

Agrarian Services (Amendment)

Act No 4 of 1991

AN ACT TO AMEND THE AGRARIAN SERVICES ACT, NO, 58 OF
1979

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

Short title. **1.** This Act may be cited as the Agrarian Services (Amendment) Act, No. 4 of 1991.

Amendment of section 2 of Act No. 58 of 1979. **2.** Section 2 of the Agrarian Services Act, No. 58 of 1979 (hereinafter referred to as "the principal enactment") is hereby amended by the insertion, immediately after subsection (2) of that section, of the following subsection: "

" (3) Any person who cultivates an extent of paddy land let to him by any other person who holds that extent under a permit issued under the Land Development Ordinance subject to the condition that the permit holder himself should cultivate that extent, shall be deemed not to be a tenant cultivator within the meaning of this Act."

Amendment of section 4 of the principal enactment. **3.** Section 4 of the principal enactment is hereby amended in subsection (1) of that section by the addition, at the end of that subsection, of the following words : "

" For the purpose of this section any paddy land cultivated by a spouse or a minor child below eighteen years of age, of a tenant cultivator shall be deemed to be paddy land cultivated by that tenant cultivator. "

Amendment of section 5 of the principal enactment. **4.** Section 5 of the principal amended as follows: "

(a) by the repeal of subsection (3) of that section and the substitution therefor, of the following subsection : "

' (3) Where a tenant cultivator of an extent of paddy land notifies the Commissioner, in writing, that he has been evicted from such extent, the Commissioner shall cause an inquiry to be held by an Inquiry Officer for the purpose of deciding the question whether such person had been evicted." ;

(b) by the substitution in subsection (5) of that section for the word "Commissioner" of the words " Inquiry Officer.";

(c) by the repeal of subsection (6) of that section, and the substitution therefor, of the following subsection : "

" (6) The landlord of the extent of the paddy land and the person evicted shall be given an opportunity of being heard in person or through a representative at an inquiry. The decision of the Inquiry Officer after such inquiry shall be communicated in writing to the Commissioner, the landlord and the person evicted.

If the landlord or the person evicted is aggrieved by such decision, he may within thirty days of the communication of the decision to him, by petition in writing in which the other person shall be mentioned as respondent, appeal to the Board of Review appointed under Part IVA for the Province in which such extent of paddy land is situated, against that decision on a question of law. A copy of "such petition shall be sent by registered post to the Commissioner at the time of making the appeal. Where no appeal is made from such decision within the time allowed therefor such decision shall be final and conclusive and shall not be called in question in any court or tribunal.";

(d) by the repeal of subsection (7) of that section and the substitution therefor, of the following subsection : "

" (7) Where at any inquiry referred to in subsection (3) the Inquiry Officer holds"

(a) that eviction has been established and no appeal is made from such decision within the time allowed therefor or the Board of Review has on any such appeal confirmed the decision of the Inquiry Officer that eviction has been established ; or

(b) that eviction has not been established and the Board of Review has on appeal varied the decision of the Inquiry Officer and held that eviction has been established"

(i) the person evicted shall be entitled to have the use and occupation of the extent of paddy land restored to him.

(ii) the Commissioner shall on receipt of the decision of the Inquiry Officer or the Board of Review, as the case may be, order , in writing that every person in occupation of such extent of paddy land shall vacate it on or before such date as shall be specified in that order and if such person fails to comply with such order he shall be evicted from such extent in accordance with the provisions of section 6 ; and

(iii) the landlord of the extent of paddy land shall for each day during the period commencing on the date of eviction of the person mentioned in sub-paragraph (i) and ending on the

date on which he is restored to possession, pay to such person damages at such rate as may be prescribed unless the Inquiry Officer or the Board of Review has held that such person was evicted without the knowledge, consent or connivance of such landlord:

Provided that no damages shall be payable for any part of the period referred to in this sub-paragraph during which the extent of land may have been cultivated under section 38A. " ;

(e) by the repeal of the second proviso to subsection (9) of that section and the substitution of the following therefor :-

"Provided further, that where any extent of paddy land is let by a lessee to a sub-tenant without obtaining the consent in writing of the owner of such extent"

(a) the sub-tenant shall not be entitled to any right of a tenant cultivator in respect of such extent ;

(b) the Commissioner shall in writing order the sub-tenant to vacate such extent on or before the date specified in the order and if the sub-tenant fails to comply with such order he shall be evicted from such extent in accordance with the provisions of section 6;

(c) the owner shall be entitled to cultivate such extent in accordance with the provisions of subsection (b) of section 4 ;"

(f) by the addition immediately after subsection (11) of that section of the following new subsection which shall have effect as subsection (11A) of that section : "

" (11A) Nothing in Chapter LXVI of the Civil Procedure Code inserted in that Code by the Civil Procedure Code (Amendment) Act, No. 79 of 1988, shall be read or construed as empowering a Judge of the Small Claims Court to hold any inquiry or make any Order under the aforesaid Chapter in respect of a dispute affecting paddy land within the meaning of this Act."

Insertion at new section 5A and 5B in the principal enactment

5. The following new sections are hereby inserted immediately after section 5 of the principal enactment and shall have effect as section 5A and section 5B respectively of the principal enactment : "

"
5A.
Exemption
of land
owned by
temples,

(1) Any Viharadhipathi or high priest of a temple, kovil or church or any trustee of a mosque may, within twelve months of the enactment of this section

&c.

make application to the Commissioner to have an extent of land not exceeding two acres owned by such temple, kovil, church or mosque exempted from the application of section 2 of this Act.

(2) The Commissioner shall hold an inquiry into such application at which the tenant cultivators, if any, of such extent of land shall be afforded an opportunity of making representations. The Commissioner shall thereafter make the decision exempting such extent of land as may be reasonably necessary for the maintenance of the temple, kovil, church or mosque, being an extent not exceeding two acres, from the application of the provisions of section 2. The Commissioner shall also decide the amount of compensation payable to each tenant cultivator by the applicant and the date before which such compensation shall be paid.

(3) Any person aggrieved by the decision of the Commissioner may appeal to the Board of Review against the decision and the Board of Review may affirm or vary the Commissioner's decision. The decision of the Board of Review on such appeal shall be final and conclusive.

(4) Where no appeal is made to the Board of Review, or an appeal having been made the Board affirms the decision of the Commissioner, the Commissioner shall order the tenant cultivator to vacate the land on or before the date specified in the order.

(5) Where the tenant cultivator fails to vacate the extent of land in compliance with such order, he may be evicted under the provisions of section 6, provided that the Commissioner shall take action to evict such tenant cultivator only after any compensation due to him under this section has been paid in full by the applicant.

Exemption 5B.
of paddy
land
owned by
certain
owners.

(1) An owner of paddy land whose only source of income is the rent paid by his tenant cultivators may within twelve months of the enactment of this section make application to the Commissioner for an exemption from the application of section 2 of this Act. For the purpose of this section any paddy land owned by a spouse or a minor child below eighteen years of age of an owner of paddy land shall be deemed to be paddy land owned by such owner.

(2) The Commissioner shall hold an inquiry into such application at which the tenant cultivators of such paddy land shall be afforded an opportunity of

making representations. The Commissioner shall, if the requirements of subsection (1) are satisfied, make the decision exempting an extent not exceeding one acre of such land from the application of the provisions of section 2. The Commissioner shall also decide the amount of compensation payable to each tenant cultivator by the applicant and the date before which such compensation shall be paid.

(3) Any person aggrieved by the decision of the Commissioner may appeal to the Board of Review against, the decision, and the Board of Review may affirm or vary the Commissioner's decision. The decision of the Board of Review on such appeal shall be final and conclusive.

(4) Where no appeal is made to the Board of Review or an appeal having been made, the Board of Review affirms the decision of the Commissioner, the Commissioner shall order the tenant cultivator or tenant cultivators to vacate the land on or before the date specified in the order.

(5) Where any tenant cultivator fails to vacate the extent of land in compliance with such order he may be evicted under the provisions of section 6, provided that the Commissioner shall take action to evict such tenant cultivator only after any compensation due to him under this section has been paid in full by the applicant."

Repeal of section 7 of the principal enactment.

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

Amendment of section 8 of the principal enactment.

7. Section 8 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:"

"(1) Where a tenant cultivator of any extent of paddy land, other than a tenant cultivator who cultivates such extent either jointly or in rotation with any other tenant cultivator, dies, his rights under this Act in respect of such extent shall devolve on the surviving spouse of such tenant cultivator and failing such spouse on only one of the children of such tenant cultivator, the eldest being preferred to the others where there are more children than one, provided that the successor to the deceased tenant cultivator's rights is a person who is not permanently employed and whose main occupation is cultivation of paddy."

Amendment of section 11 of the principal enactment.

8. Section 11 of the principal enactment is hereby amended as follows:"

(a) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:"

" (2) A tenant cultivator of any extent of paddy land may, with the written sanction of the Commissioner

given after such inquiry and on such terms as he may deem necessary, transfer his rights in respect of such extent to his landlord if such landlord is also the owner of such extent. Such transfer shall be in accordance with the succeeding provisions of this subsection"

(a) where the tenant cultivator of an extent of paddy land intends to transfer his interest in such extent, he shall communicate in writing his intention and the price at which he intends to transfer his interest in such extent to the owner of such extent. A copy of such communication shall be sent by the tenant cultivator by registered post to the Agrarian Services Committee within whose area of authority such extent of paddy land is situate.

(b) If the owner is willing to purchase the interest of the tenant cultivator in such extent of paddy land at the price nominated, by the tenant cultivator, the owner shall indicate his willingness to the Agrarian Services Committee which shall fix a period within which the transfer is to be completed.

(c) If the owner is willing to purchase the interest of the tenant cultivator in such extent of paddy land but states that the price nominated by the tenant cultivator is excessive, the Agrarian Services Committee may, in consultation with the tenant cultivator, determine a price, which in its opinion is reasonable and fix a period within which the transfer is to be completed.

(d) Where the owner is not willing to purchase the interest of the tenant cultivator in such extent of paddy land or is not willing to purchase it at the price determined by the Agrarian Services Committee, or where such owner having agreed to purchase such interest at the price, nominated by the tenant cultivator or determined by the Agrarian Services Committee, as the case may be, does not complete the transfer within the period fixed therefor, the Agrarian Services Committee shall issue a certificate to that effect. ;

(b) in subsection (3) of that section by the substitution for the words "Any transfer or cession by", of the words " Any transfer by " ;

- (c) by the repeal of subsection (4) of that section ; and
- (d) in the marginal note of that section, by the substitution for the words "Transfer and cession*", of the word " Transfer ".

Insertion of section 12A in the principal enactment. **9.** The following new section is hereby inserted immediately after section 12 and shall have effect as section 12A of the principal enactment:"

Sale of 12A.

paddy lands and tenancy rights.

(1) Where the landlord of an extent of paddy land in respect of which there is a " tenant cultivator intends to sell such extent, he shall, in the first instance, communicate in writing his intention and the price at which he intends to sell such extent, to the tenant cultivator. A copy of such communication shall be sent by the landlord by registered post to the Agrarian Services Committee within whose area of authority such extent of paddy land is situate.

(2) If the tenant cultivator is willing to purchase such extent of paddy land at the price nominated by the landlord, he shall indicate his willingness to the Agrarian Ser vices Committee which shall fix a period within which the transfer is to be completed.

(3) If the tenant cultivator is willing to purchase such extent of paddy land but states that the price nominated by the landlord is excessive, the Agrarian Services Committee may, in consultation with the landlord, determine a price which in its opinion is reasonable and fix a period within which the transfer is to be completed.

(4) Where the tenant cultivator is net willing to purchase such extent of paddy land or is not willing to purchase it at the price determined by the Agrarian Services Committee, or where such tenant cultivator having agreed to purchase such extent at the price nominated by the landlord or determined by the Agrarian Services Committee as the case may be does not complete the transfer within the period fixed therefor, the Agrarian Services Committee shall issue a certificate to that effect and thereupon the landlord may proceed to sell such extent to any other person,

(5) Any transfer by the owner of an extent of paddy land in contravention of the provisions of this section shall be null and void and shall render the person in occupation of such extent liable to be evicted in accordance with the provisions of section 6 section (3) of section 4 shall apply."

Amendment of section 13 of the principal enactment. **10.** Section 13 of the principal enactment is hereby amended by the omission of the words "nominated successor or' therein.

Amendment of section 16 of the principal enactment. **11.** Section 16 of the principal enactment is hereby amended by the substitution the words "that he is Unable", of the words "that he is for reasons specified therein, unable

Insertion of section 16A in the principal enactment. **12.** The following new section is hereby Inserted immediately after section 16 and shall have effect as section 16A of the principal enactment : "

" Wilful 16A.

neglect of cultivation by tenant cultivator.

(1) Where the landlord of any extent of paddy land informs the Commissioner in writing with a copy thereof to the tenant cultivator of that extent that the tenant cultivator of that extent has wilfully neglected to cultivate such extent with any crop during any paddy cultivation season in which cultivation was possible, the Commissioner may cause an inquiry to be held by an Inquiry Officer and if after such inquiry the Inquiry Officer holds that the tenant cultivator has wilfully neglected to cultivate such extent with any crop, such tenant cultivator shall be liable to pay the landlord rent for such extent for such season as provided for in subsection (8) of section 17,

(2) Where a landlord of an extent of paddy land informs the Commissioner in writing with a copy thereof to the tenant cultivator that, such tenant cultivator has wilfully neglected to cultivate that extent during two or more consecutive seasons when it was possible to cultivate such land, the Commissioner shall cause an inquiry to be held by an Inquiry Officer and if after such inquiry the Inquiry Officer holds that the tenant cultivator has so neglected to cultivate that extent for two or more consecutive seasons, the Commissioner shall order such tenant cultivator to vacate such extent and if the tenant cultivator fails to comply with that order he shall be evicted from such extent in accordance with section 6. The provisions of subsection (5) of section 4 shall apply alter such vacation or eviction.

(3) Where a landlord of an extent of paddy land informs the Commissioner in writing with a copy thereof to the tenant cultivator that such tenant cultivator has so neglected the cultivation of that extent during two or more cultivation seasons that its yield has fallen below the average for comparable extents in the district, the Commissioner shall cause an inquiry to be held by an Inquiry Officer and if, after such inquiry the Inquiry Officer holds that the tenant cultivator has so neglected the cultivation of that extent, the Commissioner shall order such tenant cultivator to vacate such extent and if the tenant cultivator fails to comply with the order he shall be evicted from that extent in accordance with section 6.

The provisions of subsection (5) of section 4 shall apply after such vacation or eviction.

(4) Where the Viharadhipathi or high priest of a temple, kovil or church or the Diyawadana Nilame of the Dalada Maligawa. Basnayake Nilames and Trustees of Devalayas and Temples or the trustee of a mosque informs the Commissioner in writing with a copy thereof to the tenant cultivator that such tenant cultivator of an extent OF paddy land belonging to such temple, kovil, church, Dalada Maligawa, Devalayas and Temples or mosque has failed to perform such service as he is required to perform for the benefit of the temple, kovil, church, Dalada Maligawa, Devalayas, and Temples, or mosque, or to pay in lieu of such services to such temple, kovil, church, Dalada Maligawa, Devalayas and Temples, or mosque such reasonable amount as shall be determined by the Commissioner, in exchange for the use of such paddy land, the Commissioner shall cause an inquiry to be held by an Inquiry Officer and if after such inquiry the Inquiry Officer holds that the tenant cultivator has failed to perform such services or to pay the amount in lieu of services the Commissioner shall, notwithstanding' anything in any other law. order such tenant cultivator to vacate such extent and if the tenant cultivator fails to comply with that order, he shall be evicted from that extent in accordance with section 6 notwithstanding anything in any other law. The provisions of subsection (5) of section 4 shall apply after such vacation or eviction."

Amendment of section 17 of the principal enactment.

13. Section 17 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor, of the following subsection : "

"(2) A determination under subsection (1) shall, specify, in respect of any extent of paddy land in any region to which such determination applies, a portion not exceeding one quarter of the total yield of the paddy from that extent reduced by the amount of any charge which may be imposed under this Act, as the rent payable for that extent for each paddy cultivation season. "

Amendment of section 18 of the principal enactment.

14. Section 18 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection :"

" (1) Where the landlord informs the Commissioner that the tenant cultivator is in arrears of rent in respect of an extent of paddy land, the Commissioner shall cause an inquiry to be held by an Inquiry Officer and where the Inquiry Officer holds that the rent is in arrears and communicates his decision to the Commissioner, the Commissioner shall give notice in

writing to the tenant cultivator that his tenancy in respect of such extent would be terminated if he fails to pay such arrears within the time specified in such notice. "

Amendment of section 20 of the principal enactment. **15.** Section 20 of the principal enactment is hereby amended by the substitution, for the word thirtieth" wherever it appears in that section, of the word "fifteenth".

Amendment of section 26 of the principal enactment. **16.** Section 26 of the principal enactment is hereby amended as follows:-

"(a) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:" "(1) Where any sum is due from the tenant cultivator of any extent of paddy land to his landlord as rent in arrears or interest on such rent or both, the landlord may make a written application for an order under this section, and the Commissioner shall cause an inquiry into such application to be held by an Inquiry Officer and if the Inquiry Officer holds that any such sum is due from the tenant cultivator to the landlord, the Commissioner shall make order for the payment of such sum in paddy or cash or both paddy and cash in such manner and within such period as may be specified in the order."; and

(b) by the substitution for the words "If such tenant cultivator fails to pay such sum within the time allowed by the order under" in subsection (2) of that section of the words "If such tenant cultivator fails to comply with the order referred to in.",

Amendment of section 36 of the principal enactment. **17.** Section 36 of the principal enactment is hereby amended as follows:"

(a) in subsection (1) thereof, by the substitution for the words "dispossessing the owner of" of the words "dispossessing the owner or occupier of" ; and

(b) by the addition immediately after subsection (2) thereof, of the following new subsection :"

" (3) Any person aggrieved by an order of dispossession as aforesaid may appeal to the Secretary to the Ministry of the Minister against such order within thirty days of the date of the order appealed against. The Secretary may, upon such appeal. Confirm or set aside such order and shall communicate his decision to the Commissioner and to the appellant.

The decision of the Secretary shall be final and conclusive and shall not be questioned in any court or tribunal."

Amendment of section 37 of the principal enactment. **18.** Section 37 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:"

"(1) Where no appeal is made against the order of dispossession, upon the expiry of thirty days from the date of that order or where an appeal is made against an order of dispossession, upon the confirmation of such, order, the

person on whom the order is served shall, within the period specified in the order, vacate the land referred to in the order and deliver possession of such land to the Agrarian Services Committee within whose area of authority such land is situate."

Amendment of section 38 of the principal enactment. **19.** Section 38 of the principal enactment is hereby amended by the substitution for the words "Where any person" in that section of the words "Where any person, referred to in subsection (1) of section 37".

insertion of new section 38A in the principal enactment. **20.** The following new section is inserted immediately after section 38 and shall have effect as section 38A of the principal enactment: "

"Cultivation of lands in dispute.

(1) Where the Commissioner is satisfied that any agricultural land is not being cultivated due to the existence of any dispute relating to such land he may, after giving the owner cultivator or occupier of such agricultural land an opportunity of making representations to him, by order, require the person on whom the order is served to vacate the land referred to in the order and to deliver possession of such land to the Commissioner or his authorized representative within the period specified in the order.

(2) The provisions of subsection (2) of section 35 shall apply to the service of the order under this section.

(3) Where any person on whom an order under this section is served fails to vacate the land within the period specified in the order, the Commissioner shall evict such person under the provisions of section 6.

(4) The Commissioner shall cause such land to be cultivated by the appropriate Agrarian Services Committee or any other person in accordance with any directions that may be given by him until the dispute relating to such land is settled or determined.

(5) The income from such land during the period it is cultivated under the provisions of this section shall be appropriated in such manner as may be directed by the Commissioner having regard to the need to increase agricultural production. "

Amendment of section 39 of the principal enactment. **21,** Section 39 of the principal enactment is hereby amended as follows :

(a) in subsection (2) of that section by the substitution for the words "Assistant Commissioners of Agrarian Services and ", of the words " Assistant Commissioners of Agrarian Services, Divisional Officers of Agrarian Services and " ; and

(b) in subsection (5) of that section, by the substitution for the words "Every Deputy Commissioner and every Assistant

Commissioner", of the words " Every Deputy Commissioner, every Assistant Commissioner and every Divisional Officer of Agrarian Services ".

Insertion of new section 41A in principal enactment.

22 The following new section is hereby inserted immediately after section 41 of the principal enactment and shall have effect as section 41A of the principal enactment: "

"Commission41A. The Commissioner may, by notice in writing, require to call for any owner cultivator or occupier of, or other person having information. any interest in, any agricultural land to furnish on or before any date specified in such notice, such particulars as to the extent of agricultural land he possesses, the nature of cultivation carried on by him on such agricultural land and other matters required for the proper implementation of this Act as may be mentioned in such notice. ".

Amendment of section 42 of the principal enactment.

23. Section 42 of the principal enactment is hereby amended as follows: "

(a) in subsection (1) of that section"

(i) by the substitution for paragraph (a) of that subsection of the following paragraph : "

" (a) the encouragement, extension, regulation or management of paddy cultivation or any other form of cultivation ;
";

(ii) by the substitution for paragraph (f) of that subsection of the following paragraph: "

"(f) any other collective responsibilities imposed on owner cultivators and occupiers of agricultural land for the efficient use of such land, the improvement of productivity and the protection of minor irrigation works and conservation of water supplied therefrom.";

(b) by the repeal of subsection (5) of that section and the substitution therefor, of the following subsection : "

"(5) A meeting convened under the provisions of this section shall not be deemed to be validly constituted unless there are present owner cultivators or occupiers representing, one fourth or twenty five of the total number of owner cultivators and occupiers of agricultural land referred to in subsection (1,). If such quorum be not present at two consecutive meetings, the presiding officer shall adjourn the second meeting and fix a date for the third meeting. Such third meeting shall, for all purposes, be deemed to be a validly constituted meeting notwithstanding the absence of a quorum. ";

(c) by the repeal of subsection (10) of that section and the

substitution therefor of the following subsection:"

"(10)

(a) At a meeting convened under the provisions of this section the owner cultivators or occupiers of agricultural land may elect from among themselves in such manner as may be prescribed a person (hereinafter referred to as the "Yaya Representative") to perform such duties as may be prescribed and to assist the Cultivation Officer in matters relating to the protection of minor irrigation works and for the conservation of water supplied therefrom and any other matters relating to cultivation as may arise from time to time.

(b) A Yaya "Representative may serve in that capacity for a period of three years from the date of his election unless he"

(i) earlier resigns by letter addressed to the Commissioner ; or

(ii) is earlier removed by the Commissioner.

The Commissioner shall have the power to remove any Yaya Representative for negligence of duties or misconduct or failure to perform any duty imposed on him by this section after due inquiry held by the Commissioner or by any officer authorized by him in that behalf.

(c) Every owner cultivator and occupier of agricultural land shall pay the Yaya Representative such amount as may be prescribed as his remuneration and any person who fails to pay such shall be guilty of an offence under this Act.

(d) The provisions of sub section (2) of section 47 shall, mutatis mutandis, apply to the recovery of the Yaya representative's remuneration under this section"; and

(d) by the repeal of subsection (11) of that and the substitution therefor of the following subsection : "

" (11) The Yaya Representative shall, subject to the control and direction of the Commissioner, have the power to direct any owner or occupier of agricultural land to take such steps as the Year Representative may deem necessary for the discharge of the collective responsibilities of such owner cultivators or occupiers in regard to irrigation and cultivation

practices and in respect of the protection of minor irrigation works and the conservation of water supplied therefrom."

Insertion of Part 24. The following new Part is inserted immediately after Part IV of the principal enactment and shall be effect as Part IVA of the principal enactment: "

Inquiry 42A.
Officers
&c.

(1) There may be appointed such number of Inquiry Officers as may be necessary for the purposes of this Act.

(2) Where the Commissioner is required by any provision of this Act to cause an inquiry to be held by an Inquiry Office, the Commissioner shall refer such matter to an Inquiry Officer. The reference shall be accompanied by a statement prepared by the Commissioner setting out the question which, to his knowledge has to be decided. Knowledge has to be decided.

(3) The Inquiry officer shall make all such inquiries and have all such evidence as he may consider necessary to decide such matter. He shall communicate his decision in writing to the Commissioner and the parties concerned.

(4) Regulations may be made regarding the procedure to be observed in the conduct of an inquiry and subject to any such regulations an Inquiry Officer may regulate the procedure to be observed in the conduct of the inquiry.

(5) An Inquiry Officer shall have all the powers of the Commissioner referred to in section 65.

(6) If any person upon whom a summons has been issued by an Inquiry Officer"

(a) fails without reasonable cause to appear before such Inquiry Officer at the time and place mentioned in the summons ; or

(b) refuses without reasonable cause to be sworn or having being duly sworn, refuses or fails without reasonable cause to answer any question put to him by such Inquiry Officer or wilfully gives a false answer to any such question; or

(c) refuses or fails without reasonable cause to produce before such officer any documents which are in his possession and which he has been required to produce,

such person shall be guilty of an offence under this Act.

Board of 42B.
Review.

(1) There shall be appointed for the purposes of this Act, in respect of each Province a Panel of not more than twelve persons from which Boards of Review shall be constituted for the purpose of exercising, within such Province, the powers conferred on a Board of Review by this Act.

(2) Where a member of a Panel vacates office by reason of death, resignation, removal from office, absence abroad or illness, another person shall be appointed in his place.

(3) Every person appointed to a Panel shall, unless he earlier vacates his office, hold office for three years:

Provided that"

(a) a person appointed in place of a person who has died, resigned or been removed from office shall hold office for the unexpired portion of the term of office of the last mentioned person ; and

(b) a person appointed to act for a person who is absent abroad or is ill shall hold office for the period of absence or illness of the last mentioned person.

(4) A person vacating office by efflux ion of time shall be eligible for reappointment.

(5) One of the members of a Panel shall be appointed as the Chairman of the Panel.,

(6) For the purpose of constituting a Board of Review, the Chairman of a Panel shall select from the Panel three or more persons. The Chairman may select himself as a member constituting the Board of Review.

(7) Where the Chairman of a Panel is a member of a Board of Review constituted under this section then he, or where he is not a member of the Board, then such member of the Board as may be nominated by such Chairman, shall be the President of the Board.

(8) There shall be appointed to each Board of "Review a Secretary.

(9) The Secretary of the Board of Review shall in respect of every appeal heard by the Board, keep a record of all such proceedings before the Board as relate to that appeal.

(10) A Board of Review may examine any witness on oath if it thinks fit so to do, and may summon any person to appear before it or to produce any documents which may be relevant in the opinion of

the Board.

(11) The documents, notices or summons issued under the hand of the Chairman of a Board of Review or the Secretary of a Board of Review shall be deemed to have been issued by that Board of Review.

(12) If any person upon whom a summons issued or deemed to have been issued by a Board of Review, has been served"

(a) fails without reasonable cause to appear before the Board of Review at the time and place mentioned in the summons ; or

(b) refuses without reasonable cause to be sworn, or having been duly sworn, refuses or fails without reasonable cause to answer any question put to him by a member of the Board of Review touching the matters to be heard and determined by such Board, or wilfully gives a false answer to any such question : or

(c) refuses or fails without reasonable cause to produce before the Board of Review any document which is in his possession or power and which he has been required to produce.

he shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment

(13) Regulations may be made in regard to the procedure to be followed at meetings of a Board of Review.

(14) A Board of Review may, on any appeal made under this Act to such Board confirm or vary the determination or decision from which such appeal is made and the decision of such Board shall be final and conclusive and shall not be called in question in any Court, "

Amendment of section 43 of the principal enactment.

25. Section 43 of the principal enactment is hereby amended as follows:"

(a) by the repeal of subsection (3) of that section and the substitution therefor of the following subsection : "

" (3)

(a) An Agrarian Services Committee shall consist of fifteen members appointed by the Commissioner as follows : "

(i) ten persons who are elected by owner cultivators and occupiers or agricultural land within the area of

authority of such Committee so, however, that at least three such person shall be occupiers of paddy land and there such other persons shall be tenant cultivators of paddy land :

(ii) five persons who are public officers or employees of public corporations or statutory bodies.

(b) The Committee may where it deems it necessary co opt any public officer of a public corporation or of any other institute the Committee invite any person to be present at any its meetings. Any person co-opted invited under this paragraph shall not be eligible to vote at any meeting of the Committee."; and

(b) by the repeal of subsection (7) of that section and the substitution therefor of the following subsection:-

" (7) If the Commissioner is satisfied that any member of an Agrarian Services Committee "

(a) is incapacitated by infirmity of mind or body from discharging the duties of his office or is otherwise unsuited to continue to discharge such duties ; or

(b) has failed to attend three consecutive meetings of the Committee without reasonable cause,

the Commissioner may terminate his appointment and appoint another member to such Committee :

Provided however, that a member appointed in place of a member who is removed from, or otherwise vacates office, shall hold office for the unexpired period of the term of office of the member whom he succeeds unless the member so appointed is earlier removed from, or otherwise vacates, office."

Amendment of section 45 of the principal enactment.

26. Section 45 of the principal enactment is hereby follows:- amended as follows :"

(a) by the insertion immediately after subsection (2) of that section, of the following subsection : "

"(2A)

(a) The register of agricultural land shall be"

(i) amended as and when it becomes necessary so to do ;

(ii) revised once in every three years commencing from 1991 ;

(iii) kept open for public inspection in

the months of January and July every year.

(b) Any application to the Committee for the amendment of the register of agricultural lands by the inclusion of the name of a new tenant cultivator in respect of any extent of paddy land shall be in writing and shall be accompanied by a letter from the landlord consenting to the registration of the applicant as the tenant cultivator of such extend".

(b) by the repeal of subsection (4) of that section and the substitution therefor of the following subsection : "

" (4) Regulations may be made in respect of the procedure to be followed in the preparation and revision of the register referred to in subsection (1).".

Insertion of new sections 45A and 45B in the principal enactment. **27.** The following new sections are hereby inserted at the end of section 45 and shall have effect as sections 45A and 45B respectively of the principal enactment:

"Survey of 45A, agricultural land.

(1) Every Agrarian Services Committee shall, in accordance with the directions of the Commissioner, cause a survey to be made of the agricultural land in its area of authority and maintain the records pertaining to such land.

(2) The Agrarian Services Committee may recover from the landlords or occupiers at agricultural land the proportionate cost of surveying such land and maintaining; the record.

Register of 45B. Every Agrarian Services Committee shall in the tenant prescribed manner prepare, revise and maintain a register of cultivators.tenant cultivators within the area of authority of such Committee. ",

Amendment of section 46 of the principal enactment.

28. Section 46 of the principal enactment is hereby amended as follows:-

(a) in subsection (2) of that section-

(i) of the repeal of paragraph (b), and the substitution therefor of the following paragraph:-

"(b) subject to the provisions of subsection (2A) to impose on and recover from cultivator or occupier of agricultural land an annual acreage levy not exceeding six rupees per acre of such land and any other CHARGE levied for services rendered under this Act ; " ;

(ii) by the repeal of paragraph (d) and the substitution therefor of the following paragraphs :-

"(d) to maintain and operate an account in such bank as may be determined by the Commissioner ;

(e) to grant, loans out of its moneys to owner cultivators and occupiers for agricultural activities and to recover such loans ;

(f) to utilize its moneys for the repair, maintenance and development of minor irrigation works where it becomes necessary so to do ;

(g) to provide financial assistance at the request of the Commissioner, for the training of officers and farmers with a view to developing agriculture and improving the management of the Committee ; " and

(b) by the insertion, immediately after subsection (2) of that section, of the following subsections: "

"(2A) The following shall be exempt from the payment of the acreage levy imposed under paragraph (b) of subsection (2) : "

(i) the Janatha Estate Development Board and the State Plantations Corporation;

(ii) the owner cultivator or occupier of a home garden.

For the purpose of this section ' home garden' means an extent of land not exceeding half acre which is wholly or mainly cultivated with, or used by the owner or occupier for the production of, vegetables, fruit or livestock, solely for domestic consumption.

(2B) Where any land or any interest in any land is required by any Agrarian Services Committee for a common threshing floor or an agricultural road, the land or interest in land may be acquired under the Land Acquisition Act by the Government for such Committee and the provisions of that Act shall apply for the purpose of the acquisition of that land or interest in land." ;

(c) by the insertion immediately after subsection (3) of that section, of the following new subsection: "

"(3A) An Agrarian Services Committee may, by notice in writing, require any owner cultivator or occupier of, or other person having any interest in, any agricultural land within its area of authority to furnish on or before any date specified in the notice such particulars as to the extent of land he possesses, the nature of cultivation carried on by him and such

other matters as may be mentioned in such notice and which are required for the implementation of this Act,"; and

(d) in subsection (4), by the substitution for the words " the Commissioner may ", of the words " the Commissioner may, with the concurrence of the Secretary to the Ministry of the Minister in charge of the subject of Finance".

Insertion of new section 46A in the principal enactment. **29.** The following section is hereby inserted immediately after section 46 and shall have effect as section 46A of the principal enactment: "

"Audit of 46 A

Accounts of
Services
Committees.

(1) Article 154 of the Constitution shall apply to the auditor of the accounts of every Agrarian Services Committee as if such Committee were a Public Corporation within the meaning of the Constitution.

(2) The Auditor-General shall disallow every item of the accounts which, in his opinion is irregular or unlawful and recommend that the Commissioner surcharge the same on the officer or employee of such Committee making or effecting such payment, and that the Commissioner charge against any officer or employee any sum which ought to have been, but is not, brought into account by such officer or employee. The Commissioner shall thereupon certify the amount due from such person.

(3) Before certifying any such surcharge or disallowance the Commissioner shall notify such person of the proposed surcharge or disallowance and afford such person an opportunity to make representations or to be heard against such surcharge or disallowance. The Commissioner shall thereupon in form such person of his decision together with his reasons.

(4) Where a surcharge or disallowance against any person has been certified by the Commissioner such certificate shall be conclusive proof of the matters stated therein.

(5) Any person aggrieved by any sur charge or disallowance may, within thirty days of the date on which the decision of the Commissioner is communicated to him, appeal against the decision to the Secretary to the Ministry of the Minister with a copy of the appeal to the Commissioner, and it shall be lawful for such Secretary upon any such appeal to decide the question at issue according to the merits of the case.

(6) The Secretary to the Ministry of the Minister may, by order, direct the recovery from the person making such appeal the whole or any portion of the

amount sur charged or disallowed if he thinks that there are grounds therefor, and if he finds that the surcharge or disallowance has been law fully made but in the particular circumstance of the case it is fair and equitable that the surcharge or disallowance be remitted, he may. by order, direct that the same shall be remitted but that the amount of costs and expenses which may have been incurred by the Commissioner in the enforcing of such surcharge or disallowance or such portion of it as may be determined by the Secretary shall be recovered from, such person.

(7) Upon receipt of a certificate of surcharge or disallowance or the order of the Secretary on any appeal, the Commissioner shall, by notice sent by registered post, re quire such person to pay the sum set out in the certificate on or before the date specified in such notice, being a date not less than three months from the date of the decision of the Commissioner.

(8) Where any person fails "with the requirements of a notice under section (7) the Commission shall certificate containing particulars of the amount due and the name and the last: known place of residence of such person to the Magistrate's Court having jurisdiction over such place of residence and such Court shall recover such amount in like manner as a fine imposed by such Court.

(9) Every sum paid or recovered under this section, other than a sum paid or recovered as costs and expenses incurred in the enforcement of any disallowance or sur charge shall be credited to the Agrarian Services Fund.'

Amendment of section 47 of the principal enactment.

30. Section 47 of the principal enactment is hereby amended as follows:

(a) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:"

"(1) An Agrarian Services Committee may by notice in writing direct every owner or occupier of agricultural land liable to pay acreage levy to such Committee or an person who has failed to repay any loan granted by such Committee to pay such levy or repay such loan, as the case may be, within such period as shall be specified in such notice.";

(b) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection :

"(2) Where an Agrarian Services Committee is satisfied after due inquiry that a person to whom a

written notice has been given under subsection (1) has failed to pay the amount specified in such notice within the time allowed therefor. such amount shall, on application by an officer authorized in that behalf by such Committee being made to the Magistrate's Court having jurisdiction over the place where the extent of agricultural land in respect of which the levy is payable or which is owned or occupied by the person in default is situated, be recovered in like manner as a fine imposed by such Court." ; and

(c) in the marginal note of that section by the substitution for the words " acreage levy ", of the words by such Court." ; and

Amendment of section 31. Section 55 of the principal enactment is hereby amended as follows:"
55 of the principal enactment.

(a) in subsection (1) of that section, by the substitution for the words " There may be appointed such number " of the words " There may be appointed by name or by office, such number ;" and

(b) in subsection (2) of that section, by the insertion immediately after paragraph (c) of that section of the following new paragraph : "

"(d) as directed by the Commissioner, prosecute any person who commits any offence referred to in section '56."

Amendment of section 58 of the principal enactment. 32. Section 56 of the principal enactment is hereby amended as follows;"
section 58 of the principal enactment.

(a) in subsection (1) by the insertion, immediately after paragraph (d) of that subsection, of the following paragraph :
"

"(e) without the prior permission in writing of the Commissioner, cultivates the catchment area, channel, reservation or tank bed of a minor irrigation tank."; and

(b) by the insertion immediately after subsection (2) of that section of the following subsection: "

" (3) Every person who fails, without lawful excuse, to comply with any direction or order given or made under this Act by the Commissioner or an Agrarian Services Committee, or who furnishes or produces for the purpose of this Act, any information or document which, to his knowledge, is false or incorrect in whole or in part shall be guilty of an offence."

Insertion of new sections 86A and 56B in the principal enactment. 33. The following new sections are hereby inserted immediately after section 56 of the principal enactment and shall have effect as sections 56A and section 56B respectively of the principal enactment : "

" Farmers' 56A.

Organizations.

(1) There may be established one or more

Farmers' Organizations of owner cultivators and occupiers of agricultural land in each area determined by the Commissioner for that purpose.

(2) Each Farmers' Organization shall consist of at least twenty five owner cultivators or occupiers or one fourth of the total number of owner cultivators and occupiers of agricultural land in such area.

(3) The Commissioner may register any Farmers' Organization if an application in that behalf is made to him by the Organization.

Provided that the Commissioner may register a Farmers' Organization in any area under a major irrigation scheme with the concurrence of the Secretary to the Ministry of the Minister in charge of the subject of Irrigation

(4) The purposes of any Farmers' Organization registered under this section shall include

(a) the formulation and implementation of the agricultural programme for the area;

(b) carrying out village level construction work and effecting repairs to irrigation works;

(c) marketing of produce and distribution of: seed, fertilizer and agro-chemicals ;

(d) promoting of cooperation between, and the co-ordination of agricultural activities of government organizations and the farmers of the area ; and

(e) engaging in any other activity approved by the Commissioner as being beneficial to the farming community.

(5) Regulations may be made in respect of the election of office bearers of Farmers' Organizations registered under this section the procedure for the transaction of business by such organization power of such to be maintained by such organizations and the audit of such accounts by the Commissioner or an officer authorized by him in that behalf.

56B.

(1) Notwithstanding anything in section 56A, the Commissioner may, upon application made in that behalf by any Farmers' Organization in any area, on being satisfied such Farmers' Organization has-

(a) actively promoted agricultural activities in its area, or has the ability to promote such

activities in such area ;

(b) enjoys the trust and confidence of the farming community of such area; and

(c) the financial viability and the resources to undertake repairs of irrigation works,

register such Organization under this section :

Provided that the Commissioner may register a Farmers' Organization in any area under a major irrigation scheme with the concurrence of the Secretary to the Ministry of the .Minister in charge of the subject of Irrigation.

(2) From and after the date of registration of a Farmers' Organization under subsection (1), such Organization shall be a body corporate with perpetual succession and a common seal and may sue and be sued by the name by which it is registered.

(3) The Commissioner shall publish a notification in the gazette of every registration of Farmers' Organization made under this section.

(4) The purpose of every farmers' Organization registered under this section shall be the purpose specified in subsection (4) of section 56A.

(5) Regulations may be made in respect of the election of office bearers of Farmers Organizations registered under this section, procedure for transaction of business by such organizations, powers of such organization accounts to be maintained by such organization and the audit of such accounts by the Commissioner or an officer authorized by him in that behalf.

(6) The Commissioner may, by notification published in the Gazette, cancel the registration of any Farmers' Organization registered under this section if he is satisfied that the Farmers' Organization has been inactive for a period of two years or has so conducted itself that it is in the public interest to cancel its registration under this section.

(7) The commissioner shall, where he cancels the registration of a Farmers Organization under this Act appoint a person to be the liquidator of the Corporation who shall have the power to-

(a) take possession of the books, documents and assets of the corporation

(b) sell the property of the corporation;

(c) decide any question of priority among the creditors of the corporation,

(d) compromise any claim by or against the corporation with the prior approval of the Commissioner; and

(e) arrange for the distribution of the assets of the corporation in the prescribed manner

(8) In the liquidation of the corporation its funds shall be applied first to the cost of liquidation and then to the discharge of its liabilities. Any surplus remaining after the closure of the liquidation shall be credited to the Agrarian Services Fund established under section 60."

Amendment of section 57 of the principal enactment. **34.** Section 57 of the principal enactment is hereby amended in subsection (1) of that section by the addition of the following words at the end of that subsection:-

" For the purpose of this section the expression 'cultivation rights ' includes the right of threshing paddy, access to the paddy field and the right of disposed of agricultural produce. "

Amendment of section 60 of the principal enactment. **35.** Section 60 of the principal enactment is hereby amended as follows:"
(a) in subsection (2) thereof, by the repeal of paragraph (f) and the substitution therefor of the following : "

" (f) such percentage of moneys recovered as acreage levy under the provisions of paragraph (b) of subsection (2) of section 46, as may be prescribed;" and

(b) by the repeal of subsection (3) and the substitution therefor of the following subsection: " "

(3) The moneys of such Fund may be utilized to give financial assistance to Agrarian Services Committees for the maintenance and repair of their buildings, vehicles and equipment, purchase of furniture, training, publicity. Research, surveys, loan schemes, provision of transport facilities for officers and generally, for the administration and development of Agrarian Services Committees and for the improvement and development of agricultural productivity in Sri Lanka. The Commissioner shall be responsible for the administration of the Fund. ",

Amendment of section 61 of the principal enactment. **36.** Section 61 of the principal enactment is hereby amended by the repeal of all the words beginning with "Acquired under that Act; upto the end of that section, and substitution therefor of the words "acquired under that Act."

Amendment of section 62 of the principal enactment. **37.** Section 62 of the principal enactment is hereby amended as follows; - amended as follows: -

(a) by the insertion at the end of subsection (1) of the following words : "

"The Commissioner may at any time withdraw such

permission by notice served on such person having regard to the need to increase agricultural production ;

(b) by the repeal of sub-paragraph (c) of subsection (2) of that section and the substitution therefor of the following sub-paragraph: "

" (c) with any other agricultural crop. ";

(c) by the repeal of subsection (4) of that section and the substitution therefor of the following new subsection : "

(4) If any extent of paddy land"

(a) is used by any person in contravention of the provision of subsection (1), or

(b) is cultivated by the cultivator thereof otherwise than in accordance with the provision of subsection (2),

that person or that cultivator, as the case may be, shall be guilty of an offence, and shall on conviction after trial before a Magistrate be liable to a fine not exceeding twenty-five thousand rupees and in default of payment of the fine, to imprisonment of either description for a term not exceeding three months, and where such offence is continued after Conviction that person or that cultivator, as the case may be shall be liable to a fine one hundred rupees for each day in respect of which such offence is continued after conviction."; and

(d) by the insertion immediately after subsection (5) of that section of the following:-

"(6)

(a) Where any person is convicted for an offence under subsection (4) of this section the Court may make order that any implements, instruments, machinery or vehicles used in, or in connection with the commission of the offence shall be forfeited. Any implement, instrument, machine or vehicle forfeiture, vest absolutely in the State. Such vesting shall take effect-

(i) after the expiration of the period within which an appeal may be preferred to the Court of Appeal or to a High Court established by Article 154P of the Constitution against the order of forfeiture ;or

(ii) Where an appeal has been preferred to the Court of Appeal or to a High Court established by Article 154P of the Constitution against the

order of forfeiture, upon the determination of such appeal confirming or upholding the order of forfeiture.

(b) The Commissioner shall take possession of any implement instrument, machine or vehicle vested in the State under this section and may sell or otherwise dispose of the same as he may think fit. The proceeds of such sale shall be credited to the Consolidated Fund."

Insertion of new section 38. The following new section is hereby inserted immediately after section 62 of the principal enactment and shall have effect as section 62A of the principal enactment:-

"Unauthorized filling of paddy lands.

filling of paddy lands.

(1) No person shall fill any extent of paddy land except with the written permission of the Commissioner. Any person who acts in contravention of the foregoing provision commits an offence.

(2) Where the Commissioner is informed that any person is acting in contravention of subsection (1) the Commissioner may make an application in writing in the form set out in the Schedule to this Act to the Magistrate's Court within whose local jurisdiction such extent or any part thereof is situated"

(a) that he is the Commissioner of Agrarian Services ;

(b) that the land described in the schedule to the application is paddy land ;

(c) that the person named in the application is acting in contravention of subsection (1) of section 62A of Agrarian Services Act, 58 of 1979,

and praying for the issue of an order restraining him or his agents or servants from acting in contravention of the provision of subsection (1) aforesaid.

(3) Every application under this section shall be supported by an affidavit verifying to the matters set forth in the application.

(4) Upon receipt of the application the Magistrate shall forthwith issue summons on the person named in the application to appear and show cause on the date specified in such summons (being a date not later than two weeks from the date of issue

of such summons) why he or his servants or agents should not be restrained as prayed for the application.

(5) If on the date specified in the summons the person to whom such summons has been issued fails to appear or informs the Court that he has no cause to show against the issuing of such order the Court shall forthwith issue an order as prayed for in the application

(6) If the person on whom summons has been issued duly appears in Court and States that he has cause to show against issuing such order the Magistrate's Court may proceed forthwith or may set the case for inquiry on a later date.

(7) The Magistrate's Court shall not be competent to call for any evidence from the Commissioner to support the application

(8) If after the inquiry the Magistrate is not satisfied that the person showing cause has lawful authority to fill the extent of paddy land he shall make order restraining such person, or his servants and agents from doing any act in contravention of this section .

(9) Where any person is convicted for an offence under subsection (1) of this section the Court may make order that any implements, instruments, machinery or vehicles used in or in connection with the commission of the offence shall be forfeited to the State. The provisions of subsection (6) of section 62 shall, mutatis mutandis, apply to such forfeiture.

Amendment of section 67 of the principal enactment.

39. Section 67 of the principal enactment is hereby amended in subsection (2) of that section by the repeal of paragraph (a) of that subsection and the substitution therefor of the following paragraph :

" (g) all proceedings which have been commenced and concluded"

(i) before the Commissioner of Agrarian Services or the Board of Review under the provisions of the Paddy Lands Act, No. 1 of 1958;

(ii) before the Agricultural Tribunal under the provisions of the Agricultural Lands Law, No, 42 of 1973; or

(iii) under the provisions of section 63 of this Act, and in respect of which no appeals have been made to the Court of Appeal or the Supreme Court under the provisions of the aforesaid enactments, or where appeals have been made and have been dismissed and where no steps for the enforcement of orders

made in such proceedings have been taken in the Magistrate's Court under the provisions of such enactments, the orders made in such proceedings shall be deemed to be orders made in proceedings under the provisions of this Act, and shall be enforced in accordance with the corresponding provisions of this Act; ".

Amendment section 40. Section 63 of the principal enactment is amended as follows : "
68 of the principal enactment

(a) by the addition at the end of the definition of "agriculture", of the following: "

" (iv) been keeping and inland fisheries. " ; and

(b) by the repeal of the definition " agricultural activity " and the substitution therefor, of the following definition ; "

" agricultural activity " means any activity involving agricultural and includes the supply of agricultural inputs, the use of machinery and equipment used in such activity and any activity involving minor irrigation ; ".

Sinhala text to prevail in the event of inconsistency.

41. In the event of any inconsistency between Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.