereof by the substitution for the

words “ any such application, complaint or appeal

has not preferred an appeal to the Court of Appeal”

of the words “any such application or complaint

has not preferred an appeal to the Board of Review”;

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

substitution therefor of the following subsection:—

“(2) Where any such party has preferred an

appeal to the Board of Review against the

decision of the Agrarian Tribunal within thirty

days of the receipt by him of the decision of the

Agrarian Tribunal, the decision of the Board of

Review once given, shall be given effect to.”.

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Replacement of 12. Section 42 of the principal enactment is hereby

section 42 of the repealed and the following section substituted therefor:—

principal

enactment.

“Right of 42. Any party aggrieved by the decision of

Appeal. an Agrarian Tribunal on any application or

complaint referred to it under this Act, may

make an appeal to a Board of Review

established under section 42A, within thirty

days from the date of receipt of such decision.”.

Insertion of new 13. The following new Part is inserted immediately after

Part IVA in the section 42 of the principal enactment and shall have effect

principal

as Part IVA of that enactment:—

enactment.

“PART IVA

BOARDS OF REVIEW

Boards of 42A. (1) The Judicial Service Commission

Review. shall appoint a Panel of not more than nine

persons from among the persons who have a

wide knowledge in the fields of law and agrarian

services for the purpose of establishing Boards

of Review for a period of three years.

(2) Where a member of the Panel vacates

office by reason of death, resignation, removal

from office, absence from Sri Lanka or illness,

another person shall be appointed in his place

subject to the provisions of subsection (1).

(3) (a) A person appointed in place of a

member who had died, resigned or been

removed from office shall hold office for the

unexpired portion of the term of office of the

member whom he succeeds.

(b) A person appointed to act for a member

who is absent from Sri Lanka or is ill, shall

hold office for the period of absence or illness

of the member whom he succeeds.

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(4) One of the members of the Panel shall be

appointed as the Chairman of the Panel.

(5) (a) There shall be established for the

purpose of this Act, such number of Boards of

Review as may be determined by the

Commissioner-General.

(b) The Commissioner-General shall

derermine from among such number of Boards

of Review, the number of Boards which are

required for any particular Administrative

District, depending on the requirement of such

District:

Provided that, the number of Boards

determined by the Commissioner-General as

being operated within an Administrative

District shall not exceed three such Boards.

(6) It shall be the duty of any Board of

Review established under subsection (5) to

entertain appeals of any aggrieved party

referred to such Board of Review under the

provisions of this Act and the proceedings in

respect of any such appeal shall be concluded

within a period of six months from the date of

receipt of any such appeal by the Board of

Review.

(7) Each Board of Review, shall comprise

three members selected by the Chairman from

among the members of the Panel appointed

under subsection (1) for the purpose of

exercising the power conferred on a Board of

Review under subsection (6). The Chairman

may select himself as a member of any particular

Board of Review.

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(8) Where the Chairman of the Panel is a

member of a Board of Review constituted under

this section then he, or where he is not a member

of a Board, then such member of the Board as

may be nominated by such Chairman, shall be

the President of such Board of Review.

(9) There shall be appointed to each Board

of Review a Secretary, who shall in respect of

every appeal heard by the Board, keep a record

of all such proceedings before the Board as

relates to that appeal.

(10) A Board of Review may examine any

witness on oath if it thinks fit so to do, and may

summon any person to appear before it or to

produce any documents which may be relevant

in the opinion of the Board.

(11) The documents, notices or summons

issued under the hand of the President of a

Board of Review or the Secretary of a Board of

Review, shall be deemed to have been issued

by that Board of Review.

(12) When a Board of Review, has issued or

deemed to have issued summons on any person

and such person,—

(a) fails without reasonable cause to appear

before the Board of Review at the time

and place mentioned in the summons;

or

(b) refuses without reasonable cause to be

sworn or affirmed, or having been duly

sworn or affirmed, refuses or fails

without reasonable cause to answer any

question put to him by a member of the

Board of Review touching the matters

to be heard and determined by such

Board, or willfully gives a false answer

to any such question; or

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(c) refuses or fails without reasonable cause

to produce before the Board of Review

any document which is in his

possession and which he has been

required to produce,

such person shall be guilty of an offence under

this Act and shall on conviction after summary

trial before a Magistrate, be liable to a fine not

exceeding rupees ten thousand or to

imprisonment of either description for a term

not exceeding three months or to both such

fine and imprisonment.

(13) Regulations may be made in regard to

the allowances to be paid and procedure to be

followed at the meeting of a Board of Review.

When the 42B. (1) Where any party to any such appeal

decision of a has not preferred an appeal to the High Court

Board of

of the Province against the decision of the

Review shall

be executed. Board of Review within thirty days of the

receipt by him of the notice of the decision of

the Board of Review, the decision of the Board

of Review shall be given effect to.

(2) Where any such party has preferred an

appeal to the High Court of the Province

against the decision of the Board of Review,

within thirty days of the receipt by him of the

decision of the Board of Review, the decision

of the High Court of the Province given in

repeal thereof, shall be given effect to.”.

14. Section 53 of the principal enactment is hereby Amendment

amended— of section 53

of the

(1) by the repeal of subsection (3) thereof and the principal

enactment.

substitution therefor of the following:-

“(3) An application to amend the

Agricultural Lands Register by entering the

name of a new tenant cultivator, in the case of

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the death or permanent disability of the tenant

cultivator of an extent of paddy land included

in the Register shall be made in writing to the

Commissioner-General, accompanied by a letter

from the owner consenting to the registration of

the applicant as the tenant cultivator in respect

of that extent of paddy land, and the

Commissioner-General shall make order thereon:

Provided however, where the applicant

proves to the satisfection of the Commissioner-

General that he is the successor in terms of the

provisions of section 1D or 1E, to the tenancy

rights of the deceased or permanently disabled

tenant cultivator, the Commissioner-General

shall make such order notwithstanding the

consent of the owner.”;

(2) by the insertion immediately after subsection (3)

thereof of the following subsection:—

(3A) The Commissioner-General shall take

steps to conduct annually, a census of the tenant

cultivators of paddy lands with a view to

annually updating the Agricultural Lands

Registers.”;

(3) by the repeal of subsection (8) thereof.

Amendment of 15. Section 101 of the principal enactment is hereby

section 101 of amended—

the principal

enactment.

(1) by the insertion immediatly after the definition of

the expression “evict” of the following

definition:—

“High Court of the Province” means the High Court

established for the Province in terms of Article

154P of the Constitution;”.

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(2) by the insertion immediately after the definition of

the expression “statutory tenant” of the following

definition:—

“ “permanent disability” in relation to a person

means the—

(a) loss of both hands; or

(b) loss of both legs; or

(c) loss of eye sight of both eyes; or

(d) loss of one hand and one leg; or

(e) loss of one leg and eye sight of one

eye; or

(f) loss of one hand and eye sight of

one eye; or

(g) body paralysis; or

(h) being of unsound mind;”.

16. The principal enactment is hereby amended by the General

substitution for the words “Court of Appeal” wherever those amendment to

the principal

words appear in the principal enactment, of the words “High enactment.

Court of the Province”.

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

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

of inconsistency.

prevail.

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