



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

COAST CONSERVATION
(AMENDMENT)

ACT, No. 64 OF 1988

[Certified on 17th December, 1988]

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Coast Conservation (Amendment) Act, No. 64 of 1988

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L. D.—O. 8/84.

AN ACT TO AMEND THE COAST CONSERVATION ACT, NO. 57 OF 1981

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

1. This Act may be cited as the Coast Conservation (Amendment) Act, No. 64 of 1988. Short title.

2. Section 5 of the Coast Conservation Act, No. 57 of 1981 (hereinafter referred to as "the principal enactment") is hereby repealed and the following section substituted therefor :— Replacement of section 5 of Act No. 57 of 1981.

5. The Government Agent of any administrative district within which any part of the Coastal Zone is situated, or any other public officer who is entitled to a salary scale of Rs. 24,000 *per annum* or above and whose annual increment is Rs. 600 or more, may, upon an authorization in writing in that behalf by the Director and subject to the general direction and control of the Director, exercise, perform and discharge within that administrative district, all or any of the powers, duties and functions conferred or imposed on, or assigned to, the Director by Part III of this Act."

Director to delegate any of his powers, duties or functions under Part III to Government Agent and other officers.

3. Section 10 of the principal enactment is hereby amended by the repeal of subsection (1) thereof, and the substitution therefor, of the following subsection :— Amendment of section 10 of the principal enactment.

" (1) A meeting of the Council shall be held at least once in every six months."

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

Seizure of vehicles &c., upon contravention of provisions of section 14.

27A. (1) Where any vehicle, vessel, boat, craft, machinery or equipment is used by any person in contravention of the provision of subsection (1) of section 14, any police officer shall have the power to seize any such vehicle, vessel, boat, craft, machinery or other equipment, along with any article or substance found thereon.

2 *Coast Conservation (Amendment) Act, No. 64 of 1988*

(2) No vehicle, vessel, boat, craft, machinery or equipment seized under the provisions of subsection (1), shall be released unless an order of court, permitting such release has been obtained."

Amendment
of section
28 of the
principal
enactment.

5. Section 28 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor, of the following subsections :—

(2) Upon the conviction of any person for an offence under the provisions of subsection (1) the Magistrate may make order declaring that—

(a) any substance or article which is not the property of the State in respect of which such offence has been committed ; and

(b) all vehicles, vessels, boats, crafts, machinery and other equipment used in, or in connection with, the commission of such offence (whether such vehicles, boats, crafts, machinery are owned by such person or not),

shall be forfeited to the State.

(3) Any property forfeited to the State under subsection (2) shall—

(a) if no appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which the period prescribed for preferring an appeal against such conviction expires ;

(b) if an appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which such conviction is affirmed on appeal.

In this subsection "relevant conviction" means the conviction in consequence of which any property is forfeited to the State under subsection (1) :

Provided however, that the court may make order releasing any substance or article in respect of which the offence has been committed, or any vehicle, vessel, boat, craft, machinery and equipment used in, or in connection with the offence, if

it is proved that such substance, article, vehicle, vessel, boat, craft, machinery and equipment belongs to a person other than the person convicted of the offence and that other person satisfies the court that he had no knowledge that it would be used in respect of the offence, or in connection with the commission of the offence.”

6. Section 29 of the principal enactment is hereby amended by the insertion immediately after paragraph (d) thereof, of the following new paragraph :—

Amendment of section 29 of the principal enactment.

“ (e) contravenes the provisions of section 31A (1) or 31c.”

7. Section 31 of the principal enactment is hereby amended by the addition at the end of that subsection, of the following new subsections :—

Amendment of section 31 of the principal enactment.

“ (5) Where the Director is unable, or apprehends that he will be unable, to proceed with the taking down and removal of any structure, house, hut, shed or other building as hereinbefore provided, because of any obstruction or resistance which has been, or is likely to be offered, the Director shall on making an application in that behalf to the Magistrate’s Court having jurisdiction over the place where the structure, house, hut, shed or other building is situated be entitled to an order of that court directing the Fiscal to take down and remove such structure, house, hut, shed or other building as the case may be.

(6) Where an order under subsection (1) is issued to the Fiscal by a Magistrate’s Court, he shall forthwith execute such order and shall in writing report to such court the manner in which such order was executed.”

8. The following new sections are hereby inserted immediately after section 31, of the principal enactment and shall have effect as sections 31A, 31B, 31c, 31d, 31E and 31F thereof :—

Insertion of new sections 31A, 31B, 31c, 31d, 31E and 31F in the principal enactment.

“ Prohibition on mining, collecting &c. of coral within Coastal Zone.

31A. (1) No person shall within the Coastal Zone—

(a) engage in the mining, collecting, possessing, processing, storing, burning and transporting in any form whatsoever, of coral ;

4 *Coast Conservation (Amendment) Act, No. 64 of 1988*

- (b) own, possess, occupy, rent, lease, hold or operate kilns for the burning and processing of coral ;
- (c) use or possess any equipment, machinery article or substance for the purpose of breaking up coral ; and
- (d) use any vehicle, craft, or boat in or in connection with, the breaking up or transporting of any coral :

Provided however that the Director, may under the authority of a licence issued in that behalf, permit the removal of coral for the purpose of scientific research.

(2) Where any vehicle, vessel, boat, craft, machinery or other equipment, is used in contravention of the provisions of subsection (1) any police officer shall have the power to seize any such vehicle, vessel, craft, boat, equipment or machinery along with any article or substance found thereon.

(3) No vehicle, vessel, craft, boat, equipment or machinery seized under the provisions of subsection (2), shall be released unless an order of court permitting such release has been obtained.

(4) Any police officer shall have the power to confiscate any coral, found stored or stacked within the Coastal Zone in contravention of the provisions of subsection (1) and any such coral so found shall be handed over to the Director or his representative or disposed of in any manner as may be determined by the Director.

Certificate
by Director
as to place
where
offence was
committed
to be prima
facie
evidence.

31B. A certificate issued under the hand of the Director, containing a statement that the acts referred to in section 31A, took place within the Coastal Zone, shall be prima facie evidence of the facts stated therein.

Demolition
of kilns
within the
Coastal
Zone.

31c. Every person, who within the Coastal Zone, owns, or possesses or occupies one or more kilns, shall within thirty days of the coming into operation of this section, demolish, or cause such kilns to be demolished.

Title to
beaches
cannot be
acquired by
possession
or use.

31D. (1) No person shall, by reason of possession or use of any specific portion of the beach claim to have acquired title to such portion of the beach as against the State.

(2) (a) In any dispute concerning the area comprising the beach in any part of the island a certificate signed by the Director or a person authorized by him in that behalf containing a statement that a particular area forms part of the beach, shall be prima facie evidence of the facts stated therein.

(b) In arriving at a determination for the purpose of issuing a certificate under paragraph (a), the Director or any other person authorized by him in that behalf, shall take into consideration the extent of accretion along the coastline which is caused by deposition of sand brought in by long shore transport from other areas along the coast line, or by the transport of material along the rivers.

(c) For the purpose of this Act accretions adjoining private property shall be deemed to belong to the State.

(3) Notwithstanding the provisions of paragraph (2) of this section, the public shall have the right to use or enjoy any portion of the beach.

Transport
of sand and
sea shells.

31E. (1) Any police officer shall have the power to examine any vehicle, vessel, boat or craft transporting or suspected of transporting sand and sea shells.

(2) The onus of proving that such sand or sea shells were lawfully obtained, shall lie on the person transporting such sand and sea shells.

Fifty per
centum of
fines to be
credited
to the Police
Reward
Fund.

31F. There shall be credited to the Police Reward Fund established under the Police Ordinance, fifty per centum of the moneys received by way of fines."

6 *Coast Conservation (Amendment) Act, No. 64 of 1988*

Insertion
of new
sections 35A,
35B and 35C
in the
principal
enactment.

9. The following new sections are hereby inserted immediately after section 35 of the principal enactment, and shall have effect as sections 35A, 35B, 35C, of that enactment :—

Power of
police
officer to
arrest
without
warrant.

35A. (1) Any police officer may without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in, or connected with, the commission of any offence under this Act, punishable with imprisonment for a term exceeding six months if such person refuses to give, his name or address or gives a name or address which he has reason to believe to be false, or if there is reason to believe that such person may abscond.

(2) Every police officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested to the nearest police station, together with a statement setting out the offence with which the accused is charged. The officer in charge of the police station shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate.

Power of
police
officer to
prevent
commission
of offence.

35B. Every police officer shall prevent, and may interfere for the purpose of preventing, the commission of any offence under this Act.

Penalty for
obstructing
or interfering
with police
officers.

35C. Any person who threatens, intimidates or obstructs or otherwise impedes, or in any way interferes with a police officer or any other officer authorized to act in that behalf in the exercise, performance and discharge of his powers, duties and functions under this Act, shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine :

Provided that a prosecution shall not be instituted under this section, except with the sanction of an officer not below the rank of a Superintendent of Police.”

Coast Conservation (Amendment) Act, No. 64 of 1988 7

10. Section 42 of the principal enactment is hereby amended as follows :—

Amendment
of section
42 of the
principal
enactment.

(1) by the insertion immediately before the definition of the expression "coast", of the following new definition :—

"beach" means a gently sloping area of unconsolidated material, typically sand, that extends landward from the mean high water mark to the area where there is a marked change in material or natural physiographic form. In cases where there is no marked change in the material or natural physiographic form, the beach will be deemed to extend to a distance of 20 metres landward from mean high water level, or to a level of 2.5 meters above mean high water level, whichever is less ;' :
and

(2) by the substitution for the definition of the expression of "development activity", of the following definition :—

"development activity" means any activity likely to alter the physical nature of the Coastal Zone in any way and includes the construction of buildings and works, the deposit of waste or other material from outfalls, vessels or by other means, the removal of sand, sea shells, natural vegetation, sea grass and other substances, dredging and filling, land reclaiming and mining or drilling for minerals, but does not include fishing ;' .