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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCILS

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

I, Prasanna Ranathunga, The Chief Minister and the Minister of Finance and Planning, Law and Order, Land, Education, Local Government and Provincial Administration, Power and Energy, Manpower and Employment, Economic Promotion and Trade of the Western Province hereby notify that the Land Development Statute No. 04 of 2012 of Western Provincial Council described in the schedule below has been passed by the Western Provincial Council on 07.08.2012 and has been assented by the Hon. Governor of the Western Province on 13.12.2012

PRASANNA RANATHUNGA,
The Chief Minister and the Minister of Finance and Planning, Law and Order,
Land, Education, Local Government and Provincial Administration,
Power and Energy, Man Power and Employment, Economic Promotion,
and Trade of the Western Province Provincial Council.

Office of the Chief Minister,
"Sravasthi Mandiraya",
Colombo 07.
11th February, 2013.

Land Development Statute of the Western Province No. 04 of 2012

A statute for regulating utilization of state lands situated within the Province either by Government or Provincial Council and for assigning either to any citizen or any organization and for Providing Provisions for advice of the Provincial Council on disposing aforesaid lands and for matters incidental thereto and for repealing the Land Development Statute of the Western Province No. 07 of 2002.

Be it enacted by the Provincial Council of the Western Province of the Democratic Socialist Republic of Sri Lanka as follows.

01. This Statute shall be cited as the Land Development Statute of the Western Province No. 04 of 2012 and shall be effective from the date it receives assent of the Governor of Western Province.

Short name and the date of operation.

02. Any state land which already been used for the Provincial Council subjects under the provisions of the Constitution at the Commencement of operation of this Statute such land shall be considered as a land granted to the Provincial Council as per 1.2 of the 1 of Appendix 11 in the List 1 (Provincial Council list) of the schedule 9 of the Constitution.

Lands used for Provincial Council.

Obtaining state
lands by the
Provincial
Council subjects.

03. (1) Whenever a new state land is required for any Provincial Council subject ; Provincial Land Commissioner shall request the Commissioner General of Lands to grant that land to the Provincial Council.

(2) When the Provincial Land Commissioner receives an application with a request to grant a portion 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 Commissioner General of Land with the concurrence of the Minister.

(3) A state land received to the Provincial Council for any Provincial Council subject on a request made under the above subsection (1) shall be used for that particular subject. Any requirement to use a land received to the Provincial Council for this subject, for other subject it shall be done according to the laws which Govern state lands.

04. (1) After Government grants state lands required with regard to Provincial Council subjects situated within the Province, Provincial Council shall administrate, Govern and use the said state lands according to laws and statutes which Govern the said Matter.

(2) The procedure to be followed in extending the concurrence of the Provincial Council to the Government to use a state land shall be prescribed by rules.

05. Provincial Land Commissioner may have the power to approve granting permits :

- (a) for settlement ;
- (b) for changing in agricultural activities.

with regard to the lands situated within the area of Provincial Council.

State lands use by
the Government.

06. (1) When the Government makes inquiries from the Provincial Council regarding the use of a State land for a subject mentioned 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 forward a written application providing following details :

- (a) Purpose for which the land 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 ;

- (a) to inform the Government whether the request can be granted before expiring 42 days ;

or

- (b) propose an alternative land to the Government if the request cannot be granted.

(3) The procedure to be followed in extending the concurrence of the Provincial Council with regard to using a state land by the Government shall be framed by the Provincial Council.

07. 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,
- (a) is allocated for another purpose or,
- (b) is of any particular significance to the Province in view of its economic, cultural, archaeological or ecological importance.
08. Any land the Government had been using upon the effective date of this Statute for a closed or concurrent subject shall be considered as a land used by the Government in consultation with the Provincial Council in terms of the provisions the Constitutions.
09. (1) Selection of persons for disposing a portion of land may be done by a Land Kachcheri.
- (2) Following steps shall be followed in conducting a Land Kachcheri under Sub-section (1) mentioned above.
- (a) When the Divisional Secretary is of opinion on disposing a portion of land for settlement and/or agricultural activities, a project report with regard to that, a proposal of Land Kachcheri, a copy of the plan/trace shall be presented to the Provincial Land Commissioner and shall obtain approval to conduct a Land Kachcheri ;
- (b) Notification of Land Kachcheri thus received the approval as per Section (a) mentioned above shall be publicized to the extent Divisional Secretary deems sufficient to deliver a vast publicity in the area with a model application prepared with the signature of the Divisional Secretary. Notification of Land Kachcheri shall be publicized by granting at least a period of 30 days allowing applicants a sufficient period of forward applications ;
- (c) Land Kachcheri shall be held on the dates, scheduled venue and time mentioned in the publicized notification of Land Kachcheri. Any requirement to make changes of the said matters shall obtain prior written approval of Provincial Land Commissioner and the said change of approval shall be publicized at least ten days before the date on which the Land Kachcheri is to be held in the same manner in which the notification of Land Kachcheri has been publicized ;
- (d) Qualified persons shall be selected from the applications received on or before the date mentioned in the notification of Land Kachcheri. Divisional Secretary may grant permission to consider with regard to applications received within a period of delay of three (3) working days except for weekend holidays, if the applicant has forwarded reasons in a manner which Divisional Secretary deems sufficient with regard to applications received after the due date ;
- (e) List of the names of the persons qualified to receive land shall be publicized priority wise within fourteen days from the Land Kachcheri and objections shall be called on that selection. This selection list shall be publicized in the manner in which the notification of Land Kachcheri has been publicized ;
- (f) If any objection has been presented a notice to present personally in a particular date at a particular time shall be sent to the objectors by register post. A notice shall also be sent to the persons subjected to the objection to participate in the objection inquiry by register post ;
- (g) List of the names of the persons selected to grant land shall be publicized in the manner the notification of Land Kachcheri has been publicized within fourteen days from the completion of the objection inquiry.

Selection on
concessionary
basis.

10. When selecting a person or organization on concessionary basis to dispose a portion of land to implement a special project the Board of Ministers may have power to extend the concurrence of the Provincial Council.

11. Procedure mentioned below shall be followed in providing advice of this Provincial Council to dispose a state land situated within the Western Province.

- (a) identifying the land ;
- (b) Surveying and marking the land ;
- (c) Obtaining recommendations and reports with regard to objective matter from the Divisional Secretary to the Provincial Land Commissioner ;
- (d) Subjecting them into a regular examination/inquiry after receiving those recommendations and reports by Provincial Land Commissioner ;
- (e) Referring said recommendation reports to the secretary of the Provincial Land according to prevailing Acts, Laws, Statutes and land consumption plans ;
- (f) Obtaining approval of the Provincial Board of Ministers ;
- (g) Providing recommendations by the Provincial Land Commissioner to the Commissioner General of Land for further actions of the process of disposing after receiving the approval.

Issuing grant.

12. When a person who received a permit for a particular portion of Land has fulfilled all conditions mentioned in the said permit that person qualifies to conduct further actions to receive a grant for the said land.

Departments
Pvincial Land
Commissioners.

13. A Provincial Land Commissioners' Department referred to Western Province Land Commissioners' Department hereafter shall be exist for the control and administration of state land in the Western Province.

Establishment of
a post of a
Provincial Land
Commissioner.

14. (1) there shall be a post of Provincial Land Commissioner 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 Land Officers to them and for general supervision and operation of activities of Land Officers.

(2) Provincial Commissioner of Land shall discharge his duties subjecting to the administration of the Secretary.

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

(2) Provincial Land Commissioner will have the power to generally or specially grant my power, duty or functions entrusted to the Provincial Land Commissioner under this Statute or any other order can be enforced, performed and fulfilled by the Deputy Provincial Commissioner or Assistant Provincial Land Commissioner subjected to general or special instructions of the Provincial Land Commissioner.

16. (1) One or several Land Officers may be appointed in respect of the Province or any Divisional Secretariat Division within the Province.

(2) Every such Land Officer any fulfill, implement and operate within the Province or Divisional secretariat 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) Provincial Land Commissioner may issue general or special orders from time to time meant for performing duties with regard to Land Administration assigned to him to a Land Officer. Moreover any doubt or difficulties inspired with regard to such duties Provincial Land Commissioner may have power to order to forward that matter to him to take a decision with regard to that.

(4) Any order or decision of Provincial Land Commissioner shall be followed and put into action by Land Officers as suitable for the occasion.

17. (1) In a case where no person has been nominated as per provisions mentioned in the relevant Law or Statute to possess the land after the death of the permit holder or in the absence of a person entitled to succession to the land or if person who has such right declines to be successor as per provisions mentioned in the relevant Law, such land shall be deemed to have been accredited to the Government.

if failed to claim succession to such land to be accredited to Government.

(2) Possession of such land shall be taken over by the Divisional Secretary.

18. If it appears to the Divisional Secretary that a permit holder has failed to comply with any condition embodied in the permit, the Divisional Secretary shall take action to send him a notification giving him an opportunity to show sufficient cause as to why the said permit should not be cancelled. The date, time and place of such inquiry shall be specified in the notification.

Notification permit holder breach of conditions.

19. The date of inquiry mentioned in the notification to be sent under Section 18 above shall not be a date prior to 30 days from the date of issue of such notification.

20. (1) While the copy of notification to be issued under Section 18 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 has power for such cancellation.

Delivery and display of the notice.

(2) Whenever the permit holder mentioned in the notification issued under Section 18 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 a proper handing over of the notification. In the absence of any such person to hand over notification, pasting and displaying it in the house of the permit holder or a conspicuous place 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 Divisional Secretary in writing by the officer to whom such work was entrusted.

21. (1) If the permit holder does not come forward to show cause in terms of the notification issued under Section 18 or if he comes forward and declares that he has no cause to show against the cancellation and if the Divisional Secretary is satisfied that the notification has been properly handed over and any condition has been violated, he may order to cancel the permit. However, he may make such order only after the expiry of 28 days from the date prescribed in the notification.

Cancellation when the 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 18 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 unavoidable circumstances, to the satisfaction of the Divisional Secretary, another date may assign for showing cause.

22. (1) When the permit holder comes and shows cause against cancellation of his permit under Section 18 or 21 (2) or on the date given to him, if the Divisional Secretary is satisfied after making inquiries that the permit holder has breached any condition, he may order to cancel the permit.

Action to be taken when the permit holder shows cause.

(2) An inquiry fixed under the aforesaid Section may be postponed by the Divisional Secretary and in postponing an inquiry, the date, time and the venue of the next inquiry shall be informed in writing to the permit holder.

(3) Evidence should be heard before an order is given by the Divisional Secretary under Section 21 or 22. Evidence shall be obtained an oath or attestation.

Date of the order cancellation.

23. Date on which the cancellation order was given by the Divisional Secretary shall be mentioned in the said order.

Delivery of order to the permit holder and its display.

24. (1) A copy of the order made by the Divisional Secretary under Section 22 shall be handed over to the permit holder forthwith and a copy of same shall be displayed in a conspicuous place of the relevant land. Possibility of making an appeal to the Provincial Land Commissioner against such order within 30 days shall also be mentioned in the said notification.

Period given to appeal.

(2) An appeal under Section 22 shall be submitted in write within 30 days from the date of order. In considering the period the date of the order shall not be counted.

Period given to appeal.

25. An appeal under Section 24 shall be submitted in write within 30 days from the date of order. In considering the period the date of the order shall not be counted.

Powers of the Provincial Land Commissioner.

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

- (a) cause to produce reasons or hear evidence to make further inquiries ; or
- (b) set aside the order allowing the appeal ; or
- (c) amend the order ; or
- (d) confirm the order ; or
- (e) make any other fair or reasonable order.

Informing the decision of the Provincial Land Commissioner.

27. (1) Decisions made by the Provincial Land Commissioner under Section 26 shall be informed to the Divisional Secretary forthwith.

(2) Instruction of the Provincial Land Commissioner under Section 26 shall be final and conclusive for all purposes.

Nevertheless, a person aggrieved by the decision of the Provincial Land Commissioner can forward an appeal to the Minister in Charge of the subject.

Possibility of representing facts personally or through a representative. Land revenue

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

29. (1) Provincial Council shall have power to recover rents, fees and income at prescribed rates from state lands and land received to the Provincial Council situated within the Province without prejudice to objectives and purposes of this Statute.

(2) Provincial Council is empowered to prescribe charges to be recovered when lands receive to the Provincial Council and State lands situated within the area of authority of the Provincial Council are disposed on permit or lease bond under the provisions of State Land Ordinance.

Land information system.

30. It shall be the responsibility of the Provincial Land Commissioner to maintain a land information system on state lands and Provincial Council lands situated in the Province updating regularly. Such information shall be prepared at Divisional, District and Provincial level. This information system shall include prescribed information with regard to State lands situated within the Province which are used by the Government and the Provincial Council.

Competent Authority can enter a land granted on permit.

31. Provincial Land Commissioner or any person who is formally authorized by him in writing will have the power to enter any State land or Provincial Council land on any day at any time between 6.00 a.m. to 6.00 p.m. for examination or to obtain information.

32. (1) A 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,
- (g) setting down,

Unlawful acts
regard to land.

in a land received to the Provincial Council 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 of 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, he shall be disqualified to receive a state land and further he shall also be black listed.

(3) Provisions of State Land (recovering procession) Act, No. 07 of 1979 are applicable in the same manner with regard to unauthorized procession of a land received to the Provincial Council or of a state land.

33. (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 lands situated in the Province. Provincial Land Policy shall be consistent with the National Land Policy framed under Sub-section 33.4 of Appendix II, List I, Schedule 9 of the Constitution.

Establishment of
a Land Advisory
Council of
Western
Province.

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

- (a) Land use Planning,
- (b) Line agriculture and Provincial Agriculture,
- (c) Major Irrigation and Provincial Irrigation,
- (d) Local Government,
- (e) Survey,
- (f) Forest Conservation,
- (g) Wild life,
- (h) Agrarian Services,
- (i) Environmental Conservation,
- (j) Archaeology,
- (k) Physical Planning,
- (l) Urban Development,

(3) In addition to representation of Sub-section (2) above four Non-Government Scholars who are specialized and representing the following fields shall be members of this Council :

- (a) Natural Resource Management,
- (b) Sociology,
- (c) Economics,
- (d) Law.

(4) The Secretary of the Ministry shall be the Chairman 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.

Powers and functions of the Provincial Land Advisory Council.

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

- (a) Deciding Provincial Policy on use of lands and publicizing them ;
- (b) Referring the instruction of relevant Provincial Council to the relevant authorities conforming to the rules which govern that matter in assigning or disposing state lands situated in a Province to a citizen or an organization ;
- (c) Investigation and submission of recommendation on matters referred by the Minister ;
- (d) Taking necessary actions on matters referred to the Provincial Council by the National Land Commission in relation to the National Policy ;
- (e) Submission of matters to the National Land Commission to be considered in regard to framing a 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 to 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 entitled to be re-appointed at the end of that period.

Making rules.

35. (1) The Minister shall make rules to execute Provisions of this Statute on instructions of the Provincial Land Advisory Council.

(2) Every such rule made by the Minister under Section (1) above shall be published in the *Gazette* and shall forward to the Provincial Council by a proposal as soon as possible to grant the approval after such publication.

(3) Any rule made under this Section shall not be valid until approved by the Provincial Council and published that approval in the *Gazette*.

36. Land Development Statute of the Western Province, No. 07 of 2001 is repealed on the date of operation of this Statute.

37. In this Statute unless the text otherwise requires :

“Board of Ministers” shall mean, the Board of Ministers of the Western Province Provincial Council.

“Minister” shall mean, the Minister in-charge of the subject of lands of the Western Province Provincial Council.

“Permit” shall mean, a permit received under a written Law related to subject of lands.

“Permit Holder” shall mean, a person or an institution or an organization who has received a permit received under a written Law related to subject of lands.

“Government” shall mean, the Government which comes into power according to the Constitution of the Democratic Socialist Republic of Sri Lanka.

“Land” shall mean,

- (a) The ground which includes the bottom of any natural or artificial reservoir or stram ;
- (b) Anything bound permanently to the ground or to anything connected with the ground ;
- (c) Any right to the land and/or a connection of any cultivation being done or being expected to do in the land.

“Dispose of Land” shall mean, disposal of land under this Statute.

“Land Kachcheri” shall mean, an inspection conduct for selection of land recipients under this Statute.

“Portion of Land” shall mean, a land or any part of that land distributed under this Statute.

“Land Officer” shall mean, an Officer appointed under Section 12 of this Statute and when taken in definite meaning it means an Officer function with regard to any special land.

“Recipient of Land” shall mean, a person or an institution or an organization selected to receive or received a land under this Statute.

“Lands granted to Provincial Council” shall mean, lands considered as given to the Provincial Council as per Provisions of the Constitution and lands acquired by the Provincial Council.

38. In the event of any inconsistency between Sinhala, Tamil and English texts of this Statute, the Sinhala text shall prevail.

Sinhala text to
Prevail in an
inconsistency.