

LAND DEVELOPMENT STATUTE

Statute No.07 of 2002 - Western Provincial Council

NOTIFICATION

1. Lasanthe Alagiyawanna, Minister of Land, Western Province declare that Land Development Statute, No.07 of 2002, Western Provincial Council is effective from 19th February, 2003 as ordered by the Honourable Governor of Western Province.

LASANTHE ALAGIYAWANNA,
Minister of Land,
Provincial Council,
Western Province.

At Colombo,
2003 month of April, 22.

LAND DEVELOPMENT STATUTE OF THE WESTERN PROVINCIAL COUNCIL

A STATUTE FOR REGULARIZING UTILIZATION OF STATE LANDS SITUATED WITHIN THE PROVINCE EITHER BY STATE OR THE PROVINCIAL COUNCIL, FOR REGULATING THE DISTRIBUTION OF THE AFORESAID LANDS IN POSSESSION OF THE PROVINCIAL COUNCIL, FOR AUGMENTING PRODUCTIVITY OF LANDS AND FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THEM. THIS STATUTE IS IN COMPLIANCE WITH THE CROWN LANDS ORDINANCE NO. 08 OF 1947 (CHAPTER 454) AND THE LAND DEVELOPMENT ORDINANCE NO: 19 OF 1935 (CHAPTER 464) AS AMENDED BY LAND DEVELOPMENT (AMENDMENT) ACTS, NO.16 OF 1969, NO.27 OF 1981, NO.22 OF 1993, NO.22 OF 1995, NO.09 OF 1996, OF DIVESTING OF STATE LANDS, NO. 07 OF 1979.

01. This Statute shall be known as the Land Development Statute, No. 07 of 2002 of the Western Province and shall be effective from the date it receives assent of Governor of the Western Province.

Short title and
effective Date

CHAPTER I

STATE LANDS AND PROVINCIAL COUNCIL LANDS

02. (1) Any State land which had already been used by the provincial Council for the Provincial Council subjects at the commencement of operation of this statute such land shall be considered as a land granted to the Provincial council by the government as per 1.2 of the appendix 11 in the Provincial Council list of the 9th Schedule of the Constitution. After obtaining the land formally from the President, the Minister in-Charge of the subject of Lands in the Provincial Council shall proceed to publish the same in the *Gazette of the Democratic Socialist Republic of Sri Lanka*.

Lands granted to Provincial Council.

(2) The Provincial Council shall be entitled to use any land deemed to have been granted to the Provincial Council under the above sub-section (1) for any subject mentioned in the Provincial Council list.

03. (1) whenever a new State land is required for any Provincial Council subject, the Provincial Council shall request the president to grant that land to the Provincial Council.

Obtaining State land by the Provincial Council.

(2) When the Provincial land commissioner receives an application with request to grant a part of State land, he, after holding an inquiry into such application to the extent he deems sufficient and on being satisfied that it is suitable to obtain the said land for the said purpose, shall forward such application to the President with the concurrence of the Minister.

(3) When the Provincial Council receives a State land for any Provincial Council subject on an application made under the above sub-section (1) of Provincial Council shall be entitled to use such land for any other purpose mentioned in the Provincial Council list. However prior to using any such land for other purpose it shall be the responsibility of the Provincial Council to inform that fact to the President.

04. (1) When the government make inquires from the Provincial Council regarding the use of a State land for an item listed in closed or concurrent lists included in the Constitution of the Democratic Socialist Republic of Sri Lanka, the Provincial Council shall request the Government to submit a written application giving following details :

State land for Government use.

- (a) Purpose for which it is required ;
- (b) Its location ;
- (c) Its extent ;

(d) boundaries.

(2) when the Provincial Council receives a request as mentioned in sub-section (1) above it is the duty of the Provincial Council to inform the Government --

- (a) within 42 days whether the request can be granted ; or
- (b) propose an alternative land if the request cannot be granted ; or
- (c) to request to withdraw the application in case it is neither possible to grant the request nor to propose an alternative land.

(3) The Provincial Council shall draw up the procedure to be followed by it in extending its concurrence to the Government to use a State land.

05. In extending concurrence of the Provincial Council for the Government to use a portion of land situated within the Province, the Provincial Council shall consider whether the land concerned is freely available.

Matters to be considered, in extending Provincial Council concurrence

- (a) is allocated for another purpose ; or
- (b) is of any particular significance to the Province in view of its economic, cultural, archeological or ecological importance.

06. Any land which the Government had been using up to the effective date of this statute for or concurrent subject shall be considered as a land used by the Government in consultation with the Provincial Council in terms of the provisions of the Constitutions.

Lands already being used by the Government

CHAPTER II

ALLOCATION AND MARKING OF LANDS

07. For the purpose of this Chapter lands mean the State lands situated within the Province which are not used or allocated for any other purpose.

Lands that can be allocated and marked.

Purpose for which lands may be allocated and marked.

08. Competent Authority may allocate and mark any or more State lands subject to general or special directives of the Provincial Land Commissioner.

- (a) Village expansion;
- (b) Rural forests ;
- (c) Pastures ;
- (d) Resettlement schemes;
- (e) Protection of fountains and streams;
- (f) Prevention of soil erosion;
- (g) Protected forests;
- (h) Buildings, roads or other work including Government and Provincial Council activities;
- (i) Creation of protected forest areas for climatic and other ecological functions and for environmental protection;
- (j) Protection of objects of archaeological and historical significance;
- (k) Requirements of Local Government Institutions;
- (l) Urban development ;
- (m) Alienation of lands for persons of certain classes;
- (n) Other purposes which can be carefully specified in regard to the provincial security, conservation and development;
- (o) For Co-operative Societies, Associations or other organizations;
- (p) For projects approved by the Board of Investments of Sri Lanka;
- (q) For urban and village housing schemes ;
- (r) Rural work not specified herein.

09. (1) On allocation and making of lands in accordance with the provisions of Section 8 above , the Competent Authority in charge of performing that task shall cause to prepare--

scheme of allocation of lands and rough sketch to be prepared

- (a) a scheme specifying the lands allocated and marked ; and
- (b) a sketch showing the lands specified in the scheme as allocated and marked.

(2) Then such scheme and the sketch shall be forwarded to the Provincial Land Commissioner by the said competent Authority.

10. Provincial Land Commissioner may confirm the scheme and the rough sketch submitted to him under Section 9 above. If otherwise, Provincial Land Commissioner may issue further directives or advice he deems necessary in regard to the said scheme or rough sketch. Such

Confirmation of the scheme and the sketch by Provincial Land Commissioner

directives or advice shall be complied with and implemented by the Competent Authority.

11. In case the Provincial Land Commissioner is satisfied that his directives and advice given under Section 10 above have been complied with he may, as the case may be, confirm the scheme and the rough sketch.

Confirmation of the amended scheme and the rough sketch.

12. When confirmed by the Provincial Land Commissioner, the scheme shall be brought to the notice of the general public by the Competent Authority.

Referring the scheme to the notice of the public.

13. On notification made under Section 11 above, any member of the public has the right to examine free of charge, the rough sketch showing the plan of allocation and marking of the lands concerned.

Right of the public to examine the rough sketch.

14. If the Minister is of opinion that the plan confirmed by the Provincial Land Commissioner should be altered in the interest of the public the Minister may cause to do so. However it shall be the Minister's responsibility to seek concurrence of the Provincial Land Advisory Council for such alteration.

Minister is empowered to amend the plan

CHAPTER III

ALIENATION OF LAND

15. In advising the President to vest or assign a land situated within the province to any person or organization, the Provincial Council shall act as provided for in this chapter.

Advice to President to dispose State land.

16. The Provincial Council shall make available its advice to the President for disposal of land to a person or an organization only in respect of lands allocated and identified for the purpose as provided for in chapter II. However provision for this Section shall not mean that it prevents taking action in terms of any other provision of this statute.

To recommend only lands allocated for disposal.

17. (1) Cabinet of Ministers may approve granting permits under this Statute for using lands owned by the Provincial Council as per Section 02 and 03 of this statute and alienated otherwise and State lands situated within the area of authority of the Provincial Council.

Disposal is to be done by the Cabinet of Ministers.

- for settlement
- for engaging in agricultural activities; and
- for other purpose as approved by Cabinet of Ministers.

(2) Issue of permits to low income recipients for settlement purpose and issue of permits to those of the agrarian class for agricultural purpose may be exempted from charging fees.

(3) The Ministers shall make regulations in terms of Section 63 of this Statute to provide for charging fees.

18. (1) Selection of persons for disposing a portion of land may be done by a land Kachcheri. The Minister shall make regulations to provide for such work.

Selection of persons for disposal of land.

(2) The Board of Ministers may select a person or an organization for disposal of a portion of land on concessionary basis for implementing any task or a special project.

Organisation or person may be selected on concessionary basis.

19. Provincial Land Commissioner shall obtain required technical advice appropriate to the occasion in incorporating conditions as to how a land given to a person on a permit should be developed and determine whether such land has been developed on the basis of technical advice.

Issue of permits of Land Development.

20. Possession of the relevant portion of land may be caused to the person selected to receive Possession of such portion of land as mentioned in this chapter. A prescribed permit embodying conditions as to how the land should be utilized shall be issued in favour of such person by the Competent Authority within a period not exceeding three months from the date of handing over the possession.

21. Rights of a recipient of land on a permit under this Statute may be waived at his own wish. The Minister may make regulations for the purpose.

Waiving of rights.

22. Permit for a land is a personal document issued to the permit holder who shall not be entitled to dispose his ownership of the land as per permit.

Permit in personal to recipient.

23. When a person who receives a permit in respect of any portion of land has fulfilled all the conditions given in the said permit to the satisfaction of the Provincial Land Commissioner such person shall be entitled to receive a document of alienation issued by the President in respect of the said land.

Alienation.

24. Regulations incorporating provisions and procedures for giving advice to the President for alienation of a land to any person shall be made by the Minister.

Making regulation for.

CHAPTER IV

SUCCESSION

25. No person shall be eligible to receive a permit for possession of or in respect of any portion of land unless the person selected to receive such portion of land has nominated that person to receive that land after his death.

Successor to be nominated.

26. (1) Person to be nominated in terms of Section 25 for recipient of a lot shall be-

Nominating a successor.

- a) In case the person selected to receive the land is not married, either his mother or father and if both are not living , any one of his brothers and sisters ; or
- b) in case the person selected to receive the land is married either his spouse or any one of his children.

(2) Whenever there is no such suitable person to be nominated to receive the land after his death as provided for in sub-section (1) above, the person selected to receive the land shall be entitled to nominate one of his closest living relatives at his discretion.

(3) If the said after death nominee dies or if he withdraws such nomination of his own or if the permit holder withdraws his nomination then the permit holder shall nominate another after nominee in succession within six months from that date as provided for in this Statute.

27. When a nominee is entitled to take over the possession of land after the death of nominator who was selected to receive the land, such nominees full name, reference number of a legal document which proves his identity, whether the nominee is a male or female, relationship to the recipient of the land, whether succession is for the entire land or for a portion of land and if so to which portion should be entered in the permit and certified by the Competent Authority.

Particulars of succession, to be included in the permit.

28. Nomination of a person to possess the land after the death of the recipient of the land when included in the permit may be amended at any time during the validity of the permit at the discretion of the permit holder without prejudice to requirements of Section 26. However the responsibility to see that fresh nomination will not jeopardize the rights of person who occupies the land for the time being after developing the land shall lie on the Competent Authority.

Succession can be amended.

29. (a) When the person nominated in the permit to possess the land after death of the permit holder, dies while the permit holder is living ;or

Cessation of succession

- (b) When the permit holder withdraws nomination of the person to possess the land after his death; or
- (c) When the nominee who is to claim the land after permit holder's death causes to withdraw such nomination at his own wish; or
- (d) When the permit holder dies and also the nominee dies before he receives a fresh permit within a period of six month; or
- (e) When an unmarried permit holder becomes a married person; or
- (f) When the president grants a legal document of vesting the land to the recipient of the land,

then the nomination made regarding a succession shall be null and void for all purposes.

30. When a permit holder expires, if the person nominated to possess the land on his death, establishes his uninterrupted possession of such land such person shall be entitled to receive fresh permit for that land in such instance all the provisions specified in the statute as applicable to a permit holder shall apply to such person.

A fresh permit to be issued to a successor.

CHAPTER V

CANCELLATION OF PERMIT

31. (1) In the case of circumstances mentioned in Sub-sections (1),(2),(3) and (5) of Section 29, if no person is nominated to possess the land after permit holder's death, within a period of 6 months after the earlier nomination being terminated or under circumstances mentioned in Sub-section 29 (4) or in the absence of a person entitled to succession to the land or if person who has such right declines to be Successor then such land shall be deemed to have been vested in the Government.

If failed to claim succession to land, such land to be vested in Government.

(2) Possession of such land shall be taken over by the Competent Authority on behalf of the Provincial Council.

(3) The Provincial Council shall reserve the right of issuing or not issuing a permit to any person in respect of such land.

32. If it appears to the Competent Authority that a permit holder has failed to comply with any condition embodied in the permit, the Competent Authority shall take action to send him a notification giving him an opportunity to show sufficient cause as to why the said permit

Notification to permit holder on breach of conditions.

should not be cancelled. The date, time and place of such inquiry shall be specified in the notification.

33. The date of inquiry specified in the notification to be sent under Section 32 above shall not be a date prior to 30 days from the date of issue of such notification.

Period allowed to shown cause.

34. (1) While one copy of notification to be issued under Section 32 above shall be handed over to the permit holder, another copy of same shall be caused to be displayed in a conspicuous place of the land concerned. Arrangements may be made to deliver copies of such notification to any person who is considered to be interested in the land or affected by such cancellation.

Delivery and display of notification.

(2) Whenever the permit holder mentioned in the notification issued under Section 32 above cannot be found, the notification may be handed over to a member of his family or to any other person who lives with him and such handing over of the notification to the permit holder shall be considered as the notification has been properly handed over. In the absence of any such person to hand over notification, posting and displaying it in a conspicuous place in the permit holder's house or in its vicinity shall be deemed to have handed it over to the permit holder properly.

(3) In which way of those mentioned above, was the notification handed over should be confirmed to the competent Authority in writing by the officer to whom such work was entrusted.

35. (1) If the permit holder does not come forward to show cause in terms of the notification issued under Section 32 or if he comes forward and states that he has not cause to show against the cancellation and if the Competent Authority is satisfied that the notification has been properly handed over and some conditions have been violated, he may order that the permit be cancelled. However, he may make such order only after the expiry of 28 days from the date prescribed in the notification.

Cancellation when permit holder is not present.

(2) If any permit holder who fails to be present on the date specified in the notification issued under Section 32 informs within 14 days from the date specified in the notification that he can show cause against cancellation of the permit, and that he could not be present on the date of inquiry due to unavoildable circumstances, to the satisfaction of the Competent Authority, and he may order another date for showing cause.

36. (1) When the permit holder comes and shows causes against cancellation of his permit under Section 35 or 35 (2) or on the date given

Action to be taken when the permit holder shows cause.

to him, if the Competent Authority is satisfied after making inquiries that the permit holder has breached any condition, he may order cancellation of the permit.

(2) An inquiry fixed under the aforesaid Section may be postponed by the Competent Authority and in postponing an inquiry the date, time and place of the next inquiry shall be intimated in writing to the permit holder;

(3) Evidence should be heard before an order is given by the Competent Authority under Section 35 or 36. Evidence should be obtained on oath or attestation.

37. Date on which the cancellation order was given by the Competent Authority shall be mentioned in the said order.

Date of Cancellation Order.

38. (1) A copy of the order made by the Competent Authority under Section 36 shall be handed over to the permit holder forthwith and a copy of same shall be displayed in a conspicuous place of the land in question. Possibility of making an appeal to the Provincial Land Commissioner against such order within 30 days shall also be mentioned in the said notification.

Handing over of order to the permit Holder and its display.

(2) Provisions of Section 34 applicable to the notification to be issued under Section 32 shall also be equally applicable to handing over of order to be issued Section 36.

39. An appeal under Section 38 shall be submitted in the form of a written petition within 30 days from the date of order. In reckoning the period the date of the order shall not be counted.

Time limit allowed to appeal.

40. Having considered the appeal in the presence of the Appellant or his representative, the Provincial Land Commissioner shall take action to-

Powers of Provincial Land Commissioner.

- 1) Cause to produce facts or hear evidence with a view to making further inquiries ; or
- 2) Set aside the order allowing the appeal to prevail ; or
- 3) Amend the order ; or
- 4) Confine the order ; or
- 5) Make any other fair and reasonable order.

Notifying Provincial Land Commissioner's Order.

41. (1) Decision taken by the Provincial Land Commissioner under Section 40 shall be intimated to the Competent Authority forthwith.

(2) Provincial Land commissioner's decision under Section 40 shall be final and conclusive for all purposes.

Notwithstanding, a person aggrieved by the decision of the Land Commissioner, can make an appeal to the Minister in-Charge of the subject.

42. Permit holder shall be able to represent facts personally or through a representative at any activity undertaken under this chapter.

Possibility of representing facts personally or through a representative

CHAPTER VI

OFFENCES AND PUNISHMENTS RELATING TO LANDS

43. (1) Any person who engages in any ---

- a) clearing;
- b) fencing;
- c) tilling soil;
- d) excavation;
- e) cultivation;
- f) construction of any building or part of such building; or
- g) setting down

Unlawful acts relating to lands.

in a Provincial Council land or any state land without any valid permit or legal instrument issued in respect of that land commits an offence under this Statute and if convicted after a summary trial in a Magistrate's Court he may be subjected to a punishment of rigorous imprisonment for not less than one year and not more than three years and or to a fine not less than Rupees one thousand and not more than Rupees ten thousand and or to both these punishments simultaneously.

(2) In addition to any punishment that can be imposed on any person by reason of committing an act mentioned in Sub- Section (1) above, such person shall be disqualified to receive a state land and further he shall also be black listed.

44. (1) A Competent Authority shall have the power to compound offence in the manner mentioned in this statute without

Procedure to expel encroachers

resorting to legal action in respect of any offence other than those specified in 'f' and 'g' in Sub-section 43 (1) above.

(2) In compounding an offence mentioned in Sub-Section (1) above shall direct the encroacher to pay a minimum fine that can be imposed under the regulation or in case a damage has been caused to the land, to pay twice the assessed amount of damages as a fine.

(3) In case the fine prescribed in Sub-Section (2) above is paid the equipment and stores used by the encroacher for the act of encroaching shall be allowed to be removed by him. However, Provincial Council property connected with the encroached land shall not be removed by the encroacher.

(4) Whenever an act of encroachment cannot be compounded in terms of this Section, the matter shall be referred to the Magistrates' Court of the area in which the land is situated by the Competent Authority.

45. (1) Whenever the Competent Authority is of opinion that--

(a) a particular land is a state land ; and

(b) any person is in unauthorised possession or occupation of the land;

the Competent Authority may cause to deliver a notice to such encroacher ordering him to leave the land together with his dependants and to hand over the uninterrupted possession of the land to the Competent Authority before a prescribed date.

(2) The notice to be so handed over shall be substantially in the form "B" of the schedule of notices.

(3) Delivery means handing over by hand or sending by registered post and fixing the notice in a conspicuous place in the land.

(4) Date to be specified in the notice shall be a date within a period not less than 30 days from the date of issue of the notice and the date of notice shall not be included therein.

46. Whenever a notice of ejectment under Section 45 is delivered or displayed, encroacher shall be bound to comply with such order.

47. (1) In case of violation of provisions of Section 46 intimated by an ejectment notice the Competent Authority shall make an application to the Magistrate's Court concerned incorporating the following :-

Ejectment of encroachers.

Bound to comply with an ejectment notice.

Consequence of non-complying with ejectment notice.

- (a) that he is a Competent Authority;
- (b) that in his opinion, the land is a State land; and
- (c) although an ejectment notice had been delivered encroacher has failed to act according to that notice

(2) An application for ejectment prepared substantially as per form "B" of the schedule shall be made to the Court together with a copy of the ejectment notice and an affidavit prepared substantially as per form "C" of the schedule embodying the above mentioned particulars.

48. On receipt of an application under Section 47 above, Magistrate shall forthwith issue summons to the party named in the application requiring such party to be present on a fixed date and to show cause as to why he should not be ejected from the land.

Summons to be issued.

49. When a person who receives a summon issued under Section 48 above does not appear in the Court or appears in the Court and informs that he has no cause to show against ejecting him from the land then the Court shall issue an order to eject him from the land.

Order of ejectment.

50. (1) When a person who receives a summon under Section 48 shows cause against his ejectment from the land, after holding a suitable inquiry, if the court satisfies that such person is not entitled to possess or reside in the land, an order for ejectment of such person from land shall be issued.

Issue of ejectment order when cause is shown against such order.

(2) Except on a legal issue, no appeal shall be allowed against an ejectment order made by a Magistrate under Sub-section (1).

(3) Every request made under Section 47 shall be required and finalised within a period of 2 months and on an occasions when an order is made under Section 49 or 50 (1) for ejectment of a person from a land stipulated in that order, the Court shall ensure to issue all orders to eject such persons from the land within period of three months from the date of the request.

51. Permit holder or any other person who claims right to the land on his behalf shall have no opportunity at an inquiry held by a Magistrate under Section 50 above to prove that--

Limits of showing cause to Court.

- (a) the land in question is not a State land ; or
- (b) in case the permit has been cancelled that it should not have been cancelled.

Enforcement of ejectment order.

52. Whenever a person fails to abide by an ejectment order Magistrate shall, on application by the Competent Authority direct the Fiscal to expel the person bound by the said order and to hand over possession of the land to the Competent Authority.

53. Fiscal shall Act in terms of the Court Order and hand over uninterrupted possession of the land to the Competent Authority or to a person named by him and the Fiscal may seek assistance of a Police Officer, if required for this purpose. After enforcing the Court Order, it shall be the duty of the Fiscal to report that fact duly to the Court.

Enforcement of the Court Order by Fiscal.

54. Magistrate is empowered to impose a fine of not less than one thousand rupees and not more than ten thousand rupees taking in to consideration the nature of offence committed through encroachment of land and extent of such land.

Possibility to impose a fine.

55. When any damage is caused to a land by anybody and if the Provincial Land Commissioner is satisfied that the damage or extent of the damage has increased due to carelessness, and indifference of any Government or Provincial Council employee who is entrusted with the responsibility of taking measures to prevent such damage, recovery from such employee's salary a prescribed portion of the total damage assessed shall be lawful. Minister may make regulation for this purpose.

Surcharge against public servants who neglect duties.

CHAPTER VII

ESTABLISHMENT OF THE DEPARTMENT AND APPOINTMENT OF OFFICERS

56. A Provincial Land Commissioner's Department referred Western Province Land Commissioner's Department hereafter will be established for implementation of this Statute.

Establishment of a Provincial Land Commissioner's Department.

57. (1) A Provincial Land Commissioner shall be appointed for due enforcement of powers and performance of duties and functions entrusted to him under this Statute and to be responsible for vesting and assigning powers and duties meant for proper authorities and Land Officers to them and for general supervision and operation of activities of such proper authorities and Land Officers.

Appointment of Provincial Land Commissioner.

(2) Provincial Land Commissioner shall be subject to the Statutes and regulations in connection with the use of powers and performance of duties under this Statute.

58. (1) Provincial Land Commissioner may from time to time, prescribe general and special rules relating performance of duties entrusted to any Competent Authority or Land Officer in regard to Land Administration. Provincial Land Commission shall have power to determine that any doubt or difficulty that may arise in relation to aforesaid duties be referred to him for decision.

Powers of Provincial Land Commissioner.

(2) Any order or decision of the Land Commissioner shall be enforced by the Competent Authority or the Land Officers as the case may be.

Possibility of appointing Deputy or Assistant Provincial Land Commissioner.

59. (1) Deputy and Assistant Provincial Land Commissioners may be appointed as required from time to time for the purposes of this statute.

(2) Any power duty or function entrusted to the Provincial Land Commissioner under this statute or any other order can be enforced, performed and fulfilled by the Deputy Provincial Land Commissioner subject to general or special instructions of the Provincial Land Commissioner.

(3) Provincial Land Commissioner may authorise a Provincial Assistant Land Commissioner to enforce perform or fulfill any power, duty or function entrusted to such Provincial Land Commissioner under this Statute or any other order.

60. (1) One or several Land Officers may be appointed in respect of the Province or any Divisional Secretary's Division within the Province.

Appointment of Land Officers and granting them authority.

(2) Every such Land Officer may fulfill, implement and operate within the Province or Divisional Secretary's Division to which he is appointed all or any part of the duties entrusted to the Competent Authority in the Manner and to the extent directed by the Provincial Land Commissioner.

(3) All officers appointed to carry out function of this Statute shall be deemed to be Government Servants within the meaning of the Penal Code and the Bribery and Corruption Allegations Investigations Act.

CHAPTER VIII

ESTABLISHMENT OF A PROVINCIAL LAND ADVISORY COUNCIL AND ITS POWERS AND FUNCTIONS

61. (1) The Western Province Provincial Council, shall establish a Provincial Land Advisory Council and such Advisory Council shall be responsible for framing the Provincial Policy relating to use of State lands and Provincial Council. Provincial Land Policy shall be consists with the National Land Policy framed under Sub - section 3 .3.4 of Appendix II, List I, Schedule 9 of the Constitution.

Establishment of a Provincial Land Advisory Council.

(2) This Advisory Council shall comprise officers representing the following fields:

- (a) Land Use Planning ;
- (b) Line Agriculture and major Provincial Agriculture;
- (c) Major Irrigation and Provincial Irrigation ;
- (d) Local Government ;
- (e) Survey ;
- (f) Forest Conservation ;
- (g) Wild Life ;
- (h) Agrarian Services ;
- (i) Environment Conservation ;
- (j) Archaeology ;
- (k) Physical Planning ;
- (l) Urban Development ;

In addition, four non-Government Scholars who are specialised and representing the following fields shall be members of this Council:

- (a) Natural Resources Management;
- (b) Sociology;
- (c) Economics;
- (d) Law.

(3) The Secretary of the Ministry shall be the Chariman of this Council of this Council while Provincial Land Commissioner shall be the Secretary. Further all District Secretaries of the Province shall be ex officio members of the Advisory Council.

62. (1) Powers and functions of the Provincial Land Advisory Council shall include the following:

Powers and Functions of the Provincial Land Advisory Council.

- (a) Deciding Provincial policy on use of lands and giving publicity to same;
- (b) Classification of individuals or groups who should receive Provincial Council lands and state lands;
- (c) Classification of individuals or groups of persons who should receive lands;
- (d) Deciding limits of land units to be distributed among different groups;
- (e) Deciding criterias for selection of land recipients;
- (f) Deciding conditions to be included in permits or lease bonds;
- (g) Submission of recommendation on matters referred to by the Minister, after investigation;
- (h) Taking necessary action on matter referred to the Provincial Council by the National Land Commission in relation to the National Policy;
- (i) Submission of matter to the National Level Commission to be considered in regard to the Province in framing National Policy.

(2) The Advisory Council shall have the power to order any officer or institution to furnish data, reports, maps and documents required by it for performance of duties entrusted to it and also provide information, recommendations and observations to the National Land Commission whenever it requires them.

(3) Appointment of members of the advisory Council other than its Chairman, Secretary and ex officio members shall be made by Governor of the Province on recommendation of the Board of Ministers.

(4) Term of office of appointed members shall not exceed three years and they are they are entitled to be re-appointed at the end of that period.

CHAPTER IX

LAND REVENUE

63. (1) The Provincial Council shall have power to recover rent, fees and income at prescribed rates, from State lands and Provincial Council lands situated within the Province, without prejudice to aims and purposes of this Statute.

Possibility of recovering rental fees and revenue.

(2) Provincial Council is empowered to prescribe charges to be recovered when Provincial Council lands and State lands situated

within the area of Authority of the Provincial Council are disposed on permit or lease bond.

(3) Charges can be prescribed according to each subject and each group of persons and the Minister may make regulations in this connection.

(4) Assessment, collection and accounting of revenue shall be the responsibility of the Provincial Land Commissioner.

(5) When lease charges recoverable under lease agreements in force as on the date of implementation of this Statute is less than 10% in terms of the present annual assessment. Provincial Land Commissioner is empowered to forward the said rates lease charges to the relevant Authority for amendment in terms of Sub-Section (1) of this Section.

64. Any annual payment or other payment payable to the Provincial Council by a permit holder of a land alienated under this statute shall be credited to the Provincial Council Fond.

Payment of money due to the State.

65. Permit holder shall be subject to make an additional payment to the Provincial Council according to prescribed rate and manner in respect of payments not paid on time or payments remain in arrears.

Penalty for neglect of payment and arrears of payment.

66. When any payment payable to the Provincial Council in respect of a land alienated under this statute has been defaulted, the Competent Authority or an officer authorized by him may withdraw the possession of land given on permit.

When payments are in default possession of land to be withdrawn.

67. (1) Withdrawal of possession of land mentioned in Section 66 shall be done by delivering a notice prepared substantially as per prescribed form to the permit holder to whom the possession of land is given and by fixing a copy of that notice in a conspicuous place in the land. A copy of the notice may also be given to any person who has any interest or as the Competent Authority is of opinion to any other suffers loss by reason of such withdrawal of possession.

Procedure to withdraw possession.

(2) When the permit holder cannot be found by means of suitable attempts to deliver a notice under Sub-Section (1) above, if a copy of such notice is delivered to an elderly person in his family or to a servant who lives with him the notice shall be deemed to have been delivered properly. In the absence of an elderly person in the permit holder's family or a servant to whom the notice can be delivered on his behalf, fixing of such notice in a conspicuous place in the house or dwelling place where he generally resides shall be deemed to have been duly delivered.

(3) If a permit holder to whom possession of land has been given has defaulted payments and if he delivers a property which is free from encumbrances and unclaimed by others in order to settle the amount outstanding from him in full, then possession of such land shall not be withdrawn.

68. (1) Withdrawal of possession of a land under this Statute shall be considered as cancellation of the permit by which the land has been granted.

Withdrawal of possession of land amounts to cancellation of the permit.

(2) Authority mentioned in Sub-Section (1) shall be enforced by making an endorsement in the permit relating to the land substantially in terms of the prescribed form by the Competent Authority.

CHAPTER X

MISCELLANEOUS

69. (1) It shall be the responsibility of the Provincial land Commissioner to maintain a Land Information System in the Province updating regularly. Such information shall be prepared at Divisional, District and Provincial level.

Land Information system.

This information System shall essentially include appropriate information in regard to state lands situated within the Province which are used by the Government and the Provincial Council.

(2) It shall be the Provincial land Commissioner's responsibility to identify genuine land needs for various purposes in the Province and to maintain a prescribed register of such needs updating it regularly.

70. The Competent Authority or any person who is duly authorized by him in writing is empowered to enter any land granted on permit at any time between 6 a.m. and 6 p.m. after notifying in writing for examination or for any other purpose incidental to connected with work assigned to the Competent Authority under this Statute.

Competent Authority can enter a land granted on permit at any time.

71. (1) When a land which is disposed on a permit under this Statute is encroached, action shall be initiated under the relevant section to withdraw possession deeming it to be a land of the Provincial Council relevant Sections of the Recovery of Possession of State Land Act shall also to be implemented.

Expulsion of encroacher from a land granted on permit.

(2) Any person who encroaches a land which is disposed on a permit issued under this Statute commits an offence and if he is convicted at a summary trial held in the presence of Magistrate, he becomes liable to be punished with rigorous imprisonment for a period of not less than one year and not more than three years and or with a fine of not less than One Thousand Rupees or not more than Ten Thousand Rupees or with both these punishments.

72. No case shall be filed against any officer for any of his bona fide act or omission under this Statute.

Indemnity of officers.

73. In case of any issued that arises in regard to matters mentioned in this Statute the Sinhala version shall prevail.

CHAPTER XI

REGULATIONS

74. (1) Minister is empowered to make regulations for implementing an validating the policies and provisions of the Statute. Such regulations shall be approved by the Provincial Council.

Minister is empowered to make regulations.

(2) Regulations may be made in relation to all or any of the following matters without prejudice to ordinary powers vested particularly by Sub Section (1) above:

- (a) Procedure to be followed by the Provincial Council in applying for State lands;
- (b) Maintenance of registers of Provincial Council land;
- (c) Maintenance of registers of lands used for closed and concurrent services mentioned in the constitution;
- (d) Reservation and making of lands required for security, composition and development of the Province;
- (e) Specifying the procedure for reservation and making lands;
- (f) How lands given by the government to the Provincial Council should be used;
- (g) Method of specifying the land unit to be alienated;
- (h) Specifying particular instances where lands are to be alienated for public purpose outside the normal procedure;

- (i) How technical advice should be abstained for deciding conditions relating to Land development;
- (j) How the Provincial Council should advice Government for vesting a land;
- (k) How to decide the ability of a recipient of land to develop such land;
- (l) Selection of persons and organizations suitable to receive land. Specifying procedure to be adopted by land Kachcheries;
- (m)How a successor to won a portion of land should be nominated;
- (n) Provisions for maintenance and updating of the Land Information System and the Register of Land Requirements;
- (o) Provisions required for any matter expressed or prescribed in this Statute.

CHAPTER XII

INTERPRETATIONS

75. Board of minister: shall mean the Board of Minister of the Western Province Provincial Council.

Minister: shall mean the Minister in – Charge of the subject Of Lands in the Western Province Provincial Council.

Permit: shall mean a permit issued under this Statute.

Permit Holder: shall mean a person or an institution or an organization who has received a permit under this Statute.

Government: Government that comes tounder the constitution of the Democratic Socialist Republic of Sri Lanka.

Land shall include: Extent of land depicted in the Plan of the Department of Survey General of the Government which includes:-

- (a) any use of the land;
- (b) bottom of any lake or stream, reservoir;
- (c) any thing bound permanently to the ground or to any thing connected with the ground ;
- (d) use of any crop growing or to be grown on the land.

Alienation of land shall mean disposal of lands under this Statute.

Land Kachcheri shall mean on inspection conducted for selection of land recipients under this Statute.

Portion of land shall mean a land or any part of land distributed under this Statute.

Land Officer shall mean an officer appointed under Section 60 of this Statute,

Recipient of land shall mean a person, an institution or an organizations selected to receive or received a land under this Statute.

Reservation and marking of lands shall mean allocation of lands situated in the Province for each or several purpose mentioned separately in Chapter II of this Statute.

Prescribed shall mean what is required by this Statute or regulations made under it.

Vesting shall have the same meaning as given in the Constitution.

Competent Authority shall mean a Sri Lanka Administrations Service Officer appointed by the Governor for the enforcement of powers vested in terms of this Statute within any Divisional secretariat Division or a Provincial Administration Officers having authority equal to that of a Divisional Secretary.

Provincial Council lands shall mean the lands made available or deemed to have been made available to the Provincial Council under the provisions of the Constitution and the land possession of which has been acquired by the Provincial Council.

"Provincial Council Subject" shall have the same meaning as given in the Constitution.

Provincial Land Commissioner shall mean the appointed officer for the Western Province in terms of this Statute, Deputy Land Commissioner, an Assistant Land Commissioner and any other Officer of the Provincial Land Commissioner's Department authorized by him in writing to undertake any specific activity or direction under this Statute.

Vesting shall have the same meaning given in the Constitution.

"Disposal" shall mean handing over of a land to a person or an institution or an organization for any purpose of this Statute.

"State" shall mean the State of the Democratic Socialist Republic of Sri Lanka.

"Government land" shall mean all land in the Western Province lawfully owned by the Government or the land that can be vested with the Government and all rights and details connected with such land.

"Regulation" shall mean the regulations made under this Statute by the Minister.

Concurrent and Reserved: Concurrent and reserved shall have the same meaning as given in the Constitution.

SCHEDULE

FORM "A"

NOTICE FOR EJECTMENT

Whereas I (name and designation if any) being the Competent Authority for the purpose of the Land Development Statute of the Western Province Provincial Council, am of opinion that you (name to be given) hold the Possession of */ reside in the land described in the Schedule hereto and therefore in terms of powers vested in me by Section 15 of the said Statute to hereby order you.

- (a) To leave the land with your dependents, if any ;
(b) To hand over the uninterrupted possession of the land on or before (give date) to me, the Competent Authority for the purpose of the Statute or to (name of the person authorised and his description if any).

.,
(Name of Competent Authority and Designation, if any).

The Schedule above referred to-
(Particulars of location of land including name of the district to be given.)

.
Signature and Name of Competent Authority

with
Designation, if any.

Date: -

*Delete if inapplicable.

FORM "B"

QUIT NOTICE

To the Magistrate Court
(give name of Court)

I (give name and designation, if any) being the Competent Authority for the purpose of the Land Development Statute of the Western Province in terms of the powers vested in me by Section 17 of the said Statute-

(a) do hereby state as follows : viz.

I. I am the said Competent Authority ;

II. The land described in the schedule of this application is, in my opinion, a Provincial Council land ;

III. A notice of leave (copy of which is annexed) was handed over to
.....
.....
(give name and address) was exhibited in or on the said land ;

IV. Said my opinion holds the possession of */ resides in the said land without permission and has failed to act in accordance with the provision of Section 46 of the said Statute.

(b) I beg that possession of the said land be given back and said (give name) and his/her dependants, if any be expelled from the said land.

The Schedule above referred to:
(Description of location of land including name of the district)

.....
Name of Competent Authority and Designation, if any.

Date:

* Delete words inapplicable.

FORM "C"

AFFIDAVIT

I..... (give name and designation, if any) being the Competent Authority for the purpose of Land Development Statute of the Western Province do hereby solemnly sincerely and truly affirm*) declare on oath as required by Section 47 of the said Statute that -

I. I am a Competent Authority for the purpose of the said Statute ;

II. The land described in Schedule to the application for expelling, in my opinion, is a Provincial Council land;

III. Notice of leave (a copy of which is annexed to application for expelling) has been delivered to
.....
.....
(give name and address/has been exhibited in or on the said land)

IV. I.....
..... (give name) an of opinion that the said person holds the possession of/resides in the land and has failed to act in accordance with the provision of Section 46 of the Statute.

.....
Signature and Designation, if any of Declarant.

Affirmed */ declared on oath by the declarant on this day of ... 200

.....,
Signature of person in whose preserve the
Affirmation/declaration is made and designation, if any.

* Delete if inapplicable.