

35.

LEGAL PROVISIONS FOR THE CONSERVATION OF SOIL

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THE SOIL CONSERVATION ACT NO 25 OF 1951 AS AMENDED BY ACTS NO 59 OF 1953 AND 24 OF 1996.

The purpose of this Act is to take necessary action for the enhancement of productive capacity of soil, to restore degraded land for the prevention mitigation of soil erosion, for the conservation of soil resources and protection of land against damage by floods salinity, alkalinizing, water logging and draught.

The Director-General of Agriculture can order necessary surveys and investigations to determine the nature of and the extent of soil erosion and land degradation to enable the Minister to declare Conservation Areas under this Act. (Areas have been declared since 1953 as Erodible Areas until the new word was substituted in the amendment in 1996)

The Minister can make regulations to control, restrict or prevent or even order certain types of activities in any Conservation Area under the provisions of Section 4. In addition, the minister can make regulations in respect of other areas (undeclared areas) under the provisions of Section 6. These regulations can be made to achieve any of the matters specially stated in the Section including the maintenance and promoting of soil fertility preventing or mitigating erosion, remedying damages from soil erosion, the control of the floods and effects of draughts, prohibiting or restricting of the burning of grasses, to conserve water and watersheds. If the minister is satisfied that any extent of land already within a conservation area should be withdrawn from cultivation or take any other measures to prevent or mitigate erosion, the minister can declare that the land is needed for a public purpose and have it acquired under the Land Acquisition Act.

Soil conservation Act provides for the making of regulations under two broad categories. One is the provision to make general regulations that are applicable to any part of the country. The other types of regulations apply only to the already declared Soil Conservation Areas or for a specific area or areas named in the regulations. The general regulations can be made under Section 6 of the act are intended, among other things, to preserve and promote soil fertility and for the facilitating the absorption of moisture by soil, for the prevention or reduction of soil erosion or to remedy the damage caused by soil erosion, to control grazing by animals, for the prohibition of or the restriction of the burning of grasslands and to control the spread of fire during the burning of *chenas*, for the specification of the times of tillage and irrigation and of the methods of irrigation in specified areas to ensure the economic use of available water, to give directions for seasonal or periodic changes in the crops to be cultivated, or for the alteration of or adoption of cultivation practices for the promotion of soil conservation to protect land vulnerable to degradation and to increase the productive capacity of lands and to conserve water and watersheds as far as necessary for the conservation of soil.

NATIONAL ENVIRONMENTAL ACT NO 47 OF 1980 AS AMENDED BY ACTS NO 56 OF 1988 AND 53 OF 2000.

The objectives of this Act are, among other things, the protection, management and enhancement of the environment. Part IV of the act empowers the Central Environmental Authority to, with the assistance of the ministries, make recommendations on the Environmental Management in the Section. This includes formulation of policies on forestry and soil conservation.

Part IV C of the act deals with the Approval of Projects. The minister is empowered to make orders under Section 23Z to determine the projects and undertakings for which approval is needed under this part of the Act. Such projects are called "prescribed projects" under this Act. Anyone who wants to undertake a prescribed project has to get approval under this part of the Act. It has to be done after doing an Environmental Impact Assessment (IEA) or Initial Environmental Examination (IEE) as the situation make it necessary.

The list of prescribed projects is published in gazette extraordinary no 722/22 of 24.06.1993. The project and undertakings are given in a schedule comprised of three parts. Part one is comprised of project and undertakings that need approval. Part three gives these areas known as sensitive areas. If a project given in part one is within such an area, it needs approval under the Act irrespective of the size. Those that are limited in Part 2 need approval only if they are within an area provided in part 3. The sensitive areas under Part 3 include any areas declared under the Soil Conservation Act.

FOREST ORDINANCE NO: 16 OF 1907 AS AMENDED

The objectives of this ordinance are the conservation protection and management of forest and forest resources and for the felling and transport of timber and forest produce.

This Ordinance provides for the declaration of three types of protected areas. They are the Conservation Forests, Reserved Forests (Forest Reserves) and Village Forests. In addition all areas of State Land not declared as protected areas by this enactment, or the Fauna and Flora Protection Ordinance and the National Heritage Wilderness Areas Act are given protection under Sections 19, 20, and 21 of the Forest Ordinance. These forests are known as Other State Forests (OSF) for the purposes of clarity although there is no legal declaration of such a category of forests. The declaration of Conservation Forests is done under the provisions of Section 3A by a notice published in the Gazette. The following activities, among others, are prohibited inside a Conservation Forest, under provisions of Section 7A. They are, cutting, destroying or collecting of plants, making any fresh clearing or quarrying for minerals, kindling and keeping any fire, clearing up or breaking up of land.

FAUNA AND FLORA PROTECTION ORDINANCE, NO: 2 OF 1937 AS AMENDED

This Ordinance provides for the protection, conservation and preservation of the fauna and flora of the Sri Lanka and for the prevention of the commercial exploitation. The provisions of the enactment make it possible to protect habitats by providing legal protection to them and the protection to species of animals and plants. Part one of the Act is for the protection of habitats and Section 2 makes it possible to declare two main types of protected areas namely National Reserves and Sanctuaries.

A National Reserve is declared only over state land and entry is allowed only upon the permission given by the Department of Wildlife Conservation. Seven different types of National Reserves can be declared under the Section 2(1) and the highest protection is enjoyed by the Strict National Reserves. One can enter a Strict National Reserves only for the purpose of performing an official duty or to scientifically study the plants and the animals. The other six types enjoy same type of protection and entry can be permitted only for observations.

The other types of National Reserves are the National Parks, National Reserves, Jungle Corridors, Refugees, Marine Reserves and Buffer zones. However there are only three types, namely the Nature reserves, National Parks and Jungle Corridors declared so far. The activities that are restricted and prohibited in National Reserves are provided in Sections 3 and 6. These include, among others, clear or break up any land for mining, cultivation or for any other purpose.

Another type of protected areas is Sanctuaries. It is possible to under Section 2(2), to declare a Sanctuary on any state land and on any private land. According to Section 07, the following are among other prohibited activities. They are, clearing or breaking up land for mining, cultivation or for any other purpose, making any fresh clearing.

PASTURE LANDS (RESERVATION AND DEVELOPMENT) ACT, NO 04 OF 1983

This Act provide for the reservation of certain state land as pasture land, the leasing of such land and the recovery of possession of such lands from persons in unauthorized possessions of occupations.

The minister can under Section 2, with the concurrence of the minister in charge of the subject lands, declare any area of state land as Pasture Land by a notification published in the Gazette. All Pasture Lands declared under this Act are deemed to be state lands within the meaning of State Lands (Recovery of Possession) Act and the provisions of this Act can be applied as necessary for the ejectment of anyone in unauthorized possession or occupation of a pasture land.